

with Senator Muskie's introduction of S. 649, a bill to amend the Federal Water Pollution Control Act, 33 U.S.C. §§ 466-466k (1964), in the first session of the 88th Congress. Prior to the adoption of the 1965 amendments the FWPC Act authorized Federal court action for the abatement of pollution of interstate waters only under limited circumstances, on an ad hoc basis, and after extensive and time-consuming procedural steps designed to provide every opportunity for voluntary compliance and State enforcement action.

At that time the Secretary could initiate enforcement action upon the request of State officials—or on his own authority in the case of interstate pollution—when he possessed information indicating that any pollution of interstate or navigable water endangered health or welfare. Detailed conference and hearing board procedures were required as initial steps in the enforcement process. If the conference or hearing board machinery proved inadequate to resolve the problem, the Secretary was authorized to bring suit on behalf of the United States to abate such pollution, except that where the cause and effect were both within a single State, a written approval from the governor was a prerequisite to court action. The court was given jurisdiction to enter such judgment and enforcement orders as the public interest and the equities of the case might require, in the light of the practicability and physical and economic feasibility of securing abatement of the pollution.

Dissatisfied with this cumbersome, after-the-fact enforcement procedure, Senator Muskie and other proponents of strong Federal water pollution legislation began in 1963 to urge the enactment of a bill that would authorize the adoption of Federal water quality standards. The bill's stated purpose was "to establish a positive national water pollution policy of keeping waters *as clean as possible* as opposed to the negative policy of attempting to use the full capacity of such waters for waste assimilation." (Emphasis added.) To implement this purpose, the original bill provided for the promulgation of Federal water quality standards applicable to the quality of the receiving water and to the quality of the effluent as well.¹

Senate hearings on S. 649 were held in June 1963. *Hearings on S. 649, S. 737, S. 1118 and S. 1183. Before a Special Subcommittee on Air and Water Pollution of the Senate Comm. on Public Works*, 89th Cong., 1st Sess. (1963). Following these hearings and prior to reporting the Muskie bill, the Senate Committee made significant revisions. In particular, the stated purpose of the bill was amended to read:

"(a) The purpose of this act is to enhance the quality and value of our water resources and to establish a national policy for the prevention, control, and abatement of water pollution."

The vague phrase, "as clean as possible" was eliminated by the Committee and, significantly, it failed to reappear in any later drafts of the water quality legislation.

Of at least equal significance, the water quality standards provision was revised to eliminate authority for the adoption of effluent controls and to provide for Federal standards only in the event that the States failed to develop standards found to be consistent with the Act. On October 16, 1963, the Senate accepted the bill in its amended version, with its new emphasis on the initial responsibility of the States to adopt standards applicable solely to the quality of the receiving interstate waters.

House hearings were held in December 1963 and February 1964, spanning a total of twelve days. Testimony before the House Committee dealt primarily with the extent of Federal encroachment in the standard-setting procedure and the proposed reorganization of the Federal administrative machinery for water pollution control. *Hearings on S. 649, H.R. 3166, H.R. 4571, and H.R. 6844 Before the House Comm. on Public Works*, 88th Cong., 1st and 2d Sess. (1963-64).

¹ Section 4 provided:

"In order to aid in preventing, controlling and abating pollution of interstate or navigable waters in or adjacent to any State or States which will or is likely to endanger the health or welfare of any persons, and to protect industries dependent on clean water such as the commercial shellfish and fishing industries, the Secretary shall, after reasonable notice and public hearing and in consultation with the Secretary of the Interior and with other affected Federal, State and local interests, issue regulations setting forth (a) standards of quality to be applicable to such interstate or navigable waters, and (b) the type, volume or strength of matter permitted to be discharged directly into interstate or navigable waters or reaching such waters after discharge into a tributary of such waters. Such standards of quality and of matter discharged shall be based on present and future uses of interstate or navigable waters for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial and other legitimate uses."