United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *104th* CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, FRIDAY, MAY 12, 1995 *No. 79*

House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. LONGLEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 12, 1995.

I hereby designate the Honorable JAMES B. LONGLEY, Jr., to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, that in all the moments of life there are friends and colleagues who offer to us their counsel and good word, who speak the truth with us and who correct us when we need correction, who support us when we need help, and who walk with us when we are alone. Our hearts are thankful, O gracious God, that every person can receive love and respect and kindness from others, even as we open our hearts and minds to those near and dear to us. May Your blessing, O God, that is new every morning and is with us in the depths of our souls, be with us this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Missouri [Mr. VOLKMER] come forward and lead the House in the Pledge of Allegiance.

Mr. VOLKMER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 510. An act to extend the authorization for certain programs under the Native American Programs Act of 1974, and for other purposes.

CLEAN WATER AMENDMENTS OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 140 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 961.

☐ 1003

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 961) to amend the Federal Water Pollution Control Act, with Mr. MCINNIS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, May 11, 1995, the amendment offered by the gentleman from Missouri [Mr. EMERSON], as amended, had been disposed of, and title VI was open at any point.

Are there any amendments to title VI?

AMENDMENT OFFERED BY MR. LIPINSKI

Mr. LIPINSKI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LIPINSKI: Pages 231 and 232, strike the table and insert the following:

"States:	*Percent of sums authorized:*
Alabama	0.7736
Alaska	0.2500
Arizona	1.1526
Arkansas	0.3853
California	9.3957
Colorado	0.6964
Connecticut	1.3875
Delaware	0.2500
District of Columbia	0.3203
Florida	3.4696
Georgia	2.0334
Hawaii	0.2629
Idaho	0.2531
Illinois	5.6615
Indiana	3.1304
Iowa	0.6116
Kansas	0.8749
Kentucky	1.3662
Louisiana	1.0128
Maine	0.6742
Maryland	1.6701
Massachusetts	4.3755
Michigan	3.8495
Minnesota	1.3275
Mississippi	0.6406
Missouri	1.7167
Montana	0.2500
Nebraska	0.4008
Nevada	0.2500
New Hampshire	0.4791
New Jersey	4.7219
New Mexico	0.2500
New York	14.7435
North Carolina	2.5920
North Dakota	0.2500
Ohio	4.9828
Oklahoma	0.6273
Oregon	1.2483
Pennsylvania	4.2431
Rhode Island	0.4454
South Carolina	0.7480

South Dakota	0.2500
Tennessee	1.4767
Texas	4.6773
Utah	0.2937
Vermont	0.2722
Virginia	2.4794
Washington	2.2096
West Virginia	1.4346
Wisconsin	1.4261
Wyoming	0.2500
Puerto Rico	1.0866
Northern Marianas	0.0308
American Samoa	0.0908
Guam	0.0657
Palau	0.1295
Virgin Islands	0.0527''.

Mr. LIPINSKI. Mr. Chairman, this amendment is very straightforward. During the subcommittee markup of H.R. 961, an amendment was adopted which revised the allotment formula for the State revolving fund grants for wastewater treatment facilities. Although putting a 10 percent cap in a hold harmless provision in the bill may seem like a good idea, the change in the formula has a dramatic impact on allotments for 21 States, including Illinois.

Let us look a history. Right now allocation is based on needs and population data from the 1970's. Nobody thinks we should keep using this allocation, and until the amendment was adopted in subcommittee, everyone agreed on the allocation that is in my amendment which was based on the most current data, which means the 1990 population figures, the 1990 needs. But it was changed by the subcommittee, and I want to change it back. The reason should be clear.

Mr. Chairman, if my amendment does not pass, Illinois, represented by me and 19 other Members of this body, will lose almost $83 million over 5 years. Also, Arizona will lose $50 million; California, $186 million; Connecticut, $4 million; Florida, $3 million; Georgia, $20 million; Indiana, $58 million; Kansas, $737,000; Kentucky, $1½ million; Louisiana, $850,000; Massachusetts, $78,000; New Jersey, $25,000; New York, $381 million; North Carolina, $74 million; Oregon, $1 million; Pennsylvania, $3.575 million; Tennessee, $1 million; Texas, $4 million; Virginia, $27 million; Washington, $35 million; West Virginia, $1.2 million; American Samoa, $1.2 million; Guam, $875,000. For the 21 affected States we are talking about a total of almost $1 trillion; to be exact, $955 million.

But obviously some States benefit from the provision. Alaska gains $37 million; Hawaii, $55 million; Iowa, $77 million; Missouri, $99 million, and Wisconsin is the biggest winner with an increase of more than $127 million.

I would not be so bold as to suggest that the 16 Members from Wisconsin vote for this amendment. If they did, they would be voting against $127 million for their own State. The same goes for the Representatives of the 29 States that benefit from this allocation that is presently in the bill. Although I would be more than happy to have their votes, I certainly will not seek them, expect them to vote against the best interests of their State, but, if I and every other Member from a State that losses money under the new allocation votes against this amendment, we will be voting against our State. That does not make any sense to me, Mr. Chairman.

This amendment is not complicated. There are winners and losers on the issue. But if every Member votes in the best interest of his or her State, my amendment will pass 299 to 136. I hope that will happen.

AMENDMENT OFFERED BY MR. BATEMAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. LIPINSKI

Mr. BATEMAN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The clerk read as follows:

Amendment offered by Mr. BATEMAN as a substitute for the amendment offered by Mr. LIPINSKI: Pages 231 and 232, strike the table and insert the following:

State	Percentage of sums authorized for fiscal year			
	1996	1997	1998	1999 & 2000
Alabama	1,0693	1.0110	0.9504	0.8896
Alaska	0.5723	0.5411	0.5087	0.4761
Arizona	0.7139	0.7464	0.7767	0.8060
Arkansas	0.6255	0.5914	0.5560	0.5204
California	7.5590	7.9031	8.2244	8.5345
Colorado	0.7649	0.7232	0.6885	0.6847
Connecticut	1.2948	1.3537	1.3718	1.3643
Delaware	0.4694	0.4438	0.4173	0.3905
District of Columbia	0.4694	0.4438	0.4173	0.3905
Florida	3.4532	3.4462	3.4304	3.4115
Georgia	1.7870	1.8683	1.9443	1.9993
Hawaii	0.7406	0.7002	0.6583	0.6161
Idaho	0.4694	0.4438	0.4173	0.3905
Illinois	4.7801	4.9976	5.2008	5.3970
Indiana	2.5472	2.6631	2.7714	2.8759
Iowa	1.2942	1.2236	1.1503	1.0767
Kansas	0.8708	0.8690	0.8650	0.8602
Kentucky	1.3452	1.3570	1.3508	1.3433
Louisiana	1.0512	1.0060	1.0014	0.9958
Maine	0.7402	0.6999	0.6666	0.6629
Maryland	2.3128	2.1867	2.0557	1.9241
Massachusetts	3.5884	3.7518	3.9043	4.0515
Michigan	4.1117	3.8875	3.8061	3.7850
Minnesota	1.7576	1.6618	1.5622	1.4622
Mississippi	0.8615	0.8146	0.7658	0.7167
Missouri	2.6509	2.5063	2.3562	2.2054
Montana	0.4694	0.4438	0.4173	0.3905
Nebraska	0.4891	0.4624	0.4347	0.4069
Nevada	0.4694	0.4438	0.4173	0.3905
New Hampshire	0.9556	0.9035	0.8494	0.7950
New Jersey	4.3190	4.5156	4.6686	4.6428
New Mexico	0.4694	0.4438	0.4173	0.3905
New York	11.6659	12.1969	12.6928	13.1714
North Carolina	1.9075	1.9943	2.0754	2.1537
North Dakota	0.4694	0.4438	0.4173	0.3905
Ohio	5.3833	5.0898	4.9266	4.8993
Oklahoma	0.7726	0.7304	0.6867	0.6427
Oregon	1.1939	1.2399	1.2342	1.2274
Pennsylvania	4.1866	4.2145	4.1952	4.1720
Rhode Island	0.6421	0.6071	0.5707	0.5342
South Carolina	0.9796	0.9262	0.8707	0.8150
South Dakota	0.4694	0.4438	0.4173	0.3905
Tennessee	1.4697	1.4668	1.4600	1.4520
Texas	4.6552	4.6458	4.6245	4.5989
Utah	0.5039	0.4764	0.4479	0.4192
Vermont	0.4694	0.4438	0.4173	0.3905
Virginia	2.1630	2.2615	2.3534	2.4379
Washington	1.8380	1.9217	1.9998	2.0752
West Virginia	1.4907	1.4249	1.4184	1.4106
Wisconsin	2.5852	2.4442	2.2978	2.1507
Wyoming	0.4694	0.4438	0.4173	0.3905
Puerto Rico	1.2472	1.1792	1.1185	1.1123
Northern Marianas	0.0399	0.0377	0.0355	0.0332
American Samoa	0.0859	0.0812	0.0763	0.0714
Guam	0.0621	0.0587	0.0552	0.0517
Palau	0.1224	0.1158	0.1088	0.1019
Virgin Islands	0.0551	0.0576	0.0599	0.0599.''.

Mr. BATEMAN. Mr. Chairman and Members of the House, I rise reluctantly to offer an alternative by way of a substitute for the amendment just discussed and presented by the distinguished gentleman from Illinois [Mr. LIPINSKI]. Our relationship has been a very close and cordial one, and I would hold it up as an example of the bipartisan spirit in which all of us should conduct our affairs for all Members of the House.

Let me say that I find myself somewhat in the position of the interloper who sought to separate two young sisters involved in a fist fight in the schoolyard, where the interloper, the peacemaker, became the subject of attack by both parties. There are indeed winners and losers any time we change any formula by which funding is allocated, as the gentleman from Illinois has pointed out.

One of the things that we must bear in mind, however, as we go through this debate about how to accomplish this reallocation based upon a new formula is some notion of equity, especially as it bears upon the default of the Congress over so many years to have upgraded the formula that has been in the law since the 1970's. We did not do that which we should have done over that long period of time, and so finally, when we have a new need for assessment and a proposed formula for allocation, it creates incredible peaks and valleys for so many States. There are States that lose as much as 59 percent of the funding they have historically been receiving. There are States which have enormous gains as a result in the new formula. The committee bill has capped the gains and losses at 5 percent. The amendment offered by the gentleman from Illinois [Mr. LIPINSKI] implements the new formula without any caps, without any effort to deal with the incredible losses which some States will sustain while giving all of the gain to every State——

Mr. NADLER. Will the gentleman yield?

Mr. BATEMAN. Not at this point; I will try to save some time so that I might at the end.

The alternative provision that I offer to both the committee bill and to the gentleman from Illinois' amendment is to allow those States that gain to gain more than is available to them under the committee bill while at the same time putting some floor under the losses of the losing States. Under my substitute amendment, Mr. Chairman, the gainers would gain 5 percent each year until they had gained 20 percent above their present allocations. The losers would lose 5 percent each year until they had lost 20 percent of their allocation. Obviously this is an effort to do some equity, to prevent the enormous peaks and valleys that would occur if we just implement the new assessment formula without any change, but certainly would be dealing more equitably with the gaining States than allowing them significantly more of the gains they are entitled to under the new formula than would the committee bill as it comes to the floor.

I strongly recommend to my colleagues that, not only from a sense of equity, but in terms of looking at this bill more analytically, that they support my substitute amendment. There are States which would gain more under the gentleman from Illinois' amendment, but suppose the gentleman from Illinois' amendment at

the end of the day is not the version which carries. They would then be stuck with the allocation formula in the bill as it comes to the floor or some modification which ultimately may arise in committee of conference, and under the worst possible case, if the bill is not enacted into law, we would have no reauthorization other than revolving funds and no funds in the future.

I say to my colleagues, ''When you contemplate all of the alternatives, I think the responsible, the fair, the equitable alternative would be found to be the one which I offer this morning.''

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

Mr. BATEMAN. I yield to the gentleman from New York.

Mr. NADLER. Could the gentleman answer the following questions? The gentleman from Illinois [Mr. LIPINSKI] gave us a list of States, of how much they would lose under the committee's formula compared to his formula. It names some of the larger losers, and can the gentleman tell me the corresponding figures for his substitute, please?

Mr. BATEMAN. I do not have them in front of me. I will get them and bring them to the gentleman. There is a list, and it will be available on the floor. I do not have it in my remarks. I do not have it in front of me.

Mr. LIPINSKI. Mr. Chairman, if the gentleman will yield to me, I have those figures, and I will give them to him.

Mr. NADLER. Would the gentleman yield to the gentleman from Illinois so we can get those figures?

The CHAIRMAN. The time of the gentleman from Virginia [Mr. BATEMAN] has expired.

(At the request of Mr. NADLER and by unanimous consent, Mr. BATEMAN was allowed to proceed for 2 additional minutes.)

□ 1015

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

Mr. BATEMAN. I yield to the gentleman from Illinois.

Mr. LIPINSKI. Mr. Chairman, I have the list. The gentleman wants to know what the losses are going to be. He does not know what you are going to ask.

Mr. BATEMAN. Might I suggest if the time has been yielded back to me, the more orderly way to proceed might be for me to yield back the time and then you all can raise such questions as you want, and then I will try and have the information to respond. At this point let me yield back the time. I am not trying to avoid getting you the information.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me first make a couple of comments here. Allocations of highway funding should be based on need and population. That is the tradition in the House and the fairest way. The amendment offered by the gentleman from Illinois bases the allocations on the latest needs figures from 1990 and on the latest population figures from the 1990 census. Of course, they differ from the needs and population figured in 1970, 20 years ago, based on a 20-year-old formula. Of course, some States have greater needs now relative to others and greater population now relative to others, and others have less.

They should gain and lose accordingly. If some States have much less needs, then they should have much less funds. If some States have much more needs, they should get a much greater proportion. That is the fairest way to do it, and that is what the gentleman from Illinois does, and that is the tradition we have followed over the years.

The committee formula bases it on current needs and population, modified by a hold-harmless formula to say that those States which no longer have the need relative to others should continue getting more than they need relative to others.

The substitute of the gentleman from Virginia says well, we are not going to continue that indefinitely, but we are going to continue to give an unfair proportion to some States, to 6 States, and an unfairly low proportion to 26 States, for 5 years. In fact, for any that are off balance by more than 20 percent, indeterminately. It is not fair and not right.

Therefore I urge the defeat of the substitute amendment and the adoption of the amendment.

With that, I will ask if the gentleman from Illinois would answer a couple of questions.

I would ask the gentleman, under the committee formula, Washington loses $35 million. How much would it lose under the gentleman from Virginia's amendment?

Mr. LIPINSKI. $28,452,500.

Mr. NADLER. Virginia loses $27 million. How much would it lose under the amendment?

Mr. LIPINSKI. $18,588,500.

Mr. NADLER. New York loses $318 million. Under the gentleman's substitute, how much would it lose?

Mr. LIPINSKI. The great State of New York would lose $270,720,500.

Mr. NADLER. Illinois would lose $83 million. How much would it lose under the substitute?

Mr. LIPINSKI. $63,375,000.

Mr. NADLER. Arizona would lose $50 million. How much would it lose under the substitute?

Mr. LIPINSKI. $47,850,000.

Mr. NADLER. California would lose $186 million under the gentleman's substitute.

Mr. LIPINSKI. $155,570,000.

Mr. NADLER. And Florida would lose $3 million. Under the gentleman's substitute, how much would it lose?

Mr. LIPINSKI. $4,888,000.

Mr. NADLER. Indiana would lose $58 million under the gentleman's substitute.

Mr. LIPINSKI. $47,962,000.

Mr. NADLER. Georgia would lose $20 million under the gentleman's substitute.

Mr. LIPINSKI. $14,220,000.

Mr. NADLER. Mr. Chairman, I thank the gentleman from Illinois.

Mr. Chairman, I would simply observe the gentleman's substitute does very little, as you heard from those figures, to undo the inequity of the committee formula. The gentleman's substitute should not be adopted. The amendment of the gentleman from Illinois, which bases the allocation formula strictly on needs and on population based on the 1990 census, should be adopted as continuing the tradition of the House to base these allocations fairly on population and on needs. And if some States have much less needs currently, so be it. If others have greater, they should get proportionately what they need.

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

Mr. NADLER. I yield to the gentleman from Virginia.

Mr. BATEMAN. Mr. Chairman, I thank the gentleman from New York for yielding.

Mr. Chairman, I would not question the arithmetic of the gentleman from Illinois or the gentleman from New York. I would question, however, the ultimate analysis and where the bottom line falls. It is true that States you enumerated would not do as well under my substitute as under the Lipinski amendment. I think, however, you need to assess it in the context of what is the difference between the version of the formula in the committee bill and the Bateman substitute, and all of those States would be substantially improved or enhanced under my substitute, more than they would under the bill as it comes to the floor.

The CHAIRMAN. The time of the gentleman from New York [Mr. NADLER] has expired.

(By unanimous consent, Mr. NADLER was allowed to proceed for 2 additional minutes.)

Mr. NADLER. Mr. Chairman, here are the differences. The States that have greater needs and greater populations would not be substantially benefited and treated substantially more fairly under the substitute offered by the gentleman from Virginia. Compare: Washington would only lose $28 million instead of $35 million. Is $7 million substantial? It would still lose $28 million from what it should get. Virginia would lose $18 million instead of $27 million. New York would lose $270 million. It is better than $318 million, but still $270 million. Unfair. Illinois would lose $63 million. Better than $83 million. California would lose $155 million. A little better than $186 million, but still $155 million less than it should get. Georgia, $14 million; Florida, $3 million.

The sum and substance, Mr. Chairman, is that most States, the majority of States, 26 States, would be treated

unfairly under this amendment and under the substitute. Six States would gain. There is no reason for that other than a desire to protect the States which have relatively less need, and in this era of fiscal stringency, where we are going to be cutting down the funds appropriated pursuant to this appropriations bill, we should not treat the States unfairly.

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

Mr. NADLER. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, if this passes, will the gentleman from New York vote for the bill? If the Lipinski amendment passes, will the gentleman vote for the bill?

Mr. NADLER. Mr. Chairman, if many of the other changes that I and others on this side have suggested are adopted, I would certainly consider it.

Mr. SHUSTER. I thank the gentleman for his obfuscation.

Mr. NADLER. Reclaiming my time, it is never a valid argument against an amendment that the people supporting the amendment may or may not support the bill. The question is, What does the bill look like at the end? I cannot tell you right now what the bill is going to look like at the end. I reserve judgment on whether I will vote.

Mr. SCHUSTER. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment offered by the gentleman from Virginia [Mr. BATEMAN].

Mr. Chairman, in the committee bill we rewrote the formula. The formula was developed in the 1970's based on population and based on needs. As a result of the changing needs and the changing population, we rewrote that formula. However, in doing so, we recognized that it would have an extreme impact on 23 States, which under the raw formula change would see one-third or more of their grants wiped out between 1995 and 1996. Three States, Alaska, Hawaii, and Iowa, would have their programs cut by 55 to 70 percent. So we said to ease the pain and the transition, we would put a plus or minus 10 percent cap, which seems to be fair.

Now, Pennsylvania would gain under Mr. LIPINSKI's wiping out of this 10 percent cap. But, nevertheless, in the interest of balance and fairness, I think that it is appropriate to have some form of transition.

Along comes the amendment of the gentleman from Virginia [Mr. BATEMAN], which actually goes a lot further toward Mr. LIPINSKI than the 10-percent cap which we imposed in the committee. Under this formula, it would go from a 55-percent cap to 10 percent in the second year, to 15 percent, to 20 percent, and 20 percent in the fifth year, the final year of this bill. Presumably there would be no caps as we move beyond the fifth year.

I think that is more balanced and more fair. It phases out the caps and, ultimately over a 5-year period, we get to the raw formula that Mr. LIPINSKI is proposing, and the formula which is in the bill, without the caps.

So, for all of those reasons, I believe in the interest of fairness and balance, we should support the Bateman amendment as a compromise to this issue, and urge adoption of the Bateman amendment.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Bateman substitute amendment and am in support of the Lipinski amendment. The formula used to allocate wastewater State evolving loan fund money under existing law is based on data from the mid-1970's, with most of the weight on needs and relatively little weight on population. No one can defend using out-of-date data as the best way to allocate scarce resources, or to effectively address needs into the 21st century, which is what the formula we put in this bill will have to do.

All the clean water bills introduced in the last Congress and in this Congress, including H.R. 961 as originally introduced, have used the same new formula, one that retains the weights in existing law but is based on the latest needs and population data available.

The formula was changed during subcommittee markup. This latest formula—the one that is in the reported bill—basically keeps the formula that is in existing law, but adjusts a State's allocation up or down by 10 percent. That is hardly bringing the formula up to date.

We have heard a great deal in this Congress, and by proponents of this bill, about making decisions based on sound science. But one is hard put to explain how relying on data that are 20 years out of date and an arbitrary plus or minus 10 percent adjustment can be sound science.

Because of tight Federal budget, wastewater treatment program suffers from severely limited funding. It is, therefore, imperative that we use the money available in the most effective way possible. Allocating it in the way best reflective of current needs is part of assuring that it is used as effectively as possible. The formula in existing law, of course, does not meet that test. Neither does the formula in H.R. 961.

It has been argued that while a change in the existing formula is clearly overdue, we should only marginally adjust the formula because otherwise a few States would have their allotments changed substantially. That may be true. But it is only because we have waited so long to update the formula. For instance, if you allow no Social Security cost-of-living adjustment for 20-year catch-up cost-of-living adjustment will produce a big jump, too. But that does not make it any less justified.

The gentleman from Illinois has circulated a ''Dear Colleague'' so that Members can see exactly how the formula in this bill would treat all States and how the formula in his amendment would treat all States. Given the importance of this vote, I would urge all Members to be familiar with that information before they cast their votes. If anyone does not have that information, I am sure that Mr. LIPINSKI can make that available to our colleagues.

Mr. Chairman, I rise at this time in support of the Lipinski amendment.

☐ 1030

Mr. PETRI. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Bateman amendment and in opposition to the Lipinski amendment.

Mr. Chairman, I strongly oppose this amendment which would reinstate a previously rejected and inequitable formula for the allocation of Federal capitalization grants for State revolving loan funds.

First of all, it is my understanding that there is a certain amount of controversy regarding the validity of the 1992 needs survey on which the formula in the amendment is based. In addition, the formula results in such wild fluctuations that most States experience either tremendous losses or tremendous gains in their allotment.

My own State of Wisconsin would experience a 48-percent drop from the formula in existing law. And that is not the most severe decrease—several States would be cut even more dramatically. How can we be expected to support that?

A decrease of that amount would be particularly frustrating and discouraging to States which are leaders in water quality programs and devote State resources to wastewater treatment programs beyond the required 20-percent match under the Clean Water Act. Many of these leaders would be cut severely under this amendment. A 10-percent decrease still causes some concern, but a 48-percent drop would be devastating and would send the wrong message to our State partners in clean water.

I can assure you that many of us would be happy to receive a 10-percent increase. Some States will receive less of an increase under the formula in H.R. 961, but they are still receiving a 10-percent increase.

Finally, I believe that we really should take another look at what elements are included in this needs based formula. H.R. 961 opens up the State revolving loan funds so that States can use the Federal funds for wastewater treatment, clean lakes programs, nonpoint source pollution control programs, watershed and stormwater programs, and a host of other activities. But this formula reportedly is based primarily on wastewater treatment capital infrastructure requirements.

But if you consider Wisconsin's nearly 15,000 lakes, 57,000 stream and river miles, 1,100 miles of Great Lakes shoreline, 1,700 square miles of estuaries and harbors, and the agricultural pollution

challenges that we face from 70,000 farms—which is four times what New York State has—and if all of these factors were included in the formula, I can assure you the overwhelming water needs we have in Wisconsin would become quite apparent.

I want to commend the chairman of the Transportation and Infrastructure Committee for his action and leadership on this issue. And I urge that the Lipinski amendment be defeated by the House as it already has been in the committee.

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

Mr. PETRI. I yield to the gentleman from Virginia.

Mr. BATEMAN. Mr. Chairman, I take it the gentleman agrees with me and shares my concern that if you just implemented the raw data from the new formula, 29 States would lose, some of them as much as of 9 percent of their funding.

Mr. PETRI. That is absolutely right. What this would do, too, is, frankly, based on needs and not looking at what States have done tends to reward States that have been ineffective in using funds they got under the last program rather than States that have done a good job.

It seems to me that is a little bit funny, plus removing the nonpoint source approaches here and the needs assessment survey does not reflect the broadening of the State and Federal pollution fighting effort. The needs is based on wastewater needs, not on total needs in each State.

Mr. BATEMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. DEFAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I guess the bottom line here is that we often get embroiled in these formula debates here in the House. And I have heard some seemingly convincing arguments on the other side enumerating the number of States that would benefit under one formula or the other. But, of course, part of what is neglected in that argument is the population base on those States.

Actually, under the Lipinski amendment, the math is pretty simple for 299 Members of this House and for the constituents of 299 Members of this House. There is not enough money to do everything we need to do in wastewater treatment. I think there should be more money in the budget. I think the Republican budget proposed yesterday by slashing funds for infrastructure and wastewater treatment is going the wrong way. I would be willing to support a higher emphasis on these needs in our Nation. But given the fact we are fighting over a shrinking pie here, there is a pretty basic equation.

That is, if you lose under the committee bill, which 299 Members of this body do, far more than a simple majority, those same 299 Members still lose under the Bateman substitute to the Lipinski amendment.

So I would suggest, despite all the Rube Goldberging and everything else that is going on around here, that we get back to the basic facts. And that is, the needs are not met in those States represented by 299 Members any better than they are in the other States represented by a minority of Members in this House who would benefit under this amendment. So I would strongly suggest that any of those 299 who vote to gut the Lipinski amendment will perhaps have some explaining to do when they go home to their constituents.

Mr. FLANAGAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Lipinski amendment and in opposition to the Bateman substitute.

Mr. Chairman, I thank the gentleman from Virginia for his very thoughtful substitute. And he is my friend and I reluctantly oppose his substitute here. I would say that under its current form, title VI of the Clean Water Act amendment authorizes an annual allocation of $2.5 billion over the next 5 years for State water pollution controlling revolving funds or SRF's. These SRF's provide critical assistance to States for the operation loan programs, for the construction and maintenance of municipal wastewater treatment plants. These loans represent the frontline for localities in their struggle to improve our drinking water quality.

However, as it is written now, title VI unfairly distributes these funds under a bizarre and outdated formula that is based on estimated needs and population statistics from the 1970's. Instead, the Lipinski allocation reflects real needs and uses real current census data, the result being a better return for each dollar spent.

The Bateman substitute, on the other hand, attempts to address inequity through a level of caps and also trying to move in this same direction. But to offer or foster the argument that we have a past inequity that is 20 years old, that is based on data that is that old, that will only move toward correcting it rather than correcting it now seems to be perpetuating the same wrong of the past just to a lesser degree.

I think in pure fairness, we should adopt the Lipinski amendment and reject the Bateman substitute, painful though it may be for those States who have, under the current calculation, received more than they should have for many years and will continue to receive more under this substitute.

If the Lipinski amendment is not adopted, then States like California, New York, and my home State of Illinois will lose millions. The Lipinski amendment is a question of fairness. With the adoption of this amendment, States like Illinois will receive their equitable share of SRF assistance as opposed to something closer to their equitable share.

So I urge my colleagues to support the Lipinski amendment and to defeat the Bateman substitute.

Mr. LIPINSKI. Mr. Chairman, I rise in opposition to the Bateman substitute amendment, and I move to strike the requisite number of words.

Mr. Chairman, I appreciate my very good friend, and I mean this sincerely, my very good friend, the gentleman from Virginia [Mr. BATEMAN], putting forth this amendment. He and I came to Congress together. We were friends then.

In the last few years, we worked very closely together on the Merchant Marine Subcommittee. In fact, I doubt seriously there has ever been a majority or minority that worked any closer together. So I am happy that he has brought forth this amendment. I know that he frames it as a compromise, but in all honesty I do not see it as a compromise. It is a minute step in the right direction but only a minute step in the right direction.

Let us remember that my amendment simply restores what was in the bill last year, what was in the bill at the beginning of this year, and what was not removed from the bill until the subcommittee markup.

At the full committee markup, I attempted to return to the original formula in the bill based upon 1990 population and needs. We lost. We lost on a vote of 30 to 30. Unfortunately the 31st vote in our favor wandered in the door a few minutes after the gavel fell. The next day we attempted to revive it for another vote, but we failed. It was tabled.

Mr. Chairman, I have heard people talk about here today that it was defeated in committee. There have been letters sent out saying it was defeated in committee, my amendment. It is true, but I thought I would put it in the proper perspective.

Once again I would like to reiterate, there are winners and there are losers. I oppose and I ask you to oppose the Bateman substitute, and I ask you to support the Lipinski amendment, particularly the following States: Arizona, California, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Tennessee, Texas, Virginia, Washington, and West Virginia.

If you do not defeat the Bateman amendment and support the Lipinski amendment, those States will lose close to $800 million.

Mr. BLUTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Lipinski amendment. I have great deal of respect for the gentleman from Illinois but I think this approach is flawed. I will be supporting the Bateman amendment and vote against the Lipinski amendment because, quite frankly, the Lipinski provides an inequitable allotment formula for the

distribution of State revolving loan funds.

Sure, I would love to think solely about my State and how much more money we could get out of the Lipinski formula. But we are talking about clean water as a national policy here. Every State deserves a fair allotment. The fact of the matter is the SRF is a national program. We in Congress have a duty and responsibility to ensure that national programs are run fairly and equitably. The chairman and the committee did that in the committee, and the Bateman substitute goes even further toward that end.

It provides safeguards to prevent huge disparities in funding allotments and ensures that no State benefits at the expense of another State. Under Lipinski, however, only a few States would benefit at the expense of 23 other States, 14 of which stand to see their SFR funds cut by more than 50 percent. This is not fair, and it simply is not good public policy especially at a time when we are encouraging States to play a more active role in managing their pollution control programs.

Mr. BATEMAN'S amendment is more evenhanded and does not contain this egregious treatment that some States receive under the Lipinski amendment. The allotment formula is far more objective.

For this reason, I ask my colleagues to do the fair thing and vote against the Lipinski amendment and vote for the Bateman substitute.

Mr. HAYES. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Bateman substitute and in opposition to the Lipinski amendment.

The gentleman is entirely correct in his formula approach; by that I mean the gentleman from Illinois [Mr. LIPINSKI], as was the committee. However, the committee balanced the extraordinary impact that would occur on the handful of States, somewhere 14 to 20, that would be so disproportionate to their present funding that it simply was not fair.

□ 1045

I would have no quarrel with accepting the formula of the gentleman from Illinois [Mr. LIPINSKI], if it did not so disservice that handful of States. The gentleman from Illinois was also correct when he read his list a moment ago and included my home State of Louisiana as one that would lose under both the committee and the substitute amendment by the gentleman from Virginia [Mr. BATEMAN]. But I believe a State like Louisiana, that I represent, would lose something bigger if we did not understand that we should not gain at the tremendous expense of those who would be so unfairly impacted by the rigid change in allocation of formula.

Therefore, the phase-in by the gentleman from Virginia [Mr. BATEMAN] is a much fairer approach, balances between the two, and I hope is supported by a majority of the House. We come here never forgetting where we are from, but we also recognize that ''U.S.'' stands in front of ''Congressman,'' and on the occasions when our States would be so severely negatively impacted we hope to remember and remind those that we helped at these times in asking their help in the future.

For that reason, I, on one of the rare occasions, disagree with the gentleman from Illinois [Mr. LIPINSKI]. I am going to oppose his amendment.

Mr. ZELIFF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Lipinski amendment. H.R. 961, as passed by the Transportation Committee, authorizes general State revolving fund capitalization grants at $3 billion each year for fiscal years 1996 through 2000. These SRF capitalizing grants provide essential assistance to States and local governments which will be faced with over $120 billion in capital needs related to Clean Water Act water quality requirements over the next 20 years.

In addition to increasing the total amount of SRF grants available to States and localities, title VI, as passed by the committee, is based on the population and the recently estimated needs of a State, and includes a hold harmless cap to prevent any State from losing or gaining more than 20 percent of its prior allotment.

The current SRF allotment formula is based on an outdated 1977 State population and needs data. The Lipinski amendment would force States to absorb the effects of updating a nearly 20-year-old SRF formula in 1 year. Without the Bateman amendment and the 20-percent floor and cap, there would be many very big losers and a couple of very big gainers. The elimination of the 20-percent loss limitation, as proposed by Mr. LIPINSKI, would result in 30 States and the District of Columbia being faced with a drastic reduction in their share of SRF grants.

New Hampshire would be the fourth largest loser under the Lipinski allotment formula. It would suffer a 53-percent reduction in its current allotment of SRF grants, which translates as a loss of over $10 million per year. Based on the 1992 Needs Survey Report to Congress, New Hampshire's total sewage infrastructure needs a total over $1 billion. This cut of $53 million between fiscal years 1996 and 2000 would be devastating to the communities of New Hampshire. New Hampshire's $536 million in new sewer construction needs would still be unmet. Its $164 million in wastewater treatment needs would be unmet. Its $37 million in rehabilitation of existing sewer needs would be unmet. And its $330 million in combined sewer overflow needs would be unmet. The amendment would financially cripple communities throughout the State and hinder efforts to improve the quality of their water resources.

New Hampshire is by no means the only State faced with enormous water infrastructure costs, nor is it the only State that would be faced with severe reductions in its SRF allotment under the Lipinski amendment. There would be far more big losers than big gainers under this amendment. The biggest losers would be Hawaii at a 66-percent loss, Alaska at 59 percent, Iowa at 55 percent, Delaware at 50 percent, Montana at 50 percent, Nevada at 50 percent, New Mexico at 50 percent, North Dakota at 50 percent, South Dakota at 50 percent, Wyoming at 50 percent, and Idaho at 49 percent. The big winners under the Lipinski amendment would be Arizona at a 68-percent increase, North Carolina, at 42 percent, and New York at 32 percent. Mr. LIPINSKI'S State of Illinois would gain 24 percent. Mr. Chairman, is it fair for 10 States to lose 50 percent or more of their SRF funding to 1 State's gain of 68 percent; or for 22 States and the District of Columbia to lose 30 percent or more of their funding to 5 States' gain of 30 percent or more? With the 10 percent hold harmless in place, the 30 States and the District of Columbia which would have otherwise suffered significant cuts in their share of the SRF grants will be able to continue their needed wastewater treatment projects.

This is an issue of fairness and of sound national public policy. Let us not return the Clean Water Act to be an unfunded mandate for a majority of the States. It is our obligation to ensure equity in the SRF allotment distribution so that all States, counties, and localities across this Nation have the ability to meet their wastewater infrastructure needs and to do their part in improving the quality of America's water resources. I strongly urge my colleagues join with me, support the Bateman amendment, and vote ''no'' on the Lipinski amendment.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in reluctant opposition to the amendment of my good friend, the gentleman from Illinois [Mr. LIPINSKI], and in support of the amendment offered by the gentleman from Virginia [Mr. BATEMAN].

In my judgment, Mr. Chairman, the allocation formula of the gentleman from Illinois would virtually wipe out in less than a year almost half of the State clean water programs in this program. Maryland would lose money under this formula, but as many of us here have discussed in the last few minutes, it is not the focus of one State versus another State. We are not in competition. If we are in a mode to understand the necessity for watershed management for clean water, where a number of States in a particular watershed have to work together to clean their water, to reduce the problem of nonpoint source pollution, to do all those things that are necessary for States to improve the quality of life for

those people, and to have a State revolving loan fund to impact that, the formula of the gentleman from Illinois [Mr. LIPINSKI] does not do that.

In my judgment, under the allocation of the gentleman from Illinois, over 20 States or a third or more of the States with SRF grants would largely be eliminated. The States that gain under the amendment of the gentleman from Illinois [Mr. LIPINSKI] would still gain under the committee bill and under the gentleman's amendment, they just would not gain as much.

To be fair to the many States that may potentially lose large portions of their programs, this amendment should be defeated. I encourage Members to vote for the Bateman amendment.

Mr. BORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Lipinski amendment and in opposition to the Bateman amendment.

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

Mr. BORSKI. I am happy to yield to the gentleman from Illinois.

Mr. LIPINSKI. I thank my good friend from Pennsylvania for yielding to me.

First of all, Mr. Chairman, I have failed to mention the fact that I think that during the course of the subcommittee markup, full committee markup, and here on the House floor, with a bill that is very controversial, because people have very strong opinions, that the gentleman from Pennsylvania [Mr. SHUSTER], chairman of the Committee on Public Works and Transportation, has done an outstanding job. I have said this on other occasions, and I want to say it once again.

I would also like to jump back just for a moment to my friend, the gentleman from Virginia [Mr. BATEMAN], because it pains me to be up here opposing him when, as I say, in the last 2 years we worked so diligently on attempting to save the U.S. merchant marine.

However, I have to say that the Bateman substitute suffers from the same defects as the ones in the bill. It uses the same outdated population and needs data to apportion SRF money to finance construction of wastewater facilities. The result is a formula that bears no resemblance to the clean water needs we face today. Thus, it will not help us prepare for the environmental challenges we will be facing in the near future.

The phase-in period is also problemmatical. It simply means that we have to wait another 4 years to get 20 percent of the adjustment we need to reflect current and future needs. We have waited a long time to update the wastewater SRF formula. We should not have to wait another 4 years to get another 20 percent of the changes in the current data showing that we need it now. For the sake of getting the most efficient allocation of resources, of getting the most bang for our buck, we should defeat the substitute, and we should support the Lipinski amendment.

One last time, I simply want to say that if Members are from the following States, and there are 299 Members from the following States, if you are from these States, defeat the Bateman amendment, support the Lipinski amendment, and these States will gain close to $1 trillion: Arizona, California, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Tennessee, Texas, Virginia, Washington, and West Virginia.

Mr. BORSKI. Mr. Chairman, I thank the gentleman and congratulate him on his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. BATEMAN] as a substitute for the amendment offered by the gentleman from Illinois [Mr. LIPINSKI].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHUSTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to the provisions of clause 2(c) of rule XXIII, the Chair announces that he may reduce to not less than 5 minutes the period of time within which a rollcall vote may be taken without intervening business on the amendment offered by the gentleman from Illinois [Mr. LIPINSKI].

The vote was taken by electronic device, and there were—ayes 160, noes 246, not voting 28, as follows:

[Roll No. 327]

AYES—160

Abercrombie	Cramer	Inglis
Allard	Crapo	Johnson (SD)
Armey	Cremeans	Kaptur
Bachus	Cubin	Kennedy (RI)
Baldacci	Danner	Kildee
Barcia	Davis	Kleczka
Barr	Deal	Klink
Barrett (NE)	DeLay	Klug
Barrett (WI)	Dickey	Knollenberg
Bartlett	Dingell	Largent
Barton	Ehlers	Latham
Bass	Ehrlich	Laughlin
Bateman	Emerson	Leach
Bereuter	English	Levin
Bevill	Ensign	Lightfoot
Bliley	Everett	Lincoln
Blute	Fields (TX)	Linder
Boehlert	Ganske	Longley
Bonilla	Gekas	Lucas
Bonior	Gephardt	Luther
Brewster	Gilchrest	McCrery
Browder	Gillmor	McDade
Brown (OH)	Goodlatte	McInnis
Callahan	Goodling	McIntosh
Camp	Graham	Mfume
Cardin	Greenwood	Minge
Castle	Gunderson	Mink
Chabot	Gutknecht	Montgomery
Chambliss	Hansen	Moran
Chenoweth	Hayes	Morella
Christensen	Hefley	Neumann
Clay	Hilliard	Ney
Clinger	Hobson	Nussle
Clyburn	Hoekstra	Obey
Coburn	Hoke	Orton
Collins (MI)	Hostettler	Oxley
Combest	Hutchinson	Parker
Paxon	Schiff	Tauzin
Payne (VA)	Schroeder	Taylor (MS)
Petri	Scott	Thompson
Pickett	Sensenbrenner	Thornton
Portman	Shuster	Traficant
Pryce	Sisisky	Upton
Ramstad	Skaggs	Vento
Reed	Skeen	Volkmer
Regula	Skelton	Vucanovich
Richardson	Smith (MI)	Waldholtz
Rivers	Souder	Walker
Roth	Spence	Wicker
Sabo	Spratt	Wolf
Sanders	Stenholm	Young (AK)
Sanford	Stokes	Zeliff
Sawyer	Stupak	
Schaefer	Talent	

NOES—246

Ackerman	Funderburk	Moorhead
Andrews	Furse	Murtha
Archer	Gallegly	Myers
Baesler	Geren	Myrick
Baker (CA)	Gibbons	Nadler
Ballenger	Gilman	Neal
Becerra	Gonzalez	Nethercutt
Beilenson	Gordon	Norwood
Bentsen	Goss	Oberstar
Berman	Green	Olver
Bilbray	Gutierrez	Owens
Bilirakis	Hall (OH)	Packard
Bishop	Hall (TX)	Pallone
Boehner	Hamilton	Payne (NJ)
Borski	Harman	Pelosi
Brown (CA)	Hastert	Pombo
Brown (FL)	Hastings (FL)	Pomeroy
Brownback	Hastings (WA)	Porter
Bryant (TN)	Hayworth	Poshard
Bryant (TX)	Heineman	Quillen
Bunn	Herger	Quinn
Bunning	Hilleary	Radanovich
Burr	Hinchey	Rahall
Burton	Holden	Rangel
Buyer	Horn	Reynolds
Calvert	Houghton	Riggs
Canady	Hunter	Roberts
Chapman	Hyde	Roemer
Chrysler	Jackson-Lee	Rohrabacher
Clayton	Jacobs	Ros-Lehtinen
Clement	Jefferson	Rose
Coble	Johnson (CT)	Roukema
Coleman	Johnson, E. B.	Roybal-Allard
Collins (GA)	Johnson, Sam	Royce
Condit	Johnston	Rush
Conyers	Jones	Salmon
Cooley	Kanjorski	Saxton
Costello	Kelly	Scarborough
Coyne	Kennedy (MA)	Schumer
Crane	Kennelly	Seastrand
Cunningham	Kim	Serrano
de la Garza	King	Shadegg
DeFazio	Kingston	Shaw
DeLauro	Kolbe	Shays
Dellums	LaFalce	Slaughter
Deutsch	LaHood	Smith (NJ)
Diaz-Balart	Lantos	Smith (TX)
Dicks	LaTourette	Smith (WA)
Dixon	Lazio	Solomon
Doggett	Lewis (CA)	Stark
Dooley	Lewis (GA)	Stearns
Doolittle	Lewis (KY)	Stockman
Doyle	Lipinski	Studds
Dreier	Livingston	Stump
Duncan	LoBiondo	Tate
Durbin	Lofgren	Taylor (NC)
Edwards	Lowey	Tejeda
Engel	Maloney	Thomas
Eshoo	Manton	Thornberry
Evans	Manzullo	Thurman
Ewing	Markey	Tiahrt
Farr	Martinez	Torkildsen
Fawell	Martini	Torricelli
Fazio	Mascara	Towns
Fields (LA)	Matsui	Tucker
Filner	McCarthy	Velazquez
Flake	McCollum	Visclosky
Flanagan	McHale	Walsh
Foglietta	McHugh	Wamp
Foley	McKeon	Ward
Forbes	McKinney	Waters
Ford	McNulty	Watt (NC)
Fowler	Meehan	Waxman
Fox	Menendez	Weldon (FL)
Frank (MA)	Metcalf	Weller
Franks (CT)	Meyers	White
Franks (NJ)	Mica	Whitfield
Frelinghuysen	Miller (FL)	Williams
Frisa	Mineta	Wilson
Frost	Molinari	Wise

Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—28

Baker (LA)
Bono
Boucher
Collins (IL)
Cox
Dornan
Dunn
Fattah
Gejdenson
Hancock
Hefner
Hoyer
Istook
Kasich
McDermott
Meek
Miller (CA)
Moakley
Mollohan
Ortiz
Pastor
Peterson (FL)
Peterson (MN)
Rogers
Tanner
Torres
Watts (OK)
Weldon (PA)

☐ 1122

The Clerk announced the following pair:

On the vote:

Mr. Watts of Oklahoma for, with Mr. Bono against.

Mr. SOLOMON, Ms. PELOSI, and Messrs. STOCKMAN, PACKARD, NEAL of Massachusetts, ROYCE, CUNNINGHAM, DICKS, GALLEGLY, BUYER, FRELINGHUYSEN, LAZIO of New York, SMITH of Texas, TIAHRT, TORKILDSEN, KIM, and QUINN changed their vote from ''aye'' to ''no.''

Messrs. ARMEY, GEKAS, LIGHTFOOT, DEAL of Georgia, NEY, CREMEANS, SABO, BALDACCI, and HOBSON, Mrs. SCHROEDER, Messrs. GEPHARDT, HEFLEY, EHLERS, and GANSKE, Mrs. MINK of Hawaii, Messrs. MFUME, BARCIA, and CLAY, Ms. KAPTUR, Messrs. EHRLICH, STUPAK, TAUZIN, BONIOR, GUTKNECHT, and RICHARDSON, and Miss COLLINS of Michigan changed their vote from ''no'' to ''aye.''

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PORTER. Mr. Chairman, I was in conference with Senators on the Senate side on the rescission bill and did not hear the bells nor realize a vote was being taken on rollcall No. 327. Had I been present and voting, I would have voted ''aye.''

PERSONAL EXPLANATION

Mr. HOYER. Mr. Chairman, I was unavoidably absent on rollcall 327. Had I been present, I would have voted ''aye.''

I was unavoidably absent on rollcall 328. Had I been present, I would have voted ''no.''

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. LIPINSKI].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LIPINSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 247, noes 154, not voting 33, as follows:

[Roll No. 328]

AYES—247

Ackerman
Andrews
Archer
Baesler
Ballenger
Barr
Barton
Bateman
Becerra
Beilenson
Bentsen
Berman
Bilbray
Bilirakis
Bishop
Bliley
Boehlert
Borski
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Canady
Chambliss
Chapman
Clayton
Clement
Clinger
Coble
Coleman
Collins (GA)
Condit
Conyers
Cooley
Costello
Coyne
Crane
Cunningham
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Durbin
Edwards
Engel
Eshoo
Evans
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Gibbons
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Green
Gutierrez
Hamilton
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Heineman
Herger
Hilleary
Hinchey
Holden
Hostettler
Houghton
Hunter
Hyde
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kelly
Kennedy (MA)
Kennelly
Kim
King
Kingston
Klink
Kolbe
LaFalce
LaHood
Lantos
Lazio
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCollum
McDade
McDermott
McHale
McHugh
McIntosh
McKeon
McKinney
McNulty
Meehan
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Mineta
Molinari
Moorhead
Moran
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Norwood
Olver
Owens
Packard
Pallone
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Pickett
Pombo
Poshard
Quinn
Rahall
Rangel
Reynolds
Riggs
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Royce
Rush
Salmon
Saxton
Scarborough
Schumer
Scott
Seastrand
Serrano
Shadegg
Shaw
Shays
Sisisky
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Stark
Stearns
Stockman
Studds
Stump
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thurman
Torkildsen
Torricelli
Towns
Tucker
Velazquez
Visclosky
Walsh
Ward
Watt (NC)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wilson
Wise
Wolf
Woolsey
Wyden
Yates
Young (FL)
Zimmer

NOES—154

Abercrombie
Allard
Armey
Bachus
Baker (CA)
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bereuter
Bevill
Blute
Boehner
Bonilla
Bonior
Brewster
Browder
Brown (OH)
Callahan
Camp
Cardin
Castle
Chabot
Chenoweth
Christensen
Chrysler
Clay
Clyburn
Coburn
Collins (MI)
Combest
Cramer
Crapo
Cremeans
Cubin
Danner
DeLay
Dingell
Duncan
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Fields (TX)
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Goodling
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hayes
Hefley
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hutchinson
Inglis
Johnson (SD)
Johnson, Sam
Kaptur
Kennedy (RI)
Kildee
Kleczka
Klug
Knollenberg
Largent
Latham
LaTourette
Laughlin
Leach
Levin
Lightfoot
Lincoln
Linder
Longley
Lucas
Luther
McCarthy
McCrery
McInnis
Minge
Mink
Montgomery
Morella
Neumann
Ney
Nussle
Oberstar
Orton
Oxley
Parker
Petri
Pomeroy
Portman
Pryce
Quillen
Radanovich
Ramstad
Reed
Regula
Richardson
Rivers
Roberts
Roth
Sabo
Sanders
Sanford
Sawyer
Schaefer
Schiff
Schroeder
Sensenbrenner
Shuster
Skaggs
Skelton
Smith (MI)
Spence
Spratt
Stenholm
Stokes
Stupak
Talent
Taylor (MS)
Thompson
Thornberry
Thornton
Tiahrt
Traficant
Upton
Vento
Volkmer
Vucanovich
Waldholtz
Walker
Wamp
Wicker
Williams
Wynn
Young (AK)
Zeliff

NOT VOTING—33

Baker (LA)
Bono
Boucher
Collins (IL)
Cox
Dickey
Dornan
Dunn
Fattah
Gejdenson
Hancock
Hefner
Hoyer
Istook
Kasich
Livingston
Meek
Miller (CA)
Moakley
Mollohan
Obey
Ortiz
Pastor
Peterson (FL)
Peterson (MN)
Porter
Rogers
Skeen
Tanner
Torres
Waters
Watts (OK)
Weldon (PA)

☐ 1130

Mr. HILLEARY and Mr. MCDERMOTT changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title VI?

AMENDMENT OFFERED BY MR. LARGENT

Mr. LARGENT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LARGENT: Page 232, strike lines 13 through 17 and insert the following:

''(7) $2,250,000,000 for fiscal year 1996;
''(8) $2,300,000,000 for fiscal year 1997;
''(9) $2,300,000,000 for fiscal year 1998;
''(10) $2,300,000,000 for fiscal year 1999; and
''(11) $2,300,000,000 for fiscal year 2000.''.

Page 232, strike line 18 and all that follows through line 20 on page 234.

Conform the table of contents of the bill accordingly.

Page 32, line 6, strike ''$3,000,000,000'' and insert ''2,250,000,000''.

The CHAIRMAN. The Chair notes the gentleman from Oklahoma has an amendment which, in part, references title II. It will be necessary for the gentleman to ask for unanimous consent in order to have consideration of the

part of his amendment which affects title II.

Mr. MINETA. Mr. Chairman, reserving the right to object, can we get a further explanation of that portion of it in terms of its relationship to title II?

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

Mr. MINETA. Further reserving the right to object, I yield to the gentleman from Oklahoma.

Mr. LARGENT. Mr. Chairman, does the Chair wish me to address the concern of our colleague, the gentleman from California, or address the amendment?

The CHAIRMAN. The Chair believes the gentleman from California has yielded to the gentleman from Oklahoma in pursuit of a question for further explanation of that part of the amendment offered by the gentleman from Oklahoma that affects or impacts title II. The Chair would reference the gentleman to the last two lines of the amendment.

Mr. LARGENT. Mr. Chairman, I would note that it is a conforming change, and we would ask that the last line be stricken.

Mr. MINETA. Mr. Chairman, if I might, I was just wanting to hear the explanation. I have no objection to what the gentleman is doing. I just wanted an explanation on the title II portion of it, and I appreciate that very, very much.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the original amendment will be considered.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma [Mr. LARGENT] for 5 minutes in support of his amendment.

Mr. LARGENT. Mr. Chairman, I rise today to conform the water infrastructure authorizations in H.R. 961, the Clean Water Amendments of 1995, to the House budget resolution passed earlier yesterday morning.

H.R. 961 currently authorizes roughly $3 billion annually for water infrastructure programs and capitalization of water quality State revolving funds. While these are laudable programs and the States do have an important unmet clean water need, the bill's authorization total is too high. The bills' fiscal year 1996 total of $3.05 billion is just over $750 million more than the $2.3 billion included in the House budget resolution passed by the Committee on the Budget.

While my amendment represents a 25-percent reduction in H.R. 961, water infrastructure authorization, it still maintains the bill's authorization levels above the President's request of $1.87 billion for fiscal year 1996.

Specifically, my amendment will eliminate the new nonpoint source State revolving fund capitalization program. This new program was not requested by the President and could cost up to $500 million a year. The program is redundant, since H.R. 961 allows moneys from the current State revolving fund program to be used for nonpoint source projects.

My amendment further reduces the State revolving authorization from $2.5 billion annually to $2.25 billion in fiscal year 1996. That total is increased to $2.3 billion in fiscal years 1997 through 2000.

My amendment will make a good bill better. The amendment is fiscally sound, while allowing the States to receive funding they need for water infrastructure.

Mr. Chairman, I would also like to include a letter that was written to the chairman, Chairman SHUSTER. This is from the Association of State and Interstate Water Pollution Control Administrators, the folks responsible with the State revolving fund. It is their strong recommendation, in fact, I will quote:

> It is the strong position of the Association that the existing State revolving fund should be the mechanism for infrastructure financing in the future, and that single-purpose grants like the nonpoint source revolving fund should not be created, that the new nonpoint source State revolving fund duplicates existing authority and is unnecessary, that it would require duplication of administrative effort and financial resources, it limits its gubernatorial flexibility, that it does not currently provide for the level of flexibility provided under the existing SRF,

And, again, finally, it is their basic position the Clean Water Act project-level technical and financial assistance should be consolidated rather then fragmented under the existing State revolving fund, and, therefore, they conclude, ''We are not in a position to be supportive of this provision that is included in the Clean Water authorization.''

ASSOCIATION OF STATE AND INTERSTATE, WATER POLLUTION CONTROL ADMINISTRATORS,
Washington, DC, May 9, 1995.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN SHUSTER: As was requested by the Committee, the Association has reviewed the provision to create a State Revolving Fund for non-point sources and provides the following comments. Please be aware that, for the most part, these comments have been shared personally with Chairman Boehlert (in advance of the full committee mark-up) and some items were addressed at that time.

1. It is the strong position of the Association that the existing SRF should be the mechanism for infrastructure financing in the future. Subsidies/single purpose grants or SRF's should not be created.

2. This NPS/SRF duplicates existing authority and is unnecessary inasmuch as non-point sources are already eligible under the current program and non-point source projects are currently being funded by states.

3. The NPS/SRF would require some duplication of administrative effort and financial resources to establish and maintain. Again, this is an unnecessary expenditure, because currently, authority allows for non-point source loans.

4. The NPS/SRF limits gubernatorial flexibility by targeting State funds to a particular problem rather than the overall goals of the Act—as determined by a State.

5. The NPS/SRF does not currently provide for the level of flexibility provided by the existing SRF, (i.e., the negative interest options). Therefore, it is our understanding that NPS loan recipients cannot benefit from reduced paybacks.

6. It is our understanding that the Tax Act places a restriction on the percentage (e.g. 10%) of an SRF that can be provided to an individual or private sector entity when tax exempt bonds are used to leverage or secure the State match. As the NPS/SRF is specifically targeted to individuals/farmers, this Tax Act restriction applies. Hence, it is likely that only 10% of the total fund could be utilized in some States.

The ASIWPCA appreciates Chairman Boehlert's interest in placing higher priority on non-point source pollution. Also, ASIWPCA supports efforts, (within the context of the existing SRF), to address these diffuse sources. However, our basic position is that all Clean Water Act project-level technical and financial assistance should be consolidated—rather than fragmented—under the existing SRF. Therefore, we are not in a position to be supportive of this provision.

We hope that these comments are useful to the committee.

Sincerely,

BRUCE BAKER,
President.

Mr. MINETA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I must strongly oppose the gentleman's amendment.

We are all concerned about the budget and the Federal deficit. However, we cannot ignore the needs of our cities and States, and the bill before us is already inadequate to fully meet such needs.

Current estimates of the needs of cities and States to meet water quality goals under the Clean Water Act are placed at $137 billion over the next 20 years. Even at $3 billion per year as provided in the bill, we will not be able to provide as much assistance to cities and States as I would prefer. Further reducing the amount will only delay achieving desired water quality.

One of the recurring themes of the debate on this legislation has been the need to reduce unfunded mandates upon cities and States. Further reducing the authorized funding will not help in reducing unfunded mandates, it will only make matters worse.

The $137 billion in needs which the cities and States have identified are real needs, and those needs will continue even if this bill were to become law.

I would also like to point out to my colleagues, that the cuts in assistance to states and cities are even greater than they might appear. These Federal grants are for capitalization of State revolving loan funds—the money is used over and over in providing assistance to localities.

Over 20 years, these funds will be used three times. Therefore, a $3.5 billion reduction over the life of this bill will actually be a reduction of over $10

billion in assistance to States and cities.

Few of our Federal investments yield such a high return. We receive improved water quality, and the funds will be available in perpetuity.

The final point I will make in opposition to the Largent amendment is that while I appreciate the efforts of the budget committee in developing spending assumptions, it is a function of the authorizing and appropriating committees to determine final funding levels for individual programs. This amendment presupposes the results of that process. And, it presupposes the results of that process even before the budget resolution has been considered by the House.

Should the final budget resolution require reconciliation legislation or reduced levels of appropriations, then the House and appropriate committees can consider those options at that time. However, I believe that we would be doing a great disservice to the interests of the cities and States if we should choose to reduce the authorization levels in the bill at this time.

Mr. Chairman, I urge the rejection of this amendment. We should allow the budget and appropriations process to work their course, and we should do our best to aid cities and States.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to be able to support our full authorization that we brought to the floor. I would like to be able to support it because the needs for clean water far exceed the authorization which is in this bill.

However, I am extremely cognizant of the extraordinary budget pressures this Congress faces. The general fund budget must be brought under control.

So, for that reason, with some reluctance, I nevertheless must support the amendment which we have before us today, and perhaps most importantly, I think we should focus on the reality that in the last Congress the actual appropriation for this program was $2.3 billion.

The gentleman from Oklahoma [Mr. LARGENT] brings to the floor today a reduction which will nevertheless this coming year leave that authorization at $2.6 billion, or $300 million more than the reality of the actual appropriation which we saw last year. So considering the pressures we have on the budget, considering the reality of what the actual appropriations have been, and also recognizing the extraordinary needs that we have for clean water, I would urge support of the Largent amendment.

Mr. BORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to express my opposition to this amendment that will continue the trend of reducing the investment in our Nation's infrastructure.

The authorization levels in the committee bill show a commitment to continuing the program of investment that has existed for 20 years. This investment has been crucial to the success of our efforts to clean up the Nation's waters.

Last year, as chairman of the Subcommittee on Investigations and Oversight, I chaired a series of hearings that examined the need for more capital investment in this Nation.

We found that the Nation's needs for investment in wastewater treatment are continuing to increase.

The Environmental Protection Agency estimates the Nation's total investment needs in wastewater treatment to be almost $140 billion.

It is estimated that an additional $6 billion a year is needed to meet our needs.

One report by a respected infrastructure consulting firm estimated that we will have a $62 billion shortfall in our investment in wastewater treatment by the end of the decade.

Mr. Chairman, I do not believe reducing the authorization levels in H.R. 961 is the way to meet our Nation's pressing water pollution problems.

The State Revolving Loan Fund Program has been a shining success in the area of innovative financing on a cooperative Federal and State basis.

The States contribute their share and then control the funds as they are recycled.

Many other infrastructure initiatives have been looking to the Clean Water Act as a model for their own areas.

We should not be attempting to curtail these programs but enhancing them as a way of solving our urgent water pollution problems.

Adoption of this amendment would be another setback in our attempt to clean up our Nation's waters. I urge its defeat.

□ 1145

The States contribute their share and then control the funds as they are recycled. Many other infrastructure initiatives have been looking to the Clean Water Act as a model for their own areas. We should not be attempting to curtail these programs, but enhancing them as a way of solving our urgent water pollution problems. Adoption of this amendment would be another setback in our attempt to clean up our Nation's waters.

Mr. Chairman, I would also make a note for those who are concerned most about unfunded mandates. If this amendment were to pass, we would give our States, and cities and localities more of an unfunded mandate to meet their needs. I urge defeat of the amendment.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment goes to the heart of the ability of cities to meet their obligations to clean up the Nation's waterways. At the very start of the Clean Water Act in 1956, my predecessor, John Plotnik, took on the daunting task, and then formidable and incredible task, of crafting legislation to clean up the Nation's waterways which are in a despicable state. He recognized that at the end of all the laws and all the discussions we have to have funds to cities and States to build sewage treatment plants to clean up their effluent, an incentive. A partnership was struck between the Federal Government, and municipalities and the States, and that partnership has grown, and it has worked extraordinarily well.

Over the years of construction, of the construction grant program for the Federal water pollution control program, municipalities have used, in combination with Federal funds, some $75 billion to clean up point sources of discharge. And industry has spent in the range of $130 billion to clean up their responsibility. Together over $205 billion spent in the last 25 years on cleaning up point source discharges to help clean up America's waterways. Most municipalities of large size meet secondary treatment standards, but the unmet needs and the most recent EPA surveys show $137 billion in needs by municipalities to build sewage treatment facilities to clean up those discharges. Talk will not clean them up. Talk will not take sewage out of the Nation's waterways. Treatment facilities do, and that costs money.

Now several years ago we eliminated the construction grant program and replaced it with a revolving loan fund that shifted significantly greater costs to municipalities for their responsibility in what is essentially a Federal problem: Rivers run between States; that is a Federal responsibility. We have a partnership to carry out with them. We said no more grants, loans, that it is going to cost more, and now what the gentleman's amendment would do is for each State cut roughly one-quarter of the funding available to them to help municipalities to do the job of cleaning, continue the job of cleaning up, discharges into lakes and streams.

Shifting of burden on to State and local governments is not the direction that we ought to go in the clean water program. It will take longer to achieve the Clean Water Act goals. It will take longer to address the incredibly complex problem of separating combined storm and sanitary sewers in this country. The CSO, the combined sewer overflow, problem continues to grow as we urbanize America, and less water is soaked up by wetlands, and goes directly into sewers, and causes more sewage to go into the Nation's waterways. We need to stay on track with the construction of sewage treatment facilities.

I wish we did have a construction grant program. We now have this revolving loan program. I say to my colleagues, ''Don't make it more burdensome for local governments to meet their responsibilities to continue with the task of cleaning up their discharges

into the Nation's waterways. Make it a real partnership.''

The funding in the bill that the committee has reported is in my judgment modest. It is less than what we need to achieve our goals. But it is a responsible figure. We should not cut below that number.

Defeat the Largent amendment.

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

Mr. OBERSTAR. I yield the gentleman from California.

Mr. MINETA. Mr. Chairman, I would like to just mention for the benefit of all the Members so that they understand where we are. We have just voted overwhelmingly to accept the Lipinski amendment so that our cities and States would be able to get the needed funds in order to meet the clean water needs of the cities and States across the country. It appears now this amendment would take away some $700 million in fiscal year 1996 for our cities and States and some $3.5 billion over the 5-year period, and so it seems to me, if our colleagues voted yes on the Lipinski amendment, then they should be voting no in very strong numbers again on the Largent amendment.

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

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

(On request of Mr. SHUSTER and by unanimous consent, Mr. OBERSTAR was allowed to proceed for 1 additional minute.)

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

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I simply point out to my friends that under the Largent amendment, even with the cuts, the State revolving fund under the Largent amendment would still be very substantially higher than the appropriation requested by the Clinton administration. Under the Largent amendment the State revolving fund would be $2.3 billion. The administration has only requested $1.6 billion, and so we still would be above the administration.

Mr. OBERSTAR. I make no apologies for the administration proposal. I think it is grossly inadequate. But I think the committee bill, which the chairman has reported out, is on target, it is responsible, it is less than, I think, what we need, but I think in today's budget climate it is an appropriate number, and we ought not to undercut the good work the committee has done.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, most of the Members know that the gentleman from Oklahoma [Mr. LARGENT] is not only an NFL Hall of Famer, but he is a very caring Hall of Famer here in this body. But I would like the people that are thinking about supporting the amendment, and I reluctantly rise in opposition to the gentleman's amendment, and I have a couple of concerns, but, first of all, yesterday we had a bill that would have placed on DOD an unfunded mandate that would have cost billions of dollars when it was proven that those DOD facilities, both the surface and the shore based, complied better, all put together, than individual ones, and that was an unfunded mandate, and I did not support that as well.

I also believe in the authorization level in the committee mark that is thoughtful in the process. And I know that the mention of the Clinton budget. I do not imagine the President realized at the time of that budget that we were going to take a look and reauthorize the Clean Water Act as much as we are today.

I also made a statement earlier that Members on both sides of the aisle have reacted in ways that, because of extremes on both sides, those that want to concrete the world and pollute, and yet those on the other side from the environmental groups that have used it as a weapon, and somewhere in between we have got to lie, but if we give this to the States, we have got to give them the right and the power to do what we are asking them to do, and I think the committee mark is adequate.

I look in San Diego. If we treat secondary water in our sewage problem, it would cost us between $8 to $12 billion just for the city of San Diego in a waiver process. If we look at the Tijuana River that comes out of Mexico, that is why our beaches are fouled, and we need support in that, and the State cannot do it by itself.

So reluctantly I rise in opposition to my friend's amendment, and I ask my colleagues to think twice before they degrade the amount in the level.

Mr. BOEHLERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am somewhat perplexed as I face this issue, and it probably is the plight of a moderate. I can appreciate what the chairman is trying to do to get to a lower figure to reflect the everyday realities, the fiscal realities, we have now, and I can support that. But I cannot support eliminating section 606, the State nonpoint-source water pollution control revolving funds, for a very basis reason.

We have constantly preached to American agriculture that we want them to identify with the problem and be part of the solution, and quite frankly American agriculture is justified when they come back to us and say, ''Quit giving us the sanctimonious sermon. How about a little financial assistance? You want us to do things that are going to cost money. We don't have the money. How about helping us out?''

I think that is a legitimate request.

So during the committee deliberations we debated long and hard on establishing a separate State nonpoint-source pollution revolving fund to the tune of $500 million. Give to the States the flexibility to use those funds to address the problem of nonpoint-source pollution, however, if there is a much higher priority and they want to use those funds for wastewater treatment plants, they can do so. So what we have said to the States and to agriculture is simply this:

''We have heard your pleas. On the one hand the States want flexibility. On the other hand agriculture wants some financial assistance.'' So we say we will accommodate both of those requests by setting up section 606, the nonpoint-source pollution revolving loan fund.

Now with this amendment cutting back, and I understand the need to cut back; I am very sympathetic to what the ranking member has said and the chairman of the full committee has said. We know full well the legitimate needs that are out there all across America. It would take $130 billion if we are going to pass the funding right now as the gentleman from Minnesota [Mr. OBERSTAR] has no eloquently stated, but we do not have that money.

So we have to deal with the situation, not as we would like it, but as we are faced with it. So what I want to do is ask the author of the amendment if he is sympathetic to my basic request that we retain the section 606, State nonpoint-source pollution revolving fund, and if he would accept a perfecting amendment which would allow us to do so. Then when that is incorporated into his amendment, we can then go on to vote on the amendment as perfected, and everyone can vote as they best see fit.

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

Mr. BOEHLERT. I yield to the gentleman from Oklahoma.

Mr. LARGENT. Mr. Chairman, regretfully I would not be wiling to accept that friendly amendment, and let me just say a couple of things, reasons why.

Currently the present funding for the State revolving fund is $1.2 billion. Under this amendment we increase that funding over a billion dollars, where it would be $2.25 billion. Currently the State revolving fund has the flexibility to address nonpoint-source problems, and on top of that I have a letter to the chairman of the Committee on Transportation and Infrastructure from the Cattlemen's Association, the Council of Farmer Cooperatives, the sheep industry and pork producers, the very people that are concerned about nonpoint-source problems, and they say in this letter that the increased funding that we are authorizing under this amendment, that we believe that this provides adequate authority for States to reorient appropriate portions of the existing, the existing, State revolving fund creatively and aggressively and assisting those who must address nonpoint-source runoff, including provisions that allow modifications to reflect economic need.

And so the reason that I would object to this is that it is running 180 degrees opposite of what I feel like that we are trying to do in the 104th Congress, and that is try to reduce the amount of bureaucracy and creating any structures within the Clean Water Act.

□ 1200

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, that is unfortunate, because the fact of the matter is what I am suggesting will not add $1, not $1, to the bottom line amount. But what it will add is flexibility for the Governors, and what it will do is guarantee for the first time that America's farmers have a source to apply to receive some assistance to follow through with instilling best management practices, doing the type of things that they want to do.

The CHAIRMAN. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

(By unanimous consent, Mr. BOEHLERT was allowed to proceed for 3 additional minutes.)

Mr. BOEHLERT. Mr. Chairman, I have found repeatedly that America's farmers are among the best stewards of our land. They drink the water that we drink, they breathe the air that we breathe. They want to be responsible, but they lack the resources. And, very honestly, and I think everyone here will admit that under the present State revolving fund program, not one dime goes to American farmers to give them a helping hand.

I want to guarantee that they know that there is a source of money that is fenced off for them. They can apply for it, they can use it. They can help be part of the solution. That is what they want to do.

But, as I said earlier, the farmers of America are tired of our sanctimonious sermons coming from Washington, on this great hill, the citadel of freedom, telling them very pompously, ''We want you to be part of the solution. But, incidently, we are not going to give you any money to solve the problem.'' That is not responsible.

So I fail to see why my distinguished colleague from Oklahoma would not accept the perfecting amendment that does not add one penny to the total bottom line amount. Not one penny. It just says for the first time, after this great deliberation in our Committee on Transportation and Infrastructure, after I worked hand in glove with the chairman to develop something that was going to be meaningful. And it passed with not one dissenting vote. Nobody voted against it. Every single member of that committee, Democrat, Republican; liberal, conservative; supported the Boehlert amendment, because they said you are right, we have got to do something to recognize the problem, and we have got to do it with more than just words and good intentions.

The CHAIRMAN. The time of the gentleman from New York [Mr. BOEHLERT] has again expired.

(By unanimous consent, Mr. BOEHLERT was allowed to proceed for 2 additional minutes.)

Mr. BOEHLERT. Mr. Chairman, I want my colleagues to know one of the reasons I am proceeding is we are trying to draft the language for the perfecting amendment, so we can all appreciate that sometimes takes a little time. We have got great scholars and wizards in the back room doing that.

But the fact of the matter is, Mr. Chairman, Mr. LATHAM was here on the floor, my good and distinguished colleague and great friend from Iowa telling us of the problems of American agriculture. I serve as the chair of the Subcommittee on Water, Resources, and the Environment. We had a hearing in upstate Utica, NY, on this very subject, exclusively devoted to that subject of nonpoint-source pollution.

We have talked to agriculture. Agriculture likes this initiative. They want us to get it in part of the final language, and so do I. So I know nobody, that, really sincerely, when they evaluate all the facts of this, would argue that we should turn our backs on American farmers. I am not going to do so.

I am privileged to serve as chair of the Northeast Agriculture Caucus. In that capacity I work with my colleagues from both sides of the aisle to listen to America's farmers, to work with them. I want to help them, and the perfecting amendment I am suggesting would be very much in order and would help them.

AMENDMENT OFFERED BY MR. BOEHLERT TO THE AMENDMENT OFFERED BY MR. LARGENT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Oklahoma [Mr. LARGENT].

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT to the amendment offered by Mr. LARGENT: Strike that portion of the amendment which strikes line 18 on page 232 and all that follows, through line 20 on page 234.

Mr. BOEHLERT. Mr. Chairman, I would ask the gentleman from Oklahoma [Mr. LARGENT] once again, now that he has had a chance to reflect upon this, if he might see a different perspective to it; and, as the gentleman approaches the podium, I want to remind him, we are not adding one penny to the bottom line.

What we are adding is something the gentleman has fought vigorously for, as you have campaigned, and I welcome you here to be part of the new majority, you said during that campaign you want to return more authority to local government. Boy, I agree with the gentleman 100 percent. The gentleman said during his campaign he wants to cut down as much as possible the Federal spending.

I could not agree more with the gentleman. I, too, want to cut down as much as possible Federal spending. The gentleman has said, and I have said, we want to march together, to go forward, to help American agriculture, and I want to do that.

So I would ask the gentleman if, upon sober reflection, if he has any new insights he would like to share with this distinguished body.

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

Mr. BOEHLERT. I yield to the gentleman from Oklahoma.

Mr. LARGENT. Mr. Chairman, I would just say that I have not seen the amendment yet. I look forward to reading it here in just a second. But I would just say that in my mind what I see this doing is what the gentleman is saying, is that we are not asking for one additional penny. But what the gentleman would do with his amendment is simply add another drawer in the already full kitchen of the Federal Government. We will not put any money in there right now, but that drawer will still be there.

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, not so; not adding another drawer. It goes to the States. That is what the State revolving fund does. We send the money from Washington to the States. The States administer the State revolving fund. We are saying the same people administer it. Do not hire any more bureaucrats; we have enough of them.

We are saying take that money and sort of put it over to the side, just like when you sit down and work out the monthly budget at home. You have so much for your mortgage, so much for your car payments, so much for your groceries. If you decide to earmark a specific amount for groceries, you do not go out and add new members to your family. You just sort of move that account over a little bit.

What I am saying is let us demonstrate, colleagues, here on the floor of the House of Representatives, let us demonstrate in very tangible form that we want to work with American agriculture. We want to help America's farmers. Once again, let me repeat, they are the best stewards of the land that I know.

I am privileged to represent a district where agriculture is very important, and I talk to farmers. I can go and talk to a farmer. A typical farmer in upstate New York might be milking 60 or 70 cows, a farmer, wife, maybe a couple of kids. Along comes somebody and says, Mr. Farmer, we are concerned about the quality of water. Guess what the farmer says? So am I.

Then along comes this expert and says we know how to solve part of the problem. We would like you to maybe have a little buffer strip between your land where you are growing crops and where your pasture land is, and the river or stream, or put up a fence, or, maybe even more costly, a little manure management system. It is only going to cost you $10,000. The farmer looks you in the eye and says where in the hell am I going to get $10,000?

Money does not come down from Heaven.

We say we have set up a special fund. You can apply to your State government, not Washington, not those bureaucrats down there, but your State government. You can go to them and say here is the best management plan that I have worked out. I accept. I think it makes good sense. It is going to protect my land and your land; it is going to protect our water. Now, I would like to have a low-interest, long-term loan from the State revolving fund to help me do it. I think that makes an awful lot of sense.

Mr. LARGENT. If the gentleman will yield further, I would just say once again that the current State revolving fund is accessible to that farmer in your district as it currently exists right now.

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, let me tell you the everyday practical politics of it. Not one penny has gone to farmers. There are all the pressures on the State capitals and the people administering those fund dollars for funds for wastewater treatment plants. If you have this fund fenced off and they say this is what we collectively have agreed on, the Federal Government, the State government, we think this makes sense, I think it would help a great deal.

Mr. LARGENT. If the gentleman will yield further, I would argue just the opposite, that by creating a special fund that in fact you could eventually limit the amount of money that would be available to those farmers if you depleted that fund and they said you have already used up everything you have got in your special nonpoint source revolving fund, so we are not going to give you any more, as opposed to being able to tap the entire fund.

Mr. BOEHLERT. Mr. Chairman, reclaiming my time, you cannot take anything away from nothing. That is what they are now getting, zero, zip, zilch, nothing. I want to say here is some hope. You might have an opportunity to get something. I think that serves our best interests. It serves the best interests of American agriculture, and I will urge support of my perfecting amendment.

Mr. WISE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I believe I am in support of the gentleman from New York's perfecting amendment, but I really want to go at the overall amendment because I think that is what is crucial here.

The gentleman from Oklahoma's amendment I believe is sincere. He is concerned about deficit reduction and other things. I just think it is the wrong way to go at this time.

I have the opportunity from time to time to be involved in, as we all in this hall do, the dedication and ground breaking ceremonies for sewage treatment facilities, and there is a map that we have in the West Virginia facilities when we preside over these.

There is a map that is provided; there are actually two maps. One hand is all that has been built, the partnership between the State government, the Federal Government, the local government, and the ratepayers, as well as taxpayers all. That partnership has built $1 billion worth of sewage treatment facilities, wastewater construction projects, in our State. And that is impressive in a small State. That is the map on one side, what has been done.

There is a map on the other side, too, and that shows the many locations that still need to be constructed if it is to meet the goals set by this Congress and to meet common sense goals of health. What that map shows is that there is at least a $2 billion need.

So that map on one side says $1 billion has been constructed. The map on the other side says there is still $2 billion worth of construction to do. So we look at what the national figures are. Nationally, I hear statistics ranging everywhere from the most conservative of somewhere around 100 to 130 to 150 billion dollars' worth of projects still needing to be done simply to meet existing requirements.

So I ask how are we going to do this? I think it is important to look at the evolution of the State revolving fund. Remember, it was just a few years ago, a dozen years ago, that it was a grant program, and it was authorized for as much as $5 billion. That was imply for point source pollution. Then it was ratcheted down over the years to $2.5 billion. Then it changed from a grant fund gradually to a revolving loan fund that people have to pay back.

So what we have gone from is an outright grant to a revolving loan fund. Incidentally, it is funded at a far lesser rate than $5 billion, roughly $2 billion last year.

Now look at what is in this bill as far as additional demands upon municipal treatment facilities. I supported some of the measures in this bill for additionally flexibility, but I also know that when you per deal with pretreatment of industrial waste, you are going to put additional demands on existing facilities as well as those to be built. Are we now to step back from that commitment as well? Are we to step back from some of the requirements and demands that will be placed upon state and local governments?

I also look at unfunded mandates. A lot of talk around here about that. This legislation does maintain certain mandates in place. Yet would we cut back further on the money that is to go to the State and local governments and the ratepayers themselves to assist in meeting those mandates?

Mr. Chairman, this is really I think prefacing for what will be a much greater discussion that must be conducted in this Congress, but in some ways it is going to be started on some of these seemingly smaller issues.

What role does growth have in our budget process? The effort to balance the budget in 7 years, we all agree on the need for a balanced budget. But the effort to balance that, is it going to restrict the kind of growth that is going to be needed to take place in order to accomplish that?

My feeling is you cannot cut your way out of this mess. You are going to have to growth as a solid component. We have legitimate disagreements in here as to what will lead to that growth, but I do not think we ought to be cutting back those very programs that are indeed so necessary.

I had the chance to attend a ground breaking the other day for an industrial part which is guaranteed to create at least 350 jobs and probably as high as 800 jobs. So important to that park was the money necessary for the sewage treatment facilities. They could not have that park without it.

□ 1215

The Federal Government's return on its investment is going to be gotten back entirely within 4 years, based upon taxes that will be paid by the newly working people and so on, 4 years. I had a real estate developer, major developer come up to me afterward and say, If I could get my return back in 4 years on every investment, I would be in hog heaven.

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. WISE] has expired.

(By unanimous consent, Mr. WISE was allowed to proceed for 2 additional minutes.)

Mr. WISE. Mr. Chairman, I ask this body to recognize the important need of investment. Behind every major industrial development project is a need for waste treatment disposal. We are asking the Government, governmental sector, local and State governments and public service districts to take on an increased responsibility along with increased flexibility. This is not the time to be cutting back the authorization for them to do that. It is the time actually to be increasing.

I will not make that argument on the floor today, but I would urge that we not support the amendment of the gentleman from Oklahoma and urge my colleagues to permit the language to continue that is in the bill.

MODIFICATION OF AMENDMENT OFFERED BY MR. BOEHLERT TO THE AMENDMENT OFFERED BY MR. LARGENT

Mr. BOEHLERT. Mr. Chairman, I ask unanimous consent that the amendment to the amendment be modified, in the interest of clarity, so that my colleagues will understand, to strike $2.3 billion each place it appears in the bill and insert $1.8 billion. So what we do, in effect, is retain the section 606 that sets up this nonpoint source pollution revolving fund at $500 million, when added to the $1.8 billion totals the $2.3

billion that the gentleman from Oklahoma [Mr. LARGENT] has set as his ceiling. So that is the perfecting amendment.

I would hope on a bipartisan basis the perfecting amendment can be accepted. Then we could have the vote on the Largent amendment as perfected and everyone can work as they wish.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification of amendment offered by Mr. BOEHLERT to the amendment offered by Mr. LARGENT: Strike ''$2,300,000,000'' each place it appears and insert ''$1,800,000,000''.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. HAYES. Mr. Chairman, reserving the right to object, my understanding of what would occur in that reduction is that all of that would come from the State revolving fund. I vigorously oppose that. I most certainly believe the gentleman has a right to a vote on that, but I certainly could not consent to it under unanimous consent.

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

Mr. HAYES. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, what I want my distinguished colleague, the gentleman from Louisiana, to note is that the funds are interchangeable. This gives the flexibility to the State government, the State government agency administering the fund.

As you well know, because you are a student of this, as you well know, presently farmers get zip from the State revolving fund, nothing. We are setting up something that says, We are responsive to your need for financial assistance. We will give the money in a State revolving fund. We will fence off $500 million for nonpoint source pollution.

However, in recognition of your legitimate concern, we will give the flexibility to the State. The State can use all of that money for other than nonpoint source pollution, if that is its highest priority.

But I would respectfully submit to the gentleman, and that has been pointed out to me by a number of my colleagues from agriculture States, that in many States they have done very will in terms of addressing the problem of waste water treatment plants. They have got what they need. But they need more assistance for nonpoint source pollution and they have not had the source.

Mr. HAYES. Mr. Chairman, continuing my reservation of objection, I ask the gentleman, in what manner would that be distributed? Under the formula?

Mr. BOEHLERT. Mr. Chairman, if the gentleman will continue to yield, that would be the same formula as we had for the SRF.

Mr. HAYES. Mr. Chairman, as I say, I do not think that is the appropriate time or moment. I will object to the unanimous consent. I most certainly will not object to furthering our discussion at a different time.

Mr. Chairman, continuing my reservation of objection, I yield to the gentleman from Oklahoma [Mr. LARGENT].

Mr. LARGENT. Mr. Chairman, I remind the gentleman that under the current State revolving funds the States already have the flexibility to address nonpoint source matters. So what we are doing is really redundant and provides less flexibility for States, potentially supplies less flexibility.

Mr. HAYES. Mr. Chairman, I do not wish to belabor the point at this time. As I say, it is certainly an appropriate discussion but I feel that I will have to object to the unanimous consent request.

Mr. Chairman, continuing my reservation of objection, I yield to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, before the gentleman maintains his objection, you, as a senior member of the committee of jurisdiction, know full well, because we have examined this very thoroughly in long, long hearings, American farmers are not getting one penny out of the State revolving fund to do some of the things that we are suggesting from on high here in Washington they should do to be part of the solution rather than just standing idly by and being perpetuators of the problem. We want to give them a source of money so that they can apply to their State government. We want to give their State government the flexibility that I think you and I would agree they should have to make the decisions at that level.

Louisiana knows what is best for Louisiana, what is good for Louisiana, as does New York know best what is good for New York.

Mr. HAYES. Mr. Chairman, it would be my understanding, I do not want to belabor the point now, but I believe that the agricultural community is opposed to the gentleman's position, as are the cities and States.

Mr. BOEHLERT. Mr. Chairman, if the gentleman will continue to yield, no.

Mr. HAYES. As I say, I think that would be more appropriate perhaps for another moment.

Mr. Chairman, I am simply going to have to object to the unanimous-consent request.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. HAYES. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of my colleague from New York. What I would like to do for the Members, especially for Members who might be from a suburban area or an urban area, is to give them some idea what nonpoint source pollution is.

Nonpoint source pollution happens in suburbs. It happens in urban areas. It happens in rural areas on agricultural farms.

You have all kinds of farms. You have dairy farms. You have chicken farms. You have grain farms, et cetera. There is a variety of farms. I want to show you what the problems are with nonpoint source pollution on farms in any one of these areas.

Most farms, especially if there are cows, chickens, grain farmers, cattle farmers, they have a barn. Somebody said pig, OK. Now we have a barn. Somewhere around a farm generally you are going to have a river or some waterway.

This is the Clean Water Act that we are talking about. We are trying to prevent pollution from a source to get into the water. So what we see here, whether you have pigs, cows, chickens, grain, or whatever, they have manure. So it very often costs money, if you are going to put a manure shed for composting purposes next to the farm. That composting shed could cost $5,000.

If you have dairy farms and cows, you will have to put a holding area for the cows sometime before you take them in for them to milk. That holding area is concentrating manure which gradually will get into the ground water unless you build a holding area which prevents the manure from leaving that area. That is about $10,000 on this side.

The other things you need for a farm is fertilizer, pesticides, herbicides. All of these things, if they leach or flow into the waterway, are going to cause a problem with the quality of the water. So what do you need to do to hold those things? You need certain things called waterways, if you have any contour on the land.

A waterway is a grassy area that helps absorb the runoff to prevent the silt or the fertilizer from getting into the ground water into the waterway. You need other things called buffer zones. A buffer zone is a grassy area around the waterway and that, again, prevents the pollution or the silt or a variety of other things from getting into the ground water.

There is something else you need. If you plant corn or wheat or rye or soybean, very often you do not put anything on the ground during the winter months and the nitrogen that you put on the ground in the spring and the summer, unless it is taken up into these plants during the winter months, gets into the ground water so that costs more money.

In essence, for one farm, if this is a dairy farm or a pig farm or a chicken farm or a grain farm, every single farmer, whether they own 10,000 acres or 100 acres, has a certain amount of cost if he is going to prevent nonpoint source pollution. And all of this costs money.

Generally speaking, farmers have not gotten enough aid in this area. So I strongly, I am a big football fan and all

the rest of that, but I have to rise in strong opposition to the gentleman's amendment.

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

Mr. GILCHREST. Mr. Chairman, I yield to the gentleman from Louisiana.

Mr. HAYES. Would the gentleman mind drawing in the five different Federal regulators that are going to be on the farm right after that river was drawn in?

Mr. GILCHREST. First of all, the Federal regulators should be on the farm and talk about possom hunting, then have a cup of coffee and a piece of pie, and the Federal regulators ought to be good neighbors and talk about how we can solve some of these problems, but unless the allocation is there, unless the funding is there, unless the awareness is there that this kind of thing exists, we are not going to stop the greater problem that we have today of nonpoint source pollution and help those people who need to be a part of the solution.

Mr. HOKE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wanted to point out to the gentleman from Maryland and also the gentleman from New York that we actually have already in Ohio a nonpoint source program that has been specifically developed inside the existing law. And it is particularly targeted for ag interests so that farmers can get funding through the revolving loan fund in order to be able to do exactly the kinds of things that you are talking about.

What I am saying is, we do not need to fence off this money inside this bill in order to achieve what you want to do. I cannot see any reason to support the Boehlert amendment when, A, it is possible to do what the gentleman from New York wants to do already; B, it is being done in places like Ohio; and C——

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

Mr. HOKE. I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Chairman, it may be done in places like Ohio, but it is not being done across the Nation. If we are looking at watershed ideas and keeping water going from one State to another State and raising the awareness of nonpoint source problems, especially in agriculture, I think the gentleman from New York [Mr. BOEHLERT] has the right idea.

Mr. HOKE. Mr. Chairman, I understand that the gentleman does think that, but clearly the whole argument here and the reason that we are making these changes in this act have to do with giving greater flexibility to the States to be able to do these things.

What I am suggesting to the gentleman is that already in many States, Ohio is not the only one, that flexibility has been utilized in a responsible way.

Last, the other thing I wanted to say about the bill generally, the Largent amendment, is that I sit on the Committee on the Budget. And it strikes me that if we do not undertake the kind of amendment that the gentleman from Oklahoma [Mr. LARGENT] has brought today, then we are just back in the same old routine that we have been in year after year after year.

I frankly do not want to support going through this charade where we have these authorizing bills that have 20, 30, 40, 50 percent more money in them than what the Committee on the Budget has said there will be available to spend and what we know that the appropriators are going to come up with ultimately.

Let us have some honesty, some truth in budgeting. Let us have some truth in legislation in this. This is supported by the chairman. This is the right direction. This is the right way to go.

We ought to have the mark in the authorizing bill match the mark in the Committee on the Budget bill, match the mark that we are finally going to come up with in the Committee on Appropriations. That is crystal clear.

If we do not take this opportunity now to start on that road, then we will play the same old games in the 104th Congress that we have placed in all previous Congresses.

□ 1230

Mr. BORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to ask the distinguished gentleman from New York [Mr. BOEHLERT] if he will engage me in a colloquy.

Mr. Chairman, as I understand it, the Largent amendment would reduce the total funding to $2.3 billion.

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

Mr. BORSKI. I yield to the gentleman from New York.

Mr. BOEHLERT. That is my understanding.

Mr. BORSKI. And I would ask the gentleman, what would the Boehlert amendment do? Would that add $500 million to that $2.3 billion?

Mr. BOEHLERT. No, Mr. Chairman, it would not. My perfecting amendment would reduce it to $1.8 billion, and retain the section 606, which is $500 million. Here is what I would suggest we do for the good of the cause.

Mr. Chairman, I ask unanimous consent that I be allowed to withdraw the amendment, so we can continue the discussions between the chairman and the ranking minority member and the subcommittee chair and the ranking minority member of the subcommittee, and try to work this out. I do not think that there is any argument here, that we are trying to do something that demonstrates to American agriculture that we want to set up something that is earmarked specifically for their needs in addressing the problem of nonpoint source pollution, but we want to do it in such a way as to permit flexibility for the State Governors and the administrators of the State revolving fund.

I would like to think that we are creative enough to accomplish both worthy objectives.

The CHAIRMAN. Is the gentleman from New York [Mr. BOEHLERT] requesting that his amendment be withdrawn?

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

Mr. BORSKI. I am happy to yield to the distinguished chairman, the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding to me.

Mr. Chairman, I would say to the gentleman from New York [Mr. BOEHLERT] then, so we can move forward on other provisions here, that one of the suggestions is that he put this in title X, so we may proceed with the amendment before us.

Mr. BOEHLERT. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. BORSKI] yield for that purpose?

Mr. BORSKI. I yield to the gentleman from New York for that purpose.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The request has been granted, and the amendment is withdrawn.

Mr. MINETA. Reserving the right to object, Mr. Chairman, just as a parliamentary inquiry, would this require, then, that the gentleman from New York [Mr. BOEHLERT] go back to title VI if we are to have him withdraw this, and we proceed forward on the bill? Would he have to get unanimous consent to go back to title VI in order to be able to amend, if he is to do this in title X?

Mr. BOEHLERT. Mr. Chairman, if I may amend my unanimous consent request, the unanimous consent request is to withdraw this amendment at this point, with authority to revisit title VI for the purpose of this amendment only at a later date.

The CHAIRMAN. The Chair will first state that the amendment has been withdrawn.

Mr. BOEHLERT. With this proviso.

The CHAIRMAN. Is there objection to the request of the gentleman from New York [Mr. BOEHLERT] that the gentleman be able to offer an amendment to title VI after it is passed in the reading?

Mr. BOEHLERT. For this specific amendment only.

The CHAIRMAN. For this specific purpose only.

Without objection, it shall be in order for the gentleman from New York [Mr. BOEHLERT] to offer a form of his amendment to title VI at a later time during consideration.

There was no objection.

PARLIAMENTARY INQUIRY

Mr. MINETA. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. MINETA. Mr. Chairman, at this point is the only issue pending before us the amendment offered by the gentleman from Oklahoma [Mr. LARGENT]?

The CHAIRMAN. That is correct.

Mr. BORSKI. Mr. Chairman, I just want to reiterate my opposition to the Largent amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. LARGENT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MINETA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 209, noes 192, not voting 33, as follows:

[Roll No. 329]

AYES—209

Allard	Fields (TX)	McInnis
Archer	Flanagan	McIntosh
Armey	Foley	McKeon
Bachus	Fowler	Metcalf
Baker (CA)	Franks (NJ)	Meyers
Ballenger	Frelinghuysen	Mica
Barr	Funderburk	Miller (FL)
Bartlett	Gallegly	Molinari
Barton	Ganske	Montgomery
Bass	Gekas	Moorhead
Bereuter	Geren	Myers
Bevill	Gilman	Myrick
Bilbray	Goodlatte	Nethercutt
Bilirakis	Goodling	Neumann
Bliley	Graham	Norwood
Blute	Greenwood	Nussle
Boehlert	Gunderson	Orton
Boehner	Gutknecht	Oxley
Bonilla	Hall (TX)	Packard
Brewster	Hamilton	Parker
Browder	Hansen	Paxon
Brownback	Hastings (WA)	Petri
Bryant (TN)	Hayes	Pickett
Bunn	Hayworth	Pombo
Bunning	Hefley	Pryce
Burr	Herger	Quillen
Burton	Hilleary	Quinn
Buyer	Hilliard	Radanovich
Callahan	Hobson	Ramstad
Calvert	Hoekstra	Regula
Canady	Hoke	Riggs
Castle	Horn	Roberts
Chabot	Hostettler	Roemer
Chambliss	Hunter	Rohrabacher
Chapman	Hutchinson	Ros-Lehtinen
Christensen	Hyde	Roth
Chrysler	Inglis	Roukema
Clinger	Istook	Royce
Coburn	Johnson, Sam	Salmon
Collins (GA)	Jones	Sanford
Combest	Kasich	Saxton
Condit	Kim	Scarborough
Cooley	King	Schaefer
Cox	Kingston	Schiff
Crane	Klug	Seastrand
Crapo	Knollenberg	Sensenbrenner
Cubin	Kolbe	Shadegg
Davis	Largent	Shaw
de la Garza	Latham	Shuster
Deal	LaTourette	Sisisky
DeLay	Laughlin	Skeen
Diaz-Balart	Lazio	Smith (MI)
Dickey	Leach	Smith (NJ)
Dooley	Lewis (CA)	Smith (TX)
Doolittle	Lewis (KY)	Smith (WA)
Dreier	Lightfoot	Solomon
Duncan	Linder	Souder
Edwards	Livingston	Spence
Ehrlich	Lucas	Stearns
Emerson	Manzullo	Stenholm
Ensign	Martini	Stockman
Everett	McCollum	Stump
Fawell	McHugh	Talent
Tate	Upton	Wilson
Tauzin	Vucanovich	Wolf
Taylor (MS)	Walker	Young (AK)
Tejeda	Walsh	Young (FL)
Thomas	Wamp	Zeliff
Thornberry	Weldon (FL)	Zimmer
Tiahrt	Wicker	

NOES—192

Abercrombie	Gillmor	Ney
Ackerman	Gonzalez	Oberstar
Baesler	Gordon	Obey
Baldacci	Goss	Olver
Barcia	Green	Owens
Barrett (WI)	Gutierrez	Pallone
Bateman	Hall (OH)	Payne (NJ)
Becerra	Harman	Payne (VA)
Beilenson	Hastert	Pelosi
Bentsen	Hastings (FL)	Pomeroy
Berman	Heineman	Porter
Bishop	Hinchey	Portman
Bonior	Holden	Poshard
Borski	Houghton	Rahall
Brown (FL)	Hoyer	Rangel
Brown (OH)	Jackson-Lee	Reed
Bryant (TX)	Jacobs	Reynolds
Camp	Jefferson	Rivers
Cardin	Johnson (CT)	Rose
Clay	Johnson (SD)	Roybal-Allard
Clayton	Johnson, E. B.	Rush
Clement	Johnston	Sabo
Clyburn	Kanjorski	Sanders
Coble	Kaptur	Sawyer
Coleman	Kelly	Schroeder
Collins (MI)	Kennedy (MA)	Schumer
Costello	Kennedy (RI)	Scott
Coyne	Kennelly	Serrano
Cremeans	Kildee	Shays
Cunningham	Kleczka	Skaggs
Danner	Klink	Skelton
DeFazio	LaFalce	Slaughter
DeLauro	LaHood	Spratt
Dellums	Lantos	Stark
Deutsch	Levin	Stokes
Dicks	Lewis (GA)	Studds
Dingell	Lipinski	Stupak
Dixon	LoBiondo	Taylor (NC)
Doggett	Lofgren	Thompson
Doyle	Lowey	Thornton
Durbin	Luther	Thurman
Ehlers	Maloney	Torkildsen
Engel	Manton	Torricelli
English	Markey	Towns
Eshoo	Martinez	Traficant
Evans	Mascara	Tucker
Ewing	Matsui	Velazquez
Farr	McCarthy	Vento
Fattah	McDade	Visclosky
Fazio	McDermott	Volkmer
Fields (LA)	McHale	Waldholtz
Filner	McKinney	Ward
Flake	McNulty	Waters
Foglietta	Meehan	Watt (NC)
Forbes	Menendez	Waxman
Ford	Mfume	Weldon (PA)
Fox	Mineta	Weller
Frank (MA)	Minge	White
Franks (CT)	Mink	Whitfield
Frisa	Mollohan	Wise
Frost	Moran	Woolsey
Furse	Morella	Wyden
Gephardt	Nadler	Wynn
Gilchrest	Neal	Yates

NOT VOTING—33

Andrews	Dunn	Murtha
Baker (LA)	Gejdenson	Ortiz
Barrett (NE)	Gibbons	Pastor
Bono	Hancock	Peterson (FL)
Boucher	Hefner	Peterson (MN)
Brown (CA)	Lincoln	Richardson
Chenoweth	Longley	Rogers
Collins (IL)	McCrery	Tanner
Conyers	Meek	Torres
Cramer	Miller (CA)	Watts (OK)
Dornan	Moakley	Williams

□ 1252

The Clerk announced the following pairs:

On this vote:

Ms. Dunn of Washington for, with Mrs. Collins of Illinois against.

Mr. Bono for, with Mrs. Meek of Florida against.

Mr. Watts of Oklahoma for, with Mr. Moakley against.

Messrs. HOUGHTON, COBLE, WELLER, HASTERT, and EWING changed their vote from ''aye'' to ''no.''

Mr. GRAHAM and Mr. HORN changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. ROUKEMA. Mr. Speaker, I would like to note that on the last vote, rollcall 329, I voted incorrectly. I had intended to vote ''no'' and I was registered as ''yes.''

The CHAIRMAN. Are there any other amendments to title VI?

If not, the Clerk will designate title VII.

The text of title VII is as follows:

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. TECHNICAL AMENDMENTS.

(a) SECTION 118.—Section 118(c)(1)(A) (33 U.S.C. 1268(c)(1)(A)) is amended by striking the last comma.

(b) SECTION 120.—Section 120(d) (33 U.S.C. 1270(d)) is amended by striking ''(1)''.

(c) SECTION 204.—Section 204(a)(3) (33 U.S.C. 1284(a)(3)) is amended by striking the final period and inserting a semicolon.

(d) SECTION 205.—Section 205 (33 U.S.C. 1285) is amended—

(1) in subsection (c)(2) by striking ''and 1985'' and inserting ''1985, and 1986'';

(2) in subsection (c)(2) by striking ''through 1985'' and inserting ''through 1986'';

(3) in subsection (g)(1) by striking the period following ''4 per centum''; and

(4) in subsection (m)(1)(B) by striking ''this'' the last place it appears and inserting ''such''.

(e) SECTION 208.—Section 208 (33 U.S.C. 1288) is amended—

(1) in subsection (h)(1) by striking ''designed'' and inserting ''designated''; and

(2) in subsection (j)(1) by striking ''September 31, 1988'' and inserting ''September 30, 1988''.

(f) SECTION 301.—Section 301(j)(1)(A) (33 U.S.C. 1311(j)(1)(A)) is amended by striking ''that'' the first place it appears and inserting ''than''.

(g) SECTION 309.—Section 309(d) (33 U.S.C. 1319(d)) is amended by striking the second comma following ''Act by a State''.

(h) SECTION 311.—Section 311 (33 U.S.C. 1321) is amended—

(1) in subsection (b) by moving paragraph (12) (including subparagraphs (A), (B) and (C)) 2 ems to the right; and

(2) in subsection (h)(2) by striking ''The'' and inserting ''the''.

(i) SECTION 505.—Section 505(f) (33 U.S.C. 1365(f)) is amended by striking the last comma.

(j) SECTION 516.—Section 516 (33 U.S.C. 1375) is amended by redesignating subsection (g) as subsection (f).

(k) SECTION 518.—Section 518(f) (33 U.S.C. 1377(f)) is amended by striking ''(d)'' and inserting ''(e)''.

SEC. 702. JOHN A. BLATNIK NATIONAL FRESH WATER QUALITY RESEARCH LABORATORY.

(a) DESIGNATION.—The laboratory and research facility established pursuant to section 104(e) of the Federal Water Pollution Control Act (33 U.S.C. 1254(e)) that is located in Duluth, Minnesota, shall 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''.

SEC. 703. WASTEWATER SERVICE FOR COLONIAS.

(a) GRANT ASSISTANCE.—The Administrator may make grants to States along the United States-Mexico border to provide assistance for planning, design, and construction of treatment works to provide wastewater service to the communities along such border commonly known as ''colonias''.

(b) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds made available under subsection (a) shall be 50 percent. The non-Federal share of such cost shall be provided by the State receiving the grant.

(c) TREATMENT WORKS DEFINED.—For purposes of this section, the term ''treatment works'' has the meaning such term has under section 212 of the Federal Water Pollution Control Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under subsection (a) $50,000,000 for fiscal year 1996. Such sums shall remain available until expended.

SEC. 704. SAVINGS IN MUNICIPAL DRINKING WATER COSTS.

(a) STUDY.—The Administrator of the Environmental Protection Agency, in consultation with the Director of the Office of Management and Budget, shall review, analyze, and compile information on the annual savings that municipalities realize in the construction, operation, and maintenance of drinking water facilities as a result of actions taken under the Federal Water Pollution Control Act.

(b) CONTENTS.—The study conducted under subsection (a), at a minimum, shall contain an examination of the following elements:

(1) Savings to municipalities in the construction of drinking water filtration facilities resulting from actions taken under the Federal Water Pollution Control Act.

(2) Savings to municipalities in the operation and maintenance of drinking water facilities resulting from actions taken under such Act.

(3) Savings to municipalities in health expenditures resulting from actions taken under such Act.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study conducted under subsection (a).

AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DE LA GARZA: On page 237, in line 11 after ''treatment works'' insert ''and appropriate connections''.

On page 237, strike line 14, and all that follows through ''(c)'' on line 19 and insert ''(b)''.

On page 237, on line 23 redesignate ''(d)'' as ''(c)''.

Mr. DE LA GARZA. Mr. Chairman, I wish to thank the chairman of the committee and the ranking member for agreeing to this amendment. It is an amendment that will give more flexibility to the Administrator of EPA to negotiate with areas on wastewater treatment that are underserved and underprivileged.

I want to thank Chairman SHUSTER and the ranking member of the committee, Mr. MINETA, for supporting my amendment to section 703, the wastewater service for colonias of H.R. 961, the Clean Water Amendments of 1995. Section 703 is similar to a bill I introduced last Congress and which I reintroduced this Congress as H.R. 908.

As some of you know, colonias are unincorporated areas along our southwestern border that lack basic services, such as water and wastewater. There are some 250,000 Americans living in colonias.

This amendment will amend section 703 of the bill to authorize the Administrator to make grants to States to provide assistance for planning, design, and construction of treatment works to provide wastewater service and for appropriate connections. My amendment would allow recipient States to use the financial assistance for appropriate connections for colonia residences to connect them to sewer collection systems which will allow them to make any improvements necessary to meet existing county or city requirements. This is an important problem that we need to address in order to bring wastewater connections into the homes of these communities.

In addition, this amendment will delete the requirements that the Federal share of the cost of a project for a wastewater service be 50 percent. This deletion will allow maximum flexibility for the Administrator in determining the appropriate funding of these projects in allowing EPA to negotiate the match requirement with the recipient State.

Again, thank you Chairman SHUSTER and Mr. MINETA for your assistance regarding this important problem to our southwestern communities. I look forward to working with you and your committee on this important issue.

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

Mr. DE LA GARZA. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, we have examined this. We think it is a good amendment, and we support it.

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

Mr. DE LA GARZA. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have looked at the amendment. We have no objections to the amendment on this side. We do appreciate the gentleman from Kansas [Mr. ROBERTS] being on our side as well.

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

Mr. DE LA GARZA. I yield to the gentleman from Kansas, the distinguished chairman of the Committee on Agriculture.

Mr. ROBERTS. Mr. Chairman, I thank the distinguished ranking member for his leadership on this particular bill. We on this side of the aisle have looked at it very carefully and we agree. We are certainly happy to have the gentleman, on our side of the aisle.

Mr. DE LA GARZA. Mr. Chairman I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to title VII?

If not, the Clerk will designate title VIII.

The text of title VIII is as follows:

TITLE VIII—WETLANDS CONSERVATION AND MANAGEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the ''Comprehensive Wetlands Conservation and Management Act of 1995''.

SEC. 802. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) wetlands play an integral role in maintaining the quality of life through material contributions to our national economy, food supply, water supply and quality, flood control, and fish, wildlife, and plant resources, and thus to the health, safety, recreation and economic well-being of citizens throughout the Nation;

(2) wetlands serve important ecological and natural resource functions, such as providing essential nesting and feeding habitat for waterfowl, other wildlife, and many rare and endangered species, fisheries habitat, the enhancement of water quality, and natural flood control;

(3) much of the Nation's resource has sustained significant degradation, resulting in the need for effective programs to limit the loss of ecologically significant wetlands and to provide for long-term restoration and enhancement of the wetlands resource base;

(4) most of the loss of wetlands in coastal Louisiana is not attributable to human activity;

(5) because 75 percent of the Nation's wetlands in the lower 48 States are privately owned and because the majority of the Nation's population lives in or near wetlands areas, an effective wetlands conservation and management program must reflect a balanced approach that conserves and enhances important wetlands values and functions while observing private property rights, recognizing the need for essential public infrastructure, such as highways, ports, airports, pipelines, sewer systems, and public water supply systems, and providing the opportunity for sustained economic growth;

(6) while wetlands provide many varied economic and environmental benefits, they also present health risks in some instances where they act as breeding grounds for insects that are carriers of human and animal diseases;

(7) the Federal permit program established under section 404 of the Federal Water Pollution Control Act was not originally conceived as a wetlands regulatory program and is insufficient to ensure that the Nation's wetlands resource base will be conserved and managed in a fair and environmentally sound manner; and

(8) navigational dredging plays a vital role in the Nation's economy and, while adequate safeguards for aquatic resources must be maintained, it is essential that the regulatory process be streamlined.

(b) PURPOSE.—The purpose of this title is to establish a new Federal regulatory program for certain wetlands and waters of the United States—

(1) to assert Federal regulatory jurisdiction over a broad category of specifically identified activities that result in the degradation or loss of wetlands;

(2) to provide that each Federal agency, officer, and employee exercise Federal authority under section 404 of the Federal Water Pollution Control Act to ensure that agency action under such section will not limit the use of privately owned property so as to diminish its value;

(3) to account for variations in wetlands functions in determining the character and extent of regulation of activities occurring in wetlands areas;

(4) to provide sufficient regulatory incentives for conservation, restoration, or enhancement activities;

(5) to encourage conservation of resources on a watershed basis to the fullest extent practicable;

(6) to protect public safety and balance public and private interests in determining the conditions under which activity in wetlands areas may occur; and

(7) to streamline the regulatory mechanisms relating to navigational dredging in the Nation's waters.

SEC. 803. WETLANDS CONSERVATION AND MANAGEMENT.

Title IV (33 U.S.C. 1341 et seq.) is further amended by striking section 404 and inserting the following new section:

"SEC. 404. PERMITS FOR ACTIVITIES IN WETLANDS OR WATERS OF THE UNITED STATES.

"(a) PROHIBITED ACTIVITIES.—No person shall undertake an activity in wetlands or waters of the United States unless such activity is undertaken pursuant to a permit issued by the Secretary or is otherwise authorized under this section.

"(b) AUTHORIZED ACTIVITIES.—

"(1) PERMITS.—The Secretary is authorized to issue permits authorizing an activity in wetlands or waters of the United States in accordance with the requirements of this section.

"(2) NONPERMIT ACTIVITIES.—An activity in wetlands or waters of the United States may be undertaken without a permit from the Secretary if that activity is authorized under subsection (e)(6) or (e)(8) or is exempt from the requirements of this section under subsection (f) or other provisions of this section.

"(c) WETLANDS CLASSIFICATION.—

"(1) REGULATIONS; APPLICATIONS.—

"(A) DEADLINE FOR ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, the Secretary shall issue regulations to classify wetlands as type A, type B, or type C wetlands depending on the relative ecological significance of the wetlands.

"(B) APPLICATION REQUIREMENT.—Any person seeking to undertake activities in wetlands or waters of the United States for which a permit is required under this section shall make application to the Secretary identifying the site of such activity and requesting that the Secretary determine, in accordance with paragraph (3) of this subsection, the classification of the wetlands in which such activity is proposed to occur. The applicant may also provide such additional information regarding such proposed activity as may be necessary or appropriate for purposes of determining the classification of such wetlands or whether and under what conditions the proposed activity may be permitted to occur.

"(2) DEADLINES FOR CLASSIFICATIONS.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B) of this paragraph, within 90 days following the receipt of an application under paragraph (1), the Secretary shall provide notice to the applicant of the classification of the wetlands that are the subject of such application and shall state in writing the basis for such classification. The classification of the wetlands that are the subject of the application shall be determined by the Secretary in accordance with the requirements for classification of wetlands under paragraph (3) and subsection (i).

"(B) RULE FOR ADVANCE CLASSIFICATIONS.—In the case of an application proposing activities located in wetlands that are the subject of an advance classification under subsection (h), the Secretary shall provide notice to the applicant of such classification within thirty days following the receipt of such application, and shall provide an opportunity for review of such classification under paragraph (5) and subsection (i).

"(3) CLASSIFICATION SYSTEM.—Upon application under this subsection, the Secretary shall—

"(A) classify as type A wetlands those wetlands that are of critical significance to the long-term conservation of the aquatic environment of which such wetlands are a part and which meet the following requirements:

"(i) such wetlands serve critical wetlands functions, including the provision of critical habitat for a concentration of avian, aquatic, or wetland dependent wildlife;

"(ii) such wetlands consist of or may be a portion of ten or more contiguous acres and have an inlet or outlet for relief of water flow; except that this requirement shall not operate to preclude the classification as type A wetlands lands containing prairie pothole features, playa lakes, or vernal pools if such lands otherwise meet the requirements for type A classification under this paragraph;

"(iii) there exists a scarcity within the watershed or aquatic environment of identified functions served by such wetlands such that the use of such wetlands for an activity in wetlands or waters of the United States would seriously jeopardize the availability of these identified wetlands functions; and

"(iv) there is unlikely to be an overriding public interest in the use of such wetlands for purposes other than conservation;

"(B) classify as type B wetlands those wetlands that provide habitat for a significant population of wetland dependent wildlife or provide other significant wetlands functions, including significant enhancement or protection of water quality or significant natural flood control; and

"(C) classify as type C wetlands all wetlands that—

"(i) serve limited wetlands functions;

"(ii) serve marginal wetlands functions but which exist in such abundance that regulation of activities in such wetlands is not necessary for conserving important wetlands functions;

"(iii) are prior converted cropland;

"(iv) are fastlands; or

"(v) are wetlands within industrial, commercial, or residential complexes or other intensely developed areas that do not serve significant wetlands functions as a result of such location.

"(4) REQUEST FOR DETERMINATION OF JURISDICTION.—

"(A) IN GENERAL.—A person who holds an ownership interest in property, or who has written authorization from such a person, may submit a request to the Secretary identifying the property and requesting the Secretary to make one or more of the following determinations with respect to the property:

"(i) Whether the property contains waters of the United States.

"(ii) If the determination under clause (i) is made, whether any portion of the waters meets the requirements for delineation as wetland under subsection (g).

"(iii) If the determination under clause (ii) is made, the classification of each wetland on the property under this subsection.

"(B) PROVISION OF INFORMATION.—The person shall provide such additional information as may be necessary to make each determination requested under subparagraph (A).

"(C) DETERMINATION AND NOTIFICATION BY THE SECRETARY.—Not later than 90 days after receipt of a request under subparagraph (A), the Secretary shall—

"(i) notify the person submitting the request of each determination made by the Secretary pursuant to the request; and

"(ii) provide written documentation of each determination and the basis for each determination.

"(D) AUTHORITY TO SEEK IMMEDIATE REVIEW.—Any person authorized under this paragraph to request a jurisdictional determination may seek immediate judicial review of any such jurisdictional determination or may proceed under subsection (i).

"(5) DE NOVO DETERMINATION AFTER ADVANCE CLASSIFICATION.—Within 30 days of receipt of notice of an advance classification by the Secretary under paragraph (2)(B) of this subsection, an applicant may request the Secretary to make a de novo determination of the classification of wetlands that are the subject of such notice.

"(d) RIGHT TO COMPENSATION.—

"(1) IN GENERAL.—The Federal Government shall compensate an owner of property whose use of any portion of that property has been limited by an agency action under this section that diminishes the fair market value of that portion by 20 percent or more. The amount of the compensation shall equal the diminution in value that resulted from the agency action. If the diminution in value of a portion of that property is greater than 50 percent, at the option of the owner, the Federal Government shall buy that portion of the property for its fair market value.

"(2) DURATION OF LIMITATION ON USE.—Property with respect to which compensation has been paid under this section shall not thereafter be used contrary to the limitation imposed by the agency action, even if that action is later rescinded or otherwise vitiated. However, if that action is later rescinded or otherwise vitiated, and the owner elects to refund the amount of the compensation, adjusted for inflation, to the Treasury of the United States, the property may be so used.

"(3) EFFECT OF STATE LAW.—If a use is a nuisance as defined by the law of a State or is already prohibited under a local zoning ordinance, no compensation shall be made under this section with respect to a limitation on that use.

"(4) EXCEPTIONS.—

"(A) PREVENTION OF HAZARD TO HEALTH OR SAFETY OR DAMAGE TO SPECIFIC PROPERTY.—No compensation shall be made under this section with respect to an agency action the primary purpose of which is to prevent an identifiable—

"(i) hazard to public health or safety; or

"(ii) damage to specific property other than the property whose use is limited.

"(B) NAVIGATION SERVITUDE.—No compensation shall be made under this section with respect to an agency action pursuant to the Federal navigation servitude, as defined by the courts of the United States, except to the extent such servitude is interpreted to apply to wetlands.

"(5) PROCEDURE.—

"(A) REQUEST OF OWNER.—An owner seeking compensation under this section shall make a written request for compensation to the agency whose agency action resulted in the limitation. No such request may be made later than 180 days after the owner receives actual notice of that agency action.

"(B) NEGOTIATIONS.—The agency may bargain with that owner to establish the amount of the compensation. If the agency and the owner agree to such an amount, the agency shall promptly pay the owner the amount agreed upon.

"(C) CHOICE OF REMEDIES.—If, not later than 180 days after the written request is made, the parties do not come to an agreement as to the right to and amount of compensation, the owner may choose to take the matter to binding arbitration or seek compensation in a civil action.

"(D) ARBITRATION.—The procedures that govern the arbitration shall, as nearly as practicable, be those established under title 9, United States Code, for arbitration proceedings to which that title applies. An award made in such arbitration shall include a reasonable attorney's fee and other arbitration costs (including appraisal fees). The agency shall promptly pay any award made to the owner.

"(E) CIVIL ACTION.—An owner who does not choose arbitration, or who does not receive prompt payment when required by this section, may obtain appropriate relief in a civil action against the agency. An owner who prevails in a civil action under this section shall be entitled to, and the agency shall be liable for, a reasonable attorney's fee and other litigation costs (including appraisal fees). The court shall award interest on the amount of any compensation from the time of the limitation.

"(F) SOURCE OF PAYMENTS.—Any payment made under this section to an owner and any judgment obtained by an owner in a civil action under this section shall, notwithstanding any other provision of law, be made from the annual

appropriation of the agency whose action occasioned the payment or judgment. If the agency action resulted from a requirement imposed by another agency, then the agency making the payment or satisfying the judgment may seek partial or complete reimbursement from the appropriated funds of the other agency. For this purpose the head of the agency concerned may transfer or reprogram any appropriated funds available to the agency. If insufficient funds exist for the payment or to satisfy the judgment, it shall be the duty of the head of the agency to seek the appropriation of such funds for the next fiscal year.

''(6) LIMITATION.—Notwithstanding any other provision of law, any obligation of the United States to make any payment under this section shall be subject to the availability of appropriations.

''(7) DUTY OF NOTICE TO OWNERS.—Whenever an agency takes an agency action limiting the use of private property, the agency shall give appropriate notice to the owners of that property directly affected explaining their rights under this section and the procedures for obtaining any compensation that may be due to them under this section.

''(8) RULES OF CONSTRUCTION.—

''(A) EFFECT ON CONSTITUTIONAL RIGHT TO COMPENSATION.—Nothing in this section shall be construed to limit any right to compensation that exists under the Constitution, laws of the United States, or laws of any State.

''(B) EFFECT OF PAYMENT.—Payment of compensation under this section (other than when the property is bought by the Federal Government at the option of the owner) shall not confer any rights on the Federal Government other than the limitation on use resulting from the agency action.

''(9) TREATMENT OF CERTAIN ACTIONS.—A diminution in value under this subsection shall apply to surface interests in lands only or water rights allocated under State law; except that—

''(A) if the Secretary determines that the exploration for or development of oil and gas or mineral interests is not compatible with limitations on use related to the surface interests in lands that have been classified as type A or type B wetlands located above such oil and gas or mineral interests (or located adjacent to such oil and gas or mineral interests where such adjacent lands are necessary to provide reasonable access to such interests), the Secretary shall notify the owner of such interests that the owner may elect to receive compensation for such interests under paragraph (1); and

''(B) the failure to provide reasonable access to oil and gas or mineral interests located beneath or adjacent to surface interests of type A or type B wetlands shall be deemed a diminution in value of such oil and gas or mineral interests.

''(10) JURISDICTION.—The arbitrator or court under paragraph (5)(D) or (5)(E) of this subsection, as the case may be, shall have jurisdiction, in the case of oil and gas or mineral interests, to require the United States to provide reasonable access in, across, or through lands that may be the subject of a diminution in value under this subsection solely for the purpose of undertaking activity necessary to determine the value of the interests diminished and to provide other equitable remedies deemed appropriate.

''(11) LIMITATIONS ON STATUTORY CONSTRUCTION.—No action under this subsection shall be construed—

''(A) to impose any obligation on any State or political subdivision thereof to compensate any person, even in the event that the Secretary has approved a land management plan under subsection (f)(2) or an individual and general permit program under subsection (l); or

''(B) to alter or supersede requirements governing use of water applicable under State law.

''(e) REQUIREMENTS APPLICABLE TO PERMITTED ACTIVITY.—

''(1) ISSUANCE OR DENIAL OF PERMITS.—Following the determination of wetlands classification pursuant to subsection (c) if applicable, and after compliance with the requirements of subsection (d) if applicable, the Secretary may issue or deny permits for authorization to undertake activities in wetlands or waters of the United States in accordance with the requirements of this subsection.

''(2) TYPE A WETLANDS.—

''(A) SEQUENTIAL ANALYSIS.—The Secretary shall determine whether to issue a permit for an activity in waters of the United States classified under subsection (c) as type A wetlands based on a sequential analysis that seeks, to the maximum extent practicable, to—

''(i) avoid adverse impact on the wetlands;

''(ii) minimize such adverse impact on wetlands functions that cannot be avoided; and

''(iii) compensate for any loss of wetland functions that cannot be avoided or minimized.

''(B) MITIGATION TERMS AND CONDITIONS.—Any permit issued authorizing activities in type A wetlands may contain such terms and conditions concerning mitigation (including those applicable under paragraph (3) for type B wetlands) that the Secretary deems appropriate to prevent the unacceptable loss or degradation of type A wetlands. The Secretary shall deem the mitigation requirement of this section to be met with respect to activities in type A wetlands if such activities (i) are carried out in accordance with a State-approved reclamation plan or permit which requires recontouring and revegetation following mining, and (ii) will result in overall environmental benefits being achieved.

''(3) TYPE B WETLANDS.—

''(A) GENERAL RULE.—The Secretary may issue a permit authorizing activities in type B wetlands if the Secretary finds that issuance of the permit is in the public interest, balancing the reasonably foreseeable benefits and detriments resulting from the issuance of the permit. The permit shall be subject to such terms and conditions as the Secretary finds are necessary to carry out the purposes of the Comprehensive Wetlands Conservation and Management Act of 1995. In determining whether or not to issue the permit and whether or not specific terms and conditions are necessary to avoid a significant loss of wetlands functions, the Secretary shall consider the following factors:

''(i) The quality and quantity of significant functions served by the areas to be affected.

''(ii) The opportunities to reduce impacts through cost effective design to minimize use of wetlands areas.

''(iii) The costs of mitigation requirements and the social, recreational, and economic benefits associated with the proposed activity, including local, regional, or national needs for improved or expanded infrastructure, minerals, energy, food production, or recreation.

''(iv) The ability of the permittee to mitigate wetlands loss or degradation as measured by wetlands functions.

''(v) The environmental benefit, measured by wetlands functions, that may occur through mitigation efforts, including restoring, preserving, enhancing, or creating wetlands values and functions.

''(vi) The marginal impact of the proposed activity on the watershed of which such wetlands are a part.

''(vii) Whether the impact on the wetlands is temporary or permanent.

''(B) DETERMINATION OF PROJECT PURPOSE.—In considering an application for activities on type B wetlands, there shall be a rebuttable presumption that the project purpose as defined by the applicant shall be binding upon the Secretary. The definition of project purpose for projects sponsored by public agencies shall be binding upon the Secretary, subject to the authority of the Secretary to impose mitigation requirements to minimize impacts on wetlands values and functions, including cost effective redesign of projects on the proposed project site.

''(C) MITIGATION REQUIREMENTS.—Except as otherwise provided in this section, requirements for mitigation shall be imposed when the Secretary finds that activities undertaken under this section will result in the loss or degradation of type B wetlands functions where such loss or degradation is not a temporary or incidental impact. When determining mitigation requirements in any specific case, the Secretary shall take into consideration the type of wetlands affected, the character of the impact on wetland functions, whether any adverse effects on wetlands are of a permanent or temporary nature, and the cost effectiveness of such mitigation and shall seek to minimize the costs of such mitigation. Such mitigation requirement shall be calculated based upon the specific impact of a particular project. The Secretary shall deem the mitigation requirement of this section to be met with respect to activities in type B wetlands if such activities (i) are carried out in accordance with a State-approved reclamation plan or permit which requires recontouring and revegetation following mining, and (ii) will result in overall environmental benefits being achieved.

''(D) RULES GOVERNING MITIGATION.—In accordance with subsection (j), the Secretary shall issue rules governing requirements for mitigation for activities occurring in wetlands that allow for—

''(i) minimization of impacts through project design in the proposed project site consistent with the project's purpose, provisions for compensatory mitigation, if any, and other terms and conditions necessary and appropriate in the public interest;

''(ii) preservation or donation of type A wetlands or type B wetlands (where title has not been acquired by the United States and no compensation under subsection (d) for such wetlands has been provided) as mitigation for activities that alter or degrade wetlands;

''(iii) enhancement or restoration of degraded wetlands as compensation for wetlands lost or degraded through permitted activity;

''(iv) creation of wetlands as compensation for wetlands lost or degraded through permitted activity if conditions are imposed that have a reasonable likelihood of being successful;

''(v) compensation through contribution to a mitigation bank program established pursuant to paragraph (4);

''(vi) offsite compensatory mitigation if such mitigation contributes to the restoration, enhancement or creation of significant wetlands functions on a watershed basis and is balanced with the effects that the proposed activity will have on the specific site; except that offsite compensatory mitigation, if any, shall be required only within the State within which the proposed activity is to occur, and shall, to the extent practicable, be within the watershed within which the proposed activity is to occur, unless otherwise consistent with a State wetlands management plan;

''(vii) contribution of in-kind value acceptable to the Secretary and otherwise authorized by law;

''(viii) in areas subject to wetlands loss, the construction of coastal protection and enhancement projects;

''(ix) contribution of resources of more than one permittee toward a single mitigation project; and

''(x) other mitigation measures, including contributions of other than in-kind value referred to in clause (vii), determined by the Secretary to be appropriate in the public interest and consistent with the requirements and purposes of this Act.

''(E) LIMITATIONS ON REQUIRING MITIGATION.—Notwithstanding the provisions of subparagraph (C), the Secretary may determine not to impose requirements for compensatory mitigation if the Secretary finds that—

''(i) the adverse impacts of a permitted activity are limited;

''(ii) the failure to impose compensatory mitigation requirements is compatible with maintaining wetlands functions;

''(iii) no practicable and reasonable means of mitigation are available;

''(iv) there is an abundance of similar significant wetlands functions and values in or near the area in which the proposed activity is to occur that will continue to serve the functions lost or degraded as a result of such activity, taking into account the impacts of such proposed activity and the cumulative impacts of similar activity in the area;

''(v) the temporary character of the impacts and the use of minimization techniques make compensatory mitigation unnecessary to protect significant wetlands values; or

''(vi) a waiver from requirements for compensatory mitigation is necessary to prevent special hardship.

''(4) MITIGATION BANKS.—

''(A) ESTABLISHMENT.—Not later than 6 months after the date of the enactment of this subparagraph, after providing notice and opportunity for public review and comment, the Secretary shall issue regulations for the establishment, use, maintenance, and oversight of mitigation banks. The regulations shall be developed in consultation with the heads of other appropriate Federal agencies.

''(B) PROVISIONS AND REQUIREMENTS.—The regulations issued pursuant to subparagraph (A) shall ensure that each mitigation bank—

''(i) provides for the chemical, physical, and biological functions of wetlands or waters of the United States which are lost as a result of authorized adverse impacts to wetlands or other waters of the United States;

''(ii) to the extent practicable and environmentally desirable, provides in-kind replacement of lost wetlands functions and be located in, or in proximity to, the same watershed or designated geographic area as the affected wetlands or waters of the United States;

''(iii) be operated by a public or private entity which has the financial capability to meet the requirements of this paragraph, including the deposit of a performance bond or other appropriate demonstration of financial responsibility to support the long-term maintenance of the bank, fulfill responsibilities for long-term monitoring, maintenance, and protection, and provide for the long-term security of ownership interests of wetlands and uplands on which projects are conducted to protect the wetlands functions associated with the mitigation bank;

''(iv) employ consistent and scientifically sound methods to determine debits by evaluating wetlands functions, project impacts, and duration of the impact at the sites of proposed permits for authorized activities pursuant to this section and to determine credits based on wetlands functions at the site of the mitigation bank;

''(v) provide for the transfer of credits for mitigation that has been performed and for mitigation that shall be performed within a designated time in the future, provided that financial bonds shall be posted in sufficient amount to ensure that the mitigation will be performed in the case of default; and

''(vi) provide opportunity for public notice of and comment on proposals for the mitigation banks; except that any process utilized by a mitigation bank to obtain a permit authorizing operations under this section before the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 satisfies the requirement for such public notice and comment.

''(5) PROCEDURES AND DEADLINES FOR FINAL ACTION.—

''(A) OPPORTUNITY FOR PUBLIC COMMENT.—Not later than 15 days after receipt of a complete application for a permit under this section, together with information necessary to consider such application, the Secretary shall publish notice that the application has been received and shall provide opportunity for public comment and, to the extent appropriate, opportunity for a public hearing on the issuance of the permit.

''(B) GENERAL PROCEDURES.—In the case of any application for authorization to undertake activities in wetlands or waters of the United States that are not eligible for treatment on an expedited basis pursuant to paragraph (8), final action by the Secretary shall occur within 90 days following the date such application is filed, unless—

''(i) the Secretary and the applicant agree that such final action shall occur within a longer period of time;

''(ii) the Secretary determines that an additional, specified period of time is necessary to permit the Secretary to comply with other applicable Federal law; except that if the Secretary is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to prepare an environmental impact statement, with respect to the application, the final action shall occur not later than 45 days following the date such statement is filed; or

''(iii) the Secretary, within 15 days from the date such application is received, notifies the applicant that such application does not contain all information necessary to allow the Secretary to consider such application and identifies any necessary additional information, in which case, the provisions of subparagraph (C) shall apply.

''(C) SPECIAL RULE WHEN ADDITIONAL INFORMATION IS REQUIRED.—Upon the receipt of a request for additional information under subparagraph (B)(iii), the applicant shall supply such additional information and shall advise the Secretary that the application contains all requested information and is therefore complete. The Secretary may—

''(i) within 30 days of the receipt of notice of the applicant that the application is complete, determine that the application does not contain all requested additional information and, on that basis, deny the application without prejudice to resubmission; or

''(ii) within 90 days from the date that the applicant provides notification to the Secretary that the application is complete, review the application and take final action.

''(D) EFFECT OF NOT MEETING DEADLINE.—If the Secretary fails to take final action on an application under this paragraph within 90 days from the date that the applicant provides notification to the Secretary that such application is complete, a permit shall be presumed to be granted authorizing the activities proposed in such application under such terms and conditions as are stated in such completed application.

''(6) TYPE C WETLANDS.—Activities in wetlands that have been classified as type C wetlands by the Secretary may be undertaken without authorization required under subsection (a) of this section.

''(7) STATES WITH SUBSTANTIAL CONSERVED WETLANDS.—

''(A) IN GENERAL.—With respect to type A and type B wetlands in States with substantial conserved wetlands areas, at the option of the permit applicant, the Secretary shall issue permits authorizing activities in such wetlands pursuant to this paragraph. Final action on issuance of such permits shall be in accordance with the procedures and deadlines of paragraph (5). The Secretary may include conditions or requirements for minimization of adverse impacts to wetlands functions when minimization is economically practicable. No permit to which this paragraph applies shall include conditions, requirements, or standards for mitigation to compensate for adverse impacts to wetlands or waters of the United States or conditions, requirements, or standards for avoidance of adverse impacts to wetlands or waters of the United States.

''(B) ECONOMIC BASE LANDS.—Upon application by the owner of economic base lands in a State with substantial conserved wetlands areas, the Secretary shall issue individual and general permits to owners of such lands for activities in wetlands or waters of the United States. The Secretary shall reduce the requirements of subparagraph (A)—

''(i) to allow economic base lands to be beneficially used to create and sustain economic activity; and

''(ii) in the case of lands owned by Alaska Native entities, to reflect the social and economic needs of Alaska Natives to utilize economic base lands.

The Secretary shall consult with and provide assistance to the Alaska Natives (including Alaska Native Corporations) in promulgation and administration of policies and regulations under this section.

''(8) GENERAL PERMITS.—

''(A) GENERAL AUTHORITY.—The Secretary may issue, by rule in accordance with subsection (j), general permits on a programmatic, State, regional, or nationwide basis for any category of activities involving an activity in wetlands or waters of the United States if the Secretary determines that such activities are similar in nature and that such activities, when performed separately and cumulatively, will not result in the significant loss of ecologically significant wetlands values and functions.

''(B) PROCEDURES.—Permits issued under this paragraph shall include procedures for expedited review of eligibility for such permits (if such review is required) and may include requirements for reporting and mitigation. To the extent that a proposed activity requires a determination by the Secretary as to the eligibility to qualify for a general permit under this subsection, such determination shall be made within 30 days of the date of submission of the application for such qualification, or the application shall be treated as being approved.

''(C) COMPENSATORY MITIGATION.—Requirements for compensatory mitigation for general permits may be imposed where necessary to offset the significant loss or degradation of significant wetlands functions where such loss or degradation is not a temporary or incidental impact. Such compensatory mitigation shall be calculated based upon the specific impact of a particular project.

''(D) GRANDFATHER OF EXISTING GENERAL PERMITS.—General permits in effect on day before the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall remain in effect until otherwise modified by the Secretary.

''(E) STATES WITH SUBSTANTIAL CONSERVED LANDS.—Upon application by a State or local authority in a State with substantial conserved wetlands areas, the Secretary shall issue a general permit applicable to such authority for activities in wetlands or waters of the United States. No permit issued pursuant to this subparagraph shall include conditions, requirements, or standards for mitigation to compensate for adverse impacts to wetlands or waters of the United States or shall include conditions, requirements, or standards for avoidance of adverse impacts of wetlands or waters of the United States.

''(9) OTHER WATERS OF THE UNITED STATES.—The Secretary may issue a permit authorizing activities in waters of the United States (other than those classified as type A, B, or C wetlands under this section) if the Secretary finds that issuance of the permit is in the public interest, balancing the reasonably foreseeable benefits and detriments resulting from the issuance of the permit. The permit shall be subject to such terms and conditions as the Secretary finds are necessary to carry out the purposes of the Comprehensive Wetlands Conservation and Management Act of 1995. In determining whether or not to issue the permit and whether or not specific terms and conditions are necessary to carry out such purposes, the Secretary shall consider the factors set forth in paragraph (3)(A) as they apply to nonwetlands areas and such other provisions of paragraph (3) as the Secretary determines are appropriate to apply to nonwetlands areas.

''(f) ACTIVITIES NOT REQUIRING PERMIT.—

''(1) IN GENERAL.—Activities undertaken in any wetlands or waters of the United States are exempt from the requirements of this section and are not prohibited by or otherwise subject to regulation under this section or section 301 or 402 of this Act (except effluent standards or prohibitions under section 307 of this Act) if such activities—

''(A) result from normal farming, silviculture, aquaculture, and ranching activities and practices, including but not limited to plowing, seeding, cultivating, haying, grazing, normal maintenance activities, minor drainage, burning of vegetation in connection with such activities, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

''(B) are for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, flood control channels or other engineered flood control facilities, water control structures, water supply reservoirs (where such maintenance involves periodic water level drawdowns) which provide water predominantly to public drinking water systems, groins, riprap, breakwaters, utility distribution and transmission lines, causeways, and bridge abutments or approaches, and transportation structures;

''(C) are for the purpose of construction or maintenance of farm, stock or aquaculture ponds, wastewater retention facilities (including dikes and berms) that are used by concentrated animal feeding operations, or irrigation canals and ditches or the maintenance of drainage ditches;

''(D) are for the purpose of construction of temporary sedimentation basins on a construction site, or the construction of any upland dredged material disposal area, which does not include placement of fill material into the navigable waters;

''(E) are for the purpose of construction or maintenance of farm roads or forest roads, railroad lines of up to 10 miles in length, or temporary roads for moving mining equipment, access roads for utility distribution and transmission lines if such roads or railroad lines are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the waters are not impaired, that the reach of the waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

''(F) are undertaken on farmed wetlands, except that any change in use of such land for the purpose of undertaking activities that are not exempt from regulation under this subsection shall be subject to the requirements of this section to the extent that such farmed wetlands are 'wetlands' under this section;

''(G) result from any activity with respect to which a State has an approved program under section 208(b)(4) of this Act which meets the requirements of subparagraphs (B) and (C) of such section;

''(H) are consistent with a State or local land management plan submitted to the Secretary and approved pursuant to paragraph (2);

''(I) are undertaken in connection with a marsh management and conservation program in a coastal parish in the State of Louisiana where such program has been approved by the Governor of such State or the designee of the Governor;

''(J) are undertaken on lands or involve activities within a State's coastal zone which are excluded from regulation under a State coastal zone management program approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.);

''(K) are undertaken in incidentally created wetlands, unless such incidentally created wetlands have exhibited wetlands functions and values for more than 5 years in which case activities undertaken in such wetlands shall be subject to the requirements of this section;

''(L) are for the purpose of preserving and enhancing aviation safety or are undertaken in order to prevent an airport hazard;

''(M) result from aggregate or clay mining activities in wetlands conducted pursuant to a State or Federal permit that requires the reclamation of such affected wetlands if such reclamation will be completed within 5 years of the commencement of activities at the site and, upon completion of such reclamation, the wetlands will support wetlands functions equivalent to the functions supported by the wetlands at the time of commencement of such activities;

''(N) are for the placement of a structural member for a pile-supported structure, such as a pier or dock, or for a linear project such as a bridge, transmission or distribution line footing, powerline structure, or elevated or other walkway;

''(O) are for the placement of a piling in waters of the United States in a circumstance that involves—

''(i) a linear project described in subparagraph (N); or

''(ii) a structure such as a pier, boathouse, wharf, marina, lighthouse, or individual house built on stilts solely to reduce the potential of flooding;

''(P) are for the clearing (including mechanized clearing) of vegetation within a right-of-way associated with the development and maintenance of a transmission or distribution line or other powerline structure or for the maintenance of water supply reservoirs which provide water predominantly to public drinking water systems;

''(Q) are undertaken in or affecting waterfilled depressions created in uplands incidental to construction activity, or are undertaken in or affecting pits excavated in uplands for the purpose of obtaining fill, sand, gravel, aggregates, or minerals, unless and until the construction or excavation operation is abandoned; or

''(R) are undertaken in a State with substantial conserved wetlands areas and—

''(i) are for purposes of providing critical infrastructure, including water and sewer systems, airports, roads, communication sites, fuel storage sites, landfills, housing, hospitals, medical clinics, schools, and other community infrastructure;

''(ii) are for construction and maintenance of log transfer facilities associated with log transportation activities;

''(iii) are for construction of tailings impoundments utilized for treatment facilities (as determined by the development document) for the mining subcategory for which the tailings impoundment is constructed; or

''(iv) are for construction of ice pads and ice roads and for purposes of snow storage and removal.

''(2) STATE OR LOCAL MANAGEMENT PLAN.—Any State or political subdivision thereof acting pursuant to State authorization may develop a land management plan with respect to lands that include identified wetlands. The State or local government agency may submit any such plan to the Secretary for review and approval. The Secretary shall, within 60 days, notify in writing the designated State or local official of approval or disapproval of any such plan. The Secretary shall approve any plan that is consistent with the purposes of this section. No person shall be entitled to judicial review of the decision of the Secretary to approve or disapprove a land management plan under this paragraph. Nothing in this paragraph shall be construed to alter, limit, or supersede the authority of a State or political subdivision thereof to establish land management plans for purposes other than the provisions of this subsection.

''(g) RULES FOR DELINEATING WETLANDS.—

''(1) STANDARDS.—

''(A) ISSUANCE OF RULE.—The Secretary is authorized and directed to establish standards, by rule in accordance with subsection (j), that shall govern the delineation of lands as 'wetlands' for purposes of this section. Such rules shall be established after consultation with the heads of other appropriate Federal agencies and shall be binding on all Federal agencies in connection with the administration or implementation of any provision of this section. The standards for delineation of wetlands and any decision of the Secretary, the Secretary of Agriculture (in the case of agricultural lands and associated nonagricultural lands), or any other Federal officer or agency made in connection with the administration of this section shall comply with the requirements for delineation of wetlands set forth in subparagraphs (B) and (C).

''(B) EXCEPTIONS.—The standards established by rule or applied in any case for purposes of this section shall ensure that lands are delineated as wetlands only if such lands are found to be 'wetlands' under section 502 of this Act; except that such standards may not—

''(i) result in the delineation of lands as wetlands unless clear evidence of wetlands hydrology, hydrophytic vegetation, and hydric soil are found to be present during the period in which such delineation is made, which delineation shall be conducted during the growing season unless otherwise requested by the applicant;

''(ii) result in the classification of vegetation as hydrophytic if such vegetation is equally adapted to dry or wet soil conditions or is more typically adapted to dry soil conditions than to wet soil conditions;

''(iii) result in the classification of lands as wetlands unless some obligate wetlands vegetation is found to be present during the period of delineation; except that if such vegetation has been removed for the purpose of evading jurisdiction under this section, this clause shall not apply;

''(iv) result in the conclusion that wetlands hydrology is present unless water is found to be present at the surface of such lands for 21 consecutive days in the growing seasons in a majority of the years for which records are available; and

''(v) result in the classification of lands as wetlands that are temporarily or incidentally created as a result of adjacent development activity.

''(C) NORMAL CIRCUMSTANCES.—In addition to the requirements of subparagraph (B), any standards established by rule or applied to delineate wetlands for purposes of this section shall provide that 'normal circumstances' shall be determined on the basis of the factual circumstances in existence at the time a classification is made under subsection (h) or at the time of application under subsection (e), whichever is applicable, if such circumstances have not been altered by an activity prohibited under this section.

''(2) LAND AREA CAP FOR TYPE A WETLANDS.—No more than 20 percent of any county, parish, or borough shall be classified as type A wetlands. Type A wetlands in Federal or State ownership (including type A wetlands in units of the National Wildlife Refuge System, the National Park System, and lands held in conservation easements) shall be included in calculating the percent of type A wetlands in a county, parish, or borough.

''(3) AGRICULTURAL LANDS.—

''(A) DELINEATION BY SECRETARY OF AGRICULTURE.—For purposes of this section, wetlands located on agricultural lands and associated nonagricultural lands shall be delineated solely by the Secretary of Agriculture in accordance with section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)).

''(B) EXEMPTION OF LANDS EXEMPTED UNDER FOOD SECURITY ACT.—Any area of agricultural land or any activities related to the land determined to be exempt from the requirements of

subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall also be exempt from the requirements of this section for such period of time as those lands are used as agricultural lands.

''(C) EFFECT OF APPEAL DETERMINATION PURSUANT TO FOOD SECURITY ACT.—Any area of agricultural land or any activities related to the land determined to be exempt pursuant to an appeal taken pursuant to subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall be exempt under this section for such period of time as those lands are used as agricultural lands.

''(h) MAPPING AND PUBLIC NOTICE REQUIREMENTS.—

''(1) PROVISION OF PUBLIC NOTICE.—Not later than 90 days after the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, the Secretary shall provide the court of each county, parish, or borough in which the wetland subject to classification under subsection (c) is located, a notice for posting near the property records of the county, parish, or borough. The notice shall—

''(A) state that wetlands regulated under this section may be located in the county, parish, or borough;

''(B) provide an explanation understandable to the general public of how wetlands are delineated and classified;

''(C) describe the requirements and restrictions of the regulatory program under this section; and

''(D) provide instructions on how to obtain a delineation and classification of wetlands under this section.

''(2) PROVISION OF DELINEATION DETERMINATIONS.—On completion under this section of a delineation and classification of property that contains wetlands or a delineation of property that contains waters of the United States that are not wetlands, the Secretary of Agriculture, in the case of wetlands located on agricultural lands and associated nonagricultural lands, and the Secretary, in the case of other lands, shall—

''(A) file a copy of the delineation, including the classification of any wetland located on the property, with the records of the property in the local courthouse; and

''(B) serve a copy of the delineation determination on every owner of the property on record and any person with a recorded mortgage or lien on the property.

''(3) NOTICE OF ENFORCEMENT ACTIONS.—The Secretary shall file notice of each enforcement action under this section taken with respect to private property with the records of the property in the local courthouse.

''(4) WETLANDS IDENTIFICATION AND CLASSIFICATION PROJECT.—

''(A) IN GENERAL.—The Secretary and the Secretary of Agriculture shall undertake a project to identify and classify wetlands in the United States that are regulated under this section. The Secretaries shall complete such project not later than 10 years after the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995.

''(B) APPLICABILITY OF DELINEATION STANDARDS.—In conducting the project under this section, the Secretaries shall identify and classify wetlands in accordance with standards for delineation of wetlands established by the Secretaries under subsection (g).

''(C) PUBLIC HEARINGS.—In conducting the project under this section, the Secretaries shall provide notice and an opportunity for a public hearing in each county, parish or borough of a State before completion of identification and classification of wetlands in such county, parish, or borough.

''(D) PUBLICATION.—Promptly after completion of identification and classification of wetlands in a county, parish, or borough under this section, the Secretaries shall have published information on such identification and classification in the Federal Register and in publications of wide circulation and take other steps reasonably necessary to ensure that such information is available to the public.

''(E) REPORTS.—The Secretaries shall report to Congress on implementation of the project to be conducted under this section not later than 2 years after the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 and annually thereafter.

''(F) RECORDATION.—Any classification of lands as wetlands under this section shall, to the maximum extent practicable, be recorded on the property records in the county, parish, or borough in which such wetlands are located.

''(i) ADMINISTRATIVE APPEALS.—

''(1) REGULATIONS ESTABLISHING PROCEDURES.—Not later than 1 year after the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, the Secretary shall, after providing notice and opportunity for public comment, issue regulations establishing procedures pursuant to which—

''(A) a landowner may appeal a determination of regulatory jurisdiction under this section with respect to a parcel of the landowner's property;

''(B) a landowner may appeal a wetlands classification under this section with respect to a parcel of the landowner's property;

''(C) any person may appeal a determination that the proposed activity on the landowner's property is not exempt under subsection (f);

''(D) a landowner may appeal a determination that an activity on the landowner's property does not qualify under a general permit issued under this section;

''(E) an applicant for a permit under this section may appeal a determination made pursuant to this section to deny issuance of the permit or to impose a requirement under the permit; and

''(F) a landowner or any other person required to restore or otherwise alter a parcel of property pursuant to an order issued under this section may appeal such order.

''(2) DEADLINE FOR FILING APPEAL.—An appeal brought pursuant to this subsection shall be filed not later than 30 days after the date on which the decision or action on which the appeal is based occurs.

''(3) DEADLINE FOR DECISION.—An appeal brought pursuant to this subsection shall be decided not later than 90 days after the date on which the appeal is filed.

''(4) PARTICIPATION IN APPEALS PROCESS.—Any person who participated in the public comment process concerning a decision or action that is the subject of an appeal brought pursuant to this subsection may participate in such appeal with respect to those issues raised in the person's written public comments.

''(5) DECISIONMAKER.—An appeal brought pursuant to this subsection shall be heard and decided by an appropriate and impartial official of the Federal Government, other than the official who made the determination or carried out the action that is the subject of the appeal.

''(6) STAY OF PENALTIES AND MITIGATION.—A landowner or any other person who has filed an appeal under this subsection shall not be required to pay a penalty or perform mitigation or restoration assessed under this section or section 309 until after the appeal has been decided.

''(j) ADMINISTRATIVE PROVISIONS.—

''(1) FINAL REGULATIONS FOR ISSUANCE OF PERMITS.—Not later than 1 year after the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, the Secretary shall, after notice and opportunity for comment, issue (in accordance with section 553 of title 5 of the United States Code and this section) final regulations for implementation of this section. Such regulations shall, in accordance with this section, provide—

''(A) standards and procedures for the classification and delineation of wetlands and procedures for administrative review of any such classification or delineation;

''(B) standards and procedures for the review of State or local land management plans and State programs for the regulation of wetlands;

''(C) for the issuance of general permits, including programmatic, State, regional, and nationwide permits;

''(D) standards and procedures for the individual permit applications under this section;

''(E) for enforcement of this section;

''(F) guidelines for the specification of sites for the disposal of dredged or fill material for navigational dredging; and

''(G) any other rules and regulations that the Secretary deems necessary or appropriate to implement the requirements of this section.

''(2) NAVIGATIONAL DREDGING GUIDELINES.—Guidelines developed under paragraph (1)(F) shall—

''(A) be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the oceans under section 403(c); and

''(B) ensure that with respect to the issuance of permits under this section—

''(i) the least costly, environmentally acceptable disposal alternative will be selected, taking into consideration cost, existing technology, short term and long term dredging requirements, and logistics;

''(ii) a disposal site will be specified after comparing reasonably available upland, confined aquatic, beneficial use, and open water disposal alternatives on the basis of relative risk, environmental acceptability, economics, practicability, and current technological feasibility;

''(iii) a disposal site will be specified after comparing the reasonably anticipated environmental and economic benefits of undertaking the underlying project to the status quo; and

''(iv) in comparing alternatives and selection of a disposal site, management measures may be considered and utilized to limit, to the extent practicable, adverse environmental effects by employing suitable chemical, biological, or physical techniques to prevent unacceptable adverse impacts on the environment.

''(3) JUDICIAL REVIEW OF FINAL REGULATIONS.—Any judicial review of final regulations issued pursuant to this section and the Secretary's denial of any petition for the issuance, amendment, or repeal of any regulation under this section shall be in accordance with sections 701 through 706 of title 5 of the United States Code; except that a petition for review of action of the Secretary in issuing any regulation or requirement under this section or denying any petition for the issuance, amendment, or repeal of any regulation under this section may be filed only in the United States Court of Appeals for the District of Columbia, and such petition shall be filed within 90 days from the date of such issuance or denial or after such date if such petition for review is based solely on grounds arising after such ninetieth day. Action of the Secretary with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.

''(4) INTERIM REGULATIONS.—The Secretary shall, within 90 days after the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995, issue interim regulations consistent with this section to take effect immediately. Notice of the interim regulations shall be published in the Federal Register, and such regulations shall be binding until the issuance of final regulations pursuant to paragraph (1); except that the Secretary shall provide adequate procedures for waiver of any provisions of such interim regulations to avoid special hardship, inequity, or unfair distribution of burdens or to advance the purposes of this section.

''(5) ADMINISTRATION BY SECRETARY.—Except where otherwise expressly provided in this section, the Secretary shall administer this section. The Secretary or any other Federal officer or agency in which any function under this section

is vested or delegated is authorized to perform any and all acts (including appropriate enforcement activity), and to prescribe, issue, amend, or rescind such rules or orders as such officer or agency may find necessary or appropriate with this subsection, subject to the requirements of this subsection.

''(k) ENFORCEMENT.—

''(1) COMPLIANCE ORDER.—Whenever, on the basis of reliable and substantial information and after reasonable inquiry, the Secretary finds that any person is or may be in violation of this section or of any condition or limitation set forth in a permit issued by the Secretary under this section, the Secretary shall issue an order requiring such persons to comply with this section or with such condition or limitation.

''(2) NOTICE AND OTHER PROCEDURAL REQUIREMENTS RELATING TO ORDERS.—A copy of any order issued under this subsection shall be sent immediately by the Secretary to the Governor of the State in which the violation occurs and the Governors of other affected States. The person committing the asserted violation that results in issuance of the order shall be notified of the issuance of the order by personal service made to the appropriate person or corporate officer. The notice shall state with reasonable specificity the nature of the asserted violation and specify a time for compliance, not to exceed 30 days, which the Secretary determines is reasonable taking into account the seriousness of the asserted violation and any good faith efforts to comply with applicable requirements. If the person receiving the notice disputes the Secretary's determination, the person may file an appeal as provided in subsection (i). Within 60 days of a decision which denies an appeal, or within 150 days from the date of notification of violation by the Secretary if no appeal is filed, the Secretary shall prosecute a civil action in accordance with paragraph (3) or rescind such order and be estopped from any further enforcement proceedings for the same asserted violation.

''(3) CIVIL ACTION ENFORCEMENT.—The Secretary is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which the Secretary is authorized to issue a compliance order under paragraph (1). Any action under this paragraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.

''(4) CIVIL PENALTIES.—Any person who violates any condition or limitation in a permit issued by the Secretary under this section and any person who violates any order issued by the Secretary under paragraph (1) shall be subject to a civil penalty not to exceed $25,000 per day for each violation commencing on expiration of the compliance period if no appeal is filed or on the 30th day following the date of the denial of an appeal of such violation. The amount of the penalty imposed per day shall be in proportion to the scale or scope of the project. In determining the amount of a civil penalty, the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require.

''(5) CRIMINAL PENALTIES.—If any person knowingly and willfully violates any condition or limitation in a permit issued by the Secretary under this section or knowingly and willfully violates an order issued by the Secretary under paragraph (1) and has been notified of the issuance of such order under paragraph (2) and if such violation has resulted in actual degradation of the environment, such person shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or by both. An action for imposition of a criminal penalty under this paragraph may only be brought by the Attorney General.

''(l) STATE REGULATION.—

''(1) SUBMISSION OF PROPOSED STATE PROGRAM.—The Governor of any State desiring to administer its own individual or general permit program for some or all of the activities covered by this section within any geographical region within its jurisdiction may submit to the Secretary a description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the chief legal officer in the case of the State or interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program.

''(2) STATE AUTHORITIES REQUIRED FOR APPROVAL.—Not later than 1 year after the date of the receipt by the Secretary of a program and statement submitted by any State under paragraph (1), the Secretary shall determine whether such State has the following authority with respect to the issuance of permits pursuant to such program—

''(A) to issue permits which—

''(i) apply, and assure compliance with, any applicable requirements of this section; and

''(ii) can be terminated or modified for cause, including—

''(I) violation of any condition of the permit;

''(II) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts; or

''(III) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted activity;

''(B) to issue permits which apply, and ensure compliance with, all applicable requirements of section 308 of this Act or to inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act;

''(C) to ensure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

''(D) to ensure that the Secretary receives notice of each application for a permit and that, prior to any action by the State, both the applicant for the permit and the State have received from the Secretary information with respect to any advance classification applicable to wetlands that are the subject of such application;

''(E) to ensure that any State (other than the permitting State) whose waters may be affected by the issuance of a permit may submit written recommendation to the permitting State with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Secretary) in writing of its failure to so accept such recommendations together with its reasons for doing so; and

''(F) to abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.

''(3) APPROVAL; RESUBMISSION.—If, with respect to a State program submitted under paragraph (1) of this section, the Secretary determines that the State—

''(A) has the authority set forth in paragraph (2), the Secretary shall approve the program and so notify such State and suspend the issuance of permits under subsection (b) for activities with respect to which a permit may be issued pursuant to the State program; or

''(B) does not have the authority set forth in paragraph (2) of this subsection, the Secretary shall so notify such State and provide a description of the revisions or modifications necessary so that the State may resubmit the program for a determination by the Secretary under this subsection.

''(4) EFFECT OF FAILURE OF SECRETARY TO MAKE TIMELY DECISION.—If the Secretary fails to make a determination with respect to any program submitted by a State under this subsection within 1 year after the date of receipt of the program, the program shall be treated as being approved pursuant to paragraph (3)(A) and the Secretary shall so notify the State and suspend the issuance of permits under subsection (b) for activities with respect to which a permit may be issued by the State.

''(5) TRANSFER OF PENDING APPLICATIONS FOR PERMITS.—If the Secretary approves a State permit program under paragraph (3)(A) or (4), the Secretary shall transfer any applications for permits pending before the Secretary for activities with respect to which a permit may be issued pursuant to the State program to the State for appropriate action.

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

''(7) REVIEW BY SECRETARY.—Every 5 years after approval of a State administered program under paragraph (3)(A), the Secretary shall review the program to determine whether it is being administered in accordance with this section. If, on the basis of such review, the Secretary finds that a State is not administering its program in accordance with this section or if the Secretary determines based on clear and convincing evidence after a public hearing that a State is not administering its program in accordance with this section and that substantial adverse impacts to wetlands or waters of the United States are imminent, the Secretary shall notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days after the date of the receipt of such notification, the Secretary shall—

''(A) withdraw approval of the program until the Secretary determines such corrective action has been taken; and

''(B) resume the program for the issuance of permits under subsections (b) and (e) for all activities with respect to which the State was issuing permits until such time as the Secretary makes the determination described in paragraph (2) and the State again has an approved program.

''(m) MISCELLANEOUS PROVISIONS.—

''(1) STATE AUTHORITY TO CONTROL DISCHARGES.—Nothing in this section shall preclude or deny the right of any State or interstate agency to control activities in waters within the jurisdiction of such State, including any activity of any Federal agency, and each such agency shall comply with such State or interstate requirements both substantive and procedural to control such activities to the same extent that any person is subject to such requirements. This section shall not be construed as affecting or impairing the authority of the Secretary to maintain navigation.

''(2) AVAILABILITY TO PUBLIC.—A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or portion thereof shall further be available on request for the purpose of reproduction.

''(3) PUBLICATION IN FEDERAL REGISTER.—The Secretary shall have published in the Federal

Register all memoranda of agreement, regulatory guidance letters, and other guidance documents of general applicability to implementation of this section at the time they are distributed to agency regional or field offices. In addition, the Secretary shall prepare, update on a biennial basis and make available to the public for purchase at cost—

''(A) an indexed publication containing all Federal regulations, general permits, memoranda of agreement, regulatory guidance letters, and other guidance documents relevant to the permitting of activities pursuant to this section; and

''(B) information to enable the general public to understand the delineation of wetlands, the permitting requirements referred to in subsection (e), wetlands restoration and enhancement, wetlands functions, available nonregulatory programs to conserve and restore wetlands, and other matters that the Secretary considers relevant.

''(4) COMPLIANCE.—

''(A) COMPLIANCE WITH PERMIT.—Compliance with a permit issued pursuant to this section, including any activity carried out pursuant to a general permit issued under this section, shall be deemed in compliance, for purposes of sections 309 and 505, with sections 301, 307, and 403.

''(B) CRANBERRY PRODUCTION.—Activities associated with expansion, improvement, or modification of existing cranberry production operations shall be deemed in compliance, for purposes of sections 309 and 505, with section 301, if—

''(i) the activity does not result in the modification of more than 10 acres of wetlands per operator per year and the modified wetlands (other than where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States; or

''(ii) the activity is required by any State or Federal water quality program.

''(5) LIMITATION ON FEES.—Any fee charged in connection with the delineation or classification of wetlands, the submission or processing of an application for a permit authorizing an activity in wetlands or waters of the United States, or any other action taken in compliance with the requirements of this section (other than fines for violations under subsection (k)) shall not exceed the amount in effect for such fee on February 15, 1995.

''(6) BALANCED IMPLEMENTATION.—

''(A) IN GENERAL.—In implementing his or her responsibilities under the regulatory program under this section, the Secretary shall balance the objective of conserving functioning wetlands with the objective of ensuring continued economic growth, providing essential infrastructure, maintaining strong State and local tax bases, and protecting against the diminishment of the use and value of privately owned property.

''(B) MINIMIZATION OF ADVERSE EFFECTS ON PRIVATE PROPERTY.—In carrying out this section, the Secretary and the heads of all other Federal agencies shall seek in all actions to minimize the adverse effects of the regulatory program under this section on the use and value of privately owned property.

''(7) PROCEDURES FOR EMERGENCIES.—The Secretary shall develop procedures for facilitating actions under this section that are necessary to respond to emergency conditions (including flood events and other emergency situations) which may involve loss of life and property damage. Such procedures shall address circumstances requiring expedited approvals as well as circumstances requiring no formal approval under this section.

''(8) USE OF PROPERTY.—For purposes of this section, a use of property is limited by an agency action if a particular legal right to use that property no longer exists because of the action.

''(9) LIMITATION ON CLASSIFICATION OF CERTAIN WATERS.—For purposes of this section, no water of the United States or wetland shall be subject to this section based solely on the fact that migratory birds use or could use such water or wetland.

''(10) TRANSITION RULES.—

''(A) PERMIT REQUIRED.—After the effective date of this section under section 806 of the Comprehensive Wetlands Conservation and Management Act of 1995, no permit for any activity in wetlands or waters of the United States may be issued except in accordance with this section. Any application for a permit for such an activity pending under this section on such effective date shall be deemed to be an application for a permit under this section.

''(B) PRIOR PERMITS.—Any permit for an activity in wetlands or waters of the United States issued under this section prior to the effective date referred to in subparagraph (A) shall be deemed to be a permit under this section and shall continue in force and effect for the term of the permit unless revoked, modified, suspended, or canceled in accordance with this section.

''(C) REEVALUATION.—

''(i) PETITION.—Any person holding a permit for an activity in wetlands or water of the United States on the effective date referred to in subparagraph (A) may petition, after such effective date, the Secretary for reevaluation of any decision made before such effective date concerning (I) a determination of regulatory jurisdiction under this section, or (II) any condition imposed under the permit. Upon receipt of a petition for reevaluation, the Secretary shall conduct the reevaluation in accordance with the provisions of this section.

''(ii) MODIFICATION OF PERMIT.—If the Secretary finds that the provisions of this section apply with respect to activities and lands which are subject to the permit, the Secretary shall modify, revoke, suspend, cancel, or continue the permit as appropriate in accordance with the provisions of this section; except that no compensation shall be awarded under this section to any person as a result of reevaluation pursuant to this subparagraph and, if the permit covers activities in type A wetlands, the permit shall continue in effect without modification.

''(iii) PROCEDURE.—The reevaluation shall be carried out in accordance with time limits set forth in subsection (e)(5) and shall be subject to administrative appeal under subsection (i).

''(D) PREVIOUSLY DENIED PERMITS.—No permit shall be issued under this section, no exemption shall be available under subsection (f), and no exception shall be available under subsection (g)(1)(B), for any activity for which a permit has previously been denied by the Secretary on more than one occasion unless such activity—

''(i) has been approved by the affected State, county, and local government within the boundaries of which the activity is proposed;

''(ii) in the case of unincorporated land, has been approved by all local governments within 1 mile of the proposed activity; and

''(iii) would result in a net improvement to water quality at the site of such activity.

''(11) DEFINITIONS.—In this section the following definitions apply:

''(A) ACTIVITY IN WETLANDS OR WATERS OF THE UNITED STATES.—The term 'activity in wetlands or waters of the United States' means—

''(i) the discharge of dredged or fill material into waters of the United States, including wetlands at a specific disposal site; or

''(ii) the draining, channelization, or excavation of wetlands.

''(B) AGENCY.—The term 'agency' has the meaning given that term in section 551 of title 5, United States Code.

''(C) AGENCY ACTION.—The term 'agency action' has the meaning given that term in section 551 of title 5, United States Code, but also includes the making of a grant to a public authority conditioned upon an action by the recipient that would constitute a limitation if done directly by the agency.

''(D) AGRICULTURAL LAND.—The term 'agricultural land' means cropland, pastureland, native pasture, rangeland, an orchard, a vineyard, nonindustrial forest land, an area that supports a water dependent crop (including cranberries, taro, watercress, or rice), and any other land used to produce or support the production of an annual or perennial crop (including forage or hay), aquaculture product, nursery product, or wetland crop or the production of livestock.

''(E) CONSERVED WETLANDS.—The term 'conserved wetlands' means wetlands that are located in the National Park System, National Wildlife Refuge System, National Wilderness System, the Wild and Scenic River System, and other similar Federal conservation systems, combined with wetlands located in comparable types of conservation systems established under State and local authority within State and local land use systems.

''(F) ECONOMIC BASE LANDS.—The term 'economic base lands' means lands conveyed to, selected by, or owned by Alaska Native entities pursuant to the Alaska Native Claims Settlement Act, Public Law 92–203 or the Alaska Native Allotment Act of 1906 (34 Stat. 197), and lands conveyed to, selected by, or owned by the State of Alaska pursuant to the Alaska Statehood Act, Public Law 85–508.

''(G) FAIR MARKET VALUE.—The term 'fair market value' means the most probable price at which property would change hands, in a competitive and open market under all conditions requisite to a fair sale, between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts, at the time the agency action occurs.

''(H) LAW OF A STATE.—The term 'law of a State' includes the law of a political subdivision of a State.

''(I) MITIGATION BANK.—The term 'mitigation bank' means a wetlands restoration, creation, enhancement, or preservation project undertaken by one or more parties, including private and public entities, expressly for the purpose of providing mitigation compensation credits to offset adverse impacts to wetlands or other waters of the United States authorized by the terms of permits allowing activities in such wetlands or waters.

''(J) NAVIGATIONAL DREDGING.—The term 'navigational dredging' means the dredging of ports, waterways, and inland harbors, including berthing areas and local access channels appurtenant to a Federal navigation channel.

''(K) PROPERTY.—The term 'property' means land and includes the right to use or receive water.

''(L) SECRETARY.—The term 'Secretary' means the Secretary of the Army.

''(M) STATE WITH SUBSTANTIAL CONSERVED WETLANDS AREAS.—The term 'State with substantial conserved wetlands areas' means any State which—

''(i) contains at least 10 areas of wetlands for each acre of wetlands filled, drained, or otherwise converted within such State (based upon wetlands loss statistics reported in the 1990 United States Fish and Wildlife Service Wetlands Trends report to Congress entitled 'Wetlands Losses in the United States 1780's to 1980's'); or

''(ii) the Secretary of the Army determines has sufficient conserved wetlands areas to provided adequate wetlands conservation in such State, based on the policies set forth in this Act.

''(N) WETLANDS.—The term 'wetlands' means those lands that meet the criteria for delineation of lands as wetlands set forth in subsection (g).''.

SEC. 804. DEFINITIONS.

Section 502 (33 U.S.C. 1362) is further amended—

(1) in paragraph (6)—

(A) by striking ''dredged spoil,'';

(B) by striking ''or (B)'' and inserting ''(B)''; and

(C) by inserting before the period at the end ''; and (C) dredged or fill material''; and

(2) by adding at the end thereof the following new paragraphs:

''(28) The term 'wetlands' means lands which have a predominance of hydric soils and which are inundated by surface water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

''(29) The term 'creation of wetlands' means an activity that brings a wetland into existence at a site where it did not formerly occur for the purpose of compensatory mitigation.

''(30) The term 'enhancement of wetlands' means any activity that increases the value of one or more functions in existing wetlands.

''(31) The term 'fastlands' means lands located behind legally constituted man-made structures or natural formations, such as levees constructed and maintained to permit the utilization of such lands for commercial, industrial, or residential purposes consistent with local land use planning requirements.

''(32) The term 'wetlands functions' means the roles wetlands serve, including flood water storage, flood water conveyance, ground water recharge, erosion control, wave attenuation, water quality protection, scenic and aesthetic use, food chain support, fisheries, wetlands plant habitat, aquatic habitat, and habitat for wetland dependent wildlife.

''(33) The term 'growing season' means, for each plant hardiness zone, the period between the average date of last frost in spring and the average date of first frost in autumn.

''(34) The term 'incidentally created wetlands' means lands that exhibit wetlands characteristics sufficient to meet the criteria for delineation of wetlands, where one or more of such characteristics is the unintended result of human induced alterations of hydrology.

''(35) The term 'maintenance' when used in reference to wetlands means activities undertaken to assure continuation of a wetland or the accomplishment of project goals after a restoration or creation project has been technically completed, including water level manipulations and control of nonnative plant species.

''(36) The term 'mitigation banking' means wetlands restoration, enhancement, preservation or creation for the purpose of providing compensation for wetland degradation or loss.

''(37) The term 'normal farming, silviculture, aquaculture and ranching activities' means normal practices identified as such by the Secretary of Agriculture, in consultation with the Cooperative Extension Service for each State and the land grant university system and agricultural colleges of the State, taking into account existing practices and such other practices as may be identified in consultation with the affected industry or community.

''(38) The term 'prior converted cropland' means any agricultural land that was manipulated (by drainage or other physical alteration to remove excess water from the land) or used for the production of any annual or perennial agricultural crop (including forage or hay), aquacultural product, nursery product or wetlands crop, or the production of livestock before December 23, 1985.

''(39) The term 'restoration' in reference to wetlands means an activity undertaken to return a wetland from a disturbed or altered condition with lesser acreage or fewer functions to a previous condition with greater wetlands acreage or functions.

''(40) The term 'temporary impact' means the disturbance or alteration of wetlands caused by activities under circumstances in which, within 3 years following the commencement of such activities, such wetlands—

''(A) are returned to the conditions in existence prior to the commencement of such activity; or

''(B) display conditions sufficient to ensure, that without further human action, such wetlands will return to the conditions in existence prior to the commencement of such activity.

''(41) The term 'airport hazard' has the meaning such term has under section 47102 of title 49, United States Code.''.

SEC. 805. TECHNICAL AND CONFORMING AMENDMENTS.

(a) VIOLATION.—Section 301(a) (33 U.S.C. 1311(a)) is amended—

(1) by striking ''402, and 404'' and inserting ''and 402''; and

(2) by adding at the end the following: ''Except as in compliance with this section and section 404, the undertaking of any activity in wetlands or waters of the United States shall be unlawful.''.

(b) FEDERAL ENFORCEMENT.—Section 309 (33 U.S.C. 1319) is amended—

(1) in subsection (a)(1) by striking ''or 404'';

(2) in subsection (a)(3) by striking ''or in a permit issued under section 404 of this Act by a State'';

(3) in each of subsections (c)(1)(A) and (c)(2)(A) by striking ''or in a permit'' and all that follows through ''State;'' and inserting a semicolon;

(4) in subsection (c)(3)(A) by striking ''or in a permit'' and all that follows through ''State, and'' and inserting ''and'';

(5) by adding at the end of subsection (c) the following:

''(8) TREATMENT OF CERTAIN VIOLATIONS.—Any person who violates section 301 with respect to an activity in wetlands or waters of the United States for which a permit is required under section 404 shall not be subject to punishment under this subsection but shall be subject to punishment under section 404(k)(5).'';

(6) in subsection (d) by striking '', or in a permit issued under section 404 of this Act by a State,'';

(7) by adding at the end of subsection (d) the following: ''Any person who violates section 301 with respect to an activity in wetlands or waters of the United States for which a permit is required under section 404 shall not be subject to a civil penalty under this subsection but shall be subject to a civil penalty under section 404(k)(4).'';

(8) in subsection (g)(1)—

(A) by striking ''—'' and all that follows through ''(A)'';

(B) by striking ''or in a permit issued under section 404 by a State, or''; and

(C) by striking ''(B)'' and all that follows through ''as the case may be,'' and inserting ''the Administrator'';

(9) by adding at the end of subsection (g) the following:

''(12) TREATMENT OF CERTAIN VIOLATIONS.—Any person who violates section 301 with respect to an activity in wetlands or waters of the United States for which a permit is required under section 404 shall not be subject to assessment of a civil penalty under this subsection but shall be subject to assessment of a civil penalty under section 404(k)(4).'';

(10) by striking ''or Secretary'', ''or the Secretary'', ''or the Secretary, as the case may be,'', ''or Secretary's'', and ''and the Secretary'' each place they appear; and

(11) in subsection (g)(9)(B) by inserting a comma after ''Administrator''.

SEC. 806. EFFECTIVE DATE.

This title, including the amendments made by this title, shall take effect on the 90th day following the date of the enactment of this Act.

Mr. VENTO. Mr. Chairman, I rise in opposition to H.R. 961 the Clean Water Act amendments, a measure which represents a retreat from over 20 years of progress and commitment and since presented on the floor this week has become increasingly weakened by further amendments being added.

The first 3 months of this 104th Congress has with the Republican ''Contract'' represented an assault on the sound, fair and needed environmental laws enacted on a bipartisan basis the past four decades.

The Clean Water Act [CWA] has been a good success with extraordinary achievements and effort within the Federal framework. State and local governments have been spurred to positive action with an effective national framework of law and funding to help achieve the objectives and standards. Each instance when the law was rewritten resulted in pragmatic adjustments and amendments reinforcing and empowering safety, health and environmental considerations. As new information and pressures impact the range of law and issues inherent regarding the CWA, efforts have been made to respond.

That is changed in the measure H.R. 961 that is being promoted in the Congress today.

This legislation is a denial of the problem and trades short-term gain for a narrow group of special interests against the long term problems of despoiling the safety, health and environment of the people.

This negative initiative discards the lessons of the past, abandons the investments made by the Federal and State Governments as it sacrifices sound standards to political expediency; it is wrong for the economy and the environment.

The measure H.R. 961 includes provisions waiving secondary treatment facilities, replaces the wetland delineation with loose State process and creates a new payment entitlement system to reward polluters for not polluting, the measure H.R. 961 repeals existing law for special runoff control provisions for coastal areas, repeals the existing storm water management program. An effort to restore these provisions was rejected save the amendment addressing some coastal provisions—which no doubt will be revoted before we complete this measure in the House. Candidly, the fingerprints of special interests are all over this bill as it left committee, in fact it's an open secret that portions of the bill, the CWA 1995, have been written by the lobbyists. It isn't just the environment that is being despoiled; it is the Congress and the House in such a mode of behavior and activity that is being despoiled.

The bottom line is that this measure represents a retreat, a reneging on the commitment to clean water and sound environmental policy.

Dismantling the Federal role and the Federal Government and the coordination, collaboration that is inherent to the Federal Government role is absolutely essential to sound environmental policy, to clean water, to clean air, to the protection of biodiversity. In fact, today we, the Congress, should be pursuing global agreements not turning back and away from science and sound policy.

Congress can't achieve sound environmental policy in the absence of a weakened or undercut Federal policy and as nature abhors a vacuum, the power of the people, the Federal Government, is being filled by the big corporations and special interests who put private profit and interest first and the American people second. We must reject this measure and flawed policy and philosophy.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word.

I do that simply to announce that it is my understanding we will take up the wetlands debate Monday evening

after the votes occur on suspensions, but there will be no votes on the wetlands debate Monday evening and we will move to the continuation of this bill Tuesday morning, with an objective of finishing this legislation by Tuesday night.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOX of Pennsylvania) having assumed the chair, Mr. MCINNIS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 961) to amend the Federal Water Pollution Control Act, had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I yield to the distinguished gentleman from Texas [Mr. ARMEY] for the purpose of discussing the schedule for next week.

Mr. ARMEY. Mr. Speaker, I thank the gentleman from Missouri for yielding.

Mr. Speaker, on Monday, May 15, the House will meet at 12 p.m. for legislative business. We will consider three bills under suspension of the rules: a resolution expressing the sense of the House that Japan should immediately eliminate barriers to United States exports on autos and auto parts.

Mr. Speaker, let me just mention with respect to this bill, out of consideration for the gentleman from Michigan [Mr. LEVIN], it is possible that this may not be considered until Tuesday. We will see if we can work that out.

We will continue then on Monday with H.R. 1045, legislation eliminating the National Education Standards and Improvement Council, and H.R. 1266, the Greens Creek Land Exchange Act of 1995.

□ 1300

We then plan to take up the rules for three hatchery bills: H.R. 614, the New London National Fish Hatchery Conveyance; H.R. 584, the Fairport National Fish Hatchery Conveyance; and H.R. 535, the Corning National Fish Hatchery conveyance.

Mr. Speaker, if any recorded votes are ordered, they will not take place before 5 p.m. on Monday evening.

We then plan to return to debate on amendments to H.R. 961, the Clean Water Amendments Act of 1995.

On Tuesday the House will meet at 10 a.m. to consider one bill under suspension of the rules.

Mr. Speaker, that bill is H.R. 1590, legislation requiring the trustees of the Medicare trust fund to report recommendations on resolving the projected financial insolvency of the trust funds.

We then plan to continue consideration of amendments for the clean water legislation.

Mr. Speaker, it is our hope and our intention that we will be able to complete the clean water legislation on Tuesday, and we will continue working between the majority and minority floor managers with those people who have amendments to see what arrangements we can make to assure completion within that timeframe and still give it as much consideration as possible to the Members. But it is our hope and I think with some confidence I can say our intention to complete the bill in that time.

That will make it possible, Mr. Speaker, on Wednesday for the House to meet at 10 a.m. and consider the three hatchery bills made in order under the rules adopted on Monday. We will then begin general debate on the fiscal year 1996 budget resolution. Members should be advised that the House may work late on Wednesday evening.

On Thursday the House will meet at 9 a.m. We plan to recess immediately to honor former Members of Congress, and then reconvene at 10 a.m. to return to debate and consideration of substitutes to the committee-passed fiscal year 1996 budget resolution.

It is our hope to have Members on their way home to their families and their districts by approximately 6:30 p.m. on Thursday night.

There will be no votes on Friday, May 19.

I thank the gentleman for yielding.

Mr. GEPHARDT. I would like to ask the distinguished majority leader a couple of questions. First, do you expect votes on Monday night on clean water amendments?

Mr. ARMEY. No. We can have some of the debate, but we expect no votes on the Clean Water Act on Monday night.

Mr. GEPHARDT. Second, I would like to ask if we could reserve the time between say 2 p.m. and 5 p.m. on Monday for special orders, instead of recessing.

Mr. ARMEY. I do not believe we can make this agreement at this point because we have suspensions we must look at.

Mr. GEPHARDT. Finally, in looking at the schedule, it appears that we are talking about a 4-hour period for debate on the budget. And I must say to the distinguished majority leader that there is a lot of desire I am sure on both sides of the aisle to adequately debate this very important budget, and the changes that are being proposed by many Members in the budget, and I would like to ask if we could perhaps see more time for debate in this period that you have set out.

Mr. ARMEY. I do appreciate the gentleman's point. The Committee on Rules has not issued a rule on debate for the budget, and I am sorry I cannot report on how much time will be made available, and I know there are discussions taking place on that.

Mr. GEPHARDT. I would just say to the gentleman that we had been hoping for more like 14 hours of general debate. This is a very important document for the future of the country, and people deserve to know exactly what the alternatives are and how they would work and allow for adequate debate, so I urge the Committee on Rules to take that under consideration. I know these hatchery bills are probably important somewhere, but probably more important and especially to a bass fisherman of such renown as the majority leader, but maybe we could get to the budget a little faster and have more time to use.

Mr. ARMEY. Again let me say I do appreciate that. It is a point perhaps you want to communicate to the Committee on Rules, and I would certainly be willing to do the same. This is a very important piece of legislation. I know those members of the Joint Economic Committee that generally conduct what is know as the Humphrey-Hawkins debate have expressed their concern, and we will continue to encourage the Committee on Rules.

Mr. GEPHARDT. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the minority leader for yielding. I suppose the question I want to ask is in terms of Monday night's treatment of the current bill we are on, the Clean Water Act, I understand there will be no votes Monday night, but will there be debate on amendments, and how long will we go Monday night, do you expect?

Mr. ARMEY. Again I thank the gentleman. The debate that we have Monday night will be on the Boehlert amendments. We would probably, possibly debate for as much as an hour or an hour and one-half. One of the things we are going to be very sensitive to is there be some time retained so that there will be closing comments made before the vote is taken on the next day.

Any Members that wish to participate in that debate on the Boehlert amendment should be advised, though, that their best opportunity to do so would be Monday evening, because we do have a real resolve to complete the bill on Tuesday, and, therefore, between the floor managers there may be a need to do some time arrangements for Tuesday. So if you are anxious to be a part of that debate relative to wetlands that is known as the Boehlert amendment, I would encourage you to be here Monday night.

Mr. GEPHARDT. I yield to the gentleman from California.

Mr. MINETA. I thank the leader for yielding. I was just going to ask relative to the debate, then we would still