

104TH CONGRESS  
2D SESSION

# H. R. 3948

To amend the Federal Water Pollution Control Act to provide for the use of biological monitoring and whole effluent toxicity tests in connection with publicly owned treatment works, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 1996

Mr. HEFLEY introduced the following bill; which was referred to the  
Committee on Transportation and Infrastructure

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## A BILL

To amend the Federal Water Pollution Control Act to provide for the use of biological monitoring and whole effluent toxicity tests in connection with publicly owned treatment works, and for other purposes.

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 “Publicly Owned Treat-  
5       ment Works Biological Monitoring Use Act”.

6       **SEC. 2. USE OF BIOLOGICAL MONITORING.**

7       (a) LABORATORY BIOLOGICAL MONITORING CRI-  
8       TERIA.—Subparagraph (B) of section 303(c)(2) of the

1 Federal Water Pollution Control Act (33 U.S.C.  
2 1313(c)(2)) is amended—

3 (1) by inserting “CRITERIA FOR TOXIC POLLUT-  
4 ANTS.—” after “(B)”;

5 (2) by moving such subparagraph 4 ems to the  
6 right;

7 (3) by inserting after the third sentence the fol-  
8 lowing: “Criteria for whole effluent toxicity based on  
9 laboratory biological monitoring or assessment meth-  
10 ods shall employ an aquatic species that is indige-  
11 nous to the type of waters, a species that is rep-  
12 resentative of such a species, or an appropriate spe-  
13 cies that indicates the toxicity of the effluent in the  
14 receiving waters and shall take into account the ac-  
15 cepted analytical variability associated with such  
16 methods in defining an exceedance of such criteria.”.

17 (b) PERMIT PROCEDURES.—Section 402 of such Act  
18 (33 U.S.C. 1342) is amended by adding at the end the  
19 following:

20 “(q) BIOLOGICAL MONITORING PROCEDURES.—

21 “(1) RESPONDING TO EXCEEDANCES.—If a  
22 permit issued under this section contains terms, con-  
23 ditions, or limitations requiring biological monitoring  
24 or whole effluent toxicity testing designed to meet  
25 criteria for whole effluent toxicity based on labora-

1 tory biological monitoring or assessment methods de-  
2 scribed in section 303(c)(2)(B), the permit shall es-  
3 tablish procedures for responding to an exceedance  
4 of such criteria that includes analysis, identification,  
5 reduction, or, where feasible, elimination of any ef-  
6 fluent toxicity. The failure of a biological monitoring  
7 test or whole effluent toxicity test shall not result in  
8 a finding of a violation under this Act, unless it is  
9 demonstrated that the permittee has failed to com-  
10 ply with such procedures.

11 “(2) DISCONTINUANCE OF USE.—The permit  
12 shall allow the permittee to discontinue such proce-  
13 dures—

14 “(A) if the permittee is an entity, other  
15 than a publicly owned treatment works, if the  
16 permittee demonstrates to the permitting au-  
17 thority through a field bioassessment study that  
18 a balanced and healthy population of aquatic  
19 species indigenous to the type of waters exists  
20 in the waters that are affected by the discharge,  
21 and if the applicable numerical water quality  
22 standards for specific pollutants are met for  
23 such waters; or

24 “(B) if the permittee is a publicly owned  
25 treatment works—

1                   “(i) if the source or cause of such tox-  
2                   icity cannot, after thorough investigation,  
3                   be identified; or

4                   “(ii) if the permittee makes to the  
5                   permitting authority a demonstration de-  
6                   scribed in subparagraph (A).”.

7           (c) INFORMATION ON WATER QUALITY CRITERIA.—  
8 Section 304(a)(8) of such Act (33 U.S.C. 1314(a)(8)) is  
9 amended—

10           (1) by striking “, after” and all that follows  
11           through “1987,”; and

12           (2) by inserting after “publish” the following:  
13           “, consistent with section 303(c)(2)(B) of this Act,”.

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