105TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 105–237

COASTAL POLLUTION REDUCTION ACT OF 1997

AUGUST 1, 1997.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 2207]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 2207) to amend the Federal Water Pollution Control Act concerning a proposal to construct a deep ocean outfall off the coast of Mayaguez, Puerto Rico, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal Pollution Reduction Act of 1997".

SEC. 2. MAYAGUEZ, PUERTO RICO.

(a) FINDINGS.—Congress makes the following findings:

(1) The existing discharge from the Mayaguez publicly owned treatment works is to the stressed waters of Mayaguez Bay, an area containing severely degraded coral reefs, and relocation of that discharge to unstressed ocean waters could benefit the marine environment.

(2) The Federal Water Pollution Control Act should, consistent with the environmental goals of the Act, be administered with sufficient flexibility to take into consideration the unique characteristics of Mayaguez, Puerto Rico.

(3) Some deep ocean areas off the coastline of Mayaguez, Puerto Rico, might be able to receive a less-than-secondary sewage discharge while still maintaining healthy and diverse marine life.

(4) A properly designed and operated deep ocean outfall off the coast of Mayaguez, Puerto Rico, coupled with other pollution reduction activities in the Mayaguez Watershed could facilitate compliance with the requirements and purposes of the Federal Water Pollution Control Act without the need for more costly treatment.

(5) The owner or operator of the Mayaguez publicly owned treatment works should be afforded an opportunity to make the necessary scientific studies and

submit an application proposing use of a deep ocean outfall for review by the Administrator of the Environmental Protection Agency under section 301(h) of the Federal Water Pollution Control Act.

(b) APPLICATION FOR SECONDARY TREATMENT WAIVER FOR MAYAGUEZ, PUERTO RICO, DEEP OCEAN OUTFALL.—Section 301 of the Federal Water Pollution Control Act (33 U.S.C. 1311) is amended by adding at the end the following:

"(q) APPLICATION FOR WAIVER.—

"(1) STUDY.—In order to be eligible to apply for a waiver under this section, the owner or operator of the Mayaguez, Puerto Rico, publicly owned treatment works shall transmit to the Administrator a report on the results of a study of the marine environment of coastal areas in the Mayaguez area to determine the feasibility of constructing a deep ocean outfall for the Mayaguez treatment works. In conducting the study, the owner or operator shall consider variations in the currents, tidal movement, and other hydrological and geological characteristics at any proposed outfall location. Such study may recommend one or more technically feasible and environmentally acceptable locations for a deep ocean outfall intended to meet the requirements of subsection (h). Such study may be initiated, expanded, or continued not later than 3 months after the date of the enactment of this subsection.

"(2) SECTION 301(h) APPLICATION FOR MAYAGUEZ, PUERTO RICO.—Notwithstanding subsection (j)(1)(A), not later than 18 months after the date of the enactment of this subsection, an application may be submitted for a modification pursuant to subsection (h) of the requirements of subsection (b)(1)(B) by the owner or operator of the Mayaguez, Puerto Rico, publicly owned treatment works at a location recommended in a study conducted pursuant to paragraph (1). Such application shall not be subject to the application revision procedures of section 125.59(d) of title 40, Code of Federal Regulations. No such application may be filed unless and until the applicant has entered into a binding consent decree with the United States that includes, at a minimum, the following:

"(A) A schedule and milestones to ensure expeditious compliance with the requirements of subsection (b)(1)(B) in the event the requested modification is denied, including interim effluent limits and design activities to be undertaken while the application is pending.

"(B) A schedule and interim milestones to ensure expeditious compliance with the requirements of any modification of subsection (b)(1)(B) in the event the requested modification is approved.

"(C) A commitment by the applicant to contribute not less than $400,000 to the Mayaguez Watershed Initiative in accordance with such schedules as may be specified in the consent decree.

"(3) INITIAL DETERMINATION.—On or before the 270th day after the date of submittal of an application under paragraph (2) that has been deemed complete by the Administrator, the Administrator shall issue to the applicant a tentative determination regarding the requested modification.

"(4) FINAL DETERMINATION.—On or before the 270th day after the date of issuance of the tentative determination under paragraph (3), the Administrator shall issue a final determination regarding the modification.

"(5) ADDITIONAL CONDITION.—The Administrator may not grant a modification pursuant to an application submitted under this subsection unless the Administrator determines that the new deep water ocean outfall will use a well-designed and operated diffuser that discharges into unstressed ocean waters and is situated so as to avoid discharge (or transport of discharged pollutants) to coral reefs, other sensitive marine resources or recreational areas, and shorelines.

"(6) EFFECTIVENESS.—If a modification is granted pursuant to an application submitted under this subsection, such modification shall be effective only if the new deepwater ocean outfall is operational on or before the date that is 4½ years after the date of the Administrator's initial tentative determination on the application.".

SEC. 3. NATIONAL ESTUARY PROGRAM.

(a) GRANTS FOR COMPREHENSIVE CONSERVATION AND MANAGEMENT PLANS.—Section 320(g)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1330(g)(2)) is amended by inserting "and implementation" after "development".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 320(i) of such Act (33 U.S.C. 1330(i)) is amended by striking "1987" and all that follows through "1991" and inserting the following: "1987 through 1991, such sums as may be necessary for fiscal years 1992 through 1997, and $20,000,000 for fiscal year 1998".

PURPOSE AND SUMMARY

H.R. 2207, the "Coastal Pollution Reduction Act of 1997," has two basic purposes. The first is to allow Mayaguez, Puerto Rico to apply to the U.S. Environmental Protection Agency (EPA) for an alternative to "secondary treatment" requirements under the Federal Water Pollution Control Act (Clean Water Act or Act), subject to various conditions and criteria intended to protect the environment. Specifically, the bill would amend section 301 of the Act to allow the publicly owned treatment works (POTW) in Mayaguez to apply for a waiver of secondary treatment requirements, and to meet the requirements of section 301(h) by satisfying requirements of section 301, in combination with the construction and operation of a deep ocean outfall. A second purpose of H.R. 2207 is to improve efforts to implement the Clean Water Act's National Estuary Program. Specifically, the bill would amend section 320 of the Act to allow grants to be used for implementation of comprehensive conservation and management plans developed under that program, and to authorize the section 320 program for FY 1998 at a level of $20 million.

BACKGROUND AND NEED

Section 301(b)(1)(B) of the Clean Water Act, enacted in 1972, requires POTWs to achieve "secondary treatment," which is defined in regulations to include, among other things, the removal of 85% or more of biochemical oxygen demand and total suspended solids. The 1972 amendments required POTWs to achieve secondary treatment capability by 1977. After passage of the 1972 Act, some municipalities with POTWs that discharged into marine waters argued this requirement might be unnecessary on the grounds that such POTWs usually discharge into deeper waters with large tides and substantial currents, which allow for greater dilution and dispersion than their freshwater counterparts.

In response, Congress added section 301(h) to the Act in 1977, allowing for a case-by-case review of treatment requirements for marine dischargers and providing for the opportunity for a waiver of the secondary treatment requirements for those discharges that applied by September 13, 1979. Eligible POTW applicants that met the set of environmentally stringent criteria in section 301(h) would receive a modified section 402 National Pollutant Discharge Elimination System (NPDES) permit waiving the secondary treatment requirements under section 301. In 1981, Congress amended section 301 to extend the application deadline to December 31, 1982. In 1987, Congress amended section 301, adding a number of new requirements and prohibitions to the program, but not modifying the 1982 deadline for new applications.

In 1994, Congress enacted legislation (P.L. 103–431) to allow the City of San Diego, California to apply for a section 301(h) waiver. This legislation, known as the Ocean Discharge Reduction Act, responded to concerns about the cost of secondary treatment at the City's Point Loma POTW and to recommendations within the scientific community that chemically-enhanced primary treatment, coupled with other measures, would not harm the marine environment.

In fact, in 1993 the National Research Council of the National Academy of Sciences issued a report "Managing Wastewater in Coastal Urban Areas" that included several findings and recommendations relevant to the issue of whether secondary treatment is always necessary to protect the ocean environment. Specifically, the Council found that a flexible, integrated approach to coastal management (known as "integrated coastal management" or ICM), relying on a wide-array of management strategies, offered beneficial solutions in a cost-effective manner.

The Council found that a technology-based approach—such as secondary treatment—would not necessarily be cost-effective or appropriate by itself in certain marine environments under specified conditions. ICM is an ecologically based, iterative process for identifying, at a regional scale, environmental objectives and cost-effective strategies for achieving them. It requires that all sources of pollutants be considered in the development of regional strategies, and that polices be integrated across all media, taking account of environmental impacts on water, air, and land. For example, advanced primary treatment, coupled with other measures to prevent or manage wastewater, nonpoint sources and stormwater, in combination with controls in other media, could protect the marine environment adequately and in a more cost-effective manner, according to the report.

The Council found that reduction or elimination of pollutants at their sources is an effective tool for managing both point and nonpoint sources. Consistent with this finding, and the requirements of section 301, the Committee expects the POTW—or more specifically, the Puerto Rico Aqueduct and Sewer Authority (PRASA)—to implement necessary pretreatment requirements expeditiously.

In Mayaguez, Puerto Rico, the POTW is not currently meeting secondary treatment but has signed a consent decree to do so. Because of various environmental and economic considerations, PRASA wants to pursue a deep ocean outfall alternative. For example, PRASA claims it could achieve significant savings ($65 to $85 million) if allowed to pursue an outfall rather than a new secondary treatment plant. PRASA, however, would first need to obtain a section 301(h) waiver and the Act currently prohibits EPA from receiving new applications after December 31, 1982.

H.R. 2207 is designed to respond to the concerns of PRASA and others in Mayaguez and to be consistent with findings and recommendations of the National Research Council's 1993 report.

H.R. 2207 also responds to the concerns and recommendations of the environmental community and the many coastal communities and other participants involved in the Clean Water Act's National Estuary Program. The program's authorization expired at the end of FY 1991, although the program has continued to receive annual appropriations. In addition, there has been growing support over the years to broaden the eligible uses of section 320 grants to include implementation of comprehensive conservation and management plans rather than solely development of the plans.

DISCUSSION OF COMMITTEE BILL AND SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 identifies the short title of the Act as the "Coastal Pollution Reduction Act of 1997."

Section 2. Mayaguez, Puerto Rico

Section 2 identifies the findings of Congress regarding Mayaguez, Puerto Rico and amends Section 301 of the Clean Water Act to enable the POTW in Mayaguez, Puerto Rico, within 18 months of enactment of the section, to apply for a waiver under section 301(h) to construct and operate a deep ocean outfall in lieu of secondary treatment. Section 2 of the bill does not weaken the criteria for issuance of a waiver or override the judgment of EPA; it does, however, add requirements intended to provide additional protection for the Mayaguez Watershed. The Committee believes the Mayaguez POTW should demonstrate support for activities to help protect and restore the Mayaguez Watershed.

Subsection (a) findings recognize the need to apply flexibility when implementing the Clean Water Act to take into consideration the unique conditions in Mayaguez, Puerto Rico. The present outfall location discharges to stressed waters containing degraded coral reefs; relocation to a deep ocean area off the coastline might benefit the marine environment.

Subsection (b) of the bill amends section 301 of the Clean Water Act by adding a new subsection (q). New subsection (q) would allow a waiver application under section 301(h) under specified criteria and conditions, and allows EPA to review the proposal.

This provision requires the Mayaguez POTW, in order to be eligible to apply for a 301(h) waiver, to report the results of a study of the marine environment of the coastal areas of Mayaguez to determine the feasibility of and acceptable locations for constructing a deep ocean outfall for the POTW. The report on the results of the study may be transmitted as an appendix to the application submitted under this subsection. The study must consider—in addition to other criteria under section 301(h) of the Act—the variations in currents, tidal movement, and other hydrological and geological characteristics in order to meet the requirements of the Clean Water Act and to ensure that the discharge will not be detrimental at either the proposed outfall point or other nearby ecosystems, including the coral reefs of Mayaguez Bay. The study should also consider means of constructing the outfall that will avoid or minimize any adverse effects to the environment. The study is to be initiated, expanded, or continued not later than 3 months after enactment.

This provision also specifies additional conditions that must be met prior to submission of a waiver application. The applicant must enter into a binding consent decree with the United States which, at a minimum, must meet the requirements listed in section 301(q)(2)(A–C). These requirements recognize the importance of ensuring expeditious compliance and provide conditions that must be met in the event the modification application is denied or approved.

They also require the applicant to contribute $400,000 to the Mayaguez Watershed Initiative.

Once submitted, the application is not subject to the application revision procedures of section 125.59(d) of title 40, Code of Federal Regulations. This condition allows the Mayaguez POTW to submit only one proposed outfall location in order to help expedite the process and minimize the administrative burden on EPA. Although PRASA would be unable to submit a revised application, the EPA would retain the ability to work with PRASA to modify the proposal within the scope of the original application as part of the normal process. In addition, the provision is not intended to modify or exclude any of the other requirements of section 125 of title 40, Code of Federal Regulations, including public participation or environmental review criteria. In fact, the Committee is aware of some controversy or opposition surrounding the section 301(h) waiver proposal and reiterates the need for EPA to provide adequate opportunities for public participation.

Under subsection (b), EPA is required to make an initial or tentative determination on or before the 270th day after submission of a complete application. A final determination must be issued on or before the 270th day after the issuance of the tentative determination. The secondary treatment requirements from which PRASA seeks a waiver required compliance by July 1, 1988. The Committee encourages EPA to make prompt decisions on any application so as not to further delay improvements in water quality and protection of the coral reef.

Section 2 places an additional condition on granting the modification. The Administrator must determine that the deep ocean outfall uses a well-designed and operated diffuser that discharges into unstressed waters and is situated to avoid discharge to coral reefs, other sensitive marine resources, or recreational areas, and shorelines. This condition, which is in addition to other criteria and conditions in 40 CFR 125 Subpart G, is intended to help ensure that healthy and diverse marine life is maintained and additional damage to recreation areas is prevented. The Committee also expects that any construction of a deep ocean outfall will be conducted in a manner that avoids or minimizes adverse impacts to the environment.

Finally, new subsection (q) provides the permit modification is effective only if the new deep ocean outfall is operational on or before 4½ years after the Administrator's initial tentative determination.

The Committee-reported bill does not include a provision in the introduced bill relating to the payment and use of an application fee. The Committee does not believe it is necessary, or appropriate, to include language specifying the amount of a fee, the method of payment, and the deposit and use of such payment. However, the Committee fully expects the applicant and EPA to agree upon the specifics of the payment and use of an application fee. If the parties are not willing or able to resolve these matters, the Committee will consider revisiting the issues legislatively.

Section 3. National Estuary Program

Section 3 amends section 320 of the Clean Water Act to allow for the use of Federal funds for implementation, as opposed to just de-

velopment, of comprehensive conservation and management plans (CCMP) under subsection (g)(2) and authorizes appropriations for the program under subsection (i) at $20 million for FY 1998. The Committee believes CCMP implementation is an appropriate use of section 320 funds. However, this broadening of uses should not be construed as a shift in responsibility from non-Federal interests to the Federal Government. State, local, regional, private and other non-Federal interests are primarily responsible for the implementation and success of the program and its CCMPs.

HEARINGS AND PREVIOUS LEGISLATIVE ACTIVITY

On July 9, 1997, the Water Resources and Environment Subcommittee held a hearing on "Ocean and Coastal Issues." Testimony was given by, among others, Representative Carlos A. Romero-Barcelo (PR); Mr. Michael L. Davis, Corps of Engineers; Mr. Robert H. Wayland, III, Environmental Protection Agency; and Mr. Jeffrey Benoit, National Oceanic and Atmospheric Administration.

Rep. Romero-Barcelo testified in support of his legislative proposal (subsequently introduced as H.R. 2207). The Puerto Rico Aqueduct and Sewer Authority submitted materials for the record in support of the legislative proposal. The Mayagüezanos por la Salud y el Ambiente submitted materials for the record in opposition to the legislative proposal.

The Water Resources and Environment Subcommittee also held a hearing April 23, 1997 on "Meeting Clean Water and Drinking Water Needs" that addressed, in part, coastal pollution. John Atkin of Save the Sound, Inc., and as a member of the board of directors of Restore America's Estuaries, testified in support of the Clean Water Act's National Estuary Program and the need to help with the implementation of CCMPs.

In the 104th Congress, the Committee included in H.R. 961, the Clean Water Amendments of 1995, similar provisions addressing section 301(h) waivers for Puerto Rico and the reauthorization of section 320's National Estuary Program.

COMMITTEE CONSIDERATION

On July 23, 1997, the Committee ordered the bill reported by voice vote. Representative Sherwood L. Boehlert (R-NY), Chairman of the Water Resources and Environment Subcommittee, offered an amendment in the nature of a substitute. The amendment made technical and clarifying changes to the introduced bill relating to Mayaguez, as well as additional changes based on the views of EPA, environmental interests, and others. The amendment also included the amendments to section 320 of the Clean Water Act. The Committee, in compliance with Rule XI, clause 2(1) of the Rules of the House of Representatives, reports favorably the bill, H.R. 2207, as amended.

COMMITTEE OVERSIGHT FINDINGS

Clause 2(l)(3)(A) of rule XI requires each committee report to contain oversight finds and recommendations required pursuant to clause 2(b)(1) of rule X. The Committee has no specific oversight findings.

COMMITTEE COST ESTIMATE

Clause 7(a) of rule XIII requires committees to include their own cost estimates in certain committee reports, which include, where practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law.

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 29, 1997.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2207, the Coastal Pollution Reduction Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kim Cawley (for federal costs) and Pepper Santalucia (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 2207—Coastal Pollution Reduction Act of 1997

Summary: The bill would authorize the appropriation of $20 million in 1998 for grants to states under the national estuary program of the Environmental Protection Agency (EPA). Assuming appropriation of the authorized amount, CBO estimates that implementing H.R. 2207 would result in additional discretionary spending of $20 million over the 1998–1999 period. H.R. 2207 also would amend the Clean Water Act to allow the waste water treatment plant in Mayaguez, Puerto Rico, to apply to EPA for a waiver from the requirement for secondary treatment of waste water discharges.

The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 2207 contains in intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA), and would not impose any costs on state, local, or tribal governments.

Estimated costs to the Federal Government: For the purposes of this estimate, CBO assumes that the $20 million authorized in section 3 of H.R. 2207 will be appropriated by the start of fiscal year 1998 and that outlays will follow the historical spending patterns for EPA's grants to states. Implementing section 2, relating to Puerto Rico, would not have a significant cost to the federal government. The estimated budgetary impact of H.R. 2207 is shown in the following table.

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law:						
Budget authority[1]	11	0	0	0	0	0
Estimated outlays	11	6	0	0	0	0
Proposed changes:						
Authorization level	0	20	0	0	0	0
Estimated outlays	0	10	10	0	0	0
Spending under H.R. 2207:						
Authorization level [1]	11	20	0	0	0	0
Estimated outlays	11	16	10	0	0	0

[1] The 1997 level is the amount appropriated for that year.

The costs of this legislation fall within budget function 300 (natural resources and environment).

Pay-as-you-go considerations: None.

Estimated impact on State, local, and tribal governments: H.R. 2207 contains no intergovernmental mandates as defined in UMRA, and would not impose any costs on state, local, or tribal governments. The bill would allow the waste water treatment plant in Mayaguez, Puerto Rico, to apply for a waiver from requirements for secondary treatment of waste water discharges. If EPA were to approve the waiver application, the plant would be allowed to use less costly treatment and discharge techniques.

The bill would also authorize appropriations of $20 million in 1998 for grants to states under EPA's national estuary program. Under current law, these grants provide up to 75 percent of the funds to develop conservation and management plans for estuaries. The bill would also modify the program to allow states to use grant funds to implement the plans.

Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in UMRA.

Estimated prepare by: Federal Costs: Kim Cawley; Impact on State, Local, and Tribal Governments; Pepper Santalucia.

Estimated approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

INFLATIONARY IMPACT STATEMENT

Clause 2(l)(4) of rule XI requires each committee report on a bill or joint resolution of a public character to include an analytical statement describing what impact enactment of the measure would have on prices and costs in the operations of our national economy. The Committee has determined that H.R. 2207 has no inflationary impact on the national economy.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (2)(l)(4) of rule XI of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

FEDERAL WATER POLLUTION CONTROL ACT

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TITLE III—STANDARDS AND ENFORCEMENT

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EFFLUENT LIMITATIONS

SEC. 301. (a) * * *

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(q) APPLICATION FOR WAIVER.—

(1) STUDY.—In order to be eligible to apply for a waiver under this section, the owner or operator of the Mayaguez, Puerto Rico, publicly owned treatment works shall transmit to the Administrator a report on the results of a study of the marine environment of coastal areas in the Mayaguez area to determine the feasibility of constructing a deep ocean outfall for the Mayaguez treatment works. In conducting the study, the owner or operator shall consider variations in the currents, tidal movement, and other hydrological and geological characteristics at any proposed outfall location. Such study may recommend one or more technically feasible and environmentally acceptable locations for a deep ocean outfall intended to meet the requirements of subsection (h). Such study may be initiated, expanded, or continued not later than 3 months after the date of the enactment of this subsection.

(2) SECTION 301(h) APPLICATION FOR MAYAGUEZ, PUERTO RICO.—Notwithstanding subsection (j)(1)(A), not later than 18 months after the date of the enactment of this subsection, an application may be submitted for a modification pursuant to subsection (h) of the requirements of subsection (b)(1)(B) by the owner or operator of the Mayaguez, Puerto Rico, publicly owned treatment works at a location recommended in a study conducted pursuant to paragraph (1). Such application shall not be subject to the application revision procedures of section 125.59(d) of title 40, Code of Federal Regulations. No such application may be filed unless and until the applicant has entered into a binding consent decree with the United States that includes, at a minimum, the following:

(A) A schedule and milestones to ensure expeditious compliance with the requirements of subsection (b)(1)(B) in the event the requested modification is denied, including interim effluent limits and design activities to be undertaken while the application is pending.

(B) A schedule and interim milestones to ensure expeditious compliance with the requirements of any modification

of subsection (b)(1)(B) in the event the requested modification is approved.

(C) A commitment by the applicant to contribute not less than $400,000 to the Mayaguez Watershed Initiative in accordance with such schedules as may be specified in the consent decree.

(3) INITIAL DETERMINATION.—On or before the 270th day after the date of submittal of an application under paragraph (2) that has been deemed complete by the Administrator, the Administrator shall issue to the applicant a tentative determination regarding the requested modification.

(4) FINAL DETERMINATION.—On or before the 270th day after the date of issuance of the tentative determination under paragraph (3), the Administrator shall issue a final determination regarding the modification.

(5) ADDITIONAL CONDITION.—The Administrator may not grant a modification pursuant to an application submitted under this subsection unless the Administrator determines that the new deep water ocean outfall will use a well-designed and operated diffuser that discharges into unstressed ocean waters and is situated so as to avoid discharge (or transport of discharged pollutants) to coral reefs, other sensitive marine resources or recreational areas, and shorelines.

(6) EFFECTIVENESS.—If a modification is granted pursuant to an application submitted under this subsection, such modification shall be effective only if the new deepwater ocean outfall is operational on or before the date that is 4½ years after the date of the Administrator's initial tentative determination on the application.

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SEC. 320. NATIONAL ESTUARY PROGRAM.

(a) * * *

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(g) GRANTS.—

(1) * * *

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

* * * * * * *

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator not to exceed $12,000,000 per fiscal year for each of fiscal years [1987, 1988, 1989, 1990, and 1991] *1987 through 1991, such sums as may be necessary for fiscal years 1992 through 1997, and $20,000,000 for fiscal year 1998* for—

(1) expenses related to the administration of management conferences under this section, not to exceed 10 percent of the amount appropriated under this subsection;

(2) making grants under subsection (g); and

(3) monitoring the implementation of a conservation and management plan by the management conference or by the Ad-

ministrator, in any case in which the conference has been terminated.

The Administrator shall provide up to $5,000,000 per fiscal year of the sums authorized to be appropriated under this subsection to the Administrator of the National Oceanic and Atmospheric Administration to carry out subsection (j).

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, August 1, 1997.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure,
Rayburn HOB, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for the opportunity to review H.R. 2207 as reported from the Committee on Transportation and Infrastructure on July 23, 1997. Section 3 of that bill amends the authorizing legislation for the National Estuary Program by: (1) reauthorizing the program through fiscal year 1998, and authorizing an $8 million increase in funding for fiscal year 1998; and (2) allowing Federal funds to be used to implement comprehensive management plans developed for the National Estuaries.

I appreciate your consultation on this provision and am by this letter waiving the Committee on Resources' jurisdiction over Section 3 of the bill. However, I am still concerned about the effect that Federal funding of implementation of these management plans will have on private property and would like to engage in a colloquy on this subject when H.R. 2207 is brought to the Floor. In addition, this waiver should not be considered as waiving the Committee on Resources jurisdiction over any similar provision in the future and I reserve the right to request conferees from the Committee on Resources on this portion of H.R. 2207 should a conference become necessary.

Sincerely,

DON YOUNG, *Chairman.*

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, August 1, 1997.

Hon. DON YOUNG,
Chairman, Committee on Resources,
Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of August 1, 1997 regarding H.R. 2207, as ordered reported by the Committee on Transportation and Infrastructure on July 23, 1997.

I appreciate your support of this legislation and cooperation with regard to Section 3. I would be happy to engage in a colloquy with you regarding these provisions when the legislation is brought to the House floor.

With kind personal regards, I am
Sincerely,

BUD SHUSTER, *Chairman.*

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