

of demonstrating and determining controls that are cost-effective and that use innovative technologies in reducing such pollutants from stormwater discharges.

**(b) Administration**

The Administrator, in coordination with the States, shall provide municipalities participating in a pilot project under this section the ability to engage in innovative practices, including the ability to unify separate wet weather control efforts under a single permit.

**(c) Funding**

**(1) In general**

There is authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 2002, \$15,000,000 for fiscal year 2003, and \$20,000,000 for fiscal year 2004. Such funds shall remain available until expended.

**(2) Stormwater**

The Administrator shall make available not less than 20 percent of amounts appropriated for a fiscal year pursuant to this subsection to carry out the purposes of subsection (a)(2) of this section.

**(3) Administrative expenses**

The Administrator may retain not to exceed 4 percent of any amounts appropriated for a fiscal year pursuant to this subsection for the reasonable and necessary costs of administering this section.

**(d) Report to Congress**

Not later than 5 years after December 21, 2000, the Administrator shall transmit to Congress a report on the results of the pilot projects conducted under this section and their possible application nationwide.

(June 30, 1948, ch. 758, title I, §122, formerly §121, as added Pub. L. 106-554, §1(a)(4) [div. B, title I, §112(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-225; renumbered §122, Pub. L. 109-392, §2, Dec. 12, 2006, 120 Stat. 2703.)

SUBCHAPTER II—GRANTS FOR  
CONSTRUCTION OF TREATMENT WORKS

**§ 1281. Congressional declaration of purpose**

**(a) Development and implementation of waste treatment management plans and practices**

It is the purpose of this subchapter to require and to assist the development and implementation of waste treatment management plans and practices which will achieve the goals of this chapter.

**(b) Application of technology: confined disposal of pollutants; consideration of advanced techniques**

Waste treatment management plans and practices shall provide for the application of the best practicable waste treatment technology before any discharge into receiving waters, including reclaiming and recycling of water, and confined disposal of pollutants so they will not migrate to cause water or other environmental pollution and shall provide for consideration of advanced waste treatment techniques.

**(c) Waste treatment management area and scope**

To the extent practicable, waste treatment management shall be on an areawide basis and

provide control or treatment of all point and nonpoint sources of pollution, including in place or accumulated pollution sources.

**(d) Waste treatment management construction of revenue producing facilities**

The Administrator shall encourage waste treatment management which results in the construction of revenue producing facilities providing for—

(1) the recycling of potential sewage pollutants through the production of agriculture, silviculture, or aquaculture products, or any combination thereof;

(2) the confined and contained disposal of pollutants not recycled;

(3) the reclamation of wastewater; and

(4) the ultimate disposal of sludge in a manner that will not result in environmental hazards.

**(e) Waste treatment management integration of facilities**

The Administrator shall encourage waste treatment management which results in integrating facilities for sewage treatment and recycling with facilities to treat, dispose of, or utilize other industrial and municipal wastes, including but not limited to solid waste and waste heat and thermal discharges. Such integrated facilities shall be designed and operated to produce revenues in excess of capital and operation and maintenance costs and such revenues shall be used by the designated regional management agency to aid in financing other environmental improvement programs.

**(f) Waste treatment management “open space” and recreational considerations**

The Administrator shall encourage waste treatment management which combines “open space” and recreational considerations with such management.

**(g) Grants to construct publicly owned treatment works**

(1) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of publicly owned treatment works. On and after October 1, 1984, grants under this subchapter shall be made only for projects for secondary treatment or more stringent treatment, or any cost effective alternative thereto, new interceptors and appurtenances, and infiltration-in-flow correction. Notwithstanding the preceding sentences, the Administrator may make grants on and after October 1, 1984, for (A) any project within the definition set forth in section 1292(2) of this title, other than for a project referred to in the preceding sentence, and (B) any purpose for which a grant may be made under sections<sup>1</sup> 1329(h) and (i) of this title (including any innovative and alternative approaches for the control of nonpoint sources of pollution), except that not more than 20 per centum (as determined by the Governor of the State) of the amount allotted to a State under section 1285 of this title for any fiscal year shall

<sup>1</sup> So in original. Probably should be “section”.

be obligated in such State under authority of this sentence.

(2) The Administrator shall not make grants from funds authorized for any fiscal year beginning after June 30, 1974, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that—

(A) alternative waste management techniques have been studied and evaluated and the works proposed for grant assistance will provide for the application of the best practicable waste treatment technology over the life of the works consistent with the purposes of this subchapter; and

(B) as appropriate, the works proposed for grant assistance will take into account and allow to the extent practicable the application of technology at a later date which will provide for the reclaiming or recycling of water or otherwise eliminate the discharge of pollutants.

(3) The Administrator shall not approve any grant after July 1, 1973, for treatment works under this section unless the applicant shows to the satisfaction of the Administrator that each sewer collection system discharging into such treatment works is not subject to excessive infiltration.

(4) The Administrator is authorized to make grants to applicants for treatment works grants under this section for such sewer system evaluation studies as may be necessary to carry out the requirements of paragraph (3) of this subsection. Such grants shall be made in accordance with rules and regulations promulgated by the Administrator. Initial rules and regulations shall be promulgated under this paragraph not later than 120 days after October 18, 1972.

(5) The Administrator shall not make grants from funds authorized for any fiscal year beginning after September 30, 1978, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that innovative and alternative wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, otherwise eliminate the discharge of pollutants, and utilize recycling techniques, land treatment, new or improved methods of waste treatment management for municipal and industrial waste (discharged into municipal systems) and the confined disposal of pollutants, so that pollutants will not migrate to cause water or other environmental pollution, have been fully studied and evaluated by the applicant taking into account subsection (d) of this section and taking into account and allowing to the extent practicable the more efficient use of energy and resources.

(6) The Administrator shall not make grants from funds authorized for any fiscal year beginning after September 30, 1978, to any State, municipality, or intermunicipal or interstate agency for the erection, building, acquisition, alter-

ation, remodeling, improvement, or extension of treatment works unless the grant applicant has satisfactorily demonstrated to the Administrator that the applicant has analyzed the potential recreation and open space opportunities in the planning of the proposed treatment works.

**(h) Grants to construct privately owned treatment works**

A grant may be made under this section to construct a privately owned treatment works serving one or more principal residences or small commercial establishments constructed prior to, and inhabited on, December 27, 1977, where the Administrator finds that—

(1) a public body otherwise eligible for a grant under subsection (g) of this section has applied on behalf of a number of such units and certified that public ownership of such works is not feasible;

(2) such public body has entered into an agreement with the Administrator which guarantees that such treatment works will be properly operated and maintained and will comply with all other requirements of section 1284 of this title and includes a system of charges to assure that each recipient of waste treatment services under such a grant will pay its proportionate share of the cost of operation and maintenance (including replacement); and

(3) the total cost and environmental impact of providing waste treatment services to such residences or commercial establishments will be less than the cost of providing a system of collection and central treatment of such wastes.

**(i) Waste treatment management methods, processes, and techniques to reduce energy requirements**

The Administrator shall encourage waste treatment management methods, processes, and techniques which will reduce total energy requirements.

**(j) Grants for treatment works utilizing processes and techniques of guidelines under section 1314(d)(3) of this title**

The Administrator is authorized to make a grant for any treatment works utilizing processes and techniques meeting the guidelines promulgated under section 1314(d)(3) of this title, if the Administrator determines it is in the public interest and if in the cost effectiveness study made of the construction grant application for the purpose of evaluating alternative treatment works, the life cycle cost of the treatment works for which the grant is to be made does not exceed the life cycle cost of the most cost effective alternative by more than 15 per centum.

**(k) Limitation on use of grants for publicly owned treatment works**

No grant made after November 15, 1981, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow per day equivalent to fifty thousand gal-

lons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980. This subsection shall not be in effect after November 15, 1981.

**(l) Grants for facility plans, or plans, specifications, and estimates for proposed project for construction of treatment works; limitations, allotments, advances, etc.**

(1) After December 29, 1981, Federal grants shall not be made for the purpose of providing assistance solely for facility plans, or plans, specifications, and estimates for any proposed project for the construction of treatment works. In the event that the proposed project receives a grant under this section for construction, the Administrator shall make an allowance in such grant for non-Federal funds expended during the facility planning and advanced engineering and design phase at the prevailing Federal share under section 1282(a) of this title, based on the percentage of total project costs which the Administrator determines is the general experience for such projects.

(2)(A) Each State shall use a portion of the funds allotted to such State each fiscal year, but not to exceed 10 per centum of such funds, to advance to potential grant applicants under this subchapter the costs of facility planning or the preparation of plans, specifications, and estimates.

(B) Such an advance shall be limited to the allowance for such costs which the Administrator establishes under paragraph (1) of this subsection, and shall be provided only to a potential grant applicant which is a small community and which in the judgment of the State would otherwise be unable to prepare a request for a grant for construction costs under this section.

(C) In the event a grant for construction costs is made under this section for a project for which an advance has been made under this paragraph, the Administrator shall reduce the amount of such grant by the allowance established under paragraph (1) of this subsection. In the event no such grant is made, the State is authorized to seek repayment of such advance on such terms and conditions as it may determine.

**(m) Grants for State of California projects**

(1) Notwithstanding any other provisions of this subchapter, the Administrator is authorized to make a grant from any funds otherwise allotted to the State of California under section 1285 of this title to the project (and in the amount) specified in Order WQG 81-1 of the California State Water Resources Control Board.

(2) Notwithstanding any other provision of this chapter, the Administrator shall make a grant from any funds otherwise allotted to the State of California to the city of Eureka, California, in connection with project numbered C-06-2772, for the purchase of one hundred and thirty-nine acres of property as environmental mitigation for siting of the proposed treatment plant.

(3) Notwithstanding any other provision of this chapter, the Administrator shall make a

grant from any funds otherwise allotted to the State of California to the city of San Diego, California, in connection with that city's aquaculture sewage process (total resources recovery system) as an innovative and alternative waste treatment process.

**(n) Water quality problems; funds, scope, etc.**

(1) On and after October 1, 1984, upon the request of the Governor of an affected State, the Administrator is authorized to use funds available to such State under section 1285 of this title to address water quality problems due to the impacts of discharges from combined storm water and sanitary sewer overflows, which are not otherwise eligible under this subsection, where correction of such discharges is a major priority for such State.

(2) Beginning fiscal year 1983, the Administrator shall have available \$200,000,000 per fiscal year in addition to those funds authorized in section 1287 of this title to be utilized to address water quality problems of marine bays and estuaries subject to lower levels of water quality due to the impacts of discharges from combined storm water and sanitary sewer overflows from adjacent urban complexes, not otherwise eligible under this subsection. Such sums may be used as deemed appropriate by the Administrator as provided in paragraphs (1) and (2) of this subsection, upon the request of and demonstration of water quality benefits by the Governor of an affected State.

**(o) Capital financing plan**

The Administrator shall encourage and assist applicants for grant assistance under this subchapter to develop and file with the Administrator a capital financing plan which, at a minimum—

(1) projects the future requirements for waste treatment services within the applicant's jurisdiction for a period of no less than ten years;

(2) projects the nature, extent, timing, and costs of future expansion and reconstruction of treatment works which will be necessary to satisfy the applicant's projected future requirements for waste treatment services; and

(3) sets forth with specificity the manner in which the applicant intends to finance such future expansion and reconstruction.

**(p) Time limit on resolving certain disputes**

In any case in which a dispute arises with respect to the awarding of a contract for construction of treatment works by a grantee of funds under this subchapter and a party to such dispute files an appeal with the Administrator under this subchapter for resolution of such dispute, the Administrator shall make a final decision on such appeal within 90 days of the filing of such appeal.

(June 30, 1948, ch. 758, title II, §201, as added Pub. L. 92-500, §2, Oct. 18, 1972, 86 Stat. 833; amended Pub. L. 95-217, §§12-16, Dec. 27, 1977, 91 Stat. 1569, 1570; Pub. L. 96-483, §§2(d), 3, Oct. 21, 1980, 94 Stat. 2361; Pub. L. 97-117, §§2(a), 3(a), 4-6, 10(c), Dec. 29, 1981, 95 Stat. 1623-1626; Pub. L. 100-4, title II, §201, title III, §316(c), Feb. 4, 1987, 101 Stat. 15, 60.)

## AMENDMENTS

1987—Subsec. (g)(1). Pub. L. 100-4, § 316(c), substituted “sentences, the Administrator” for “sentence, the Administrator” and inserted “(A)” after “October 1, 1984, for” and “and (B) any purpose for which a grant may be made under sections 1329(h) and (i) of this title (including any innovative and alternative approaches for the control of nonpoint sources of pollution),” before “except that”.

Subsec. (p). Pub. L. 100-4, § 201, added subsec. (p).

1981—Subsec. (g)(1). Pub. L. 97-117, § 2(a), inserted provisions restricting, on or after Oct. 1, 1984, the categories of projects eligible for grants under this subchapter and providing an exception to the restriction for projects, other than specified projects, within the definition set forth in section 1292(2) of this title, but limiting such exception to not more than 20 per centum, as determined by the Governor of the State, of the amount allotted to a State under section 1285 of this title for any fiscal year.

Subsec. (k). Pub. L. 97-117, § 10(c), inserted provision that subsection not be in effect after Nov. 15, 1981.

Subsec. (l). Pub. L. 97-117, § 3(a), added subsec. (l).

Subsec. (m). Pub. L. 97-117, § 4, added subsec. (m).

Subsec. (n). Pub. L. 97-117, § 5, added subsec. (n).

Subsec. (o). Pub. L. 97-117, § 6, added subsec. (o).

1980—Subsec. (h). Pub. L. 96-483, § 2(d), struck out text following par. (3), relating to payment to the United States by commercial users of that portion of the cost of construction applicable to treatment of commercial wastes to the extent attributable to the Federal share of the cost of construction.

Subsec. (k). Pub. L. 96-483, § 3, added subsec. (k).

1977—Subsec. (g)(5). Pub. L. 95-217, § 12, added par. (5).

Subsec. (g)(6). Pub. L. 95-217, § 13, added par. (6).

Subsec. (h). Pub. L. 95-217, § 14, added subsec. (h).

Subsec. (i). Pub. L. 95-217, § 15, added subsec. (i).

Subsec. (j). Pub. L. 95-217, § 16, added subsec. (j).

## EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-483, § 2(g), Oct. 21, 1980, 94 Stat. 2361, provided that: “The amendments made by this section [amending sections 1281, 1284, and 1293 of this title, enacting provisions set out as notes under section 1284 of this title, and amending provisions set out as a note under section 1284 of this title] shall take effect on December 27, 1977.”

## ENVIRONMENTAL PROTECTION AGENCY STATE AND TRIBAL ASSISTANCE GRANTS

Pub. L. 105-174, title III, May 1, 1998, 112 Stat. 92, provided that: “Notwithstanding any other provision of law, eligible recipients of the funds appropriated to the Environmental Protection Agency in the State and Tribal Assistance Grants account since fiscal year 1997 and hereafter for multi-media or single media grants, other than Performance Partnership Grants authorized pursuant to Public Law 104-134 and Public Law 105-65 [see Grants to Indian Tribes for Pollution Prevention, Control, and Abatement notes set out below], for pollution prevention, control, and abatement and related activities have been and shall be those entities eligible for grants under the Agency’s organic statutes.”

## PRIVATIZATION OF INFRASTRUCTURE ASSETS

Pub. L. 104-303, title V, § 586, Oct. 12, 1996, 110 Stat. 3791, provided that:

“(a) IN GENERAL.—Notwithstanding the provisions of title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.), Executive Order 12803 [5 U.S.C. 601 note], or any other law or authority, an entity that received Federal grant assistance for an infrastructure asset under the Federal Water Pollution Control Act [33 U.S.C. 1251 et seq.] shall not be required to repay any portion of the grant upon the lease or concession of the asset only if—

“(1) ownership of the asset remains with the entity that received the grant; and

“(2) the Administrator of the Environmental Protection Agency determines that the lease or conces-

sion furthers the purposes of such Act and approves the lease or concession.

“(b) LIMITATION.—The Administrator shall not approve a total of more than 5 leases and concessions under this section.”

## GRANTS TO STATES TO ADMINISTER COMPLETION AND CLOSEOUT OF CONSTRUCTION GRANTS PROGRAM

Pub. L. 104-204, title III, Sept. 26, 1996, 110 Stat. 2912, provided in part: “That notwithstanding any other provision of law, beginning in fiscal year 1997 the Administrator may make grants to States, from funds available for obligation in the State under title II of the Federal Water Pollution Control Act [33 U.S.C. 1281 et seq.], as amended, for administering the completion and closeout of the State’s construction grants program, based on a budget annually negotiated with the State”.

## WASTEWATER ASSISTANCE TO COLONIAS

Pub. L. 104-182, title III, § 307, Aug. 6, 1996, 110 Stat. 1688, provided that:

“(a) DEFINITIONS.—As used in this section:

“(1) BORDER STATE.—The term ‘border State’ means Arizona, California, New Mexico, and Texas.

“(2) ELIGIBLE COMMUNITY.—The term ‘eligible community’ means a low-income community with economic hardship that—

“(A) is commonly referred to as a colonia;

“(B) is located along the United States-Mexico border (generally in an unincorporated area); and

“(C) lacks basic sanitation facilities such as household plumbing or a proper sewage disposal system.

“(3) TREATMENT WORKS.—The term ‘treatment works’ has the meaning provided in section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

“(b) GRANTS FOR WASTEWATER ASSISTANCE.—The Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to a border State to provide assistance to eligible communities for the planning, design, and construction or improvement of sewers, treatment works, and appropriate connections for wastewater treatment.

“(c) USE OF FUNDS.—Each grant awarded pursuant to subsection (b) shall be used to provide assistance to one or more eligible communities with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable treatment works for wastewater.

“(d) COST SHARING.—The amount of a grant awarded pursuant to this section shall not exceed 50 percent of the costs of carrying out the project that is the subject of the grant.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$25,000,000 for each of the fiscal years 1997 through 1999.”

## GRANTS TO INDIAN TRIBES FOR POLLUTION PREVENTION, CONTROL AND ABATEMENT

Pub. L. 105-65, title III, Oct. 27, 1997, 111 Stat. 1373, provided in part that: “\$745,000,000 for grants to States, federally recognized tribes, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities pursuant to the provisions set forth under this heading in Public Law 104-134 [see below], provided that eligible recipients of these funds and the funds made available for this purpose since fiscal year 1996 and hereafter include States, federally recognized tribes, interstate agencies, tribal consortia, and air pollution control agencies, as provided in authorizing statutes, subject to such terms and conditions as the Administrator shall establish, and for making grants under section 103 of the Clean Air Act [42 U.S.C. 7403] for particulate matter monitoring and data collection activities”.

Pub. L. 105-65, title III, Oct. 27, 1997, 111 Stat. 1374, provided in part: "That, hereafter from funds appropriated under this heading ['ENVIRONMENTAL PROTECTION AGENCY' and 'STATE AND TRIBAL ASSISTANCE GRANTS'], the Administrator is authorized to make grants to federally recognized Indian governments for the development of multi-media environmental programs: *Provided further*, That, hereafter, the funds available under this heading for grants to States, federally recognized tribes, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities may also be used for the direct implementation by the Federal Government of a program required by law in the absence of an acceptable State or tribal program".

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104-204, title III, Sept. 26, 1996, 110 Stat. 2912.  
 Pub. L. 104-134, title I, §101(e) [title III], Apr. 26, 1996, 110 Stat. 1321-257, 1321-299, renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103-327, title III, Sept. 28, 1994, 108 Stat. 2320.  
 Pub. L. 103-124, title III, Oct. 28, 1993, 107 Stat. 1293.  
 Pub. L. 102-389, title III, Oct. 6, 1992, 106 Stat. 1597.  
 Pub. L. 102-139, title III, Oct. 28, 1991, 105 Stat. 762.  
 Pub. L. 101-507, title III, Nov. 5, 1990, 104 Stat. 1372.

Pub. L. 104-134, title I, §101(e) [title III], Apr. 26, 1996, 110 Stat. 1321-257, 1321-299; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327, provided in part: "That beginning in fiscal year 1996 and each fiscal year thereafter, and notwithstanding any other provision of law, the Administrator is authorized to make grants annually from funds appropriated under this heading ['ENVIRONMENTAL PROTECTION AGENCY' and 'STATE AND TRIBAL ASSISTANCE GRANTS'], subject to such terms and conditions as the Administrator shall establish, to any State or federally recognized Indian tribe for multimedia or single media pollution prevention, control and abatement and related environmental activities at the request of the Governor or other appropriate State official or the tribe".

#### STATE MANAGEMENT OF CONSTRUCTION GRANT ACTIVITIES

Pub. L. 104-134, title I, §101(e) [title III], Apr. 26, 1996, 110 Stat. 1321-257, 1321-299; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327, provided in part: "That of the funds appropriated in the Construction Grants and Water Infrastructure/State Revolving Funds accounts since the appropriation for the fiscal year ending September 30, 1992, and hereafter, for making grants for wastewater treatment works construction projects, portions may be provided by the recipients to States for managing construction grant activities, on condition that the States agree to reimburse the recipients from State funding sources".

#### GRANTS TO TRUST TERRITORY OF THE PACIFIC ISLANDS, AMERICAN SAMOA, GUAM, NORTHERN MARIANA ISLANDS, AND VIRGIN ISLANDS; WAIVER OF COLLECTOR SEWERS LIMITATION

Pub. L. 99-396, §12(b), Aug. 27, 1986, 100 Stat. 841, provided that: "In awarding grants to the Trust Territory of the Pacific Islands, American Samoa, Guam, the Northern Mariana Islands and the Virgin Islands under section 201(g)(1) of the Clean Water Act (33 U.S.C. 1251 et seq.) [subsec. (g)(1) of this section], the Administrator of the Environmental Protection Agency may waive limitations regarding grant eligibility for sewerage facilities and related appurtenances, insofar as such limitations relate to collector sewers, based upon a determination that applying such limitations could hinder the alleviation of threats to public health and water quality. In making such a determination, the Administrator shall take into consideration the public health and water quality benefits to be derived and the availability of alternate funding sources. The Administrator shall not award grants under this section for the operation and maintenance of sewerage facilities, for

construction of facilities which are not an essential component of the sewerage facilities, or any other activities or facilities which are not concerned with the management of wastewater to alleviate threats to public health and water quality." [For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.]

#### ENVIRONMENTAL FINANCING AUTHORITY

Pub. L. 92-500, §12, Oct. 18, 1972, 86 Stat. 899, as amended by Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, provided that:

"(a) [Short Title] This section may be cited as the Environmental Financing Act of 1972.

"(b) [Establishment] There is hereby created a body corporate to be known as the Environmental Financing Authority, which shall have succession until dissolved by Act of Congress. The Authority shall be subject to the general supervision and direction of the Secretary of the Treasury. The Authority shall be an instrumentality of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business.

"(c) [Congressional Declaration of Purpose] The purpose of this section is to assure that inability to borrow necessary funds on reasonable terms does not prevent any State or local public body from carrying out any project for construction of waste treatment works determined eligible for assistance pursuant to subsection (e) of this section.

"(d) [Board of Directors] (1) The Authority shall have a Board of Directors consisting of five persons, one of whom shall be the Secretary of the Treasury or his designee as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Authority or of any department or agency of the United States Government.

"(2) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Authority. The Chairman of the Board shall select and effect the appointment of qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Authority and shall discharge all such executive functions, powers, and duties. The members of the Board, as such, shall not receive compensation for their services.

"(e) [Purchase of State and Local Obligations] (1) Until July 1, 1975, the Authority is authorized to make commitments to purchase, and to purchase on terms and conditions determined by the Authority, any obligation or participation therein which is issued by a State or local public body to finance the non-Federal share of the cost of any project for the construction of waste treatment works which the Administrator of the Environmental Protection Agency has determined to be eligible for Federal financial assistance under the Federal Water Pollution Control Act [this chapter].

"(2) No commitment shall be entered into, and no purchase shall be made, unless the Administrator of the Environmental Protection Agency (A) has certified that the public body is unable to obtain on reasonable terms sufficient credit to finance its actual needs; (B) has approved the project as eligible under the Federal Water Pollution Control Act [this chapter], and (C) has agreed to guarantee timely payment of principal and interest on the obligation. The Administrator is authorized to guarantee such timely payments and to issue regulations as he deems necessary and proper to protect such guaranties. Appropriations are hereby authorized to be made to the Administrator in such sums as are necessary to make payments under such guaranties, and such payments are authorized to be made from such appropriations.

"(3) No purchase shall be made of obligations issued to finance projects, the permanent financing of which occurred prior to the enactment of this section [Oct. 18, 1972].

“(4) Any purchase by the Authority shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury taking into consideration (A) the current average yield on outstanding marketable obligations of the United States of comparable maturity or in its stead whenever the Authority has sufficient of its own long-term obligations outstanding, the current average yield on outstanding obligations of the Authority of comparable maturity; and (B) the market yields on municipal bonds.

“(5) The Authority is authorized to charge fees for its commitments and other services adequate to cover all expenses and to provide for the accumulation of reasonable contingency reserves and such fees shall be included in the aggregate project costs.

“(f) [Initial Capital] To provide initial capital to the Authority the Secretary of the Treasury is authorized to advance the funds necessary for this purpose. Each such advance shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed \$100,000,000, which shall be available for the purposes of this subsection.

“(g) [Issuance of Obligations] (1) The Authority is authorized, with the approval of the Secretary of the Treasury, to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Authority. Such obligations may be redeemable at the option of the Authority before maturity in such manner as may be stipulated therein.

“(2) As authorized in appropriation Acts, and such authorizations may be without fiscal year limitations, the Secretary of the Treasury may in his discretion purchase or agree to purchase any obligations issued pursuant to paragraph (1) of this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, as now or hereafter in force, and the purposes for which securities may be issued under chapter 31 of title 31, as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this paragraph. All purchases and sales by the Secretary of the Treasury of such obligations under this paragraph shall be treated as public debt transactions of the United States. (As amended Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067.)

“(h) [Interest Differential] The Secretary of the Treasury is authorized and directed to make annual payments to the Authority in such amounts as are necessary to equal the amount by which the dollar amount of interest expense accrued by the Authority on account of its obligations exceeds the dollar amount of interest income accrued by the Authority on account of obligations purchased by it pursuant to subsection (e) of this section.

“(i) [Powers] The Authority shall have power—

“(1) to sue and be sued, complain and defend, in its corporate name;

“(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

“(3) to adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

“(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this section in any State without regard to any qualification or similar statute in any State;

“(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

“(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Authority;

“(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

“(8) to appoint such officers, attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof; and

“(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

“(j) [Tax Exemption, Exemptions] The Authority, its property, its franchise, capital, reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (A) any real property and any tangible personal property of the Authority shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (B) any and all obligations issued by the Authority shall be subject both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

“(k) [Nature of Obligations] All obligations issued by the Authority shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All obligations issued by the Authority pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are issued by the United States.

“(l) [Preparation of Obligations by Secretary of the Treasury] In order to furnish obligations for delivery by the Authority, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Authority may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Authority. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith, shall remain in the custody of the Secretary of the Treasury. The Authority shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

“(m) [Annual Report to Congress] The Authority shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

“(n) [Subsec. (n) amended section 24 of Title 12, Banks and Banking, and is not set out herein.]

“(o) [Financial Controls] The budget and audit provisions of chapter 91 of title 31 shall be applicable to the Environmental Financing Authority in the same manner as they are applied to the wholly owned Government corporations. (As amended Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067.)

“(p) [Subsec. (p) amended section 711 of former Title 31, Money and Finance, and is not set out herein.]”

#### § 1281a. Total treatment system funding

Notwithstanding any other provision of law, in any case where the Administrator of the Envi-