from the mainland, the islands have evolved separately, sustaining a remarkably pristine environment apart from the various competing pressures of man's technological activities. The waters surrounding the islands contain marine resources unparalleled in the eastern Pacific, including sheltered tide pools teeming with kelp beds and marine life which nurture the more visible species of sea birds and pinnipeds found there.

The Channel Islands offer crucial habitat for sea birds including the only nesting area for the endangered brown pelican on the west coast. In addition, the islands embody the largest pinniped rookery in the world where six varieties of seals and sea lions coexist and/or breed and pup at Point Bennet, on San Miguel Island. The islands also foster a larger number of endangered flora and fauna, many of which are unique to the islands.

Culturally, the islands offer a rich past, containing a wealth of relics from the time they were inhabited by the Chumash Indians, as well as the presumed burial place of the founder of California, Juan Cabrillo.

Because of the unique delicacy of the islands' resources, this legislation directs that the park be administered on a low-intensity, limited-entry basis, so that visitor use would be limited to levels which do not endanger the precariously balanced environment found here. It is my intention, and I believe that of the many cosponsors and Senator CRANSTON, that the islands to comprise the new park be treated as gently as are the islands now constituting the Channel Islands National Monument.

As already indicated, two of the islands are now in public ownership as national monuments—Anacapa and Santa Barbara. San Miguel Island is presently owned by the Navy and administered by the National Park Service through a cooperative agreement. This agreement has served well the needs of both parties in managing San Miguel's extraordinary resources and the legislation allows this working relationship to continue until such time that the island is no longer required for naval purposes at which point it would automatically transfer to the National Park Service.

The bill, as amended by the Senate, calls for acquisition of all privately owned lands with the exception of the Nature Conservancy property on Santa Cruz Island which will continue in private ownership as a nature preserve. The bill directs the Secretary to acquire Santa Rosa Island, owned by the Vail & Vicker Cattle Corp. as quickly as possible, and specifies that acquisition of Santa Rosa Island take priority over acquisition of other privately owned lands within the park. It is my intent that all the privately owned property, excepting the Nature Conservancy, be acquired as expeditiously as possible. It is also my intention that, pending acquisition, the landowners be permitted to continue existing uses of their land.

This legislation insures the exclusive ownership and jurisdiction of the State of California over marine resources by specifying that these waters shall remain in the hands of the State and shall not be acquired. One of the reasons for this prohibition is to allay the concerns of sport and commercial fishermen and other natural resource users about Federal Government interference with their activities. This provision upholds the U.S. Supreme Court decision which granted the State authority over the submerged lands and waters within 3 miles of the islands. The 1-nautical mile administrative boundary included in the new park will allow the Park Service to assist the State in enforcement of State laws, continuing the present situation around the Channel Islands National Monument. This boundary is vital for allowing the State to grant Park Service rangers such authority to assist them in these marine areas.

Finally, I would like to point out that some opponents of establishment of the Channel Islands National Park have argued that the new park would adversely affect oil development in the Santa Barbara Channel. No provision of this act would affect oil and gas development. I would like to state for the record that the 1-mile administrative boundary proposed for the park is within the 3-mile State buffer zone which already prohibits oil and gas activity in this area. In this regard, I call the attention of my colleagues to Senator JACKSON'S comments in the CONGRESSIONAL RECORD, February 18, 1980, p. 2892.

Mr. Speaker, the National Park Service has for two decades sought national park status for the Channel Islands. This year, the islands were identified as the top priority for inclusion in the National Park System. The Channel Islands provide us with a special view of what the mainland must have looked like thousands of years ago. I am delighted that they will be protected in this manner for the benefit of generations to come.

Mr. Speaker, I urge that my colleagues support H.R. 3757, the omnibus parks bill, including the creation of the Channel Islands National Park.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. PHILLIP BURTON) to dispense with the reading of the Senate amendments?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California (Mr. PHILLIP BURTON)?

There was no objection.

A motion to reconsider was laid on the table.

RESOURCE CONSERVATION AND RECOVERY ACT AMENDMENTS OF 1979

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3994) to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal year 1980, to make certain technical changes, to strengthen the regulatory and enforcement mechanisms, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3994, with Mr. FITHIAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. FLORIO) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from New Jersey (Mr. FLORIO).

□ 1720

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3994 is a bill to amend the Resource Conservation and Recovery Act and to reauthorize the Federal hazardous and nonhazardous solid wastes regulatory program. The bill provides a total of $156.5 million for fiscal year 1980 and mandates that $42 million be used to implement the Federal regulatory and enforcement program and to provide technical assistance to States.

During the past year, there have been an increasing number of incidents where the improper disposal of hazardous wastes seriously threatened the public health and environment. The committee responded to these events by taking steps to strengthen the existing Federal hazardous wastes program by expanding the enforcement authority of the EPA Administrator.

The bill now authorizes the Administrator to initiate appropriate civil action and issue any order necessary to protect the public and the environment from an imminent and substantial danger that may result from exposure to hazardous wastes. This provision enhances the ability of the Administrator to take precautionary measures where necessary in order to protect the residents of our communities from becoming the unwitting victims of improper disposal practices. The bill provides that $30 million of the total authorization be used for grants to States to implement the hazardous wastes planning program.

Although the discovery of hazardous wastes sites continues, there has been no systematic attempt to determine the actual number of sites or the full scope of this problem. In response to this situation, the bill requires a State-by-State inventory of hazardous wastes sites and authorizes $20 million to conduct the inventory. The bill also empowers the EPA Administrator to perform the inventory in the event a State fails or is unable to

comply with this requirement adequately. The committee feels that this inventory is a vital element in moving toward resolving the problem of cleanup and containment of abandoned and inactive hazardous waste sites.

The bill also strengthens the nonhazardous solid waste provisions by reauthorizing $30 million for grants to States for planning and implementation of State plans and $18 million for grants to municipalities for solid waste management and resource recovery planning and programs. At a time when our natural materials and energy resources are at a premium, it is critical for us to begin to utilize our domestic sources for fulfilling these needs.

In order to strengthen the existing provision which encourages Federal procurement of goods with recycled materials, the bill provides a series of deadlines by which the EPA is to fulfill the Federal procurement requirements under the act. The committee agreed that this measure would serve to stimulate the recovery of valuable materials that would otherwise be discarded.

The bill is amended to authorize $3 million to the Secretary of the Department of Commerce to assist the Administrator of EPA in fulfilling the Federal procurement requirements and to develop private sector markets for recovered materials.

The committee gave lengthy consideration to both hazardous and nonhazardous solid waste matters and feels that the provisions in this bill serve to enhance the objectives of the act. I look forward to favorable consideration on the House floor today.

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 3994.

This legislation addresses several associated problems—the management of municipal and industrial waste, the storage and disposal of hazardous waste, the recycling and reuse of materials, and the conversion of trash and garbage into fuel and energy.

Three years ago, with the adoption of the Resource Conservation and Recovery Act, the Congress provided the regulatory authority to the Environmental Protection Agency for the management and control of hazardous waste. Pursuant to congressional directive, EPA was to propose regulations which would put into place a "cradle to grave" regulatory program for those who generate, transport, treat, store, and dispose of hazardous waste.

There is general agreement that EPA has not acted expeditiously in implementing that regulatory program. And while environmentalists, industry, State and local government officials have all been extremely critical of EPA, and are understandably dismayed at the delays, the agency has made some progress in implementing this important environmental program.

But this painfully slow regulatory process underscores the fact that the time has come for the Congress to insist that agencies maximize their resources and focus their regulatory attention on the problems that represent the greatest hazard to public welfare. EPA must exercise more commonsense and should take into account the economic impact of their actions as compared to the public benefits of a particular proposed regulation or standard.

This bill does not totally address the problems of the inadequate hazardous waste disposal or the problems with abandoned dump sites. The recent report by the Interstate and Foreign Commerce Subcommittee on Oversight and Investigations outlines the hazardous waste disposal problem. It dramatically shows how little we really know about the magnitude of this problem. Our country presently lacks the ability to determine where hazardous sites are; to clean up unsafe active and inactive sites; and to provide sufficient facilities for the safe disposal of hazardous waste for the future.

This bill will help EPA focus its activities. It strengthens the enforcement and inspection authority of the Administrator of EPA. It gives the Administrator much needed discretion and provides EPA with the opportunity to use commonsense and when appropriate establish separate standards for new and existing facilities.

Mr. Chairman, in this bill we have provided the Secretary of Commerce with money to accelerate the development of markets for recovered materials and promotion of new technologies for resource recovery. In addition, we have reenforced the Federal procurement sections of RCRA. The Federal Government has been negligent in its efforts to assist significantly in the early attainment and maintenance of maximum industrial resource recovery, and recycling and conservation in the United States. We found that Federal agencies have largely ignored these provisions provided under RCRA. Hopefully, these agencies will respond to the initiatives that we have provided in this legislation.

This bill continues the maximum involvement of State and local authorities in the implementation of programs under RCRA. It also provides much needed technical and financial assistance to these units of Government.

Mr. Chairman, H.R. 3994 is significant and effective environmental legislation and I urge that Members support it.

Mr. FLORIO. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Chairman, I extend my deep appreciation to the gentleman for giving me this 5 minutes. I do intend to take all of it. I rarely take this floor. This is a matter, however, of great importance to me and the contituency that I represent. The town that I come from, Saginaw, Mich., has the largest cast iron foundaries in the world. More tonnage of castings are poured there than any other place in the world.

In the bill before us today, the Commerce Committee has included an amendment to section 3001 of the Solid Waste Disposal Act. This section deals with the identification and listing of hazardous waste. It is also my understanding that the distinguished gentleman from Alabama (Mr. BEVILL) will later be offering an amendment which would also amend section 3001. Both of these amendments would limit EPA's ability to classify certain wastes as "hazardous" pending further comprehensive and detailed studies. Aside from the particular justifications that have led to this call to exempt certain wastes from being classified as hazardous, it seems to me that the spirit behind these amendments is to address overzealous and perhaps unjustified regulatory action by the Environmental Protection Agency.

As all my colleagues are aware, the Resource Conservation and Recovery Act requires EPA to identify the characteristics of hazardous waste, and list particular hazardous wastes, which are to be regulated from their generation to their final disposal. This task has proven to be onerous, particularly in light of the strict timetable imposed on the Agency. EPA has missed statutory deadlines, and is now scrambling to issue final rules under pressure from a court order. The Agency's motives may be generally commendable, but from my perspective, it appears that EPA may be hastily classifying wastes as hazardous—and imposing burdensome costs on businesses—without proper or sufficient data to support their classification.

In recent weeks, I have become aware of a listing EPA has made under section 3001 which will have a major effect on my own district, but it will also impact nationwide. EPA is attempting to classify as hazardous lead-bearing wastewater treatment sludges from gray iron foundries. They have proposed this listing—remember, under the pressure of court-ordered deadlines—and yet they do not appear to have the data to back up their claim. Even the Administrator's reasons for making the classification are not consistent with EPA's own hazardous waste criteria.

The Agency has already once revised its listing dealing with waste from iron foundries. On August 22, 1979, EPA listed as a proposed hazardous waste "lead/phenolic sand-casting waste from malleable iron foundries." When documentation to support this listing was requested from the Agency, none was forthcoming. Finally, on November 26, EPA withdrew its earlier listing and substituted "lead-bearing wastewater treatment sludges from gray iron foundries." Documentation was again requested from the Agency, and ultimately EPA did come forth with some documentation—but it still does not support the listing as a hazardous waste.

Part of the problem with the documentation is that it is based on studies performed pursuant to regulations implementing the Clean Water Act. Inasmuch as the objective of those studies was to develop water regulations, no analytical

data were collected to characterize foundry sludges.

In the absence of sludge data, EPA's Office of Solid Waste has extrapolated the water studies to conclude that foundry wastewater treatment sludges are hazardous due to the presence of lead. Furthermore, the documentation contains no information dealing with lead concentrations in the extract from foundry sludges, which, according to EPA's own criteria, is the key consideration in classifying a waste as hazardous.

In summary, EPA has said lead is present and, per se, is hazardous. But what EPA has not done is show that the lead from the foundry sludges is actually reaching the environment and posing a threat to health.

It is my understanding of this law that the burden of establishing that a waste is hazardous is on the Government. In this instance, the Government has not proven its case. EPA really seems to be saying to industry: "You tell us why we shouldn't list it." That is not the way this act should work. I think it would be a mistake and most unfortunate for EPA to finalize this listing without accurate and substantiated proof that they are really dealing with a hazardous waste.

Mr. Chairman, I was considering offering an amendment, along the lines of the one adopted by the Commerce Committee and that proposed by the gentleman from Alabama, to deal specifically with this listing of lead-bearing sludge from gray iron foundries. But I will not do so. I am, however, calling upon EPA to withdraw this classification pending further study and analysis of whether this waste can be clearly viewed as hazardous under this act. It is important to remember that the withdrawal of this listing does not mean that these foundry sludges will go unregulated—they will still be subject to disposal regulations under subtitle D. I feel this is the most responsible route for the Agency to take in light of the lack of evidence that a hazard to the environment actually exists. I will have an opportunity to discuss this particular problem further with EPA officials when they appear before the Appropriations Committee next month, and I am hopeful that some resolution will be reached.

The Agency's intentions may be good, but EPA is working under a strict timetable and seems overly eager to classify all it can within that timeframe. In the final analysis, unnecessary regulations will only add to the already high costs that industry faces from Government regulation, and this cost will ultimately be shared by the American consumer and taxpayer. I would hope that EPA would be more responsive to these concerns.

□ 1730

Mr. FLORIO. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, last Thursday I had the distressing experience of inspecting the Chester-Wade site, a dump full of hazardous wastes located in my district.

When I say it is a "dump site," many people think of it as being in an open space area. This happens to be in the town of Chester, and it is a dump site created by an unscrupulous businessman who decided to take barrels filled with toxic waste chemicals and store them on his property until he could convince someone to come into the property. He then asked them to dump the contents of the barrels into the Delaware River, and then he proceeded to wash the barrels out and resell them.

Last Thursday, as I walked through this site with a gas mask on and in rubber boots, accompanied by people from Rollins Engineering and several other scientists who have been studying this particular site at length, we discovered that there are some 2,500 barrels filled with toxic waste, some of which are so badly damaged from a fire in the winter of 1978 that the toxic chemicals are simply spewing out on the ground. There are dead pigeons and other birds lying around on the ground.

When I jokingly asked the people who were involved in the cleanup process, they told me they had no problem with rats or mice or any of the normal rodents that one would have along a river like the Delaware River. I simply had an eerie feeling that everything in the area was subject to death and destruction.

Mr. Chairman, the State of Pennsylvania has acted responsibly. They have targeted this site. They have spent about $600,000 trying to clean up the site. They have removed a lot of the liquids that are causing a great deal of concern to the residents of the community. But all they have been able to do with some $600,000 of expenditures is to defuse the bomb.

The ground is still saturated. Many of the pieces of equipment still lie around soaked in all different kinds of materials that range anywhere from PCB's to other kinds of direct toxic chemicals.

Mr. Chairman, I would like to commend the chairman of the committee for bringing forward this kind of legislation which will begin to address some of the problems that are faced in the site at Chester. That will not, however, solve the problem of the $3 million to $5 million necessary to remove the bulk substances, the old tires, the old barrels, the old pieces of equipment, and in fact some of the buildings and some of the earth that has been saturated with toxic waste.

So while I commend the committee chairman for his action on this legislation, I urge the Congress of the United States to raise the question of what the Federal Government's role, critical role, is in this type of dangerous toxic waste site.

Mr. Chairman, I urge the Members to move as quickly as possible to solve that problem.

Mr. Chairman, last Thursday I had the distressing experience of inspecting the Chester Wade site, a dump full of hazardous wastes located in my district. As I walked through the site, wearing protective clothing and a gas mask, my overwhelming impression was one of destruction and waste. There were dead birds and plants littering the ground and otherwise usable machinery standing idle. Almost nothing on the site can be reused. Since the initial discovery, more hazardous materials have been discovered, and the cleanup efforts now under way are overmatched and underfunded. It is still unknown what the long-term effects of this site will be on the surrounding population and ecosystem, but residents living nearby have already been treated for skin rashes and have serious and legitimate health concerns. The existence of the site has already led to decreasing property values as well.

This brings me to H.R. 3994, the Commerce Committee's bill to reauthorize the Resource Conservation and Recovery Act for fiscal year 1980. I urge my colleagues to support the bill, as it is a significant step in securing more effective control over hazardous waste sites like the one in my district. In addition, this bill upholds the spirit of the proposed "superfund" legislation, which will provide compensation for damages to natural resources and public health due to hazardous wastes as well as provide funds for cleanup efforts.

The Environmental Protection Agency estimates that only 10 percent of hazardous wastes are disposed of in compliance with the proposed Federal guidelines, and that there may be health and environmental hazards at as many as 40,000 dumps across the country. These sites, like the Wade site, have lethal compounds and highly toxic chemicals stored in containers which may be corroded and leaking their contents into the soil and water adjacent to the sites. The improper disposal of such wastes can lead to air, water, and soil pollution, explosions, birth defects, and cancer.

It is urgent that the Federal Government respond to these dangers immediately. More research is needed to determine the optimum methods for disposing of hazardous wastes and cleaning up abandoned sites. In the interim, this bill is valuable because it strengthens EPA's authority to promulgate and enforce regulations on these waste sites, and directs the States to inventory all hazardous waste sites to determine health and environmental implications.

I would also like to urge my colleagues to support Mr. FLORIO's amendment, the Municipal Resources Management Act, which will promote the recovery of energy and materials from solid waste. This amendment will provide grant money to States and localities to help them plan effective resource recovery programs, thereby decreasing their solid waste disposal problems while increasing their revenues.

While it is true that other statutes provide money for resource recovery programs, they are not adequately funded. An example is the cooperative venture between Scott Paper Co. and Delaware County now in progress in my district. The project is designed to burn all of the

county's wastepaper to generate steam for Scott's manufacturing process. This project is one of 25 nationwide vying for just $2 million in funds for engineering feasibility studies. Since these studies are very expensive to produce, several worthy projects will have to be terminated for lack of funds. I believe that there is no justification for any of these projects' termination for any reason other than merit. With this amendment, access to funding for these projects will be assured.

There is one provision which I would like to see added to H.R. 3994 and that is to give EPA the power to subpena witnesses or documents when investigating hazardous waste sites. This provision is contained in the Senate version of the bill and I would, therefore, urge the House conferees to adopt it.

Finally, I would like to take the opportunity to commend my colleague from across the river, JIM FLORIO, for his leadership on this bill. His efforts here will be translated into the kind of relief people rightfully expect of this Government and I wish to express the thanks of the people of my district, and my own, for his diligence and hard work.

Mr. MADIGAN. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Chairman, as we debate this bill to reauthorize the Resource Conservation and Recovery Act we should not lose site of the fact that EPA has had nearly 3 years to issue rules for implementing the Resource Conservation and Recovery Act. The lack of an effective EPA enforcement program has had its unfortunate impact on many communities around the country. One such case is the location of the Earthline hazardous waste dump in Wilsonville, Ill., a small rural community in my district.

Incredibly, Earthline Corp., a division of SCA, Inc., built its hazardous waste treatment plant within the city limits of Wilsonville, on top of an old, abandoned coal mine.

Late in 1977 the residents discovered that waste material such as PCB's, dioxin, dirt contaminated with mercury, cyanides, and a myriad of other dangerous and possibly lethal waste was being stored at the facility without their knowledge. Immediately Wilsonville filed suit to stop Earthline, and in August of 1978 Illinois District Court Judge John Russell ordered Earthline to halt all activities at the site and disassemble and remove completely the waste disposal facility located there. This sweeping order was based in part on the court's recognition that at no time before the construction permit was issued did Earthline officials make known to the residents of Wilsonville the dangerous nature of the chemicals to be buried at the site. Even to this day, after 12,000 pages of testimony and supporting materials, the residents of Wilsonville still have not been provided a full accounting of all of the different kinds of potentially lethal wastes buried at the site.

This is information to which the people of Wilsonville are entitled and it is my belief that had EPA expedited its rulemaking process, the residents might have been spared a lengthy and costly court trial.

To prevent this from ever happening again, I plan to offer an amendment to the Resource Conservation and Recovery Act which will require full public hearings whenever an application is filed for a new hazardous waste treatment facility. My amendment will assure openness and candor from not only government officials but also industry representatives as to what the facility is designed to do and what kinds of material will be stored.

Wilsonville, Love Canal in Niagara Falls, N.Y., the Valley of the Drums in Kentucky, and countless other locations around the country have unnecessarily fallen prey to an ineffective and poorly organized effort by EPA to prevent hazardous waste pollution from affecting the lives of millions of people across this country. My amendment will help protect future generations from similar peril.

Mr. FLORIO. Mr. Chairman, I yield 1 minute to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, I want to commend the chairman for working to forge a legislative product that will help prevent environmental damage from hazardous wastes but will also require EPA to adhere to a reasonable regulatory process.

I understand Mr. BEVILL will offer an amendment which will defer regulation of "special waste" until after EPA studies the need to do so. The provisions of the amendment have been developed in consultation with Mr. FLORIO and Mr. MADIGAN. The product is a good one that will require EPA to prove a waste is harmful before regulating it. This will save the American public from unreasonable costs imposed on the mining, utility, and cement industries.

All the parties involved worked diligently to achieve this result. I am pleased that we have been able to reach this consensus which was possible only because of this effort.

Mr. STAGGERS. Mr. Chairman, I rise in support of H.R. 3994, the Resource Conservation and Recovery Act Amendments of 1979. This legislation authorizes appropriations for important hazardous and solid waste programs administered by the Environmental Protection Agency and strengthens the regulatory and enforcement mechanisms in the underlying act. I want to commend the subcommittee chairman (Mr. FLORIO) and his minority counterpart (Mr. MADIGAN) for their fine efforts in formulating this bill. They have demonstrated their concern for a cleaner environment and are working diligently to achieve this goal, that is so important to all Americans.

Mr. Chairman, the Resource Conservation and Recovery Act of 1976, which this bill reauthorizes, established a comprehensive statutory framework to deal with land-based environmental problems, following enactment of laws designed to address the serious problems of air and water pollution. The 1976 act created a "cradle to grave" regulatory regime for safe handling of hazardous waste, provided incentives and encouragement to States and localities for environmentally sound disposal and reuse of solid waste, promoted commercialization of resource recovery technology, and set standards for Government procurement to encourage the purchase of recycled materials.

The act recognized that many of the problems it addressed were local in nature and were most susceptible to local solutions. Accordingly, State and local involvement in development and implementation of State solid waste and hazardous waste plans was encouraged through Federal grant programs. Only in the area of hazardous waste, posing substantial danger to human health and the environment, was the Federal regulatory role emphasized.

The problem of improper and environmentally unsound solid and hazardous waste disposal is now being addressed under the Resource Conservation and Recovery Act, despite the EPA's laxity in promulgating regulations under the act. However, the act provided primarily for prospective action with respect to waste generation, treatment, transportation, storage, and disposal practices.

As we are all only too well aware, the consequences of past unsafe hazardous waste disposal practices are of growing magnitude in our society. The tragic human health and environmental effects of indifferent, negligent, and reckless practices have recently become evident as the glare of national publicity has been focused on Love Canal, "Valley of the Drums," PCB-dumping in North Carolina, toxic dumping in Pittston, Pa., and scores of similar incidents throughout the Nation. Clearly, there is a need for comprehensive legislation to address this extremely serious problem. The Committee on Interstate and Foreign Commerce is presently engaged in such an effort. This bill, however, authorizes necessary funding for programs that will prevent recurrence of unsafe, hazardous waste handling practices and strengthens existing enforcement authority to promptly abate health and environmental hazards resulting from these practices.

Specifically, the bill authorizes total appropriations of $156,500,000 for fiscal year 1980 to carry out various programs under the act. This compares with an authorization of $149,500,000 for fiscal year 1979 for major programs under the act. Major authorizations within the total for fiscal 1980 are $42,000,000 to EPA for general administration of all programs under the act; $30,000,000 to EPA for grants to States for developing and implementation of State hazardous waste programs; $30,000,000 for grants to States for development and implementation of State solid waste plans; $18,000,000 for grants to State and local government authorities for solid waste management and resource recovery programs; $20,000,000 for a new State aban-

doned hazardous waste site inventory program; $10,000,000 for grants to rural communities for solid waste management facilities; and $3,000,000 to the Department of Commerce to promote commercialization of proven resource recovery technologies, and development of markets for recycled materials.

Mr. Chairman, H.R. 3994 also makes some important amendments to existing law. Significantly, the bill enhances the authority of the Administrator of EPA to forcefully and rapidly deal with waste handling and disposal practices or sites presenting an imminent and substantial endangerment to public health or the environment. The so-called "imminent hazard" authority contained in existing law is deficient in that it requires pre-response judicial proceedings. Such litigation may unduly delay emergency action to abate an imminent or existing hazard and it subjects the Administrator to a difficult burden of proof in demonstrating the existence or imminence of a substantial hazard. H.R. 3994 remedies these deficiencies by authorizing the Administrator to issue and enforce emergency orders to protect public health and the environment, prior to lengthy litigation contesting the existence or degree of hazard and by imposing a less restrictive burden of proof in the event such litigation ultimately does ensue.

H.R. 3994 extends EPA's access, entry, and inspection authority to inactive and abandoned hazardous waste sites and prohibits destruction, alteration or concealment of records pertaining to the handling of hazardous waste. Moreover, the reported bill authorizes the Administrator, upon receipt of infomation that a hazardous waste site may present a significant health or environmental hazard, to issue orders requiring present or former owners of such sites to conduct or assume the costs of monitoring, testing and analysis necessary to determine the nature and extent of the hazard.

To enhance resource recovery, the reported bill requires State solid waste plans to provide that neither State nor local governments may be prohibited from entering into long term contracts for the operation of such facilities. Such long-term contracts are equally essential as long-term markets for recovered materials to the viability of such facilities. H.R. 3994 further provides resource recovery and reuse by stengthening Federal recyclable procurement requirements and establishing firm deadlines for compliance. As the largest consumer in the Nation, the Federal Government should rightfully assume a strong leadership role in promoting resource recovery through its procurement practice.

It is clear that EPA has attempted to implement certain provisions of RCRA in a manner inconsistent with the legislative intent. For instance, EPA pursued a course which could have required retrofitting of waste water treatment facilities built by municipalities and industries at considerable expense to comply with the Clean Water Act. Clearly, where demonstrated health and environmental hazards are present, remedial action ought to be pursued. However, in the absence of such a demonstration it makes little sense to uniformly impose costly and inflationary design and construction modification requirements on the owners and operators of such facilities. Accordingly, wastes received by such facilities were exempted from the provisions of the act. This broad exemption will be modified by the sponsor of the original amendment, the distinguished gentleman from Washington (Mr. SWIFT), to provide sufficient authority for EPA to regulate genuinely hazardous facilities. Coupled with a provision in the reported bill permitting the Administrator to establish, where appropriate, separate performance standards for new and existing facilities, this modification will give the Agency clear guidance as to the appropriate regulatory course it should pursue.

Another example of EPA's regulatory excess is its proposal to impose costly regulation on certain wastes—cement kiln dust waste, utility waste, phosphate uranium and other mining wastes, and oil and gas drilling muds and oil production brines. In its proposed regulations of December 18, 1978 EPA acknowledged that the Agency has very little information on the composition, characteristics, and the degree of hazard posed by these wastes, that they occur in very large volumes and that potential hazards posed by these wastes are relatively low. Nevertheless the Agency proceeded to embark on a cumbersome regulatory course in the absence of any real demonstration of risk. The reported bill presently contains a provision dealing with oil and gas muds and brines. The distinguished gentleman from Alabama (Mr. BEVILL) intends to offer a well-considered and balanced amendment to deal with the other waste in this so-called special category, which has my strong support and should receive the support of every Member of this House. I will address myself to the particulars of that amendment when it is offered.

Finally, to eliminate duplicative and burdensome permitting requirements for disposal of coal mining wastes under the Surface Mining Control and Reclamation Act and RCRA, I intend to offer an amendment to provide for such permits to be issued solely by the Office of Surface Mining in the Department of the Interior, giving appropriated consideration to EPA suggestions as to how RCRA requirements, if any, should be integrated into these permits. Both this amendment and the Bevill amendment will remove unnecessary regulation and contribute to increased coal utilization, spurring attainment of the President's national energy objectives. There are a number of other important amendments that will be offered that will also significantly improve the act.

Mr. Chairman, H.R. 3994 is an important bill for all the reasons I have set forth and I urge the adoption of the bill.

● Mr. GORE. Mr. Chairman, I rise to express my strong support for the legislation which is before the House, the reauthorization of the Resource Conservation and Recovery Act (RCRA).

As recently as last year, the hazardous waste issue was virtually unknown except to the people involved in the agonizingly slow process of developing regulations under this law to ensure the safe handling and disposal of hazardous waste for the future. In 1978—just as in 1976 when RCRA was originally enacted—few Americans were aware of the menacing presence of abandoned and inactive waste dumps. The Love Canal disaster gave the country its first tragic evidence of the gravity of the hazardous waste problem. Finally, we have awakened to the incredibly difficult and potentially disastrous problem of land pollution.

RCRA contains no reference to or remedy for abandoned or inactive hazardous waste sites. In 1976 the Congress simply was not aware of the problem. Generators and disposers of hazardous waste may have been ignorant of the problem or may have decided not to share their knowledge with us. Regardless, this is a monumental problem and the Federal Government and most States lack the authority to deal with it. This legislation will provide tools which are critical to the effort to protect the public's health and the environment from the improper disposal of hazardous wastes.

The problem is a real one. The Commerce Oversight Subcommittee, in a year-long investigation of hazardous wastes, identified numerous waste sites which posed major hazards to the public health and the environment because of inadequate design or unsafe disposal methods. The result has been human suffering, environmental injury, and substantial economic costs. The full magnitude of the problem is still not known. This legislation establishes a statewide inventory program for abandoned waste disposal sites. This survey will finally enable us to understand the dimensions of the problem.

Remedies exist, although some may be complex and expensive. This legislation would provide grants for State hazardous waste programs to develop treatment, storage, and disposal facilities and to remove or ameliorate wastes that present hazards to a local community.

The bill provides the Environmental Protection Agency (EPA) with preventive tools, monitoring and testing authorities, which would be used to examine sites that may present a substantial hazard. This provision, which I successfully offered during the Commerce Committee markup, would allow EPA to evaluate potentially dangerous sites before such sites could wreak havoc. This would allow states and EPA to root out a problem before it develops into a major threat to the surrounding area.

Mr. Chairman, the effort to mitigate the hazardous waste problem is in its infancy. This bill will take an important stride toward determining the size of the task before us and the best means

of solving it. For too long we have ignored the real and potential consequences of land pollution. These dangers must be redressed. This legislation is an important part of the long-term effort to accomplish that end. I urge its adoption.●

● Mr. ECKHARDT. Mr. Chairman, I must regretfully oppose the passage of H.R. 4774, which would amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so. After motive consideration I have determined that this measure is not only unnecessary but will in fact restrict, rather than expand, existing protections for religious liberty regarding union security agreements.

The bill's ostensible purpose is to reconcile two presumbaly conflicting statutory provisions in order to protect the first amendment right of free exercise of religion for those with religious objection to joining or paying dues to a union. Section 8(a)(3) of the National Labor Relations Act allows employers and unions representing a majority of employees to make as a condition of employment a requirement that all employees in a bargaining unit pay union dues whether they belong to the union or not. This union shop privilege allowed in the National Labor Relations Act is said to be in apparent conflict with title VII, the equal employment opportunity section of the Civil Rights Act of 1964 which proscribes as an unlawful employment practice discrimination by an employer or labor union on the basis of religion. Section 701(j) of the Equal Employment Opportunity Act of 1972 specifically defines "religion" as including all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business. As Mr. CLAUSEN so ably pointed out, in every court of appeals which has considered the issue of the application of title VII to employees with religious objections to paying dues to a union, all have placed the burden on employers and unions to show that such religious objections cannot be accommodated in some other fashion and have concluded that the clear intent of Congress is that, all things being equal, the mandate for elimination of religious discrimination in employment practices has a much higher national priority than the union security privilege.

I believe that congressional intent is clear—employers and unions must reasonably accommodate religious beliefs without undue hardship on business, and this duty has priority over the statutory allowance of union security agreements. If redundancy were the only objection to H.R. 4774, I probably would not have opposed it as a restatement of congressional policy. But H.R. 4774 is more than just unnecessary; it will in fact restrict the rights already granted by the "reasonable accommodation" provision of title VII.

As the fifth circuit in *Cooper* v. *General Dynamics*, 533 F2d 163, 168 (1976), cert. denied sub nom., makes plain, if an employee's conduct is religiously motivated, his employer must tolerate it unless doing so would cause undue hardship, and all forms and aspects of religion, however eccentric, are protected.

The definition of religion itself in the "reasonable accommodation" section of the Equal Opportunity Act, 42 U.S.C. 2000e(j), is stated generally to include "all aspects of religious observance and practice, as well as belief." Thus, we must look elsewhere for a more precise delimitation of the scope of the term religion. The clearest delimitation in the context of the statute was stated by the seventh circuit in *Redmond* v. *GAP Corp.*, 574 F2d 897, 901 (1978):

> We believe that the clearest test to be applied to the determination of what is "religious" under Sec. 2000e(j) can be derived from the Supreme Court decisions in *Welsh* v. *United States* 398 U.S. 333 (1970), and *United States* v. *Seeger* 380 U.S. 163 (1969), i.e., (1) is the "belief" for which protection is sought "religious" in person's own scheme of things, and (2) is it "sincerely held."

Seeger and Welsh both involved conscientious objection to the military draft on religious grounds. The Court in both cases broadly interpreted the exemption for "religious training and belief" defined in the statute as "an individual's belief in a relation to a supreme being involving duties superior to those arising from any human relation but [not including] essentially political, sociological, or philosophical views or a merely personal moral code." In Seeger, Mr. Justice Clark stated the test as—

> A sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of those admittedly qualifying for the exemption comes within the statutory definition. 380 U.S. at 176.

Welch did not himself characterize his objections as being religious yet the Court found that his views were such that he came within the religious exemption:

> If an individual deeply and sincerely holds beliefs that are truely ethical or moral in source and content but that nevertheless impose upon him a duty of conscience to refrain from participating in any way at any time, he is entitled to a religious exemption because of his beliefs function as a religion in his life. 398 U.S. 340.

H.R. 4774 attempts to greatly restrict the broad, nontraditional definition of religion already recognized by the courts. This bill would require that a conscientious objector be both "a member of and adher[ant] to established and traditional tenets or teachings of a bona fide religion, body, or sect which has historically" objected to joining or financially supporting labor organizations. This very restrictive definition allows an exemption only for about seven denominations which have established doctrine against supporting unions. New religions, which could not "historically" hold such objections, are apparently left out as are loosely organized sects and even a profound belief by a single person. Most "established and traditional" religions began with the vision of a single individual—Abraham, Jesus, Mohammed, Buddha, Martin Luther, John Calvin, Joseph Smith, Mary Baker Eddy and countless others have begun as heretics against "established and traditional" religions with "historic" doctrines, yet their adherents came to number in the millions. By codifying this restrictive exemption from union security agreements instead of leaving the definition vague, I believe that we may well accomplish the opposite of what we have set out to do.

Defining the religious exemption so strictly so as to include some religions and exclude others may also result in a violation of the establishment of religion clause of the first amendment. The U.S. Supreme Court in *Lemon* v. *Kurtzman* 403 U.S. 603, 612–13 (1971), developed three tests to determine conflict with the establishment clause:

> First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; finally, that statute must not foster "an excessive entanglement with religion." 403 U.S. 612, 613.

As is pointed out in a perceptive article in 51 Notre Dame Lawyer 481, February 1976, "Is Title VII's Reasonable Accommodation Requirement a Law 'Respecting an Establishment of Religion'?", there is probably no problem with the "excessive entanglement" criterion here, and the courts have rarely used the secular legislative purpose test to strike down conflicting statutes except in extreme cases (*Epperson* v. *Arkansas* 393 U.S. 97(1968)—struck ban on teaching evolution; *Abington School District* v. *Schempp* 374 U.S. 203(1963)—struck down required prayer in school.)

By having as its primary effect the advancement of certain religions beyond merely clearing up any restriction on the free exercise of religion, H.R. 4774 may go too far, especially if we are to be so exclusive regarding which religions may qualify for special treatment. Such a statute can hardly be said to have a neutral effect. We are not lifting a Government sanction restricting free exercise of religion here—we have already stated congressional policy that employers and unions may have union security agreements but must reasonably accommodate conflicts with the religious views of employees. To go beyond that exception for religion generally and make special exception for about seven denominations (with no room in the scope of the exception for new religions or a change in established doctrine) is not only unnecessary but also quite possibly unconstitutional.

Finally, why must we restrict the "reasonable accommodation" in these circumstances to the paying of a sum

equal to the union dues and initiation fees to one of three designated charities? Why not simply leave the means of accommodation to the ingenuity of the parties involved and let the courts determine the reasonableness of the accommodation if any conflict arises. Such matters are best left to be handled flexibly on a case by case basis.

Again, while the basic purpose behind H.R. 4774 is most worthy and its sponsors and supporters have only the highest motivation for bringing it forward, I believe that we already have the means at hand in existing law to solve the problem of accommodating those whose religious views prevent them from joining or contributing to a labor union as required under a union security agreement. H.R. 4774 is, in fact, a step backward, and I must reluctantly oppose it on behalf of those whom we would seek to protect by its passage.●

● Mr. ALBOSTA. Mr. Chairman, as the Congress prepares to consider amendments to the Resource Conservation and Recovery Act, I feel that I must speak out. Based on my own experience as chairman of the Select Committee on PBB's of the Michigan State Legislature, it is clear that EPA did not have the authority required to deal with the hazardous wastes in a comprehensive and responsible manner. It is also clear to me that hazardous wastes require Federal action so that at least some minimum standards will be set for the handling of these substances.

However, it is equally important to avoid overreacting. In its attempt to be comprehensive EPA has listed many items as hazardous wastes in its proposed guidelines announced on November 26, 1979. For example, iron foundries produce sludge that can contain lead. EPA has listed this sludge as a hazardous waste. The industry affected claims that the EPA is assuming that this material is hazardous without looking at the fact that the lead actually leaching out is minimal. The industry further claims that the lead-bearing sludge will be handled properly anyway under the normal Resource Conservation and Recovery Act provisions and regulations based on the act.

Although there may be ways to work out such problems in the administrative process, this is a good example of a problem we would do well to be aware of. That is, we should take care not to strangle industries in redtape or unnecessary paperwork, or saddle them with added expenses unless we have considerable and substantial evidence of a problem. Then, when we know that a problem is real, or very likely to occur, we should go after that problem with clear forceful regulatory action.

If we do not take this responsible approach, then the EPA and many of the rest of us in government and industry will spend a lot of our time chasing phantom problems while the real disasters go unchecked. We cannot allow that to happen.●

Mr. FLORIO. Mr. Chairman, I have no further requests for time.

Mr. MADIGAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 3994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Resource Conservation and Recovery Act Amendments of 1979".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 2005(a) of the Solid Waste Disposal Act, as redesignated by section 3(b)(1) of this Act, is amended by striking out "1978, and" and substituting "1978" and by inserting the following before the period at the end thereof: ", and $42,000,000 for the fiscal year ending September 30, 1980".

(b) Section 3011(a) of such Act is amended by inserting the following after "1979": "and $30,000,000 for the fiscal year 1980".

(c) Section 4008(a)(1) of such Act is amended by striking out "1978 and" and substituting "1978," and by inserting the following after "1979": ", and $30,000,000 for the fiscal year 1980".

(d) Section 4008(a)(2)(C) of such Act is amended by inserting after "1979": "and $18,000,000 for the fiscal year 1980".

(e) Section 4008(e)(2) of such Act is amended by inserting the following after "1979": "and $2,500,000 for the fiscal year 1980"

(f) Section 4009(d) of such Act is amended by inserting the following after "1979": "and $10,000,000 for the fiscal year 1980".

(g)(1) Subtitle E of such Act is amended by adding the following new section at the end thereof:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 5005. There are authorized to be appropriated $3,000,000 for the fiscal year 1980 to carry out the purposes of this section.".

(2) The table of contents for such subtitle E is amended by adding the following new item at the end thereof:

"Sec. 5005. Authorization of appropriations.".

AMENDMENTS TO SOLID WASTE DISPOSAL ACT

SEC. 3. (a)(1) Paragraph (14) of section 1004 of the Solid Waste Disposal Act is amended by inserting before the period at the end thereof the following: "or which is not a facility for disposal of hazardous waste".

(b)(1) Section 2004 of such Act is repealed and the following sections are redesignated accordingly.

(2) The table of contents for subtitle B of such Act is amended by striking out the item relating to section 2004 and redesignating the succeeding items accordingly.

(c) Section 3004 of the Solid Waste Disposal Act is amended by adding the following after the first sentence thereof: "In establishing such standards the Administrator shall, where appropriate, establish separate standards for new and existing facilities.".

(d) Section 3001 of such Act is amended by inserting "(1)" after "(b)" and by adding the following new paragraph at the end of subsection (b):

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, drilling fluids, produced waters, and other wastes associated with the exploration for, or development and production of, crude oil or natural gas shall not be considered 'hazardous waste' within the meaning of this section and shall not be subject to the provisions of this subtitle.".

(e) Section 3005(e) of such Act is amended by striking "facility is in existence on the date of enactment of this Act" and inserting in lieu thereof "facility is in existence on the effective date of the regulations under sections 3001 and 3004,".

(f) Section 3007(a) of such Act is amended—

(1) by inserting "or section 7003 of subtitle G," after "subtitle,";

(2) by striking "maintained by any person" after "establishment or other place";

(3) by inserting "or has handled" after "otherwise handles";

(4) by striking "any officer or employee" and inserting in lieu thereof "any officer, employee, or representative";

(5) by striking "duly designated officer employee" and inserting in lieu thereof "duly designated officer, employee, or representative";

(6) by striking "furnish or permit" and inserting in lieu thereof "furnish information relating to such wastes and permit";

(7) by striking out "such officers or employees" and inserting in lieu thereof "such officers, employees, or representatives";

(8) by inserting "or have been" after "where hazardous wastes are"; and

(9) by striking "officer or employee obtains" and inserting in lieu thereof "officer, employee, or representative obtains".

(g) Section 3007(b) of such Act is amended by inserting before "shall be available": "(including records, reports, or information obtained by representatives of the Environmental Protection Agency).

(h) Section 3008(d) of such Act is amended by—

(1) striking out the period following the word "subtitle" at the end of paragraph (3) and by inserting ", or" and the following at the end of such paragraph (3):

"(4) generates, stores, treats, transports, disposes of, or otherwise handles any hazardous waste (whether such activity took place before or takes place after the date of the enactment of this paragraph) and—

"(A) who fails or refuses to comply with any order under section 3012, or

"(B) destroys, alters, or conceals any record maintained with respect to the generation, storing, treatment, transportation, disposal, or other handling of hazardous waste.".

(i) Section 3008 of such Act is amended:

(1) in subsection (a)(1), by striking "the Administrator shall give notice to the violator of his failure to comply with such requirement. If such violation extends beyond the thirtieth day after the Administrator's notification," and by inserting "immediately or" after "compliance"; and

(2) in subsection (a)(2), by striking "thirty days".

(j) Section 3011 of such Act is amended by adding the following new subsection at the end thereof:

"(b) ACTIVITIES INCLUDED.—State hazardous waste programs for which grants may be made under subsection (a) may include (but shall not be limited to) planning for hazardous waste treatment, storage and disposal facilities, and the development and execution of programs to protect health and the environment from inactive facilities which may contain hazardous waste and which may present a substantial endangerment to the human health or the environment.".

(k)(1) Subtitle C of such Act is amended by adding the following new section at the end thereof:

"HAZARDOUS WASTE SITE INVENTORY

"SEC. 3012. (a) STATE INVENTORY PROGRAMS.—Each State shall, as expeditiously as practicable, undertake a continuing program to compile, publish, and submit to the Administrator an inventory describing the location of each site within such State at which hazardous waste has at any time been stored or disposed of. Such inventory shall contain—

"(1) a description of the location of the sites at which any such storage or disposal has taken place before the date on which permits are required under section 3005 for such storage or disposal; and

"(2) such information relating to the amount, nature, and toxicity of the hazardous waste at each such site as may be practicable to obtain and as may be necessary to determine the extent of any health hazard which may be associated with such site.

Any State may exercise the authority of section 3007 for purposes of this section in the same manner and to the same extent as provided in such section in the case of States having an authorized hazardous waste program, and any State may by order require any person to submit such information as may be necessary to compile the data referred in paragraphs (1) and (2).

"(b) ENVIRONMENTAL PROTECTION AGENCY PROGRAM.—If the Administrator determines that any State program under subsection (a) is not adequately providing information respecting the sites in such State referred to in subsection (a), the Administrator shall notify the State. If within ninety days following such notification, the State program has not been revised or amended in such manner as will adequately provide such information, the Administrator shall carry out the inventory program in such State. In any such case—

"(1) the Administrator shall have the authorities provided with respect to State programs under subsection (a);

"(2) the funds allocated under subsection (c) for grants to States under this section may be used by the Administrator for carrying out such program in such State; and

"(3) no further expenditure may be made for grants to such State under this section until such time as the Administrator determines that such State is carrying out, or will carry out, an inventory program which meets the requirements of this section.

"(c) GRANTS.—(1) Upon receipt of an application submitted by any State to carry out a program under this section, the Administrator may make grants to the States for purposes of carrying out such a program. Grants under this section shall be allocated among the several States by the Administrator based upon such regulations as he prescribes to carry out the purposes of this section. The Administrator may make grants to any State which has conducted an inventory program which effectively carried out the purposes of this section before the date of the enactment of the Resource Conservation and Recovery Act Amendments of 1979 to reimburse such State for all, or any portion of, the costs incurred by such State in conducting such program.

"(2) There are authorized to be appropriated to carry out this section $20,000,000 for the fiscal year 1980.".

(3) The table of contents for such subtitle C is amended by inserting the following new item at the end thereof:

"Sec. 3012. Hazardous waste site inventory.".

(4) Section 3008(d)(3) of such Act is amended by inserting "or information" after "document".

(l) (1) Subtitle C of such Act is amended by adding the following new section at the end thereof:

(1) Section 4003 of such Act is amended—

(1) by striking out "4005(c)" in paragraph (2), and inserting in lieu thereof "4004(b)"; and

(2) by inserting "State or" in paragraph (5) after "The plan shall provide that no" and by striking the period after "resource recovery facilities" and adding the following: ", from entering into long-term contracts for the operation of such facilities, or from securing long-term markets for material and energy recovered from such facilities.".

(m) Section 4005 of such Act is amended as follows:

(1) by striking out subsection (a); by redesignating the succeeding subsections accordingly; and by amending subsection (b) (as so redesignated) by striking out "the inventory under subsection (b) shall" and substituting "the inventory under subsection (a) shall";

(2) by amending the first sentence of section 4005(b) (as redesignated by paragraph (1) of this sub-section), by striking out "Any" and inserting in lieu thereof "Upon promulgation of criteria under section 1008 (a)(3), any";

(3) by striking out "4003(2)" in subsection (b) (as redesignated by paragraph (1) of this subsection) and inserting in lieu thereof "4003(3)"; and

(4) by striking out "Not" in subsection (a) (as redesignated by paragraph (1) of this subsection) and inserting in lieu thereof "To assist the States in complying with section 4003(3), not".

(n) Section 4006(b)(1)(B) of such Act is amended by striking out "functions" wherever it appears and inserting in lieu thereof "management activities".

(o) Section 6002 of such Act is amended as follows:

(1) by deleting the first sentence in subsection (c)(1), and inserting in lieu thereof the following: "After the date specified in applicable guidelines prepared pursuant to subsection (e) each procuring agency which procures any items designated in such guidelines shall procure such items composed of the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, considering such guidelines.";

(2) by striking out clause (ii)" in subsection (c)(1)(C), and inserting in lieu thereof "subparagraph (B)";

(3) by deleting "recovered material and recovered-material-derived fuel" in subsection (c)(2), and inserting in lieu thereof the following: "energy or fuels derived from solid waste";

(4) by deleting so much of subsection (c)(3) as follows "vendors" and inserting in lieu thereof a colon and the following:

"(A) certify that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by applicable specifications or other contractural requirements, and

"(B) estimate the percentage of the total material utilized for the performance of the contract which is recovered materials.";

(5) by amending subsection (d) to read as follows:

"(d) SPECIFICATIONS.—All Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by Federal agencies shall—

"(1) as expeditiously as possible (but in any event no later than five years after the date of enactment of the Resource Conservation and Recovery Act of 1979), eliminate from such specifications—

"(A) any exclusion of recovered materials; and

"(B) any requirement that items be manufactured from virgin materials; and

"(2) within one year after the date of publication of applicable guidelines under subsection (e), or as otherwise specified in such guidelines, assure that such specifications require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the item.";

(6) by deleting the second sentence in subsection (e), and inserting in lieu thereof the following:

"Such guidelines shall—

"(1) designate those items which are or can be produced with recovered materials and whose procurement by procuring agencies will carry out the objectives of this section, and

"(2) set forth recommended practices with respect to the procurement of recovered materials and items containing such materials and with respect to certification by vendors of the percentage of recovered materials used, and shall provide information as to the availability, relative cost, and performance of such materials and items.

In designating items under paragraph (1), the Administrator shall consider, among other relevant factors:

"(A) the availability of such items;

"(B) the impact of the procurement of such items by procuring agencies on the volume of solid waste which must be treated, stored, or disposed of;

"(C) the economic and technological feasibility of producing and using such items; and

"(D) other uses for such recovered materials.".

(p) Section 7003 of such Act is amended by—

(1) striking out "is presenting" and inserting in lieu thereof "may present";

(2) by striking "the Administrator may bring suit" and all that follows down through "the alleged disposal" and inserting in lieu thereof "may take action";

(3) by striking out "suit" in the last sentence thereof and substituting "action"; and

(4) by inserting "(a) AUTHORITY OF ADMINISTRATOR.—" after "7003" and adding the following at the end thereof: "The action which the Administrator may take under this section may include (but shall not be limited to)—

"(1) issuing such orders as may be necessary to protect public health and the environment, and

"(2) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction.

"(b) VIOLATIONS.—Any person who willfully violates, or fails or refuses to comply with, any order of the Administrator under subsection (a)(1) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than $5,000 for each day in which such violation occurs or such failure to comply continues.".

(q)(1) Section 7006 of such Act is amended—

(1) by inserting "(a) REVIEW OF FINAL REGULATIONS AND CERTAIN PETITIONS.—" before "Any";

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

"(b) REVIEW OF CERTAIN ACTIONS UNDER SECTIONS 3005 AND 3006.—Review of the Administrator's action—

"(1) in issuing, denying, modifying, or revoking any permit under section 3005, or

"(2) in granting, denying, or withdrawing authorization or interim authorization under section 3006,

may be had by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts such business upon application by such person. Any such application shall be made within ninety days from the date of such issuance, denial, modification, revocation, grant, or withdrawal, or after such date only if such application is based solely on grounds which arose after such ninetieth day. Such review shall be in accordance with sections 701 through 706 of title 5 of the United States Code.";

(3) by striking out ". Any" in paragraph (1) thereof and substituting "; any";

(4) by striking out ". Action" in paragraph (1) thereof and substituting "; action"; and

(5) by striking out "proper." in paragraph (2) thereof and substituting "proper;".

Section 7009 of such Act is amended by striking out "unless the Secretary" and substituting "unless the Administrator".

Section 8002 of such Act is amended by adding the following new subsection at the end thereof:

"(n)(1) The Administrator shall conduct a detailed and comprehensive study and submit a report on the adverse effects, if any, of drilling fluids, produced waters, and other wastes associated with the exploration for, or development or production of, crude oil or natural gas on the environment, including but not limited to, the effects of those wastes on human health, water quality, air quality, welfare, and natural resources, and on the adequacy of means and measures currently employed by the oil and gas drilling and production industry, Government agencies, and others to dispose of and utilize those wastes and to prevent or substantially mitigate any adverse effects. The study shall include an analysis of—

"(A) the sources and volume of discarded material generated per year from such wastes;

"(B) present disposal practices;

"(C) potential dangers to human health and the environment;

"(D) alternatives to current disposal methods;

"(E) the cost of those alternatives; and

"(F) the impact of those alternatives on the exploration for, and development and production of, domestic crude oil and natural gas.

In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal agencies concerning such wastes with a view toward avoiding duplication of effort and expeditious completion of the study. The Administrator shall publish a report of the study and shall include appropriate findings and recommendations for Federal and non-Federal actions.

"(2) The Administrator shall complete the research and study and submit the report required under paragraph (1) not later than October 1, 1981. Upon completion of the study, the Administrator shall prepare a plan for research, development, and demonstration respecting the findings of the study and may submit any legislative recommendations resulting from the study to the Congress.

"(3) There are authorized to be appropriated not to exceed $1,000,000 for the fiscal year 1980 to carry out the provisions of this subsection.".

AMENDMENT OF RESOURCE CONSERVATION AND RECOVERY ACT OF 1976

SEC. 3. Sections 3 and 4 of the Resource Conservation and Recovery Act of 1976 are hereby repealed.

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

Mr. FLORIO. Mr. Chairman, I ask unanimous consent that all committee amendments, except those beginning on page 3, line 17 and extending through line 21; and beginning on page 11, line 3, and extending through line 17 on page 12, be considered en bloc and considered as read and printed in the RECORD.

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

There was no objection.

The committee amendments above referred to are as follows:

Committee amendments: Page 3, in line 9, strike out "section" and substitute "subtitle (other than section 5002)".

Page 3, line 13, insert "(1)" after "(a)".

Page 4, line 22, strike out the comma.

Page 7, line 1, strike out "(b)" and insert in lieu thereof "(c)".

Page 7, line 23, strike out "and".

Page 8, line 3, strike out the period and insert in lieu thereof a semicolon.

Page 8, after line 3, insert the following:

(3) the name and address, or corporate headquarters of, the owner of each such site, determined as of the date of preparation of the inventory;

(4) an identification of the types or techniques of waste treatment or disposal which have been used at each such site; and

(5) information concerning the current status of the site, including information respecting whether or not hazardous waste is currently being treated or disposed of at such site (and if not, the date on which such activity ceased) and information respecting the nature of any other activity currently carried out at such site.

For purposes of assisting the States in compiling information under this section, the Administrator shall make available to each State undertaking a program under this section such information as is available to him concerning the items specified in paragraphs (1) through (5) with respect to the sites within such State, including such information as the Administrator is able to obtain from other agencies or departments of the United States and from surveys and studies carried out by any committee or subcommittee of the Congress.

Page 13, after line 24, insert the following new subsection and redesignate the following subsections accordingly:

(p)(1) Section 5002 of such Act is amended by striking out "the date of the enactment of this Act" and inserting in lieu thereof "September 1, 1979."

(2) Section 5003 of such Act is amended by striking out "the enactment of this Act" and inserting in lieu thereof: "September 1, 1979,".

Page 14, line 10, strike out "the date" and all that follows down through "(e)" in line 11 and insert in lieu thereof: "September 1, 1982".

Page 15, line 17, strike out "five years" and all that follows down through line 18 and insert in lieu thereof: "July 1, 1980),".

Page 17, strike out the period at the end of line 3 and substitute "; and".

Page 17 after line 4, insert:

(7) by inserting "not later than September 1, 1981," after "shall" in the first sentence of subsection (e).

Page 17, line 11, strike out "the Administrator".

Page 17, line 17, insert a period after "7003".

The CHAIRMAN. The question is on the committee amendments considered en bloc.

The committee amendments were agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, after line 16, insert the following:

(2) Paragraph (27) of such section 1004 is amended by striking out "or industrial discharges" and inserting in lieu thereof "or solid or dissolved materials in wastewaters received by or discharged from industrial or municipal wastewater treatment facilities."

AMENDMENT OFFERED BY MR. SWIFT AS A SUBSTITUTE FOR THE COMMITTEE AMENDMENT

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

The Clerk read as follows:

Amendment offered by Mr. SWIFT as a substitute for the committee amendment: Page 3, after line 16 insert:

(2) Section 3005 of the Resource Conservation and Recovery Act is amended by adding the following new subsection at the end thereof:

"(f) EXISTING WASTEWATER TREATMENT FACILITIES.—(1) In issuing a permit under subsection (c) of this section, the Administrator (or a State which has received full or interim authorization under section 3006) shall not require an existing wastewater treatment facility to comply with requirements of section 3004(3) or 3004(4) which—

"(A) are designed to prevent the release of hazardous waste or any constituent thereof into soil or groundwater; and

"(B) would require major reconstruction of such facility if the permit applicant demonstrates that no significant release of hazardous waste or any constituent thereof from such facility into an underground water supply is occurring or is reasonably likely to occur.

"(2) For purposes of assisting the Administrator (or the State, if applicable) in making the determinations required by paragraph (1) of this subsection, the Administrator (or the State) may require the owner or operator of an existing wastewater treatment facility to conduct, and report the results of, such studies, testing and monitoring as the Administrator (or the State) finds is reasonably necessary to make such determinations, provided that the Administrator (or the State) may not require leachate monitoring unless the Administrator (or

the State) determines that leachate monitoring is necessary to confirm or clarify groundwater monitoring data which indicates the presence of groundwater pollution.

"(3) Where feasible, in the case of existing wastewater treatment facilities, the Administrator (or the State, if applicable) shall issue permits under subsection (c) at the same time as revised permits under section 402 of the Clean Water Act.

"(4) Upon receipt of information, including, but not limited to, monitoring data and reports required by section 3004(2), indicating that there has been a significant release of hazardous waste or any constituent thereof into an underground water supply from an existing wastewater treatment facility exempted from major reconstruction under paragraph (1), or that such facility is being operated for purposes other than treating wastewater to meet requirements of the Clean Water Act, the Administrator (or the State, if applicable) may take appropriate action under this title or other authority of the Administrator (or the State), including ordering the owner or operator of such facility to show why its permit should not be modified to require compliance with the requirements of section 3004(3) or 3004(4) from which it has been exempted.

"(5) For purposes of this section, the term 'existing wastewater treatment facility' means a lagoon, surface impoundment or basin which is part of a wastewater treatment or pretreatment system operated for the sole purpose of treating wastewater to meet applicable requirements of the Clean Water Act and which was in operation or under physical construction before the date of promulgation of initial regulations under section 3004 of this title.".

Mr. SWIFT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the committee amendment be considered as read and printed in the RECORD.

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

There was no objection.

(Mr. SWIFT asked and was given permission to revise and extend his remarks.)

□ 1740

Mr. SWIFT. Mr. Chairman, this is a substitute for my amendment added in committee to revise the definition of "solid waste" contained in section 1004. My earlier amendment would have exempted the contents of wastewater treatment systems that are permitted under the Clean Water Act—(the so-called NPDES program)—from the definition of solid waste under RCRA. The intention was to eliminate the possibility of exclusively costly and duplicative regulation of these facilities under both the Clean Water Act and the Resource Conservation and Recovery Act. The Environmental Protection Agency objected to the amendment because it felt the language was too broad and went too far.

Accordingly, I initiated a discussion among effected parties. The result was the language before the House today. I wish to commend the cooperation of EPA and the affected industrial groups for their willingness to arrive at a compromise which seeks to avoid unnecessary regulation, yet which protects our environment from hazardous wastes.

Essentially this amendment provides for the exemption of existing waste water treatment systems, built to comply with the requirements of the Clean Water Act, from the requirements of the Resource Conservation and Recovery Act which would necessitate major construction if the owner/operator demonstrates that no significant release of hazardous wastes into underground water supplies will occur.

Mr. Chairman, I would like to insert into the RECORD at this point a more detailed description of the amendment. This description was agreed to by EPA, the affected industries and myself as embodying the scope and intent of the amendment:

This amendment seeks to strike an equitable balance between (1) the need to prevent contamination of underground water supplies by hazardous waste in wastewater treatment facilities and (2) the substantial investment which has been made to build or upgrade such facilities to meet Clean Water Act requirements and the additional cost and practical difficulties of retrofitting such facilities if they contain hazardous waste but do not already meet applicable RCRA requirements. The amendment adds a new paragraph to Section 3005 of RCRA which would require the Administrator (or a State with an authorized state hazardous waste program) to exempt an existing wastewater treatment facility from any requirements of Section 3004(3) or 3004(4) which are intended to prevent the migration of hazardous waste into soil or groundwater and which would require major reconstruction if the owner/operator demonstrates that no significant release of hazardous waste into underground water supplies is occurring or is likely to occur. This means that existing treatment facilities which do not release significant amounts of hazardous waste into groundwater—including facilities which do not leak at all or facilities which are not located over or near groundwater supplies—will not have to install liners, erect soil barriers, or build leachate collection systems in order to obtain a permit under RCRA.

EPA's proposed Section 3004 regulations do not indicate which requirements have been proposed to implement Section 3004 (3) or Section 3004(4) of RCRA. In promulgating final regulations under Section 3004, the Administrator should identify those requirements applicable to wastewater treatment facilities which are issued under the authority of Section 3004(3) or 3004(4) so that permit writers and permit applicants will know which Section 3004 requirements are potentially subject to the exemption authorized by this provision.

Whether a release is significant should be determined based on a statistically significant difference in the concentration of any hazardous waste or any constituent thereof measured in groundwater samples taken hydraulically downgradient from the facility as compared to samples taken hydraulically upgradient from such facility. The purpose is to determine whether the facility is releasing hazardous waste into groundwater in a manner inconsistent with the objectives of this Act.

A statistically significant difference between upgradient and downgradient groundwater samples is one which represents a real and continuous effect on groundwater from materials released from the facility. For example, a random measurement of a chemical material outside the confidence interval established for that material using background (upgradient) quality data and appropriate statistical tests would not be the type of case requiring remedial action.

For the purpose of collecting samples under this provision, downgradient wells should be located so as to provide the greatest opportunity for the interception of any plume containing pollutants released from a facility. The exact number and location of wells should be based on groundwater flow rate, climate, hydrogeologic conditions, and such other factors as the Administrator deems appropriate.

The term "underground water supply" should be defined to include (1) any aquifer supplying drinking water for human consumption (2) a sole-source aquifer, and (3) any other aquifer being used, or reasonably capable of being used, as a public or private drinking water supply, as a water supply for domestic livestock or for irrigation.

As in all permit proceedings, the applicant for this exemption would bear the burden of demonstrating to the permitting authority that it is entitled to an exemption from some of the requirements of Section 3004. However, unlike other permit proceedings under Section 3005, the Administrator's authority under Section 3004 and 3005 to require permit applicants to provide such information as is necessary for him to make a permitting decision is somewhat limited in this case. For purposes of determining whether a treatment facility is eligible for this exemption, the Administrator may not require leachate monitoring as a matter of course. He may, however, require leachate monitoring where necessary to confirm or clarify groundwater monitoring data which indicate groundwater pollution (for example, to trace the source of the pollution where there are several possible sources).

This exemption applies only to a lagoon, surface impoundment or basin (including a spill pond or holding pond) which is part of a wastewater treatment train operated for the sole purpose of treating wastewater to meet Clean Water Act requirements. These limitations are intended to prevent disposers from circumventing the requirements of Section 3004 by dumping hazardous wastes into wastewater treatment lagoons or calling any hole in the ground where semi-liquid hazardous wastes are dumped a "wastewater treatment facility." They should not be construed, however, as preventing legitimate wastewater treatment lagoons which are incidentally used for recreational purposes or for treating wastewater for reuse as process water from potentially qualifying for an exemption.

In addition, this provision applies only to facilities which were in operation or under physical construction prior to the promulgation of initial regulations under Section 3004. New facilities would be required to meet all applicable Section 3004 requirements.

The amendment also provides that at any time the Administrator (or a State with an authorized program) finds that a treatment lagoon no longer qualifies for the exemption—either because it is causing a significant release of hazardous waste into groundwater or because it is using its facility for purposes other than treating wastewater—the Administrator (or the State) may reopen the permit for that facility and/or take such other actions as he deems appropriate. The inclusion of explicit authority for the modification of permits in this section is not intended to limit the Administrator's authority to exercise other enforcement authorities

under other provisions of RCRA or other applicable statutes.

This amendment is not intended in any way to limit EPA's authority under RCRA or Section 304(c) of the Clean Water Act to require treatment lagoons to retrofit or adopt best management practices to prevent surface water pollution.

Mr. Chairman, I have here a letter from Mr. Thomas C. Jorling, then Assistant Administrator for Waste and Hazardous Materials, Environmental Protection Agency, which states in part:

I can state that we now support the alternative language which we have discussed with you and which is enclosed in this letter.

Mr. Jorling attached a copy of the language and legislative history that I have brought before the House, which is as follows:

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., July 12, 1979.

Hon. AL SWIFT,
House of Representatives,
Washington, D.C.

DEAR MR. SWIFT: I am pleased to convey to you the Environmental Protection Agency's position regarding the substitute amendment to your earlier amendment to the Resource Conservation Recovery Act (RCRA) covering "treatment train lagoons."

There is no doubt that the application of RCRA Subtitle C requirements to industrial lagoons that are components of treatment technology necessary to comply with the Clean Water Act is one of the more difficult issues of integration that the Agency has had to face in implementing the two statutes while providing maximum protection of the public health.

As you know, we opposed your earlier amendment because we felt it was overreaching in its attempt to reconcile the two issues and would have left important environmental protection elements unaddressed.

I want to commend you for your willingness to engage in discussions with the Agency, industry, and others regarding refinements to your amendment in an attempt to address not only the real areas of overlap but also the real areas of omission of important environmental objectives. I can state that we now support the alternative language which we have discussed with you and which is enclosed with this letter.

One basic objective of RCRA is to prevent the release of hazardous waste into the environment. We feel that the legislative language and the accompanying descriptive material in the form of legislative history are in full accord with this objective. The amendment also allows for the proper application of state and federal permitting resources in the area of treatment train lagoons.

I want to thank you for your assistance in reaching this position. We look forward to working with you in the future as we continue the task of implementing these important hazardous waste mandates.

Sincerely yours,

THOMAS C. JORLING,
Assistant Administrator.

Mr. Chairman, I also have here a letter signed by Mr. John E. Daniel on behalf of the forest products industry which states their agreement. I understand that other industries are also party to the agreement. The letter is as follows:

FOREST INDUSTRY RESOURCE AND ENVIRONMENTAL PROGRAM,
Washington, D.C., July 13, 1979.

Hon. AL SWIFT,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SWIFT: The forest products industry deeply appreciates your role in calling the attention of Congress to the question of duplicative coverage of existing wastewater treatment systems under the Resource Conservation and Recovery Act.

After the Committee's approval of your amendment, questions were raised about the ability of the Environmental Protection Agency to protect underground water supplies in those instances where significant quantities of hazardous wastes leak from a wastewater treatment facility. Additionally, concern was expressed that new lagoons might not be constructed to meet the requirements of the Resource Conservation and Recovery Act. We, like you, were also troubled by these questions and concerns and began discussions with you and your staff, the Committee and its staff, and EPA to resolve these doubts.

We are pleased that these enlightening and constructive discussions have resulted in agreement that the enclosed amendment to add a new subsection to Section 3005 of the Act should be substituted for your Committee amendment. Agreement was also reached that the enclosed Legislative History accurately describes the new amendment and its purpose.

As you are aware, in developing the Legislative History, we wanted to assure that the criteria for determining when a facility might threaten an underground water supply refer to the statutory objectives of the Resource Conservation and Recovery Act. The legislative history accompanying your revised amendment makes clear that an existing facility that is exempted from the reconstruction requirements must not be releasing hazardous waste into groundwater in a manner inconsistent with the Act's objectives.

Section 1003 of the Act sets forth these objectives as follows:

"The objectives of this Act are to promote the protection of health and the environment and to conserve valuable material and energy resources by—

"(4) regulating the treatment, storage, transportation, and disposal of hazardous wastes which have adverse effects on health and the environment."

The implementation of this objective is through Section 3004 of the Act. That section requires performance criteria as necessary to protect health and environment standards. EPA's proposed regulations of December 18, 1978, would establish these human health and environment standards. The groundwater standard, for instance reads:

"All facilities shall be located, designed, constructed, and operated in such a manner as to prevent:

"(a) endangerment of an underground drinking water source beyond the facility property boundary, or

"(b) endangerment of an aquifer which is designated as a sole or principal source aquifer according to Section 1424(e) of the Safe Drinking Water Act of 1974. . . ."

EPA's surface water standard would provide:

"All facilities shall be located, designed, constructed, and operated in such a manner as to prevent any surface or sub-surface discharge from the facility into navigable waters from causing a violation of Water Quality Standards promulgated or approved under Section 303 of the Clean Water Act, or a violation of the controls on the discharge of oil or hazardous substances under Section 311 of the Clean Water Act."

Finally, the air standard is proposed as follows:

"All facilities shall be located, designed, constructed, and operated in such manner as to prevent air emissions from such facilities from causing a violation of standards or regulations promulgated pursuant to Sections 110, 111 and 112 of the Clean Air Act."

As you can see, the stated objectives of RCRA are not without meaning. Indeed, EPA's proposed health and environmental standards provide impartial, objective, measurable parameters for avoiding adverse effects on health and the environment.

Because we believe that the enclosed amendment and legislative history direct EPA to provide an exemption from the requirements of Subsections 3004 (3) and (4) for existing wastewater treatment facilities which are operating in conformance with the objectives of the Resource Conservation and Recovery Act, the forest industry supports the new amendment and its legislative history. We find that it constitutes the "window" you sought through which the consequences, if any, of possible releases from wastewater treatment facilities should be taken into account.

We pledge our assistance to you and the committee to see this new language through to enactment. Again, we thank you for your thoughtful attention to this issue.

Sincerely,

JOHN E. DANIEL,
Director, Manufacturing,
Environmental Programs.

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

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

Mr. MADIGAN. I thank the gentleman for yielding.

Mr. Chairman, I support the amendment offered by the gentleman from Washington and I commend him for his efforts in developing a responsible and reasonable amendment which addresses the concerns which were raised during consideration of the bill in committee. But I want to make sure my understanding of the substitute amendment is correct.

As I understand it, this substitute amendment would require that industrial waste water treatment facilities be retrofitted or replaced according to EPA standards only in cases where ground water monitoring data reveals that there is a significant release to an underground water supply of any hazardous waste from the waste water treatment pond or basin.

I would ask the gentleman if my understanding of the substitute is correct.

Mr. SWIFT. The gentleman's understanding is exactly correct.

Mr. MADIGAN. So the Congress does not expect the owners of waste water treatment facilities to go back and rebuild them to new standards unless evidence of the kind that I have just described justifies that that would be needed; is that correct?

Mr. SWIFT. That is correct, and that was the purpose of the amendment.

Mr. MADIGAN. Mr. Chairman, I believe that the gentleman has a significant amendment. It makes a good contribution to this act, and I would urge its adoption.

Mr. SWIFT. I thank the gentleman for his support.

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

Mr. SWIFT. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I, too, want to express my support for the substitute amendment and commend the gentleman for the hard work he put in in trying to overcome some of the unintended consequences of a previous amendment which was adopted. It is my understanding that this does have the support of the affected agencies as well as the appropriate industries that are affected; is that correct?

Mr. SWIFT. That is correct.

Mr. FLORIO. Mr. Chairman, I am pleased to express my support.

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

Mr. SWIFT. I yield to the gentleman from Texas.

Mr. LOEFFLER. I thank the gentleman for yielding and I wish to congratulate the gentleman for offering this amendment.

Mr. Chairman, certainly the Congress should not now expect the owners of existing facilities to tear them up and rebuild them to standards which are developed after the fact, unless evidence justifies that there is an adverse effect on the health and environment. I believe that the amendment offered by the gentleman from Washington was developed in that spirit, and I ask him if he agrees with my interpretation of this amendment.

Mr. SWIFT. That is my interpretation of the amendment.

Mr. LOEFFLER. I thank the gentleman, and I again commend him for his efforts.

Mr. SWIFT. I thank my colleague, the gentleman from Texas.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. SWIFT) as a substitute for the committee amendment.

The amendment offered as a substitute for the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the last committee amendment.

The Clerk read as follows:

Committee amendment: Page 11, line 1, insert the following new subsection and redesignate the succeeding subsections accordingly:

(1) (1) Subtitle C of the such Act is amended by adding the following new section at the end thereof:

"MONITORING, ANALYSIS, AND TESTING

"SEC. 3013. (a) AUTHORITY OF ADMINISTRATOR.—Upon the receipt of any information indicating that hazardous waste is, or has been, stored, treated, or disposed of at any facility or site, and the presence of any hazardous waste at such facility or site, or the release of any such waste or other substance from such facility or site, may create a significant hazard to human health or the environment, the Administrator may issue an order requiring the persons who owned or operated such facility or site for any period during which hazardous waste was treated or disposed of at such site to—

"(1) conduct such monitoring, testing, analysis, and reporting as the Administrator deems necessary to ascertain the nature and extent of the potential hazard to public health and the environment associated with such facility of site; or

"(2) pay for the costs of such monitoring, testing, and analysis carried out by the Administrator, a State or local government, or by any person designated by the Administrator.

An order issued by the Administrator under this section shall become final 30 days after the date of issuance unless, before the expiration of such 30 day period, the person or persons subject to such order request a public hearing. When such a hearing is requested, the order (as issued or modified) shall become final, or shall be revoked by the Administrator, not later than 10 days after conclusion of the hearing. Any hearing under this subsection shall be commenced within 90 days of the issuance of the order and shall be conducted pursuant to 554 of title 5 of the United States Code.

(b) VIOLATIONS.—Any person who violates or fails or refuses to comply with an order issued under this section shall, in an action brought in the appropriate U.S. District Court to enforce such order, be subject to a civil penalty not to exceed $5,000 for each day in which such violation occurs or such failure to comply continues.

(2) The table of contents for such subtitle C is amended by adding the following new item at the end thereof:

"SEC. 3013. Monitoring, analysis, and testing.".

Mr. GORE (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

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

There was no objection.

AMENDMENT OFFERED BY MR. GORE AS A SUBSTITUTE FOR THE COMMITTEE AMENDMENT

Mr. GORE. Mr. Chairman, I offer an amendment as a substitute for the committee amendment, and I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

The amendment offered as a substitute for the committee amendment reads as follows:

Amendment offered by Mr. GORE as a substitute for the committee amendment: Page 11, strike out line 3 and all that follows down through line 15 on page 12 and insert in lieu thereof the following:

"MONITORING, ANALYSIS, AND TESTING

"SEC. 3013. (a) AUTHORITY OF ADMINISTRATOR.—If the Administrator determines, upon receipt of any information, that—

"(1) the presence of any hazardous waste at a facility or site at which hazardous waste is, or has been, stored, treated, or disposed of, or

"(2) the release of any such waste from such facility or site

may present a substantial hazard to human health or the environment, he may issue an order requiring the owner or operator of such facility or site to conduct such monitoring, testing, analysis, and reporting with respect to such facility or site as the Administrator deems reasonable to ascertain the nature and extent of such hazard.

"(b) PREVIOUS OWNERS AND OPERATORS.—In the case of any facility or site not in operation at the time a determination is made under subsection (a) with respect to the facility or site, if the Administrator finds that the owner of such facility or site could not reasonably be expected to have actual knowledge of the presence of hazardous waste at such facility or site and of its potential for release, he may issue an order requiring the most recent previous owner or operator of such facility or site who could reasonably be expected to have such actual knowledge to carry out the actions referred to in subsection (a).

"(c) PROPOSAL.—An order under subsection (a) or (b) shall require the person to whom such order is issued to submit to the Administrator within 30 days from the issuance of such order a proposal for carrying out the required monitoring, testing, analysis, and reporting. The Administrator may, after providing such person with an opportunity to confer with the Administrator respecting such proposal, require such person to carry out such monitoring, testing, analysis, and reporting in accordance with such proposal, and such modifications in such proposal as the Administrator deems reasonable to ascertain the nature and extent of the hazard.

"(d) MONITORING, ETC. CARRIED OUT BY ADMINISTRATOR.—(1) If the Administrator determines that no owner or operator referred to in subsection (a) or (b) is able to conduct monitoring, testing, analysis, or reporting satisfactory to the Administrator, if the Administrator deems any such action carried out by an owner or operator to be unsatisfactory, or if the Administrator cannot initially determine that there is an owner or operator referred to in (a) or (b) who is able to conduct such monitoring, testing, analysis, or reporting, he may—

"(A) conduct monitoring, testing, or analysis (or any combination thereof) which he deems reasonable to ascertain the nature and extent of the hazard associated with the site concerned, or

"(B) authorize a State or local authority or other person to carry out any such action, and require, by order, the owner or operator referred to in subsection (a) or (b) to reimburse the Administrator or other authority or person for the costs of such activity.

"(2) No order may be issued under this subsection requiring reimbursement of the costs of any action carried out by the Administrator which confirms the results of an order issued under subsection (a) or (b).

"(3) For purposes of carrying out this subsection, the Administrator or any authority or other person authorized under paragraph (1), may exercise the authorities set forth in section 3007.

"(e) ENFORCEMENT.—The Administrator may commence a civil action against any person who fails or refuses to comply with any order issued under this section. Such action shall be brought in the United States district court in which the defendant is

located, resides, or is doing business. Such court shall have jurisdiction to require compliance with such order and to assess a civil penalty of not to exceed $5,000 for each day during which such failure or refusal occurs.".

Mr. GORE. Mr. Chairman, as a member of the Oversight Investigations Subcommittee, I have been working on the hazardous waste issue for 3 years now. We have conducted 13 hearings on this problem, and it is a problem that is indeed deserving of a great deal of national attention. I want to commend the chairman of the subcommittee, the gentleman from New Jersey (Mr. FLORIO), and the ranking minority member, the gentleman from Illinois (Mr. MADIGAN), for their excellent work on this legislation. I strongly support it.

As I will get to it in a minute, this amendment is relatively noncontroversial. But I did want to say to the Members of this body that this legislation that we have before us, while it is excellent, does not address the entire problem, and we will be asked later this year to address other legislation which would address the problem of abandoned sites. This legislation, which has been described as the superfund legislation, will be coming before this body later this year, and there will be a more heated debate at the time.

Mr. Chairman, with regard to my amendment, a somewhat different version of this amendment was approved by the Commerce Committee earlier this year. I am offering a substitute to my original amendment for two reasons: First, it meets the concerns raised by several industry groups about the original amendment; and second, after a careful reworking of the original amendment I believe this substitute language is a tremendous improvement.

My amendment empowers the Administrator of the Environmental Protection Agency (EPA) or his designated authority to order or conduct testing, analysis, and monitoring of any hazardous waste that may present a substantial hazard to public health or the environment. It will give EPA or the States the opportunity to assess the potential or real dangers posed by a hazardous waste site that is suspected of being a source of pollution or otherwise threatening public health. Without my amendment EPA or local health officials simply do not have the authority to closely look at and monitor hazardous waste sites except under very special circumstances.

In 1976, with the passage of the Resource Conservation and Recovery Act (RCRA), Congress recognized that land, like water and air is an invaluable national resource. This body took a great step toward preventing the wanton abuse of this resource by passing the hazardous waste legislation. Once fully underway, this program will consist of specific standards regulating hazardous waste in a "cradle to grave" fashion. However, after the law was adopted, new information revealing the serious magnitude of the hazardous waste problem was discovered; it became clear that several vital statutory gaps existed in RCRA. My amendment will close what I believe to be a crippling shortfall of the legislation.

The major criticism levied against our hazardous waste law is its prospectiveness. RCRA does not address the issue of abandoned or inactive sites. The Oversight and Investigations Subcommittee's 13 days of hazardous waste hearings established a clear record of the enormous problems, both in numbers and degree of risk, presented by abandoned and inactive waste sites. Love Canal and Valley of the Drums are only two of a number of such sites and they are the tip of the iceberg.

My amendment contains the authority to look at these abandoned and inactive sites when there is a reasonable suspicion of a threat to health or the environment. I emphasize a reasonable suspicion of a hazard because my amendment's trigger is clearly divorced from the imminent and substantial endangerment test currently invoked under section 7003. The crucial limitations of section 7003's authority are described in the Oversight and Investigations Subcommittee report on hazardous waste:

> This authority is of limited utility for several reasons. First, it is not preventative. It requires that an actual hazard exists. Second, EPA can only exercise this authority where the owner or responsible party is identifiable and financially and otherwise able to remedy it. Third, even where these conditions obtain, the "imminent and substantial" test carries a high burden of proof in court. Fourth, any remedial efforts can only begin after successful judicial action, which can take a long time.

Although this bill, H.R. 3993, would improve and expand the Administrator's authority under section 7003, it carries a higher burden of proof than section 3013 and its broader remedies are commensurate with that burden.

The burden of proof needed to trigger an order under section 3013 must be considered in the context of the section's modest remedies—testing, monitoring and analysis. The often astronomical costs of excavation and cleanup are not factors in 3013's equation. This section is a preventative tool whose trigger is unrelated to the timeframe in which an injury may occur. An actual hazard need not exist. The Administrator can issue an order under 3013 any time he makes a determination that the presence of potential for release of a hazardous waste may present a substantial threat to public health or the environment.

The amendment is a modest one: it authorizes testing and monitoring. Cleanup actions and liability provisions are not authorized under my amendment. The moderate remedies provided for under my amendment are very reasonable and will prove to be extremely cost effective. If these testing and monitoring procedures were conducted at Love Canal the cost would have been $4 billion—instead more than $25 million has already been spent in the initial clean up stages and $3 billion in damages is being sought. The cost of complying with an order issued under my amendment is very low, indeed a piddling compared with cleanup and damages costs.

Subsection (b) is included to ensure that the responsible party(s) would be liable for complying with an order issued by the administrator. If the current owner has been deceived by a previous owner regarding the presence of potential for release of any hazardous waste then the administrator shall require the next previous owner who had actual knowledge of the hazardous waste's presence or potential for release, to comply with the order.

I am heartened by the endorsement of my amendment by the Chemical Manufacturers Association and by environmental groups. I have worked with all of these groups to fashion the modifications in the amendment which I offer today. This amendment enhances EPA's authority to protect the public and it also safeguards industry from unreasonable demands or expenses. The modifications I present today greatly improve my amendment, it ensures that the actions taken will be responsible ones. I appreciate industry's efforts to make this a better measure and I welcome their support.

The short history of this amendment is unusual. It was molded from the imputs of industry groups, environmental groups, regulatory officials and those out in the field who on a daily basis face the hazardous waste problem. These groups helped create this measure and they support this measure. I ask for my colleagues support also.

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

Mr. GORE. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, the committee has no difficulty with this amendment and feels it is very helpful. The committee will support it.

Mr. GORE. I thank the gentleman.

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

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

Mr. MADIGAN. Mr. Chairman, I want to commend the gentleman on his diligence and continuing to work on this section and to improve it to the state where he has now in the amendment that he is offering. I support it, and I think it is a good amendment. I again want to stress that I think the gentleman has gone to an extreme effort to see that this is perfected, and I want to congratulate him on his diligence.

Mr. GORE. I thank my colleague for his kind words.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. GORE) as a substitute for the committee amendment.

The amendment offered as a substitute for the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. STAGGERS

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

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: On page 3, after line 21, insert the following:

(3) Section 1006 of such Act is amended by adding the following new subsection at the end thereof:

"(c) INTEGRATION WITH THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977.—Before the later of 90 days following the promulgation of final regulations relating to mining wastes or overburden under any section of subtitle C or 90 days after the date of enactment of this paragraph, the Administrator shall review any regulations applicable to the treatment, storage, or disposal of any coal mining wastes or overburden promulgated by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 and following). If the Administrator determines that any requirement of final regulations promulgated under any section of subtitle C relating to mining wastes or overburden is not adequately addressed in such regulations promulgated by the Secretary, the Administrator shall transmit such determination, together with suggested revisions and supporting documentation, to the Secretary for his consideration."

On page 4, after line 22, insert the following new subsection and renumber succeeding subsections accordingly:

(f) Section 3005 of such Act is amended by adding the following new subsection at the end thereof:

"(f) COAL MINING WASTES AND RECLAMATION PERMITS.—Notwithstanding subsections (a) through (e) of this section, any permit and reclamation plan covering any coal mining wastes or overburden which has been issued or approved under the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 and following) shall be deemed to be a permit issued pursuant to this section with respect to the treatment, storage, or disposal of such wastes or overburden. Regulations promulgated by the Administrator under this subtitle shall not be applicable to treatment, storage, or disposal of coal mining wastes and overburden which are covered by such a permit and reclamation plan.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Chairman, to start off, I would like to say that this is a needed piece of legislation and a good piece of legislation to help keep our country clean, working, and something that we are proud of.

In that same context, I would also like to congratulate the gentleman from New Jersey, JIM FLORIO, the chairman of the subcommittee, and the gentleman from Illinois, ED MADIGAN, his counterpart on the Republican side, to say that they are dedicated, able Congressmen who are working to make America a cleaner place and a better place in which to live. I congratulate all of their subcommittee chairmen and the full committee for the work they have done on this bill. This is only part of the legislation that they turn out time after time which is good for this land of ours. I would like to congratulate the staffs, because the staff on both sides of the aisle has worked hard to try to bring about an agreement and to bring about a good bill. Without the staff, we just could not do our work, so I do want to congratulate the staff.

Mr. Chairman, this amendment simply provides that the Environmental Protection Agency will defer to the Office of Surface Mining in the Department of the Interior with respect to permits for coal mining wastes and overburden.

The EPA and the Department of the Interior have comparable regulatory authority over hazardous coal mining waste disposal. Final performance standards have already been promulgated by the Office of Surface Mining in the Interior Department under the Surface Mining Control and Reclamation Act of 1977. EPA is required to promulgate hazardous waste regulations under subtitle C of the Resource Conservation and Recovery Act. Final regulations under that statute have not yet been issued.

My amendment provides that all regulatory requirements governing coal mining waste disposal shall be integrated into a single permit to be issued by the Office of Surface Mining. The amendment would encourage further cooperation and consultation between EPA and OSM in formulating those requirements. The amendment would provide a comprehensive framework for a single regulatory scheme and eliminate the burdensome regulatory duplication that would result if coal producers were required to obtain two permits governing a single activity from two different Federal agencies.

I urge the adoption of the amendment.

□ 1750

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

Mr. STAGGERS. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

I would express my enthusiastic support for this amendment. The Secretary of the Interior and the EPA Administrator have both reviewed this amendment and feel that it is compatible with the goals sought by both agencies. Therefore, this is something we support enthusiastically.

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

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

Mr. MADIGAN. I thank the gentleman for yielding.

We have had an opportunity to review the chairman's amendment on this side of the aisle and think it is a constructive amendment and certainly intend to support it.

Mr. STAGGERS. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. STAGGERS.)

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FINDLEY

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

The Clerk read as follows:

Amendment offered by Mr. FINDLEY: Page 18, after line 6, insert:

(s) Section 7004(b) of the Solid Waste Disposal Act is amended by inserting "(1) before PUBLIC PARTICIPATION" and by inserting the following new paragraph at the end thereof:

"(2) Before the issuing of a permit to any person with any respect to any facility for the treatment, storage, or disposal of hazardous wastes under section 3004, the Administrator shall—

"(A) cause to be published in major local newspapers of general circulation and broadcast over local radio stations notice of the agency's intention to issue such permit, and

"(B) transmit in writing notice of the agency's intention to issue such permit to each unit of local government having jurisdiction over the area in which such facility is proposed to be located and to each State agency having any authority under State law with respect to the construction or operation of such facility.

If within 45 days the Administrator receives written notice of opposition to the agency's intention to issue such permit, or if the Administrator determines on his own initiative, he shall hold a public hearing on whether he should issue a permit for the proposed facility. Whenever possible the Administrator shall schedule such hearing at a location convenient to the nearest population center to such proposed facility and give notice in the aforementioned manner of the date, time, and subject matter of such hearing. No state program which provides for the issuance of permits referred to in this paragraph may be authorized by the Administrator under section 3006 unless such program provides for the notice and hearing required by this paragraph."

Redesignate the following subsections accordingly.

Mr. FINDLEY. Mr. Chairman, I rise to offer an amendment to H.R. 3994 to require public notice and hearings wherever a controversial new hazardous waste treatment facility is proposed.

My amendment comes in response to the construction of a hazardous waste treatment facility within the city limits of Wilsonville, Ill., a community of 800 people in my district. The location of this obnoxious dump in the middle of this community resulted from the lack of openness and candor from the waste dump operator, Earthline, Inc.

When the company first proposed the new site, it purposefully neglected to say exactly what would be buried there. Upon learning that PCB's dioxin, cyanide and a variety of other dangerous and lethal chemicals were being stored and buried at the site, the residents of Wilsonville filed a law suit to have the site closed. In August of 1978, Chief Judge John Russell ordered the facility closed citing the danger to both the residents of Wilsonville and the environment from the dump. In his opinion the judge pointed out that Earthline never at any time made "mention or indication that hazardous toxic waste substances that are dangerous to human beings and other living things (were) to be buried at the site."

The amendment I am offering will strengthen and reinforce this act by requiring the Administrator to provide public notice and public hearings wherever a hazardous waste facility is to be located. Through the hearing process, EPA would be required to provide an opportunity for all points of view to be expressed before making any final decision. In this way, precise questions as to what would be buried at the site could be answered. And all those opposed to the

location of a hazardous waste site could make their views heard.

My amendment requires that wide public notice of any proposal to construct a hazardous waste facility be given to local and State public officials, newspapers, local radio stations, and other interested parties in the immediate geographic area of where a facility is planned to be built.

If is my belief that people who live in the vicinity of a proposed hazardous waste disposal site have a right to know what kinds of hazardous and toxic substances may be buried in their neighborhood. My amendment will assure them of this right and help protect future safety and health.

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

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

Mr. MADIGAN. I thank the gentleman for yielding.

I would like to say to the House that we have reviewed the amendment of the gentleman from Illinois (Mr. FINDLEY), and think that it has as its purpose the very constructive notion of involving local people in the process of determining whether or not the site selection is proper.

We think it is a good addition to the bill and certainly intend to support it and urge that the House would do likewise.

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

Mr. FINDLEY. I am glad to yield to my friend, the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Illinois (Mr. FINDLEY).

This amendment will insure that the local people will have the opportunity to have their opinions heard before a permit to build a hazardous chemical waste site is issued. It will require that the hearing is in the affected community. It requires that the affected community have timely notice of any permit request.

The need for this amendment is presently being demonstrated in my district in Lewis County on the Ohio River.

An out-of-State firm is seeking to put a hazardous chemical waste site near Ribolt. This firm has been very secretive and has attempted to rush its permit through the State officials. The local people have been forced to drive 130 miles to Frankfort to meet with the State officials and seek information.

Furthermore, this site is located between two branches of the headwaters of Cabin Creek. Cabin Creek empties into the Ohio River at Springdale, just above Maysville, a distance of about 12 miles. This hazardous chemical waste site would prove a serious threat to the water supplies of Mavsville and Augusta, Ky., and Cincinnati, Ohio.

The adoption of this amendment will prevent attempts of the sort I just described to rush through permits. The people who must live with any such site will be notified of the permit application, and they will have the opportunity to be heard.

The counties affected by this proposed site are united in their opposition to the permit.

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

Mr. FINDLEY. I yield to the gentleman from New Jersey.

Mr. FLORIO. I am pleased to express my support of the amendment as well. I am convinced the key to an effective siting program with regard to hazardous waste has got to be public support, and you do not get public support unless you get public participation. So I am pleased to support the amendment.

Mr. FINDLEY. I thank the gentleman.

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

Mr. FINDLEY. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman. I would like to also express support for the gentleman's amendment and at this time attempt to make a bit of legislative history, if we might, perhaps with the chairman of the subcommittee.

The gentleman is putting his finger on a very important point here. That is local involvement in the whole process. In the question of an inventory that a State makes, for example, of all these sites, my State is in the middle of it right now and perhaps the gentleman's is, too. Do we have any assurance that local communities will surely be involved in the process and will receive technical assistance and so forth, once a hazardous waste site, let us say, from past industrial activities, is located, has been identified within the border of a town. for example? This is something that concerns me, because we are going through it right now.

The gentleman's amendment sort of encompasses the spirit of what I am talking about, but I would like to know that there is some assurance that local communities are being asked to participate as these States compile their inventory plan and that this does not come as some shock out of the sky to a local community where they have not been involved.

Could either the gentleman from Illinois or the distinguished chairman of the subcommittee respond, or can we say that this is our intent at least that the local community be given the maximum participation?

Mr. FINDLEY. If the gentleman would permit me, let me just say a word about what the amendment actually does.

It requires public notice and public hearings whenever a controversial new hazardous waste facility treatment is proposed. It is not retroactive, but it would apply to any new proposal of this sort.

It does require that the Administrator transmit in writing a notice of the agency's intention to each unit of local government having jurisdiction over the area in which such facility is proposed to be located. This would involve local units of government.

It would require the publication, not only in printed media, but over the electronic media of the public hearing, at which time anyone having an interest could be heard. So I think it is an adequate safeguard for new proposals, and it came into being out of an alarming experience that occurred in my district.

Wilsonville, Ill., a community of about 600 people, had located within the city limits a dump operated by Earthline Corp., and the corporation purposely withheld information from the community about what was proposed to be buried.

The courts finally ordered the closing of this dump, and I think wisely so. But out of this experience and experiences that I had heard about elsewhere in the country, I came to the belief that this hearing process should be written into the law.

I am glad to hear the bipartisan expressions of support for the amendment.

Mr. MOFFETT. If the gentleman will continued to yield, if only I could have the chairman indicate whether on the State plan for inventory of existing sites there is, at least in the spirit of what we are doing here, a requirement for the State to——

The CHAIRMAN. The time of the gentleman from Illinois (Mr. FINDLEY) has expired.

(At the request of Mr. MOFFETT and by unanimous consent, Mr. FINDLEY was allowed to proceed for 1 additional minute.)

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

Mr. FINDLEY. I yield to the gentleman from Connecticut.

Mr. MOFFETT. If in fact we are interested to the extent practicable to have the towns and the localities involved as that inventory is compiled.

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

Mr. FINDLEY. I yield to the gentleman from New Jersey.

Mr. FLORIO. The gentleman is asking a question somewhat different from the amendment.

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

Mr. FINDLEY. I yield to the gentleman from Connecticut.

Mr. MOFFETT. I understand that.

Mr. FLORIO. But the general answer is that yes there is public participation that is provided for in the overall adoption of the State plan. The section that the gentleman is concerned about that is in this bill, the inventory of abandoned sites, is a component of the State plan or will be as a result of the passage of this law. So there is an opportunity for full participation by the citizens in the adoption of the overall plan, a component of which is the inventory provision.

Mr. MOFFETT. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. FINDLEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BEVILL

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

The Clerk read as follows:

Amendment offered by Mr. BEVILL. Page 4, line 10, strike out "paragraph" and insert in lieu thereof "paragraphs".

Page 4, line 17, strike out the close quotation marks and the period following.