

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

# S. 1985

To amend the Federal Water Pollution Control Act to provide for the use of biological monitoring and whole effluent toxicity tests in connection with publicly owned treatment works, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 25 (legislative day, FEBRUARY 22), 1994

Mr. BROWN (for himself and Mr. CAMPBELL) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Federal Water Pollution Control Act to provide for the use of biological monitoring and whole effluent toxicity tests in connection with publicly owned treatment works, and for other purposes.

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 “Publicly Owned Treat-  
5 ment Works Biological Monitoring Use Act”.

1 **SEC. 2. BIOLOGICAL MONITORING FOR PUBLICLY OWNED**  
2 **TREATMENT WORKS.**

3 (a) Section 303(c)(2)(B) of the Federal Water Pollu-  
4 tion Control Act (33 U.S.C. 1313(c)(2)(B)) is amended  
5 by inserting at the end thereof “, *Provided:* That for pub-  
6 licly owned treatment works, nothing in this Act shall be  
7 construed to authorize the use of effluent limitations  
8 which result in finding of a violation upon failure of whole  
9 effluent toxicity tests or biological monitoring tests”.

10 (b) Section 303 of the Federal Water Pollution Con-  
11 trol Act (33 U.S.C. 1313) is amended by adding the fol-  
12 lowing new subsection after (c)(2)(B) and renumber sub-  
13 sequent paragraphs accordingly:

14 “(C) Where the permitting authority determines that  
15 the discharge of a publicly owned treatment works causes,  
16 has the reasonable potential to cause, or contributes to  
17 an instream excursion above a narrative or numeric cri-  
18 terion for whole effluent toxicity, the permit shall contain  
19 terms, conditions or limitations for biological monitoring  
20 or whole effluent toxicity tests which shall provide for a  
21 process for the identification and reduction of the cause  
22 of the whole effluent toxicity including procedures for end-  
23 ing the identification and reduction of such toxicity if the  
24 source or cause of the toxicity cannot be located, and  
25 measures to control such toxicity in accordance with a rea-  
26 sonable schedule.”.

1 (c) Section 301(b)(1)(C) of the Federal Water Pollu-  
2 tion Control Act (33 U.S.C. 1311(b)(1)(C)) is amended  
3 by inserting “or permit condition” after “limitation”.

4 (d) Section 304(a)(8) of the Federal Water Pollution  
5 Control Act (33 U.S.C. 1314(a)(8)) is amended by insert-  
6 ing “, consistent with section 303(c)(2) (B) and (C) of  
7 this Act,” after “publish”.

8 (e) Section 402 of the Federal Water Pollution Con-  
9 trol Act is amended by adding the following new section  
10 at the end thereof:

11 “(q) USE OF BIOLOGICAL MONITORING OR WHOLE  
12 EFFLUENT TOXICITY TESTING AT PUBLICLY OWNED  
13 TREATMENT WORKS.—Where the administrator deter-  
14 mines that it is necessary in accordance with Section  
15 303(c)(2) (B) and (C) of this Act to include biological  
16 monitoring, tests or assessment methods or whole effluent  
17 toxicity tests as a term or condition in a permit issued  
18 to a publicly owned treatment works pursuant to this sec-  
19 tion, such permit terms and conditions shall be in accord-  
20 ance with Section 303(c)(2)(C) of this Act, and the failure  
21 of biological monitoring tests or whole effluent toxicity  
22 tests shall not result in a finding of violation.”.

23 (f) Section 502(11) of the Federal Water Pollution  
24 Control Act (33 U.S.C. 1362(11)) is amended to read as  
25 follows:

1       “(11) The terms ‘effluent limitation’ and ‘effluent  
2 limit’ shall mean any restriction established by a State or  
3 the Administrator on quantities, rates, and concentrations  
4 of chemical, physical, biological, and other constituents  
5 which are discharged from point sources into navigable  
6 waters, the waters of the contiguous zone, or the ocean,  
7 including schedules of compliance as established through  
8 permit conditions, enforcement orders, or consent  
9 decrees.”.

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