

109TH CONGRESS  
1ST SESSION

# H. R. 1749

To amend the Federal Water Pollution Control Act to affirm that a permit is not required in certain circumstances, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 2005

Mr. OTTER (for himself, Mr. CARDOZA, Mr. DUNCAN, Mr. SIMPSON, Mr. NORWOOD, Mr. LEWIS of Kentucky, Mr. TERRY, Mr. HOSTETTLER, Mr. DOOLITTLE, Mr. KUHL of New York, Mr. PETERSON of Minnesota, Mr. CANNON, Miss McMORRIS, Mr. OSBORNE, Mr. GOODLATTE, Mr. BERRY, Mr. BAKER, Mr. WICKER, Mr. HASTINGS of Washington, Mr. WALDEN of Oregon, Mr. SULLIVAN, Mr. BOUSTANY, Mr. REHBERG, Mr. POMBO, Mr. HOLDEN, Mr. LUCAS, Mr. TAYLOR of Mississippi, Mr. TAYLOR of North Carolina, Mr. BISHOP of Georgia, and Mr. SALAZAR) 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 affirm that a permit is not required in certain circumstances, 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 “Pest Management and  
5 Fire Suppression Flexibility Act”.

1 **SEC. 2. HARMONIZATION.**

2 Section 402(l) of the Federal Water Pollution Control  
3 Act (33 U.S.C. 1342(l)) is amended by adding at the end  
4 the following:

5 “(3) PUBLIC HEALTH PROTECTION AND PEST  
6 MANAGEMENT ACTIVITIES.—The Administrator shall  
7 not require a permit under this section, nor shall the  
8 Administrator directly or indirectly require a State  
9 to require such a permit, for—

10 “(A) the use of a pesticide that is reg-  
11 istered or otherwise approved for use pursuant  
12 to the Federal Insecticide, Fungicide, and  
13 Rodenticide Act (7 U.S.C. 136 et seq.), and  
14 such use is in accordance with the relevant pro-  
15 visions of its approved labeling;

16 “(B) the use of a fire retardant, chemical,  
17 or water for fire suppression, control, or preven-  
18 tion in accordance with relevant Federal guide-  
19 lines by or in cooperation with the Federal Gov-  
20 ernment or State government;

21 “(C) silviculture activities, except the point  
22 source activities listed in section 122.27(b)(1)  
23 of title 40, Code of Federal Regulations, on the  
24 date of enactment of the Pest Management and  
25 Fire Suppression Flexibility Act; and

1           “(D) the use of a biological control orga-  
2           nism, as defined by section 403 of the Plant  
3           Protection Act (7 U.S.C. 7702), for the preven-  
4           tion, control, or eradication of a plant pest or  
5           noxious weed, and other plant pest, noxious  
6           weed and pest control activities authorized by  
7           that Act (7 U.S.C. 7701) et seq.)”.

8   **SEC. 3. POINT SOURCE DEFINED.**

9           Section 502(14) of the Federal Water Pollution Con-  
10          trol Act (33 U.S.C. 1362(14)) is amended by striking the  
11          second sentence and inserting the following: “This term  
12          does not include agricultural stormwater discharges, re-  
13          turn flows from irrigated agriculture, or the public health  
14          protection, pest management, and silvicultural activities  
15          described in section 402(1)(3)”.

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