

REDUCING REGULATORY BURDENS ACT OF 2023

DECEMBER 16, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GRAVES of Missouri, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 5089]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 5089) to amend the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Water Pollution Control Act to clarify Congressional intent regarding the regulation of the use of pesticides in or near navigable waters, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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## PURPOSE OF LEGISLATION

The purpose of H.R. 5089 is to amend the *Federal Insecticide, Fungicide, and Rodenticide Act* and the *Federal Water Pollution Control Act* to clarify Congressional intent regarding the regulation of the use of pesticides in or near navigable waters, and for other purposes.

## BACKGROUND AND NEED FOR LEGISLATION

The *Clean Water Act (CWA)* is the primary law governing water quality of the Nation's surface waters.<sup>1</sup> Congress enacted the 1972 amendments to the *Federal Water Pollution Control Act*, which is commonly referred to as the *CWA*, with the objective to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters."<sup>2</sup> The *CWA* is predicated on the principle that discharges of pollutants into waters of the United States (WOTUS) are only lawful if authorized by a permit.<sup>3</sup>

Section 402 of the *CWA* authorizes the National Pollutant Discharge Elimination System (NPDES) program to regulate discharges of pollutants from point sources into navigable waters through individual or general permits.<sup>4</sup> The *CWA* defines pollutants to include several broad categories of materials and wastes, including chemical wastes and biological materials discharged into water.<sup>5</sup> Under the NPDES program, point sources are defined as "any discernible, confined and discrete conveyance, such as a pipe, ditch, channel, conduit, discrete fissure, or container,"<sup>6</sup> and includes "vessels or other floating craft"<sup>7</sup> from which pollutants may be discharged.

For more than three decades following the enactment of the *CWA*, the Environmental Protection Agency (EPA) did not consider registered pesticides used in compliance with the *Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)* as pollutants that required additional permits through the NPDES program for discharges into a WOTUS.<sup>8</sup> This position was articulated in 2005 guidance issued by EPA, which stated that pesticides applied in a manner consistent with *FIFRA* do not constitute a pollutant under the *CWA*, and was later formalized in a 2006 rule promulgated by the EPA.<sup>9</sup> The 2006 rule clarified two specific circumstances in which a NPDES permit would not be required for pesticide discharges: (1) when pesticides are applied directly to a WOTUS in order to control pests, and (2) when pesticides are applied to control pests that are present over or near water, and a portion of the

<sup>1</sup>H. COMM ON TRANSP. & INFRASTRUCTURE, JURISDICTION AND ACTIVITIES OF THE SUBCOMM. ON WATER RESOURCES AND ENVIRONMENT, 118th Cong., (2023) (on file with Comm.) [hereinafter WRE JURISDICTION AND ACTIVITIES].

<sup>2</sup>*CWA*, Pub. L. No. 92-500, 86 Stat. 816 [hereinafter *CWA*].

<sup>3</sup>LAURA GATZ, CONG. RSCH. SERV. (RL30030), CLEAN WATER ACT: A SUMMARY OF THE LAW, (Updated Oct. 18, 2016), available at <https://www.crs.gov/Reports/RL30030> [hereinafter CRS REPORT RL30030].

<sup>4</sup>*CWA*, *supra* note 2, § 402.

<sup>5</sup>*Id.*

<sup>6</sup>*Id.*

<sup>7</sup>*Id.*

<sup>8</sup>LAURA GATZ, ET AL., CONG. RSCH. SERV. (IF10919), PERMITTING FOR PESTICIDE DISCHARGES INTO NAVIGABLE WATERS: ISSUES AND LEGISLATION IN THE 117TH CONGRESS, (Updated May 27, 2022), available at <https://www.crs.gov/Reports/IF10919> [hereinafter CRS REPORT IF10919].

<sup>9</sup>Application of Pesticides to Waters of the United States in Compliance With FIFRA, 71 Fed. Reg. 68483 (Nov. 27, 2006).

pesticides will unavoidably be deposited in waters of the United States.<sup>10</sup>

EPA regulates the sale, distribution, and use of pesticides in the United States through *FIFRA*.<sup>11</sup> Under *FIFRA*, before a pesticide is eligible to be sold or distributed in the United States, it must be registered with the EPA after the applicant demonstrates, among other things, that using the pesticide according to specifications on the label will not cause unreasonable adverse effects to human health and the environment.<sup>12</sup> It is a violation of the law to use a pesticide in a manner that is inconsistent with the label instructions.<sup>13</sup> *FIFRA* also requires EPA to review registrations for pesticides periodically and to reregister older pesticides based on new data that meet current regulatory and scientific standards.<sup>14</sup>

The 2006 rule exempting *FIFRA*-compliant pesticide application from the *CWA* prompted multiple lawsuits by industry and environmental groups in almost every judicial circuit across the country.<sup>15</sup> In 2009, the United States Sixth Circuit Court of Appeals held, in *National Cotton Council, et al. v. EPA*, that the final rule was not a reasonable interpretation of the *CWA* and vacated the rule.<sup>16</sup> The court held that NPDES permits are required for the application of biological pesticides or the application of chemical pesticides that leave a residue in water when such applications are made to, or conveyed into, a WOTUS.<sup>17</sup> Concerns were raised at the time of the *National Cotton Council* case that requiring additional regulation of pesticides under the *CWA* would create a duplicative permitting process. For example, then (and current) Secretary of Agriculture Tom Vilsack wrote to then-EPA Administrator Lisa Jackson, stating, “subjecting *FIFRA*-compliant pesticides to the additional regulatory regime of the *CWA* is duplicative and will not help protect the environment.”<sup>18</sup>

In response to the ruling, in 2011, EPA issued a general discharge permit—known as the Pesticide General Permit (PGP)—to cover most pesticide applications resulting in point source discharges.<sup>19</sup> States with delegated authority to issue their own discharge permits issued similar general discharge permits.<sup>20</sup> The PGP has twice been reissued (2016 and 2021), and EPA is working

<sup>10</sup>*Id.*

<sup>11</sup>EPA, *Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Federal Facilities*, available at <https://www.epa.gov/enforcement/federal-insecticide-fungicide-and-rodenticide-act-fifra-and-federal-facilities#:~:text=The%20Federal%20Insecticide%2C%20Fungicide%2C%20and,pesticides%20in%20the%20United%20States.>

<sup>12</sup>*Id.*

<sup>13</sup>*Id.*

<sup>14</sup>JERRY YEN, CONG. RSCH. SERV. (RL31921), PESTICIDE LAW: A SUMMARY OF THE STATUTES, (Updated Nov. 14, 2012), available at <https://www.crs.gov/Reports/RL31921> [hereinafter CRS REPORT RL31921].

<sup>15</sup>LAURA GATZ, CONG. RSCH. SERV. (RL32884), PESTICIDE USE AND WATER QUALITY: ARE THE LAWS COMPLEMENTARY OR IN CONFLICT? (Updated Dec. 15, 2016), available at <https://www.crs.gov/Reports/RL32884> [hereinafter CRS REPORT RL32884].

<sup>16</sup>*National Cotton Council of America v. U.S. Environmental Protection Agency*, 553 F.3d 927 (6th Cir. 2009).

<sup>17</sup>*Id.*

<sup>18</sup>Letter from Hon. Thomas J. Vilsack, Secretary, United States Dep’t of Agriculture, to Hon. Lisa P. Jackson, Fmr. Administrator, United States Environmental Protection Agency, Re: The *National Cotton Council, et. al., v. United States Environmental Protection Agency*, (Mar. 6, 2009) (on file with Comm.).

<sup>19</sup>CRS REPORT IF10919, *supra* note 6.

<sup>20</sup>*Id.*

to finalize its most recent version of the PGP by December 17, 2024.<sup>21</sup>

This legislation seeks to restore EPA’s longstanding interpretation that *FIFRA*-compliant pesticides do not require an additional permit through the NPDES program for applications in, over, or near a WOTUS because they are separately regulated by the EPA under *FIFRA*.

#### HEARINGS

For the purposes of rule XIII, clause 3(c)(6)(A) of the 118th Congress—

On Tuesday, May 16, 2023, the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure held a hearing entitled, “*The Next Fifty Years of the Clean Water Act: Examining the Law and Infrastructure Project Completion.*” The Subcommittee received testimony from Dr. Andrea Travnicek, Director, Department of Resources, State of North Dakota; Hon. Serena Coleman McIlwain, Secretary of the Environment, State of Maryland; Mr. Mickey Conway, CEO, Metro Water Recovery, Denver, Colorado on behalf of the National Association of Clean Water Agencies; and Mr. Brandon Farris, Vice President, Energy and Resources Policy, National Association of Manufacturers. Chairman Rouzer and other Members of the Subcommittee underscored the impact burdensome regulations have on the economy. They also focused on the importance of clear, concise, and consistent regulations across the board to support energy producers, farmers, and business owners.

#### LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 5089, the “*Reducing Regulatory Burdens Act of 2023*,” was introduced in the United States House of Representatives of July 28, 2023, by Water Resources and Environment Subcommittee Chairman David Rouzer (R–NC–07), with Representative Doug LaMalfa (R–CA–01) as an original cosponsor, and referred to the Committee on Transportation and Infrastructure and the Committee on Agriculture. Within the Committee on Transportation and Infrastructure, H.R. 5089 was referred to the Subcommittee on Water Resources and Environment. The Subcommittee on Water Resources and Environment was discharged from further consideration of H.R. 5089 on January 31, 2024.

The Committee considered H.R. 5089 on January 31, 2024, and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by recorded vote of 32 yeas to 30 nays.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

<sup>21</sup>See, 81 Fed. Reg. 75816 (November 1, 2016), 86 Fed. Reg. 51665 (September 16, 2021), and 88 Fed. Reg. 83120 (November 28, 2023).

The following recorded votes were requested:

H.R. 5089, the “*Reducing Regulatory Burdens Act.*” The Subcommittee on Water Resources and Environment was discharged from further consideration of H.R. 5089 on January 31, 2024. The legislation was AGREED TO and ordered to be favorably reported to the House by a recorded vote of 32 yeas and 30 nays (Roll Call No. 44).

The vote was as follows:

Member	Vote	Member	Vote
Mr. Graves of MO	Y	Mr. Larsen of WA	N
Mr. Crawford	Y	<i>Ms. Norton</i>	N
Mr. Webster of FL	Y	Mrs. Napolitano	N
Mr. Massie	Y	Mr. Cohen	N
Mr. Perry	Y	Mr. Garamendi	N
Mr. Babin	Y	Mr. Johnson of GA	N
Mr. Graves of LA	Y	Mr. Carson	N
Mr. Rouzer	Y	Ms. Titus	N
Mr. Bost	Y	Mr. Huffman	N
Mr. LaMalfa	Y	Ms. Brownley	N
Mr. Westerman	Y	Ms. Wilson of FL	N
Mr. Mast	Y	Mr. Payne	N
<i>Mrs. González-Colón</i>	Y	Mr. DeSaulnier	N
Mr. Stauber	Y	Mr. Carbajal	N
Mr. Burchett	Y	Mr. Stanton	N
Mr. Johnson of SD	Y	Mr. Allred	N
Mr. Van Drew	Y	Ms. Davids of KS	N
Mr. Nehls	Y	Mr. García of IL	N
Mr. Mann	Y	Mr. Pappas	N
Mr. Owens	Y	Mr. Moulton	N
Mr. Yakym	Y	Mr. Auchincloss	N
Mrs. Chavez-DeRemer	Y	Ms. Strickland	N
Mr. Kean of NJ	Y	Mr. Carter of LA	N
Mr. D’Esposito	Y	Mr. Ryan	N
Mr. Burlison	Y	Mrs. Peltola	N
Mr. James	Y	Mr. Menendez	N
Mr. Van Orden	Y	Ms. Hoyle of OR	N
Mr. Williams of NY	Y	Mrs. Sykes	N
Mr. Molinaro	Y	Ms. Scholten	N
Mr. Collins	Y	Mrs. Foushee	N
Mr. Ezell	Y		
Mr. Duarte	Y		
Mr. Bean of FL	Y		
Ms. Maloy	Y		

The following amendments were offered:

An Amendment to H.R. 5089, offered by Mrs. Napolitano of California (Napolitano 001); Page 3, after line 16, insert the following: (B) A discharge to waters that have been—(i) identified by a State under section 303(d) as failing to attain any applicable water quality standard relating to pesticides or pesticide residues; or (ii) identified by a State as failing to meet any applicable water quality criteria for pesticides or pesticide residues.; was NOT AGREED TO by a recorded vote of 30 yeas and 32 nays (Roll Call No. 42).

The vote was as follows:

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	<i>Ms. Norton</i>	Y
Mr. Webster of FL	N	Mrs. Napolitano	Y
Mr. Massie	N	Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y

Member	Vote	Member	Vote
Mr. Graves of LA .....	N	Mr. Carson .....	Y
Mr. Rouzer .....	N	Ms. Titus .....	Y
Mr. Bost .....	N	Mr. Huffman .....	Y
Mr. LaMalfa .....	N	Ms. Brownley .....	Y
Mr. Westerman .....	N	Ms. Wilson of FL .....	Y
Mr. Mast .....	N	Mr. Payne .....	Y
<i>Mrs. González-Colón</i> .....		Mr. DeSaulnier .....	Y
Mr. Stauber .....	N	Mr. Carbajal .....	Y
Mr. Burchett .....	N	Mr. Stanton .....	Y
Mr. Johnson of SD .....	N	Mr. Allred .....	Y
Mr. Van Drew .....	N	Ms. Davids of KS .....	Y
Mr. Nehls .....	N	Mr. Garcia of IL .....	Y
Mr. Mann .....	N	Mr. Pappas .....	Y
Mr. Owens .....	N	Mr. Moulton .....	Y
Mr. Yakym .....	N	Mr. Auchincloss .....	Y
Mrs. Chavez-DeRemer .....	N	Ms. Strickland .....	Y
Mr. Kean of NJ .....	N	Mr. Carter of LA .....	Y
Mr. D'Esposito .....	N	Mr. Ryan .....	Y
Mr. Burlison .....	N	Mrs. Peltola .....	Y
Mr. James .....	N	Mr. Menendez .....	Y
Mr. Van Orden .....	N	Ms. Hoyle of OR .....	Y
Mr. Williams of NY .....	N	Mrs. Sykes .....	Y
Mr. Molinaro .....	N	Ms. Scholten .....	Y
Mr. Collins .....	N	Mrs. Foushee .....	Y
Mr. Ezell .....	N		
Mr. Duarte .....	N		
Mr. Bean of FL .....	N		
Ms. Maloy .....	N		

An Amendment to H.R. 5089, offered by Mrs. Sykes of Ohio (Sykes 055 Revision 1); Page 3, after line 16, insert the following: (B) A discharge to waters that the Administrator determines—(i) may result in a surface water body failing to meet its State-designated uses under section 303, including use as a source of public water supply; or (ii) may result in an increase in costs to ratepayers for wastewater treatment necessary to meet such designated uses, including ratepayers in rural, tribal, or economically disadvantaged communities.”; was NOT AGREED TO by a recorded vote of 30 yeas and 32 nays (Roll Call No. 43).

The vote was as follows:

Member	Vote	Member	Vote
Mr. Graves of MO .....	N	Mr. Larsen of WA .....	Y
Mr. Crawford .....	N	<i>Ms. Norton</i> .....	Y
Mr. Webster of FL .....	N	Mrs. Napolitano .....	Y
Mr. Massie .....	N	Mr. Cohen .....	Y
Mr. Perry .....	N	Mr. Garamendi .....	Y
Mr. Babin .....		Mr. Johnson of GA .....	Y
Mr. Graves of LA .....	N	Mr. Carson .....	Y
Mr. Rouzer .....	N	Ms. Titus .....	Y
Mr. Bost .....	N	Mr. Huffman .....	Y
Mr. LaMalfa .....	N	Ms. Brownley .....	Y
Mr. Westerman .....	N	Ms. Wilson of FL .....	Y
Mr. Mast .....	N	Mr. Payne .....	Y
<i>Mrs. González-Colón</i> .....		Mr. DeSaulnier .....	Y
Mr. Stauber .....	N	Mr. Carbajal .....	Y
Mr. Burchett .....	N	Mr. Stanton .....	Y
Mr. Johnson of SD .....	N	Mr. Allred .....	Y
Mr. Van Drew .....	N	Ms. Davids of KS .....	Y
Mr. Nehls .....	N	Mr. Garcia of IL .....	Y
Mr. Mann .....	N	Mr. Pappas .....	Y
Mr. Owens .....	N	Mr. Moulton .....	Y
Mr. Yakym .....	N	Mr. Auchincloss .....	Y
Mrs. Chavez-DeRemer .....	N	Ms. Strickland .....	Y

Member	Vote	Member	Vote
Mr. Kean of NJ .....	N	Mr. Carter of LA .....	Y
Mr. D'Esposito .....	N	Mr. Ryan .....	Y
Mr. Burlison .....	N	Mrs. Peltola .....	Y
Mr. James .....	N	Mr. Menendez .....	Y
Mr. Van Orden .....	N	Ms. Hoyle of OR .....	Y
Mr. Williams of NY .....	N	Mrs. Sykes .....	Y
Mr. Molinaro .....	N	Ms. Scholten .....	Y
Mr. Collins .....	N	Mrs. Foushee .....	Y
Mr. Ezell .....	N		
Mr. Duarte .....	N		
Mr. Bean of FL .....	N		
Ms. Maloy .....	N		

### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act of 1974* has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the enclosed cost estimate for H.R. 5089 from the Director of the Congressional Budget Office:

<b>H.R. 5089, Reducing Regulatory Burdens Act of 2023</b>			
As ordered reported by the House Committee on Transportation and Infrastructure on January 31, 2024			
By Fiscal Year, Millions of Dollars	<u>2024</u>	<u>2024-2029</u>	<u>2024-2034</u>
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply? No	
		<b>Mandate Effects</b>	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and zero.			

H.R. 5089 would prohibit the Environmental Protection Agency (EPA) and states authorized to issue permits under the National Pollutant Discharge Elimination System (NPDES) from requiring a

permit for some discharges of pesticides. In general, public and private entities would no longer need to obtain an NPDES permit for discharges of pesticides if their use is authorized under the Federal Insecticide, Fungicide, and Rodenticide Act, or in cases where the discharge is regulated as either a stormwater, municipal, or industrial discharge under the Clean Water Act.

Using information from EPA, CBO estimates that implementing the bill could decrease administrative costs for EPA associated with issuing NPDES permits. Any decrease in those costs would be insignificant because EPA has delegated the authority to issue most NPDES permits to states.

The CBO staff contact for this estimate is Aurora Swanson. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,  
*Director, Congressional Budget Office.*

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to amend the *Federal Insecticide, Fungicide, and Rodenticide Act* and the *Federal Water Pollution Control Act* to clarify Congressional intent regarding the regulation of the use of pesticides in or near navigable waters, and for other purposes.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 5089 establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

#### FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the *Unfunded Mandates Reform Act* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

## PREEMPTION CLARIFICATION

Section 423 of the *Congressional Budget Act of 1974* requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 5089 does not preempt any state, local, or tribal law.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the definition of Section 5(b) of the appendix to Title 5, United States Code, are created by this legislation.

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the *Congressional Accountability Act* (Public Law 104–1).

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

This section provides that this bill may be cited as the “Reducing Regulatory Burdens Act of 2023”.

*Section 2. Use of authorized pesticides*

This section amends the *Federal Insecticide, Fungicide, and Rodenticide Act* (FIFRA) to state that a permit may not be required by the Environmental Protection Agency (EPA) or a state for certain pesticide discharges from a point source into navigable waters if the pesticide regulated under *FIFRA*.

*Section 3. Discharges of pesticides*

This section amends Section 402 of the *Clean Water Act* (CWA) by clarifying that a permit is not required for certain pesticide discharges from a point source into navigable waters if it is from a pesticide regulated under *FIFRA*.

This section retains EPA and state CWA permitting obligations for pesticides or pesticide residues associated with the following: (1) discharges resulting from the application of a pesticide in violation of *FIFRA*; (2) stormwater discharges subject to regulation under Section 402 (p) of the CWA; (3) discharges associated with manufacturing or industrial effluent; (4) discharges associated with treatment works effluent; and (5) incidental discharges associated with the normal operation of a vessel, including ballasting operations or vessel biofouling prevention.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

**FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT**

\* \* \* \* \*

**SEC. 3. REGISTRATION OF PESTICIDES.**

(a) **REQUIREMENT OF REGISTRATION.**—Except as provided by this Act, no person in any State may distribute or sell to any person any pesticide that is not registered under this Act. To the extent necessary to prevent unreasonable adverse effects on the environment, the Administrator may by regulation limit the distribution, sale, or use in any State of any pesticide that is not registered under this Act and that is not the subject of an experimental use permit under section 5 or an emergency exemption under section 18.

(b) **EXEMPTIONS.**—A pesticide which is not registered with the Administrator may be transferred if—

(1) the transfer is from one registered establishment to another registered establishment operated by the same producer solely for packaging at the second establishment or for use as a constituent part of another pesticide produced at the second establishment; or

(2) the transfer is pursuant to and in accordance with the requirements of an experimental use permit.

(c) **PROCEDURE FOR REGISTRATION.**—

(1) **STATEMENT REQUIRED.**—Each applicant for registration of a pesticide shall file with the Administrator a statement which includes—

(A) the name and address of the applicant and of any other person whose name will appear on the labeling;

(B) the name of the pesticide;

(C) a complete copy of the labeling of the pesticide, a statement of all claims to be made for it, and any directions for its use;

(D) the complete formula of the pesticide;

(E) a request that the pesticide be classified for general use or for restricted use, or for both; and

(F) except as otherwise provided in paragraph (2)(D), if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data that appear in the public literature or that previously had been submitted to the Administrator and that the Administrator may consider in accordance with the following provisions:

(i) With respect to pesticides containing active ingredients that are initially registered under this Act after the date of enactment of the Federal Pesticide Act of 1978, data submitted to support the application for the

original registration of the pesticide, or an application for an amendment adding any new use to the registration and that pertains solely to such new use, shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application by another person during a period of ten years following the date the Administrator first registers the pesticide, except that such permission shall not be required in the case of defensive data.

(ii) The period of exclusive data use provided under clause (i) shall be extended 1 additional year for each 3 minor uses registered after the date of enactment of this clause and within 7 years of the commencement of the exclusive use period, up to a total of 3 additional years for all minor uses registered by the Administrator if the Administrator, in consultation with the Secretary of Agriculture, determines that, based on information provided by an applicant for registration or a registrant, that—

(I) there are insufficient efficacious alternative registered pesticides available for the use;

(II) the alternatives to the minor use pesticide pose greater risks to the environment or human health;

(III) the minor use pesticide plays or will play a significant part in managing pest resistance; or

(IV) the minor use pesticide plays or will play a significant part in an integrated pest management program.

The registration of a pesticide for a minor use on a crop grouping established by the Administrator shall be considered for purposes of this clause 1 minor use for each representative crop for which data are provided in the crop grouping. Any additional exclusive use period under this clause shall be modified as appropriate or terminated if the registrant voluntarily cancels the product or deletes from the registration the minor uses which formed the basis for the extension of the additional exclusive use period or if the Administrator determines that the registrant is not actually marketing the product for such minor uses.

(iii) Except as otherwise provided in clause (i), with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for reregistration, the Administrator may, without the permission of the original data submitter, consider any such item of data in support of an application by any other person (hereinafter in this subparagraph referred to as the “applicant”) within the fifteen-year period following the date the data were originally submitted only if the applicant has made an offer to com-

compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by agreement between the original data submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of ninety days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. If the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the original data submitter shall forfeit the right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this Act, if the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the Administrator shall deny the application or cancel the registration of the pesticide in support of which the data were used without further hearing. Before the Administrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, by certified mail, notice of intent to take action and allow fifteen days from the date of delivery of the notice for the affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such

order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Registration action by the Administrator shall not be delayed pending the fixing of compensation.

(iv) After expiration of any period of exclusive use and any period for which compensation is required for the use of an item of data under clauses (i), (ii), and (iii), the Administrator may consider such item of data in support of an application by any other applicant without the permission of the original data submitter and without an offer having been received to compensate the original data submitter for the use of such item of data.

(v) The period of exclusive use provided under clause (ii) shall not take effect until 1 year after enactment of this clause, except where an applicant or registrant is applying for the registration of a pesticide containing an active ingredient not previously registered.

(vi) With respect to data submitted after the date of enactment of this clause by an applicant or registrant to support an amendment adding a new use to an existing registration that does not retain any period of exclusive use, if such data relates solely to a minor use of a pesticide, such data shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application for a minor use by another person during the period of 10 years following the date of submission of such data. The applicant or registrant at the time the new minor use is requested shall notify the Administrator that to the best of their knowledge the exclusive use period for the pesticide has expired and that the data pertaining solely to the minor use of a pesticide is eligible for the provisions of this paragraph. If the minor use registration which is supported by data submitted pursuant to this subsection is voluntarily canceled or if such data are subsequently used to support a nonminor use, the data shall no longer be subject to the exclusive use provisions of this clause but shall instead be considered by the Administrator in accordance with the provisions of clause (i), as appropriate.

(G) If the applicant is requesting that the registration or amendment to the registration of a pesticide be expedited, an explanation of the basis for the request must be submitted, in accordance with paragraph (10) of this subsection.

(2) DATA IN SUPPORT OF REGISTRATION.—

(A) IN GENERAL.—The Administrator shall publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide and shall revise such guidelines from time to time. If thereafter the Administrator requires any additional kind of information under subparagraph (B) of this paragraph, the Administrator shall permit sufficient time for applicants to obtain

such additional information. The Administrator, in establishing standards for data requirements for the registration of pesticides with respect to minor uses, shall make such standards commensurate with the anticipated extent of use, pattern of use, the public health and agricultural need for such minor use, and the level and degree of potential beneficial or adverse effects on man and the environment. The Administrator shall not require a person to submit, in relation to a registration or reregistration of a pesticide for minor agricultural use under this Act, any field residue data from a geographic area where the pesticide will not be registered for such use. In the development of these standards, the Administrator shall consider the economic factors of potential national volume of use, extent of distribution, and the impact of the cost of meeting the requirements on the incentives for any potential registrant to undertake the development of the required data. Except as provided by section 10, within 30 days after the Administrator registers a pesticide under this Act the Administrator shall make available to the public the data called for in the registration statement together with such other scientific information as the Administrator deems relevant to the Administrator's decision.

(B) ADDITIONAL DATA.—(i) If the Administrator determines that additional data are required to maintain in effect an existing registration of a pesticide, the Administrator shall notify all existing registrants of the pesticide to which the determination relates and provide a list of such registrants to any interested person.

(ii) Each registrant of such pesticide shall provide evidence within ninety days after receipt of notification that it is taking appropriate steps to secure the additional data that are required. Two or more registrants may agree to develop jointly, or to share in the cost of developing, such data if they agree and advise the Administrator of their intent within ninety days after notification. Any registrant who agrees to share in the cost of producing the data shall be entitled to examine and rely upon such data in support of maintenance of such registration. The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by clause (iv) if a registrant fails to comply with this clause.

(iii) If, at the end of sixty days after advising the Administrator of their agreement to develop jointly, or share in the cost of developing data, the registrants have not further agreed on the terms of the data development arrangement or on a procedure for reaching such agreement, any of such registrants may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be

final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. All parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by clause (iv) if a registrant fails to comply with this clause.

(iv) Notwithstanding any other provision of this Act, if the Administrator determines that a registrant, within the time required by the Administrator, has failed to take appropriate steps to secure the data required under this subparagraph, to participate in a procedure for reaching agreement concerning a joint data development arrangement under this subparagraph or in an arbitration proceeding as required by this subparagraph, or to comply with the terms of an agreement or arbitration decision concerning a joint data development arrangement under this subparagraph, the Administrator may issue a notice of intent to suspend such registrant's registration of the pesticide for which additional data is required. The Administrator may include in the notice of intent to suspend such provisions as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Any suspension proposed under this subparagraph shall become final and effective at the end of thirty days from receipt by the registrant of the notice of intent to suspend, unless during that time a request for hearing is made by a person adversely affected by the notice or the registrant has satisfied the Administrator that the registrant has complied fully with the requirements that served as a basis for the notice of intent to suspend. If a hearing is requested, a hearing shall be conducted under section 6(d) of this Act. The only matters for resolution at that hearing shall be whether the registrant has failed to take the action that served as the basis for the notice of intent to suspend the registration of the pesticide for which additional data is required, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this Act. If a hearing is held, a decision after completion of such hearing shall be final. Notwithstanding any other provision of this Act, a hearing shall be held and a determination made within seventy-five days after receipt of a request for such hearing. Any registration suspended under this subparagraph shall be reinstated by the Administrator if the Administrator determines that the registrant has complied fully with the requirements that served as a basis for the suspension of the registration.

(v) Any data submitted under this subparagraph shall be subject to the provisions of paragraph (1)(D). Whenever such data are submitted jointly by two or more registrants, an agent shall be agreed on at the time of the joint submission to handle any subsequent data compensation matters for the joint submitters of such data.

(vi) Upon the request of a registrant the Administrator shall, in the case of a minor use, extend the deadline for the production of residue chemistry data under this subparagraph for data required solely to support that minor use until the final deadline for submission of data under section 4 for the other uses of the pesticide established as of the date of enactment of the Food Quality Protection Act of 1996, if—

(I) the data to support other uses of the pesticide on a food are being provided;

(II) the registrant, in submitting a request for such an extension, provides a schedule, including interim dates to measure progress, to assure that the data production will be completed before the expiration of the extension period;

(III) the Administrator has determined that such extension will not significantly delay the Administrator's schedule for issuing a reregistration eligibility determination required under section 4; and

(IV) the Administrator has determined that based on existing data, such extension would not significantly increase the risk of any unreasonable adverse effect on the environment. If the Administrator grants an extension under this clause, the Administrator shall monitor the development of the data and shall ensure that the registrant is meeting the schedule for the production of the data. If the Administrator determines that the registrant is not meeting or has not met the schedule for the production of such data, the Administrator may proceed in accordance with clause (iv) regarding the continued registration of the affected products with the minor use and shall inform the public of such action. Notwithstanding the provisions of this clause, the Administrator may take action to modify or revoke the extension under this clause if the Administrator determines that the extension for the minor use may cause an unreasonable adverse effect on the environment. In such circumstance, the Administrator shall provide, in writing to the registrant, a notice revoking the extension of time for submission of data. Such data shall instead be due in accordance with the date established by the Administrator for the submission of the data.

(vii) If the registrant does not commit to support a specific minor use of the pesticide, but is supporting and providing data in a timely and adequate fashion to support uses of the pesticide on a food, or if all uses of the pesticide are nonfood uses and the registrant does not commit to support a specific minor use of the pesticide but is sup-

porting and providing data in a timely and adequate fashion to support other nonfood uses of the pesticide, the Administrator, at the written request of the registrant, shall not take any action pursuant to this clause in regard to such unsupported minor use until the final deadline established as of the date of enactment of the Food Quality Protection Act of 1996, for the submission of data under section 4 for the supported uses identified pursuant to this clause unless the Administrator determines that the absence of the data is significant enough to cause human health or environmental concerns. On the basis of such determination, the Administrator may refuse the request for extension by the registrant. Upon receipt of the request from the registrant, the Administrator shall publish in the Federal Register a notice of the receipt of the request and the effective date upon which the uses not being supported will be voluntarily deleted from the registration pursuant to section 6(f)(1). If the Administrator grants an extension under this clause, the Administrator shall monitor the development of the data for the uses being supported and shall ensure that the registrant is meeting the schedule for the production of such data. If the Administrator determines that the registrant is not meeting or has not met the schedule for the production of such data, the Administrator may proceed in accordance with clause (iv) of this subparagraph regarding the continued registration of the affected products with the minor and other uses and shall inform the public of such action in accordance with section 6(f)(2). Notwithstanding the provisions of this clause, the Administrator may deny, modify, or revoke the temporary extension under this subparagraph if the Administrator determines that the continuation of the minor use may cause an unreasonable adverse effect on the environment. In the event of modification or revocation, the Administrator shall provide, in writing, to the registrant a notice revoking the temporary extension and establish a new effective date by which the minor use shall be deleted from the registration.

(viii)(I) If data required to support registration of a pesticide under subparagraph (A) is requested by a Federal or State regulatory authority, the Administrator shall, to the extent practicable, coordinate data requirements, test protocols, timetables, and standards of review and reduce burdens and redundancy caused to the registrant by multiple requirements on the registrant.

(II) The Administrator may enter into a cooperative agreement with a State to carry out subclause (I).

(III) Not later than 1 year after the date of enactment of this clause, the Administrator shall develop a process to identify and assist in alleviating future disparities between Federal and State data requirements.

(C) SIMPLIFIED PROCEDURES.—Within nine months after the date of enactment of this subparagraph, the Administrator shall, by regulation, prescribe simplified procedures

for the registration of pesticides, which shall include the provisions of subparagraph (D) of this paragraph.

(D) EXEMPTION.—No applicant for registration of a pesticide who proposes to purchase a registered pesticide from another producer in order to formulate such purchased pesticide into the pesticide that is the subject of the application shall be required to—

(i) submit or cite data pertaining to such purchased product; or

(ii) offer to pay reasonable compensation otherwise required by paragraph (1)(D) of this subsection for the use of any such data.

(E) MINOR USE WAIVER.—In handling the registration of a pesticide for a minor use, the Administrator may waive otherwise applicable data requirements if the Administrator determines that the absence of such data will not prevent the Administrator from determining—

(i) the incremental risk presented by the minor use of the pesticide; and

(ii) that such risk, if any, would not be an unreasonable adverse effect on the environment.

(3) TIME FOR ACTING WITH RESPECT TO APPLICATION.—

(A) IN GENERAL.—The Administrator shall review the data after receipt of the application and shall, as expeditiously as possible, either register the pesticide in accordance with paragraph (5), or notify the applicant of the Administrator's determination that it does not comply with the provisions of the Act in accordance with paragraph (6).

(B) IDENTICAL OR SUBSTANTIALLY SIMILAR.—(i) The Administrator shall, as expeditiously as possible, review and act on any application received by the Administrator that—

(I) proposes the initial or amended registration of an end-use pesticide that, if registered as proposed, would be identical or substantially similar in composition and labeling to a currently-registered pesticide identified in the application, or that would differ in composition and labeling from such currently-registered pesticide only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment; or

(II) proposes an amendment to the registration of a registered pesticide that does not require scientific review of data.

(ii) In expediting the review of an application for an action described in clause (i), the Administrator shall—

(I) review the application in accordance with section 33(f)(4)(B) and, if the application is found to be incomplete, reject the application;

(II) not later than the applicable decision review time established pursuant to section 33(f)(4)(B), or, if no review time is established, not later than 90 days after receiving a complete application, notify the registrant if the application has been granted or denied; and

(III) if the application is denied, notify the registrant in writing of the specific reasons for the denial of the application.

(C) MINOR USE REGISTRATION.—

(i) The Administrator shall, as expeditiously as possible, review and act on any complete application—

(I) that proposes the initial registration of a new pesticide active ingredient if the active ingredient is proposed to be registered solely for minor uses, or proposes a registration amendment solely for minor uses to an existing registration; or

(II) for a registration or a registration amendment that proposes significant minor uses.

(ii) For the purposes of clause (i)—

(I) the term “as expeditiously as possible” means that the Administrator shall, to the greatest extent practicable, complete a review and evaluation of all data, submitted with a complete application, within 12 months after the submission of the complete application, and the failure of the Administrator to complete such a review and evaluation under clause (i) shall not be subject to judicial review; and

(II) the term “significant minor uses” means 3 or more minor uses proposed for every nonminor use, a minor use that would, in the judgment of the Administrator, serve as a replacement for any use which has been canceled in the 5 years preceding the receipt of the application, or a minor use that in the opinion of the Administrator would avoid the reissuance of an emergency exemption under section 18 for that minor use.

(D) ADEQUATE TIME FOR SUBMISSION OF MINOR USE DATA.—If a registrant makes a request for a minor use waiver, regarding data required by the Administrator, pursuant to paragraph (2)(E), and if the Administrator denies in whole or in part such data waiver request, the registrant shall have a full-time period for providing such data. For purposes of this subparagraph, the term “full-time period” means the time period originally established by the Administrator for submission of such data, beginning with the date of receipt by the registrant of the Administrator’s notice of denial.

(4) NOTICE OF APPLICATION.—The Administrator shall publish in the Federal Register, promptly after receipt of the statement and other data required pursuant to paragraphs (1) and (2), a notice of each application for registration of any pesticide if it contains any new active ingredient or if it would entail a changed use pattern. The notice shall provide for a period of 30 days in which any Federal agency or any other interested person may comment.

(5) APPROVAL OF REGISTRATION.—The Administrator shall register a pesticide if the Administrator determines that, when considered with any restrictions imposed under subsection (d)—

(A) its composition is such as to warrant the proposed claims for it;

(B) its labeling and other material required to be submitted comply with the requirements of this Act;

(C) it will perform its intended function without unreasonable adverse effects on the environment; and

(D) when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.

The Administrator shall not make any lack of essentiality a criterion for denying registration of any pesticide. Where two pesticides meet the requirements of this paragraph, one should not be registered in preference to the other. In considering an application for the registration of a pesticide, the Administrator may waive data requirements pertaining to efficacy, in which event the Administrator may register the pesticide without determining that the pesticide's composition is such as to warrant proposed claims of efficacy. If a pesticide is found to be efficacious by any State under section 24(c) of this Act, a presumption is established that the Administrator shall waive data requirements pertaining to efficacy for use of the pesticide in such State.

(6) DENIAL OF REGISTRATION.—If the Administrator determines that the requirements of paragraph (5) for registration are not satisfied, the Administrator shall notify the applicant for registration of the Administrator's determination and of the Administrator's reasons (including the factual basis) therefor, and that, unless the applicant corrects the conditions and notifies the Administrator thereof during the 30-day period beginning with the day after the date on which the applicant receives the notice, the Administrator may refuse to register the pesticide. Whenever the Administrator refuses to register a pesticide, the Administrator shall notify the applicant of the Administrator's decision and of the Administrator's reasons (including the factual basis) therefor. The Administrator shall promptly publish in the Federal Register notice of such denial of registration and the reasons therefor. Upon such notification, the applicant for registration or other interested person with the concurrence of the applicant shall have the same remedies as provided for in section 6.

(7) REGISTRATION UNDER SPECIAL CIRCUMSTANCES.—Notwithstanding the provisions of paragraph (5)—

(A) The Administrator may conditionally register or amend the registration of a pesticide if the Administrator determines that (i) the pesticide and proposed use are identical or substantially similar to any currently registered pesticide and use thereof, or differ only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment, and (ii) approving the registration or amendment in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. An applicant seeking conditional registration or amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar

pesticide under paragraph (5). If the applicant is unable to submit an item of data because it has not yet been generated, the Administrator may register or amend the registration of the pesticide under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this Act.

(B) The Administrator may conditionally amend the registration of a pesticide to permit additional uses of such pesticide notwithstanding that data concerning the pesticide may be insufficient to support an unconditional amendment, if the Administrator determines that (i) the applicant has submitted satisfactory data pertaining to the proposed additional use, and (ii) amending the registration in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. Notwithstanding the foregoing provisions of this subparagraph, no registration of a pesticide may be amended to permit an additional use of such pesticide if the Administrator has issued a notice stating that such pesticide, or any ingredient thereof, meets or exceeds risk criteria associated in whole or in part with human dietary exposure enumerated in regulations issued under this Act, and during the pendency of any risk-benefit evaluation initiated by such notice, if (I) the additional use of such pesticide involves a major food or feed crop, or (II) the additional use of such pesticide involves a minor food or feed crop and the Administrator determines, with the concurrence of the Secretary of Agriculture, there is available an effective alternative pesticide that does not meet or exceed such risk criteria. An applicant seeking amended registration under this subparagraph shall submit such data as would be required to obtain registration of a similar pesticide under paragraph (5). If the applicant is unable to submit an item of data (other than data pertaining to the proposed additional use) because it has not yet been generated, the Administrator may amend the registration under such conditions as will require the submission of such data not later than the time such data are required to be submitted with respect to similar pesticides already registered under this Act.

(C) The Administrator may conditionally register a pesticide containing an active ingredient not contained in any currently registered pesticide for a period reasonably sufficient for the generation and submission of required data (which are lacking because a period reasonably sufficient for generation of the data has not elapsed since the Administrator first imposed the data requirement) on the condition that by the end of such period the Administrator receives such data and the data do not meet or exceed risk criteria enumerated in regulations issued under this Act, and on such other conditions as the Administrator may prescribe. A conditional registration under this subparagraph shall be granted only if the Administrator determines that use of the pesticide during such period will not

cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.

(8) INTERIM ADMINISTRATIVE REVIEW.—Notwithstanding any other provision of this Act, the Administrator may not initiate a public interim administrative review process to develop a risk-benefit evaluation of the ingredients of a pesticide or any of its uses prior to initiating a formal action to cancel, suspend, or deny registration of such pesticide, required under this Act, unless such interim administrative process is based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment. Notice of the definition of the terms “validated test” and “other significant evidence” as used herein shall be published by the Administrator in the Federal Register.

(9) LABELING.—

(A) ADDITIONAL STATEMENTS.—Subject to subparagraphs (B) and (C), it shall not be a violation of this Act for a registrant to modify the labeling of an antimicrobial pesticide product to include relevant information on product efficacy, product composition, container composition or design, or other characteristics that do not relate to any pesticidal claim or pesticidal activity.

(B) REQUIREMENTS.—Proposed labeling information under subparagraph (A) shall not be false or misleading, shall not conflict with or detract from any statement required by law or the Administrator as a condition of registration, and shall be substantiated on the request of the Administrator.

(C) NOTIFICATION AND DISAPPROVAL.—

(i) NOTIFICATION.—A registration may be modified under subparagraph (A) if —

(I) the registrant notifies the Administrator in writing not later than 60 days prior to distribution or sale of a product bearing the modified labeling; and

(II) the Administrator does not disapprove of the modification under clause (ii).

(ii) DISAPPROVAL.—Not later than 30 days after receipt of a notification under clause (i), the Administrator may disapprove the modification by sending the registrant notification in writing stating that the proposed language is not acceptable and stating the reasons why the Administrator finds the proposed modification unacceptable.

(iii) RESTRICTION ON SALE.—A registrant may not sell or distribute a product bearing a disapproved modification.

(iv) OBJECTION.—A registrant may file an objection in writing to a disapproval under clause (ii) not later than 30 days after receipt of notification of the disapproval.

(v) FINAL ACTION.—A decision by the Administrator following receipt and consideration of an objection filed under clause (iv) shall be considered a final agency action.

(D) USE DILUTION.—The label or labeling required under this Act for an antimicrobial pesticide that is or may be diluted for use may have a different statement of caution or protective measures for use of the recommended diluted solution of the pesticide than for use of a concentrate of the pesticide if the Administrator determines that —

- (i) adequate data have been submitted to support the statement proposed for the diluted solution uses; and
- (ii) the label or labeling provides adequate protection for exposure to the diluted solution of the pesticide.

(10) EXPEDITED REGISTRATION OF PESTICIDES.—

(A) Not later than 1 year after the date of enactment of this paragraph, the Administrator shall, utilizing public comment, develop procedures and guidelines, and expedite the review of an application for registration of a pesticide or an amendment to a registration that satisfies such guidelines.

(B) Any application for registration or an amendment, including biological and conventional pesticides, will be considered for expedited review under this paragraph. An application for registration or an amendment shall qualify for expedited review if use of the pesticide proposed by the application may reasonably be expected to accomplish 1 or more of the following:

- (i) Reduce the risks of pesticides to human health.
- (ii) Reduce the risks of pesticides to nontarget organisms.
- (iii) Reduce the potential for contamination of groundwater, surface water, or other valued environmental resources.
- (iv) Broaden the adoption of integrated pest management strategies, or make such strategies more available or more effective.

(C) The Administrator, not later than 30 days after receipt of an application for expedited review, shall notify the applicant whether the application is complete. If it is found to be incomplete, the Administrator may either reject the request for expedited review or ask the applicant for additional information to satisfy the guidelines developed under subparagraph (A).

(11) INTERAGENCY WORKING GROUP.—

(A) DEFINITION OF COVERED AGENCY.—In this paragraph, the term “covered agency” means any of the following:

- (i) The Department of Agriculture.
- (ii) The Department of Commerce.
- (iii) The Department of the Interior.
- (iv) The Council on Environmental Quality.
- (v) The Environmental Protection Agency.

(B) ESTABLISHMENT.—The Administrator shall establish an interagency working group, to be comprised of representatives from each covered agency, to provide recommendations regarding, and to implement a strategy for improving, the consultation process required under section

7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) for pesticide registration and registration review.

(C) DUTIES.—The interagency working group established under subparagraph (B) shall—

(i) analyze relevant Federal law (including regulations) and case law for purposes of providing an outline of the legal and regulatory framework for the consultation process referred to in that subparagraph, including—

(I) requirements under this Act and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(II) Federal case law regarding the intersection of this Act and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(III) Federal regulations relating to the pesticide consultation process;

(ii) provide advice regarding methods of—

(I) defining the scope of actions of the covered agencies that are subject to the consultation requirement referred to in subparagraph (B); and

(II) properly identifying and classifying effects of actions of the covered agencies with respect to that consultation requirement;

(iii) identify the obligations and limitations under Federal law of each covered agency for purposes of providing a legal and regulatory framework for developing the recommendations referred to in subparagraph (B);

(iv) review practices for the consultation referred to in subparagraph (B) to identify problem areas, areas for improvement, and best practices for conducting that consultation among the covered agencies;

(v) develop scientific and policy approaches to increase the accuracy and timeliness of the process for that consultation, in accordance with requirements of this Act and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), including—

(I) processes to efficiently share data and coordinate analyses among the Department of Agriculture, the Department of Commerce, the Department of the Interior, and the Environmental Protection Agency;

(II) a streamlined process for identifying which actions require no consultation, informal consultation, or formal consultation;

(III) an approach that will provide clarity with respect to what constitutes the best scientific and commercial data available in the fields of pesticide use and ecological risk assessment, pursuant to section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)); and

(IV) approaches that enable the Environmental Protection Agency to better assist the Department of the Interior and the Department of Commerce

in carrying out obligations under that section in a timely and efficient manner; and

(vi) propose and implement a strategy to implement approaches to consultations under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and document that strategy in a memorandum of understanding, revised regulations, or another appropriate format to promote durable cooperation among the covered agencies.

(D) REPORTS.—

(i) PROGRESS REPORTS.—

(I) IN GENERAL.—Not later than 18 months after the date of enactment of this paragraph, the Administrator, in coordination with the head of each other covered agency, shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the progress of the working group in developing the recommendations under subparagraph (B).

(II) REQUIREMENTS.—The report under this clause shall—

(aa) reflect the perspectives of each covered agency; and

(bb) identify areas of new consensus and continuing topics of disagreement and debate.

(ii) RESULTS.—

(I) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Administrator, in coordination with the head of each other covered agency, shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing—

(aa) the recommendations developed under subparagraph (B); and

(bb) plans for implementation of those recommendations.

(II) REQUIREMENTS.—The report under this clause shall—

(aa) reflect the perspectives of each covered agency; and

(bb) identify areas of consensus and continuing topics of disagreement and debate, if any.

(iii) IMPLEMENTATION.—Not later than 1 year after the date of submission of the report under clause (i), the Administrator, in coordination with the head of each other covered agency, shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing—

(I) the implementation of the recommendations referred to in that clause;

(II) the extent to which that implementation improved the consultation process referred to in subparagraph (B); and

(III) any additional recommendations for improvements to the process described in subparagraph (B).

(iv) OTHER REPORTS.—Not later than the date that is 180 days after the date of submission of the report under clause (iii), and not less frequently than once every 180 days thereafter during the 5-year period beginning on that date, the Administrator, in coordination with the head of each other covered agency, shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing—

(I) the implementation of the recommendations referred to in that clause;

(II) the extent to which that implementation improved the consultation process referred to in subparagraph (B); and

(III) any additional recommendations for improvements to the process described in subparagraph (B).

(E) CONSULTATION WITH PRIVATE SECTOR.—In carrying out the duties under this paragraph, the working group shall, as appropriate—

(i) consult with, representatives of interested industry stakeholders and nongovernmental organizations; and

(ii) take into consideration factors, such as actual and potential differences in interest between, and the views of, those stakeholders and organizations.

(F) CHAPTER 10 OF TITLE 5, UNITED STATES CODE.—Chapter 10 of title 5, United States Code, shall not apply to the working group established under this paragraph.

(G) SAVINGS CLAUSE.—Nothing in this paragraph supersedes any provision of—

(i) this Act; or

(ii) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), including the requirements under section 7 of that Act (16 U.S.C. 1536).

(d) CLASSIFICATION OF PESTICIDES.—

(1) CLASSIFICATION FOR GENERAL USE, RESTRICTED USE, OR BOTH.—

(A) As a part of the registration of a pesticide the Administrator shall classify it as being for general use or for restricted use. If the Administrator determines that some of the uses for which the pesticide is registered should be for general use and that other uses for which it is registered should be for restricted use, the Administrator shall classify it for both general use and restricted use. Pesticide uses may be classified by regulation on the initial classification and registered pesticides may be classified prior to reregistration. If some of the uses of the pesticide

are classified for general use and other uses are classified for restricted use, the directions relating to its general uses shall be clearly separated and distinguished from those directions relating to its restricted uses. The Administrator may require that its packaging and labeling for restricted uses shall be clearly distinguishable from its packaging and labeling for general uses.

(B) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with a widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment, the Administrator will classify the pesticide, or the particular use or uses of the pesticide to which the determination applies, for general use.

(C) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, or in accordance with a widespread and commonly recognized practice, may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment, including injury to the applicator, the Administrator shall classify the pesticide, or the particular use or uses to which the determination applies, for restricted use:

(i) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that the acute dermal or inhalation toxicity of the pesticide presents a hazard to the applicator or other persons, the pesticide shall be applied for any use to which the restricted classification applies only by or under the direct supervision of a certified applicator.

(ii) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause unreasonable adverse effects on the environment, the pesticide shall be applied for any use to which the determination applies only by or under the direct supervision of a certified applicator, or subject to such other restrictions as the Administrator may provide by regulation. Any such regulation shall be reviewable in the appropriate court of appeals upon petition of a person adversely affected filed within 60 days of the publication of the regulation in final form.

(2) CHANGE IN CLASSIFICATION.—If the Administrator determines that a change in the classification of any use of a pesticide from general use to restricted use is necessary to prevent unreasonable adverse effects on the environment, the Administrator shall notify the registrant of such pesticide of such determination at least forty-five days before making the change and shall publish the proposed change in the Federal Register. The registrant, or other interested person with the concurrence

of the registrant, may seek relief from such determination under section 6(b).

(3) CHANGE IN CLASSIFICATION FROM RESTRICTED USE TO GENERAL USE.—The registrant of any pesticide with one or more uses classified for restricted use may petition the Administrator to change any such classification from restricted to general use. Such petition shall set out the basis for the registrant's position that restricted use classification is unnecessary because classification of the pesticide for general use would not cause unreasonable adverse effects on the environment. The Administrator, within sixty days after receiving such petition, shall notify the registrant whether the petition has been granted or denied. Any denial shall contain an explanation therefor and any such denial shall be subject to judicial review under section 16 of this Act.

(e) PRODUCTS WITH SAME FORMULATION AND CLAIMS.—Products which have the same formulation, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same pesticide may be registered as a single pesticide; and additional names and labels shall be added to the registration by supplemental statements.

(f) MISCELLANEOUS.—

(1) EFFECT OF CHANGE OF LABELING OR FORMULATION.—If the labeling or formulation for a pesticide is changed, the registration shall be amended to reflect such change if the Administrator determines that the change will not violate any provision of this Act.

(2) REGISTRATION NOT A DEFENSE.—In no event shall registration of an article be construed as a defense for the commission of any offense under this Act. As long as no cancellation proceedings are in effect registration of a pesticide shall be prima facie evidence that the pesticide, its labeling and packaging comply with the registration provisions of the Act.

(3) AUTHORITY TO CONSULT OTHER FEDERAL AGENCIES.—In connection with consideration of any registration or application for registration under this section, the Administrator may consult with any other Federal agency.

(4) MIXTURES OF NITROGEN STABILIZERS AND FERTILIZER PRODUCTS.—Any mixture or other combination of—

(A) 1 or more nitrogen stabilizers registered under this Act; and

(B) 1 or more fertilizer products,  
shall not be subject to the provisions of this section or sections 4, 5, 7, 15, and 17(a)(2) if the mixture or other combination is accompanied by the labeling required under this Act for the nitrogen stabilizer contained in the mixture or other combination, the mixture or combination is mixed or combined in accordance with such labeling, and the mixture or combination does not contain any active ingredient other than the nitrogen stabilizer.

(5) BILINGUAL LABELING.—

(A) REQUIREMENT.—

(i) IN GENERAL.—Subject to clause (ii), not later than the applicable deadline described in subparagraph (B),

each registered pesticide product released for shipment shall include—

(I) the translation of the parts of the labeling contained in the Spanish Translation Guide described in subparagraph (G) on the product container; or

(II) a link to such translation via scannable technology or other electronic methods readily accessible on the product label.

(ii) EXCEPTIONS.—Notwithstanding clause (i)—

(I) an antimicrobial pesticide product may, in lieu of including a translation or a link under clause (i), provide a link to the safety data sheets in Spanish via scannable technology or other electronic methods readily accessible on the product label; or

(II) a non-agricultural pesticide product that is not classified by the Administrator as restricted use under subsection (d)(1)(A) may, in lieu of including a translation or a link under clause (i), provide a link to the safety data sheets in Spanish via scannable technology or other electronic methods readily accessible on the product label.

(B) DEADLINES FOR BILINGUAL LABELING.—

(i) PESTICIDE PRODUCTS CLASSIFIED AS RESTRICTED USE.—In the case of pesticide products classified by the Administrator as restricted use under subsection (d)(1)(A), the deadline specified in this subparagraph is the date that is 3 years following the date of enactment of this paragraph.

(ii) PESTICIDE PRODUCTS NOT CLASSIFIED AS RESTRICTED USE.—In the case of pesticide products not classified by the Administrator as restricted use under subsection (d)(1)(A), the deadline specified in this subparagraph shall be as follows:

(I) AGRICULTURAL.—

(aa) ACUTE TOXICITY CATEGORY I.—For agricultural pesticides classified as Acute Toxicity Category I, the date that is 3 years after the date of enactment of this paragraph.

(bb) ACUTE TOXICITY CATEGORY II.—For agricultural pesticides classified as Acute Toxicity Category II, the date that is 5 years after the date of enactment of this paragraph.

(II) ANTIMICROBIAL AND NON-AGRICULTURAL.—

(aa) ACUTE TOXICITY CATEGORY I.—For antimicrobial and non-agricultural pesticide products classified as Acute Toxicity Category I, the date that is 4 years after the date of enactment of this paragraph.

(bb) ACUTE TOXICITY CATEGORY II.—For antimicrobial and non-agricultural pesticide products classified as Acute Toxicity Category II, the date that is 6 years after the date of enactment of this paragraph.

(III) OTHER PESTICIDE PRODUCTS.—With respect to pesticide products not described in subclause (I) or (II), the date that is 8 years after the date of enactment of this paragraph.

(C) IMPLEMENTATION.—

(i) NON-NOTIFICATION.—

(I) IN GENERAL.—In carrying out this paragraph, the Administrator shall allow translations of the parts of the label of a pesticide contained in the Spanish Translation Guide described in subparagraph (G) and scannable technology or other electronic methods to be added using non-notification procedures.

(II) NON-NOTIFICATION PROCEDURE DEFINED.—In this clause, the term “non-notification procedure” refers to a procedure under which a change may be made to a pesticide label without notifying the Administrator.

(ii) COOPERATION AND CONSULTATION.—In carrying out this paragraph, the Administrator shall cooperate and consult with State lead agencies for pesticide regulation for the purpose of implementing bilingual labeling as provided in this paragraph as expeditiously as possible.

(iii) END USE LABELING.—The labeling requirements of this paragraph shall apply to end use product labels.

(iv) INCORPORATION TIMEFRAME.—After initial translation deadlines provided in subparagraph (B), updates to the Spanish Translation Guide described in subparagraph (G) shall be incorporated into labeling on the earlier of—

(I) in the case of agricultural use pesticide labels, as determined by the Administrator—

(aa) 1 year after the date of publication of the updated Spanish Label Translation Guide described in subparagraph (G); or

(bb) the released for shipment date specified on the EPA Stamped Approved Label after the pesticide label is next changed or amended following the date of publication of the updated Spanish Label Translation Guide described in subparagraph (G); and

(II) in the case of antimicrobial and non-agricultural use pesticide labels, as determined by the Administrator—

(aa) 2 years after the date of publication of the updated Spanish Label Translation Guide described in subparagraph (G); or

(bb) the released for shipment date specified on the EPA Stamped Approved Label after the pesticide label is next changed or amended following the date of publication of the updated Spanish Label Translation Guide described in subparagraph (G).

(v) NOTIFICATION OF UPDATES TO THE SPANISH TRANSLATION GUIDE FOR PESTICIDE LABELING.—Not later than 10 days after updating the Spanish Translation Guide described in subparagraph (G), the Administrator shall notify registrants of the update to such guide.

(D) ACCESSIBILITY OF BILINGUAL LABELING FOR FARM WORKERS.—Not later than 180 days after the date of enactment of this paragraph, to the maximum extent practicable, the Administrator shall seek stakeholder input on ways to make bilingual labeling required under this paragraph accessible to farm workers.

(E) PLAN.—Not later than 3 years after the date of enactment of this paragraph, the Administrator shall implement a plan to ensure that farm workers have access to the bilingual labeling required under this paragraph.

(F) REPORTING.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall develop and implement, and make publicly available, a plan for tracking the adoption of the bilingual labeling required under this paragraph.

(G) SPANISH TRANSLATION GUIDE DESCRIBED.—The Spanish Translation Guide described in this subparagraph is the Spanish Translation Guide for Pesticide Labeling issued in October 2019, as in effect on the date of enactment of the Pesticide Registration Improvement Act of 2022, and any successor guides or amendments to such guide.

(6) USE OF AUTHORIZED PESTICIDES.—*Except as provided in section 402(t) of the Federal Water Pollution Control Act, the Administrator or a State may not require a permit under such Act for a discharge from a point source into navigable waters of a pesticide authorized for sale, distribution, or use under this Act, or the residue of such a pesticide, resulting from the application of such pesticide.*

(g) REGISTRATION REVIEW.—

(1)(A) GENERAL RULE.—

(i) IN GENERAL.—The registrations of pesticides are to be periodically reviewed.

(ii) REGULATIONS.—In accordance with this subparagraph, the Administrator shall by regulation establish a procedure for accomplishing the periodic review of registrations.

(iii) INITIAL REGISTRATION REVIEW.—The Administrator shall complete the registration review of each pesticide or pesticide case, which may be composed of 1 or more active ingredients and the products associated with the active ingredients, not later than the later of—

(I) October 1, 2022; or

(II) the date that is 15 years after the date on which the first pesticide containing a new active ingredient is registered.

(iv) SUBSEQUENT REGISTRATION REVIEW.—Not later than 15 years after the date on which the initial registration review is completed under clause (iii) and each 15 years

thereafter, the Administrator shall complete a subsequent registration review for each pesticide or pesticide case.

(v) CANCELLATION.—No registration shall be canceled as a result of the registration review process unless the Administrator follows the procedures and substantive requirements of section 6.

(B) DOCKETING.—

(i) IN GENERAL.—Subject to clause (ii), after meeting with 1 or more individuals that are not government employees to discuss matters relating to a registration review, the Administrator shall place in the docket minutes of the meeting, a list of attendees, and any documents exchanged at the meeting, not later than the earlier of—

(I) the date that is 45 days after the meeting; or

(II) the date of issuance of the registration review decision.

(ii) PROTECTED INFORMATION.—The Administrator shall identify, but not include in the docket, any confidential business information the disclosure of which is prohibited by section 10.

(C) LIMITATION.—Nothing in this subsection shall prohibit the Administrator from undertaking any other review of a pesticide pursuant to this Act.

(2)(A) DATA.—The Administrator shall use the authority in subsection (c)(2)(B) to require the submission of data when such data are necessary for a registration review.

(B) DATA SUBMISSION, COMPENSATION, AND EXEMPTION.—For purposes of this subsection, the provisions of subsections (c)(1), (c)(2)(B), and (c)(2)(D) shall be utilized for and be applicable to any data required for registration review.

(h) REGISTRATION REQUIREMENTS FOR ANTIMICROBIAL PESTICIDES.—

(1) EVALUATION OF PROCESS.—To the maximum extent practicable consistent with the degrees of risk presented by an antimicrobial pesticide and the type of review appropriate to evaluate the risks, the Administrator shall identify and evaluate reforms to the antimicrobial registration process that would reduce review periods existing as of the date of enactment of this subsection for antimicrobial pesticide product registration applications and applications for amended registration of antimicrobial pesticide products, including—

(A) new antimicrobial active ingredients;

(B) new antimicrobial end-use products;

(C) substantially similar or identical antimicrobial pesticides; and

(D) amendments to antimicrobial pesticide registrations.

(2) REVIEW TIME PERIOD REDUCTION GOAL.—Each reform identified under paragraph (1) shall be designed to achieve the goal of reducing the review period following submission of a complete application, consistent with the degree of risk, to a period of not more than—

(A) 540 days for a new antimicrobial active ingredient pesticide registration;

(B) 270 days for a new antimicrobial use of a registered active ingredient;

- (C) 120 days for any other new antimicrobial product;
- (D) 90 days for a substantially similar or identical antimicrobial product;
- (E) 90 days for an amendment to an antimicrobial registration that does not require scientific review of data; and
- (F) 120 days for an amendment to an antimicrobial registration that requires scientific review of data and that is not otherwise described in this paragraph.

(3) IMPLEMENTATION.—

(A) PROPOSED RULEMAKING.—

(i) ISSUANCE.—Not later than 270 days after the date of enactment of this subsection, the Administrator shall publish in the Federal Register proposed regulations to accelerate and improve the review of antimicrobial pesticide products designed to implement, to the extent practicable, the goals set forth in paragraph (2).

(ii) REQUIREMENTS.—Proposed regulations issued under clause (i) shall—

(I) define the various classes of antimicrobial use patterns, including household, industrial, and institutional disinfectants and sanitizing pesticides, preservatives, water treatment, and pulp and paper mill additives, and other such products intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms, or protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime;

(II) differentiate the types of review undertaken for antimicrobial pesticides;

(III) conform the degree and type of review to the risks and benefits presented by antimicrobial pesticides and the function of review under this Act, considering the use patterns of the product, toxicity, expected exposure, and product type;

(IV) ensure that the registration process is sufficient to maintain antimicrobial pesticide efficacy and that antimicrobial pesticide products continue to meet product performance standards and effectiveness levels for each type of label claim made; and

(V) implement effective and reliable deadlines for process management.

(iii) COMMENTS.—In developing the proposed regulations, the Administrator shall solicit the views from registrants and other affected parties to maximize the effectiveness of the rule development process.

(B) FINAL REGULATIONS.—

(i) ISSUANCE.—The Administrator shall issue final regulations not later than 240 days after the close of the comment period for the proposed regulations.

(ii) FAILURE TO MEET GOAL.—If a goal described in paragraph (2) is not met by the final regulations, the Administrator shall identify the goal, explain why the goal was not attained, describe the element of the regulations included instead, and identify future steps to attain the goal.

(iii) REQUIREMENTS.—In issuing final regulations, the Administrator shall—

(I) consider the establishment of a certification process for regulatory actions involving risks that can be responsibly managed, consistent with the degree of risk, in the most cost-efficient manner;

(II) consider the establishment of a certification process by approved laboratories as an adjunct to the review process;

(III) use all appropriate and cost-effective review mechanisms, including—

(aa) expanded use of notification and non-notification procedures;

(bb) revised procedures for application review; and

(cc) allocation of appropriate resources to ensure streamlined management of antimicrobial pesticide registrations; and

(IV) clarify criteria for determination of the completeness of an application.

(C) EXPEDITED REVIEW.—This subsection does not affect the requirements or extend the deadlines or review periods contained in subsection (c)(3).

(D) ALTERNATIVE REVIEW PERIODS.—If the final regulations to carry out this paragraph are not effective 630 days after the date of enactment of this subsection, until the final regulations become effective, the review period, beginning on the date of receipt by the Agency of a complete application, shall be—

(i) 2 years for a new antimicrobial active ingredient pesticide registration;

(ii) 1 year for a new antimicrobial use of a registered active ingredient;

(iii) 180 days for any other new antimicrobial product;

(iv) 90 days for a substantially similar or identical antimicrobial product;

(v) 90 days for an amendment to an antimicrobial registration that does not require scientific review of data; and

(vi) 120 days for an amendment to an antimicrobial registration that requires scientific review of data and that is not otherwise described in this subparagraph.

(E) WOOD PRESERVATIVES.—An application for the registration, or for an amendment to the registration, of a wood preservative product for which a claim of pesticidal activity listed in section 2(mm) is made (regardless of any other pesticidal claim that is made with respect to the product) shall be reviewed by the Administrator within the

same period as that established under this paragraph for an antimicrobial pesticide product application, consistent with the degree of risk posed by the use of the wood preservative product, if the application requires the applicant to satisfy the same data requirements as are required to support an application for a wood preservative product that is an antimicrobial pesticide.

(F) NOTIFICATION.—

(i) IN GENERAL.—Subject to clause (iii), the Administrator shall notify an applicant whether an application has been granted or denied not later than the final day of the appropriate review period under this paragraph, unless the applicant and the Administrator agree to a later date.

(ii) FINAL DECISION.—If the Administrator fails to notify an applicant within the period of time required under clause (i), the failure shall be considered an agency action unlawfully withheld or unreasonably delayed for purposes of judicial review under chapter 7 of title 5, United States Code.

(iii) EXEMPTION.—This subparagraph does not apply to an application for an antimicrobial pesticide that is filed under subsection (c)(3)(B) prior to 90 days after the date of enactment of this subsection

(iv) LIMITATION.—Notwithstanding clause (ii), the failure of the Administrator to notify an applicant for an amendment to a registration for an antimicrobial pesticide shall not be judicially reviewable in a Federal or State court if the amendment requires scientific review of data within—

(I) the time period specified in subparagraph (D)(vi), in the absence of a final regulation under subparagraph (B); or

(II) the time period specified in paragraph (2)(F), if adopted in a final regulation under subparagraph (B).

(4) ANNUAL REPORT.—

(A) SUBMISSION.—Beginning on the date of enactment of this subsection and ending on the date that the goals under paragraph (2) are achieved, the Administrator shall, not later than March 1 of each year, prepare and submit an annual report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(B) REQUIREMENTS.—A report submitted under subparagraph (A) shall include a description of—

(i) measures taken to reduce the backlog of pending registration applications;

(ii) progress toward achieving reforms under this subsection; and

(iii) recommendations to improve the activities of the Agency pertaining to antimicrobial registrations.

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**FEDERAL WATER POLLUTION CONTROL ACT**

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**TITLE IV—PERMITS AND LICENSES**

\* \* \* \* \*

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

SEC. 402. (a)(1) Except as provided in sections 318 and 404 of this Act, the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 301(a), upon condition that such discharge will meet either (A) all applicable requirements under sections 301, 302, 306, 307, 308, and 403 of this Act, or (B) prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act.

(2) The Administrator shall prescribe conditions for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits issued thereunder under subsection (b) of this section.

(4) All permits for discharges into the navigable waters issued pursuant to section 13 of the Act of March 3, 1899, shall be deemed to be permits issued under this title, and permits issued under this title shall be deemed to be permits issued under section 13 of the Act of March 3, 1899, and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this Act.

(5) No permit for a discharge into the navigable waters shall be issued under section 13 of the Act of March 3, 1899, after the date of enactment of this title. Each application for a permit under section 13 of the Act of March 3, 1899, pending on the date of enactment of this Act shall be deemed to be an application for a permit under this section. The Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objective of this Act, to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on the date of enactment of this Act and ends either on the ninetieth day after the date of the first promulgation of guidelines required by section 304(i)(2) of this Act, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this Act. No such permit shall issue if the Administrator objects to such issuance.

(b) At any time after the promulgation of the guidelines required by subsection (i)(2) of section 304 of this Act, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each such submitted program unless he determines that adequate authority does not exist:

(1) To issue permits which—

(A) apply, and insure compliance with, any applicable requirements of sections 301, 302, 306, 307, and 403;

(B) are for fixed terms not exceeding five years; and

(C) can be terminated or modified for cause including, but not limited to, the following:

(i) violation of any condition of the permit;

(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(D) control the disposal of pollutants into wells;

(2)(A) To issue permits which apply, and insure compliance with, all applicable requirements of section 308 of this Act, or

(B) To inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act;

(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit;

(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

(6) To insure that no permit will be issued if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby;

(7) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement;

(8) To insure that any permit for a discharge from a publicly owned treatment works includes conditions to require the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 307(b) of this Act into such works and a program to assure compliance with such pretreatment standards by each such source, in addition to adequate notice to the permitting agency of (A) new introductions into such works of pollutants from any source which would be a new source as defined in section 306 if such source were discharging pollutants, (B) new introductions of pollutants into such works from a source which would be subject to section 301 if it were discharging such pollutants, or (C) a substantial change in volume or character of pollutants being introduced into such works by a source introducing pollutants into such works at the time of issuance of the permit. Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works; and

(9) To insure that any industrial user of any publicly owned treatment works will comply with sections 204(b), 307, and 308.

(c)(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those discharges subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 304(i)(2) of this Act. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 304(i)(2) of this Act.

(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(4) LIMITATIONS ON PARTIAL PERMIT PROGRAM RETURNS AND WITHDRAWALS.—A State may return to the Administrator administration, and the Administrator may withdraw under paragraph (3) of this subsection approval, of—

(A) a State partial permit program approved under subsection (n)(3) only if the entire permit program being administered by the State department or agency at the time is returned or withdrawn; and

(B) a State partial permit program approved under subsection (n)(4) only if an entire phased component of the permit program being administered by the State at the time is returned or withdrawn.

(d)(1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

(2) No permit shall issue (A) if the Administrator within ninety days of the date of his notification under subsection (b)(5) of this section objects in writing to the issuance of such permit, or (B) if the Administrator within ninety days of the date of transmittal of the proposed permit by the State objects in writing to the issuance of such permit as being outside the guidelines and requirements of this Act. Whenever the Administrator objects to the issuance of a permit under this paragraph such written objection shall contain a statement of the reasons for such objection and the effluent limitations and conditions which such permit would include if it were issued by the Administrator.

(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

(4) In any case where, after the date of enactment of this paragraph, the Administrator, pursuant to paragraph (2) of this subsection, objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing, or, if no hearing is requested within 90 days after the date of such objection, the Administrator may issue the permit pursuant to subsection (a) of this section for such source in accordance with the guidelines and requirements of this Act.

(e) In accordance with guidelines promulgated pursuant to subsection (i)(2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (d) of this section at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

(f) The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

(g) Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the Department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

(h) In the event any condition of a permit for discharges from a treatment works (as defined in section 212 of this Act) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved or where the Administrator determines pursuant to section 309(a) of this Act that a State with an approved program has not commenced appropriate enforcement action with respect to such permit, may proceed in a court of competent jurisdic-

tion to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

(i) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

(j) A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

(k) Compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 302, 306, 307, and 403, except any standard imposed under section 307 for a toxic pollutant injurious to human health. Until December 31, 1974, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation of (1) section 301, 306, or 402 of this Act, or (2) section 13 of the Act of March 3, 1899, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application. For the 180-day period beginning on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, in the case of any point source discharging any pollutant or combination of pollutants immediately prior to such date of enactment which source is not subject to section 13 of the Act of March 3, 1899, the discharge by such source shall not be a violation of this Act if such a source applies for a permit for discharge pursuant to this section within such 180-day period.

(l) LIMITATION ON PERMIT REQUIREMENT.—

(1) AGRICULTURAL RETURN FLOWS.—The Administrator shall not require a permit under this section for discharges composed entirely of return flows from irrigated agriculture, nor shall the Administrator directly or indirectly, require any State to require such a permit.

(2) STORMWATER RUNOFF FROM OIL, GAS, AND MINING OPERATIONS.—The Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any State to require a permit, for discharges of stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.

(3) SILVICULTURAL ACTIVITIES.—

(A) NPDES PERMIT REQUIREMENTS FOR SILVICULTURAL ACTIVITIES.—The Administrator shall not require a permit under this section nor directly or indirectly require any

State to require a permit under this section for a discharge from runoff resulting from the conduct of the following silviculture activities conducted in accordance with standard industry practice: nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance.

(B) OTHER REQUIREMENTS.—Nothing in this paragraph exempts a discharge from silvicultural activity from any permitting requirement under section 404, existing permitting requirements under section 402, or from any other federal law.

(C) The authorization provided in Section 505(a) does not apply to any non-permitting program established under 402(p)(6) for the silviculture activities listed in 402(l)(3)(A), or to any other limitations that might be deemed to apply to the silviculture activities listed in 402(l)(3)(A).

(m) ADDITIONAL PRETREATMENT OF CONVENTIONAL POLLUTANTS NOT REQUIRED.—To the extent a treatment works (as defined in section 212 of this Act) which is publicly owned is not meeting the requirements of a permit issued under this section for such treatment works as a result of inadequate design or operation of such treatment works, the Administrator, in issuing a permit under this section, shall not require pretreatment by a person introducing conventional pollutants identified pursuant to a section 304(a)(4) of this Act into such treatment works other than pretreatment required to assure compliance with pretreatment standards under subsection (b)(8) of this section and section 307(b)(1) of this Act. Nothing in this subsection shall affect the Administrator's authority under sections 307 and 309 of this Act, affect State and local authority under sections 307(b)(4) and 510 of this Act, relieve such treatment works of its obligations to meet requirements established under this Act, or otherwise preclude such works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit under this section.

(n) PARTIAL PERMIT PROGRAM.—

(1) STATE SUBMISSION.—The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

(2) MINIMUM COVERAGE.—A partial permit program under this subsection shall cover, at a minimum, administration of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b).

(3) APPROVAL OF MAJOR CATEGORY PARTIAL PERMIT PROGRAMS.—The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if—

(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b).

(4) APPROVAL OF MAJOR COMPONENT PARTIAL PERMIT PROGRAMS.—The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b) if—

(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b); and

(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) by a specified date not more than 5 years after submission of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.

(o) ANTI-BACKSLIDING.—

(1) GENERAL PROHIBITION.—In the case of effluent limitations established on the basis of subsection (a)(1)(B) of this section, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section 304(b) subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of section 301(b)(1)(C) or section 303(d) or (e), a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with section 303(d)(4).

(2) EXCEPTIONS.—A permit with respect to which paragraph (1) applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if—

(A) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

(B)(i) information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

(ii) the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under subsection (a)(1)(B);

(C) a less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

(D) the permittee has received a permit modification under section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a); or

(E) the permittee has installed the treatment facilities required to meet the effluent limitations in the previous

permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

Subparagraph (B) shall not apply to any revised waste load allocations or any alternative grounds for translating water quality standards into effluent limitations, except where the cumulative effect of such revised allocations results in a decrease in the amount of pollutants discharged into the concerned waters, and such revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of this Act or for reasons otherwise unrelated to water quality.

(3) LIMITATIONS.—In no event may a permit with respect to which paragraph (1) applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, reissued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 303 applicable to such waters.

(p) MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.—

(1) GENERAL RULE.—Prior to October 1, 1994, the Administrator or the State (in the case of a permit program approved under section 402 of this Act) shall not require a permit under this section for discharges composed entirely of stormwater.

(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to the following stormwater discharges:

(A) A discharge with respect to which a permit has been issued under this section before the date of the enactment of this subsection.

(B) A discharge associated with industrial activity.

(C) A discharge from a municipal separate storm sewer system serving a population of 250,000 or more.

(D) A discharge from a municipal separate storm sewer system serving a population of 100,000 or more but less than 250,000.

(E) A discharge for which the Administrator or the State, as the case may be, determines that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

(3) PERMIT REQUIREMENTS.—

(A) INDUSTRIAL DISCHARGES.—Permits for discharges associated with industrial activity shall meet all applicable provisions of this section and section 301.

(B) MUNICIPAL DISCHARGE.—Permits for discharges from municipal storm sewers—

(i) may be issued on a system- or jurisdiction-wide basis;

(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

(4) PERMIT APPLICATION REQUIREMENTS.—

(A) INDUSTRIAL AND LARGE MUNICIPAL DISCHARGES.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraphs (2)(B) and (2)(C). Applications for permits for such discharges shall be filed no later than 3 years after such date of enactment. Not later than 4 years after such date of enactment the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(B) OTHER MUNICIPAL DISCHARGES.—Not later than 4 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraph (2)(D). Applications for permits for such discharges shall be filed no later than 5 years after such date of enactment. Not later than 6 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(5) STUDIES.—The Administrator, in consultation with the States, shall conduct a study for the purposes of—

(A) identifying those stormwater discharges or classes of stormwater discharges for which permits are not required pursuant to paragraphs (1) and (2) of this subsection;

(B) determining, to the maximum extent practicable, the nature and extent of pollutants in such discharges; and

(C) establishing procedures and methods to control stormwater discharges to the extent necessary to mitigate impacts on water quality.

Not later than October 1, 1988, the Administrator shall submit to Congress a report on the results of the study described in subparagraphs (A) and (B). Not later than October 1, 1989, the Administrator shall submit to Congress a report on the results of the study described in subparagraph (C).

(6) REGULATIONS.—Not later than October 1, 1993, the Administrator, in consultation with State and local officials, shall issue regulations (based on the results of the studies conducted under paragraph (5)) which designate stormwater discharges, other than those discharges described in paragraph (2), to be

regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources. The program shall, at a minimum, (A) establish priorities, (B) establish requirements for State stormwater management programs, and (C) establish expeditious deadlines. The program may include performance standards, guidelines, guidance, and management practices and treatment requirements, as appropriate.

(q) COMBINED SEWER OVERFLOWS.—

(1) REQUIREMENT FOR PERMITS, ORDERS, AND DECREES.—Each permit, order, or decree issued pursuant to this Act after the date of enactment of this subsection for a discharge from a municipal combined storm and sanitary sewer shall conform to the Combined Sewer Overflow Control Policy signed by the Administrator on April 11, 1994 (in this subsection referred to as the “CSO control policy”).

(2) WATER QUALITY AND DESIGNATED USE REVIEW GUIDANCE.—Not later than July 31, 2001, and after providing notice and opportunity for public comment, the Administrator shall issue guidance to facilitate the conduct of water quality and designated use reviews for municipal combined sewer overflow receiving waters.

(3) REPORT.—Not later than September 1, 2001, the Administrator shall transmit to Congress a report on the progress made by the Environmental Protection Agency, States, and municipalities in implementing and enforcing the CSO control policy.

(r) DISCHARGES INCIDENTAL TO THE NORMAL OPERATION OF RECREATIONAL VESSELS.—No permit shall be required under this Act by the Administrator (or a State, in the case of a permit program approved under subsection (b)) for the discharge of any graywater, bilge water, cooling water, weather deck runoff, oil water separator effluent, or effluent from properly functioning marine engines, or any other discharge that is incidental to the normal operation of a vessel, if the discharge is from a recreational vessel.

(s) INTEGRATED PLANS.—

(1) DEFINITION OF INTEGRATED PLAN.—In this subsection, the term “integrated plan” means a plan developed in accordance with the Integrated Municipal Stormwater and Wastewater Planning Approach Framework, issued by the Environmental Protection Agency and dated June 5, 2012.

(2) IN GENERAL.—The Administrator (or a State, in the case of a permit program approved by the Administrator) shall inform municipalities of the opportunity to develop an integrated plan that may be incorporated into a permit under this section.

(3) SCOPE.—

(A) SCOPE OF PERMIT INCORPORATING INTEGRATED PLAN.—A permit issued under this section that incorporates an integrated plan may integrate all requirements under this Act addressed in the integrated plan, including requirements relating to—

- (i) a combined sewer overflow;
- (ii) a capacity, management, operation, and maintenance program for sanitary sewer collection systems;
- (iii) a municipal stormwater discharge;

- (iv) a municipal wastewater discharge; and
- (v) a water quality-based effluent limitation to implement an applicable wasteload allocation in a total maximum daily load.

(B) INCLUSIONS IN INTEGRATED PLAN.—An integrated plan incorporated into a permit issued under this section may include the implementation of—

- (i) projects, including innovative projects, to reclaim, recycle, or reuse water; and
- (ii) green infrastructure.

(4) COMPLIANCE SCHEDULES.—

(A) IN GENERAL.—A permit issued under this section that incorporates an integrated plan may include a schedule of compliance, under which actions taken to meet any applicable water quality-based effluent limitation may be implemented over more than 1 permit term if the schedule of compliance—

- (i) is authorized by State water quality standards; and
- (ii) meets the requirements of section 122.47 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

(B) TIME FOR COMPLIANCE.—For purposes of subparagraph (A)(ii), the requirement of section 122.47 of title 40, Code of Federal Regulations, for compliance by an applicable statutory deadline under this Act does not prohibit implementation of an applicable water quality-based effluent limitation over more than 1 permit term.

(C) REVIEW.—A schedule of compliance incorporated into a permit issued under this section may be reviewed at the time the permit is renewed to determine whether the schedule should be modified.

(5) EXISTING AUTHORITIES RETAINED.—

(A) APPLICABLE STANDARDS.—Nothing in this subsection modifies any obligation to comply with applicable technology and water quality-based effluent limitations under this Act.

(B) FLEXIBILITY.—Nothing in this subsection reduces or eliminates any flexibility available under this Act, including the authority of a State to revise a water quality standard after a use attainability analysis under section 131.10(g) of title 40, Code of Federal Regulations (or a successor regulation), subject to the approval of the Administrator under section 303(c).

(6) CLARIFICATION OF STATE AUTHORITY.—

(A) IN GENERAL.—Nothing in section 301(b)(1)(C) precludes a State from authorizing in the water quality standards of the State the issuance of a schedule of compliance to meet water quality-based effluent limitations in permits that incorporate provisions of an integrated plan.

(B) TRANSITION RULE.—In any case in which a discharge is subject to a judicial order or consent decree, as of the date of enactment of this subsection, resolving an enforcement action under this Act, any schedule of compliance issued pursuant to an authorization in a State water qual-

ity standard may not revise a schedule of compliance in that order or decree to be less stringent, unless the order or decree is modified by agreement of the parties and the court.

(t) *DISCHARGES OF PESTICIDES.—*

(1) *NO PERMIT REQUIREMENT.—Except as provided in paragraph (2), a permit shall not be required by the Administrator or a State under this Act for a discharge from a point source into navigable waters of a pesticide authorized for sale, distribution, or use under the Federal Insecticide, Fungicide, and Rodenticide Act, or the residue of such a pesticide, resulting from the application of such pesticide.*

(2) *EXCEPTIONS.—Paragraph (1) shall not apply to the following discharges of a pesticide or pesticide residue:*

(A) *A discharge resulting from the application of a pesticide in violation of a provision of the Federal Insecticide, Fungicide, and Rodenticide Act that is relevant to protecting water quality, if—*

*(i) the discharge would not have occurred but for the violation; or*

*(ii) the amount of pesticide or pesticide residue in the discharge is greater than would have occurred without the violation.*

(B) *Stormwater discharges subject to regulation under subsection (p).*

(C) *The following discharges subject to regulation under this section:*

*(i) Manufacturing or industrial effluent.*

*(ii) Treatment works effluent.*

*(iii) Discharges incidental to the normal operation of a vessel, including a discharge resulting from ballasting operations or vessel biofouling prevention.*

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