Recent Federal Legislation Significant in Environmental Planning Programs of the State of Texas

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INTRODUCTION

The 92nd Congress enacted a wide range of federal laws to foster planning for the protection of the nation's environment. The new federal programs range from a comprehensive, complicated system to halt pollution of the navigable waters of the United States to a program to stimulate the formulation and implementation of coastal resource management programs by states such as Texas.

This handbook briefly summarizes the provisions and describes the effects of the more important recently enacted Federal statutes affecting Texas' environmental plans and programs. Some of the Acts alter existing law; others supersede state action; and several provide Federal financial assistance for State and local programs.

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TABLE OF CONTENTS

PORTS AND WATERWAYS SAFETY ACT OF 1972

Public Law 92-340

Official with Primary Responsibility of Administration:
Secretary of Transportation

Purpose: To establish vessel traffic control systems in congested areas and to promote setting of the physical standards for vessels carrying materials which are potentially hazardous to the marine environment.

General Discussion:

TITLE I

The language of this title is basically permissive. The Secretary is granted numerous powers to prevent damage to vessels, bridges, and other structures and to protect navigable waters from environmental harm. These goals are to be achieved primarily through the use of vessel traffic control systems in congested areas and by requiring vessels to carry those electronic or other devices needed to use the systems. The Senate Commerce Committee Report 92-724 concedes that such vessel traffic controls probably will expose the federal government to tort liability, but this threat was thought to be outweighed by the benefits of the systems.

Other specified powers include controlling vessel movement, routing, speed, and operations in hazardous areas or circumstances; directing the movement or mooring of a vessel when its cargo, stores, supplies, or fuel present a danger; requiring the presence of pilots aboard vessels involved in foreign trade in circumstances where not required by state law; establishing procedures for handling explosives on other dangerous materials such as flammable liquids, oil, and substances designated as environmentally hazardous under § 307 of the Federal Water Pollution Control Act; prescribing minimum safety requirements for structures covered by this Act; establishing safety zones of controlled access to protect any vessel, structure, water or shore area; and establishing procedures for inspection to insure compliance with the regulations.

Regulations issued by the Secretary to implement this Title must be reviewed by other federal agencies, state and local governments, and industrial and other concerned groups prior to becoming effective. The Act does not preclude a state or political subdivision from establishing more stringent requirements.

The Secretary must report to Congress within one year after the effective date of the Act (July 7, 1972), any recommendations he has for legislation needed to coordinate and eliminate duplication of functions authorized by this Title and functions of other agencies.

Penalties include civil fines of up to $10,000 and, for willful violations, criminal fines of $5,000 to $50,000 or imprisonment for up to 5 years, or both. Vessels operating in violation of regulations are liable in rem (subject to seizure and disposition) in a federal district court proceeding instituted by the United States Attorney General at the request of the Secretary of Transportation.

The Senate Commerce Committee Report No. 92-724 indicates that the Coast Guard anticipates the installation of some level of traffic system in 9 port complexes within the next 5 years.

TITLE II

This title revises the 1936 Tank Vessel Act (46 U.S.C. 391a) to better protect the marine environment from dangerous bulk cargoes. The marine environment is broadly defined as "including but not limited to fish, shellfish, and wildlife, marine and coastal ecosystems and recreational and scenic values." Title II, which contains mandatory language rather than the permissive language of Title I, paves the way for regulations requiring improvement of existing standards for the design, construction, alteration, repair, maintenance, and operation of all vessels covered.

Vessels affected by this title include all those documented under U.S. laws and those entering navigable waters of the United States carrying liquid cargoes in bulk of inflammables, combustibles, oil of any kind or form, or

materials (even dry) designated as hazardous substances under § 307 of the FWPCA. However, the Title does not apply to vessels carrying these substances only for use as fuel or stores nor to vessels carrying the substances in drums, barrels, or other packages. Less important exclusions involve certain fishing vessles of under 500 gross tons and supply boats of under 500 gross tons used to transport men, material, and supplies to offshore oil facilities.

The Secretary must promulgate regulations with respect to design and construction, alterations, repair, and maintenance; materials used in construction, alteration, and repair; handling and stowage of cargo; life saving, fire protection, and environment protection; operation; manning; and inspection. These regulations are not to be limited to new vessels, although cost and technical feasibility factors should protect old vessels from being forced to comply with new construction standards at the discretion of the Secretary of Transportation. The Secretary must consult with the Secretary of Commerce and the Administrator of the EPA in separating the regulations into two groups: those pertaining to protection of the marine environment and those pertaining to vessel safety.

Once the regulations for vessel safety become effective a vessel may not carry any of the dangerous cargoes without being inspected. Foreign vessels can avoid this inspection by carrying a valid certificate of inspection recognized by the United States under treaty. Once the regulations for protection of the marine environment become effective, all vessels must be inspected for compliance, regardless of nationality, before carrying their cargoes into U.S. waters.

Title II readopts the Tank Vessel Act sections regarding shipping and documents, officers, tankermen, and certification, but enlarges their scope to include marine environmental consideration, a broader range of cargoes, and foreign vessels. The penalty provisions of Title II are the same as those for Title I with one notable addition. The Secretary may, subject to recognized principles of international law, deny entry into navigable waters of the United States to non-complying vessels.

Finally, Title II requires an annual report by the Secretary to Congress for 10 years on the activities conducted pursuant to Title II and the progress toward developing international standards for the protection of the marine environment as well as discussion of any standards concerning design, construction, alteration, and repair of vessels which do not seem feasible.

FEDERAL WATER POLLUTION CONTROL ACT OF 1972

Public Law 92-500

Date Enacted (Over Presidential Veto): October 18, 1972

Official with Primary Responsibility of Administration:
Administrator of the Environmental Protection Agency

Purpose: To eliminate the discharge of all pollutants into the navigable waters of the United States by 1985 and to achieve an interim water quality suitable to protect fish, wildlife and water recreation.

General Discussion:

The Federal Water Pollution Control Act of 1972 replaces all earlier federal water pollution statutes, renacting portions of the prior acts virtually verbatim and providing for a much more comprehensive program of pollution control than ever before. The Act establishes a Congressional policy of eliminating by 1985 all discharge of pollutants into the nation's navigable waters and the restoration of their natural chemical, physical and biological integrity. It sets an interim 1981 goal of a water quality suitable for the protection of fish, shell fish and wildlife, and for recreation in and on water. The Act declares the states have the primary responsibility to implement these goals. Indeed, the States have the right to establish more stringent standards than are imposed by the Act. Emphasis in this Act is shifted from the present program of the control of water quality standards to the control of discharge. In general, the Act identifies program goals and methods of program implementation.

One of the primary features of this act is the establishment of a permit program for waste discharges to replace the system presently being administered by the Army Corps of Engineers under the 1899 Refuse Act and the existing water quality program. The federal Environmental Protection Agency will administer the permit program, and only those states with a permit program meeting specified federal requirements will be allowed to administer their own permit program. This act covers the entire spectrum of water quality control for all navigable waters by dealing with municipal, industrial, agricultural, mining, and rural residential waste by inclusion for the first time of the non-point sources of agriculture, mining, forestry, construction,

injection well disposal, and salt water intrusion in the context of integrated water pollution control.

Another significant aspect of the legislation is that new pollution sources are to be designed and built to minimize pollution discharge with the best available technology. It encourages public participation in the improvement of water quality by providing for public hearings and for citizen suits. Federal grant and assistance funds are authorized for all aspects of water quality control including construction of waste treatment plants and training of supervisory and maintenance personnel to staff them.

The Act specifies 28 industrial groups for which the EPA Administrator must evaluate the level of effluent reduction that can be attained through application of the *best available technology*. The Administrator then must set a standard for each group at a certain volume of effluent or a particular percentage of effluent reduction.

Because the Administrator must develop and disseminate information to implement the Act, broad and intensive research is necessary. The Act therefore gives him not only general research authority but also specific authority to support training and academic programs, including the establishment of field laboratories in 6 sections of the nation. The research will include study of river systems, sewage in rural areas, waste oil, agricultural pollution, and reduction of unnecessary water consumption.

Federal funds for State programs will be allocated on the basis of extent of the State's water pollution problems.

The House Public Works Committee Print No. 90-50 Table III estimates construction cost of sewage treatment facilities for 1972-74 for Texas to be $403.3 million--the 13th highest figure of the 50 states. The Federal share for sewage treatment facilities is increased to 75% of the cost of construction. The Act completely changes the present system of Federal payments for construction of waste treatment facilities, modeling the altered program after the Federal-Aid Highway Act to provide for an orderly flow of funds to save the States and municipalities interest costs. The phased construction programs encouraged by the Act are designed to accelerate construction of these facilities. Approval of the final plans constitutes a contractual obligation of the federal government so that States wanting to move faster to construct waste treatment facilities can borrow against future federal allocations.

Federal grants for construction of waste treatment facilities are made subject to certain conditions, the most important of which is that each grant applicant must adopt a system of user fees so that each industrial user will pay its share of the cost of operating the facilities and maintaining the services provided. The Act authorizes $18 billion for 3 years for grants to communities to construct these facilities.

To promote regional waste treatment management, the Governor of each state in consultation with local officials of affected areas must designate regional boundaries of areas having substantial water quality control problems and also designate a single organization capable of developing an areawide waste treatment management plan for each region. If the Governor fails to do so, the highest elected officials of local governments within the area may designate the boundaries of such regions as well as an agency to develop the plan. These agencies, with financial assistance from the Administrator, then have one year in which to develop their plans including information on priorities, 20-year requirement projections, a regulatory program, and controls over pollution resulting from agriculture, construction, and salt water intrusion. The Act provides 100% planning grants for the first 2 years and 75% thereafter. The Act also provides for 70% grants for States to develop plans to restore lakes.

The Act clearly establishes that no one has a right to pollute any navigable waters of the nation--pollution continues only because of technological limitations. Title II sets up the Congressional plan for stopping the pollution of the nation's navigable waters by establishing a goal of eliminating all point source discharge by 1986 and by providing federal funds to assist public agencies in construction, maintenance and operation of the necessary waste treatment facilities. Tile III then sets out the machinery and requirements of standards and enforcement of the water program. To allow development of the necessary technology, construction of the facilities, organization of agency plans, and promulgation of rules, regulations and specific standards, the Act provides for two phases of implementation. By 1977, the Act requires use of the *best practicable technology* for point sources other than publically owned treatment works. By 1983, where the requirement of *no discharge* cannot be met because of technological limitations, the Act requires application of *best available technology* to achieve wherever attainable the interim goal of a water quality standard providing for the protection and propogation of fish, allowing water recreation and protecting the water supply.

To achieve Phase II by 1981, each discharge source by 1976 should have a permit setting forth the effluent limitations that will be required in this phase. The polluter bears the burden of showing the *no discharge* standard is unattainable, and the Administrator must use his own resources to make the final determination.

Although the Act is designed to achieve unpolluted waters on the basis of effluent standards rather than water quality assessments, the Act does provide the Administrator authority to impose controls based on water quality. This in turn necessitates *alternative effluent control strategies* where (1) compliance with the limitation, even if demonstrably insufficient to reach a given water quality standard, could not be improved upon with a more stringent effluent limitation; and (2) further reduction of an effluent level may not be possible through control technology, yet essential to water quality. Alternative possibilities include transporting the effluent to less affected areas and controlling in-plant processes.

Before setting a water quality-related effluent limitation under this section, the Administrator must hold a public hearing. To change the effluent limitation, the owner or operator of an affected point source must show there is no reasonable relationship between the economic and social costs and the possible benefits. This balancing must be done on a case-by-case basis.

The clean water goals are to be achieved and enforced through the permits and licenses provided for in Title IV which redirects the federal and state programs from ambient standards to direct effluent controls. Congress prefers the States to administer the permit programs, but their programs must be approved by the Administrator who retains the authority to assess periodically the State's performance and withdraw his approval. The Act further authorizes the Administrator to review any state permit prior to issuance. He is to declare by regulation which classes and categories of point sources he will not review, restricting his review to permits of major significance. The Act allows 30 days for the Administrator to waive his review authority over a permit of major significance, and if he does not waive it within that time, the State cannot issue a permit. He cannot waive review and approval responsibility for classes and categories which will discharge into the territorial seas and waters of the contiguous zone and ocean.

Individual industrial users of municipal waste treatment plants are not required to obtain a permit to discharge, but every permit granted to a municipal waste treatment plant must identify all industrial users and show the quality and quantity of effluent introduced by them. The agency granting the permit to the municipal plant must be notified of any change in the quality and quantity of effluent to be introduced into its treatment works by any industrial user with time to assess the impact on the discharge from such works to assure there will be no violation of the permit. Because the biggest problem is the violation of effluent requirements by municipal treatment works, the State or the Administrator under the Act can proceed directly against the users of the treatment works and restrict the addition of new users until the violation is abated.

The Administrator by July 1, 1973, must report to Congress on the specific quality of all United States waters as of January 1, 1973. By July 1, 1974, and annually thereafter, each state must submit a report describing the existing water quality of all its existing waters. The annual State report must include an estimate of the environmental impact, the economic and social costs required to achieve the objectives of the Act, the economic and social benefits of such achievement and an estimate of the date of such achievement.

Any water quality standards applicable to interstate waters adopted or submitted by a State prior to the passage of the 1972 amendments will remain in effect. The Administrator can declare the standards to be inconsistent with the Act and require a state to change such standards to comply with the Act. The State has 90 days after notice to issue new standards or the Administrator must promulgate the necessary changes. The States must hold public hearings at least once every 3 years to review their standards, and all revised or new standards must be submitted for the approval of the Administrator. To comply with this portion of the Act, the States must maintain a continuing planning process which will result in plans for all navigable waters within a State including total maximum daily loads for pollutants and thermal discharges.

The Act defines numerous terms including, for the first time, "pollutant"--dredge spoil, solid waste, incinerator residue, sewage, garbage, and other specified waste; it does not include sewage from vessels or water, gas or other material injected in a well to facilitate production of oil or gas, or water derived from oil and gas production and

disposed of in a well if the disposal well is approved by the State and such injection will not degrade ground or surface water resources. Pollution is the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water. The Act also defines effluent limitation, point source, discharge and other important terms.

The Act specifies that the "State water pollution control agency" is to be that State agency designated by the Governor as having responsibility for enforcing state laws relating to pollution. The term "municipality" includes a city, town, county, district or other public body created pursuant to state law having jurisdiction over disposal of sewage, industrial or other wastes.

The Act has no provision for groundwater standards because jurisdiction over such water is so complex and varied among the States. However, each State must provide affirmative controls over injection wells to eliminate this means of disposal of toxic wastes.

The section of the Act relating to liability for oil and hazardous substances modifies the existing law to subject hazardous substances to the same control mechanisms as oil.

The Act permits citizens suits for violations of standards and regulations promulgated pursuant to this Act or for failure of law officials to perform an act required under this Act. The court can impose civil penalties, but the citizen does not recover them. Because under this Act water quality definitions will be settled in administrative proceedings for establishing effluent control, the courts will use objective evidentiary standards rather than court developed definitions. To encourage agency enforcement, the citizen must serve on the Federal and state water pollution agencies and on the violator a notice of intent to file an action. There is then a 60 day waiting notice before the plaintiff can file suit, giving the administrative enforcement officer time to act on the violation. If the agency acts and the citizen feels it inadequate, he can still file suit. Suits against the Administrator are limited to failure to set or enforce effluent standards or limitations. Such suits against the Administrator cannot be brought prior to July 1, 1973, and they must be filed in the District of Columbia circuit court. Suits to review permits must be filed in the Court of Appeals for the appropriate circuit.

FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1972

Public Law 92-516

Official with Primary Responsibility of Administration:
Administrator of the Environmental Protection Agency

Effective Date: By October 21, 1972

This Act replaces all but the short title section of the Federal Insecticide, Fungicide, and Rodenticide Act. (7 U.S.C. 135 et seq.)

Purpose: To establish a program for the examination and registration of pesticides and manufacturing operations.

General Discussion:

The Act defines pesticide as a substance intended for use in preventing, repelling, destroying, mitigating any pest or in drying, defoliating, or regulating growth of plants. Pests include insects, rodents, nematodes, fungi, weeds, and anything else which the Administrator finds injurious to health or the environment.

Generally all pesticides must be registered with the EPA prior to their sale or transfer. The two exceptions are in the cases of experimental use, for which a special permit is available, and the transfer of pesticides which are to be used in the preparation of other pesticides. The registration procedure requires that the applicant submit information pertaining to the product, such as its chemical formula and properties, as well as a copy of the label, a statement of product claims, and directions for use. Registration of a product is approved if performance proves to be as claimed with no unreasonably adverse effects on the environment and the label meets specifications. If an application for registration is rejected, the applicant is afforded 30 days to correct the problem. Permits must be renewed every 5 years.

Registered pesticides are classified into two types, general and restricted use. Dangerous materials fall in the latter category, and they may be applied only under the supervision of someone who has been certified or as otherwise stated in regulations provided by the EPA Administrator. Classifications may be switched from general to restricted use to prevent adverse environmental effects. A decision that

use of a pesticide is too restricted is reviewable in the federal circuit courts of appeals. Generally all decisions by the Administrator are subject to hearings prior to becoming final orders. The final orders are reviewable in federal district courts or courts of appeal as outlined in the Act.

Certification of applications will be achieved under federal programs, but a state may come forward, through its Governor, with a certification plan which will suffice if it meets enumerated requirements such as an assurance of adequate funding, qualified personnel, conformity to federal standards, and progress reports.

All establishments producing pesticides must register with EPA and provide information concerning the types and amounts of pesticides being produced. Inspections are anticipated, and the EPA Administrator may urge the Attorney General to prosecute non-compliers.

In the event of violations of the Act's provisions or regulations promulgated thereunder, the Administrator may order that sales and use of a pesticide cease. Adulterated, misbranded, unregistered, or falsely advertised materials can be seized. Penalties include civil fines and, for knowing violations, criminal fine or imprisonment. Federal district courts have jurisdiction to enforce and to prevent and restrain violations.

Those who suffer financial losses by reason of suspension or cancellation of a registration must be indemnified unless the Administrator finds that the complainant had knowledge of facts which would indicate improper registration of the material and did not inform EPA. The amount of payment authorized is the cost of the pesticide, but not more than its fair market value just prior to notice of suspension or cancellation. As an alternative to payments the Administrator may provide a reasonable time for use or disposal of the pesticide.

The Act does not apply to pesticides which are intended solely for export, although manufacturers may have their books checked. Imported pesticides not complying with the Act are to be refused admittance by the Secretary of the Treasury. The Act also provides for regulating disposal and transportation; formulating national monitoring plans; and establishing research programs. State cooperation, aid, and training agreements with EPA are encouraged.

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972

Public Law 92-532

Official with Primary Responsibility of Administration:
Administrator of the Environmental Protection Agency

Purpose: To regulate dumping of all types of materials into ocean waters, to prevent or limit the dumping of material which might adversely affect human health, and to provide for designation of marine sanctuaries.

General Discussion:

This Act defines "ocean waters" as those waters of the open seas lying seaward of the base line from which the territorial sea is measured, in conformity with the Convention on the Territorial Sea and the Contiguous Zone.

This Act does not apply to effluent from any outfall structure as it may be regulated under the Federal Water Pollution Control Act as amended in 1972, the River and Harbor Act of 1899, or the Atomic Energy Act of 1954. Also excluded are discharges of effluent incidental to the propulsion of motor-driven equipment or vessles, or construction of fixed structures or artificial islands, if regulated by Federal or state law, and deposit of oyster shells as regulated by Federal or state law.

TITLE I - OCEAN DUMPING

The Administrator of the Environmental Protection Agency may issue permits for dumping, excluding dredged materials, radiological waste, or chemical and biological warfare agents, after notice and opportunity for public hearings. He must determine that such dumping will not unreasonably degrade or endanger human health or the marine environment and must consider the need for and effect of such dumping on the marine environment. The Administrator may designate recommended sites or times for dumping, and in consultation with the Secretary of the Army, also designate sites or times within which certain materials may not be dumped.

The Secretary of the Army through the Corps of Engineers may issue permits for transporting and dumping of dredged material. He must give notice and opportunity for public hearings and use the same criteria that the Administrator of the EPA must use in determining whether to allow dumping. The Secretary of Army must notify the Administrator before issuing any permit, and should the Administrator disagree as to compliance with criteria, his decision prevails.

Permits must designate the type and amount of material to be dumped and the location of such dumping, as well as any additional provisions the Secretary or Administrator may consider appropriate. The Secretary or Administrator can set processing fees and must periodically review and revise the permits, if necessary. Such permits must be conspicuously displayed on the vessel.

A State can not adopt or enforce any rule or regulation with regard to any activity already regulated by the Act. However, states may propose to the Administrator criteria relating to dumping of material within their jurisdiction or dumping which might affect waters within their jurisdiction.

Violators of this Act are civilly liable for up to $50,000 for each violation assessed by the Administrator. The Administrator may request the Attorney General to commence an action in an appropriate district court if the penalty is not paid. For a knowing violation, a person also may be subject to one year in prison.

Any citizen can commence a civil suit for violation of this Act, provided he has just given 60 days notice of such violation to the Administrator or Secretary. A citizen cannot sue if the Attorney General has commenced a civil or criminal action or if the Administrator or Secretary has taken some action.

The Administrator may utilize the services of federal agencies including the Coast Guard to conduct such surveillance and other enforcement activity as may be necessary to prevent unlawful dumping.

TITLE II - COMPREHENSIVE RESEARCH ON OCEAN DUMPING

The Secretary of Commerce, in cooperation with the Secretary of the Department in which the Coast Guard is located and the Administrator within 6 months of enactment of this Act must initiate a comprehensive monitoring and research program on the effects of dumping. The Secretary of Commerce in consultation with other federal agencies, must initiate a comprehensive and continuing program of research with respect to long range effects of pollution, overfishing, and man-induced changes of ocean ecosystem.

TITLE III - MARINE SANCTUARIES

The Secretary of Commerce, in consultation with the Secretaries of State, Defense, Interior and Transportation, the Administrator of the EPA, and with the approval of the President may designate marine sanctuaries as far seaward as the outer edge of the Continental Shelf to preserve or restore such areas for conservation, recreational, ecological, or aesthetic values.

Where an area lying within the jurisdiction of a State is involved, the Secretary must consult with the officials of that State. If the Governor within 60 days objects to such designation, the area objected to shall not be included unless the Governor thereafter withdraws his certification of unacceptability. The Secretary of Commerce must hold public hearings in the coastal areas most directly affected by a proposed designation. After designation of an area as a marine sanctuary, all permits, licenses, and other authorizations must be approved by the Secretary of Commerce. The Secretary must make an annual report to Congress on activities conducted under this Title. He also promulgates regulations to give effect to this Title.

The Act authorizes up to $10 million annually for 3 years for acquisition, development, and operation of such sanctuaries.

Noise Control Act of 1972

PL 92-574

Date: October 27, 1972

Official with Primary Responsibility of Administration: Administrator of the Environmental Protection Agency

Purpose: To promote an environment free from noise which jeopardizes health or welfare by establishing a means to coordinate federal research and activities in noise control, to establish Federal noise emission standards for products distributed in commerce, and to provide public information on the noise characteristics of such products.

General Discussion:

Congress, determining that the major sources of noise include transportation vehicles, machinery and other products in commerce, directed all Federal agencies to carry out its declared policy regard of reducing noise pollution.

Within 9 months of enactment, the Administrator of the EPA must develop and publish noise criteria, after consultation with Federal agencies, and within 12 months of enactment, must publish information on the attainment and maintenance of those environmental noise levels necessary to protect the public health and welfare. Additionally, he is to identify those products which are major sources of noise and provide information on techniques for noise control, including technological data, costs, and alternatives.

Should the Administrator determine that noise emission standards are feasible for products designated as major noise sources, he must propose regulations for the following categories:

(1) construction equipment;

(2) transportation equipment;

(3) any motor or engine; or

(4) electrical or electronic equipment.

Within 6 months the Administrator may prescribe regulations based on the proposed standards. The cost of emission control devices are to be borne by the manufacturer; the act prohibits the passing on of cost through franchise or agreement.

The Federal Aviation Agency, in consultation with the Secretary of Transportation and the EPA must prescribe and amend standards for the measurement of aircraft noise and sonic boom, and further must prescribe regulations for their control.

The Administrator shall designate by regualtion any product which emits noise which would adversely effect the public health or welfare, or which claims to reduce noise effectively, and issue specific labeling requirements.

Violations of "new product" criteria are punishable by $25,000 per day fines, and/or imprisonment for not more than 1 year. A second conviction can result in fines up to $50,000 per day, and/or 2 years imprisonment. The federal district courts have jurisdiction to restrain violations of the Act.

Any citizen can initiate a civil action on his own behalf against any person or governmental agency who allegedly violates any noise control requirement, and against the EPA Administrator or FAA Administrator, for any failure to perform an act which is not discretionary under this Act. The plaintiff must give 60 days notice to the violator and the FAA before commencement of the suit. If a suit is being diligently prosecuted by the Administrator, a citizen can intervene as a matter of right.

The Administrator is authorized to conduct and finance noise-research and investigate physiological or psychological effects of noise, develop improved methods and standards for measurement and monitoring of noise, and prepare model state or local legislation for noise control.

Petitions for review of the EPA Administrator's action with regard to emission standards, railroad and motor carrier noise, and labeling shall be filed only in the U.S. Court of Appeals for the District of Columbia. The Court of Appeals may grant leave for additional material evidence if not available at time of proceeding, and may grant plaintiff a stay if (1) he is likely to prevail on the merits, and (2) he shows irreparable harm.

Within 90 days of enactment, the Administrator must publish proposed noise emission standards for surface carriers engaged in interstate commerce by railroad, and for motor carriers engaged in interstate commerce. Within 90 days of publication, the Administrator must promulgate final regulations. Regulations or revision take effect after consultation with the Secretary of Transportation. States or political subdivisions are prohibited from enacting, or enforcing any standards for noise emission control not identical to the federal standards. However states or political subdivisions may regulate, license, control, or restrict the use of, operation, movement of any product if the Administrator offers consultation with the Secretary of Transportation that special local conditions necessitate such actions, and such action is not in conflict with regulations already promulgated under this section.

Coastal Zone Management Act of 1972

Public Law 92-583

Official with Primary Responsibility of Administration:
Secretary of Commerce

Purpose: To provide federal money in the form of grants on a co-operating basis with states for the development administration of a coastal zone management program.

General Discussion:

As used in this Act, the term "coastal zone" includes coastal waters and adjacent shorelines, transitorial and intertidal areas, salt marshes, wetlands, and beaches, and extends to the outer limit of the United States territorial sea. The zone extends inward from the shorelines only to that extent necessary to control shorelands which have a direct and significant impact on coastal waters. Federal lands are excluded from control.

State programs, to qualify for *Management Program Development Grants*, must identify the boundaries of the coastal zone, define permissable land and water uses within the coastal zone, and have an inventory and designation of areas of particular concern within the coastal zone. The program must identify the means by which the state proposes to exert control over the lands and water (including constitutional provisions, legislative enactments, regulations and pertinent judicial decisions); broad guidelines on use priority in specific areas; and a descriptive proposal for an organizational structure to implement the management program. This proposal should contain a description of the responsibility and the interrelationships of local, areawide, state, regional and institutional agencies.

Administrative Grants may be granted to states after the Secretary of Commerce determines that the state has coordinated its programs with local, areawide and interstate planning agencies within the coastal zone region; that public hearings have been held on the development of the management program, and that the state can implement the program. Finally the management program must provide procedures for identification of specific areas to preserve or restore them for ecological, recreational, or aesthetic purposes.

Estuarine Sanctuaries Grants are available to meet the costs of acquisition, development, and operation of estuarine sanctuaries. These sanctuaries are to be created for the purpose of establishing national field laboratories to gather data and study the material and human process occuring within the estuaries of the coastal zone.

A Coastal Zone Management Advisory Committee, composed of a maximum of 15 members with a broad range of expertise relating to problems concerning management, conservation, protection and development of coastal zone resources will be appointed by the Secretary to make recommendations to him on policy matters concerning the coastal zone.