

## CHAPTER 6

**AN ACT** changing the name of the Interstate Sanitation Commission to the Interstate Environmental Commission and the Interstate Sanitation District to the Interstate Environmental District and amending, supplementing and repealing parts of the statutory law.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. R.S.32:18-3 is amended to read as follows:

Interstate environmental district created; boundaries.

### ARTICLE II.

1. To that end they do agree that there shall be created and they do hereby create a district to be known as the Interstate Environmental District (hereinafter referred to as the district) which shall embrace the territory described as follows:

All the coastal, estuarial and tidal waters within or covering portions of the signatory states as follows:

- a. In Connecticut, Long Island sound and estuaries and tidal waters thereof between the easterly side of New Haven harbor at Morgan Point and the Connecticut-New York state boundary, and the Housatonic river up to the northerly boundary lines of the towns of Stratford and Milford.

- b. In New York, all of the tidal waters of greater New York city; including Kill van Kull and Arthur Kill, Long Island sound and the estuaries and tidal waters thereof between the New York city line and the New York-Connecticut state boundary and between the New York city line and the easterly side of Port Jefferson harbor; the Atlantic ocean and the estuaries and tidal waters thereof between the New York city line and the easterly side of Fire Island inlet; and the Hudson river and estuaries and tidal waters thereof between the New York and New Jersey state boundary and the northerly line of Rockland county on the westerly side and between the northerly line of New York city and the northerly line of Westchester county on the easterly side of the river.

- c. In New Jersey, the Hudson river and New York upper bay and estuaries and tidal waters thereof between the New York-New Jersey boundary and Constable Point on Constable Hook; the Kill van Kull and Arthur Kill to the mouths of the rivers entering into the Kills; Newark bay and the estuaries thereof up to the mouth of the Passaic river; and up to the mouth of the Hackensack river; Raritan bay together with the Raritan river up to the Victory bridge on said river between Perth Amboy and South Amboy; together with the Cheesequake creek up to the New York and Long Branch Railroad bridge on said creek at Morgan; together with the Matawan creek up to the New York and Long Branch Railroad bridge on said creek at Matawan; Sandy Hook bay; together with the Shrewsbury river up to the passenger railroad bridge between Navesink Light and Highland Beach on said river.

2. R.S.32:18-4 is amended to read as follows:

Interstate Environmental Commission created.

### ARTICLE III.

1. There is hereby created the Interstate Environmental Commission (hereinafter referred to as the commission) which shall be a body corporate and politic, having the powers, duties and jurisdiction herein enumerated and such other and additional powers as shall be conferred upon it by the act or acts of a signatory state concurred in by the others and by the act or acts of congress when necessary.

3. R.S.32:18-14 is amended to read as follows:

Definitions.

ARTICLE XIII.

1. Terms used in this compact are defined as follows:

"District" means the area more particularly described in article II of this compact.

"Commission" means the Interstate Environmental Commission.

"Municipality" means any city, incorporated village, borough, county, town, township, district, or any municipality governed by an improvement commission, any joint sewer commission, or any other subdivision of any one of the signatory states, located within the district.

"Rule or regulation" means any rule or regulation established by the commission not inconsistent with the constitution of the United States or of any signatory state, promulgated by the commission touching the abatement of pollution of the waters of the district.

"Tidal waters" means all those waters which ebb and flow within the designated district.

"Dissolved oxygen" is the gaseous oxygen held in solution by the water at any given time. It is expressed as a percentage of the maximum amount of oxygen that would be required to saturate the water under the existing conditions of temperature and salinity.

"Pollution" is any foreign matter which renders waters unfit to sustain fish life and unsatisfactory for bathing.

"Sewage effluent" means the treated sewage discharged from a treatment plant.

"Suspended solids" means those solid particles carried in suspension in the untreated sewage or sewage effluent.

"Entity" means any organization or association owning, controlling or operating a sewerage system or treatment plant within a municipality.

4. R.S.32:19-1 is amended to read as follows:

Appointment of commissioners to Interstate Environmental Commission.

32:19-1. The Governor shall, by and with the advice and consent of the Senate, appoint three commissioners to the Interstate Environmental Commission created by the agreement or compact between the states of New York and New Jersey and Connecticut, each of whom shall be a resident voter of the State of New Jersey. The Commissioner of Environmental Protection and the Commissioner of Health and Senior Services shall serve as commissioners ex officio, and may designate a representative of their respective departments to represent them at all meetings, hearings and proceedings of the Interstate Environmental Commission with full power to vote and act on their respective behalf. In the event that either the Commissioner of Environmental Protection or the Commissioner of Health and Senior Services shall not qualify in accordance with the provisions of the compact, said commissioner shall designate a representative of his respective department to serve as an Interstate Environmental Commissioner until such time as the commissioner ex officio shall qualify.

Each appointive commissioner shall hold office, for a term of five years or until his successor has been appointed and qualified. At the expiration of the term of each appointive commissioner, the Governor shall, by and with the advice and consent of the Senate, appoint a successor who shall hold office for a term of five years or until his successor has been appointed and qualified. In the event of a vacancy occurring in the office of an appointive commissioner by death, resignation or otherwise, the Governor shall, by and with the advice and consent of the Senate,

appoint his successor, who shall hold office for the unexpired term. Any commissioner may be removed upon charges and after hearing by the Governor. The commissioners shall have the powers and duties and be subject to the limitations provided for in the compact and agreement entered into between the signatory states and laws adopted by said states, and together with five commissioners from the states of New York and Connecticut shall form the Interstate Environmental Commission. The commissioners shall serve without compensation, but shall be paid their actual expenses incurred and incident to the performance of their duties.

5. R.S.32:19-3 is amended to read as follows:

Powers of commission.

32:19-3. The commission shall have power to make rules, regulations and orders with regard to the pollution of all the coastal, estuarial and tidal waters within or covering portions of the signatory states as follows:

a. In Connecticut, Long Island sound and estuaries and tidal waters thereof between the easterly side of New Haven harbor at Morgan Point and the Connecticut-New York state boundary, and the Housatonic river up to the northerly boundary lines of the towns of Stratford and Milford.

b. In New York, all of the tidal waters of greater New York city, including the Kill van Kull and the Arthur Kill, Long Island sound and the estuaries and tidal waters thereof between the New York city line and the New York-Connecticut state boundary and between the New York city line and the easterly side of Port Jefferson harbor; the Atlantic ocean and the estuaries and tidal waters thereof between the New York city line and the easterly side of Fire Island inlet; and the Hudson river and estuaries and tidal waters thereof between the New York and New Jersey state boundary and the northerly line of Rockland county, on the westerly side, and between the northerly line of New York city and the northerly line of Westchester county on the easterly side of the river.

c. New Jersey, the Hudson river and New York upper bay and estuaries and tidal waters thereof between the New York-New Jersey boundary and Constable Point on Constable Hook; the Kill van Kull and Arthur Kill to the mouths of the rivers entering into the Kills; Newark bay and the estuaries thereof up to the mouth of the Passaic river; and up to the mouth of the Hackensack river; Raritan bay together with the Raritan river up to the Victory bridge on said river between Perth Amboy and South Amboy; together with the Cheesequake creek up to the New York and Long Branch Railroad bridge on said creek at Morgan; together with the Matawan creek up to the New York and Long Branch Railroad bridge on said creek at Matawan; Sandy Hook bay; together with the Shrewsbury river up to the passenger railroad bridge, between Navesink Light and Highland Beach on said river; and shall have power to investigate and determine if the requirements of the compact and/or the orders of the commission are complied with and to bring action in its own name in the proper court or courts to compel the enforcement of any and all provisions of the compact and the orders of the commission pursuant thereto or pursuant to laws; and to conduct investigations, inquiries or hearings at such place or places, and at such times as it shall appoint. Such investigations, inquiries or hearings may be held by or before one or more of the commissioners, or by or before any person or persons appointed as its representative and when ratified, approved or confirmed by the Interstate Environmental Commission, his or their action shall be and be deemed to be the investigation, inquiry or hearing of the Interstate Environmental Commission. All state and municipal departments, commissions, boards and bodies having to do with the waters of the state shall co-operate with the commission and shall furnish to the commission such information as the commission shall request, touching the pollution or the elimination thereof, of the waters of the district.

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6. R.S.32:19-4 is amended to read as follows:

Initiation of action, proceeding due to violations, threatened violations.

32:19-4. Whenever the Interstate Environmental Commission shall be of the opinion that any person, association or corporation, municipal or otherwise, within the district is failing or omitting, or about to fail or omit to do anything required of it by its order or by the laws governing the control or elimination of pollution of the waters of the district, or is doing or is about to do anything or permitting or about to permit anything to be done contrary to or in violation of such orders or such laws or the provisions of the compact, it may direct its legal representative to commence an action or a proceeding in lieu of prerogative writ in the name of the Interstate Environmental Commission in the Superior Court for the purpose of preventing the continuance of such violations or threatened violations either by injunctive or other relief. The court shall have jurisdiction to hear and determine such action or proceeding upon the merits and grant such relief as may be appropriate.

7. R.S.32:19-5 is amended to read as follows:

Interstate Environmental Commission, powers regarded as in aid of, supplemental.

32:19-5. Any powers herein granted to the Interstate Environmental Commission shall be regarded as in aid of and supplemental to and in no case a limitation upon any of the powers vested in said commission by the states of New York and New Jersey and/or by congress or the terms of the compact.

8. R.S.32:19-10 is amended to read as follows:

Examination of accounts, books; reports on results.

32:19-10. The Director of the Division of Budget and Accounting in the New Jersey Department of the Treasury and the comptroller of each of the other signatory states are hereby authorized and empowered from time to time to examine the accounts and books of the Interstate Environmental Commission, including its receipts, disbursements and such other items referring to its financial standing as the director or comptroller may deem proper, and to report the results of such examination to the governor of the appropriate state.

9. Section 1 of P.L.1961, c.105 (C.32:19A-1) is amended to read as follows:

C.32:19A-1 Additional authority of commission.

1. In addition to the powers, duties and functions now provided by law, the Interstate Environmental Commission shall have authority to engage in activities with respect to interstate air pollution problems between the states of New York and New Jersey as follows:

- a. To conduct studies;
- b. To undertake research, testing and development;
- c. To gather, exchange and disseminate information with and among public or private bodies, persons or organizations and to co-operate with any of them in solving air pollution problems;
- d. To take samplings and to trace sources of air pollutants;
- e. To refer complaints to an appropriate enforcement agency or agencies of the states in which the sources are located and to which air pollutants are carried, along with such data and information as it may have obtained with respect to the nature, characteristics, source, path and effect of air pollutants; and
- f. Make recommendations and reports to the Governors and Legislatures of the

participating states.

10. Section 2 of P.L.1961, c.105 (C.32:19A-2) is amended to read as follows:

C.32:19A-2 Primary effort of commission.

2. The primary effort of the Interstate Environmental Commission under this act shall be directed to air contaminant solids, liquids or gases which are toxic, disagreeable or irritant, or which are destructive.

11. Section 3 of P.L.1961, c.105 (C.32:19A-3) is amended to read as follows:

C.32:19A-3 Use of services, facilities, information.

3. In carrying out its functions under this act, the Interstate Environmental Commission shall make use of the services, facilities and information of existing state, local and federal agencies wherever feasible and available.

12. Section 4 of P.L.1961, c.105 (C.32:19A-4) is amended to read as follows:

C.32:19A-4 Empowerment to accept moneys, property, donations, gifts.

4. In furtherance of the purposes of this act, the Interstate Environmental Commission is empowered to accept moneys, property and other donations or gifts from any person whatever, whether public, private or governmental, real or artificial.

13. Section 5 of P.L.1961, c.105 (C.32:19A-5) is amended to read as follows:

C.32:19A-5 Trade secret, secret process exempt from inquiry; confidentiality of information; exemptions.

5. No trade secret or secret process shall be inquired into by the Interstate Environmental Commission under this act, whether with respect to one or more of the substances or one or more of the processes, operations, techniques or devices used in connection therewith, and whenever a trade secret or secret process is involved, the activity under this act shall be limited to the identification of the device or facility from which the effluent discharged into the outer air derives, and the nature, rate and period of emission of such effluent.

All information obtained from any sampling, tracing or other specific inquiry performed under this act shall be kept and maintained as a confidential disclosure and, except as may be essential for the purpose of referring a complaint to an appropriate enforcement agency and of any enforcement proceeding by or before any such agency, shall not be disclosed or published in any way other than such as will not identify a given substance, process, operation, technique or device with the physical location or identity of the source plant or facility, or with the product made or service performed, or with the person or persons using the same.

A printed copy of the provisions of this section shall be furnished on request to any person furnishing information to the Interstate Environmental Commission and, in case of an inquiry at a plant or facility, to the person then in charge of the same.

14. Section 6 of P.L.1961, c.105 (C.32:19A-6) is amended to read as follows:

C.32:19A-6 Meeting of costs, expenses.

6. So long as the activities conducted pursuant to this act are limited to the states of New York and New Jersey, all of the costs and expenses of the same, direct and indirect, shall be met, within the limits of available appropriations therefor, by said two states in equal shares and all

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actions of the Interstate Environmental Commission with respect to such activities shall be governed solely by the commissioners from the states of New York and New Jersey, with like effect as though the state of Connecticut were not a participant of said commission, and for this purpose the commission shall establish administratively a separate Division on Interstate Air Pollution, and maintain separate financial accounts to reflect its direct and allocated costs and expenses; provided, however, that the full commission, including the members representing the state of Connecticut, shall rule on all matters touching the accounting systems to be used and the charging and allocation of costs and expenses.

15. Section 36 of P.L.1946, c.138 (C.40:14A-36) is amended to read as follows:

C.40:14A-36 Jurisdiction, rights of State agencies unaffected.

36. Nothing herein contained shall in any way affect or limit the jurisdiction or rights of the State Department of Health and Senior Services, Interstate Environmental Commission, Delaware River Basin Commission or Passaic Valley Sewerage Commissioners; or impair the obligations assumed by any municipality included in any district created under this act in any contract made prior to the creation of such district, with one or more other municipalities or with the Passaic Valley Sewerage Commissioners.

16. Section 68 of P.L.1957, c.183 (C.40:14B-68) is amended to read as follows:

C.40:14B-68 Construction of act.

68. This act shall be construed liberally to effectuate the legislative intent and as complete and independent authority for the performance of each and every act and thing herein authorized, and a municipal authority shall not be subject to regulation as to its service charges by any other officer, board, agency, commission or other office of the State, or constitute a municipality or agency or component of a municipality subject to, any provisions of Title 40 of the Revised Statutes and of Title 40A of the New Jersey Statutes, except P.L.1971, c.198, the "Local Public Contracts Law" (C.40A:11-1 et seq.); provided, however, that nothing contained in this act shall in any way affect or limit the jurisdiction, powers or rights of the State Department of Health and Senior Services, Interstate Environmental Commission, Delaware River Basin Commission, Water Policy and Supply Council of the Department of Environmental Protection, North Jersey District Water Supply Commission, Passaic Valley Sewerage Commissioners, or Passaic Valley Water Commission, or impair the obligations assumed by any municipality included in any district in any contract made prior to the creation of such district with any sewerage authority or any county sewer authority or with one or more other municipalities or with the Passaic Valley Sewerage Commissioners or with the North Jersey District Water Supply Commission.

17. Section 73 of P.L.1954, c.84 (C.43:15A-73) is amended to read as follows:

C.43:15A-73 Employees of certain authorities and commissions; State university; compensation rating and inspection bureau.

73. a. The Public Employees' Retirement System is hereby authorized and directed to enroll eligible employees of the New Jersey Turnpike Authority, the New Jersey Highway Authority, Palisades Interstate Park Commission, Interstate Environmental Commission, the Delaware River Basin Commission and the Delaware River Joint Toll Bridge Commission.

In the case of the Delaware River Joint Toll Bridge Commission, the eligible employees shall be only those who are employed on the free bridges across the Delaware river, under the control of said commission, or who are members of the retirement system at the time they begin employment with the commission.

The said employees shall be subject to the same membership, contribution and benefit provisions of the retirement system as State employees.

b. The State University of New Jersey, as an instrumentality of the State, shall, for all purposes of this act, be deemed an employer and its eligible employees, both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees and for all purposes of this act employment by the State University of New Jersey after April 16, 1945, and for the purposes of chapter 3 of Title 43 of the Revised Statutes any new employment after January 1, 1955, shall be deemed to be and shall be construed as service to and employment by the State of New Jersey.

c. The Compensation Rating and Inspection Bureau, created and established pursuant to the provisions of R.S.34:15-89, shall, for all purposes of this act, be deemed an employer and its eligible employees, both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as both are applicable to State employees.

The retirement system shall certify to the Commissioner of Banking and Insurance and the Commissioner of Banking and Insurance shall direct the Compensation Rating and Inspection Bureau to provide the necessary payments to the retirement system in accordance with procedures established by the retirement system. Such payments shall include (1) the contributions and charges, similar to those paid by other public agency employers, to be paid by the Compensation Rating and Inspection Bureau to the retirement system on behalf of its employee members, and (2) the contributions to be paid by the Compensation Rating and Inspection Bureau to provide the past service credits up to June 30, 1965 for these members, both veterans and nonveterans, who enroll before July 1, 1966.

d. The New Jersey Sports and Exposition Authority, created and established pursuant to the "New Jersey Sports and Exposition Authority Law," P.L.1971, c.137 (C.5:10-1 et seq.) shall for all purposes of this act, be deemed an employer and its eligible employees both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees.

(1) Eligible employees as used herein shall not include persons who are not classified as salaried, or who are compensated on an hourly or per diem basis, or whose employment is normally covered by other retirement systems to which the authority makes contributions.

(2) Eligible employees previously permitted to enroll in the retirement system shall redeposit the contributions previously made by them and all service credit shall then be restored and future contributions made at the date of contribution as originally assigned. The authority shall redeposit the employer payments it had made, with interest to the date of redeposit.

e. The New Jersey Transit Corporation created and established pursuant to the "New Jersey Public Transportation Act of 1979," P.L.1979, c.150 (C.27:25-1 et seq.) shall for all purposes of this act, be deemed an employer and its eligible employees both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees. Eligible employees as used herein means only those individuals who are members of the Public Employees' Retirement System or any other State-administered retirement system immediately prior to their initial employment by the corporation.

f. (1) The Casino Reinvestment Development Authority, created and established pursuant to P.L.1984, c.218 (C.5:12-153 et seq.), the New Jersey Urban Development Corporation, created and established pursuant to P.L.1985, c.227 (C.55:19-1 et seq.), the South Jersey Food Distribution Authority, created and established pursuant to P.L.1985, c.383 (C.4:26-1 et seq.), the New Jersey Development Authority for Small Businesses, Minorities and Women's

Enterprises, created and established pursuant to P.L.1985, c.386 (C.34:1B-47 et seq.), and the Catastrophic Illness in Children Relief Fund Commission, created and established pursuant to P.L.1987, c.370 (C.26:2-148 et seq.) shall each, for all purposes of this act, be deemed an employer and eligible authority, corporation, or commission. Employees, both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees.

(2) The current or former employees of the authorities, the corporation, and the commission may purchase credit for all service with the authority, corporation, or commission rendered prior to the effective date of this amendatory and supplementary act, P.L.1990, c.25 (C.43:15A-73.2 et al.), if that service would otherwise be eligible for credit in the retirement system. This purchase shall be made in the same manner and shall be subject to the same terms and conditions provided for the purchase of previous membership service by section 8 of P.L.1954, c.84 (C.43:15A-8). The authority, corporation, or commission shall pay the unfunded liability as determined by the actuary for prior service purchased by its employees in accordance with a schedule approved by the actuary. This obligation of the authority, corporation, or commission shall be known as the accrued liability for prior service credit.

(3) For any employee of the authorities or of the corporation or commission who is in service with the authority, corporation, or commission on the effective date of this amendatory and supplementary act, P.L.1990, c.25 (C.43:15A-73.2 et al.), the age of enrollment for the purposes of the member contribution rate under section 25 of P.L.1954, c.84 (C.43:15A-25) shall be the age of the employee on the date the continuous service with the authority began. Any employee who was a member of the retirement system on the date continuous service with the authority, corporation, or commission began but whose membership expired before the effective date of participation by the authority, corporation, or commission in the retirement system, and who has not withdrawn the employee contributions from the system, shall participate in the retirement system under the former membership and shall contribute to the system at the rate applicable to the former membership.

g. A subsidiary corporation or other corporation established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), shall, for all purposes of this act, be deemed an employer and its eligible employees, both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees. Employees of the subsidiary or other corporation eligible for participation in the retirement system under this subsection shall include only persons who are employees of the South Jersey Port Corporation on the effective date of P.L.1997, c.150 (C.34:1B-144 et al.) and are re-employed by the subsidiary or other corporation within 365 days of the effective date.

18. Section 3 of P.L.1964, c.125 (C.52:14-17.34) is amended to read as follows:

C.52:14-17.34 Extension of New Jersey State Health Benefits Program.

3. In order that the New Jersey State Health Benefits Program Act may be extended to include other public and school employees, participation by counties, municipalities, school districts, public agencies or organizations as defined in section 71 of P.L.1954, c.84 (C.43:15A-71), including the New Jersey Turnpike Authority, the New Jersey Highway Authority, the Interstate Environmental Commission, the Delaware River Basin Commission, New Jersey Housing and Mortgage Finance Agency, New Jersey Educational Facilities Authority, Hackensack Meadowlands Development Commission and the Compensation Rating and Inspection Bureau, hereinafter defined as employers, is hereby authorized.



19. Section 4 of P.L.1964, c.25 (C.52:14-17.35) is amended to read as follows:

C.52:14-17.35 Definitions.

4. As used in this act and in the act to which this act is a supplement:

(a) The term "employer" means a county, municipality, school district, public agency or organization as defined in section 71 of P.L.1954, c.84 (C.43:15A-71), including the New Jersey Turnpike Authority, the New Jersey Highway Authority, the Interstate Environmental Commission, the Delaware River Basin Commission, New Jersey Housing and Mortgage Finance Agency, New Jersey Educational Facilities Authority, Hackensack Meadowlands Development Commission and the Compensation Rating and Inspection Bureau. The term "employer" shall include a subsidiary corporation or other corporation established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), except that only persons who are employees of the South Jersey Port Corporation on the effective date of P.L.1997, c.150 (C.34:1B-144 et al.) and are re-employed by the subsidiary or other corporation within 365 days of the effective date are eligible to participate in the program.

(b) The term "State Treasury" means the State agency responsible for the administration of the New Jersey State Health Benefits Program Act which is to be located in the Division of Pensions and Benefits in the Department of the Treasury.

C.32:18-14.1 References to Sanitation Commission deemed to refer to Environmental Commission.

20. On and after the effective date of this act, reference in any law, contract or document to the "Interstate Sanitation District" or the "Interstate Sanitation Commission" shall be deemed to mean and refer to the "Interstate Environmental District" or the "Interstate Environmental Commission," as the case may be.

21. Section 7 of P.L.1961, c.105 (C.32:19A-7) is repealed.

Repealer.

22. P.L.1967, c.107 (C.32:29-1 et seq.) is repealed.

23. This act shall take effect when the states of New York and Connecticut have enacted legislation changing the name of the Interstate Sanitation Commission to the Interstate Environmental Commission and the name of the Interstate Sanitation District to the Interstate Environmental District, and when the Congress of the United States has given its consent to these changes.

Approved March 23, 2000.