

115TH CONGRESS  
1ST SESSION

# S. 1289

To amend the Federal Water Pollution Control Act to exempt Indian tribes from compensatory mitigation requirements in connection with certain discharges of dredged or fill material, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 25, 2017

Mr. SULLIVAN (for himself and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Federal Water Pollution Control Act to exempt Indian tribes from compensatory mitigation requirements in connection with certain discharges of dredged or fill material, 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. EXEMPTION FROM COMPENSATORY MITIGA-**  
4 **TION REQUIREMENTS.**

5 (a) IN GENERAL.—Section 404 of the Federal Water  
6 Pollution Control Act (33 U.S.C. 1344) is amended by  
7 adding at the end the following:

8 “(u) INDIAN TRIBES.—

1 “(1) DEFINITIONS.—In this subsection:

2 “(A) INDIAN LAND.—The term ‘Indian  
3 land’ means land owned by, operated by, or oth-  
4 erwise belonging to an Indian tribe.

5 “(B) INDIAN TRIBE.—The term ‘Indian  
6 tribe’ has the meaning given the term in section  
7 4 of the Indian Self-Determination and Edu-  
8 cation Assistance Act (25 U.S.C. 5304).

9 “(C) PERMITTED ACTIVITY.—The term  
10 ‘permitted activity’ means a discharge of  
11 dredged or fill material for which a permit is  
12 issued under this section.

13 “(2) EXEMPTION FROM COMPENSATORY MITI-  
14 GATION REQUIREMENTS.—Notwithstanding any  
15 other provision of law, an Indian tribe that applies  
16 for a permit for a permitted activity to be conducted  
17 on Indian land shall not be required to provide any  
18 form of compensatory mitigation as a condition of  
19 the permit.

20 “(3) EVALUATION OF INDIAN TRIBE PERMIT  
21 APPLICATION.—In evaluating a permit application  
22 submitted by an Indian tribe to carry out a per-  
23 mitted activity on Indian land, the Secretary may  
24 not take into account the nonavailability of compen-

1 satory mitigation under the exemption provided by  
2 paragraph (2).

3 “(4) SITUATIONS IN WHICH AN INDIAN TRIBE  
4 CEASES TO MAINTAIN PERMITTED ACTIVITY.—If an  
5 Indian tribe described in paragraph (2) ceases to  
6 maintain the permitted activity on Indian land or  
7 seeks to abandon the permitted activity without a  
8 good faith transfer, the Indian tribe shall obtain a  
9 permit modification from the Secretary, which may  
10 require restoration and rehabilitation of the area.

11 “(5) EFFECT.—The exemption described in  
12 paragraph (2) shall not affect the applicability of  
13 any other requirement under this Act to an Indian  
14 tribe or Indian land, including any requirement to  
15 avoid and minimize adverse impacts to wetlands,  
16 streams, and other aquatic resources.”.

17 (b) APPLICABILITY.—The amendment made by sub-  
18 section (a) shall apply to permits issued under section 404  
19 of the Federal Water Pollution Control Act (33 U.S.C.  
20 1344) after the date of enactment of this Act.

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