

116TH CONGRESS
1ST SESSION

S. 2410

To amend the Federal Water Pollution Control Act to modify the requirements for permits for dredged or fill material, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2019

Mrs. HYDE-SMITH (for herself and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Federal Water Pollution Control Act to modify the requirements for permits for 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. SHORT TITLE.**

4 This Act may be cited as the “Flood Reduction, Wild-
5 life Habitat, and Water Quality Improvement Act of
6 2019”.

7 **SEC. 2. PERMITS FOR DREDGED OR FILL MATERIAL.**

8 Section 404 of the Federal Water Pollution Control
9 Act (33 U.S.C. 1344) is amended—

1 (1) in subsection (c)—

2 (A) in the third sentence, by striking “The
3 Administrator” and inserting the following:

4 “(5) FINDINGS.—The Administrator”;

5 (B) in the second sentence, by striking
6 “Before making such determination” and in-
7 serting the following:

8 “(4) CONSULTATION.—Before making a deter-
9 mination under paragraph (1)”;

10 (C) by striking the subsection designation
11 and all that follows through “The Adminis-
12 trator” in the first sentence and inserting the
13 following:

14 “(c) PROHIBITION OF SPECIFICATION OF AREAS AS
15 DISPOSAL SITES.—

16 “(1) IN GENERAL.—Subject to paragraph (2),
17 the Administrator”;

18 (D) by inserting after paragraph (1) (as so
19 designated) the following:

20 “(2) LIMITATIONS.—The Administrator may
21 not prohibit the specification of a defined area as a
22 disposal site, or otherwise deny or restrict the use of
23 a defined area as a disposal site—

24 “(A) if the area is or contains a project of
25 the Secretary for flood control;

1 “(B) before an application for a permit
2 under this section for the area has been filed;
3 or

4 “(C) after a permit under this section for
5 the area has been issued by the Secretary.

6 “(3) REQUIREMENTS.—A regional office of the
7 Administrator shall—

8 “(A) before considering a determination
9 under paragraph (1), obtain the approval of the
10 Administrator; and

11 “(B) before publishing notice of a proposed
12 determination under paragraph (1) for the area
13 of a project, review, consider, and adequately
14 refute the findings of an environmental impact
15 statement for the project pursuant to the Na-
16 tional Environmental Policy Act of 1969 (42
17 U.S.C. 4321 et seq.)”; and

18 (E) by adding at the end the following:

19 “(6) IMMEDIATE WITHDRAWAL OF PRIOR DE-
20 TERMINATIONS.—

21 “(A) IN GENERAL.—Notwithstanding any
22 other provision of law, a determination made by
23 the Administrator under paragraph (1) with re-
24 spect to the area of a project that is or contains
25 a project of the Secretary for flood control be-

1 fore the date of enactment of the Flood Reduc-
2 tion, Wildlife Habitat, and Water Quality Im-
3 provement Act of 2019 shall no longer apply
4 if—

5 “(i) a more practicable alternative to
6 the project has not been identified; and

7 “(ii) as a result of a delay in con-
8 struction of the project, severe flooding
9 and damage to life and property have oc-
10 curred.

11 “(B) JUDICIAL REVIEW.—Notwithstanding
12 any other provision of law, an action taken by
13 the Secretary to advance a project described in
14 subparagraph (A) shall not be subject to judi-
15 cial review.”; and

16 (2) in subsection (r), by striking “under section
17 307),” and all that follows through the period at the
18 end and inserting “under section 307).”.

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