



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203

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July 31, 1978

Honorable Edward M. Kennedy
United States Senator
JFK Federal Bldg., Room 2400-A
Boston, MA 02203

Dear Senator Kennedy:

Thank you for your inquiry of June 19, 1978 on behalf of Mayor Markey of New Bedford which addressed the issues of industrial charges and secondary treatment requirements for municipal sewage treatment plants. New Bedford has significant industrial flows in its municipal waste and these are not effectively treated by the existing primary facility.

As adopted in 1972, the Federal Water Pollution Control Amendments required that industries contributing wastes to a municipally-owned treatment works pay their proportionate share of annual operation and maintenance and also repay, as industrial cost recovery (ICR), that portion of the federal grant monies attributable to the capital cost of providing industrial waste services. ICR was originally designed to be the equivalent of a 30-year, interest free loan. These cost-sharing features were enacted along with pretreatment requirements, to accomplish a number of objectives: (1) splitting municipal treatment costs equitably between industry and the public; (2) providing an incentive to industry for process and recycling efforts which would reduce the strength and volume of their wastes; (3) preventing interference with municipal treatment caused by incompatible wastes; and (4) preventing the discharge into the environment of toxic wastes which would not be removed by the municipal facility. It should also be noted that industries located beyond the reach of municipal sewers have had to make capital investments, without EPA grant funds, to provide best practicable treatment for their wastes by July 1st of last year.

Mayor Markey has made several comments relative to the Industrial Cost Recovery Program which is embodied in the Clean Water Act. As you may know, this issue received considerable attention in

the recent amendments to the Act and several changes were made to this requirement. Section 75 of the new statute directs the Agency to cease enforcement of the collection of Cost Recovery funds until July 1, 1979. In the interim, EPA has been directed to conduct a study on the efficiency of and need for payment of cost recovery by industries, with particular emphasis on the impact of such payments upon rural communities and on industries in economically distressed areas or areas of high unemployment. The study is currently underway and is due to be submitted to Congress at the end of this year. If Congress takes no further action to modify the ICR requirements by July 1, 1979, payments by industry will then resume.

Additionally, Section 24 of the Act authorizes the Administrator to exempt from ICR and industrial user which discharges less than 25,000 gallons per day of equivalent sanitary waste, provided that the discharge contains no substance which would interfere with the operation of the treatment works. The exemption has been made a part of our regulations and is currently in effect. Future legislative action could, of course, modify the exemption.

We understand that the City's consultant has provided the City with a synopsis of the ICR changes and a general discussion of the impacts on users in New Bedford. As is readily discernible from the requirements of the Act, this ICR issue will not be finalized for some time and will continue to be controversial.

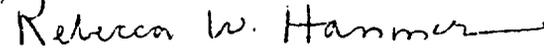
Mayor Markey also made reference to his intention to seek a waiver of the requirement that municipalities provide secondary treatment for their wastes. As you may know, the 1977 amendments did allow a case-by-case modification of the secondary treatment requirement. However, it should be noted that the modification would be for five years, would require strict controls for the discharge of toxic pollutants, and would be limited to outfall locations in deep water or in areas of strong tidal circulation. Extensive monitoring would also be required in the receiving water to evaluate the potential biological effects. The application for and decision on a waiver for the City of New Bedford would have to be based on requirements which EPA is now in the process of developing in final regulations.

You should be aware, also, that the City is in the preliminary planning stages of upgrading its existing wastewater treatment facility. This study is in accordance with a three-party agreement signed by the City, State and EPA on December 1, 1976, which states that the City would proceed toward secondary treatment. One portion of this study will evaluate why the facility does not

operate properly now and whether the industrial discharges are contributing to its problems. This facilities planning period is the appropriate time to resolve the questions about user costs, environmental benefits and impacts, industrial tie-ins, cost effectiveness of alternatives and the potential for using new technologies.

We appreciate your concern on this matter and hope that some of the discussion above can provide you with some background on the issues raised.

Sincerely yours,

 Rebecca W. Hammer

 William R. Adams, Jr.
Regional Administrator