

106TH CONGRESS
1ST SESSION

H. R. 2449

To amend the Federal Water Pollution Control Act relating to Federal facilities pollution control.

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 1999

Mr. NORWOOD (for himself, Ms. DEGETTE, Ms. SCHAKOWSKY, Mr. ENGLISH, Ms. RIVERS, Mr. POMBO, Mr. MCINTOSH, Mr. SHOWS, Mr. REGULA, Mr. BARR of Georgia, Mr. CHAMBLISS, Mr. LINDER, Mr. KINGSTON, Mr. COLLINS, Mr. ISAKSON, Mr. DEAL of Georgia, and Mr. GRAHAM) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Federal Water Pollution Control Act relating to Federal facilities pollution control.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Facilities
5 Clean Water Compliance Act of 1999”.

1 **SEC. 2. APPLICATION OF CERTAIN PROVISIONS TO FED-**
2 **ERAL FACILITIES.**

3 Section 313 of the Federal Water Pollution Control
4 Act (33 U.S.C. 1323) is amended—

5 (1) by redesignating subsection (b) as sub-
6 section (d); and

7 (2) by striking the section heading and all that
8 follows through the period at the end of subsection
9 (a) and inserting the following:

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

11 **“(a) IN GENERAL.—**

12 **“(1) APPLICABILITY OF FEDERAL, STATE, AND**
13 **LOCAL REQUIREMENTS.—**Each department, agency,
14 and instrumentality of the executive, legislative, and
15 judicial branches of the Federal Government (A)
16 having jurisdiction over any property or facility, or
17 (B) engaged in any activity resulting, or which may
18 result, in the discharge or runoff of pollutants shall
19 be subject to, and comply with, all Federal, State,
20 interstate, and local requirements, both substantive
21 and procedural (including any requirement for per-
22 mits or reporting or any provisions for injunctive re-
23 lief and such sanctions as may be imposed by a
24 court to enforce such relief), respecting the control
25 and abatement of water pollution and management
26 in the same manner, and to the same extent, as any

1 person is subject to such requirements, including the
2 payment of reasonable service charges.

3 “(2) TYPES OF REQUIREMENTS.—The Federal,
4 State, interstate, and local substantive and proce-
5 dural requirements, administrative authority, and
6 process and sanctions referred to in paragraph (1)
7 include, but are not limited to, all administrative or-
8 ders and all civil and administrative penalties and
9 fines, regardless of whether such penalties or fines
10 are punitive or coercive in nature or are imposed for
11 isolated, intermittent, or continuing violations.

12 “(3) WAIVER OF IMMUNITY.—The United
13 States hereby expressly waives any immunity other-
14 wise applicable to the United States with respect to
15 any such substantive or procedural requirement re-
16 ferred to in paragraph (1) (including, but not lim-
17 ited to, any injunctive relief, administrative order, or
18 civil or administrative penalty or fine referred to in
19 the preceding sentence, or reasonable service
20 charge).

21 “(4) TYPES OF REASONABLE SERVICE
22 CHARGES.—The reasonable service charges referred
23 to in paragraph (1) include, but are not limited to,
24 fees or charges assessed in connection with the proc-
25 essing and issuance of permits, renewal of permits,

1 amendments to permits, review of plans, studies,
2 and other documents, and inspection and monitoring
3 of facilities, as well as any other nondiscriminatory
4 charges that are assessed in connection with a Fed-
5 eral, State, interstate, or local water pollution regu-
6 latory program.

7 “(5) APPLICABILITY OF INJUNCTIVE RELIEF.—
8 Neither the United States, nor any agent, employee,
9 or officer thereof, shall be immune or exempt from
10 any process or sanction of any State or Federal
11 court with respect to the enforcement of any injunc-
12 tive relief referred to in paragraph (1).

13 “(6) LIABILITY OF UNITED STATES EMPLOY-
14 EES.—No agent, employee, or officer of the United
15 States shall be personally liable for any civil penalty
16 under any Federal, State, interstate, or local water
17 pollution law with respect to any act or omission
18 within the scope of the official duties of the agent,
19 employee, or officer. An agent, employee, or officer
20 of the United States shall be subject to any criminal
21 sanction (including, but not limited to, any fine or
22 imprisonment) under any Federal or State water
23 pollution law, but no department, agency, or instru-
24 mentality of the executive, legislative, or judicial

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

3 “(b) ADMINISTRATIVE ENFORCEMENT ACTIONS.—

4 “(1) IN GENERAL.—The Administrator, the
5 Secretary of the Army, and the Secretary of the De-
6 partment in which the Coast Guard is operating may
7 commence an administrative enforcement action
8 against any department, agency, or instrumentality
9 of the executive, legislative, or judicial branch of the
10 Federal Government pursuant to the enforcement
11 authorities contained in this Act. The Administrator
12 or Secretary, as applicable, shall initiate an adminis-
13 trative enforcement action against such a depart-
14 ment, agency, or instrumentality in the same man-
15 ner and under the same circumstances as an action
16 would be initiated against another person. Any vol-
17 untary resolution or settlement of such an action
18 shall be set forth in a consent order.

19 “(2) OPPORTUNITY TO CONFER.—No adminis-
20 trative order issued to such a department, agency, or
21 instrumentality shall become final until such depart-
22 ment, agency, or instrumentality has had the oppor-
23 tunity to confer with the Administrator or Secretary,
24 as applicable.

1 “(c) LIMITATION ON STATE USE OF FUNDS COL-
 2 LECTED FROM FEDERAL GOVERNMENT.—Unless a State
 3 law in effect on the date of the enactment of this sub-
 4 section or a State constitution requires the funds to be
 5 used in a different manner, all funds collected by a State
 6 from the Federal Government from penalties and fines im-
 7 posed for violation of any substantive or procedural re-
 8 quirement referred to in subsection (a) shall be used by
 9 the State only for projects designed to improve or protect
 10 the environment or to defray the costs of environmental
 11 protection or enforcement.”.

12 **SEC. 3. DEFINITION OF PERSON.**

13 (a) GENERAL PROGRAMS.—Section 502(5) of the
 14 Federal Water Pollution Control Act (33 U.S.C. 1362(5))
 15 is amended by inserting before the period at the end the
 16 following: “and includes any department, agency, or in-
 17 strumentality of the United States”.

18 (b) OIL AND HAZARDOUS SUBSTANCE LIABILITY
 19 PROGRAM.—Section 311(a)(7) of such Act (33 U.S.C.
 20 1321(a)(7)) is amended by inserting before the semicolon
 21 at the end the following: “and any department, agency,
 22 or instrumentality of the United States”.

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