

PROVIDING FOR THE CONSIDERATION OF H.R. 961, THE
CLEAN WATER AMENDMENTS OF 1995

MAY 9, 1995.—Referred to the House Calendar and ordered to be printed

Mr. QUILLEN, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. 140]

The Committee on Rules, having had under consideration House Resolution 140, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

BRIEF SUMMARY OF PROVISIONS OF RESOLUTION

The resolution provides for the consideration of H.R. 961, the “Clean Water Amendments of 1995” under an open rule. The rule provides two hours of general debate divided equally between the chairman and ranking minority member of the Committee on Transportation and Infrastructure.

The rule waives section 302(f) of the Budget Act, prohibiting new budget authority in excess of a committee’s section 602(b) allocation against consideration of the bill.

The rule makes in order the committee amendment in the nature of a substitute as original text for amendment purposes. Clause 7 of rule XVI, prohibiting non-germane amendments, clause 5(a) of rule XXI, prohibiting appropriations in a legislative bill, and section 302(f) of the Budget Act, are waived against the amendment in the nature of a substitute. The substitute shall be considered by title instead of section for amendment, and each title shall be considered as read.

The rule first makes in order an amendment by Representative Shuster printed in the Rules Committee report which shall be considered as read, is not subject to amendment or to a division of the question, and is debatable for 10 minutes. If adopted, the amendment shall be considered as original text for further amendment purposes. The Chair may accord priority in recognition to Members who have preprinted their amendments in the Congressional Record.

Finally, the rule provides one motion to recommit, with or without instructions.

EXPLANATION OF WAIVERS FOR H.R. 961, CLEAN WATER AMENDMENTS
OF 1995

Sec. 302(f), Budget Act.—This waiver of the prohibition against legislation containing new budget authority in excess of a committee's section 602(b) budget allocation may be necessary because the provisions of section 316(a) of the bill and amendment in the nature of a substitute waive sovereign immunity in limited instances to permit States to sue the Federal government and therefore may entail a cost to the Federal government resulting from the suits. However, CBO cannot quantify this provision.

Clause 7, rule XVI.—The germaneness waiver is necessary for the substitute because it includes statutorily unrelated matter in Title IX, relating to the Marine Protection, Research and Sanctuaries Act, and to ocean dumping permits, not contained in the introduced bill.

Clause 5(a), rule XXI.—The waiver of the rule prohibiting appropriations in a legislative bill is necessary because of at least two provisions in the substitute. Section 107(c) permits the Administrator of the Great Lakes Research Council to accept non-Federal contributions to carry out pilot projects. And, section 803 permits an agency to reprogram funds appropriated to it for the purpose of paying compensation to certain property owners due to Federal limitations on the use of their land.

The amendment made in order by the rule to be considered first.

AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SHUSTER OF
PENNSYLVANIA OR A DESIGNEE, DEBATABLE FOR NOT TO EXCEED
10 MINUTES

Page 6, line 21, before the first period insert the following:
and not unreasonably restrict outdoor recreation and other socially beneficial activities

Page 7, strike lines 14 through 16 and insert the following:

(b) BASIC RESEARCH AND GRANTS TO LOCAL GOVERNMENTS.—Section 104(b)(3) (33 U.S.C. 1254(B)(3)) is amended to read as follows:

“(3) in cooperation with Federal, State and local agencies and public or private institutions, organizations, or individuals, conduct and promote a comprehensive program of basic research, experiments, and studies relating to causes, sources, effects, extent, prevention, and detection of water pollution and make grants to State water pollution control agencies, interstate agencies, local governments, other public or nonprofit private agencies, institutions, organizations, and individuals for such purposes;”.

Page 8, line 1, after “grants to” insert “States, local governments, and”.

Page 8, line 3, after “works” insert “(including treatment works that utilize an alternative wastewater treatment system)”.

Page 8, line 17, after “works” insert “and alternative wastewater treatment systems”.

Page 8, line 20, strike “water” and insert “wastewater”.

Page 9, strike lines 6 through 13 and insert the following:

(2) by inserting before the period at the end the following: “; (7) not to exceed \$21,243,100 per fiscal year for each of fiscal years 1996 through 2000 for carrying out the provisions of subsection (b)(3); and (8) not to exceed \$10,000,000 per fiscal year for each of fiscal years 1996 through 2000 for carrying out the provisions of subsections (b)(8) and (b)(9)”.

Page 31, line 15, after “works” insert “and alternative wastewater treatment systems”.

Page 32, line 15, strike “not later than” and all that follows through “established” on line 16 and insert the following:

within a reasonable period of time as determined by the Administrator or the State, as appropriate, considering facility planning, design, construction, and other implementation factors

Page 34, line 5, strike “such Act” and insert “the Surface Mining Control and Reclamation Act of 1977”.

Page 34, strike lines 6 through 10 and insert the following:

“(B) the post-mining levels of pollutants (other than pH) discharged from such operation do not exceed the levels of pollutants discharged from the remined area before the coal remining operation began and the post-mining pH levels of the discharges from the remined area are not reduced below the pH levels of the discharges from the remined area before the coal remining operation began.”.

Page 36, line 14, strike “shall reduce” and all that follows through the period on line 17 and insert the following:

shall take into account the permittee’s good-faith efforts to implement the innovation and to comply with any interim limitations and may reduce or eliminate the penalty for such violation.

Page 37, line 5, strike the closing quotation marks and the final period.

Page 37, after line 5, insert the following:

“(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to authorize the Administrator or a State to enforce, place conditions on, or otherwise regulate emissions into the air or the treatment, storage, or disposal of solid waste or require or enforce conditions on the manufacturing or processing of a chemical substance or mixture in any permit issued under this Act.”.

Page 37, lines 12 and 13, strike “Notwithstanding any other provision of this Act, the Administrator” and insert “The Administrator”.

Page 37, line 15, insert “at the request of the permittee and” before “after public notice”.

Page 37, lines 17 and 18, strike “subsection (b)” and insert “subsection (b)(1)(A), (b)(2)(A), or (b)(2)(E)”.

Page 37, line 24, insert “from the facility” after “pollutants”.

Page 38, line 7, strike “subsection (b)” and insert “subsection (b)(1)(A), (b)(2)(A), or (b)(2)(E)”.

Page 38, after line 23, insert the following:

“(4) LIMITATIONS ON MODIFICATIONS.—A modification of an otherwise applicable limitation or standard may not be made under this subsection if such modification—

“(A) will cause a receiving body of water that is meeting its designated use for all pollutants to no longer meet such use;

“(B) will prevent a receiving body of water that is not meeting its designated use for all pollutants from meeting such use; or

“(C) will cause the introduction of pollutants into a publicly owned treatment works that interferes with, passes through, or is otherwise incompatible with such works or will cause such works to violate its permit under section 402 of this Act.

“(5) GUIDANCE.—Not later than 270 days after the date of the enactment of this subsection, the Administrator shall publish guidance for determining whether a modification of an otherwise applicable limitation or standard under this subsection will achieve an overall reduction in emissions to the environment and result in an overall net benefit to the environment. In developing such guidance, the Administrator shall consult with the States and other interested parties.

“(6) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to authorize the Administrator or a State to enforce, place conditions on, or otherwise regulate emissions into the air or the treatment, storage, or disposal of solid waste or require or enforce conditions on the manufacturing or processing of a chemical substance or mixture in any permit issued under this Act.

Page 38, line 24, strike “(4)” and insert “(7)”.

Page 39, lines 8 and 9, strike “Notwithstanding any other provision of this Act, the Administrator” and insert “The Administrator”.

Page 41, line 22, after the period insert the following:

Nothing in this subsection shall be construed to authorize the Administrator or a State to enforce, place conditions on, or otherwise regulate emissions into the air or the treatment, storage, or disposal of solid waste or require or enforce conditions on the manufacturing or processing of a chemical substance or mixture in any permit issued under this Act.

Page 41, after line 22, insert the following:

“(6) LIMITATIONS ON MODIFICATIONS.—A modification of an otherwise applicable limitation or standard may not be made under this subsection if such modification—

“(A) will cause a receiving body of water that is meeting its designated use for all pollutants to no longer meet such use;

“(B) will prevent a receiving body of water that is not meeting its designated use for all pollutants from meeting such use; or

“(C) will cause the introduction of pollutants into a publicly owned treatment works that interferes with, passes through, or is otherwise incompatible with such works or will cause such works to violate its permit under section 402 of this Act.

“(7) GUIDANCE.—Not later than 270 days after the date of the enactment of this subsection, the Administrator shall publish guidance for determining whether a modification of an otherwise applicable limitation or standard under this subsection will achieve an overall reduction in discharges to the watershed and result in an overall net benefit to the environment. In developing such guidance, the Administrator shall consult with the States and other interested parties.

Page 41, line 23, strike “(6)” and insert “(8)”.

Page 51, line 8, insert “applicable to such waters for all pollutants” after “uses”.

Page 51, strike line 18 and all that follows through line 4 on page 52.

Page 52, line 5, strike “(iv)” and insert “(iii)”.

Page 52, after line 10, insert the following:

(d) CONSIDERATION OF INFLUENCE OF EXOTIC SPECIES.—Section 303(c)(2) is further amended by adding at the end the following:

“(D) CONSIDERATION OF INFLUENCE OF EXOTIC SPECIES.—

In establishing, adopting, or reviewing standards or goals based upon fishable or swimmable uses or uses to assure protection or propagation of a balanced population of fish, shellfish, and wildlife, the State or the Administrator shall consider the influence of exotic or introduced species upon such standards, goals, or uses.

“(E) RECLAIMED WASTEWATER.—If a State adopts or reviews water quality standards and policies pursuant to this section, the State may consider and balance, in addition to other factors referred to in this section, the need for allowing the discharge of reclaimed wastewater to navigable waters to promote the beneficial use of reclaimed wastewater. In addition, the State may take into consideration and reflect in the standards—

“(i) the use and value of reclaimed wastewater for public water supplies;

“(ii) the physical, chemical, and biological conditions that influence water quality in the area subject to the standards, including extremes of temperature, water flow, turbidity, mineralization, salinity, and flooding; and

“(iii) whether the discharge of reclaimed wastewater will result in a net environmental benefit to the watershed subject to the standards.”.

(e) CLARIFICATION OF MIXING ZONE AUTHORITY.—Section 303 (33 U.S.C. 1313) is amended by adding at the end the following:

“(i) CONTINUATION OF MIXING ZONES.—Nothing in this Act shall be construed to authorize the Administrator to prohibit or discontinue mixing zones established by any State for any pollutant or class of pollutants.”.

Page 52, line 22, strike “an aquatic species” and all that follows through “criteria” on line 24 and insert the following:

an aquatic species that is indigenous to the type of waters, a species that is representative of such a species, or an appropriate species that indicates the toxicity of the effluent in the receiving waters

Page 54, line 1, after “demonstrates” insert “to the permitting authority”.

Page 54, lines 3 and 4, strike “indigenous, or representative of indigenous, and relevant” and insert “indigenous”.

Page 54, line 6, after “applicable” insert “numerical”.

Page 54, line 7, after “standards” insert “for specific pollutants”.

Page 54, line 10, strike “works” and all that follows through the final period on line 12 and insert the following:

works—

“(i) if the source or cause of such toxicity cannot, after thorough investigation, be identified; or

“(ii) if the permittee makes to the permitting authority a demonstration described in subparagraph (A).”.

Page 54, line 23, strike “(D)” and insert “(F)”.

Page 61, line 16, after the first period insert the following:

In the case of ammonia, the Administrator shall revise the criteria only to the extent that the current criteria are more stringent than necessary to achieve the objectives of this Act.

Page 63, after line 3, insert the following:

(e) INDUSTRIAL PUBLICLY OWNED TREATMENT WORKS.—Section 304(d) (33 U.S.C. 1314(d)) is amended by adding at the end the following:

“(5) INDUSTRIAL PUBLICLY OWNED TREATMENT WORKS.—

“(A) GUIDELINES.—Not later than 18 months after the date of the enactment of this paragraph, the Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish guidelines for effluent limitations under section 301 and sludge use and disposal requirements under section 405 applicable to publicly owned treatment works designed to treat a predominance of industrial wastewater. Such guidelines shall take into account differences in constituents, treatability, available technology procedures, and costs resulting from the fact that the publicly owned treatment works treat wastewater and manage sludge derived predominantly from industrial sources.

“(B) PERMITS.—Following the issuance of guidelines under this paragraph, permits under section 402 for such publicly owned treatment works shall be derived using the guidelines issued under this paragraph in lieu of applying the regulations otherwise applicable to publicly owned treatment works promulgated under paragraph (1) of this subsection and section 405(d).”.

Page 63, line 4, strike “(e)” and insert “(f)”.

Page 63, line 7, strike “3 years” and insert “1 year”.

Page 63, line 24, strike “(f)” and insert “(g)”.

Page 63, line 4, strike “(g)” and insert “(h)”.

Page 64, strike line 15 and insert the following:

SEC. 308. PERSONNEL AND REPORTING.

Conform the table of contents of the bill accordingly.

Page 64, line 16, before “Section” insert “(a) PERMITTING BOARDS.—”.

Page 64, after line 23, insert the following:

(b) REPORTING.—Section 305(b) (33 U.S.C. 1315(b)) is amended—
 (1) in paragraph (1) by striking the matter preceding subparagraph (A) and inserting “Not later than 3 years after the date of the enactment of the Clean Water Amendments of 1995, and every 5 years thereafter, each State shall prepare and submit to the Administrator a report which shall include—”; and

(2) by adding at the end the following:

“(c) CONSOLIDATION OF REPORTING REQUIREMENTS.—A State may consolidate any of the reporting requirements of this Act that relate to ambient water quality into the report required under this section.”.

Page 65, line 5, strike “(5)” and insert “(6)”.

Page 68, line 20, strike “20,000” and insert “10,000”.

Page 68, line 25, after “alternative” insert “wastewater”.

Page 74, line 19, strike “and”.

Page 74, line 22, after the semicolon insert “and”.

Page 74, after line 22, insert the following:

“(E) local limits established by such treatment works in its approved pretreatment program are preventing and will continue to prevent the introduction of pollutants into such treatment works that interfere with, pass through, or are otherwise incompatible with such treatment works;

Page 75, lines 1 and 5, before “local” insert “approved”.

Page 84, line 14, strike “or runoff”.

Page 92, line 2, after “vessel” insert “or other facility”.

Page 93, strike line 7 and all that follows through line 2 on page 95 and insert the following:

SEC. 318. COOLING WATER INTAKE STRUCTURES.

Section 316(b) (33 U.S.C. 1326(b)) is amended—

(1) by inserting after “(b)” the following: “REGULATION OF COOLING WATER INTAKE STRUCTURES.—”;

(2) by inserting before “Any” the following: “(1) IN GENERAL.—”;

(3) by indenting paragraph (1), as designated by paragraph (2) of this section, and moving such paragraph 2 ems to the right; and

(4) by adding at the end the following:

“(2) INTAKE STRUCTURE CONSIDERATIONS.—

“(A) IN GENERAL.—The Administrator shall require the application of the best technology available to new and existing cooling water intake structures in instances where the Administrator has determined that such a structure is having or could have a significant adverse impact on the aquatic environment.

“(B) NEW INTAKE STRUCTURE.—In identifying the best technology available for any new cooling water intake structure pursuant to subparagraph (A), the Administrator shall consider, at a minimum, the following:

“(i) The relative technological, engineering, and economic feasibility of available intake structure technologies for minimizing adverse impacts to the aquatic environment.

“(ii) The relative technological, engineering, and economic feasibility of available alternatives as to the location, design, construction, and capacity of the intake structure.

“(iii) The relative environmental, social, and economic costs and benefits of available technologies and alternatives identified pursuant to this subparagraph or subparagraph (D).

“(iv) The projected useful life of the point source at which the new cooling water intake structure is located.

“(C) EXISTING INTAKE STRUCTURES.—In identifying the best technology available for an existing cooling water intake structure pursuant to subparagraph (A), the Administrator shall consider, at a minimum, the following:

“(i) The relative technological, engineering, and economic feasibility of reasonably available intake structure retrofit technologies for minimizing adverse impacts to the aquatic environment.

“(ii) The relative environmental, social, and economic costs and benefits of available technologies and alternatives identified pursuant to this subparagraph or subparagraph (D).

“(iii) The projected remaining useful life of the point source at which the existing cooling water intake structure is located.

“(D) CONSIDERATION OF ALTERNATIVES.—In identifying the best technology available for any new or existing cooling water intake structure, the Administrator shall consider environmental enhancements or any other technique that the owner or operator has identified as appropriate alternatives for minimizing adverse impacts to the aquatic environment.

“(3) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) NEW COOLING WATER INTAKE STRUCTURE.—The term ‘new cooling water intake structure’ means any intake structure the construction of which commences after the publication of final regulations implementing this subsection.

“(B) EXISTING COOLING WATER INTAKE STRUCTURE.—The term ‘existing cooling water intake structure’ means any intake structure that is not a new cooling water intake structure.”.

Page 109, line 3, strike “and”.

Page 109, after line 3, insert the following:

“(E) providing financial assistance with respect to those water pollution control activities which have as their principal purpose the protection of public water supplies; and

Page 109, line 4, strike “(E)” and insert “(F)”.

Page 114, line 23, strike “(j)” and insert “(h)”.

Page 117, line 7, before “livestock” insert “agricultural inputs, including”.

Page 117, line 7, after “manure” insert a comma.

Page 117, after line 18, insert the following:

(q) CONTROL OF SALT WATER INTRUSION.—Section 319 is further amended by adding at the end the following:

“(s) CONTROL OF SALT WATER INTRUSION.—Nothing in this section authorizes the Administrator to require a State to identify or establish procedures and methods to control salt water intrusion beyond what is provided for in section 208(b)(2)(I).”

Page 136, line 16, strike “and” and all that follows through the period on line 24 and insert the following:

, based on available information, and submit to the Administrator for approval a stormwater management program—

“(A) that controls pollution added from stormwater discharges to the navigable waters within the boundaries of the State and improves the quality of such waters; and

“(B) that the State proposes to establish and administer under State law or interstate compact to apply and assure compliance with this section.

The initial program submission must meet the requirements of this subsection and specifically address the first 5 fiscal years beginning after the date of submission of such management program.

Page 137, lines 24 and 25, strike “established under subsection (i)”.

Page 148, line 24, after the period insert the following: “If, upon review of a stormwater pollution prevention plan, the State determines that the plan is inadequate, the State may require the facility to modify the plan.”

Page 150, line 24, after the first comma insert “or”.

Page 150, line 24, strike “or (c)(2)(F).”.

Page 152, line 8, after “PERMITS” insert “AND EFFLUENT GUIDELINES”.

Page 152, line 12, after “a” insert “stormwater”.

Page 152, line 14, after “1987,” insert “or with respect to which an effluent guideline has been issued before February 4, 1987”.

Page 153, line 15, strike “(b)” and insert “(c)”.

Page 159, lines 17 and 18, strike “of this Act”.

Page 161, strike line 4 and all that follows through line 24 on page 162.

Page 163, line 1, strike “(j)” and insert “(i)”.

Page 163, line 14, strike “(k)” and insert “(j)”.

Page 163, line 16 strike “1996” and insert “1998”.

Page 165, line 10, strike “(l)” and insert “(k)”.

Page 165, line 10, strike “STORMWATER”.

Page 166, line 12, before the comma insert “and section 304(a)(13)”.

Page 166, line 20, strike “(m)” and insert “(l)”.

Page 167, line 1, strike “(n)” and insert “(m)”.

Page 167, line 8, strike “(o)” and insert “(n)”.

Page 167, line 12, strike “(p)” and insert “(o)”.

Page 168, line 2, after the period insert the following: “Land that was previously used for mining activities for which reclamation requirements of the Surface Mining Control and Reclamation Act of 1977 have been met and a performance bond or deposit required under section 509 of such Act has been released under section 519

of such Act shall no longer be considered an ore mining and dressing site.”

Page 168, after line 17, insert the following:

“(5) ACTIVE COAL MINING SITES.—Discharges comprised entirely of stormwater from an active coal mining site operating under a permit issued under the Surface Mining Control and Reclamation Act of 1977 shall be subject to section 319.

Page 168, line 18, strike “(5)” and insert “(6)”.

Page 169, after line 19, insert the following:

(d) DEVELOPMENT OF STORMWATER CRITERIA.—Section 304(a) is further amended by adding at the end the following:

“(13) DEVELOPMENT OF STORMWATER CRITERIA.—

“(A) IN GENERAL.—To reflect the episodic character of stormwater which results in significant variances in the volume, hydraulics, hydrology, and pollutant load associated with stormwater discharges, the Administrator shall establish, as an element of the water quality standards established for the designated uses of the navigable waters, stormwater criteria which protect the navigable waters from impairment of the designated beneficial uses caused by stormwater discharges. The criteria shall be technologically and financially feasible and may include performance standards, guidelines, guidance, and model management practices and measures and treatment requirements, as appropriate, and as identified in section 322.

“(B) INFORMATION TO BE USED IN DEVELOPMENT.—The stormwater discharge criteria to be established under this paragraph—

“(i) shall be developed from—

“(I) the findings and conclusions of the demonstration programs and research conducted under section 322(h);

“(II) the findings and conclusions of the research and monitoring activities of stormwater dischargers performed in compliance with permit requirements of this Act; and

“(III) other relevant information, including information submitted to the Administrator under the industrial group permit application process in effect under section 402 of this Act on the day before the date of the enactment of this paragraph;

“(ii) shall be developed in consultation with persons with expertise in the management of stormwater (including officials of State and local government, industrial and commercial stormwater dischargers, and public interest groups); and

“(iii) shall be established as an element of the water quality standards that are developed and implemented under this Act by not later than December 31, 2008.”.

Page 169, line 20, strike “(d)” and insert “(e)”.

Page 169, line 24, before the period insert “that is subject to section 322”.

Page 182, line 1, strike “An” and insert “If an”.

Page 182, line 2, strike “that”.

Page 182, line 6, strike “may” and all that follows through “use” on line 9 and insert “, such system or facility is exempt from this Act”.

Page 183, strike lines 4 through 11 and insert the following:

(c) DISCHARGE LIMIT.—Section 402(a) (33 U.S.C. 1342(a)) is further amended by adding at the end the following:

“(7) QUANTITATION LEVEL.—

“(A) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall establish quantitation levels for pollutants based on the lowest level at which a pollutant can be reliably quantified on an interlaboratory basis for each test method published under section 304(h).

“(B) PERMIT LEVELS.—Whenever a limitation for a permit issued under this section is set at a level below the quantitation level established for that pollutant under subparagraph (A) for the test method specified in the permit, any measurement of the pollutant greater than the limitation but less than the quantitation level shall not be considered a violation of the permit. All measurements less than the quantitation level shall be deemed equal to zero for purposes of determining compliance with the limitation.”.

(d) DISCHARGES UNDER PERMIT APPLICATIONS.—Section 402(k) (33 U.S.C. 1342(k)) is amended—

(1) in the first sentence by striking “except” and inserting “except for”;

(2) in the second sentence—

(A) by striking “Until December 31, 1974, in” and inserting “In”; and

(B) by striking “(1) section 301, 306, or 402 of this Act, or (2)” and inserting “section 402 of this Act or”; and

(C) by inserting before the period at the end the following: “, and provided further that if the discharge results in a violation of effluent limitations or standards promulgated under section 301, 302, 303, 304, 306, or 307 of this Act that would be applicable upon issuance of a permit such discharge shall be considered unlawful under section 301 of this Act”; and

(3) by striking the last sentence.

Page 184, line 17, strike “be” and all that follows through “limitation” on line 18 and insert “have an affirmative defense to such alleged noncompliance”.

Page 185, line 20, strike “be” and all that follows through “Act” on line 21 and insert “have an affirmative defense to such alleged noncompliance”.

Page 187, line 12, strike the semicolon and insert “or are directly and proximately connected; or”.

Page 187, strike lines 13 through 17.

Page 187, line 18, strike “(iii)” and insert “(ii)”.

Page 187, line 23, strike “if, for conventional pollutants,” and insert “for conventional pollutants, to the extent that the discharger demonstrates that”.

Page 188, line 1, insert “or substantially similar to” after “the same as”.

Page 188, line 12, strike “that” and all that follows through the period on line 13 and insert the following:

in circumstances that do not meet the requirements of paragraph (1), including circumstances in which the source of the intake water meets the maximum contaminant levels or treatment techniques for drinking water contaminants established pursuant to the Safe Drinking Water Act for the pollutant of concern. An appropriate credit for pollutants found in intake water is a credit that assures that an owner or operator of a point source is not required to remove, reduce, or treat the amount of any pollutant in an effluent below the amount of such pollutant that is present in the intake water for such facility, except to the extent that the level of such pollutant in the intake water will cause adverse water quality impact that would not otherwise occur.

Page 194, line 20, strike “paragraph (3)” and insert “paragraphs (2) and (3)”.

Page 198, line 13, strike “approved within 180 days” and insert “submitted within 90 days”.

Page 201, after line 2, insert the following:

“(F) DEEMED APPROVAL OF COMPLIANCE PLANS.—A compliance plan submitted under subparagraph (A)(iv) shall be deemed to be approved on the 90th day following the date of such submission, unless the Administrator notifies the remediating party before such 90th day that the plan has been disapproved.”.

Page 201, line 8, strike “or its political subdivisions,”.

Page 201, line 12, strike “a person described in clause (i)” and insert “a State or Indian tribe”.

Page 202, line 4, strike “not actively mined or” and insert “neither actively mined nor”.

Page 202, line 7, strike “section” and insert “subsection”.

Page 203, line 17, strike “law” and insert “this Act”.

Page 211, line 17, strike “**VEGETABLE OIL**” and insert “**NONPETROLEUM OIL PRODUCTS AND OIL SUBSTITUTES**”.

Conform the table of contents of the bill accordingly.

Page 211, lines 18 and 19, strike “**FATS, OILS, AND GREASES**” and insert “**PETROLEUM AND NONPETROLEUM PRODUCTS**”.

Page 211, lines 22 and 23, strike “a Federal law related to water pollution control,” and insert “the Oil Pollution Act of 1990 or the Federal Water Pollution Control Act,”.

Page 212, line 2, strike “for—” and insert the following:

for petroleum and nonpetroleum oil products and oil substitutes, including animal fats, vegetable oils, and silicone fluids; and

Page 212, strike lines 3 through line 6.

Page 212, line 10, strike “fat and oil” and insert “petroleum and nonpetroleum oil products and oil substitutes”.

Page 212, lines 13 through 15, strike “animal fats and vegetable oils referred to in paragraph (1)(A)(i) and the classes of oils de-

scribed in paragraph (1)(A)(ii)” and insert “petroleum products and nonpetroleum oil products and oil substitutes”.

Page 213, strike lines 15 and 16 and insert the following:

SEC. 508. PROGRAM AUTHORIZATIONS.

(a) **LIMIT ON AUTHORIZATIONS.**—No funds are authorized for any fiscal year after fiscal year 2000 for carrying out the programs and activities for which funds are authorized by this Act, including amendments made by this Act.

(b) **GENERAL PROGRAM AUTHORIZATIONS.**—Section 517 (33 U.S.C. 1376) is amended—

Conform the table of contents of the bill accordingly.

Page 214, after line 7, insert the following:

(b) **TREATMENT AS STATES.**—Section 518(e) (33 U.S.C. 1377(e)) is amended—

(1) in paragraph (2)—

(A) by striking “water resources which are” and inserting “water resources within the exterior boundaries of a Federal Indian reservation which are on or appurtenant to lands”;

(B) by inserting “or” after “Indians.”;

(C) by striking “member of an Indian tribe” and inserting “member of the reservation’s governing Indian tribe”;

(D) by striking “, or otherwise within the borders of an Indian reservation”; and

(E) by striking “and” at the end;

(2) by striking the period at the end of paragraph (3) and inserting “; and”; and

(3) by adding at the end the following:

“(4) the Administrator’s action does not authorize the Indian tribe to regulate lands owned in whole or in part by nonmembers of the tribe or the use of water resources on or appurtenant to such lands.”.

Page 214, line 8, strike “(b)” and insert “(c)”.

Page 215, line 4, strike “(c)” and insert “(d)”.

Page 215, line 17, strike “(d)” and insert “(e)”.

Page 216, line 1, strike “(e)” and insert “(f)”.

Page 222, line 13, after “quality” insert “of navigable waters”.

Page 224, line 22, after “year” insert “or 1/2 percent per year of the current valuation of such fund”.

Page 225, line 19, strike “amended by striking” and insert the following:
amended—

(1) by striking “is consistent” and inserting “is not inconsistent”; and

(2) by striking

Page 226, line 2, before “treatment” insert “publicly owned”.

Page 226, line 4, before the semicolon insert “without regard to the rank of such project on the State’s priority list”.

Page 243, line 15, after “Secretary” insert “, in consultation with the States,”.

Page 246, line 2, before the semicolon insert “based on verifiable, objective science”.

Page 247, strike line 3.

Page 247, line 4, strike “(iv)” and insert “(iii)”.

Page 247, line 5, strike “(v)” and insert “(iv)”.

Page 256, strike line 16 and all that follows through page 257, line 6, and insert the following:

“(A) ANALYSIS.—The Secretary shall determine whether to issue a permit for an activity in waters of the United States classified under subsection (c) as type A wetlands based on—

“(i) a sequential analysis that seeks, to the maximum extent practicable, to—

“(I) avoid adverse impact on the wetlands;

“(II) minimize such adverse impact on wetlands functions that cannot be avoided; and

“(III) compensate for any loss of wetland functions that cannot be avoided or minimized; and

“(ii) the public interest analysis described in paragraph (3).

“(B) WATER DEPENDENT ACTIVITY.—For purposes of subparagraph (A)(i)(I), if an activity is water dependent, an alternative in an area that is not wetlands or waters of the United States shall not be presumed to be available. A water dependent activity is an activity that requires access or proximity to or siting within the wetlands or waters of the United States in question to fulfill its basic purpose.

Page 257, line 7, strike “(B)” and insert “(C)”.

Page 266, line 20, strike “and”.

Page 266, after line 20, insert the following:

“(vi) provide, where appropriate, for dual use of wetlands within the mitigation bank, as long as the use other than providing compensatory mitigation under this section (I) shall not interfere with the functioning of such bank for providing such mitigation, and (II) shall not adversely impact wetlands or other waters of the United States; and

Page 266, line 21, strike “(vi)” and “(vii)”.

Page 280, line 3, strike “or”.

Page 280, line 20, strike “or”.

Page 280, line 23, strike the period and insert “; or”.

Page 280, after line 23, insert the following:

“(v) result from any silvicultural activity or practice undertaken on economic base lands; or

“(S) result from the conduct of recreational hunting or shooting.

Page 284, strike lines 10 through 18.

Page 284, line 19, strike “(3)” and insert “(2)”.

Page 285, line 1, strike “section” and all that follows through the final period on line 2 and insert the following:

subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.).

Page 285, lines 11 and 19, after “used” insert the following:

, or a good faith effort is shown by the owner or operator to use such lands,

Page 285, after line 20, insert the following:

“(D) DELINEATIONS GRANDFATHERED.—Delineations by the Secretary of Agriculture regarding wetlands on agricul-

tural lands and associated nonagricultural lands that have become administratively final on or before the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall not be subject to further delineation unless the owner requests a new delineation by the Secretary of Agriculture.

Page 289, after line 9, insert the following:

“(G) PERMISSION TO ENTER ONTO PRIVATE PROPERTY.—

The Secretaries shall obtain written permission from the owner of private property before entering such property to conduct identification and classification of wetlands pursuant to this paragraph.

Page 293, line 4, before the semicolon insert the following:

; except that, in any case in which guidelines based on such criteria alone would prohibit the specification of a disposal site, the economic impact on navigation and anchorage shall be considered

Page 305, after line 4, insert the following:

“(8) TREATMENT OF EXISTING PROGRAMS.—Any State which has received approval to administer a program pursuant to this subsection before the date of the enactment of the Comprehensive Wetlands Conservation and Management Act of 1995 shall not be required to reapply for approval and shall be permitted to continue administering such program in a manner consistent with the provisions of this section. Upon receipt of a request from the Governor of such State, the Secretary, with the concurrence of the Governor, shall amend the program.

Page 312, after line 9, insert the following:

“(11) CERTIFICATION.—Notwithstanding any other provision of this Act, the Administrator shall not, either directly or indirectly, impose any requirement or condition in a certification required under section 401 that the Secretary determines is inconsistent with the provisions of this section.

Page 312, line 10, strike “(11)” and insert “(12)”.

Page 316, after line 13, insert the following:

“(N) VERNAL POOLS.—The term ‘vernal pools’ means individual isolated wetlands that have exceptional waterfowl habitat functions and that exhibit the following characteristics:

“(i) an area greater than ½ acre;

“(ii) seasonal standing for no less than 45 consecutive days during the fall and winter in an average precipitation season;

“(iii) an impermeable subsurface hard pan soil layer that prevents subsurface water drainage or percolation; and

“(iv) a surface outlet for relief of water flow.

Page 316, line 14, strike “(N)” and insert “(O)”.

Page 317, after line 16, insert the following:

“(31) The term ‘farmed wetland’ means those agricultural lands, as defined in section 404, and associated nonagricultural lands exhibiting wetlands characteristics, as delineated solely by the Secretary of Agriculture.

Page 317, line 17, strike “(31)” and insert “(32)”.

Page 317, line 23, strike "(32)" and insert "(33)".
Page 318, line 4, strike "(33)" and insert "(34)".
Page 318, line 7, strike "(34)" and insert "(35)".
Page 318, line 12, strike "(35)" and insert "(36)".
Page 318, line 18, strike "(36)" and insert "(37)".
Page 318, line 22, strike "(37)" and insert "(38)".
Page 319, strike lines 5 through 11.

