

**AMENDMENT TO H.R. 3898, AS REPORTED  
OFFERED BY MS. HAGEMAN OF WYOMING**

Add at the end the following:

1   **SEC. \_\_\_\_.** **CIVIL MONETARY PENALTIES FOR VIOLATIONS**  
2                               **OF PERMITS FOR DREDGED OR FILL MATE-**  
3                               **RIAL.**

4           (a) **FEDERAL ENFORCEMENT.**—Section 309 of the  
5 Federal Water Pollution Control Act (33 U.S.C. 1319) is  
6 amended—

7               (1) in subsection (d), by inserting “, except as  
8               provided in subsection (i)” after “per day for each  
9               violation”;

10              (2) in subsection (g)(2)—

11                      (A) in subparagraph (A), by inserting  
12                      “(except as provided in subsection (i)” after  
13                      “\$10,000 per violation”; and

14                      (B) in subparagraph (B), by inserting  
15                      “(except as provided in subsection (i)” after  
16                      “during which the violation continues”; and

17              (3) by adding at the end the following:

18              “(i) **SPECIAL RULES FOR VIOLATIONS OF PERMITS**  
19 **FOR DREDGED OR FILL MATERIAL.**—For any violation of  
20 a permit condition or limitation in a permit issued under

1 section 404 by the Secretary or a State, or any discharge  
2 of dredged or fill material without a permit issued under  
3 such section—

4 “(1) the civil penalty for such violation may  
5 only be assessed, as applicable—

6 “(A) once per day for all such violations of  
7 a single permit; or

8 “(B) once per day for such discharge;

9 “(2) section 4 of the Federal Civil Penalties In-  
10 flation Adjustment Act of 1990 (28 U.S.C. 2461  
11 note) shall not apply to the maximum civil penalty  
12 described in subsections (d) and (g) for such viola-  
13 tion; and

14 “(3) the court shall reduce the total liability for  
15 such violation by 50 percent if the court determines,  
16 by a preponderance of the evidence, that the person  
17 made reasonable efforts to ensure that the actions  
18 held to be violations were legal.”.

19 (b) CIVIL PENALTY FOR VIOLATION OF PERMIT FOR  
20 DREDGED OR FILL MATERIAL.—Section 404(s)(4) of the  
21 Federal Water Pollution Control Act (33 U.S.C.  
22 1344(s)(4)) is amended—

23 (1) by striking “for each violation”; and

24 (2) by adding at the end the following: “The  
25 court shall reduce the person’s total liability under

1       this section by 50 percent if the court determines,  
2       by a preponderance of the evidence, that the person  
3       made reasonable efforts to ensure that the actions  
4       held to be violations were legal. Section 4 of the  
5       Federal Civil Penalties Inflation Adjustment Act of  
6       1990 (28 U.S.C. 2461 note) shall not apply to the  
7       maximum civil penalty described in this paragraph.”.

8       (c) REGULATIONS.—Not later than 30 days after the  
9       date of enactment of this Act, the Secretary of the Army,  
10      acting through the Chief of Engineers, and Administrator  
11      of the Environmental Protection Agency, as applicable,  
12      shall issue or revise regulations, as necessary, to imple-  
13      ment this section and the amendments made by this sec-  
14      tion, including reverting the applicable maximum civil pen-  
15      alties under sections 309 and 404 of the Federal Water  
16      Pollution Control Act to the statutory levels, consistent  
17      with the inapplicability of the Federal Civil Penalties In-  
18      flation Adjustment Act as added by this section.

