

PROFOUND CHANGES COMING  
IN POLLUTION ENFORCEMENT

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Far-reaching changes in our entire system of pollution control are being brought about by the Federal Water Pollution Control Act of 1972. It will upgrade a crude and shaky structure of targets, gaps and loopholes into a tight regulatory system. Precise, detailed abatement requirements will be established. They will be enforced through streamlined legal procedures and heavy penalties for violations. In my judgment, these changes are going to revolutionize the social structure of water pollution control. Within a few years the new law will end the reign of evasion and emotion. It will in their place establish the rule of law.

The sweeping statements I have just made are based on specific provisions of the new law and their application to our programs. I would like now to explain what these are and how I believe they will operate. The chief factors are as follows:

Precise Limits for Waste

First, the law mandates establishment of effluent limitations. These will be specific numerical requirements setting forth precise upper limits on the waste loads which a plant will be permitted to discharge into our waterways. In the past a chief weakness of the regulatory programs has been the absence of specific yardsticks to measure satisfactory performance. This has permitted polluters to claim that they were meeting requirements despite inferior systems of control or sloppy operation and maintenance of their abatement facilities.

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Second, the law established higher standards for pollution control. The law specifies that each industry must by July 1, 1977, meet effluent limitations reflecting application of best practicable control technology currently available. In cases where the receiving water requires more stringent control, then higher levels of treatment or control must be achieved. This will establish at the minimum a uniform national standard applicable to all plants wherever located. By ending the total reliance on receiving water conditions, the new standards immeasurably simplify problems of evidence. This will facilitate effective regulation of many gross polluters who have strenuously resisted their clean-up obligations. During the next five years all plants must undertake programs to achieve the new control requirements.

#### Tough Penalties

The new law established tough penalties to enforce compliance. Violations of permit conditions or other requirements will be subject to civil penalties of up to \$10,000 a day, in addition to other civil remedies and administrative actions. Willful or negligent violations will be subject to criminal penalties of up to \$25,000 per day. For the first time the pollution control requirements will be backed up by meaningful sanctions. This is a fundamental and indispensable (though previously missing) element of any regulatory system. From a legal viewpoint it is critical to the basic legal advice that, "The law is the law. It must be obeyed."

The new requirements will be enforced and foot dragging will be harshly punished. The key to an effective regulatory system is that there be firm, specific requirements imposed on all parties with even-handed fairness. The exact requirements must be clearly understood and publicized. They must also be uniformly and strictly enforced.

#### Permits Will Be Required

Third, the new law creates a national permit program. Every industry will be required to obtain a permit under Section 402 of the law. Issuance of these permits will provide the mechanism through which the new, more stringent abatement requirements will be set. Moreover, once issued, these permits will contain in a single document the complete schedule of requirements for each individual plant. Copies of the permits will be available to the companies, State officials, Federal officials and private citizens.

The new national permit program will not begin from scratch. Many States already have permit programs. In addition our Agency has been working

persistently for two years to lay the foundation for an effective national program. We already have on hand roughly 23,000 applications submitted under the Refuse Act Permit Program established by President Nixon in December 1970. These applications have been processed with great care. We have concentrated our efforts on roughly 2,700 major discharges, whom we believe in the aggregate account for the vast majority of all industrial wastes discharged into our waterways. As the legislation has been developing in Congress, we have made vigorous efforts to prepare for it. Although the determinations of best practicable control technology must be made individually as to each plant. We have already developed a vast amount of guidance to our professional personnel for use in making such determinations.

Permits under the new program will specify effluent limitations that must be met after anticipated abatement programs have been completed during the first few years. These will set firm targets for each company's engineers. The permits will also set effluent limitations applicable during the interim. The effluent limitations will apply to numerous parameters of each plant's discharges. Too often in the past requirements have focused only on the oxygen demanding wastes and have not zeroed in on other substances in the waste. The new requirements will specify limits not only for BOD but also for total suspended solids, alkalinity or acidity, temperature, oil and grease, and individual heavy metals and toxic substances. Permits will require continuous monitoring by the major dischargers, with frequent reports subject to the penalties of perjury. All of the permits and all of the reported data will be made readily available for public inspection.

#### Framework for Cooperation

Perhaps our most promising concern in establishing the national permit program under the new law will be to establish, promptly and smoothly, good working relationships between EPA and State agencies. The new law authorizes the Environmental Protection Agency to begin issuance of permits under Section 402 immediately. It also contains detailed provisions for approval of State programs to authorize the States to assume operating responsibility for the new national permit program. In a great many cases State Agencies will have to receive new legislative authority from their State Legislatures before we will be permitted under the law to give final approval to the State programs.

Our objectives will be to work closely with the States to enable them to meet the strict requirements of the law as rapidly as possible. In the

meantime we will move forward to issue permits out of EPA, though in these cases also we will seek active participation by the States. We will need to establish effective arrangement so that the issuance of permits will go ahead at full speed whichever level of government has the formal authority. Since permits are necessary to trigger the next step forward in pollution abatement, our foremost concern will be to make certain that the program moves ahead as fast as possible.