

“(2) to study techniques for managing and restoring wetlands within a watershed context;

“(3) to study techniques for better coordinating and integrating wetland, floodplain, stormwater, point and nonpoint source pollution controls, and water supply planning and plan implementation on a watershed basis at all levels of government; and

“(4) to establish a national wetland regulatory tracking program on a watershed basis.

This program shall track the individual and cumulative impact of permits issued pursuant to section 404(a), 404(e), and 404(h) in terms of types of permits issued, conditions, and approvals. The tracking program shall also include mitigation required in terms of the amount required, types required, and compliance.”

SEC. 814. ADMINISTRATIVE APPEALS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

“(aa) ADMINISTRATIVE APPEALS.—

“(1) REGULATIONS ESTABLISHING PROCEDURES.—Not later than 1 year after the date of the enactment of the Wetlands and Watershed Management Act of 1995, the Secretary shall, after providing notice and opportunity for public comment, issue regulations establishing procedures pursuant to which—

“(A) a landowner may appeal a determination of regulatory jurisdiction under this section with respect to a parcel of the landowner’s property;

“(B) a landowner may appeal a wetlands classification under this section with respect to a parcel of the landowner’s property;

“(C) any person may appeal a determination that the proposed activity on the landowner’s property is not exempt under subsection (f);

“(D) a landowner may appeal a determination that an activity on the landowner’s property does not qualify under a general permit issued under this section;

“(E) an applicant for a permit under this section may appeal a determination made pursuant to this section to deny issuance of the permit or to impose a requirement under the permit; and

“(F) a landowner or any other person required to restore or otherwise alter a parcel of property pursuant to an order issued under this section may appeal such order.

“(2) DEADLINE FOR FILING APPEAL.—An appeal brought pursuant to this subsection shall be filed not later than 30 days after the date on which the decision or action on which the appeal is based occurs.

“(3) DEADLINE FOR DECISION.—An appeal brought pursuant to this subsection shall be decided not later than 90 days after the date on which the appeal is filed.

“(4) PARTICIPATION IN APPEALS PROCESS.—Any person who participated in the public comment process concerning a decision or action that is the subject of an appeal brought pursuant to this subsection may participate in such appeal with respect to those issues raised in the person’s written public comments.

“(5) DECISIONMAKER.—An appeal brought pursuant to this subsection shall be heard and decided by an appropriate and impartial official of the Federal Government, other than the official who made the determination or carried out the action that is the subject of the appeal.

“(6) STAY OF PENALTIES AND MITIGATION.—A landowner or any other person who has filed an appeal under this subsection shall not be required to pay a penalty or perform mitigation or restoration assessed under this section or section 309 until after the appeal has been decided.”

SEC. 815. CRANBERRY PRODUCTION.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

“(bb) CRANBERRY PRODUCTION.—Activities associated with expansion, improvement, or modification of existing cranberry production operations shall be deemed in compliance, for purposes of sections 309 and 505, with section 301, if—

“(1) the activity does not result in the modification of more than 10 acres of wetlands per operator per year and the modified wetlands (other than where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States; or

“(2) the activity is required by any State or Federal water quality program.”

SEC. 816. STATE CLASSIFICATION SYSTEMS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

“(cc) STATE CLASSIFICATION SYSTEMS.—

“(1) GUIDELINES.—Not later than 1 year after the date of the enactment of this subsection, the Secretary, in consultation with the Administrator, the Secretary of Agriculture, and the Director of the United States Fish and Wildlife Service, shall establish guidelines to aid States and Indian tribes in establishing classification systems for the planning, managing, and regulating of wetlands.

“(2) ESTABLISHMENT.—In accordance with the guidelines established under paragraph (1), a State or Indian tribe may establish a wetlands classification system for lands of the State or Indian tribe and may submit such classification system to the Secretary for approval. Upon approval, the Secretary shall use such classification system in making permit determinations and establishing mitigation requirements for lands of the State or Indian tribe under this section.

“(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to affect a State with an approved program under subsection (h) or a State with a wetlands classification system in effect on the date of the enactment of this subsection.”

SEC. 817. AGRICULTURAL LANDS.

Section 404 (33 U.S.C. 1344) is further amended by adding at the end the following:

“(dd) AGRICULTURAL LANDS.—

“(1) PERMIT AUTHORITY.—The Secretary of Agriculture is authorized to issue permits under this section for any activity subject to permitting under this section that is carried out on agricultural land (other than agricultural land subject to sections 1221–1223 of the Food Security Act of 1985 (16 U.S.C. 3821–3823)). Any activity allowed by the Secretary of Agriculture under such sections 1221–1223 shall be treated as having a permit issued under this section and no individual request for or granting of a permit shall be required under this section.

“(2) MITIGATION.—Any mitigation approved by the Secretary of Agriculture for agricultural lands shall be accepted by the Secretary as mitigation under this section.”

SEC. 818. DEFINITIONS.

Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

“(26) The term ‘wetland’ means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions.

“(27) The term ‘discharge of dredged or fill material’ means the act of discharging and any related act of filling, grading, draining, dredging, excavation, channelization, flooding, clearing of vegetation, driving of piling or placement of other obstructions, diversion of water, or other activities in navigable waters which impair the flow, reach, or circulation of surface water, or which result in a more than minimal change in the hydrologic

regime, bottom contour, or configuration of such waters, or in the type, distribution, or diversity of vegetation in such waters.

“(28) The term ‘mitigation bank’ shall mean wetland restoration, creation, or enhancement projects undertaken primarily for the purpose of providing mitigation compensation credits for wetland losses from future activities. Often these activities will be, as yet, undefined.

“(29) The term ‘cooperative mitigation ventures’ shall mean wetland restoration, creation, or enhancement projects undertaken jointly by several parties (such as private, public, and nonprofit parties) with the primary goal of providing compensation for wetland losses from existing or specific proposed activities. Some compensation credits may also be provided for future as yet undefined activities. Most cooperative mitigation ventures will involve at least one private and one public cooperating party.

“(30) The term ‘normal farming, silviculture, aquaculture and ranching activities’ means normal practices identified as such by the Secretary of Agriculture, in consultation with the Cooperative Extension Service for each State and the land grant university system and agricultural colleges of the State, taking into account existing practices and such other practices as may be identified in consultation with the affected industry or community.

“(31) The term ‘agricultural land’ means cropland, pastureland, native pasture, rangeland, an orchard, a vineyard, nonindustrial forest land, an area that supports a water dependent crop (including cranberries, taro, watercress, or rice), and any other land used to produce or support the production of an annual or perennial crop (including forage or hay), aquaculture product, nursery product, or wetland crop or the production of livestock.”

Conform the table of contents of the bill accordingly.

It was decided in the { Yeas 185
negative } Nays 242

| | | |
|--------------|----------------|-------------|
| ¶67.15 | [Roll No. 332] | |
| | AYES—185 | |
| Abercrombie | Farr | Kildee |
| Ackerman | Fattah | Klug |
| Andrews | Fawell | Kolbe |
| Baldacci | Fields (LA) | Lantos |
| Barrett (WI) | Filner | Lazio |
| Bass | Flake | Levin |
| Becerra | Foglietta | Lewis (GA) |
| Beilenson | Forbes | LoBiondo |
| Bentsen | Ford | Lofgren |
| Boehlert | Fox | Lowey |
| Bonior | Frank (MA) | Luther |
| Borski | Franks (NJ) | Maloney |
| Boucher | Frelinghuysen | Manton |
| Brown (CA) | Frost | Markey |
| Brown (FL) | Furse | Martini |
| Brown (OH) | Gejdenson | Mascara |
| Cardin | Gibbons | Matsui |
| Castle | Gilchrest | McCarthy |
| Clay | Gilman | McDermott |
| Clayton | Gonzalez | McHale |
| Clyburn | Goss | McKinney |
| Coleman | Green | McNulty |
| Collins (MI) | Greenwood | Meehan |
| Conyers | Gutierrez | Meek |
| Coyne | Hall (OH) | Menendez |
| Davis | Harman | Metcalf |
| DeFazio | Hastings (FL) | Meyers |
| DeLauro | Hinche | Mfume |
| Dellums | Hoyer | Miller (CA) |
| Deutsch | Jackson-Lee | Mineta |
| Diaz-Balart | Jacobs | Mink |
| Dicks | Jefferson | Moakley |
| Dingell | Johnson (CT) | Mollohan |
| Dixon | Johnson, E. B. | Moran |
| Doggett | Johnston | Morella |
| Doyle | Kanjorski | Nadler |
| Durbin | Kaptur | Neal |
| Ehlers | Kelly | Oberstar |
| Engel | Kennedy (MA) | Obey |
| Eshoo | Kennedy (RI) | Olver |
| Evans | Kennelly | Owens |

Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Porter
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Rivers
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Sabó
Sanders
Sanford
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Taylor (MS)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli

Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Young (AK)
Zeliff
Berman
Bryant (TX)
Collins (IL)
Gephardt
Klecza
Klink
Lipinski

Rose
Roukema
Roybal-Allard
Rush
Sabó
Sanders
Sanford
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (NJ)
Stark
Stokes
Studds
Stupak
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Walker
Waters
Watt (NC)
Waxman
Weldon (PA)
White
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—242

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bevill
Billbray
Bilirakis
Bishop
Biiley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Cohn
Collins (GA)
Combust
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Creameans
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fazio
Fields (TX)
Flanagan
Foley
Fowler
Heineman
Hillery
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
King
Kingston
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Longley
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon

NOT VOTING—7
So the amendment was not agreed to.
After some further time,

67.16 RECORDED VOTE

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

Page 243, strike line 9 and all that follows through line 7 on page 249 and insert the following:

“(c) WETLANDS CLASSIFICATION.—The Secretary shall issue regulations for the classification of wetlands to the extent practicable based on the best available science. Requirements of this title based on the classification of wetlands as type A, type B, or type C wetlands shall not become effective until regulations are issued under this subsection.

Page 282, line 11, strike “subparagraphs (B) and (C)” and insert “subparagraph (B)”.
Page 282, strike line 12 and all that follows through line 22 on page 283.

Page 283, strike line 23 and all that follows through “any” on line 25 and insert the following:

“(B) NORMAL CIRCUMSTANCES.—Any Page 311, line 17, strike “section,” and insert “section and”.

Page 311, lines 18 through 20, strike “, and no exception shall be available under subsection (g) (1) (B).”.

It was decided in the Yeas 180
negative Nays 247

67.17 [Roll No. 333]
AYES—180

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Bentson
Bereuter
Bishop
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Clay
Clyburn
Collins (MI)
Conyers
Coyle
Davis
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doyle
Ehlers
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gekas
Gibbons
Gilchrest
Gillman
Gonzalez
Goss
Green
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hinchev
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kingston
Klink
Klug
Kolbe
LaFalce
Lantos
Lazio
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martini
Mascara
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (FL)
Porter
Pryce
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Rivers
Ros-Lehtinen

NOES—247

Allard
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bevill
Billbray
Bilirakis
Biiley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combust
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Creameans
Cubin
Cunningham
Danner
de la Garza
Deal
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fazio
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Frisa
Frost
Funderburk
Gallegly
Ganske
Geren
Gillmor
Goodlatte
Goodling
Gordon
Graham
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hillery
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kim
King
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Longley
Lucas
Manzullo
Martinez
Matsui
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Miller (FL)
Minge
Molinar
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Packer
Pastor
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Quillen
Quinn
Radanovich
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Royce
Salmon
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Taubin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)
Zeliff