

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3948

To amend the Federal Water Pollution Control Act.

---

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 1994

Mr. MINETA (for himself and Mr. BOEHLERT) introduced the following bill;  
which was referred to the Committee on Public Works and Transportation

---

## A BILL

To amend the Federal Water Pollution Control Act.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Water Quality Act of 1994”.

6 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. Definition.
- Sec. 3. Amendment of Federal Water Pollution Control Act.

### TITLE I—RESEARCH AND RELATED PROGRAMS

- Sec. 101. National goals and policies.

## TITLE II—CONSTRUCTION GRANTS

- Sec. 201. Uses of funds.
- Sec. 202. Recovery of operation and maintenance costs.
- Sec. 203. Sewage collection systems.
- Sec. 204. Treatment works defined.
- Sec. 205. Value engineering review.
- Sec. 206. Grants for construction of treatment works.

## TITLE III—STANDARDS AND ENFORCEMENT

- Sec. 301. Innovative technology.
- Sec. 302. Antidegradation.
- Sec. 303. Mixing zones.
- Sec. 304. Guidance on water quality standards for arid areas.
- Sec. 305. Effluent limitations.
- Sec. 306. Water quality reports.
- Sec. 307. Citizen water quality monitoring program.
- Sec. 308. Toxic pollutants.
- Sec. 309. Federal enforcement.
- Sec. 310. Federal facilities.
- Sec. 311. Nonpoint source management programs.
- Sec. 312. National estuary program.
- Sec. 313. Pollution prevention.
- Sec. 314. State watershed management programs.

## TITLE IV—PERMITS AND LICENSES

- Sec. 401. State permit programs.
- Sec. 402. Stormwater discharge permits.
- Sec. 403. Combined sewer overflows.
- Sec. 404. Discharges into ground water.
- Sec. 405. Beneficial use of biosolids.

## TITLE V—GENERAL PROVISIONS

- Sec. 501. Needs estimate.
- Sec. 502. Emergency powers.
- Sec. 503. Citizen suits.
- Sec. 504. General program authorizations.
- Sec. 505. Native American programs.

## TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

- Sec. 601. Water use efficiency measures.
- Sec. 602. Guidance for small communities.
- Sec. 603. Types of assistance.
- Sec. 604. Allotment of funds.
- Sec. 605. Authorization of appropriations.

## TITLE VII—MISCELLANEOUS PROVISIONS

- Sec. 701. Financial assistance for international wastewater treatment facilities.
- Sec. 702. Wastewater service for colonias.
- Sec. 703. Pollution from mobile sources.
- Sec. 704. Technical amendments.

1 **SEC. 2. DEFINITION.**

2 In this Act, the term “Administrator” means the  
3 “Administrator of the Environmental Protection Agency”.

4 **SEC. 3. AMENDMENT OF FEDERAL WATER POLLUTION CON-**  
5 **TROL ACT.**

6 Except as otherwise expressly provided, whenever in  
7 this Act an amendment or repeal is expressed in terms  
8 of an amendment to, or repeal of, a section or other provi-  
9 sion, the reference shall be considered to be made to a  
10 section or other provision of the Federal Water Pollution  
11 Control Act (33 U.S.C. 1251–1387).

12 **TITLE I—RESEARCH AND**  
13 **RELATED PROGRAMS**

14 **SEC. 101. NATIONAL GOALS AND POLICIES.**

15 (a) POLLUTION PREVENTION.—Section 101(a) (33  
16 U.S.C. 1251(a)) is amended—

17 (1) by striking “and” at the end of paragraph  
18 (6);

19 (2) by striking the period at the end of para-  
20 graph (7) and inserting a semicolon; and

21 (3) by adding at the end the following:

22 “(8) it is the national policy that pollution of  
23 navigable waters should be prevented and reduced at  
24 the source of the pollution whenever feasible;”.

1 (b) FISHABLE, SWIMMABLE, AND DRINKABLE.—Sec-  
2 tion 101(a) is further amended by adding at the end the  
3 following:

4 “(9) it is the national policy that the Nation’s  
5 waters achieve a level of quality appropriate as a  
6 source of water for human consumption;”.

7 (c) GROUND WATER.—Section 101(a) is further  
8 amended by adding at the end the following:

9 “(10) it is the national policy to protect, in an  
10 integrated manner, the quality of the Nation’s wa-  
11 ters, including ground water that has a direct hydro-  
12 logic connection to surface water;”.

13 (d) RECLAMATION AND REUSE.—

14 (1) RECLAMATION.—Section 101(a)(4) is  
15 amended by inserting after “works” the following:  
16 “and to reclaim waste water from municipal and in-  
17 dustrial sources”.

18 (2) BENEFICIAL REUSE.—Section 101(a) is fur-  
19 ther amended by adding at the end the following:

20 “(11) it is the national policy that beneficial  
21 reuse of waste water effluent, residuals, and byprod-  
22 ucts be encouraged to the fullest extent possible;  
23 and”.

24 (e) WATER USE EFFICIENCY.—Section 101(a) is fur-  
25 ther amended by adding at the end the following:

1           “(12) it is the national policy that water use ef-  
2           ficiency be encouraged to the fullest extent pos-  
3           sible.”.

4           **TITLE II—CONSTRUCTION**  
5           **GRANTS**

6           **SEC. 201. USES OF FUNDS.**

7           (a) REMOVAL OF LIMITATION.—Section 201(g)(1)  
8           (33 U.S.C. 1281(g)(1)) is amended by striking the period  
9           at the end of the first sentence and all that follows  
10          through the period at the end of the last sentence and  
11          inserting the following: “and for any purpose for which  
12          a grant may be made under sections 319(h) and 319(i)  
13          of this Act (including any innovative and alternative ap-  
14          proaches for the control of nonpoint sources of pollu-  
15          tion).”.

16          (b) CONSIDERATION OF WATER USE EFFICIENCY.—  
17          Section 201(g)(2) (33 U.S.C. 201(g)(2)) is amended—

18                  (1) by striking “and” at the end of subpara-  
19                  graph (A);

20                  (2) by striking the period at the end of sub-  
21                  paragraph (B) and inserting “; and”; and

22                  (3) by adding at the end the following new sub-  
23                  paragraph:

1           “(C) water use efficiency options have been  
2           studied and evaluated and, to the extent practicable  
3           and cost effective, implemented.”.

4 **SEC. 202. RECOVERY OF OPERATION AND MAINTENANCE**  
5 **COSTS.**

6           Section 204(b)(1) (33 U.S.C. 1284(b)(1)) is amended  
7 by striking “and (B)” and inserting the following: “(B)  
8 has adopted or will adopt a system of charges that will  
9 recover the costs of operation and maintenance (including  
10 replacement and rehabilitation) of treatment works within  
11 the applicant’s jurisdiction; and (C)”.

12 **SEC. 203. SEWAGE COLLECTION SYSTEMS.**

13           Section 211(a) (33 U.S.C. 1291(a)) is amended—

14           (1) in clause (1) by striking “an existing collec-  
15           tion system” and inserting “a collection system ex-  
16           isting on the date of the enactment of the Water  
17           Quality Act of 1994”;

18           (2) in clause (2) by striking “an existing com-  
19           munity” and inserting “a community existing on  
20           such date of enactment”; and

21           (3) in clause (2) by inserting after “sufficient  
22           existing” the following: “on such date of enact-  
23           ment”.

1 **SEC. 204. TREATMENT WORKS DEFINED.**

2 (a) INCLUSION OF OTHER LANDS.—Section  
3 212(2)(A) (33 U.S.C. 1292(2)(A)) is amended—

4 (1) by striking “any works, including site”;

5 (2) by striking “is used for ultimate” and in-  
6 sserting “will be used for ultimate”; and

7 (3) by inserting before the period at the end the  
8 following: “and acquisition of other lands, and inter-  
9 ests in lands, which are necessary for construction”.

10 (b) POLICY ON COST EFFECTIVENESS.—Section  
11 218(a) (33 U.S.C. 1298(a)) is amended by striking “com-  
12 bination of devices and systems” and all that follows  
13 through “from such treatment;” and inserting “treatment  
14 works;”.

15 **SEC. 205. VALUE ENGINEERING REVIEW.**

16 Section 218(c) (33 U.S.C. 1298(c)) is amended by  
17 striking “\$10,000,000” and inserting “\$25,000,000”.

18 **SEC. 206. GRANTS FOR CONSTRUCTION OF TREATMENT**  
19 **WORKS.**

20 (a) GENERAL AUTHORITY.—The Administrator shall  
21 make grants under title II of the Federal Water Pollution  
22 Control Act for the purpose of constructing treatment  
23 works to serve the following localities and in the following  
24 amounts:

25 (1) Boston, Massachusetts, \$153,000,000.

26 (2) New York, New York, \$70,000,000.

1 (3) Los Angeles, California, \$50,000,000.

2 (4) Los Angeles County, California,  
3 \$50,000,000.

4 (5) Seattle, Washington, \$35,000,000.

5 (6) Wayne County, Michigan, \$82,000,000 for  
6 the Rouge River National Wet Weather Demonstra-  
7 tion Project.

8 (b) FUNDING.—The Administrator shall carry out  
9 this section using amounts which were appropriated before  
10 the date of the enactment of this Act and which are avail-  
11 able for making grants described in subsection (a).

12 (c) BOSTON, MASSACHUSETTS.—

13 (1) GRANTS.—The Administrator may make  
14 grants under title II of the Federal Water Pollution  
15 Control Act to Boston, Massachusetts, for the pur-  
16 pose of constructing treatment works.

17 (2) AUTHORIZATION OF APPROPRIATIONS.—  
18 There is authorized to be appropriated to carry out  
19 this subsection \$100,000,000 for fiscal year 1995.  
20 Such sums shall remain available until expended.

21 **TITLE III—STANDARDS AND**  
22 **ENFORCEMENT**

23 **SEC. 301. INNOVATIVE TECHNOLOGY.**

24 Section 301(k) (33 U.S.C. 1311(k)) is amended—



1 (1) by striking “lower costs” and all that fol-  
2 lows through “achievable,” and inserting “reducing  
3 the release of pollutants to other media,”;

4 (2) by striking “a date” and inserting “a sched-  
5 ule for compliance”;

6 (3) by inserting “which includes a date for such  
7 compliance” before “no later than”; and

8 (4) by striking “two years” and inserting “3  
9 years”.

10 **SEC. 302. ANTIDegradation.**

11 Section 303 (33 U.S.C. 1313) is amended—

12 (1) by redesignating subsections (f), (g), and  
13 (h) as subsections (h), (i), and (j), respectively; and

14 (2) by inserting after subsection (e) the follow-  
15 ing:

16 “(f) ANTIDegradation POLICY.—

17 “(1) IN GENERAL.—Not later than the last day  
18 of the 24-month period beginning on the date of the  
19 enactment of this paragraph, each State shall de-  
20 velop and submit to the Administrator for approval  
21 a statewide antidegradation policy, including imple-  
22 mentation procedures for such policy.

23 “(2) MINIMUM REQUIREMENTS.—An  
24 antidegradation policy under this subsection shall, at  
25 a minimum—

1           “(A) identify existing instream water uses,  
2 including any uses occurring on or after No-  
3 vember 28, 1975, and provide for maintenance  
4 and protection of water quality necessary to  
5 protect such uses;

6           “(B) provide for maintenance and protec-  
7 tion of the water quality of any waters the qual-  
8 ity of which are in excess of the levels necessary  
9 to support the protection and propagation of a  
10 balanced population of fish, shellfish, and wild-  
11 life, and recreation in and on the water;

12           “(C) provide that if the State finds, after  
13 notice and opportunity for comment and full  
14 satisfaction of the intergovernmental coordina-  
15 tion provisions of the continuing planning proc-  
16 ess of the State, that allowing a reduction in  
17 the degree of water quality with respect to any  
18 waters described in subparagraph (B) is nec-  
19 essary to accommodate important economic or  
20 social development in the area in which the wa-  
21 ters are located, the State may reduce the level  
22 of maintenance and protection required under  
23 subparagraph (B) with respect to such waters  
24 if the State notifies the Administrator of such

1 finding and waiver at least 30 days before such  
2 waiver takes effect and if the State—

3 “(i) ensures a degree of water quality  
4 adequate to maintain and protect existing  
5 uses (as described in subparagraph (A));

6 “(ii) ensures that all new and existing  
7 point sources which discharge pollutants  
8 into such waters, and each industrial user  
9 introducing pollutants into a publicly  
10 owned treatment works which discharges  
11 pollutants into such waters, are subject to  
12 all applicable requirements of this Act; and

13 “(iii) ensures that all new and existing  
14 nonpoint sources within the State that af-  
15 fect or are likely to affect the water quality  
16 of such waters are subject to all applicable  
17 requirements of this Act;

18 “(D) provide for establishment and imple-  
19 mentation by the State of a program to main-  
20 tain and protect any high quality waters which  
21 the State designates as outstanding national re-  
22 source waters; except that the State may allow  
23 necessary short-term or temporary exceedances;

24 “(E) designate as outstanding national re-  
25 source waters within the boundaries of the

1 State all waters within a national park (other  
2 than a park located in an urbanized area, as  
3 defined by the Bureau of the Census of the De-  
4 partment of Commerce) or national wilderness  
5 area and any waters of exceptional recreational  
6 or ecological significance; except that the State  
7 may propose not to designate specific waters as  
8 outstanding national resource waters, and the  
9 Administrator may approve, after notice and  
10 opportunity for comment, the proposal—

11 “(i) if the State demonstrates to the  
12 satisfaction of the Administrator that the  
13 designation would result in important so-  
14 cial and economic harms; and

15 “(ii) if, in the case of waters located  
16 within Federal lands, the Federal manager  
17 of the lands concurs with the State pro-  
18 posal;

19 “(F) allow any citizen of the State to peti-  
20 tion the State for the designation of any waters  
21 as outstanding national resource waters; and

22 “(G) provide that a permitting authority  
23 under section 402 shall conduct an  
24 antidegradation review for waters before issuing  
25 or reissuing any permit under section 402 for

1 a point source if such permit authorizes any  
2 new, expanded, or increased discharge of a pol-  
3 lutant into receiving waters; except that a re-  
4 view shall not be required for an existing dis-  
5 charge unless—

6 “(i) the discharger is proposing to in-  
7 crease an existing effluent limitation under  
8 its permit; or

9 “(ii) a new effluent limitation is re-  
10 quired in the permit of the discharger for  
11 a pollutant that was not previously sub-  
12 jected to an effluent limitation in the per-  
13 mit or addressed in the permit.

14 “(3) APPROVAL OR DISAPPROVAL.—

15 “(A) DEADLINE.—Subject to subpara-  
16 graph (B), not later than 180 days after the  
17 date of submission to the Administrator of any  
18 antidegradation policy under this subsection,  
19 the Administrator shall either approve or dis-  
20 approve such policy. If the Administrator does  
21 not disapprove a policy in such 180-day period,  
22 such policy shall be deemed approved for pur-  
23 poses of this subsection.

24 “(B) PROCEDURE FOR DISAPPROVAL.—If,  
25 after notice and opportunity for public comment

1 and consultation with appropriate Federal and  
2 State agencies and other interested persons, the  
3 Administrator determines that the proposed  
4 policy does not meet the requirements of this  
5 subsection or is not likely to satisfy the goals  
6 and requirements of this Act, the Administrator  
7 shall within 6 months of the receipt of the pro-  
8 posed policy notify the State of any revisions or  
9 modifications necessary to obtain approval. The  
10 State shall thereupon have an additional 3  
11 months to submit its revised policy and the Ad-  
12 ministrator shall approve or disapprove such re-  
13 vised policy within 3 months of receipt.

14 “(C) FAILURE OF STATE TO SUBMIT POL-  
15 ICY.—If a State does not submit the policy re-  
16 quired by paragraphs (1) and (2) within the 24-  
17 month period beginning on the date of the en-  
18 actment of this subparagraph, the Adminis-  
19 trator shall, within 30 months after such date  
20 of enactment, prepare an antidegradation policy  
21 for such State which meets the requirements of  
22 this subsection.

23 “(D) REPORT.—Upon completion of action  
24 under subparagraph (C) and after notice and  
25 opportunity for comment, the Administrator

1 shall report to Congress on the actions taken by  
2 the Administrator under subparagraph (C).

3 “(4) GUIDANCE.—Not later than 1 year after  
4 the date of the enactment of this subparagraph, the  
5 Administrator shall publish guidance for States to  
6 assist in the designation and protection of outstand-  
7 ing national resource waters, including a description  
8 of necessary short-term or temporary exceedances of  
9 the antidegradation policy with respect to such  
10 waters.”.

11 **SEC. 303. MIXING ZONES.**

12 Section 303 (33 U.S.C. 1313) is further amended by  
13 inserting before subsection (h), as redesignated by section  
14 301 of this Act, the following:

15 “(g) MIXING ZONES.—

16 “(1) LIST.—The Administrator shall establish,  
17 by regulation, a list of persistent, acutely toxic, or  
18 bioaccumulative chemicals which pose a sufficient  
19 risk to human health and the environment that the  
20 use of mixing zones with respect to such chemicals  
21 should be restricted or prohibited.

22 “(2) PROHIBITION OR RESTRICTION ON USE OF  
23 MIXING ZONES.—The Administrator may issue regu-  
24 lations to prohibit or restrict the use of mixing zones

1 with respect to chemicals included on the list estab-  
2 lished pursuant to paragraph (1).

3 “(3) APPLICABILITY.—Any prohibition or re-  
4 striction established pursuant to paragraph (2) shall  
5 only apply to permits issued under section 402 after  
6 the last day of the 5-year period beginning on the  
7 date of the enactment of this subsection.

8 “(4) LIMITATION ON STATUTORY CONSTRUC-  
9 TION.—Nothing in this subsection shall be construed  
10 as limiting or otherwise affecting any authority of  
11 the Administrator or a State regarding the use of  
12 mixing zones.”.

13 **SEC. 304. GUIDANCE ON WATER QUALITY STANDARDS FOR**  
14 **ARID AREAS.**

15 Section 304(a) (33 U.S.C. 1314(a)) is amended by  
16 adding at the end the following:

17 “(9) GUIDANCE ON STANDARDS FOR ARID  
18 AREAS.—Not later than 1 year after the date of the  
19 enactment of this paragraph, the Administrator shall  
20 develop and publish guidance to the States on devel-  
21 opment and adoption of water quality standards ap-  
22 plicable to arid areas.”.

23 **SEC. 305. EFFLUENT LIMITATIONS.**

24 Section 304 (33 U.S.C. 1314) is amended by adding  
25 at the end the following:



1       “(n) EFFLUENT LIMITATIONS FOR DISCHARGES  
2 INTO GROUND WATERS.—Not later than 1 year after the  
3 date of the enactment of this subsection, the Adminis-  
4 trator shall, after consultation with appropriate Federal  
5 and State agencies and other interested persons, publish  
6 regulations providing guidance for effluent limitations for  
7 discharges into the ground or ground water that are sub-  
8 ject to permit requirements pursuant to section  
9 402(r)(1).”.

10 **SEC. 306. WATER QUALITY REPORTS.**

11       (a) EFFECTIVENESS OF MUNICIPAL AND INDUS-  
12 TRIAL STORMWATER PERMIT PROGRAM.—Section  
13 305(b)(1) (33 U.S.C. 1315(b)(1)) is amended—

14           (1) by striking “and” at the end of subpara-  
15 graph (D);

16           (2) by striking the period at the end of sub-  
17 paragraph (E); and

18           (3) by inserting after subparagraph (E) the fol-  
19 lowing:

20           “(F) an assessment of the effectiveness of the  
21 municipal and industrial stormwater permit program  
22 being carried out under section 402 (including an  
23 assessment of management measures being imple-  
24 mented under such program) and the progress being  
25 made toward attainment of water quality standards

1 under this Act through the implementation of such  
2 program; and”.

3 (b) QUALITY OF GROUND WATER.—Section  
4 305(b)(1) is further amended by adding at the end the  
5 following:

6 “(G) a description of the quality of the ground  
7 water in such State and an evaluation of how the  
8 pollution of ground water, surface water, aquatic  
9 sediment, and wetlands in such State are related.”.

10 (c) BIENNIAL REPORTS; LISTING OF NONATTAIN-  
11 MENT WATERS.—Section 305(b)(2) (33 U.S.C.  
12 1315(b)(2)) is amended by striking “transmit” and all  
13 that follows through the period at the end and inserting  
14 the following: “transmit to Congress on or before October  
15 1, 1976, and biennially thereafter such State reports, to-  
16 gether with an analysis thereof. The Administrator may  
17 add, to the list of waters in a State which are not meeting  
18 applicable water quality standards under this Act, any  
19 other waters in the State which are not meeting applicable  
20 water quality standards under this Act.”.

21 **SEC. 307. CITIZEN WATER QUALITY MONITORING PRO-**  
22 **GRAM.**

23 Section 305 (33 U.S.C. 1315) is further amended by  
24 adding at the end the following:

1       “(c) CITIZEN WATER QUALITY MONITORING PRO-  
2 GRAM.—

3           “(1) IN GENERAL.—The Administrator shall  
4 allow a State to use not more than 5 percent of the  
5 amount made available to the State under section  
6 319(h) in any fiscal year beginning after the date of  
7 the enactment of this subsection or \$100,000  
8 (whichever amount is greater for such fiscal year) to  
9 establish and carry out a citizen water quality mon-  
10 itoring program in accordance with this subsection.

11           “(2) IMPLEMENTATION.—A State may carry  
12 out a citizen water quality monitoring program  
13 under this subsection either directly or by entering  
14 into cooperative agreements or contracts with appro-  
15 priate organizations, including educational institu-  
16 tions.

17           “(3) PARTICIPATION.—Water quality monitor-  
18 ing under a citizen water quality monitoring pro-  
19 gram under this subsection shall be conducted by  
20 program participants with appropriate qualifications  
21 and training.

22           “(4) TRAINING.—A citizen water quality mon-  
23 itoring program under this subsection shall provide  
24 for the training and evaluation of all program par-  
25 ticipants. Such training and evaluation shall be car-

1 ried out as a continuing component of the program  
2 in order to ensure the reliability of data collected  
3 under the program.

4 “(5) QUALITY ASSURANCE.—In conducting a  
5 citizen water quality monitoring program under this  
6 subsection, a State shall use quality assurance con-  
7 trol procedures described in the guidance to be de-  
8 veloped by the Administrator pursuant to paragraph  
9 (8) or equivalent procedures developed by the State.

10 “(6) USE OF DATA.—Data obtained under a  
11 citizen water quality monitoring program under this  
12 subsection may be used to obtain information re-  
13 quired under subparagraphs (A) and (E) of sub-  
14 section (b)(1) and to develop and implement a  
15 nonpoint source management program under section  
16 319 or a watershed management program under sec-  
17 tion 322.

18 “(7) AVAILABILITY OF DATA.—A State shall  
19 make the data collected under a citizen water quality  
20 monitoring program under this subsection available  
21 for public review.

22 “(8) GUIDANCE.—The Administrator shall de-  
23 velop and publish guidance to assist States in devel-  
24 oping, planning, and implementing citizen water  
25 quality monitoring programs under this subsection,

1 including protocols on quality assurance and quality  
2 control.”.

3 **SEC. 308. TOXIC POLLUTANTS.**

4 (a) LISTING OF TOXIC POLLUTANTS.—Section  
5 307(a)(1) (33 U.S.C. 1317(a)(1)) is amended—

6 (1) by inserting “bioaccumulation potential,”  
7 after “degradability,”; and

8 (2) by inserting “the magnitude and risk of ex-  
9 posure to the pollutant,” after “organisms,”.

10 (b) TOXIC EFFLUENT STANDARDS.—Section  
11 307(a)(2) (33 U.S.C. 1317(a)(2)) is amended to read as  
12 follows:

13 “(2) TOXIC EFFLUENT STANDARDS.—

14 “(A) GENERAL RULE.—Each toxic pollutant  
15 listed in accordance with paragraph (1) of this sub-  
16 section shall be subject to effluent limitations result-  
17 ing from the application of the best available tech-  
18 nology economically achievable for the applicable cat-  
19 egory or class of point sources established in accord-  
20 ance with sections 301(b)(2)(A) and 304(b)(2) of  
21 this Act.

22 “(B) PUBLICATION AND APPLICABILITY.—The  
23 Administrator may publish in the Federal Register  
24 a proposed effluent standard (which may include a  
25 prohibition) establishing requirements for a toxic

1 pollutant which, if an effluent limitation is applicable  
2 to a class or category of point sources, shall be ap-  
3 plicable to such category or class only if such stand-  
4 ard imposes more stringent requirements.

5 “(C) FACTORS.—The published effluent stand-  
6 ard (or prohibition) shall take into account—

7 “(i) the pollutant’s persistence, toxicity,  
8 degradability, and bioaccumulation potential;

9 “(ii) the magnitude and risk of exposure to  
10 the pollutant, including risks to affected orga-  
11 nisms and the importance of such organisms;

12 “(iii) the relative contribution of point  
13 source discharges of the pollutant to the overall  
14 risk from the pollutant;

15 “(iv) the availability of, and risk posed by,  
16 substitute chemicals or processes or the avail-  
17 ability of treatment processes or control tech-  
18 nology;

19 “(v) the beneficial and adverse social and  
20 economic effects of the effluent standard, in-  
21 cluding the impact on energy resources;

22 “(vi) the extent to which effective control  
23 is being or may be achieved in an expeditious  
24 manner under other regulatory authorities;

1           “(vii) the impact on national security inter-  
2           ests; and

3           “(viii) such other factors as the Adminis-  
4           trator deems appropriate.

5           “(D) COMMENT PERIOD.—The Administrator  
6           shall allow a period of not less than 90 days follow-  
7           ing publication of any such proposed effluent stand-  
8           ard (or prohibition) for written comment by inter-  
9           ested persons on such proposed standard.

10          “(E) PROMULGATION.—After consideration of  
11          any comments on the proposed standard (or prohibi-  
12          tion), the Administrator shall promulgate such  
13          standard (or prohibition) with such modifications as  
14          the Administrator finds are justified. Such promul-  
15          gation by the Administrator shall be made as expedi-  
16          tiously as possible, but not later than 365 days,  
17          after publication of the proposed standard (or prohi-  
18          bition).

19          “(F) FINALITY.—A promulgated standard (or  
20          prohibition) shall be final; except that if, on judicial  
21          review, such standard is determined to be arbitrary  
22          and capricious, an abuse of discretion, or otherwise  
23          not in accordance with law, the Administrator shall  
24          promulgate a revised standard.

1           “(G) DEADLINE.—Effluent limitations shall be  
2           established in accordance with sections 301(b)(2)(A)  
3           and 304(b)(2) for every toxic pollutant referred to in  
4           table 1 of Committee Print Numbered 95–30 of the  
5           Committee on Public Works and Transportation of  
6           the House of Representatives as soon as practicable  
7           after the date of the enactment of the Clean Water  
8           Act of 1977, but no later than July 1, 1980. Efflu-  
9           ent limitations or effluent standards (or prohibi-  
10          tions) shall be established for every other toxic pol-  
11          lutant listed under paragraph (1) of this subsection  
12          as soon as practicable after it is so listed.”.

13          (c) PROCEDURE FOR PETITIONING EPA.—Section  
14          307(a) (33 U.S.C. 1317(a)) is further amended by adding  
15          at the end the following:

16                 “(8) PROCEDURE FOR PETITIONING EPA.—

17                         “(A) GENERAL AUTHORITY.—Any person  
18                         may petition the Administrator to limit or pro-  
19                         hibit discharges of toxic pollutants or classes of  
20                         toxic pollutants which contribute to water qual-  
21                         ity impairment.

22                         “(B) CONTENTS OF PETITION.—A petition  
23                         submitted to the Administrator under this para-  
24                         graph shall contain such information as the Ad-  
25                         ministrator may require by regulation, including



1 information on each of the factors listed in  
2 paragraph (2)(C).

3 “(C) ACTION OF ADMINISTRATOR.—The  
4 Administrator may deny a petition submitted  
5 under this paragraph based on the information  
6 contained in the petition and such other infor-  
7 mation as may be available to the Adminis-  
8 trator or may initiate a rulemaking proceeding  
9 to limit discharges of toxic pollutants, including  
10 prohibition of discharges of toxic pollutants. If  
11 the Administrator determines that there is not  
12 sufficient information to approve or deny the  
13 petition, the Administrator may request the pe-  
14 titioner to submit such additional information  
15 as may be necessary.

16 “(D) FACTORS TO CONSIDER.—In deter-  
17 mining whether or not to approve or deny a pe-  
18 tition under this paragraph, the Administrator  
19 shall consider the factors listed in paragraph  
20 (2)(C).”.

21 (d) FEDERAL ESTABLISHMENT OF CHEMICAL-SPE-  
22 CIFIC NUMERIC WATER QUALITY CRITERIA.—Section  
23 303(c) (33 U.S.C. 1313(c)) is amended by adding at the  
24 end the following:

1           “(5) CHEMICAL-SPECIFIC NUMERIC WATER  
2           QUALITY CRITERIA.—If the Administrator issues, by  
3           regulation, chemical-specific numeric water quality  
4           criteria for toxic pollutants under section 304(a) and  
5           if a State has not adopted water quality standards  
6           for navigable waters under the jurisdiction of the  
7           State including such criteria before the last day of  
8           the 3-year period beginning on the date of issuance  
9           of such criteria, such criteria—

10                   “(A) shall be treated for purposes of Fed-  
11                   eral and State law as if such criteria were  
12                   adopted by the State as a water quality stand-  
13                   ard for such waters; and

14                   “(B) if the State has established des-  
15                   ignated uses for such waters, such criteria shall  
16                   be applied consistent with the designated  
17                   uses.”.

18           (e) WATER QUALITY CRITERIA.—Section 304(a) (33  
19           U.S.C. 1314(a)) is amended by adding at the end the fol-  
20           lowing:

21                   “(9) WATER QUALITY CRITERIA FOR POLLUT-  
22                   ANTS FROM NONPOINT SOURCES.—Not later than 3  
23                   years after the date of the enactment of this para-  
24                   graph, the Administrator shall develop and publish  
25                   under paragraph (1) additional criteria for water

1 quality with respect to pollutants entering navigable  
2 waters with an emphasis on pollutants entering such  
3 waters from nonpoint sources.”.

4 (f) FISH CONSUMPTION ADVISORIES.—Section 304  
5 (33 U.S.C. 1314) is amended by adding at the end the  
6 following:

7 “(n) FISH CONSUMPTION ADVISORIES.—After con-  
8 sultation with appropriate Federal and State agencies, the  
9 Administrator may develop and issue guidance that States  
10 may use—

11 “(1) in issuing fish consumption advisories;

12 “(2) in developing a monitoring program for  
13 contaminants in fish and shellfish; and

14 “(3) in issuing scientific protocols for testing  
15 contamination levels of fish.”.

16 (g) BEACH WATER QUALITY MONITORING.—

17 (1) IN GENERAL.—Section 304 is further  
18 amended by adding at the end the following:

19 “(o) BEACH WATER QUALITY MONITORING.—After  
20 consultation with appropriate Federal and State agencies,  
21 the Administrator may develop and issue guidance that  
22 States may use in monitoring water quality at beaches and  
23 issuing health advisories with respect to beaches, including  
24 testing protocols, recommendations on frequency of test-  
25 ing and monitoring, recommendations on pollutants for

1 which monitoring and testing should be conducted, and  
2 recommendations on when health advisories should be is-  
3 sued.”.

4           (2) REPORTS.—Section 516(a) (33 U.S.C.  
5 1375(a)) is amended by striking “and (9)” and in-  
6 sserting “(9) the monitoring conducted by States on  
7 the water quality of beaches and the issuance of  
8 health advisories with respect to beaches, and (10)”.

9           (h) CURRENT STATE OF SCIENTIFIC KNOWLEDGE  
10 ON CERTAIN CHEMICALS.—

11           (1) NAS STUDY.—The National Academy of  
12 Sciences shall conduct a study on the current sci-  
13 entific knowledge of those chemicals which are  
14 present in waters of the United States and for which  
15 there is evidence that exposure to such chemicals  
16 may result in endocrine, immune, or nervous system  
17 or developmental health effects in humans, fish, or  
18 wildlife, including evidence that exposure to such  
19 chemicals may increase the incidence of breast and  
20 other cancers, decrease sperm count, or impair re-  
21 production.

22           (2) REPORT.—Not later than 3 years after the  
23 date of the enactment of this Act, the National  
24 Academy of Sciences shall transmit to Congress a  
25 report on the results of the study conducted under

1 this subsection, including recommendations for any  
2 actions which the National Academy of Science de-  
3 termines are appropriate based on such results.

4 **SEC. 309. FEDERAL ENFORCEMENT.**

5 (a) VIOLATIONS OF LOCAL PRETREATMENT RE-  
6 QUIREMENTS.—Section 307(d) (33 U.S.C. 1317(d)) is  
7 amended to read as follows:

8 “(d) VIOLATIONS.—After the effective date of any ef-  
9 fluent standard or prohibition or pretreatment standard  
10 promulgated under this section or any requirement im-  
11 posed in a pretreatment program approved under section  
12 402(a)(3) or 402(b)(8) of this Act, it shall be unlawful  
13 for any owner or operator of any source to operate any  
14 source in violation of any such effluent standard or prohi-  
15 bition, pretreatment standard, or requirement.”.

16 (b) INSPECTIONS, MONITORING, AND ENTRY.—Sec-  
17 tion 308(a) (33 U.S.C. 1318(a)) is amended by inserting  
18 after “(A) the Administrator shall require the owner or  
19 operator of any point source” the following: “, any indirect  
20 discharger, and any other person who may have informa-  
21 tion relating to compliance with this Act”.

22 (c) ENFORCEMENT OF LOCAL PRETREATMENT RE-  
23 QUIREMENTS.—

24 (1) GENERAL AUTHORITY.—Section 309(a)(1)  
25 (33 U.S.C. 1319(a)(1)) is amended by inserting

1 after “404 of this Act,” the following: “or is in vio-  
2 lation of any requirement imposed in a pretreatment  
3 program approved under section 402(a)(3) or  
4 402(b)(8) of this Act,”.

5 (2) ISSUANCE OF ORDERS.—Section 309(a)(3)  
6 (33 U.S.C. 1319(a)(3)) is amended by inserting  
7 after “404 of this Act by a State,” the following: “or  
8 is in violation of any requirement imposed in a  
9 pretreatment program approved under section  
10 402(a)(3) or 402(b)(8) of this Act,”.

11 (3) CRIMINAL PENALTIES.—Section  
12 309(c)(3)(A) (33 U.S.C. 1319(c)(3)(A)) is amended  
13 by inserting after “Army or by a State,” the follow-  
14 ing: “or knowingly violates any requirement imposed  
15 in a pretreatment program approved under section  
16 402(a)(3) or 402(b)(8) of this Act,”.

17 (4) ADMINISTRATIVE PENALTIES.—Section  
18 309(g)(1)(A) (33 U.S.C. 1319(g)(1)(A)) is amended  
19 by inserting after “404 by a State,” the following:  
20 “or has violated any requirement imposed in a  
21 pretreatment program approved under section  
22 402(a)(3) or 402(b)(8) of this Act, or has violated  
23 an order issued by the Administrator under sub-  
24 section (a) of this section or section 504 of this  
25 Act,”.

1           (5) CITIZEN SUITS.—Section 505(f) (33 U.S.C.  
2 1365(f)) is amended—

3           (A) by striking “or” before “(7)”; and

4           (B) by striking the last comma and insert-  
5 ing the following: “; (8) any requirement im-  
6 posed in a pretreatment program approved  
7 under section 402(a)(3) or 402(b)(8) of this  
8 Act; or (9) a permit or any condition thereof is-  
9 sued by the Secretary of the Army or a State  
10 under section 404 of this Act”.

11       (d) CIVIL ACTIONS COMMENCED BY THE ADMINIS-  
12 TRATOR.—Section 309(b) (33 U.S.C. 1319(b)) is amend-  
13 ed—

14           (1) by inserting after the first sentence the fol-  
15 lowing: “Such injunctive relief may include an order  
16 to require remedial measures or an environmental  
17 audit.”;

18           (2) by striking “and to require compliance” and  
19 inserting “, to require compliance, and to provide  
20 other appropriate relief”; and

21           (3) by inserting before the last sentence the fol-  
22 lowing: “A district court may issue a permanent in-  
23 junction in any such action based solely upon a find-  
24 ing that a violation has occurred.”.

1 (e) MAXIMUM TERM OF IMPRISONMENT FOR KNOW-  
2 ING VIOLATIONS.—Section 309(c)(2) (33 U.S.C.  
3 1319(c)(2)) is amended—

4 (1) by striking “3 years” and inserting “5  
5 years”; and

6 (2) by striking “6 years” and inserting “10  
7 years”.

8 (f) KNOWING ENDANGERMENT.—Section  
9 309(c)(3)(A) (33 U.S.C. 1319(c)(3)(A)) is amended by  
10 striking “he thereby” and inserting “, in connection with  
11 or in the course of committing the violation, the person”.

12 (g) FALSE STATEMENTS.—

13 (1) KNOWING OMISSIONS.—Section 309(c)(4)  
14 (33 U.S.C. 1319(c)(4)) is amended by inserting  
15 after “Any person who knowingly” the following:  
16 “omits required material information or”.

17 (2) MAXIMUM PUNISHMENT FOR FIRST CONVIC-  
18 TIONS.—Section 309(c)(4) (33 U.S.C. 1319(c)(4)) is  
19 amended—

20 (A) by striking “\$10,000” and inserting  
21 “\$50,000”; and

22 (B) by striking “2 years” and inserting “5  
23 years”.



1           (3) MAXIMUM PUNISHMENT FOR SUBSEQUENT  
2 CONVICTIONS.—Section 309(c)(4) (33 U.S.C.  
3 1319(c)(4)) is amended—

4           (A) by striking “\$20,000 per day of viola-  
5 tion” and inserting “\$100,000 per violation”;  
6 and

7           (B) by striking “4 years” and inserting  
8 “10 years”.

9 (h) SHARING OF FINES IN CRIMINAL ACTIONS.—

10          (1) IN GENERAL.—Section 309(c) (33 U.S.C.  
11 1319(c)) is amended by redesignating paragraphs  
12 (6) and (7) as paragraphs (7) and (8), respectively,  
13 and by inserting after paragraph (5) the following:

14          “(6) SHARING OF FINES.—Upon the rec-  
15 ommendation of the United States, and in accord-  
16 ance with such recommendation, a court may issue  
17 an order requiring that a portion of the amounts as-  
18 sessed by the court in criminal fines under this sub-  
19 section for a violation be paid—

20           “(A) to any person as an award for provid-  
21 ing information leading to the arrest and con-  
22 viction of a person for the violation; and

23           “(B) to any State, municipality, or other  
24 political subdivision for providing material sup-  
25 port in the prosecution of the violation.”.

1           (2) GUIDANCE.—The Administrator shall issue  
2           guidance to ensure consistency in recommendations  
3           of the United States made pursuant to the amend-  
4           ment made by paragraph (1).

5           (i) DETERMINATION OF AMOUNT OF CIVIL PEN-  
6           ALTIES.—The second sentence of section 309(d) (33  
7           U.S.C. 1319(d)) is amended by inserting after “the eco-  
8           nomic impact of the penalty on the violator,” the follow-  
9           ing: “the amount of any penalty previously imposed on  
10          the violator by a court or administrative agency for the  
11          same violation or violations,”.

12          (j) JOINING STATES AS PARTIES IN ACTIONS IN-  
13          VOLVING MUNICIPALITIES.—Section 309(e) (33 U.S.C.  
14          1319(e)) is amended by striking “shall be joined as a  
15          party. Such State” and inserting “may be joined as a  
16          party. Any State so joined as a party”.

17          (k) ADMINISTRATIVE PENALTIES.—

18                (1) MAXIMUM AMOUNT OF CLASS I PEN-  
19                ALTIES.—Section 309(g)(2)(A) (33 U.S.C.  
20                1319(g)(2)(A)) is amended by striking “\$25,000”  
21                and inserting “\$100,000”.

22                (2) MAXIMUM AMOUNT OF CLASS II PEN-  
23                ALTIES.—Section 309(g)(2)(B) (33 U.S.C.  
24                1319(g)(2)(B)) is amended by striking “\$125,000”  
25                and inserting “\$300,000”.

1           (3) DETERMINATION OF AMOUNT.—Section  
2           309(g)(3) (33 U.S.C. 1319(g)(3)) is amended by in-  
3           serting after “resulting from the violation,” the fol-  
4           lowing: “the amount of any penalty previously im-  
5           posed on the violator by a court or administrative  
6           agency for the same violation or violations,”.

7           (4) PUBLIC NOTICE.—Section 309(g)(4) (33  
8           U.S.C. 1319(g)(4)) is amended—

9                   (A) in subparagraph (A) by inserting  
10                  “class II” before “civil penalty”;

11                   (B) in subparagraphs (B) and (C) by in-  
12                  serting “class II” before “penalty” the first  
13                  place it appears; and

14                   (C) in subparagraph (C) by striking “para-  
15                  graph (2)(A) in the case of a class I civil pen-  
16                  alty and”.

17           (5) LIMITATION ON ACTIONS.—Section  
18           309(g)(6)(A) (33 U.S.C. 1319(g)(6)(A)) is amend-  
19           ed—

20                   (A) in clause (i) by inserting “or” at the  
21                  end;

22                   (B) by striking clause (ii) and redesignat-  
23                  ing clause (iii) as clause (ii);

1 (C) in clause (ii), as so redesignated, by  
2 striking “, the Secretary, or the State” and in-  
3 serting “or the Secretary”; and

4 (D) in clause (ii), as so redesignated, by  
5 striking “or such comparable State law, as the  
6 case may be,”.

7 (I) RECOVERY OF ECONOMIC BENEFIT.—Section 309  
8 (33 U.S.C. 1319) is amended by adding at the end the  
9 following:

10 “(h) RECOVERY OF ECONOMIC BENEFIT.—

11 “(1) CIVIL PENALTIES.—

12 “(A) GENERAL RULE.—The amount of any  
13 civil penalty determined and assessed by a court  
14 for a violation in a civil action commenced  
15 under this section shall not be less than the  
16 amount of the economic benefit (if any) to the  
17 violator resulting from the violation.

18 “(B) MAXIMUM AMOUNT.—The require-  
19 ment of subparagraph (A) shall apply even if  
20 the amount of economic benefit described in  
21 subparagraph (A) is greater than the amount of  
22 the maximum penalty for the violation other-  
23 wise established by this section.

24 “(2) ADMINISTRATIVE PENALTIES.—

1           “(A) GENERAL RULE.—The amount of any  
2           administrative penalty determined and assessed  
3           by the Administrator or the Secretary of the  
4           Army for a violation in an administrative action  
5           commenced under this section shall not be less  
6           than the amount of the economic benefit (if  
7           any) to the violator resulting from the violation.

8           “(B) MAXIMUM AMOUNT.—The require-  
9           ment of subparagraph (A) shall apply only if  
10          the amount of economic benefit described in  
11          subparagraph (A) is less than the amount of  
12          the maximum administrative penalty for the  
13          violation established by this section. If the  
14          amount of such economic benefit is greater than  
15          the amount of such maximum penalty, then the  
16          amount of the penalty assessed for the violation  
17          shall be equal to such maximum penalty.

18          “(3) REGULATIONS.—The Administrator shall  
19          propose regulations on methods to determine eco-  
20          nomic benefit for purposes of this section not later  
21          than 180 days after the date of the enactment of  
22          this subsection and shall issue final regulations on  
23          such methods not later than 18 months after such  
24          date of enactment.

1           “(4) PUBLICLY OWNED TREATMENT WORKS.—  
2           This subsection shall not apply to a penalty assessed  
3           against a treatment works (as defined by section  
4           212 of this Act) which is publicly owned.”.

5           (m) PENALTY FUND.—

6           (1) ESTABLISHMENT.—Section 309 is further  
7           amended by adding at the end the following:

8           “(i) PENALTY FUND.—Amounts received by the  
9           United States as a penalty or fine under this Act shall  
10          be deposited into a special fund in the Treasury of the  
11          United States. The Administrator shall annually report to  
12          Congress on the sums deposited into the fund, the sources  
13          thereof, and the actual and proposed uses thereof.”.

14          (2) AUTHORIZATION OF APPROPRIATIONS.—  
15          Section 607 (33 U.S.C. 1387) is amended by insert-  
16          ing “(a) IN GENERAL.—” before “There is”; and by  
17          adding at the end the following:

18          “(b) FROM PENALTY FUND.—Amounts in the fund  
19          established under section 309(i) are authorized to be ap-  
20          propriated to carry out the purposes of this Act and shall  
21          remain available until expended.”.

22          (n) FEDERAL PROCUREMENT.—Section 508(a) (33  
23          U.S.C. 1368(a)) is amended by adding at the end the fol-  
24          lowing: “The Administrator may extend the prohibition to

1 other facilities owned or operated by the convicted  
2 person.”.

3 (o) ISSUANCE OF SUBPOENAS BY THE ADMINIS-  
4 TRATOR.—Section 509(a)(1) (33 U.S.C. 1369(a)(1)) is  
5 amended by inserting “or 308” after “section 305”.

6 (p) LIMITATION ON JUDICIAL REVIEW.—Section  
7 509(b)(2) (33 U.S.C. 1369(b)(2)) is amended by inserting  
8 after “this subsection” the following: “and an action of  
9 a State in issuing or denying a permit under section 402  
10 with respect to which review could have been obtained  
11 under comparable provisions of State law”.

12 **SEC. 310. FEDERAL FACILITIES.**

13 (a) APPLICATION OF CERTAIN PROVISIONS.—Section  
14 313(a) (33 U.S.C. 1323(a)) is amended by striking all  
15 preceding subsection (b) and inserting the following:

16 **“SEC. 313. FEDERAL FACILITIES POLLUTION CONTROL.**

17 “(a) APPLICABILITY OF FEDERAL, STATE, INTER-  
18 STATE, AND LOCAL LAWS.—

19 “(1) IN GENERAL.—Each department, agency,  
20 or instrumentality of the executive, legislative, and  
21 judicial branches of the Federal Government—

22 “(A) having jurisdiction over any property  
23 or facility, or

1           “(B) engaged in any activity resulting, or  
2           which may result, in the discharge or runoff of  
3           pollutants,

4           and each officer, agent, or employee thereof in the  
5           performance of his official duties, shall be subject to,  
6           and comply with, all Federal, State, interstate, and  
7           local requirements, administrative authority, and  
8           process and sanctions respecting the control and  
9           abatement of water pollution in the same manner  
10          and to the same extent as any nongovernmental en-  
11          tity, including the payment of reasonable service  
12          charges.

13           “(2) TYPES OF ACTIONS COVERED.—Paragraph  
14          (1) shall apply—

15           “(A) to any requirement whether sub-  
16           stantive or procedural (including any record-  
17           keeping or reporting requirement, any require-  
18           ment respecting permits, and any other require-  
19           ment),

20           “(B) to the exercise of any Federal, State,  
21           or local administrative authority, and

22           “(C) to any process and sanction, whether  
23           enforced in Federal, State, or local courts or in  
24           any other manner.



1           “(3) PENALTIES AND FINES.—The Federal,  
2 State, interstate, and local substantive and proce-  
3 dural requirements, administrative authority, and  
4 process and sanctions referred to in paragraph (1)  
5 include all administrative orders and all civil and ad-  
6 ministrative penalties and fines, regardless of wheth-  
7 er such penalties or fines are punitive or coercive in  
8 nature or are imposed for isolated, intermittent, or  
9 continuing violations.

10           “(4) SOVEREIGN IMMUNITY.—

11           “(A) WAIVER.—The United States hereby  
12 expressly waives any immunity otherwise appli-  
13 cable to the United States with respect to any  
14 requirement, administrative authority, and  
15 process and sanctions referred to in paragraph  
16 (1) (including any injunctive relief, any admin-  
17 istrative order, any civil or administrative pen-  
18 alty or fine referred to in paragraph (3), or any  
19 reasonable service charge).

20           “(B) PROCESSING FEES.—The reasonable  
21 service charges referred to in this paragraph in-  
22 cludes fees or charges assessed in connection  
23 with the processing and issuance of permits, re-  
24 newal of permits, amendments to permits, re-  
25 view of plans, studies, and other documents,

1 and inspection and monitoring of facilities, as  
2 well as any other nondiscriminatory charges  
3 that are assessed in connection with a Federal,  
4 State, interstate, or local water pollution regu-  
5 latory program.

6 “(5) EXEMPTIONS.—

7 “(A) GENERAL AUTHORITY OF PRESI-  
8 DENT.—The President may exempt any effluent  
9 source of any department, agency, or instru-  
10 mentality in the executive branch from compli-  
11 ance with any requirement to which paragraph  
12 (1) applies if the President determines it to be  
13 in the paramount interest of the United States  
14 to do so; except that no exemption may be  
15 granted from the requirements of section 306  
16 or 307 of this Act.

17 “(B) LIMITATION.—No exemptions shall  
18 be granted under subparagraph (A) due to lack  
19 of appropriation unless the President shall have  
20 specifically requested such appropriation as a  
21 part of the budgetary process and the Congress  
22 shall have failed to make available such re-  
23 quested appropriation.

24 “(C) TIME PERIOD.—Any exemption under  
25 subparagraph (A) shall be for a period not in

1 excess of 1 year, but additional exemptions may  
2 be granted for periods of not to exceed 1 year  
3 upon the President's making a new determina-  
4 tion.

5 “(D) MILITARY PROPERTY.—In addition to  
6 any exemption of a particular effluent source,  
7 the President may, if the President determines  
8 it to be in the paramount interest of the United  
9 States to do so, issue regulations exempting  
10 from compliance with the requirements of this  
11 section any weaponry, equipment, aircraft, ves-  
12 sels, vehicles, or other classes or categories of  
13 property, and access to such property, which  
14 are owned or operated by the Armed Forces of  
15 the United States (including the Coast Guard)  
16 or by the National Guard of any State and  
17 which are uniquely military in nature. The  
18 President shall reconsider the need for such  
19 regulations at 3-year intervals.

20 “(E) REPORTS.—The President shall re-  
21 port each January to the Congress all exemp-  
22 tions from the requirements of this section  
23 granted during the preceding calendar year, to-  
24 gether with the President's reason for granting  
25 such exemption.

1           “(6) VENUE.—Nothing in this section shall be  
2           construed to prevent any department, agency, or in-  
3           strumentality of the Federal Government, or any of-  
4           ficer, agent, or employee thereof in the performance  
5           of official duties, from removing to the appropriate  
6           Federal district court any proceeding to which the  
7           department, agency, or instrumentality or officer,  
8           agent, or employee thereof is subject pursuant to  
9           this section, and any such proceeding may be re-  
10          moved in accordance with chapter 89 of title 28,  
11          United States Code.

12           “(7) PERSONAL LIABILITY OF FEDERAL EM-  
13          PLOYEES.—No agent, employee, or officer of the  
14          United States shall be personally liable for any civil  
15          penalty under any Federal, State, interstate, or local  
16          water pollution law with respect to any act or omis-  
17          sion within the scope of the official duties of the  
18          agent, employee, or officer.

19           “(8) CRIMINAL SANCTIONS.—An agent, em-  
20          ployee, or officer of the United States shall be sub-  
21          ject to any criminal sanction (including any fine or  
22          imprisonment) under any Federal or State water  
23          pollution law, but no department, agency, or instru-  
24          mentality of the executive, legislative, or judicial

1 branch of the Federal Government shall be subject  
2 to any such sanction.”.

3 (b) FUNDS COLLECTED BY A STATE.—Section 313  
4 (33 U.S.C. 1323) is further amended by adding at the  
5 end the following:

6 “(c) LIMITATION ON STATE USE OF FUNDS.—Unless  
7 a State law in effect on the date of the enactment of this  
8 subsection or a State constitution requires the funds to  
9 be used in a different manner, all funds collected by a  
10 State from the Federal Government in penalties and fines  
11 imposed for the violation of a substantive or procedural  
12 requirement referred to in subsection (a) shall be used by  
13 the State only for projects designed to improve or protect  
14 the environment or to defray the costs of environmental  
15 protection or enforcement.”.

16 (c) ENFORCEMENT.—Section 313 is further amended  
17 by adding at the end the following:

18 “(d) FEDERAL FACILITY ENFORCEMENT.—

19 “(1) ADMINISTRATIVE ENFORCEMENT BY  
20 EPA.—The Administrator may commence an admin-  
21 istrative enforcement action against any department,  
22 agency, or instrumentality of the executive, legisla-  
23 tive, or judicial branch of the Federal Government  
24 pursuant to the enforcement authorities contained in  
25 this Act.

1           “(2) PROCEDURE.—The Administrator shall  
2           initiate an administrative enforcement action against  
3           a department, agency, or instrumentality under this  
4           subsection in the same manner and under the same  
5           circumstances as an action would be initiated  
6           against any other person under this Act.

7           “(3) VOLUNTARY SETTLEMENT.—Any vol-  
8           untary resolution or settlement of an action under  
9           this subsection shall be set forth in a consent order.

10           “(4) CONFERRAL WITH EPA.—No administra-  
11           tive order issued to a department, agency, or instru-  
12           mentality under this section shall become final until  
13           such department, agency, or instrumentality has had  
14           the opportunity to confer with the Administrator.”.

15           (d) LIMITATION ON ACTIONS AND RIGHT OF INTER-  
16           VENTION.—Section 313 is further amended by adding at  
17           the end the following:

18           “(e) LIMITATION ON ACTIONS AND RIGHT OF INTER-  
19           VENTION.—Any violation with respect to which the Ad-  
20           ministrator or Secretary, as applicable, has commenced  
21           and is diligently prosecuting an action under this sub-  
22           section, or for which the Administrator or Secretary, as  
23           applicable, has issued a final order and the violator has  
24           either paid a penalty or fine assessed under this subsection  
25           or is subject to an enforceable schedule of corrective ac-

1 tions, shall not be the subject of an enforcement action  
2 under section 505 of this Act. In any action under this  
3 subsection, any citizen may intervene as a matter of  
4 right.”.

5 (e) DEFINITION OF PERSON.—Section 502(5) (33  
6 U.S.C. 1362(5)) is amended by inserting before the period  
7 at the end the following: “and includes any department,  
8 agency, or instrumentality of the United States”.

9 (f) DEFINITION OF RADIOACTIVE MATERIALS.—Sec-  
10 tion 502 (33 U.S.C. 1362) is amended by adding at the  
11 end the following:

12 “(21) The term ‘radioactive materials’ includes  
13 source materials, special nuclear materials, and byproduct  
14 materials (as such terms are defined under the Atomic  
15 Energy Act of 1954) which are used, produced, or man-  
16 aged at facilities not licensed by the Nuclear Regulatory  
17 Commission; except that such term does not include any  
18 material which is discharged from a vessel or other facility  
19 covered by Executive Order 12344 (42 U.S.C. 7158 note;  
20 relating to the Naval Nuclear Propulsion Program).”.

21 (g) CONFORMING AMENDMENTS.—Section 313(b)  
22 (33 U.S.C. 1323(b)) is amended—

23 (1) by striking “(b)(1)” and inserting the fol-  
24 lowing:

25 “(b) WASTEWATER FACILITIES.—

1           “(1) COOPERATION FOR USE OF WASTEWATER  
2 CONTROL SYSTEMS.—”;

3           (2) in paragraph (2) by inserting “LIMITATION  
4 ON CONSTRUCTION.—” before “Construction”; and

5           (3) by moving paragraphs (1) and (2) 2 ems to  
6 the right.

7           (h) EFFECTIVE DATE.—The amendments made by  
8 this section shall take effect on the date of the enactment  
9 of this Act and shall only apply to violations occurring  
10 after such date of enactment.

11 **SEC. 311. NONPOINT SOURCE MANAGEMENT PROGRAMS.**

12           (a) STATE ASSESSMENT REPORTS.—

13           (1) RELATIONSHIP TO INDIVIDUAL MANAGE-  
14 MENT PLANS.—Section 319(a)(1)(B) (33 U.S.C.  
15 1329(a)(1)(B)) is amended by inserting before the  
16 semicolon the following: “, including nonpoint  
17 sources of ground water pollution and nonpoint  
18 sources for which the State may require site-specific  
19 management plans”.

20           (2) REVIEW AND REVISION.—Section 319(a) is  
21 further amended—

22           (A) in paragraph (2) by inserting “, re-  
23 viewing, and revising” after “developing”;



1 (B) in paragraph (2) by striking “section,”  
2 the first place it appears and inserting “sub-  
3 section,”; and

4 (C) by adding at the end the following new  
5 paragraph:

6 “(3) REVIEW AND REVISION.—Not later than  
7 12 months after the date of the enactment of this  
8 paragraph, and every 5 years thereafter, the State  
9 shall review and revise the report required by this  
10 subsection.”.

11 (3) APPROVAL PROCESS.—Section 319(d) is  
12 amended—

13 (A) in paragraph (1) by inserting “or re-  
14 vised report” after “any report”; and

15 (B) in paragraph (3)—

16 (i) by striking “the report” and in-  
17 serting “a report or revised report”;

18 (ii) by striking “30” and inserting  
19 “18”; and

20 (iii) by striking “of the enactment of  
21 this section” and inserting “on which such  
22 report is required to be submitted under  
23 subsection (a)”.

24 (b) STATE MANAGEMENT PROGRAM.—

1 (1) TERM OF PROGRAM.—Section 319(b)(1) is  
2 amended by striking “four” and inserting “5”.

3 (2) CONTENTS.—Section 319(b)(2) is amend-  
4 ed—

5 (A) in each of subparagraphs (A) and (C)  
6 by striking “paragraph (1)(B)” and inserting  
7 “subsection (a)(1)(B)”;

8 (B) in subparagraph (B)—

9 (i) by striking “, as appropriate,” and  
10 inserting “enforceable policies and mecha-  
11 nisms,”;

12 (ii) by striking “for enforcement”;

13 and

14 (iii) by adding at the end the follow-  
15 ing: “Such programs shall, at a minimum,  
16 provide for implementation of best man-  
17 agement practices and measures in con-  
18 formity with guidance to be issued by the  
19 Administrator pursuant to subsection  
20 (o).”;

21 (C) in subparagraph (C) by striking “at  
22 the earliest practicable date” and inserting  
23 “and measures on a watershed or other appro-  
24 priate basis within 3 years after the date on  
25 which each such watershed or other area is des-

1           ignated under subparagraph (K) for undertak-  
2           ing such practices and measures”;

3           (D) in subparagraph (D) by striking “A  
4           certification of” and inserting “After the date  
5           of the enactment of the Water Quality Act of  
6           1994, a certification by”; and

7           (E) by adding at the end the following:

8           “(G) A description of monitoring and as-  
9           sessment which will be carried out under the  
10          program for the purposes of monitoring and as-  
11          sessing the effectiveness of the program, includ-  
12          ing the effectiveness of site-specific manage-  
13          ment plans.

14          “(H) A description of measures and prac-  
15          tices of the program which will be applicable to  
16          land owners and a description of any category  
17          of land owners (including categories of land-  
18          owners determined solely on the basis of eco-  
19          nomic hardship), class of activities, or areas  
20          which will be exempt from such measures and  
21          practices.

22          “(I) An identification of classes or cat-  
23          egories of activities for which land owners will  
24          be required to develop, submit to the State for  
25          approval, and (after approval) implement site-

1 specific management plans. Before January 1,  
2 2005, a land owner participating in and com-  
3 plying with the requirements of a qualified pro-  
4 gram shall be treated as having satisfied the re-  
5 quirements for implementation of a site-specific  
6 management plan under this subparagraph with  
7 respect to pollutants and land areas regulated  
8 under the qualified program. For purposes of  
9 this section, a land owner shall be considered to  
10 be participating in and complying with the re-  
11 quirements of a qualified program, whether or  
12 not the land owner is receiving financial assist-  
13 ance under such program, if the agency admin-  
14 istering such program provides certification  
15 with respect to such compliance. For the pur-  
16 poses of this subparagraph, the term ‘qualified  
17 program’ means any of the following:

18 “(i) The Conservation Reserve Pro-  
19 gram established under section 1231 of the  
20 Food Security Act of 1985.

21 “(ii) The Agriculture Water Quality  
22 Protection Program established under sec-  
23 tion 1238B of the Food Security Act of  
24 1985.

1           “(iii) The Integrated Farm Manage-  
2           ment Program Option established under  
3           section 1451 of the Food, Agriculture,  
4           Conservation, and Trade Act of 1990.

5           “(iv) The Organic Certification Pro-  
6           gram under title XXI of the Food, Agri-  
7           culture, Conservation, and Trade Act of  
8           1990.

9           “(v) The Coastal Zone Act Reauthor-  
10          ization Amendments of 1990.

11          “(vi) A program which is determined  
12          by the State to contribute to water quality  
13          improvement or protection and to meeting  
14          the objectives of this section and which is  
15          submitted to the Administrator and ap-  
16          proved by the Administrator.

17          “(J) If the program identifies any land  
18          owner or category of land owners which will be  
19          required to implement a site-specific manage-  
20          ment plan under subparagraph (I), an identi-  
21          fication of methods to inform each such land-  
22          owner or category of landowners of sources of  
23          Federal, State, and local governmental assist-  
24          ance available for development and implementa-  
25          tion of such plan.

1           “(K) Designation of those watersheds or  
2 other areas located in whole or in part within  
3 the boundaries of the State for which best man-  
4 agement practices and measures will be under-  
5 taken in each year. If, based on a revised as-  
6 sessment under subsection (a), navigable waters  
7 within a watershed or area are not meeting ap-  
8 plicable water quality standards under section  
9 303, the State shall require the implementation  
10 of such additional best management practices  
11 and measures as may be necessary for such  
12 navigable waters to meet such standards.

13           “(L) A schedule for addressing during the  
14 5-year period beginning 2 years after the date  
15 of the enactment of this subparagraph, and  
16 during each 5-year period thereafter, all  
17 nonpoint sources of pollution in the State. The  
18 schedule shall address approximately 20 percent  
19 of the watersheds or other areas located in  
20 whole or in part within the boundaries of the  
21 State during each year of the 5-year period.

22           “(M) An identification of activities on Fed-  
23 eral lands in the State that are inconsistent  
24 with the State management program.”.

1           (3) DEADLINE FOR SUBMISSION OF PRO-  
2           GRAM.—Section 319(c)(2) is amended by striking  
3           “this section” and inserting “the Water Quality Act  
4           of 1994 and each 5-year period thereafter”.

5           (c) PROCEDURE FOR DISAPPROVAL OF REPORTS AND  
6           MANAGEMENT PROGRAMS.—Section 319(d)(2)(D) is  
7           amended by striking “are not adequate” and all that fol-  
8           lows through the semicolon at the end and inserting “will  
9           not result in reasonable progress toward the attainment  
10          of applicable water quality standards under section 303  
11          as expeditiously as possible but not later than December  
12          31, 2009;”.

13          (d) LOCAL AND FEDERAL MANAGEMENT PROGRAMS;  
14          TECHNICAL ASSISTANCE.—Section 319(e) is amended—

15                 (1) in the subsection heading by inserting “AND  
16                 FEDERAL” after “LOCAL”;

17                 (2) by striking “If a State” and inserting the  
18                 following:

19                         “(1) LOCAL.—If a State”;

20                 (3) by striking “If the Administrator approves  
21                 such management program,” and all that follows  
22                 through the period and inserting “Such agency shall  
23                 be eligible to receive financial assistance under sub-  
24                 section (h) for preparation and implementation of

1 such management program as if the agency were a  
2 State.”;

3 (4) by moving paragraph (1), as designated by  
4 paragraph (2) of this subsection, 2 ems to the right;  
5 and

6 (5) by adding at the end the following:

7 “(2) FEDERAL.—If a State fails to submit a  
8 management program or revised management pro-  
9 gram under subsection (b) or the Administrator does  
10 not approve such a management program, the Ad-  
11 ministrator shall prepare a management program for  
12 controlling pollution added from nonpoint sources to  
13 the navigable waters within the State and improving  
14 the quality of such waters in accordance with sub-  
15 section (b).”.

16 (e) GRANT PROGRAM.—

17 (1) FOR PREPARING ASSESSMENT REPORTS  
18 AND MANAGEMENT PROGRAMS.—Section 319(h)(1)  
19 is amended to read as follows:

20 “(1) GRANTS FOR PREPARATION AND IMPLE-  
21 MENTATION OF REPORTS AND MANAGEMENT PRO-  
22 GRAMS.—Upon application of a State, the Adminis-  
23 trator may make grants under this subsection, sub-  
24 ject to such terms and conditions as the Adminis-  
25 trator considers appropriate, to such State for the



1 purpose of assisting the State in preparing a report  
2 under subsection (a) and in preparing and imple-  
3 menting a management program under subsection  
4 (b). Grants for implementation of such management  
5 program may be made only after such report and  
6 management program are approved under this sec-  
7 tion. Funds reserved pursuant to section 205(j)(5)  
8 of this Act may be used to develop and implement  
9 such management program.”.

10 (2) FEDERAL SHARE.—Section 319(h)(3) is  
11 amended—

12 (A) by striking “management program im-  
13 plemented” and inserting “report prepared and  
14 management program prepared and imple-  
15 mented”; and

16 (B) by striking “implementing” and insert-  
17 ing “preparing such report and preparing and  
18 implementing”.

19 (3) PRIORITY FOR EFFECTIVE MECHANISMS.—  
20 Section 319(h)(5) is amended—

21 (A) by striking “or” at the end of subpara-  
22 graph (C);

23 (B) by striking the period at the end of  
24 subparagraph (D) and inserting a semicolon;  
25 and

1 (C) by adding at the end the following:

2 “(E) protect waters designated pursuant to  
3 section 303(c)(2)(A) as public water supplies;

4 or

5 “(F) control particularly difficult or seri-  
6 ous nonpoint pollution problems in urban  
7 areas.”.

8 (4) LIMITATION ON USE OF FUNDS.—Section  
9 319(h)(7) is amended to read as follows:

10 “(7) LIMITATION ON USE OF FUNDS.—States  
11 may use funds from grants made pursuant to this  
12 section—

13 “(A) only for providing financial assistance  
14 with respect to those activities whose principal  
15 purpose is protecting and improving water qual-  
16 ity; and

17 “(B) only to the extent that such assist-  
18 ance is related to the cost of implementing the  
19 State management program.”.

20 (5) COMPLIANCE WITH STATE MANAGEMENT  
21 PROGRAM.—Section 319(h)(8) is amended—

22 (A) by striking “SATISFACTORY  
23 PROGRESS.—” and inserting “COMPLIANCE  
24 WITH STATE MANAGEMENT PROGRAM.—”; and

1           (B) by striking “made satisfactory  
2           progress” and all that follows through the pe-  
3           riod and inserting “complied in such preceding  
4           fiscal year with its management program or re-  
5           vised management program approved under this  
6           section.”.

7           (f) AUTHORIZATION OF APPROPRIATIONS.—Section  
8   319(j) is amended by striking “and \$130,000,000” and  
9   all that follows through “\$7,500,000” and inserting the  
10 following: “\$130,000,000 for each of fiscal years 1991,  
11 1992, and 1993, \$200,000,000 for fiscal year 1994,  
12 \$250,000,000 for fiscal year 1995, \$300,000,000 for fis-  
13 cal year 1996, \$350,000,000 for fiscal year 1997,  
14 \$400,000,000 for fiscal year 1998, \$450,000,000 for fis-  
15 cal year 1999, and \$500,000,000 for fiscal year 2000; ex-  
16 cept that for each of such fiscal years not to exceed  
17 \$25,000,000”.

18           (g) REPORTS.—Section 319(m) is amended—

19           (1) in paragraph (1) by striking “ANNUAL” and  
20           inserting “BIENNIAL”;

21           (2) in paragraph (1) by striking “1988, and  
22           each January 1” and inserting “1995, and bienni-  
23           ally”; and

24           (3) in paragraph (2) by striking “FINAL RE-  
25           PORT.—” and all that follows through “Such re-

1 port,” and insert “CONTENTS.—Each report submit-  
2 ted under paragraph (1),”.

3 (h) GUIDANCE ON BEST MANAGEMENT PRACTICES  
4 AND MEASURES.—Section 319 is further amended by add-  
5 ing at the end the following new subsection:

6 “(o) GUIDANCE ON BEST MANAGEMENT PRACTICES  
7 AND MEASURES.—

8 “(1) IN GENERAL.—The Administrator, in con-  
9 sultation with appropriate Federal and State depart-  
10 ments and agencies, and after providing notice and  
11 opportunity for public comment, shall publish guid-  
12 ance to identify best management practices and  
13 measures which may be undertaken under manage-  
14 ment programs established pursuant to this section.

15 “(2) PUBLICATION.—The Administrator shall  
16 publish proposed guidance under this subsection not  
17 later than 6 months after the date of the enactment  
18 of this subsection and shall publish final guidance  
19 under this subsection not later than 18 months after  
20 such date of enactment. The Administrator shall pe-  
21 riodically review and revise the final guidance at  
22 least every 3 years after its publication.

23 “(3) BEST MANAGEMENT PRACTICES AND  
24 MEASURES DEFINED.—For the purposes of this sub-  
25 section, the term ‘best management practices and

1 measures' means economically achievable measures  
2 for the control of the addition of pollutants from ex-  
3 isting and new categories and classes of nonpoint  
4 sources of pollution which reflect the greatest degree  
5 of pollutant reduction achievable through the appli-  
6 cation of the best available nonpoint pollution con-  
7 trol practices, technologies, processes, siting criteria,  
8 operating methods, or other alternatives.”.

9 (i) ENFORCEABLE POLICY DEFINED.—Section 319  
10 of such Act is further amended by adding at the end the  
11 following new subsection:

12 “(p) ENFORCEABLE POLICY DEFINED.—In this sec-  
13 tion, the term ‘enforceable policy’ means any policy of a  
14 State which is legally binding through constitutional provi-  
15 sions, laws, regulations, land use plans, ordinances, or ju-  
16 dicial or administrative decisions and by which the State  
17 exercises control over private and public land and water  
18 uses and natural resources.”.

19 **SEC. 312. NATIONAL ESTUARY PROGRAM.**

20 (a) TECHNICAL AMENDMENT.—Section 320(a)(2)(B)  
21 (33 U.S.C. 1330(a)(2)(B)) is amended to read as follows:

22 “(B) PRIORITY CONSIDERATION.—The Ad-  
23 ministrator shall give priority consideration  
24 under this section to Long Island Sound, New  
25 York and Connecticut; Narragansett Bay,

1 Rhode Island; Buzzards Bay, Massachusetts;  
2 Massachusetts Bay, Massachusetts (including  
3 Cape Cod Bay and Boston Harbor); Puget  
4 Sound, Washington; New York-New Jersey  
5 Harbor, New York and New Jersey; Delaware  
6 Bay, Delaware and New Jersey; Delaware In-  
7 land Bays, Delaware; Albemarle Sound, North  
8 Carolina; Sarasota Bay, Florida; San Francisco  
9 Bay, California; Santa Monica Bay, California;  
10 Galveston Bay, Texas; Barataria-Terrebonne  
11 Bay estuary complex, Louisiana; Indian River  
12 Lagoon, Florida; and Peconic Bay, New York.”.

13 (b) GRANTS.—Section 320(g)(2) (33 U.S.C.  
14 1330(g)(2)) is amended by inserting “and implementa-  
15 tion” after “development”.

16 **SEC. 313. POLLUTION PREVENTION.**

17 (a) POLLUTION PREVENTION PLANS.—Title III (33  
18 U.S.C. 1311–1330) is amended by adding at the end the  
19 following:

20 **“SEC. 321. POLLUTION PREVENTION PLANS.**

21 “(a) DEVELOPMENT.—The Administrator shall es-  
22 tablish by regulation a schedule under which major  
23 nonmunicipal dischargers of pollutants and significant in-  
24 dustrial users are required to develop and submit, to the  
25 Administrator and the State in the case of a State which

1 is administering a pollution prevention program approved  
2 by the Administrator under this section, a plan to prevent  
3 or reduce pollution of navigable waters.

4 “(b) CONTENTS.—A plan developed and submitted to  
5 the Administrator under this section shall include, at a  
6 minimum, the following:

7 “(1) IDENTIFICATION OF POLLUTANTS.—Iden-  
8 tification of those pollutants that the person submit-  
9 ting the plan discharges into navigable waters or in-  
10 troduces into a publicly owned treatment works.

11 “(2) DESCRIPTION OF POLLUTION SOURCES  
12 AND COMPREHENSIVE REVIEW OF PROCESSES.—A  
13 description of the sources of such pollutants and a  
14 comprehensive review of the processes used by the  
15 person submitting the plan that result in the dis-  
16 charge or introduction of such pollutants, as the  
17 case may be.

18 “(3) ANALYSIS OF POLLUTION PREVENTION  
19 METHODS.—An analysis of the methods which could  
20 be used to prevent or reduce such pollution in a cost  
21 effective manner, including application of innovative  
22 and alternative technologies, and any adverse envi-  
23 ronmental impacts of the use of those methods.

24 “(4) STATEMENT OF GOALS.—A statement of  
25 pollution prevention goals or strategies of the person

1 submitting the plan, including priorities for short-  
2 term and long-term action.

3 “(5) DESCRIPTION OF INTENDED ACTIONS.—A  
4 description of the methods which the person submit-  
5 ting the plan intends to implement over the succeed-  
6 ing 5-year period in order to implement the goals or  
7 strategies contained in the statement described in  
8 paragraph (4).

9 “(6) DESCRIPTION OF EXISTING POLLUTION  
10 PREVENTION METHODS.—A description of any pollu-  
11 tion prevention measures that currently are being  
12 implemented by the person submitting the plan and,  
13 to the extent available, identification of their im-  
14 pacts.

15 “(c) COMPARABLE STATE AND LOCAL PROGRAMS.—  
16 At any time after the date of the issuance of regulations  
17 to carry out this section, the Governor of a State may sub-  
18 mit to the Administrator a description of pollution preven-  
19 tion laws and programs for discharges of pollutants into  
20 navigable waters and introduction of pollutants into pub-  
21 licly owned treatment works within its jurisdiction the  
22 State proposes to administer under State law or under an  
23 interstate compact, including any existing State pollution  
24 prevention program. If the Administrator determines that  
25 the State program is at least comparable to the program



1 of the Administrator under this section, then the State  
2 program shall apply instead of the program of the Admin-  
3 istrator.

4 “(d) PUBLIC AVAILABILITY.—A person submitting a  
5 plan to the Administrator or a State under this section  
6 shall make summaries of such plan available to the public,  
7 upon request or during normal working hours, at the prin-  
8 cipal place of business of such person located in the juris-  
9 diction of the State.

10 “(e) NONENFORCEABILITY.—The contents of a plan  
11 to be developed and submitted to the Administrator or a  
12 State under this section shall not be enforceable.

13 “(f) CONFIDENTIALITY.—Information made available  
14 to the Administrator in a plan developed under this section  
15 shall be entitled to protection under section 1905 of title  
16 18, United States Code, and shall be considered confiden-  
17 tial in accordance with the purposes of that section, except  
18 that such information may be disclosed to other officers,  
19 employees, or authorized representatives of the United  
20 States concerned with carrying out this Act. Information  
21 to be submitted to a State in a plan developed under this  
22 section shall be afforded protection equivalent to that  
23 which would be afforded to such information under the  
24 preceding sentence and section 1905 of such title if the

1 information was being submitted to the Administrator  
2 under this section.

3       “(g) LIMITATIONS ON STATUTORY CONSTRUC-  
4 TION.—Nothing in this section shall be construed as af-  
5 fecting applicable effluent limitations or the requirements  
6 for individual control strategies under section 304(l).  
7 Nothing in this section shall be construed to authorize the  
8 Administrator or a State to modify or condition the con-  
9 tents of an adequately prepared plan submitted under this  
10 section.

11       “(h) REGULATIONS.—Not later than 1 year after the  
12 date of the enactment of this section, the Administrator  
13 shall issue such regulations as may be necessary to carry  
14 out this section.

15       “(i) REPORT ON INNOVATIVE AND ALTERNATIVE  
16 TECHNOLOGIES.—Not later than 1 year after the date of  
17 the enactment of this section, the Administrator shall re-  
18 view, analyze, and compile in a report information on inno-  
19 vative and alternative technologies which are available for  
20 preventing and reducing pollution of navigable waters,  
21 submit such report to Congress, and publish in the Fed-  
22 eral Register a summary of such report and a notice of  
23 the availability of such report. The Administrator shall an-  
24 nually update the report prepared under this subsection,  
25 submit the updated report to Congress, and publish in the

1 Federal Register a summary of the updated report and  
2 a notice of its availability.

3 “(j) DEFINITIONS.—In this section, the following  
4 definitions apply:

5 “(1) MAJOR NONMUNICIPAL DISCHARGER OF  
6 POLLUTANTS.—The term ‘major nonmunicipal dis-  
7 charger of pollutants’ means a person who dis-  
8 charges toxic chemicals in excess of 200,000 pounds  
9 per year into navigable waters and who is required  
10 to submit forms or information to the Administrator  
11 under section 313 of the Emergency Planning and  
12 Community Right-To-Know Act of 1986 (42 U.S.C.  
13 11023).

14 “(2) SIGNIFICANT INDUSTRIAL USER.—The  
15 term ‘significant industrial user’ means a person  
16 who introduces into a publicly owned treatment  
17 works toxic chemicals in excess of 200,000 pounds  
18 per year and who is required to submit forms or in-  
19 formation to the Administrator under section 313 of  
20 the Emergency Planning and Community Right-To-  
21 Know Act of 1986 (42 U.S.C. 11023).”.

22 (b) TOXIC REDUCTION ACTION PLANS.—Section 307  
23 (33 U.S.C. 1317) is amended by adding at the end the  
24 following:

25 “(f) TOXIC REDUCTION ACTION PLANS.—

1           “(1) DEVELOPMENT.—Each publicly owned  
2 treatment works that is required to develop an ap-  
3 proved pretreatment program under this Act and  
4 each federally owned treatment works shall develop  
5 a toxic reduction action plan.

6           “(2) PURPOSE.—A plan developed under this  
7 section shall be designed to reduce, through public  
8 education, best management practices, technology-  
9 based local limits, and other means, the introduction  
10 of toxic pollutants and hazardous wastes into pub-  
11 licly owned treatment works and federally owned  
12 treatment works and shall be directed at sources not  
13 scheduled to be subject to categorical standards  
14 under section 304(l).

15           “(3) GUIDANCE.—Not later than 18 months  
16 after the date of the enactment of this subsection,  
17 and after providing for notice and comment, the Ad-  
18 ministrator shall publish guidance on the develop-  
19 ment, approval, and implementation of plans under  
20 this subsection and on providing technical assistance  
21 to small communities to assist them in reducing the  
22 introduction of toxic pollutants and hazardous  
23 wastes from small industrial and commercial sources  
24 into publicly owned treatment works and federally  
25 owned treatment works.

1           “(4) ENFORCEMENT.—Effective on the last day  
2 of the 1-year period beginning on the date of publi-  
3 cation of guidance under paragraph (3), a toxic re-  
4 duction action plan approved by the Administrator  
5 under this section shall be a precondition for issu-  
6 ance or renewal of a permit under section 402 of  
7 this Act to a treatment works that is required to  
8 have an approved pretreatment program under this  
9 Act.”.

10 **SEC. 314. STATE WATERSHED MANAGEMENT PROGRAMS.**

11           (a) ESTABLISHMENT.—Title III (33 U.S.C. 1311–  
12 1330) is amended by adding at the end the following:

13 **“SEC. 322. STATE WATERSHED MANAGEMENT PROGRAMS.**

14           “(a) APPLICATION.—A State may submit to the Ad-  
15 ministrator for approval an application to implement a  
16 State watershed management program. Such application  
17 shall be in such form and contain such information as the  
18 Administrator may require by regulation.

19           “(b) MINIMUM ELEMENTS FOR APPROVAL.—The Ad-  
20 ministrator may only approve a State watershed manage-  
21 ment program for implementation under this section if the  
22 State provided an appropriate opportunity for public par-  
23 ticipation in development of the program, if the State  
24 demonstrates to the satisfaction of the Administrator the

1 capability to implement the program, and if the program  
2 includes the following elements:

3           “(1) Identification of the State agency respon-  
4           sible for overseeing and approving watershed man-  
5           agement plans under the program.

6           “(2) A method for establishing watershed areas  
7           within the areas of the State, including watersheds  
8           located in more than 1 State. If a watershed is lo-  
9           cated in more than 1 State, the program shall re-  
10          quire the State submitting the application to cooper-  
11          ate with the other States within the boundaries of  
12          which the watershed is located and may include co-  
13          operative efforts, mutual assistance, and the estab-  
14          lishment of agencies in accordance with section  
15          103(b).

16          “(3) Designation of those watersheds which will  
17          receive priority under the program for development  
18          and implementation of watershed management  
19          plans. The factors to be considered in designating  
20          such watersheds may include—

21                 “(A) the presence within the watershed of  
22                 waters the water quality of which is threatened  
23                 or impaired;

24                 “(B) the need to protect highly productive,  
25                 fragile, declining, or unique environmental

1 areas which rely on such waters for their exist-  
2 ence;

3 “(C) the degree of risk to human health  
4 and the environment within the watershed;

5 “(D) the need to restore or maintain wa-  
6 ters of special significance to local interests;  
7 and

8 “(E) the need to protect priority ground  
9 water or drinking water supplies.

10 “(4) A schedule, including appropriate mile-  
11 stones, for implementing watershed management  
12 plans under the program and for achieving and  
13 maintaining water quality standards in all waters lo-  
14 cated within the boundaries of the State by not later  
15 than December 31, 2009.

16 “(5) A mechanism for designation of those per-  
17 sons who are responsible for development and imple-  
18 mentation of each watershed management plan  
19 under the program. The designated persons may in-  
20 clude—

21 “(A) interstate and regional agencies or  
22 entities having jurisdiction over all or a signifi-  
23 cant part of the watershed;

24 “(B) interested Federal agencies;

1           “(C) local governments having jurisdiction  
2           over any land or water located within the water-  
3           shed; and

4           “(D) affected industries, public and private  
5           educational institutions, and representatives of  
6           the general public.

7           “(6) Identification of State environmental ob-  
8           jectives which will be adopted and achieved under  
9           the program, including attainment of water quality  
10          standards and other environmental goals and re-  
11          quirements.

12          “(7) A program for monitoring water quality  
13          for the purpose of determining the effectiveness of  
14          the State watershed management program.

15          “(8) A mechanism for including public involve-  
16          ment in the development and implementation of wa-  
17          tershed management plans under the State water-  
18          shed management program.

19          “(9) A process for State oversight and evalua-  
20          tion of development and implementation of such  
21          plans.

22          “(c) GUIDANCE.—Not later than 1 year after the  
23          date of the enactment of this section, the Administrator,  
24          after consultation with appropriate State and local govern-  
25          ment agencies, shall develop and publish guidance to the



1 States on development of State watershed management  
2 programs. Such guidance shall describe the minimum ele-  
3 ments necessary for approval of such programs under this  
4 section.

5 “(d) COOPERATION OF OTHER FEDERAL AGEN-  
6 CIES.—Upon request, Federal agencies shall provide to  
7 States and watershed management entities such informa-  
8 tion as may be useful for development and implementation  
9 of watershed management programs and plans.

10 “(e) APPROVAL PROCESS.—Not later than the last  
11 day of the 180th day following the date of submission of  
12 an application under this subsection, the Administrator,  
13 after consultation with other Federal agencies, shall ap-  
14 prove or disapprove the application. If the Administrator  
15 disapproves the application, the Administrator shall speci-  
16 fy, in writing, any modifications of the application which  
17 are necessary for approval of the application under this  
18 section.

19 “(f) REVOCATION OF APPROVAL.—If the Adminis-  
20 trator, after consultation with other Federal agencies,  
21 finds that a State watershed management program ap-  
22 proved under this section is not resulting in the mainte-  
23 nance or attainment of water quality standards in accord-  
24 ance with the implementation schedule approved as part  
25 of the program under this section, the Administrator shall

1 notify the State, in writing, of any modifications of the  
2 program necessary to continue approval of the program  
3 under this section. If, after the State has been provided  
4 an opportunity to modify the program and to implement  
5 the modified program, the program is not resulting in the  
6 maintenance or attainment of water quality standards, the  
7 Administrator shall revoke approval of the program under  
8 this section.

9       “(g) STATE REPORTS.—Each State implementing a  
10 watershed management program under this section shall  
11 submit to the Administrator annual reports on the activi-  
12 ties carried out under the program during the preceding  
13 year and the progress being made toward attainment of  
14 water quality standards and other environmental goals  
15 and requirements under the program.

16       “(h) INCENTIVES.—

17               “(1) TRANSFERABILITY OF FUNDS.—In any fis-  
18 cal year in which a State is implementing a State  
19 watershed management program approved under  
20 this section, the State may transfer any funds it re-  
21 ceives under each of sections 104(b)(3), 104(g), 106,  
22 314(b), 319, and 604(b) for use under any of such  
23 other sections. Any such transfer shall be subject to  
24 such limitations and conditions as the Administrator  
25 may impose to ensure that the transferred funds are

1 used in accordance with the terms and conditions of  
2 the program to which such funds are transferred.

3 “(2) EXTENSION OF TERMS OF NPDES PER-  
4 MITS.—In any fiscal year in which a State is imple-  
5 menting a State watershed management program  
6 approved under this section, the Administrator or  
7 the State (if the State has a permit program ap-  
8 proved under section 402) may extend—

9 “(A) on a one-time basis, the terms of per-  
10 mits, issued under such section for the dis-  
11 charge of any pollutant or combination of pol-  
12 lutants into waters in a watershed subject to  
13 such program, from 5 years to a maximum of  
14 8 years for the purpose of having the same ter-  
15 mination year for all permits issued under such  
16 section for discharges into waters in such wa-  
17 tershed; and

18 “(B) the terms of permits issued under  
19 such section for discharges from a point source  
20 into waters in the State from 5 years to a maxi-  
21 mum of 10 years if such waters are meeting ap-  
22 plicable water quality standards under this Act  
23 and if, throughout the term of the permit, such  
24 water quality standards will be maintained.”.

25 (b) ADDITIONAL INCENTIVES.—

1           (1) EXTENSION OF REVIEW PROCESS.—Section  
2           303(c)(1) (33 U.S.C. 1313(c)(1)) is amended by in-  
3           serting after “1972” the following: “or at least once  
4           each 5-year period in the case of a State which is  
5           implementing a watershed management program ap-  
6           proved under section 322”.

7           (2) PLANNING.—Section 604(b) (33 U.S.C.  
8           1384(b)) is amended by adding at the end the fol-  
9           lowing: “In any fiscal year in which a State is imple-  
10          menting a State watershed management program  
11          approved under section 322, the State may reserve  
12          up to an additional 2 percent of the sums allotted  
13          to the State for such fiscal year for development of  
14          watershed management plans under such program if  
15          50 percent of the amount reserved under this sen-  
16          tence will be made available to local entities.”.

17          (c) TRANSFER OPPORTUNITIES.—

18               (1) STUDY.—The Administrator shall conduct a  
19               study—

20                       (A) to assess the opportunities for trans-  
21                       ferring the governmentally granted authority—

22                               (i) to discharge conventional and  
23                               nonconventional pollutants between dis-  
24                               charges of pollutants with similar environ-  
25                               mental effects;

1 (ii) to discharge toxic pollutants; and  
2 (iii) to discharge pollutants between  
3 different media and among a variety of  
4 point and nonpoint sources; and  
5 (B) to evaluate methods of implementing  
6 such transfers.

7 (2) REPORT.—Not later than 18 months after  
8 the date of the enactment of this Act, the Adminis-  
9 trator shall transmit to Congress a report on the re-  
10 sults of the study conducted under this subsection,  
11 together with recommendations.

## 12 **TITLE IV—PERMITS AND** 13 **LICENSES**

### 14 **SEC. 401. STATE PERMIT PROGRAMS.**

15 (a) JUDICIAL REVIEW OF PERMITS.—Section  
16 402(b)(3) (33 U.S.C. 1342(b)(3)) is amended—

17 (1) by striking “and to provide” and inserting  
18 “, to provide”; and

19 (2) by inserting before the semicolon at the end  
20 the following: “, and to provide any interested per-  
21 son an opportunity for judicial review of the ap-  
22 proval or denial of any such application”.

23 (b) PENALTIES.—Section 402(b)(7) (33 U.S.C.  
24 1342(b)(7)) is amended by inserting after “civil and crimi-

1 nal penalties” the following: “which are comparable to  
2 Federal civil and criminal penalties”.

3 **SEC. 402. STORMWATER DISCHARGE PERMITS.**

4 Section 402(p) of the Federal Water Pollution Con-  
5 trol Act (33 U.S.C. 1342(p)) is amended to read as fol-  
6 lows:

7 “(p) MUNICIPAL AND INDUSTRIAL STORMWATER  
8 DISCHARGES.—

9 “(1) GENERAL RULE.—Permits for discharges  
10 composed entirely of stormwater are required under  
11 this Act only for the discharges described in para-  
12 graph (2). No permit shall be required under this  
13 Act for any other discharge composed entirely of  
14 stormwater. Such other discharges shall be subject  
15 to section 319, relating to nonpoint source manage-  
16 ment programs.

17 “(2) DESCRIPTIONS OF DISCHARGES FOR  
18 WHICH PERMITS ARE REQUIRED.—Permits are re-  
19 quired under this Act for the following stormwater  
20 discharges:

21 “(A) A discharge with respect to which a  
22 permit has been issued under this section before  
23 February 4, 1987.

24 “(B) A discharge associated with any in-  
25 dustrial activity (other than a discharge that is

1 composed entirely of stormwater) that is subject  
2 to regulation by a State or local stormwater  
3 program, and that is from a construction activ-  
4 ity which disturbs less than 5 acres of total  
5 land area and is not part of a larger common  
6 plan of development or sale. The Administrator  
7 may, by regulation, exempt from such permit  
8 requirement a discharge composed entirely of  
9 stormwater from conveyances or systems of  
10 conveyances (including pipes, conduits, ditches,  
11 and channels) used for collecting and conveying  
12 precipitation runoff and which are not contami-  
13 nated by contact with, or do not come into con-  
14 tact with, any material handling equipment or  
15 activity, industrial machinery, raw material, in-  
16 termediate product, finished product, byprod-  
17 uct, or waste product located on the site of the  
18 industrial activity.

19 “(C) A discharge from a municipal sepa-  
20 rate storm sewer system serving a population of  
21 250,000 or more.

22 “(D) A discharge from a municipal sepa-  
23 rate storm sewer system serving a population of  
24 100,000 or more but less than 250,000.

1           “(E) A discharge for which the Adminis-  
2           trator or the State, as the case may be, deter-  
3           mines that the stormwater discharge contrib-  
4           utes to a violation of a water quality standard  
5           or is a significant contributor of pollutants to  
6           waters of the United States.

7           “(F) A discharge from a municipal sepa-  
8           rate storm sewer system serving an urbanized  
9           area (as defined by the Bureau of Census of the  
10          Department of Commerce) with a population of  
11          less than 100,000 and more than 50,000.

12          “(3) PERMIT REQUIREMENTS.—

13           “(A) INDUSTRIAL DISCHARGES.—Permits  
14           for discharges associated with industrial activity  
15           shall meet all applicable provisions of this sec-  
16           tion and section 301.

17           “(B) MUNICIPAL DISCHARGE.—Permits  
18           for discharges from municipal separate storm  
19           sewer systems—

20                   “(i) may be issued on a system- or ju-  
21                   risdiction-wide basis;

22                   “(ii) shall include a requirement to ef-  
23                   fectively prohibit non-stormwater dis-  
24                   charges into the municipal separate storm  
25                   sewer system;



1           “(iii) shall require controls to reduce  
2           the discharge of pollutants to the maxi-  
3           mum extent practicable, including manage-  
4           ment practices, control techniques and sys-  
5           tem, design and engineering methods, and  
6           such other provisions as the Administrator  
7           or the State determines appropriate for the  
8           control of such pollutants;

9           “(iv) shall require reasonable progress  
10          toward attainment of applicable water  
11          quality standards under this Act as expedi-  
12          tiously as possible, but not later than De-  
13          cember 31, 2009; and

14          “(v) that are renewed after the date  
15          of the enactment of this clause, shall in-  
16          clude such additional requirements for the  
17          control of the discharge of pollutants as  
18          the Administrator or the State, in the case  
19          of a State with authority to issue permits  
20          under this section, determines are nec-  
21          essary for the attainment or maintenance  
22          of applicable water quality standards under  
23          this Act.

24          “(C) GENERAL AND GROUP PERMITS.—

25          The Administrator or the State, in the case of

1 a State with authority to issue permits under  
2 this section, may, after notice and opportunity  
3 for public hearing, issue general or group per-  
4 mits for any discharges described in paragraph  
5 (2) (other than discharges from municipal sepa-  
6 rate storm sewer systems) if the Administrator  
7 or the State determines that the discharges are  
8 similar in nature and that application of similar  
9 management measures will effectively reduce  
10 pollution occurring from such discharges.

11 “(D) COMPLIANCE WITH WATER QUALITY  
12 STANDARDS.—Neither the Administrator nor  
13 the State, in the case of a State with authority  
14 to issue permits under this section, may re-  
15 quire, in a permit issued under this section for  
16 discharges described in paragraph (2), compli-  
17 ance with a numeric effluent limitation or an  
18 applicable water quality standard directly before  
19 December 31, 2009, except to the extent nec-  
20 essary for implementation of management  
21 measures under the regulations issued under  
22 paragraph (5).

23 “(4) PERMIT APPLICATION REQUIREMENTS.—

24 “(A) INDUSTRIAL AND LARGE MUNICIPAL  
25 DISCHARGES.—Not later than 2 years after the

1 date of the enactment of this subsection, the  
2 Administrator shall establish regulations setting  
3 forth the permit application requirements for  
4 stormwater discharges described in paragraphs  
5 (2)(B) and (2)(C). Applications for permits for  
6 such discharges shall be filed no later than No-  
7 vember 18, 1992. Not later than November 18,  
8 1993, the Administrator or the State, as the  
9 case may be, shall issue or deny each such per-  
10 mit. Any such permit shall provide for compli-  
11 ance as expeditiously as practicable, but in no  
12 event later than 3 years after the date of issu-  
13 ance of such permit.

14 “(B) MEDIUM MUNICIPAL DISCHARGES.—  
15 Not later than 4 years after the date of the en-  
16 actment of this subsection, the Administrator  
17 shall establish regulations setting forth the per-  
18 mit application requirements for stormwater  
19 discharges described in paragraph (2)(D). Ap-  
20 plications for permits for such discharges shall  
21 be filed no later than May 17, 1993. Not later  
22 than May 17, 1994, the Administrator or the  
23 State, as the case may be, shall issue or deny  
24 each such permit. Any such permit shall provide  
25 for compliance as expeditiously as practicable,

1 but in no event later than 3 years after the date  
2 of issuance of such permit.

3 “(C) OTHER URBANIZED DISCHARGES.—  
4 Not later than October 1, 1995, the Adminis-  
5 trator shall establish regulations setting forth  
6 the permit application requirements for  
7 stormwater discharges described in paragraph  
8 (2)(F). Applications for permits for such dis-  
9 charges shall be filed no later than May 1,  
10 1997. Not later than May 1, 1998, the Admin-  
11 istrator or the State, as the case may be, shall  
12 issue or deny each such permit. Any such per-  
13 mit shall provide for compliance as expedi-  
14 tiously as practicable, but in no event later than  
15 3 years after the date of issuance of such per-  
16 mit.

17 “(5) REGULATIONS.—Not later than October 1,  
18 1995, the Administrator, in consultation with State  
19 and local officials, shall propose and, not later than  
20 May 1, 1996, issue final regulations for the issuance  
21 of permits for municipal separate storm sewer sys-  
22 tem discharges described in paragraphs (2)(C),  
23 (2)(D), and (2)(F). Such regulations shall include,  
24 at a minimum, the following:

1           “(A) Methods to prohibit effectively  
2 nonstormwater discharges into the municipal  
3 separate storm sewer system of the permittee.

4           “(B) Information on the development and  
5 implementation of management measures to re-  
6 duce, to the maximum extent practicable, the  
7 discharge of pollutants from such system. In  
8 this subsection, the term ‘management meas-  
9 ures’ means economically achievable measures  
10 for the control of the addition of pollutants  
11 from a municipal separate storm sewer system  
12 which reflect the greatest degree of pollutant  
13 reduction achievable through the application of  
14 the best available storm water control practices,  
15 technologies, processes, siting criteria, operating  
16 methods, or other alternatives. The Adminis-  
17 trator shall establish objective minimum per-  
18 formance standards for each management  
19 measure.

20           “(C) Requirements for development and  
21 implementation of a municipal stormwater qual-  
22 ity management program for implementation of  
23 the requirements of subparagraphs (A) and  
24 (B). The program shall be incorporated into the

1 permit and shall be subject to public hearing  
2 and review before implementation.

3 “(D) Requirements for monitoring of the  
4 waters receiving discharges described in para-  
5 graphs (2)(C), (2)(D), and (2)(F) for the pur-  
6 pose of determining if the requirements of the  
7 permit are resulting in progress toward attain-  
8 ing by December 31, 2009, applicable water  
9 quality standards under this Act.

10 The Administrator shall periodically review and re-  
11 vise the regulations taking into account States’ as-  
12 sessments of the effectiveness of the management  
13 measures being implemented under such regula-  
14 tions.”.

15 **SEC. 403. COMBINED SEWER OVERFLOWS.**

16 Section 402 (33 U.S.C. 1342) is amended by adding  
17 at the end the following:

18 “(q) COMBINED SEWER OVERFLOWS.—

19 “(1) EXISTING PERMITS.—After the last day of  
20 the 1-year period beginning on the date of the enact-  
21 ment of this subsection, a permit issued under this  
22 section before, on, or after such date of enactment  
23 shall be subject to the provisions of this subsection  
24 to the extent such permit applies to a discharge

1 from a municipal combined sewer system resulting  
2 from a wet weather overflow.

3 “(2) REGULATIONS.—Not later than 120 days  
4 after the date of the enactment of this subsection,  
5 the Administrator shall issue regulations—

6 “(A) to require, after the last day of the  
7 1-year period described in paragraph (1), a per-  
8 mit under this section for any discharge from a  
9 municipal combined sewer system resulting  
10 from a wet weather overflow;

11 “(B) to require that an applicant for such  
12 a permit submit for approval to the Adminis-  
13 trator or the State, in the case of a State with  
14 authority to issue permits under this section, a  
15 permit application that—

16 “(i) characterizes the combined sewer  
17 system of the applicant and the impact of  
18 the wet weather overflows from the system  
19 on water quality;

20 “(ii) demonstrates the ability of the  
21 applicant to implement, within 3 years  
22 after the date of submission of the applica-  
23 tion, such technology-based controls for  
24 wet weather overflows as may be specified  
25 in the regulations; and

1           “(iii) contains a long-term control  
2           plan;

3           “(C) to require that any permit issued on  
4           the basis of such an application—

5           “(i) provide for implementation, with-  
6           in 3 years after the date of submission of  
7           the application, of such technology-based  
8           controls for wet weather overflows as may  
9           be specified in the regulations; and

10          “(ii) set forth a compliance schedule  
11          for implementation of the long-term con-  
12          trol plan contained in the application as  
13          soon as practicable after the date of issu-  
14          ance of such permit; and

15          “(D) to require that such permit require  
16          reasonable progress toward attainment of appli-  
17          cable water quality standards under this Act as  
18          expeditiously as possible, but not later than De-  
19          cember 31, 2009.

20          “(3) COMPLIANCE WITH WATER QUALITY  
21          STANDARDS.—Before December 31, 2009, neither  
22          the Administrator nor the State, in the case of a  
23          State with authority to issue permits under this sec-  
24          tion, may require in a permit issued under this sec-  
25          tion and subject to this subsection that a discharge



1 from a municipal combined sewer system resulting  
2 from a wet weather overflow comply with a numeric  
3 effluent limitation or a water quality standard di-  
4 rectly.

5 “(4) LENGTH OF COMPLIANCE SCHEDULE.—  
6 The term of any permit issued by the Administrator  
7 or the State, in the case of a State with authority  
8 to issue permits under this section, for a discharge  
9 from a municipal combined sewer system resulting  
10 from a wet weather overflow shall not be construed  
11 to limit the length of the compliance schedule estab-  
12 lished by the permit.”.

13 **SEC. 404. DISCHARGES INTO GROUND WATER.**

14 Section 402 (33 U.S.C. 1342) is amended by adding  
15 at the end the following:

16 “(r) DISCHARGES INTO GROUND WATER.—

17 “(1) GENERAL RULE.—For the purposes of this  
18 section, any discharge of a pollutant into the ground  
19 or ground waters shall be treated as a discharge of  
20 a pollutant into the navigable waters if—

21 “(A) there is a reasonably foreseeable and  
22 demonstrable direct hydrologic connection be-  
23 tween the ground waters and surface waters in  
24 the proximity of the discharge;

1           “(B) a greater than de minimis quantity of  
2           the pollutant reasonably and demonstrably is  
3           able to reach such surface waters; and

4           “(C) no other Federal law directly address-  
5           es the activity resulting in the discharge.

6           “(2) LIMITATION ON ASSESSMENT OF PEN-  
7           ALTIES.—No penalty may be assessed under this  
8           Act against any person for a discharge of a pollutant  
9           into the ground or ground waters unless the person  
10          knew or should have known that there is a direct hy-  
11          drologic connection between the ground waters and  
12          surface waters in the proximity of the discharge.

13          “(3) PERMIT APPLICATION REQUIREMENT.—  
14          The Administrator or the State, in the case of a  
15          State with authority to issue permits under this sec-  
16          tion, shall require as part of any application for a  
17          permit under this section that the applicant pro-  
18          vide—

19                 “(A) a description of any known or sus-  
20                 pected sources of pollution at the facility of the  
21                 applicant to the ground or ground waters that  
22                 have a direct hydrologic connection to surface  
23                 waters; and

1           “(B) a description of any measures that  
2           have been or will be taken by the applicant to  
3           eliminate or reduce such sources of pollution.”.

4 **SEC. 405. BENEFICIAL USE OF BIOSOLIDS.**

5           Section 405(g) (33 U.S.C. 1345(g)) is amended—

6           (1) in the first sentence of paragraph (1)—

7                   (A) by inserting “(also referred to as  
8                   ‘biosolids’)” after “sewage sludge”; and

9                   (B) by inserting “building materials,” after  
10                  “agricultural and horticultural uses,”;

11           (2) in paragraph (1) by adding at the end the  
12           following: “Not later than January 1, 1996, the Ad-  
13           ministrator shall issue guidance on the beneficial use  
14           of sewage sludge.”; and

15           (3) in paragraph (2) by striking “September  
16           30, 1986,” and inserting “September 30, 1994,”.

17 **TITLE V—GENERAL PROVISIONS**

18 **SEC. 501. NEEDS ESTIMATE.**

19           Section 516(b)(1) (33 U.S.C. 1375(b)(1)) is amend-  
20 ed—

21           (1) in the first sentence by striking “biennially  
22           revised” and inserting “quadrennially revised”; and

23           (2) in the second sentence by striking “Feb-  
24           ruary 10 of each odd numbered year” and inserting

1 “December 31, 1995, and December 31 of every 4th  
2 calendar year thereafter”.

3 **SEC. 502. EMERGENCY POWERS.**

4 Section 504 (33 U.S.C. 1364) is amended to read as  
5 follows:

6 **“SEC. 504. EMERGENCY POWERS.**

7 “(a) ISSUANCE OF ORDERS; COURT ACTION.—Not-  
8 withstanding any other provision of this Act, whenever the  
9 Administrator finds that a pollution source or combination  
10 of sources may present an imminent and substantial  
11 endangerment (whether actual or threatened) to the public  
12 health or welfare (including the livelihood of persons) or  
13 to the environment, the Administrator may issue such or-  
14 ders or take such action as may be necessary to protect  
15 the public health or welfare or the environment and com-  
16 mence a suit (or cause it to be commenced) in the United  
17 States district court for the district in which the pollution  
18 source or combination of sources is located. Such court  
19 may grant such relief to abate the threat and to protect  
20 against the endangerment as the public interest and the  
21 equities of the case may require.

22 “(b) ENFORCEMENT OF ORDERS.—Any person who,  
23 without sufficient cause, violates or fails to comply with  
24 an order of the Administrator issued under this section  
25 shall be liable for civil penalties to the United States in

1 an amount not to exceed \$25,000 per day for each day  
2 on which such violation or failure occurs or continues.”.

3 **SEC. 503. CITIZEN SUITS.**

4 (a) NOTICE.—Section 505(b) (33 U.S.C. 1365(b)) is  
5 amended by adding at the end the following: “After an  
6 action is commenced against a person under this sub-  
7 section, the plaintiff shall not be required to provide notice  
8 under paragraph (1)(A) for any alleged violation by such  
9 person that is not identified in a discharge monitoring re-  
10 port that is publically available prior to the 60-day period  
11 referred to in paragraph (1)(A).”.

12 (b) REQUIREMENT FOR COMMENCING CITIZEN  
13 SUITS.—Section 505(a)(1) (33 U.S.C. 1365(a)(1)) is  
14 amended by inserting after “who is alleged” the following:  
15 “to have violated in the 180-day period ending on the date  
16 of issuance of notice under subsection (b)(1) or”.

17 (c) REVIEW OF CONSENT JUDGMENTS.—Section  
18 505(c)(3) (33 U.S.C. 1365(c)(3)) is amended by inserting  
19 after the first sentence the following: “The Attorney Gen-  
20 eral and the Administrator shall each review the proposed  
21 consent judgment to determine the consistency of the  
22 judgment with the purposes and requirements of this Act.  
23 The court shall consider any views submitted on behalf  
24 of the United States as to such consistency in determining  
25 whether to enter the proposed consent judgment.”.

1 **SEC. 504. GENERAL PROGRAM AUTHORIZATIONS.**

2 Section 517 (33 U.S.C. 1376) is amended—

3 (1) by striking “and” before “\$135,000,000”;

4 and

5 (2) by inserting before the period at the end the  
6 following: “, such sums as may be necessary for each  
7 of fiscal years 1991 through 1993, \$185,000,000 for  
8 each of fiscal years 1994 and 1995, \$190,000,000  
9 for each of fiscal years 1996 and 1997,  
10 \$195,000,000 for each of fiscal years 1998 and  
11 1999, and \$200,000,000 for fiscal year 2000.”.

12 **SEC. 505. NATIVE AMERICAN PROGRAMS.**

13 (a) REVISED REPORT.—Section 518(b) (33 U.S.C.  
14 1377(b)) is amended by adding at the end the following:  
15 “Not later than 18 months after the date of the enactment  
16 of the Water Quality Act of 1994, the Administrator shall  
17 update the assessment conducted under this subsection  
18 and transmit to Congress a revised version of the report  
19 and recommendations submitted under this subsection.”.

20 (b) SEWAGE TREATMENT.—Section 518(c) (33  
21 U.S.C. 1377(c)) is amended—

22 (1) by striking “one-half of one percent of the  
23 sums appropriated under section 207” and inserting  
24 “1 percent of the sums appropriated under section  
25 607”; and

1           (2) by adding at the end the following: “The  
2 Administrator shall provide the funds reserved under  
3 this subsection directly to Indian tribes and may  
4 make a grant in an amount not to exceed 100 per-  
5 cent of the cost of a project that is the subject of  
6 the grant. In making a grant under this subsection,  
7 the Administrator shall give priority to projects that  
8 address the most significant public health and envi-  
9 ronmental pollution problems, as determined by a  
10 needs assessment conducted under subsection (b).”.

11       (c) NONPOINT POLLUTION CONTROL.—Section  
12 518(f) (33 U.S.C. 1377(f)) is amended—

13           (1) in the second sentence by striking “one-  
14 third” and inserting “one-half”; and

15           (2) by adding at the end the following new sen-  
16 tence: “Notwithstanding section 319(h)(3), the Ad-  
17 ministrator may make a grant under this subsection  
18 in an amount not to exceed 100 percent of the cost  
19 of the project that is the subject of the grant.”.

20       (d) REVOLVING LOAN FUNDS.—Section 603(c)(1)  
21 (33 U.S.C. 1383(c)(1)) is amended by inserting “or In-  
22 dian tribe” after “State agency”.

1 **TITLE VI—STATE WATER POLLU-**  
2 **TION CONTROL REVOLVING**  
3 **FUNDS**

4 **SEC. 601. WATER USE EFFICIENCY MEASURES.**

5 (a) GENERAL AUTHORITY FOR CAPITALIZATION  
6 GRANTS.—Section 601(a) (33 U.S.C. 1381(a)) is amend-  
7 ed by inserting after “publicly owned” the following: “and  
8 for implementation of water use efficiency measures whose  
9 principal purpose is improving or protecting water  
10 quality”.

11 (b) PROJECT ELIGIBILITY.—Section 603(c) (33  
12 U.S.C. 1383(c)) is amended by inserting after “section  
13 212 of this Act)” the following: “and for implementation  
14 of water use efficiency measures whose principal purpose  
15 is improving or protecting water quality”.

16 **SEC. 602. GUIDANCE FOR SMALL COMMUNITIES.**

17 Section 602 (33 U.S.C. 1382) is amended by adding  
18 at the end the following new subsection:

19 “(c) GUIDANCE FOR SMALL COMMUNITIES.—

20 “(1) SIMPLIFIED PROCEDURES.—Not later than  
21 1 year after the date of the enactment of this sub-  
22 section, the Administrator shall establish simplified  
23 procedures for small communities to obtain assist-  
24 ance under this title.



1           “(2) PUBLICATION OF MANUAL.—Not later  
2 than 1 year after the date of the enactment of this  
3 subsection, the Administrator shall publish a manual  
4 to assist small communities in obtaining assistance  
5 under this title and publish in the Federal Register  
6 notice of availability of the manual.

7           “(3) SMALL COMMUNITY DEFINED.—For pur-  
8 poses of this title, the term ‘small community’ means  
9 a municipality or intermunicipal, interstate, or State  
10 agency seeking assistance under this title which  
11 serves a population of 20,000 or less.”.

12 **SEC. 603. TYPES OF ASSISTANCE.**

13           (a) EXTENDED REPAYMENT PERIOD FOR HARDSHIP  
14 COMMUNITIES.—Section 603(d)(1) (33 U.S.C.  
15 1383(d)(1)) is amended—

16           (1) in subparagraph (A) by inserting after “20  
17 years” the following: “or, in the case of a municipal-  
18 ity or intermunicipal, interstate, or State agency ap-  
19 plying for assistance for a service area in which the  
20 average annual residential sewage treatment charge,  
21 after completion of the project, will be greater than  
22 1.25 percent of the median family income for such  
23 service area, the lesser of 30 years or the expected  
24 life of the project to be financed with the proceeds  
25 of the loan”; and

1           (2) in subparagraph (B) by striking “not later  
2           than 20 years after project completion” and insert-  
3           ing “upon the expiration of the term of the loan”.

4           (b) TECHNICAL AND PLANNING ASSISTANCE FOR  
5 SMALL COMMUNITIES.—Section 603(d) (33 U.S.C.  
6 1383(d)) is amended—

7           (1) by striking “and” at the end of paragraph  
8           (6);

9           (2) by striking the period at the end of para-  
10          graph (7) and inserting “; and”; and

11          (3) by adding at the end the following new  
12          paragraph:

13               “(8) to provide technical and planning assist-  
14               ance to small communities; except that such  
15               amounts shall not exceed 1 percent of all grant  
16               awards to such fund under this title.”.

17          (c) INTEREST RATES.—Section 603 is further  
18          amended by adding at the end the following new sub-  
19          section:

20               “(i) INTEREST RATES.—In any case in which a State  
21               makes a loan pursuant to subsection (d)(1) to a municipal-  
22               ity or intermunicipal, interstate, or State agency applying  
23               for assistance for a service area in which the average an-  
24               nual residential sewage treatment charge will increase,  
25               after completion of the project for which the loan is made

1 and as a result of the project, to greater than 1.25 percent  
2 of the median family income for such service area, the  
3 State may charge a negative interest rate so as to reduce  
4 the unpaid principal of the loan to the extent that such  
5 assistance is necessary to ensure that such charge is not  
6 greater than 1.25 percent of such median family income  
7 taking into account any extension of the repayment period  
8 under subsection (d)(1)(A).”.

9 **SEC. 604. ALLOTMENT OF FUNDS.**

10 Section 604(a) (33 U.S.C. 1384(a)) is amended by  
11 striking “and 1990” and inserting “through 1994”.

12 **SEC. 605. AUTHORIZATION OF APPROPRIATIONS.**

13 Section 607 (33 U.S.C. 1387(a)) is amended by strik-  
14 ing paragraph (3) and all that follows through the period  
15 at the end and inserting the following:

16 “(3) \$2,400,000,000 for fiscal year 1992;

17 “(4) \$2,550,000,000 for fiscal year 1993;

18 “(5) \$2,500,000,000 for fiscal year 1994;

19 “(6) \$3,000,000,000 for fiscal year 1995;

20 “(7) \$3,500,000,000 for fiscal year 1996;

21 “(8) \$4,000,000,000 for fiscal year 1997;

22 “(9) \$4,500,000,000 for fiscal year 1998;

23 “(10) \$5,000,000,000 for fiscal year 1999; and

24 “(11) \$5,500,000,000 for fiscal year 2000.”.

1       **TITLE VII—MISCELLANEOUS**  
2                                   **PROVISIONS**

3   **SEC. 701. FINANCIAL ASSISTANCE FOR INTERNATIONAL**  
4                                   **WASTEWATER TREATMENT FACILITIES.**

5       (a) IN GENERAL.—The Administrator is authorized  
6 to provide financial assistance to States for planning, de-  
7 sign, and construction of international wastewater treat-  
8 ment works in the vicinity of the United States-Mexico  
9 border which are for the protection of United States resi-  
10 dents and waters from pollution originating in Mexico.

11       (b) APPROVAL OF PLANS.—Any international  
12 wastewater treatment facility for which financial assist-  
13 ance is provided under this section shall be constructed  
14 in accordance with plans developed by the International  
15 Boundary and Water Commission in consultation with the  
16 water pollution control agency of the affected State, and  
17 approved by the United States and Mexico, to meet appli-  
18 cable standards under the laws of the United States and  
19 Mexico and under applicable treaties and international  
20 agreements. Such plans shall include construction cost es-  
21 timates and identify responsible parties and the allocation  
22 of costs associated with operating and maintaining the  
23 treatment works.

24       (c) DEFINITIONS.—For purposes of this section, the  
25 following definitions apply:

1           (1) CONSTRUCTION; TREATMENT WORKS.—The  
2 terms “construction” and “treatment works” have  
3 the meanings such terms have under section 212 of  
4 the Federal Water Pollution Control Act.

5           (2) SEWAGE.—The term “sewage” means spent  
6 or used water of a municipality which contains  
7 human waste and other dissolved and suspended  
8 matter and includes wastewater from industries  
9 which discharge into a municipal collection system  
10 and any ground water, surface water, or stormwater  
11 which enters the system.

12           (3) INTERNATIONAL WASTEWATER TREATMENT  
13 WORKS.—The term “international wastewater treat-  
14 ment works” means any facility constructed pursu-  
15 ant to a Minute agreement of the International  
16 Boundary and Water Commission, United States  
17 and Mexico, for the treatment of wastewater in the  
18 vicinity of the border described in subsection (a).

19           (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
20 authorized to be appropriated to carry out this section  
21 \$50,000,000 for fiscal years beginning after September  
22 30, 1994.

23 **SEC. 702. WASTEWATER SERVICE FOR COLONIAS.**

24           (a) GRANT ASSISTANCE.—The Administrator may  
25 make grants to States along the United States-Mexico

1 border to provide assistance for planning, design, and con-  
2 struction of treatment works to provide wastewater service  
3 to the communities along such border commonly known  
4 as “colonias”.

5 (b) FEDERAL SHARE.—The Federal share of the cost  
6 of a project carried out using grants made available under  
7 subsection (a) shall be 50 percent. The non-Federal share  
8 of such cost shall be provided by the State receiving the  
9 grant.

10 (c) TREATMENT WORKS DEFINED.—For purposes of  
11 this section, the term “treatment works” has the meaning  
12 given such term by section 212 of the Federal Water Pol-  
13 lution Control Act.

14 (d) FUNDING.—The Administrator shall carry out  
15 this section using amounts not to exceed \$60,000,000  
16 which were appropriated before the date of the enactment  
17 of this Act and which are available for such purpose.

18 **SEC. 703. POLLUTION FROM MOBILE SOURCES.**

19 (a) STUDY.—The Administrator shall conduct a  
20 study of pollutants to the navigable waters which originate  
21 from mobile sources and which impair or threaten water  
22 quality.

23 (b) DETERMINATION.—In conducting the study  
24 under subsection (a), the Administrator shall determine  
25 whether each source of pollution identified under the study

1 enters the navigable waters from a point or nonpoint  
2 source.

3 (c) REPORT.—Not later than 2 years after the date  
4 of the enactment of this section, the Administrator shall  
5 transmit to the Committee on Public Works and Trans-  
6 portation of the House of Representatives and the Com-  
7 mittee on Environment and Public Works of the Senate  
8 a report containing the results of the study to be con-  
9 ducted under subsection (a), together with recommenda-  
10 tions on actions to reduce or eliminate pollution from mo-  
11 bile sources.

12 (d) PUBLIC REVIEW AND COMMENT.—Before trans-  
13 mitting a report under subsection (c), the Administrator  
14 shall make the report available for public review and com-  
15 ment.

16 **SEC. 704. TECHNICAL AMENDMENTS.**

17 (a) SECTION 118.—Section 118(c)(1)(A) (33 U.S.C.  
18 1268(c)(1)(A)) is amended by striking the last comma.

19 (b) SECTION 120.—Section 120(d) (33 U.S.C.  
20 1270(d)) is amended by striking “(1)”.

21 (c) SECTION 204.—Section 204(a)(3) (33 U.S.C.  
22 1284(a)(3)) is amended by striking the final period and  
23 inserting a semicolon.

24 (d) SECTION 205.—Section 205 (33 U.S.C. 1285) is  
25 amended—

1 (1) in subsection (c)(2) by striking “and 1985”  
2 and inserting “1985 , and 1986”;

3 (2) in subsection (c)(2) by striking “through  
4 1985” and inserting “through 1986”;

5 (3) in subsection (g)(1) by striking the period  
6 following “4 per centum”; and

7 (4) in subsection (m)(1)(B) by striking “this”  
8 and inserting “such”.

9 (e) SECTION 208.—Section 208 (33 U.S.C. 1288) is  
10 amended—

11 (1) in subsection (h)(1) by striking “designed”  
12 and inserting “designated”; and

13 (2) in subsection (j)(1) by striking “September  
14 31, 1988” and inserting “September 30, 1988”.

15 (f) SECTION 301.—Section 301(j)(1)(A) (33 U.S.C.  
16 1311(j)(1)(A)) is amended by striking “that” the first  
17 place it appears and inserting “than”.

18 (g) SECTION 309.—Section 309(d) (33 U.S.C.  
19 1319(d)) is amended by striking the second comma follow-  
20 ing “Act by a State”.

21 (h) SECTION 311.—Section 311 (33 U.S.C. 1321) is  
22 amended—

23 (1) in subsection (b) by moving paragraph (12)  
24 (including subparagraphs (A), (B) and (C)) 2 ems  
25 to the right; and



1           (2) in subsection (h)(2) by striking “The” and  
2           inserting “the”.

3           (i) SECTION 404.—Section 404(s)(3) (33 U.S.C.  
4 1344(s)(3)) is amended by striking “acton” and inserting  
5 “action”.

6           (j) SECTION 505.—Section 505(f) (33 U.S.C.  
7 1365(f)) is amended by striking the last comma.

8           (k) SECTION 516.—Section 516 (33 U.S.C. 1375) is  
9 amended by redesignating subsection (g) as subsection (f).

10          (l) SECTION 518.—Section 518(f) (33 U.S.C.  
11 1377(f)) is amended by striking “(d)” and inserting “(e)”.

○

HR 3948 IH—2

HR 3948 IH—3

HR 3948 IH—4

HR 3948 IH—5

HR 3948 IH—6

HR 3948 IH—7

HR 3948 IH—8