

106TH CONGRESS
1ST SESSION

S. 1706

To amend the Federal Water Pollution Control Act to exclude from stormwater regulation certain areas and activities, and to improve the regulation and limit the liability of local governments concerning co-permitting and the implementation of control measures.

IN THE SENATE OF THE UNITED STATES

OCTOBER 7, 1999

Mrs. HUTCHISON (for herself and Mr. GRAMM) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Federal Water Pollution Control Act to exclude from stormwater regulation certain areas and activities, and to improve the regulation and limit the liability of local governments concerning co-permitting and the implementation of control measures.

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.**

4 This Act may be cited as the “Water Regulation Im-
5 provement Act of 1999”.

1 **SEC. 2. WAIVER OF LIABILITY OF CO-PERMITTEES.**

2 Section 402(p)(3)(B) of the Federal Water Pollution
3 Control Act (33 U.S.C. 1342(p)(3)(B)) is amended—

4 (1) in clause (ii), by striking “and”;

5 (2) in clause (iii), by striking the period at the
6 end and inserting “; and”; and

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

8 “(iv) shall—

9 “(I) recognize the responsibility
10 of governmental entities to carry out
11 the control measures described in
12 clause (iii), including responsibilities
13 established through co-permits or
14 other mechanisms; and

15 “(II) provide that, in the case of
16 a local governmental entity (including
17 a municipality, county, city, or bor-
18 ough) that relies on a co-permittee or
19 another governmental entity to comply
20 with any requirement to implement a
21 control measure in which the co-per-
22 mittee or other governmental entity
23 assumes responsibility for implemen-
24 tation of, but fails to implement, the
25 control measure, the local govern-
26 mental entity shall not be liable for

1 the failure of the co-permittee or
2 other governmental entity to imple-
3 ment the control measure.”.

4 **SEC. 3. EXCLUSION OF CERTAIN AREAS AND ACTIVITIES**
5 **FROM STORMWATER REGULATION.**

6 Section 402(p) of the Federal Water Pollution Con-
7 trol Act (33 U.S.C. 1342(p)) is amended by adding at the
8 end the following:

9 “(7) EXCLUSIONS.—

10 “(A) VEGETATED ROAD DITCHES.—For
11 stormwater discharges identified under para-
12 graph (5), the Administrator shall not require
13 any local governmental entity (including a mu-
14 nicipality, county, city, or borough), to apply for
15 and obtain a permit for any stormwater dis-
16 charge associated with an above-ground vege-
17 tated drainage ditch or a drainage way owned
18 or operated in connection with a road or street
19 under the jurisdiction of the local governmental
20 entity.

21 “(B) CONSTRUCTION ACTIVITIES AND ROU-
22 TINE ROAD MAINTENANCE.—A discharge regu-
23 lated under subparagraph (B) or (E) of para-
24 graph (2), and any stormwater discharge identi-
25 fied under paragraph (5), shall not include—

1 “(i) a stormwater discharge associated
2 with a construction activity (including
3 grading, clearing, and excavation) that dis-
4 turbs not more than 5 acres of land; or

5 “(ii) a routine maintenance activity
6 associated with a road, street, vegetated
7 road ditch, or vegetated drainage way.

8 “(C) PROHIBITION OF REQUIREMENTS EX-
9 CEEDING STATE LAW AUTHORITY.—Nothing in
10 this subsection requires a local governmental
11 entity to exceed the authority granted to the
12 local governmental entity under State law to
13 implement a regulatory requirement.”.

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