

(B) by adding at the end the following: "The notice under paragraph (1)(A) need set forth only violations which have been specifically identified in the discharge monitoring reports of the alleged violator. An action by a State under subsection (a)(1) may be brought at any time. No judicial action by the Administrator or a State shall bar an action for the same violation under subsection (a)(1) unless the action is by the Administrator and meets the requirements of this paragraph. No administrative action by the Administrator or a State shall bar a pending action commenced after February 4, 1987, for the same violation under subsection (a)(1) unless the action by the Administrator or a State meets the requirements of section 309(g)(6) of this Act."

(4) CONSENT JUDGMENTS.—Section 505(c)(3) is amended by adding at the end the following: "Consent judgments entered under this section may provide that the civil penalties included in the consent judgment be used for carrying out mitigation projects in accordance with section 309(d)."

(5) PRETREATMENT REQUIREMENTS.—Section 505(f)(4) is amended by striking "or pretreatment standards" and inserting "or pretreatment standard or requirement described in section 307(d)".

(6) EFFLUENT STANDARD DEFINITION.—Section 505(f)(6) is amended by inserting "narrative or mathematical" before "condition".

(7) DEFINITION OF CITIZEN.—Section 505(g) is amended to read as follows:

"(g) CITIZEN DEFINED.—For purposes of this section, the term 'citizen' means a person or persons having an interest (including a recreational, aesthetic, environmental, health, or economic interest) which is, has been, or may be adversely affected and includes a person who uses or enjoys the waters into which the discharge flows (either directly or through a publicly owned treatment works), who uses or enjoys aquatic resources or nearby lands associated with the waters, or who would use or enjoy the waters, aquatic resources, or nearby lands if they were less polluted."

(8) OFFERS OF JUDGMENT.—Section 505 is further amended by adding at the end the following:

"(i) APPLICABILITY OF OFFERS OF JUDGMENT.—Offers of judgment pursuant to Rule 68 of the Federal Rules of Civil Procedure shall not be applicable to actions brought under subsection (a)(1) of this section."

(j) ISSUANCE OF SUBPOENAS.—Section 509(a)(1) (33 U.S.C. 1369(a)(1)) is amended by striking "obtaining information under section 305 of this Act, or carrying out section 507(e) of this Act," and inserting "carrying out this Act."

(k) JUDICIAL REVIEW OF EPA ACTIONS.—Section 509(b)(1) (33 U.S.C. 1369(b)(1)) is amended—

(1) by inserting after the comma at the end of clause (D) "including a decision to deny a petition by interested person to veto an individual permit issued by a State,";

(2) by inserting after the comma at the end of clause (E) "including a decision not to include any pollutant in such effluent limitation or other limitation if the Administrator has or is made aware of information indicating that such pollutant is present in any discharge subject to such limitation,"; and

(3) by striking "and (G)" and inserting the following: "(G) in issuing or approving any water quality standard under section 303(c) or 303(d), (H) in issuing any water quality criterion under section 304(a), including a decision not to address any effect of the pollutant subject to such criterion if the Administrator has or is made aware of information indicating that such effect may occur, and (J)".

(l) NATIONAL CLEAN WATER TRUST FUND.—

(1) IN GENERAL.—Title V (33 U.S.C. 1361-1377) is amended by redesignating section 519 as section 522 and by inserting after section 518 the following new section:

"SEC. 519. NATIONAL CLEAN WATER TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Clean Water Trust Fund'.

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Clean Water Trust Fund amounts equivalent to the penalties collected under section 309 of this Act and the penalties collected under section 505(a) of this Act (excluding any amounts ordered to be used to carry out mitigation projects under section 309 or 505(a), as the case may be).

"(c) ADMINISTRATION OF TRUST FUND.—The Administrator shall administer the Clean Water Trust Fund. The Administrator may use moneys in the Fund to carry out inspections and enforcement activities pursuant to this Act. In addition, the Administrator may make such amounts of money in the Fund as the Administrator determines appropriate available to carry out title VI of this Act."

(2) CONFORMING AMENDMENT TO STATE REVOLVING FUND PROGRAM.—Section 607 (33 U.S.C. 1387) is amended—

(A) by inserting "(a) IN GENERAL.—" before "There is"; and

(B) by adding at the end the following:

"(b) TREATMENT OF TRANSFERS FROM CLEAN WATER TRUST FUND.—For purposes of this title, amounts made available from the Clean Water Trust Fund under section 519 of this Act to carry out this title shall be treated as funds authorized to be appropriated to carry out this title and as funds made available under this title."

(m) APPLICABILITY.—Sections 101(h), 309(g)(6)(A), 505(a)(1), 505(b), 505(g), and 505(i) of the Federal Water Pollution Control Act, as inserted or amended by this section, shall be applicable to all cases pending under such Act on the date of the enactment of this Act and all cases brought on or after such date of enactment relating to violations which occurred before such date of amendment.

Redesignate subsequent subsections of section 313 of the bill accordingly.

Page 81, line 4, strike "(h)" and insert "(k)".

Page 131, line 5, strike "(r)" and insert "(u)".

Page 188, line 21 strike "(s)" and insert "(v)".

Page 192, line 6, strike "(t)" and insert "(w)".

Page 216, line 11, strike "by" and all that follows through "518" on line 13 and insert "by inserting after section 519".

Page 216, line 14, strike "519" and insert "520".

Page 217, line 7, strike "before" and all that follows through the comma on line 8 and insert "after section 520".

Page 217, line 9, strike "520" and insert "521".

Page 321, line 3, strike "(8)" and insert "(7)".

It was decided in the { Yeas 106 negative } Nays 299

- Frank (MA) Martinez Serrano
Frost McDermott Shays
Furse McHale Slaughter
Gejdenson McKinney Smith (NJ)
Gephardt Menendez Stark
Gibbons Mineta Stokes
Gonzalez Moran Studds
Green Nadler Thompson
Gutierrez Oberstar Thornton
Hastings (FL) Olver Torricelli
Hinchev Owens Towns
Jackson-Lee Pallone Tucker
Johnson, E. B. Payne (NJ) Velazquez
Johnston Pelosi Vento
Kaptur Rahall Visclosky
Kennedy (MA) Reynolds Ward
Kennedy (RI) Rivers Waters
Kildee Roukema Watt (NC)
Lantos Roybal-Allard Waxman
Lewis (GA) Rush Woolsey
Lofgren Sabo Wyden
Lowey Sanders Wynn
Luther Saxton Yates
Maloney Schroeder
Markey Scott

NOES—299

- Allard Dooley Jones
Archer Doolittle Kanjorski
Armye Dornan Kasich
Bachus Doyle Kelly
Baesler Dreier Kennelly
Baker (CA) Duncan Kim
Baker (LA) Edwards King
Baldacci Ehlers Kingston
Ballenger Ehrlich Klink
Barcia Emerson Klug
Barr English Knollenberg
Barrett (NE) Ensign Kolbe
Barrett (WI) Everett LaFalce
Bartlett Ewing LaHood
Bass Farr Largent
Bateman Fawell Latham
Bentsen Fazio LaTourette
Bereuter Fields (TX) Laughlin
Bevill Flanagan Lazio
Bilbray Foley Leach
Bilirakis Fowler Levin
Bishop Franks (CT) Lewis (CA)
Bliley Franks (NJ) Lewis (KY)
Blute Frelinghuysen Lightfoot
Boehlert Funderburk Lincoln
Boehner Gallegly Linder
Bonilla Ganske Lipinski
Brewster Gekas Livingston
Browder Geren LoBiondo
Brown (FL) Gilchrest Longley
Brownback Gillmor Lucas
Bryant (TN) Gilman Manton
Bunn Goodlatte Manzullo
Bunning Goodling Mascara
Burr Gordon Matsui
Burton Goss McCarthy
Buyer Graham McCollum
Callahan Greenwood McCrery
Calvert Gunderson McDade
Camp Gutknecht McHugh
Canady Hall (OH) McInnis
Cardin Hall (TX) McIntosh
Castle Hamilton McKeon
Chabot Hansen McNulty
Chambliss Harman Meehan
Chapman Hastert Metcalf
Chenoweth Hastings (WA) Meyers
Christensen Hayes Mfume
Chrysler Hayworth Mica
Clement Hefley Miller (FL)
Clinger Hefner Minge
Coble Heineman Molinari
Coburn Herger Mollohan
Collins (GA) Hillery Montgomery
Combest Hilliard Moorhead
Condit Hobson Morella
Cooley Hoekstra Murtha
Costello Hoke Myers
Cox Holden Myrick
Cramer Horn Neal
Crane Hostettler Nethercutt
Crapo Houghton Neumann
Creameans Hoyer Ney
Cubin Hunter Norwood
Cunningham Hutchinson Obey
Danner Hyde Orton
Davis Inglis Oxley
de la Garza Istook Packard
Deal Jacobs Parker
DeLay Jefferson Paxon
Diaz-Balart Johnson (CT) Payne (VA)
Dickey Johnson (SD) Peterson (MN)
Dingell Johnson, Sam Petri

[Roll No. 324]

AYES—106

- Ackerman Clayton Durbin
Andrews Clyburn Engel
Becerra Coleman Eshoo
Beilenson Conyers Evans
Berman Coyne Fields (LA)
Bonior DeFazio Filner
Borski DeLauro Flake
Brown (CA) Dellums Foglietta
Brown (OH) Deutsch Forbes
Bryant (TX) Dixon Ford
Clay Doggett Fox

Pickett	Seastrand	Thomas
Pombo	Sensenbrenner	Thornberry
Pomeroy	Shadegg	Thurman
Porter	Shaw	Tiahrt
Portman	Shuster	Torkildsen
Poshard	Sisisky	Trafciant
Pryce	Skaggs	Upton
Quillen	Skeen	Volkmer
Quinn	Skelton	Vucanovich
Radanovich	Smith (MI)	Waldholtz
Ramstad	Smith (TX)	Walker
Reed	Smith (WA)	Walsh
Regula	Solomon	Wamp
Riggs	Souder	Weldon (FL)
Roberts	Spence	Weldon (PA)
Roemer	Spratt	Weller
Rohrabacher	Stearns	White
Ros-Lehtinen	Stenholm	Whitfield
Rose	Stockman	Wicker
Roth	Stump	Williams
Royce	Stupak	Wilson
Salmon	Talent	Wise
Sanford	Tate	Wolf
Sawyer	Tauzin	Young (AK)
Scarborough	Taylor (MS)	Zeliff
Schaefer	Taylor (NC)	Zimmer
Schiff	Tejeda	

NOT VOTING—29

Abercrombie	Hancock	Peterson (FL)
Barton	Kleccka	Rangel
Bono	Martini	Richardson
Boucher	Meek	Rogers
Collins (IL)	Miller (CA)	Schumer
Collins (MI)	Mink	Tanner
Dicks	Moakley	Torres
Dunn	Nussle	Watts (OK)
Fattah	Ortiz	Young (FL)
Frisa	Pastor	

So the amendment was not agreed to. After some further time,

64.25 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. VISCLOSKEY:

Page 82, after line 21, insert the following:
(c) NATIONAL CLEAN WATER TRUST FUND.—Section 309 (33 U.S.C. 1319) is further amended by adding at the end the following:

“(i) NATIONAL CLEAN WATER TRUST FUND.—“(1) ESTABLISHMENT.—There is established in the Treasury a National Clean Water Trust Fund (hereinafter in this subsection referred to as the ‘Fund’) consisting of amounts transferred to the Fund under paragraph (2) and amounts credited to the Fund under paragraph (3).

“(2) TRANSFER OF AMOUNTS.—For fiscal year 1996, and each fiscal year thereafter, the Secretary of the Treasury shall transfer, to the extent provided in advance in appropriations Acts, to the fund an amount determined by the Secretary to be equal to the total amount deposited in the general fund of the Treasury in the preceding fiscal year from fines, penalties, and other moneys obtained through enforcement actions conducted pursuant to this section and section 505(a)(1), including moneys obtained under consent decrees and excluding any amounts ordered to be used to carry out mitigation projects under this section or section 505(a), as the case may be.

“(3) INVESTMENT OF AMOUNTS.—The Secretary of the Treasury shall invest in interest-bearing obligations of the United States such portion of the Fund as is not, in the Secretary’s judgment, required to meet current withdrawals. Such obligations shall be acquired and sold and interest on, and the proceeds from the date of redemption of, such obligations shall be credited to the Fund in accordance with the requirements of section 9602 of the Internal Revenue Code of 1986.

“(4) USE OF AMOUNTS FOR REMEDIAL PROJECTS.—Amounts in the Fund shall be available, as provided in appropriations Acts, to the Administrator to carry out projects to restore and recover waters of the United

States from damages resulting from violations of this Act which are subject to enforcement actions under this section and similar damages resulting from the discharge of pollutants into the waters of the United States.

“(5) SELECTION OF PROJECTS.—

“(A) PRIORITY.—In selecting projects to carry out under this subsection, the Administrator shall give priority to a project to restore and recover waters of the United States from damages described in paragraph (4), if an enforcement action conducted pursuant to this section or section 505(a)(1) against such violation, or another violation in the same administrative region of the Environmental Protection Agency as such violation, resulted in amounts being deposited in the general fund of the Treasury.

“(B) CONSULTATION WITH STATES.—In selecting projects to carry out under this section, the Administrator shall consult with States in which the Administrator is considering carrying out a project.

“(C) ALLOCATION OF AMOUNTS.—In determining an amount to allocate to carry out a project to restore and recover waters of the United States from damages described in paragraph (4), the Administrator shall, in the case of a priority project under subparagraph (A), take into account the total amount deposited in the general fund of the Treasury as a result of enforcement actions conducted with respect to such violation pursuant to this section or section 505(a)(1).

“(6) IMPLEMENTATION.—The Administrator may carry out a project under this subsection either directly or by making grants to, or entering into contracts with, the Secretary of the Army or any other public or private entity.

“(7) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this subsection, and every 2 years thereafter, the Administrator shall transmit to Congress a report on implementation of this subsection.”.

“(d) USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.—

“(1) IN GENERAL.—Section 309(d) (33 U.S.C. 1319(d)) is amended by inserting after the second sentence the following: ‘The court may, in the court’s discretion, order that a civil penalty be used for carrying out mitigation projects which are consistent with the purposes of this Act and which enhance the public health or environment.’.

“(2) CONFORMING AMENDMENT.—Section 505(a) (33 U.S.C. 1365(a)) is amended by inserting before the period at the end of the last sentence the following: ‘, including ordering the use of a civil penalty for carrying out mitigation projects in accordance with section 309(d)’.”.

It was decided in the { Yeas 156
negative } Nays 247

64.26 [Roll No. 325]
AYES—156

Abercrombie	DeLauro	Forbes
Andrews	Dellums	Ford
Barcia	Deutsch	Fox
Becerra	Dicks	Frank (MA)
Beilenson	Dingell	Frost
Berman	Dixon	Furse
Boehlert	Doggett	Gejdenson
Bonior	Dooley	Gephardt
Borski	Durbin	Gibbons
Brown (CA)	Ehlers	Gilchrest
Brown (OH)	Engel	Gilman
Burr	Ensign	Gonzalez
Castle	Eshoo	Gordon
Clay	Evans	Green
Clement	Farr	Greenwood
Clyburn	Fawell	Gunderson
Condit	Fazio	Gutierrez
Conyers	Fields (LA)	Hall (OH)
Costello	Filner	Hastings (FL)
Coyne	Flake	Heineman
DeFazio	Foglietta	Hinchev

Horn	Mineta	Serrano
Hoyer	Mink	Sisisky
Jackson-Lee	Moran	Skaggs
Jacobs	Morella	Slaughter
Jefferson	Nadler	Smith (NJ)
Johnson (CT)	Neal	Souder
Johnson (SD)	Oberstar	Spratt
Johnson, E. B.	Obey	Stark
Kaptur	Olver	Stokes
Kennedy (MA)	Owens	Studds
Kennedy (RI)	Pallone	Stupak
Kennelly	Payne (NJ)	Thompson
Kildee	Payne (VA)	Torricelli
Klink	Pelosi	Towns
Lantos	Peterson (MN)	Trafciant
Lewis (GA)	Pomeroy	Tucker
Lincoln	Porter	Upton
Lipinski	Portman	Velazquez
LoBiondo	Poshard	Vento
Lowey	Rahall	Visclosky
Luther	Ramstad	Ward
Maloney	Rangel	Waters
Manton	Reed	Watt (NC)
Markey	Reynolds	Waxman
Martinez	Richardson	Weldon (PA)
McDermott	Roybal-Allard	Wise
McHale	Rush	Woolsey
McKinney	Sabo	Wyden
Meehan	Sawyer	Wynn
Menendez	Saxton	Yates
Metcalf	Schroeder	Zimmer

NOES—247

Allard	Dornan	Laughlin
Archer	Doyle	Lazio
Armey	Dreier	Leach
Bachus	Duncan	Levin
Baesler	Edwards	Lewis (CA)
Baker (CA)	Ehrlich	Lewis (KY)
Baker (LA)	Emerson	Lightfoot
Baldacci	English	Linder
Barr	Everett	Livingston
Barrett (NE)	Ewing	Lofgren
Barrett (WI)	Fields (TX)	Longley
Bartlett	Flanagan	Lucas
Bass	Foley	Manzullo
Bateman	Fowler	Martini
Bentsen	Franks (CT)	Mascara
Bereuter	Franks (NJ)	Matsui
Bevill	Frelinghuysen	McCarthy
Bilbray	Funderburk	McCollum
Bilirakis	Galleghy	McCrary
Bishop	Ganske	McDade
Bliley	Gekas	McHugh
Blute	Geren	McInnis
Boehner	Gillmor	McIntosh
Bonilla	Goodlatte	McKeon
Brewster	Goodling	Meyers
Browder	Goss	Mica
Brownback	Graham	Miller (FL)
Bryant (TN)	Gutknecht	Minge
Bryant (TX)	Hall (TX)	Molinar
Bunn	Hamilton	Mollohan
Bunning	Hansen	Montgomery
Burton	Hastert	Moorhead
Buyer	Hastings (WA)	Murtha
Callahan	Hayes	Myers
Calvert	Hayworth	Myrick
Camp	Hefley	Nethercutt
Canady	Hefner	Neumann
Cardin	Herger	Ney
Chabot	Hillery	Norwood
Chambliss	Hilliard	Nussle
Chapman	Hobson	Orton
Chenoweth	Hoekstra	Oxley
Christensen	Hoke	Packard
Chrysler	Holden	Parker
Clayton	Hostettler	Paxon
Clinger	Houghton	Petri
Coble	Hunter	Pickett
Coburn	Hutchinson	Pombo
Coleman	Hyde	Pryce
Collins (GA)	Inglis	Quillen
Combest	Johnson, Sam	Quinn
Cooley	Jones	Radanovich
Cox	Kanjorski	Regula
Cramer	Kasich	Rivers
Crane	Kelly	Roberts
Crapo	Kim	Roemer
Creameans	King	Rohrabacher
Cubin	Kingston	Ros-Lehtinen
Cunningham	Kleccka	Rose
Danner	Klug	Roth
Davis	Knollenberg	Royce
de la Garza	Kolbe	Salmon
Deal	LaFalce	Sanford
DeLay	LaHood	Scarborough
Diaz-Balart	Largent	Schaefer
Dickey	Latham	Schiff
Doolittle	LaTourette	