

PROMOTING EFFICIENT REVIEW FOR MODERN
INFRASTRUCTURE TODAY ACT

JULY 2, 2025.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. GRAVES, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3898]

The Committee on Transportation and Infrastructure, to whom
was referred the bill (H.R. 3898) to amend the Federal Water Pol-
lution Control Act to make targeted reforms with respect to waters
of the United States and other matters, and for other purposes,
having considered the same, reports favorably thereon with an
amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
Purpose of Legislation	11
Background and Need for Legislation	11
Hearings	24
Legislative History and Consideration	26
Committee Votes	33
Committee Oversight Findings and Recommendations	50
New Budget Authority and Tax Expenditures	50
Congressional Budget Office Cost Estimate	50
Performance Goals and Objectives	50
Duplication of Federal Programs	50
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	50
Federal Mandates Statement	51
Preemption Clarification	51
Advisory Committee Statement	51
Applicability to Legislative Branch	51
Section-by-Section Analysis of The Legislation	51
Changes in Existing Law Made by the Bill, as Reported	53
Committee Correspondence	104
Supplemental, Minority, Additional, or Dissenting Views	109

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Promoting Efficient Review for Modern Infrastructure Today Act” or the “PERMIT Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Water quality standards attainability.
- Sec. 3. Water quality criteria development and transparency.
- Sec. 4. Water quality technology availability.
- Sec. 5. Improving water quality certifications and American energy infrastructure.
- Sec. 6. Clarifying Federal general permits.
- Sec. 7. NPDES permit terms.
- Sec. 8. Confidence in clean water permits.
- Sec. 9. Forest protection and wildland firefighter safety.
- Sec. 10. Agricultural stormwater discharge.
- Sec. 11. Reducing regulatory burdens.
- Sec. 12. Reducing permitting uncertainty.
- Sec. 13. Nationwide permitting improvement.
- Sec. 14. Deadline for request for submission of additional information for permit programs for dredged or fill material.
- Sec. 15. Judicial review timeline clarity.
- Sec. 16. Restoring federalism in clean water permitting.
- Sec. 17. Jurisdictional determination backlog reduction.
- Sec. 18. Definition of navigable waters.
- Sec. 19. Applicability of Spill Prevention, Control, and Countermeasure rule.
- Sec. 20. Coordination with Federal Permitting Improvement Steering Council.
- Sec. 21. Sense of Congress on Chesapeake Bay Watershed Agreement.

SEC. 2. WATER QUALITY STANDARDS ATTAINABILITY.

(a) **STATE WATER QUALITY STANDARDS.**—Section 303(c) (33 U.S.C. 1313(c)) of the Federal Water Pollution Control Act is amended—

(1) in paragraph (1)—

(A) by striking “The Governor of a State” and inserting “(A) The Governor of a State”; and

(B) by striking “Results of such review shall be made available to the Administrator.” and inserting the following:

“(B) Reviews under this paragraph shall include review, for purposes of ensuring that combined sewer overflow controls are cost effective, of any water quality standard applicable to a body of water into which, pursuant to a permit, order, or decree issued pursuant to this Act, a municipal combined storm and sanitary sewer discharges.

“(C) Results of each review under this paragraph shall be made available to the Administrator.”; and

(2) in paragraph (2)(A)—

(A) by inserting “(i)” before “their use and value for public water supplies”; and

(B) by striking “, and also taking into consideration” and inserting “; (ii); and

(C) by inserting before the period at the end the following: “; and (iii) the cost and commercial availability in the United States of treatment technologies (including whether the technologies have been demonstrated at an applicable scale) that may be required to be applied to point sources in order to result in compliance with such standards”.

(b) **STATE WATER QUALITY CRITERIA.**—Section 304(a) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)) is amended by adding at the end the following new paragraph:

“(10) **CONSIDERATION OF TREATMENT TECHNOLOGIES.**—In developing or revising water quality criteria under this subsection, the Administrator shall take into consideration the cost and commercial availability in the United States of treatment technologies (including whether the technologies have been demonstrated at an applicable scale) that may be required to be applied to point sources in order to result in compliance with water quality standards adopted or promulgated under section 303.”.

SEC. 3. WATER QUALITY CRITERIA DEVELOPMENT AND TRANSPARENCY.

(a) **INFORMATION AND GUIDELINES.**—Section 304(a) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)) is further amended by adding at the end the following:

“(11) **ADMINISTRATIVE PROCEDURE.**—After the date of enactment of this paragraph, the Administrator shall issue any new or revised water quality criteria under paragraph (1) or (9) by rule.”.

(b) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Section 509(b)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1369(b)(1)) is amended—

- (1) by striking “section 402, and” and inserting “section 402,”; and
- (2) by inserting “and (H) in issuing any criteria for water quality pursuant to section 304(a)(11),” after “strategy under section 304(l),”.

SEC. 4. WATER QUALITY TECHNOLOGY AVAILABILITY.

Section 304(b) of the Federal Water Pollution Control Act (33 U.S.C. 1314(b)) is amended—

- (1) in paragraph (1)(B), by inserting “the commercial availability in the United States of the technology (including whether the technology has been demonstrated at an applicable scale),” before “and such other factors”;
- (2) in paragraph (2)(B), by inserting “the commercial availability in the United States of the technology (including whether the technology has been demonstrated at an applicable scale),” before “and such other factors”; and
- (3) in paragraph (4)(B), by inserting “the commercial availability in the United States of the technology (including whether the technology has been demonstrated at an applicable scale),” before “and such other factors”.

SEC. 5. IMPROVING WATER QUALITY CERTIFICATIONS AND AMERICAN ENERGY INFRASTRUCTURE.

Section 401 of the Federal Water Pollution Control Act (33 U.S.C. 1341) is amended—

- (1) in subsection (a)—
 - (A) in paragraph (1)—
 - (i) in the first sentence, by striking “may result” and inserting “may directly result”;
 - (ii) in the second sentence, by striking “activity” and inserting “discharge”;
 - (iii) in the third sentence, by striking “applications” each place it appears and inserting “requests”;
 - (iv) in the fifth sentence, by striking “act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection” and inserting “grant the request for certification with or without conditions, deny the request for certification, or waive the requirement for certification under this subsection with respect to such Federal application, within a reasonable period of time to be determined by the licensing or permitting agency (which shall not exceed one year) after receipt of such request, the requirement for certification under this subsection”;
 - (v) in the sixth sentence, by striking “waived as provided in the preceding sentence” and inserting “waived under this paragraph”; and
 - (vi) by inserting after the fourth sentence the following: “Not later than 30 days after the date of enactment of the PERMIT Act, each State and interstate agency that has authority to give such a certification, and the Administrator, shall publish requirements for certification to demonstrate to such State, such interstate agency, or the Administrator, as the case may be, compliance with the applicable provisions of sections 301, 302, 303, 306, and 307. A decision to grant or deny a request for certification shall be based only on compliance with the applicable provisions of sections 301, 302, 303, 306, and 307, and the grounds for the decision shall be set forth in writing and provided to the applicant. Not later than 90 days after receipt of a request for certification, the State, interstate agency, or Administrator, as the case may be, shall identify in writing all specific additional materials or information necessary for the request for certification to be complete, as described in subsection (g). The State, interstate agency, or the Administrator, as the case may be, may grant a request for certification with or without conditions, deny a request for certification, or waive the requirement for certification under this subsection with respect to such Federal application.”;
 - (B) in paragraph (2)—
 - (i) in the second sentence, by striking “notice of application for such Federal license or permit” and inserting “receipt of a notice under the preceding sentence”;
 - (ii) in the third sentence—
 - (I) by striking “any water quality requirement in such State” and inserting “any water quality standard in effect for the State under section 303”; and

- (II) by inserting before the period “at a time that is agreed to by such State and the applicant”;
- (iii) in the fifth sentence, by striking “insure compliance with applicable water quality requirements,” and inserting “ensure compliance with the applicable provisions of sections 301, 302, 303, 306, and 307.”;
- (iv) in the final sentence, by striking “insure” and inserting “ensure”;
- (v) by striking the first sentence and inserting “On receipt of a request for certification, the certifying State or interstate agency, as applicable, shall immediately notify the Administrator of the request.”; and
- (vi) by inserting after the second sentence the following: “If the Administrator determines under the preceding sentence that such a discharge will not affect the waters of any other State, no such notification is required.”;
- (C) in paragraph (3)—
 - (i) in the first sentence, by striking “there will be compliance” and inserting “any such discharge will comply”; and
 - (ii) in the second sentence, by striking “section” and inserting “any applicable provision of section”;
- (D) in paragraph (4)—
 - (i) in the first sentence—
 - (I) by inserting “directly” before “result in any discharge”; and
 - (II) by striking “applicable effluent limitations or other limitations or other applicable water quality requirements will not be violated” and inserting “no applicable provision of section 301, 302, 303, 306, or 307 will be violated”;
 - (ii) in the second sentence, by striking “will violate applicable effluent limitations or other limitations or other water quality requirements” and inserting “will directly result in a discharge that violates an applicable provision of section 301, 302, 303, 306, or 307.”; and
 - (iii) in the third sentence, by striking “such facility or activity will not violate the applicable provisions” and inserting “operation of such facility or activity will not directly result in a discharge that violates any applicable provision”; and
- (E) in paragraph (5), by striking “the applicable provisions” and inserting “any applicable provision”;
- (2) in subsection (b), by striking “Nothing in this section” and inserting “Except as provided in subsection (e), nothing in this section”;
- (3) in subsection (d), by striking “applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 301 or 302 of this Act, standard of performance under section 306 of this Act, or prohibition, effluent standard, or pretreatment standard under section 307 of this Act, and with any other appropriate requirement of State law set forth in such certification, and shall become a condition on any Federal license or permit subject to the provisions of this section” and inserting “discharge subject to this section will comply with the applicable provisions of sections 301, 302, 303, 306, and 307, and any such limitations or requirements shall be imposed by the licensing or permitting agency as a condition on any Federal license or permit subject to the provisions of this section”; and
- (4) by adding at the end the following:
 - “(e) Notwithstanding section 505, any condition imposed on a Federal license or permit by a licensing or permitting agency under this section may be enforced only by such licensing or permitting agency.
 - “(f) For purposes of this section, the applicable provisions of sections 301, 302, 303, 306, and 307 are any applicable effluent limitations and other limitations under section 301 or 302, any water quality standard in effect for a State under section 303, any standard of performance under section 306, and any prohibition, effluent standard, or pretreatment standard under section 307.
 - “(g) A request for certification under this section shall be made in writing to the State, interstate agency, or Administrator, as the case may be. A complete request for certification shall consist of the following:
 - “(1) Identification of each applicant for the Federal license or permit with respect to which the certification is requested.
 - “(2) A statement that information included in the request for certification is truthful, accurate, and complete, to the best knowledge of each such applicant.
 - “(3) In the case of a request for certification with respect to an individual permit or license—
 - “(A) identification of the Federal license or permit that is the subject of the application with respect to which the certification is requested;

“(B) identification of any activity the conduct of which is subject to such Federal license or permit;

“(C) identification of the location and nature of any discharge that may directly result from such activity, and the location of the receiving waters;

“(D) a description of means that may be used to monitor, control, or manage any such discharge; and

“(E) a list of all other Federal, interstate, Tribal, State, or local agency authorizations required for the conduct of such activity, and any approval or denial of such an authorization already received.

“(4) In the case of a request for certification with respect to the issuance of a general license or general permit—

“(A) identification of the proposed categories of activities to be covered by the general license or general permit for which certification is requested;

“(B) a description of the proposed general license or general permit, which may include a draft of the proposed general license or permit; and

“(C) an estimate of the number of discharges expected to result from the proposed general license or general permit annually.”.

SEC. 6. CLARIFYING FEDERAL GENERAL PERMITS.

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

“(6) GENERAL PERMITS.—

“(A) PERMITS AUTHORIZED.—The Administrator may issue general permits under this section on a State, regional, or nationwide basis, or for a delineated area, for discharges associated with any category of activities, which discharges are of similar types and from similar sources.

“(B) PERMIT EXPIRATION NOTIFICATION REQUIREMENT.—If a general permit issued under this section will expire and the Administrator decides not to issue a new general permit for discharges similar to those covered by the expiring general permit, the Administrator shall publish in the Federal Register a notice of such decision at least two years prior to the expiration of the general permit.

“(C) APPLICATION OF PERMIT TERMS OF AN EXPIRED PERMIT.—

“(i) IN GENERAL.—If a general permit issued under this section expires and the Administrator has not published a notice in accordance with subparagraph (B), the Administrator shall, until the date described in clause (ii)—

“(I) continue to apply the terms, conditions, and requirements of the expired general permit to any discharge that was covered by the expired general permit; and

“(II) apply such terms, conditions, and requirements to any discharge that would have been covered by the expired general permit (in accordance with any relevant requirements for such coverage) if the discharge had occurred before such expiration.

“(ii) DATE DESCRIBED.—The date described in this clause is the earlier of—

“(I) the date on which the Administrator issues a new general permit for discharges similar to those covered by the expired general permit; or

“(II) the date that is two years after the date on which the Administrator publishes in the Federal Register a notice of a decision not to issue a new general permit for discharges similar to those covered by the expired general permit.”.

SEC. 7. NPDES PERMIT TERMS.

Section 402(b)(1)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1342(b)(1)(B)) is amended by striking “five years” and inserting “ten years”.

SEC. 8. CONFIDENCE IN CLEAN WATER PERMITS.

(a) COMPLIANCE WITH PERMITS.—Section 402(k) of the Federal Water Pollution Control Act (33 U.S.C. 1342(k)) is amended—

(1) by striking “(k) Compliance with” and inserting the following:

“(k) COMPLIANCE WITH PERMITS.—

“(1) IN GENERAL.—Subject to paragraph (2), compliance with”; and

(2) by adding at the end the following:

“(2) SCOPE.—For purposes of paragraph (1), compliance with the conditions of a permit issued under this section shall be considered compliance with respect to a discharge of—

“(A) any pollutant for which an effluent limitation is included in the permit; and

“(B) any pollutant for which an effluent limitation is not included in the permit that is—

“(i) specifically identified as controlled or monitored through indicator parameters in the permit, the fact sheet for the permit, or the administrative record relating to the permit;

“(ii) specifically identified during the permit application process as present in discharges to which the permit will apply; or

“(iii) whether or not specifically identified in the permit or during the permit application process—

“(I) present in any waste streams or processes of the point source to which the permit applies, which waste streams or processes are specifically identified during the permit application process; or

“(II) otherwise within the scope of any operations of the point source to which the permit applies, which scope of operations is specifically identified during the permit application process.”.

(b) **EXPRESSION OF WATER QUALITY-BASED EFFLUENT LIMITATIONS.**—Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended by adding at the end the following:

“(t) **EXPRESSION OF WATER QUALITY-BASED EFFLUENT LIMITATIONS.**—If the Administrator (or a State, in the case of a permit program approved by the Administrator) determines that a water quality-based limitation on a discharge of a pollutant is necessary to include in a permit under this section in addition to any appropriate technology-based effluent limitations included in such permit, the Administrator (or the State) may include such water quality-based limitation in such permit only in the form of a limitation that—

“(1) specifies the pollutant to which it applies; and

“(2) clearly describes the manner in which compliance with the limitation may be achieved, which shall include—

“(A) a numerical limit on the discharge of such pollutant;

“(B) a narrative description of required actions to be applied to the discharge (including any measures or practices required to be applied); or

“(C) a narrative description of a limitation on the discharge that specifies the level of control to be applied.”.

SEC. 9. FOREST PROTECTION AND WILDLAND FIREFIGHTER SAFETY.

Section 402(l)(3)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1342(l)(3)(A)) is amended—

(1) by striking “for a discharge from” and inserting the following: “for—

“(i) a discharge from”;

(2) in clause (i) (as so designated), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(ii) a discharge resulting from the aerial application of a product used for fire control and suppression purposes that appears on the most current Forest Service Qualified Products List (or any successor list).”.

SEC. 10. AGRICULTURAL STORMWATER DISCHARGE.

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

“(4) **AGRICULTURAL STORMWATER DISCHARGE.**—

“(A) **IN GENERAL.**—The Administrator shall not require a permit, nor directly or indirectly require any State to require a permit, under this section for discharges of stormwater, including from subsurface drainage, from agricultural land that occur in direct response to a precipitation event.

“(B) **AGRICULTURAL LAND DEFINED.**—In this paragraph, the term ‘agricultural land’ includes—

“(i) land on which an agricultural input (such as manure and other crop nutrients, crop protection, or seed) is applied;

“(ii) land on which animals (including fish and shellfish), crops (including fruit and nut trees), crop residue, plants, seed, or vegetation are present for purposes of farming or ranching; and

“(iii) land that is—

“(I) immediately adjacent to, and functionally related to, land described in clause (i) or (ii); and

“(II) necessary to support agricultural production, soil conservation, flood control, or water quality.”.

SEC. 11. REDUCING REGULATORY BURDENS.

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

“(u) DISCHARGES OF PESTICIDES.—

“(1) NO PERMIT REQUIREMENT.—Except as provided in paragraph (2), a permit shall not be required by the Administrator or a State under this Act for a discharge from a point source into navigable waters of a pesticide authorized for sale, distribution, or use under the Federal Insecticide, Fungicide, and Rodenticide Act, or the residue of such a pesticide, resulting from the application of such pesticide.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to the following discharges of a pesticide or pesticide residue:

“(A) A discharge resulting from the application of a pesticide in violation of a provision of the Federal Insecticide, Fungicide, and Rodenticide Act that is relevant to protecting water quality, if—

“(i) the discharge would not have occurred but for the violation; or

“(ii) the amount of pesticide or pesticide residue in the discharge is greater than would have occurred without the violation.

“(B) Stormwater discharges subject to regulation under subsection (p).

“(C) The following discharges subject to regulation under this section:

“(i) Manufacturing or industrial effluent.

“(ii) Treatment works effluent.

“(iii) Discharges incidental to the normal operation of a vessel, including a discharge resulting from ballasting operations or vessel bio-fouling prevention.”.

SEC. 12. REDUCING PERMITTING UNCERTAINTY.

(a) IN GENERAL.—Section 404(c) of the Federal Water Pollution Control Act (33 U.S.C. 1344(c)) is amended—

(1) by striking “(c) The Administrator” and inserting the following:

“(c) SPECIFICATION OR USE OF DEFINED AREA.—

“(1) IN GENERAL.—The Administrator”;

(2) in paragraph (1), as so designated, by inserting “during the period described in paragraph (2) and” before “after notice and opportunity for public hearings”; and

(3) by adding at the end the following:

“(2) PERIOD OF PROHIBITION.—The period during which the Administrator may prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, or deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, under paragraph (1) shall—

“(A) begin on the date on which an applicant submits all the information required to complete an application for a permit under this section; and

“(B) end on the date on which the Secretary issues the permit.”.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to a permit application submitted under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) after the date of enactment of this Act.

SEC. 13. NATIONWIDE PERMITTING IMPROVEMENT.

(a) IN GENERAL.—Section 404(e) of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended—

(1) by striking “(e)(1) In carrying” and inserting the following:

“(e) GENERAL PERMITS.—

“(1) PERMITS AUTHORIZED.—In carrying”;

(2) in paragraph (2)—

(A) by striking “(2) No general” and inserting the following:

“(2) TERM.—No general”; and

(B) by striking “five years” and inserting “ten years”; and

(3) by adding at the end the following:

“(3) CONSIDERATIONS.—In determining the environmental effects of an activity under paragraph (1) or (2), the Secretary—

“(A) shall consider only the effects of any discharge of dredged or fill material resulting from such activity;

“(B) shall consider any effects of a discharge of dredged or fill material into less than 3 acres of navigable waters to be a minimal adverse environmental effect; and

“(C) may consider any effects of a discharge of dredged or fill material into 3 acres or more of navigable waters to be a minimal adverse environmental effect.

“(4) NATIONWIDE PERMITS FOR LINEAR PROJECTS.—

“(A) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary shall maintain general permits on a nationwide basis for—

“(i) linear infrastructure projects that result in a discharge of dredged or fill material into less than 3 acres of navigable waters for each single and complete project; and

“(ii) linear pipeline projects that do not result in the loss of navigable waters in an amount that is greater than 0.5 acres for each single and complete project.

“(B) DEFINITIONS.—In this paragraph:

“(i) LINEAR INFRASTRUCTURE PROJECT.—The term ‘linear infrastructure project’ means a project to carry out any activity required for the construction, expansion, maintenance, modification, or removal of infrastructure and associated facilities for the transmission from a point of origin to a terminal point of communications or electricity, or for the transportation from a point of origin to a terminal point of people, water, or wastewater.

“(ii) LINEAR PIPELINE PROJECT.—The term ‘linear pipeline project’ means a project to carry out any activity required for the construction, expansion, maintenance, modification, or removal of infrastructure and associated facilities for the transportation from a point of origin to a terminal point of carbon dioxide, fuel, or hydrocarbons, in the form of a liquid, liquescent, gaseous, or slurry substance or supercritical fluid, including oil and gas pipeline facilities.

“(iii) SINGLE AND COMPLETE PROJECT.—The term ‘single and complete project’ has the meaning given that term in section 330.2 of title 33, Code of Federal Regulations (as in effect on the date of enactment of this paragraph).

“(5) REISSUANCE OF NATIONWIDE PERMITS.—In determining whether to reissue a general permit issued under this subsection on a nationwide basis—

“(A) no consultation with an applicable State pursuant to section 6(a) of the Endangered Species Act of 1973 (16 U.S.C. 1535(a)) is required;

“(B) no consultation with a Federal agency pursuant to section 7(a)(2) of such Act (16 U.S.C. 1536(a)(2)) is required; and

“(C) the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall be satisfied by preparing an environmental assessment with respect to such general permit.”

(b) REGULATORY REVISIONS REQUIRED.—The Secretary of the Army, acting through the Chief of Engineers, shall expeditiously revise the regulations applicable to carrying out section 404(e) of the Federal Water Pollution Control Act (33 U.S.C. 1344) in order to streamline the processes for issuing general permits under such section to promote efficient and consistent implementation of such section.

(c) ADMINISTRATION OF NATIONWIDE PERMIT PROGRAM.—In carrying out section 404(e) of the Federal Water Pollution Control Act (33 U.S.C. 1344), including in revising regulations under subsection (b) of this section, the Secretary of the Army, acting through the Chief of Engineers, may not finalize or implement any modification to—

(1) general condition 15 (relating to single and complete projects), as included in the final rule titled “Reissuance and Modification of Nationwide Permits” and published on January 13, 2021, by the Department of the Army, Corps of Engineers (86 Fed. Reg. 2868);

(2) the definition of the term “single and complete linear project”, as included in such final rule (86 Fed. Reg. 2877); or

(3) the definition of the term “single and complete project”, as included in section 330.2 of title 33, Code of Federal Regulations (as in effect on the date of enactment of this Act).

SEC. 14. DEADLINE FOR REQUEST FOR SUBMISSION OF ADDITIONAL INFORMATION FOR PERMIT PROGRAMS FOR DREDGED OR FILL MATERIAL.

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

(1) in subsection (g)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following:

“(3) If the Administrator determines that additional information is necessary for the description of a program submitted by a State to be full and complete under paragraph (1), the Administrator shall, not later than 45 days after the date of the receipt of the program and statement submitted by the State under such paragraph, submit to the State a written request for all such information.”; and

(2) in subsection (h)(1), by striking “paragraph (1) of this subsection” and inserting “subsection (g)(1)”.

SEC. 15. JUDICIAL REVIEW TIMELINE CLARITY.

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

- (1) by redesignating subsection (t) as subsection (u);
- (2) in subsection (u), as so redesignated, by striking “Nothing in the section” and inserting “SAVINGS PROVISION.—Nothing in this section”; and
- (3) by inserting after subsection (s) the following:

“(t) JUDICIAL REVIEW.—

“(1) STATUTE OF LIMITATIONS.—Notwithstanding any applicable provision of law relating to statutes of limitations—

“(A) an action seeking judicial review of the approval by the Administrator of a State permit program pursuant to this section shall be filed not later than the date that is 60 days after the date on which the approval was issued;

“(B) an action seeking judicial review of an individual permit or general permit issued under this section shall be filed not later than the date that is 60 days after the date on which the permit was issued; and

“(C) an action seeking judicial review of a verification that an activity involving a discharge of dredged or fill material is authorized by a general permit issued under this section shall be filed not later than the date that is 60 days after the date on which such verification was issued.

“(2) LIMITATION ON COMMENCEMENT OF CERTAIN ACTIONS.—Notwithstanding any other provision of law, no action described in subparagraph (A) or (B) of paragraph (1) may be commenced unless the action—

“(A) is filed by a party that submitted a comment—

“(i) during the public comment period for the administrative proceedings related to the action; and

“(ii) which was sufficiently detailed to put the Administrator, the Secretary, or the State, as applicable, on notice of the issue upon which the party seeks judicial review; and

“(B) is related to such comment.

“(3) REMEDIES.—

“(A) ACTIONS RELATING TO PERMIT PROGRAMS.—If a court determines that the Administrator did not comply with the requirements of this section in issuing an approval of a State permit program pursuant to this section—

“(i) the court shall remand the matter to the Administrator for further proceedings consistent with the determination of the court; and

“(ii) the court may not vacate, revoke, enjoin, or otherwise limit the authority of the State to issue permits under such State permit program.

“(B) ACTIONS RELATING TO PERMITS.—If a court determines that the Secretary or the State, as applicable, did not comply with the requirements of this section in issuing an individual or general permit under this section, or in verifying that an activity involving a discharge of dredged or fill material is authorized by a general permit issued under this section, as applicable—

“(i) the court shall remand the matter to the Secretary or the State, as applicable, for further proceedings consistent with the determination of the court;

“(ii) with respect to a determination regarding the issuance of an individual or general permit under this section, the court may not vacate, revoke, enjoin, or otherwise limit the permit, unless the court finds that activities authorized under the permit would present an imminent and substantial danger to human health or the environment for which there is no other equitable remedy available under the law; and

“(iii) with respect to a determination regarding a verification that an activity involving a discharge of dredged or fill material is authorized by a general permit issued under this section, the court may not enjoin or otherwise limit the discharge unless the court finds that the activity would present an imminent and substantial danger to human health or the environment for which there is no other equitable remedy available under the law.

“(4) TIMELINE TO ACT ON COURT ORDER.—If a court remands a matter under paragraph (3), the court shall set and enforce a reasonable schedule and deadline, which may not exceed 180 days from the date on which the court remands such matter, except as otherwise required by law, for the Administrator, the Secretary, or the State, as applicable, to take such actions as the court may order.”.

SEC. 16. RESTORING FEDERALISM IN CLEAN WATER PERMITTING.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall complete a review of the regulations applicable to the approval of State permit programs under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) in order to identify revisions to such regulations necessary to streamline the approval process, reduce administrative burdens, and encourage additional States to administer a permit program under such section, and the Administrator shall implement any such revisions as appropriate.

SEC. 17. JURISDICTIONAL DETERMINATION BACKLOG REDUCTION.

Not later than 60 days after the date of enactment of this Act, the Secretary of the Army, acting through the Chief of Engineers, shall expedite such procedures and reallocate or augment such personnel and resources of the Corps of Engineers as the Secretary determines necessary to eliminate any backlog existing as of June 5, 2025, of—

- (1) applications for permits under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); or
- (2) requests for jurisdictional determinations or wetlands delineations under the jurisdiction of the Secretary.

SEC. 18. DEFINITION OF NAVIGABLE WATERS.

Section 502(7) of the Federal Water Pollution Control Act (33 U.S.C. 1362(7)) is amended—

- (1) by striking “(7) The term” and inserting the following:

“(7) NAVIGABLE WATERS.—

“(A) IN GENERAL.—The term”; and

- (2) by adding at the end the following:

“(B) EXCLUSIONS.—The term ‘navigable waters’ does not include the following:

“(i) Any component of a waste treatment system, including any lagoon or treatment pond (such as a settling or cooling pond), designed to actively or passively—

“(I) convey or retain wastewater; or

“(II) concentrate, settle, reduce, or remove pollutants from wastewater.

“(ii) Ephemeral features that flow only in direct response to precipitation.

“(iii) Any area that—

“(I) prior to December 23, 1985, was drained or otherwise manipulated for the purpose, or having the effect, of making production of an agricultural product possible, as determined by the Administrator and the Secretary of the Army, acting through the Chief of Engineers, which determinations shall be consistent with any designations of prior converted cropland made by the Secretary of Agriculture; and

“(II) as determined by the Administrator—

“(aa) at least once in the immediately preceding five years has been used for, or in support of, agricultural purposes, including grazing, haying, idling land for conservation use (such as habitat management, pollinator and wildlife management, water storage and supply management, and flood management), irrigation tailwater storage, farm-raised fish production, cranberry production, nutrient retention, and idling land for soil recovery after natural disasters such as hurricanes and drought; and

“(bb) has not reverted to wetlands (as defined in section 120.2 of title 40, Code of Federal Regulations, as in effect on the date of enactment of this clause).

“(iv) Groundwater.

“(v) Any other features determined to be excluded by the Administrator and the Secretary of the Army, acting through the Chief of Engineers.”.

SEC. 19. APPLICABILITY OF SPILL PREVENTION, CONTROL, AND COUNTERMEASURE RULE.

Section 1049 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 1361 note) is amended—

- (1) in subsection (b)—

(A) in paragraph (1)(B), by striking “20,000” and inserting “42,000”;

(B) by amending paragraph (2)(A) to read as follows:

- “(A) an aggregate aboveground storage capacity greater than 10,000 gallons but less than 42,000 gallons; and”;
- (C) in paragraph (3)—
 - (i) by amending subparagraph (A) to read as follows:
 - “(A) with an aggregate aboveground storage capacity of less than or equal to 10,000 gallons; and”;
 - (ii) in subparagraph (B), by striking “; and” and inserting a period; and
 - (D) by striking paragraph (4);
- (2) in subsection (c)(2)(A)—
 - (A) in clause (i), by striking “1,000” and inserting “1,320”; and
 - (B) in clause (ii), by striking “2,500” and inserting “3,000”; and
- (3) by striking subsection (d).

SEC. 20. COORDINATION WITH FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL.

With respect to any covered project (as defined under section 41001 of the FAST Act (42 U.S.C. 4370m)) for which a certification or permit from a State under section 401, 402, or 404 of the Federal Water Pollution Control Act is required, the State is encouraged to choose to participate, to the maximum extent practicable, in the environmental review and authorization process under section 41003(c) of the FAST Act (42 U.S.C. 4370m–2(c)), pursuant to paragraph (3)(A) of such section.

SEC. 21. SENSE OF CONGRESS ON CHESAPEAKE BAY WATERSHED AGREEMENT.

It is the sense of Congress that the Chesapeake Bay Watershed Agreement is a voluntary, cooperative agreement between the Federal Government, the State of Delaware, the District of Columbia, the State of Maryland, the Commonwealth of Pennsylvania, the State of New York, the Commonwealth of Virginia, and the State of West Virginia. As such, the Federal Government should take a collaborative and cooperative approach to the parties with regard to their compliance with the Chesapeake Bay Total Maximum Daily Load outlined in such agreement.

PURPOSE OF LEGISLATION

The purpose of H.R. 3898, as amended, is to amend the Federal Water Pollution Control Act to make targeted with respect to waters of the United States, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The *Clean Water Act* (CWA) is the primary law governing water quality of the Nation’s surface waters.¹ Congress enacted the 1972 amendments to the *Federal Water Pollution Control Act*, which is commonly referred to as the CWA, with the objective to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”²

The CWA consists of two major parts: (1) the authorization of financial assistance for construction of municipal wastewater treatment plants, and (2) the regulatory requirements that apply to those who discharge into navigable waters, including for industrial and municipal actors.³ Planning, financial, and technical assistance for various regions and issues are also addressed.⁴ Title III of the CWA establishes the authority for the technological and water quality-based effluent limitation guidelines that must be abided by point source dischargers.⁵ Whereas Title III of the CWA largely focuses on the creation of water quality guidelines and limitations, Title IV primarily deals with application of the regulatory program,

¹ H. COMM. ON TRANSP. & INFRASTRUCTURE, JURISDICTION AND ACTIVITIES OF THE SUBCOMM. ON WATER RESOURCES AND ENVIRONMENT, 119TH CONG., (2025) (on file with Comm.).

² CWA, Pub. L. 92–500, 86 Stat. 816 [hereinafter CWA].

³ See LAURA GATZ, CONG. RSCH. SERV. (RL30030), CLEAN WATER ACT: A SUMMARY OF THE LAW, (Updated Oct. 18, 2016), available at <https://www.crs.gov/Reports/RL30030> [hereinafter CRS Report RL30030].

⁴ *Id.*

⁵ See CRS REPORT RL30030, *supra* note 3; see also CWA, *supra* note 2, §§ 301–320.

informed by the guidelines created pursuant to Title III, through which dischargers must receive permits or certifications.⁶

In order to achieve its objectives, the CWA is predicated on the principle that discharges into waters of the United States are only lawful if authorized by a permit.⁷ Therefore, the application of various CWA components require a regulatory program. While certain regulatory programs under the law may only be carried out by the Federal Government, through either the Environmental Protection Agency (EPA) or the United States Army Corps of Engineers (Corps), certain responsibilities can be assumed by states approved by the EPA.⁸

Broadly, H.R. 3898, as amended, strives to once again find balance within the regulatory and permitting process originally envisioned by the CWA by providing a comprehensive package of commonsense reforms to support energy producers, the agriculture sector, builders, and utilities. The bill includes necessary reforms to promote regulatory efficiency, increase transparency, avoid frivolous litigation, and protect and promote clean water, all while balancing states' rights.

Prior to enactment of the CWA, water quality was seen as an issue primarily concerning states and localities, except where interstate waters were concerned.⁹ As such, the CWA continued this recognition that states and localities play an essential role in maintaining the quality of their own waters, rather than only the Federal Government.¹⁰ At the Federal level, EPA is the primary agency tasked with carrying out the CWA, while the Corps is also tasked with certain responsibilities. Additionally, the various permitting and environmental protection statutes in the CWA were meant to be shared between the Federal Government and state and local governments.¹¹ The CWA is a law predicated on the principle of cooperative Federalism, with the Federal Government and states each playing a role in protecting water quality.

In keeping with the Federal-state goals of the CWA, Section 401 requires an applicant for a Federal license or permit that may result in a discharge into navigable waters to obtain a water quality certification from the state or Tribe (or EPA, in the case of tribal lands where a tribe has not been granted treatment as a state) in which a discharge is to take place.¹² The purpose of the water quality certification issued by the state or Tribe is to certify that any discharges from a Federally permitted activity will comply with certain water quality requirements of the CWA, including effluent limitations and performance standards, water quality standards, and toxic pretreatment standards.¹³

Examples of Federally licensed or permitted projects commonly requiring water quality certification include those requiring dis-

⁶ See CRS REPORT RL30030, *supra* note 3; see also CWA, *supra* note 2, §§ 301, 402, 404.

⁷ See CRS REPORT RL30030, *supra* note 3.

⁸ See e.g. CWA, *supra* note 2, §§ 401, 402, 404.

⁹ CRS REPORT RL30030, *supra* note 3.

¹⁰ *Id.*

¹¹ See e.g. Brief of Sen. Shelley Moore Capito, Rep. Sam Graves, and a Coalition of 199 Members of Congress as *Amici Curiae* supporting Petitioners, *Sackett v. EPA*, No. 21-154, (Oct. 3, 2022).

¹² LAURA GATZ & KATE R. BOWERS, CONG. RSCH. SERV. (R46615), CLEAN WATER ACT SECTION 401: OVERVIEW AND RECENT DEVELOPMENTS, (updated Feb. 7, 2025), available at <https://www.crs.gov/Reports/R46615> [hereinafter CRS REPORT R46615].

¹³ Eric Christensen & Allyn Stern, *The Biden Boomerang Effect Reaches Clean Water Act Section 401*, NATIONAL LAW REVIEW, (Sept. 21, 2023); see CWA, *supra* note 2 at § 401.

charge permits under sections 402 and 404 of the *CWA*, or sections 9 and 10 of the *Rivers and Harbors Act*, licenses from the Federal Energy Regulatory Commission (FERC), bridge permits from the Coast Guard, shoreline permits from the Tennessee Valley Authority, and more.¹⁴ These statutes cover a wide variety of projects, including hydropower projects, wastewater treatment plants, pipeline projects, infrastructure development, mining projects, water resource development projects, and residential or commercial development.¹⁵

Current implementation practices of section 401, however, have been shaped by decades-worth of litigation and unclear guidance. Until 2020, implementation regulations for section 401 published in 1971 were in effect.¹⁶ These regulations implemented the certification provisions of section 21(b) of the *Federal Water Pollution Control Act of 1948*, but EPA did not update the regulations to reflect the changes in the statutory text for nearly fifty years.¹⁷ During this time, many processes evolved in practice that were not reflected in the statute. H.R. 3898, as amended, codifies certain practices and clarifies others, to balance the role of state and Federal Government, and provide certainty and predictability to permittees and licensees that depend on a clear and useable 401 process.

In particular, some stakeholders have raised concerns that states have misused the section 401 process, specifically weaponizing section 401 to prevent important energy projects from obtaining certification and halting their progress in construction.¹⁸ For example, some states have cited non-water quality related reasons in the 401 process to delay projects, expanded the scope of review beyond the direct effects of a discharge, and circumvented the timelines set out in statute.

In 2017, the Washington Department of Ecology denied water quality certification with prejudice for a proposed energy export terminal project, meaning that the applicants could not reapply in the future. In doing so, the Department cited nine adverse impacts for denial—air quality, vehicle transportation, noise and vibration, social and community resources, rail transportation, rail safety, vessel transportation, cultural resources, and tribal resources—none of which affected water quality.¹⁹

In 2020, the New York Department of Environmental Protection denied water quality certification to a proposed natural gas pipeline expansion project into Raritan Bay, despite FERC in 2019 determining that with project proponent’s “plan of impact avoidance, minimization and mitigation measures . . . all project effects would be reduced to less-than-significant levels.”²⁰

¹⁴ See EPA, *Overview of CWA Section 401 Certification*, available at <https://www.epa.gov/cwa-401/overview-cwa-section-401-certification>.

¹⁵ *Id.*

¹⁶ State Certification of Activities Requiring a Federal Permit or License, 36 Fed. Reg. 22487 (Nov. 25, 1971) (formerly codified at 40 C.F.R. § 121).

¹⁷ *Id.*; CRS REPORT R46615, *supra* note 12.

¹⁸ See e.g. Letter from Interstate Natural Gas Association of America to Reps. Mike Collins & Frederica Wilson (Feb. 10, 2025) (on file with Comm.).

¹⁹ See Letter from Maia D. Bello, Director, Washington Department of Ecology, to Kristin Gaines, Millennium Bulk Terminals-Longview, LLC, (Sept. 26, 2017), available at <https://ecology.wa.gov/getattachment/8349469b-a94f-492b-acca-d8277e1ad237/MBTL-Denial.pdf>.

²⁰ Letter from Daniel Whitehead to Joseph Dean, Transcontinental Gas Pipe Line Company, LLC, (May 15, 2020), available at https://extapps.dec.ny.gov/docs/permits_ej_operations_pdf/neewqc denial05152020.pdf; Transcontinental Gas Pipe Line Company, LLC; Notice of Final General Conformity Determination for the Proposed Northeast Supply Enhancement Project, 84

The State of Oregon delayed a proposed LNG export terminal by requesting more information from project proponents before eventually denying certification.²¹ By citing the need for additional information, the state was able to argue that the one-year “shot clock” for review of a request for certification should start over once a request is resubmitted.²²

In California, some hydropower relicensing projects have been delayed for decades due to the State’s various attempts to circumvent the one-year timeline for review. For example, at a Water Resources and Environment Subcommittee hearing in February 2025, the Committee received testimony for the record from the Modesto Irrigation District and Turlock Irrigation District that explained the State “has abused and expanded this opportunity, using it not as the opportunity to ensure that any federally authorized discharge complies with applicable water quality, but rather as an opportunity to seize control and oversight of the [Don Pedro irrigation] Project as a whole to achieve policy goals that are often only tangentially related to water quality and which have nothing to do with the licensed activity itself.”²³

Section five of H.R. 3898, as amended, aims to mitigate the problems of permitting uncertainty and weaponization of Section 401 under the CWA. This section promotes the development of the Nation’s energy infrastructure and myriad other projects by clarifying the scope of review to include only water quality reasons from the discharge at issue, defines what is required to be included in a request for certification, codifies what actions states may take after receipt of a request for certification, and clarifies the entity in charge of enforcing conditions added in through the 401 process.

Another key aspect of the CWA’s framework of cooperative Federalism is the ability for States to carry out the permitting programs set up by sections 402 and 404 of the CWA. While 47 states have assumed the ability to carry out the National Pollution Discharge Elimination System (NPDES) programs under section 402, only two states (Michigan and New Jersey) have been delegated authority to administer their own 404 dredge and fill programs.²⁴ Florida had begun administering its own 404 permitting program after the program was approved in December 2020; currently, however, the program has been divested of its authority due to a Federal judicial order.²⁵ Other states have acknowledged interest in implementing their own 404 program, but concerns about taking on the costs of running such a program are often a barrier.²⁶

Fed. Reg. 5078, (Feb. 20, 2019), available at <https://www.federalregister.gov/documents/2019/02/20/2019-02830/transcontinental-gas-pipe-line-company-llc-notice-of-final-general-conformity-determination-for-the>.

²¹ OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY, *Jordan Cove Energy Project: Current Actions*, available at <https://www.oregon.gov/deq/Programs/Pages/Jordan-Cove.aspx>.

²² *Id.*

²³ *America Builds: Clean Water Act Permitting and Project Delivery, Before the Subcomm. On Water Resources and Environment of the H. Comm. On Transp. And Infrastructure*, 119th Cong. (Feb. 10, 2025) (Testimony for the Record from Modesto Irrigation District and Turlock Irrigation District) (on file with Comm.).

²⁴ *Id.*

²⁵ EPA, *State and Tribal Assumption of Section 404 of the Clean Water Act*, available at <https://www.epa.gov/cwa404g/us-interactive-map-state-and-tribal-assumption-under-cwa-section-404>; see also STATE OF FLORIDA, *State 404 Program*, available at <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/state-404-program>.

²⁶ *America Builds: The State of the Nation’s Transportation System: Hearing Before the H. Comm. on Transp. and Infrastructure*, 119th Cong. (Jan. 15, 2025), (Testimony of Hon. Jeff Landry, Governor, State of Louisiana).

Sections 14 and 16 of H.R. 3898, as amended, are focused on providing clarity to the process of state assumption of dredge and fill permitting under section 404 of the CWA. Section 16 requires EPA to complete a review of the applicable regulations to state assumption of the section 404 program and implement revisions necessary to encourage state assumption. Section 14 establishes a deadline relating to EPA's review of a state's application to assume section 404 permitting. Section 20 of H.R. 3898, as amended, encourages states with delegated permitting authorities under the CWA to utilize the Federal Permitting Improvement Steering Council to improve coordination across relevant Federal and state agencies. In general, H.R. 3898, as amended, furthers the goals of cooperative Federalism that the CWA is based upon by encouraging states to take the lead in administering CWA permits.

Furthermore, CWA section 303(c) directs states to adopt water quality standards (WQS) for navigable waters. The EPA is charged with approving the state-developed standards. WQS serve as the basis for several CWA programs, including the development of total maximum daily loads (TMDLs), certifications of Federal licenses and permits under section 401, NPDES permits under section 402, and dredge and fill permits under section 404.

Currently, CWA section 402(q) requires municipalities with combined sewer overflows to develop long-term control plans (LTCPs) to minimize or eliminate discharges. It also instructs states to review and, as appropriate, modify existing WQS while municipalities are developing and implementing LTCPs to support compliance with the CWA. Those reviews, however, have largely not happened, and despite municipalities investing millions of dollars in upgrading their facilities, many are no closer to being deemed in compliance with the CWA.²⁷ Many stakeholders have also raised concerns about states developing WQS that are not attainable based on available technology.²⁸ For example, the State of Washington has set WQS that are so low many industries are concerned they will not be able to comply with the CWA.²⁹

While the CWA protects “navigable waters,” which are broadly defined in the CWA as the “waters of the United States, including the territorial seas,”³⁰ the CWA does not further define the term “waters of the United States” (WOTUS). Ultimately, the CWA grants authority to the EPA and the Corps to implement the CWA, and EPA and the Corps have promulgated several sets of rules defining WOTUS as it governs the scope of CWA authority. There has been a substantial amount of regulation and litigation in the Federal Courts on the scope of CWA jurisdiction over the years, including multiple United States Supreme Court cases. In May 2023, the Supreme Court concluded in *Sackett v. EPA* (*Sackett*) that the CWA's jurisdiction encompasses waters that are “relatively permanent, standing or continuously flowing bodies of water ‘forming geographical features’ that are described in ordinary parlance as

²⁷ National Association of Clean Water Agencies, Comments on EPA's Draft Guidance for Future NPDES Permitting of Combined Sewer Systems (Docket ID No. EPA-HQ-OW-2023-0475).

²⁸ *Id.*

²⁹ Brief of the American Exploration & Mining Association, American Farm Bureau Association, Fertilizer Institute, National Association of Home Builders, National Association of Manufacturers, and National Mining Association as *Amici Curiae* supporting Plaintiffs' motion for summary judgement, *Association of Washington Business, et al. v. EPA* (May 20, 2024).

³⁰ CWA, *supra* note 2.

‘streams, oceans, rivers, and lakes.’”³¹ The Supreme Court also held that jurisdictional wetlands “must be indistinguishably part of a body of water that itself constitutes ‘waters’ under the CWA.”³²

The recent *Sackett* decision provided additional direction on the WOTUS definition, and therefore, the jurisdiction of the CWA. However, the conforming rule issued by the EPA and the Corps during the Biden Administration did not include or clarify certain phrases and terms applied in *Sackett*. The Biden Administration developed additional guidance to implement the “continuous surface connection” test outlined by *Sackett*, while simultaneously working through individual requests for CWA jurisdictional determinations in light of the *Sackett* decision. However, many stakeholders in the regulated community have raised concerns about the slow pace at which the Biden Administration directed EPA and the Corps to implement *Sackett*, as well as the lack of clear direction the Biden Administration provided to the regulated public, even through its supplemental guidance.

Although the Trump Administration is initiating a process to revise the Biden rule and published updated implementation guidance,³³ the regulatory ambiguities following the *Sackett* decision caused confusion in applying the rule, especially for Corps districts who are tasked with issuing jurisdictional determinations (JDs), which are generally required as part of the CWA section 404 permit process.³⁴ For example, the Army Corps of Engineers has recently reported there are currently 3,588 pending JDs.³⁵ This backlog is delaying permits from moving forward that are critical to building new roads, homes, and other important infrastructure projects across the country. Because of this, section 17 of H.R. 3898, as amended, requires the Army Corps of Engineers to allocate all necessary resources and staff to address the backlog of JDs.

Despite the continuously changing definition of a WOTUS, there have been certain exclusions to the definition that have endured both Democrat and Republican administrations for waste treatment systems,³⁶ ephemeral features,³⁷ prior converted cropland,³⁸ and groundwater.³⁹ Section 18 of H.R. 3898, as amended, codifies those exclusions into law, providing certainty and durability for the

³¹*Sackett v. Environmental Protection Agency*, 598 U.S. 651 (2023) [Hereinafter *Sackett*].

³²*Id.*

³³EPA and Department of the Army, Corps of Engineers, *The Final Response to SCOTUS: Establishment of a Public Docket; Request for Recommendations* 40 Fed. Reg. 120, (March 24, 2025), available at https://www.epa.gov/system/files/documents/2025-03/wotus_notice_march_2025.pdf.

³⁴Jurisdictional determinations are performed on a property in order to delineate which waters are Waters of the U.S. and are therefore subject to CWA § 404.

³⁵E-mail from Amy Klein, Congressional Affairs Program Manager, U.S. Army Corps of Engineers HQ to Lydia Denis, Professional Staff, H. Comm. On Transp. and Infrastructure (June 5, 2025) (on file with Comm.).

³⁶The waste treatment system exclusion, which includes features like treatment ponds and lagoons that are intended to improve water quality, was first codified in 1979. This exclusion was maintained by subsequent administrations, including the Biden Administration.

³⁷Ephemeral features, which flow only in direct response to precipitation, have been consistently excluded from the WOTUS definition. The Reagan and Bush Administrations generally treated these features as non-jurisdictional, but the Obama Administration included some ephemeral streams as jurisdictional, which was a flashpoint for litigation. The Trump Administration explicitly excluded ephemeral features in their 2020 regulations, which was ultimately maintained by the Biden Administration because of the Supreme Court ruling in *Sackett*.

³⁸Prior Converted Cropland, which are wetlands that were converted to agricultural lands and cultivated with a commodity crop prior to December 23, 1985, have been continuously excluded from the WOTUS definition since 1993.

³⁹There has been increased interest from environmental organizations in making groundwater jurisdictional under the CWA. However, the CWA is only authorized to regulate surface waters.

regulated community who have utilized those exemptions for decades.

Section 402 of the CWA authorizes the National Pollutant Discharge Elimination System (NPDES) program to regulate discharges of pollutants from point sources into navigable waters.⁴⁰ Point sources are defined as “any discernible, confined and discrete conveyance, such as a pipe, ditch, channel, conduit, discrete fissure, or container,”⁴¹ and also include “vessels or other floating craft” from which pollutants may be discharged.⁴² Certain agriculture, silviculture, and stormwater runoff are exempted from requiring a NPDES permit.⁴³ Sections 9 and 10 of H.R. 3898, as amended, further clarifies these exemptions for agriculture runoff and aerial fire-retardant, respectively, which have experienced legal uncertainty over the last decade.

The CWA explicitly excludes “agricultural stormwater discharges” and “return flows from irrigated agriculture” from the definition of a point source, which means these discharges are not required to be regulated under the NPDES program.⁴⁴ Despite this clear exemption, in 2011, the EPA ordered a poultry farmer, Lois Alt, in West Virginia to obtain a NPDES permit for stormwater runoff from her farmyard, which is the area directly outside of the poultry production house.⁴⁵ The EPA claimed that chicken feathers, manure, dander, and other debris that had been pushed out of the poultry house through the ventilation system, and landed in areas outside the poultry production houses, qualify as a discharge. Ms. Alt challenged this order, and the United States Court for the Northern District of West Virginia ruled against EPA in 2013, rejecting its argument that the CWA regulates ordinary stormwater runoff from non-production areas at livestock or poultry farms.⁴⁶

The EPA initially appealed the case, but it voluntarily withdrew the appeal a few months later. In a public statement, the EPA stated that it “remains committed to working with the agricultural community to ensure compliance with this legal requirement and to pursue enforcement when necessary,”⁴⁷ indicating its intent to circumvent the agricultural stormwater exemption in the CWA. Section 9 of H.R. 3898, as amended, clarifies the scope of the agriculture stormwater exemption under the NPDES program to prevent future EPA’s from unlawfully requiring agricultural operations from requiring a NPDES permit for stormwater discharges.

Conversely, the EPA has historically not required a permit for aerial fire-retardant discharges under the NPDES program. However, in October 2022, the Forest Service Employees for Environmental Ethics (FSEEE) brought suit against the United States Forest Service (USFS) for discharging aerially deployed fire retardant into navigable waters without a NPDES permit, in violation of the

⁴⁰ CWA, *supra* note 2, § 402.

⁴¹ *Id.*

⁴² *Id.*; see generally also EPA, *NPDES Permit Basics*, available at <https://www.epa.gov/npdes/npdes-permit-basics> [Hereinafter NPDES Basics].

⁴³ *Id.*

⁴⁴ CWA, *supra* note 2, § 402(l).

⁴⁵ *Alt v. EPA*, 979 F. Supp. 2d 701 (N.D.W. Va. 2013).

⁴⁶ *Id.*

⁴⁷ See Cynthia Giles, A Commitment to Keep Our Waters Clean and Safe, <http://blog.epa.gov/blog/2014/09/a-commitment-to-keep-our-watersclean-and-safe/>.

CWA.⁴⁸ The United States District Court for the District of Montana subsequently granted, in part, FSEEE's motion for summary judgement on the basis that USFS had violated the CWA for the discharge of aerial fire retardant without a NPDES permit and required the EPA to work with USFS to develop a permit.⁴⁹ Section 10 of H.R. 3898, as amended, clarifies that aerially discharged fire-retardant does not require a NPDES permit.

Similarly, for more than three decades following the enactment of the CWA, EPA did not consider registered pesticides used in compliance with the *Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)* as pollutants that required additional permits through the NPDES program, formalized in a 2006 Rule promulgated by EPA.⁵⁰ However, in 2009, the United States Sixth Circuit Court of Appeals held in *National Cotton Council, et al., v. EPA*, that the final rule was not a reasonable interpretation of the CWA and vacated the rule.⁵¹ The court held that NPDES permits are required for the application of biological pesticides or the application of chemical pesticides that leave a residue in water when such applications are made to, or conveyed into, a WOTUS.⁵²

Concerns were raised at the time of the *National Cotton Council* case that requiring additional regulation of pesticides under the CWA would create a duplicative permitting process without providing any additional health benefits. For example, then-Secretary of Agriculture Tom Vilsack wrote to then-EPA Administrator Lisa Jackson, stating, "subjecting *FIFRA*-compliant pesticides to the additional regulatory regime of the CWA is duplicative and will not help protect the environment."⁵³ Section 11 of H.R. 3898, as amended, restores EPA's longstanding interpretation that *FIFRA*-compliant pesticides do not require a duplicative permitting process through the NPDES program.

Since all point source dischargers are subject to the NPDES program, a total of more than 65,000 industrial and municipal conventional dischargers are required to obtain permits pursuant to section 402.⁵⁴ In addition, NPDES permits are required for stormwater discharges from industrial and municipal sources, including over 150,000 individual sources.⁵⁵ NPDES permits require the point source to attain technology-based effluent limits, while specifying the numerical effluent limitations that sources must meet in order to guarantee water quality where possible, and a deadline for compliance.⁵⁶ Point sources may, in some instances,

⁴⁸ *Forest Service Employees for Environmental Ethics v. United States Forest Service*, 2023 WL 3687454, (D. Mont. May 26, 2023); CWA §402 (prohibiting the discharge of any pollutant from any point source to navigable waters unless authorized by a permit. These permits are referred to as "National Pollutant Discharge Elimination System" permits.).

⁴⁹ *Forest Service Employees for Environmental Ethics*, 2023 WL 3687454.

⁵⁰ LAURA GATZ, ET AL., CONG. RSCH. SERV. (IF10919), PERMITTING FOR PESTICIDE DISCHARGES INTO NAVIGABLE WATERS: ISSUES AND LEGISLATION IN THE 117TH CONGRESS, (Updated May 27, 2022), available at <https://www.crs.gov/Reports/IF10919>; EPA, *Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Federal Facilities*, available at <https://www.epa.gov/enforcement/federal-insecticide-fungicide-and-rodenticide-act-fifra-and-federal-facilities>.

⁵¹ *National Cotton Council of America v. U.S. Environmental Protection Agency*, 553 F.3d 927 (6th Cir. 2009).

⁵² *Id.*

⁵³ Letter from Hon. Thomas J. Vilsack, Secretary, United States Dep't of Agriculture, to Hon. Lisa P. Jackson, Fmr. Administrator, United States Environmental Protection Agency, Re: The *National Cotton Council, et. al., v. United States Environmental Protection Agency*, (Mar. 6, 2009) (on file with Comm.).

⁵⁴ CRS REPORT RL30030, *supra* note 3.

⁵⁵ *Id.*

⁵⁶ *Id.*

apply for a NPDES general permit as opposed to a NPDES individual permit. An individual NPDES permit is written for site-specific discharges that are unique to a specific location or discharge.⁵⁷

Currently, general and individual NPDES permits are issued for up to five years and must be renewed thereafter if discharges continue.⁵⁸ However, if the permittee provides a complete application, but is not reissued a permit prior the date of expiration, the permit may be “administratively continued.”⁵⁹ Permit applications are considered backlogged for new applications if they are not issued or denied within 365 days of receipt, and for extensions if they are administratively continued for 180 days or more.⁶⁰ H.R. 3898, as amended, seeks to provide more certainty for all NPDES permit holders. Section 7 authorizes NPDES permits to be issued for up to ten years, and Section 7 requires EPA to provide two-year notice to general permit holders if that permit will not be renewed and allows the permit to continue past its expiration date if two-year notice is not provided to the permit holder.

Under section 304(a) of the CWA, the EPA is required to develop, publish, and, from time to time, revise criteria for water quality. These criteria serve as recommendations to states for defining ambient surface water conditions of a water body to protect against adverse effects to aquatic life and human health.⁶¹ These criteria are often adopted by states and help inform the development of water quality-based effluent limits included in NPDES permits.⁶² Currently, the EPA voluntarily accepts comments on proposed criteria under 304(a) and subjects them to review from its own Science Advisory Board. In a hearing before the Subcommittee on May 16, 2023, a witness representing the National Association of Clean Water Agencies, Mickey Conway, Chief Executive Officer (CEO) of Metro Water Recovery in Denver, CO, testified, “[a]s utilities face complex and costly infrastructure challenges over the next fifty years, it is critical that the limits imposed in NPDES permits be based on the best available science and a complete record, not political whim or expedience.”⁶³ Section 3 of H.R. 3898, as amended, increases the transparency of the process of creating limits for NPDES permits by requiring that water quality criteria are developed through an official rulemaking, which allows outside comments made by stakeholders, experts, and others, to be considered. It also ensures that the rulemaking is subject to limited judicial review.

The CWA provides for two types of general limits on pollution discharges—a technology-based limit (TBEL) and a more-stringent water quality-based limit (WQBEL) when technology-based limits alone, are insufficient to address local water quality concerns. Permit writers must consider the potential impact of every proposed

⁵⁷ See NPDES Permit Basics, *supra* note 42.

⁵⁸ See *id.* (stating applicants for NPDES permit renewals must complete an application for renewal at least 180 days prior to original expiration).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ EPA, *NPDES Permit Writers' Manual*, available at https://www.epa.gov/sites/default/files/2015-09/documents/pwm_2010.pdf.

⁶² *Id.*

⁶³ *The Next Fifty Years of the Clean Water Act: Examining the Law and Infrastructure Project Completion, Before the Subcomm. on Water Resources and Environment of the H. Comm. on Transp. And Infrastructure*, 118th Cong., (May 16, 2023) (written testimony of Mr. Mickey Conway, CEO, Metro Water Recovery, Denver Colorado, on behalf of National Association of Clean Water Agencies).

surface water discharge on the quality of the receiving water. If TBELs are not sufficient to meet the water quality standards in the receiving water, the CWA (section 303(b)(1)(B)) and NPDES regulations (40 C.F.R. 122.44(d)) require that the permit writer develop more stringent, water quality-based effluent limits (WQBELs).⁶⁴

TBELs for industrial dischargers reflect effluent limitation guidelines (ELGs). ELGs are technology-based, wastewater discharge standards that are developed by the EPA on an industry-by-industry basis. ELGs are intended to represent the greatest pollutant reductions that are economically achievable for an industry and are based on available technologies.⁶⁵ Since 1972, EPA has promulgated ELGs for 59 industrial categories, including the steam electric power industry—which covers power plants that use nuclear or fossil fuels to generate steam used to produce electricity.⁶⁶ Some have raised concerns that the technologies used to develop the ELG for steam electric power under the Biden Administration was based on data from foreign countries, including China.⁶⁷ Section 4 of H.R. 3898, as amended, requires ELGs to be based on technology that is commercially available in the United States that has also been demonstrated at an applicable scale.

Section 402(k) of the CWA provides a “permit shield” for permit holders.⁶⁸ Under this provision, if a permittee is in compliance with its NPDES permit terms, they are shielded from enforcement action from agencies and third parties. The United States Supreme Court has held that this permit shield serves to “insulate permit holders from changes in various regulations during the period of a permit and to relieve permit holders of having to litigate the question of whether their permits are sufficiently strict. In short, section 402(k) serves the purpose of giving permits finality.”⁶⁹

Some permit holders contend that permit writers are inappropriately incorporating generic requirements within NPDES permits as enforceable effluent limitations, which have attracted legal challenges. For example, the San Francisco Public Utilities Commission (SFPUC) sued the EPA for requiring their NPDES permit to include broad language outside of clear effluent limitations mandating their discharges to not “cause or contribute to the violation of water quality standards.”⁷⁰

In March 2025, the Supreme Court held in *City and County of San Francisco v. Environmental Protection Agency* that the CWA allows EPA to issue permits that limit a permit holder’s discharges and that these “end-result” requirements, routinely imposed in NPDES permits through generic language, were inconsistent with the CW.⁷¹ Specifically, the court stated: “[W]e hold that

⁶⁴ EPA, *Permit Limits-TBELs and WQBELs*, available at <https://www.epa.gov/npdes/permit-limits-tbels-and-wqbels>.

⁶⁵ EPA, *Learn about Effluent Guidelines*, available at <https://www.epa.gov/eg/learn-about-effluent-guidelines>.

⁶⁶ LAURA GATZ, CONG. RSCH. SERV. (IF12705), EFFLUENT LIMITATION GUIDELINES (ELGS) FOR STEAM ELECTRIC POWER PLANTS (updated Mar. 26, 2025), available at <https://www.crs.gov/Reports/IF12705>.

⁶⁷ See Comments of the National Mining Association on EPA’s Proposed Supplemental Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category; Docket ID No. EPA-HQ-OW-2009-0812.

⁶⁸ CWA, *supra* note 2, § 402(k).

⁶⁹ E. I. du Pont de Nemours & Co. v. Train, 430 U.S. 112 (1977).

⁷⁰ San Francisco v. EPA, 604 U.S. ____ (2025).

⁷¹ *Id.*

§ 1311(b)(1)(C) does not authorize the EPA to include “end-result” provisions in NPDES permits. Determining what steps a permittee must take to ensure that water quality standards are met is the EPA’s responsibility, and Congress has given it the tools needed to make that determination. If the EPA does what the CWA demands, water quality will not suffer.”⁷²

Section 8 of H.R. 3898, as amended, would reaffirm the Supreme Court’s ruling in *San Francisco v. EPA* and clarify the scope of the permit shield as outlined by a 1994 EPA policy guidance document.⁷³ The 1994 guidance specified that permittees are shielded from liability under lawful NPDES permits for (1) pollutants specifically limited in a permit; (2) pollutants specifically identified as present in a permit; or (3) pollutants not specifically identified as present, but which are constituents of operations or processes that are specifically identified in a permit.⁷⁴ It also requires permit writers to include specific information on the pollutant limitation, therefore reducing ambiguity and the use of generic language in NPDES permits.

A Total Maximum Daily Load (TMDL) is often referred to as a “pollution diet” and is defined as the “calculation of the maximum amount of a pollutant allowed to enter a waterbody so that the waterbody will meet and continue to meet water quality standards for that particular pollutant”.⁷⁵ In waters where industrial and municipal sources have achieved TBELs, but WQS have not been met, dischargers may be required to meet additional pollution control requirements through a TMDL, which can impact both point source and non-point source dischargers.⁷⁶ The Chesapeake Bay TMDL is the largest, most comprehensive TMDL developed by EPA. It encompasses 64,000 square miles across six states and the District of Columbia.⁷⁷

EPA established the Chesapeake Bay TMDL in 2010 pursuant to consent decrees resolving litigation over impairment of waters in Virginia and the District of Columbia, following years of voluntary and cooperative measures taken amongst states within the Chesapeake Bay Watershed.⁷⁸ The TMDL set two broad goals: an interim goal of having 60 percent of pollution control measures needed to attain water quality standards in place by 2017 and a final goal of having 100 percent of the measures in place by 2025.⁷⁹ Litigation has taken place over the last fifteen years against the EPA for the implementation of the TMDL, as well as against certain Bay states—Pennsylvania in particular—due to concerns surrounding implementation. Section 21 of H.R. 3898, as amended, expresses that it’s the sense of Congress that the EPA should take a collaborative and cooperative approach in working with the states and the

⁷² *Id.*

⁷³ EPA, Policy Statement on Scope of Discharge Authorization and Shield Associated with NPDES Permits, available at <https://www3.epa.gov/npdes/pubs/owm615.pdf>.

⁷⁴ *Id.*

⁷⁵ EPA, *Overview of Total Maximum Daily Loads (TMDLs)*, available at <https://www.epa.gov/tmdl/overview-total-maximum-daily-loads-tmdls>.

⁷⁶ *Id.*

⁷⁷ EPA, Chesapeake Bay TMDL Fact Sheet, available at <https://www.epa.gov/chesapeake-bay-tmdl/chesapeake-bay-tmdl-fact-sheet>.

⁷⁸ LAURA GATZ, CONG. RSCH. SERV. (IF11402), STATUS OF EFFORTS TO RESTORE CHESAPEAKE BAY WATER QUALITY (UPDATED JUNE 30, 2025), AVAILABLE AT [HTTPS://CRS.GOV/REPORTS/PDF/IF11402/IF11402.PDF](https://crs.gov/reports/pdf/IF11402/IF11402.PDF).

⁷⁹ *Id.*

District of Columbia to achieve compliance with the Chesapeake Bay TMDL.

Section 404 of the CWA authorizes a separate type of permit required to discharge dredged or fill materials into navigable waters. Activities covered under the section 404 program include those associated with pipeline projects; water resources projects such as levees and dams; mining projects such as those for critical minerals; infrastructure development such as highways and airports; and other development.⁸⁰ Some activities are exempt from section 404 permitting requirements, such as certain farming and forestry activities.⁸¹

Pursuant to section 404, the Corps issues two types of permits: general and individual. The CWA authorizes the issuance of general permits for discharges that are “similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment”⁸² and are issued on a Nationwide, regional, or state basis for particular categories of activities.⁸³ Nationwide Permits (NWP) and Regional General Permits are issued by the Corps on a National basis and are designed to “enhance regulatory efficiency and provide clarity for the regulated public without decreasing environmental protections.”⁸⁴ The most recent reissuance of NWPs went into effect in February 2022, covering 59 distinct activity categories, including mooring buoys, residential developments, utility lines, road crossings, and mining activities.⁸⁵ On June 18, 2025, the Corps released a proposed rule titled “Proposal to Reissue and Modify Nationwide Permits”⁸⁶ Similar to other permits, NWPs are often subject to litigation.⁸⁷ Section 13 of H.R. 3898, as amended, would, in effect, codify the current process followed by the Corps in relation to its NWP program. The section also establishes minimum acreage requirements for all NWPs.

Section 404 also authorizes the EPA to restrict, prohibit, deny, or withdraw the specification by the Corps of a site for the discharge of dredged or fill material, if the agency determines that the discharge will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational areas.⁸⁸ Section 404(c) is commonly referred to as the EPA’s “veto authority.” Since the CWA’s enactment, the EPA has issued fourteen section 404(c) determinations, most recently for the Pebble Deposit Area in Alaska.⁸⁹ Concerns have been raised about the EPA’s use of the 404(c) authority to retroactively issue a veto

⁸⁰ EPA, *Permit Program under CWA Section 404*, available at <https://www.epa.gov/cwa-404/permit-program-under-cwa-section-404> [hereinafter Permit Program under CWA Section 404].

⁸¹ *Id.*

⁸² CWA, *supra* note 2, § 404(e).

⁸³ *Id.*; see also Permit Program under CWA Section 404, *supra* note 80.

⁸⁴ Press Release, CORPS, *Army Corps of Engineers announces publication of 2021 Nationwide Permits* (Jan. 13, 2021), available at <https://www.usace.army.mil/Media/News-Releases/News-Release-Article-View/Article/2470506/army-corps-of-engineers-announces-publication-of-2021-nationwide-permits>.

⁸⁵ See CORPS, *2021 Nationwide Permit Information*, available at <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Nationwide-Permits>.

⁸⁶ Corps, Proposed Rule, “Proposal to Reissue and Modify Nationwide Permits,” 90 Fed. Reg. 26100, (June 18, 2025).

⁸⁷ See generally *Sierra Club, Inc. v. Bostick*, CASE NO CIV-12-742-R (W.D. Okla. Dec. 30, 2013) and *Sierra Club v. U.S. Army Corps of Engineers*, 803 F.3d 31 (D.C. Cir. 2015).

⁸⁸ CWA, *supra* note 2, § 404(c); See also EPA, *Clean Water Act Section 404(c) “Veto Authority”*, available at <https://www.epa.gov/sites/default/files/2016-03/documents/404c.pdf>.

⁸⁹ EPA, *Chronology of CWA Section 404(c) Actions*, available at <https://www.epa.gov/cwa-404/chronology-cwa-section-404c-actions>.

after a project has received a permit or preemptively veto a project before an application for a 404 permit is filed.

For example, in 2007, the Corps issued a permit for Spruce No. 1 Mine located in Logan Co., West Virginia. After a change in Administration and legal action delaying the beginning of construction, the EPA vetoed the permit retroactively in 2011.⁹⁰ In January 2023, the EPA preemptively vetoed a Section 404 permit for mine development at the Pebble Deposit Area in Bristol Bay, Alaska. This determination was made without an active section 404 permit and based on Pebble Limited Partnership's mine plan from 2020.⁹¹ Section 12 of H.R. 3898, as amended, would only permit the EPA to issue a veto when there is an active application for a Section 404 permit, providing more certainty to permit seekers and holders, as well as permitted projects. This legislation would not have any retroactive impact on projects that have already underwent a veto process.

In addition to the EPA's veto authority, the *Administrative Procedure Act* provides a six-year statute of limitations for challenges to section 404 permits, which provides third parties an opportunity to legally challenge the issuance of a permit.⁹² This six-year window for legal action has caused project delays, added costs, and created uncertainty for permit seekers, as well as for the Federal Government. Mr. Noah Hanners, on behalf of the National Association of Manufacturers, at a Water Resources and Environment Subcommittee Hearing in February 2025 stated:

“Limiting the timeline for judicial review and supporting the permit shield will cut down on unnecessary litigation that delays projects and adds costs. Reasonable restrictions to the EPA's authority under Section 404(c) of the CWA to prohibit areas as disposal sites—limiting retroactive vetoes of permits—will likewise increase confidence in the permitting process.”⁹³

Section 15 of H.R. 3898, as amended, would apply a 60-day statute of limitations to Section 404 individual permits and general permit verifications, in addition to EPA's approval of a state's assumption of the 404 permit program. If a court does identify compliance issues with the underlying statute, the court would be required to remand the permit back to the agency with specific timelines to take court-ordered action, generally within 180 days.

Section 19 of H.R. 3898, as amended, aims to better balance the scales of regulation and financial resources for agricultural producers under the CWA. Section 311(j)(1)(C) of the CWA directs the Federal Government to establish procedures, methods, and equipment requirements to prevent the discharge of oil and hazardous substances, which EPA has done through various rules.⁹⁴ Section

⁹⁰ EPA, *Final Determination of the U.S. Environmental Protection Agency Pursuant to § 404(c) of the Clean Water Act Concerning the Spruce No. 1 Mine, Logan County, West Virginia*, available at https://www.epa.gov/sites/default/files/2015-12/documents/1_spruce_no_1_mine_final_determination_011311.pdf.

⁹¹ Final Determination to Prohibit the Specification of and Restrict the Use for Specification of Certain Waters Within Defined Areas as Disposal Sites; Pebble Deposit Area, Southwest Alaska, 88 Fed. Reg. 7441 (February 3, 2023).

⁹² 28 U.S.C. § 2401(a).

⁹³ *America Builds: Clean Water Act Permitting and Project Delivery Before the Subcomm. On Water Resources and Environment of the H. Comm. On Transp. And Infrastructure*, 119th Cong. (Feb. 10, 2025) (written testimony of Noah Hanners, Executive Vice President, Nucor Corporation).

⁹⁴ CWA, *supra* note 2, § 311.

1049 of the *Water Resources Reform and Development Act of 2014* (WRRDA) set parameters for which farms require no certification, self-certification, or certification from a professional engineer under the Spill Prevention, Control, and Countermeasure (SPCC) Rule, based on storage size of individual tanks, aggregate storage amounts, and history of discharges.⁹⁵ Section 19 raises the threshold for which farms require certification under which category, allowing more farmers to take responsibility, rather than forcing them to hire the services of certified professional engineers.

HEARINGS

For the purposes of rule XIII, clause 3(c)(6)(A) of the 119th Congress, the following related hearings were held to develop or consider H.R. 3898, as amended:

On February 11, 2025, the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure held a hearing entitled, “America Builds: Clean Water Act permitting and Project Delivery.” At the hearing, Members received testimony from Mr. Robert Singletary, Executive Director, Oklahoma Department of Environmental Quality; the Honorable Shawn LaTourette, Commissioner, New Jersey Department of Environmental Protection; Mr. Noah Hanners, Executive Vice President, Nucor Corporation, *on behalf of the* National Association of Manufacturers; and Mr. Buddy Hasten, President and Chief Executive officer, Arkansas Electric Cooperative Corporation, *on behalf of the* National Rural Electric Cooperative Association. This examined how Congress can ensure that the Clean Water Act (CWA) balances the goals of protecting water quality and ensuring project completion, reducing supply chain challenges, and promoting commerce.

On January 15, 2025, the Committee on Transportation and Infrastructure held a hearing entitled “America Builds: The State of the Nation’s Transportation System.” At the hearing, Members received testimony from Hon. Jeff Landry, Governor, State of Louisiana; Hon. Vanessa Fuentes, Council Member and Mayor Pro Tem, City of Austin, TX, and Chair, National League of Cities Transportation and Infrastructure Services Committee, *on behalf of the* National League of Cities; Ms. Sarah Galicia, Vice President, Transportation, The Home Depot; and Mr. Seth Schulgen, Vice President, Williams Brothers Construction, *on behalf of* The Associated General Contractors of America. The hearing examined the state of our Nation’s transportation system, investing in the country’s infrastructure, and challenges facing the supply chain, including Clean Water Act permitting.

For the purposes of rule XIII, clause 3(c)(6)(A) of the 118th Congress, the following related hearings were held to develop or consider H.R. 3898, as amended:

On September 11, 2024, the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure held a hearing entitled, “Waters of the United States Implementation Post-Sackett Decision: Experiences and Perspectives.” At the hearing, Members received testimony from Ms. Emma Pokon, Commissioner, Alaska Department of Environmental Con-

⁹⁵ *Water Resources Reform and Development Act of 2014*, Pub. L. 113–121, § 1049.

servation; Nicole Rowan, Director, Water Quality Control Division Colorado Department of Public Health and Environment; Courtney Briggs, Chairman, Waters Advocacy Coalition, *on behalf of the American Farm Bureau Federation*; Vincent E. Messerly, P.E., President and CEO, Stream and Wetlands Foundation, *on behalf of the National Association of Home Builders*. The hearing examined implementation of the Administration’s conforming rule on the definition of the definition of “waters of the United States” (WOTUS) under the Clean Water Act (CWA), following the 2023 Supreme Court decision in *Sackett v. EPA* (Sackett).⁹⁶

On Wednesday, January 17, 2024, the Full Committee on Transportation and Infrastructure held a hearing entitled, “*The State of Transportation*.” At the hearing, Members received testimony from Mr. Stephen A. Edwards, CEO and Executive Director, Virginia Port Authority; Mr. Roger Millar, Secretary of Transportation, Washington State Department of Transportation; Mr. Jeffrey G. Tucker, CEO, Tucker Company Worldwide, *on behalf of Transportation Intermediaries Association (TIA)*; and Ms. Lauren Benford, Controller, Reiman Corporation, *on behalf of Associated General Contractors of America (AGC)*. The hearing provided a forum for Members to discuss the current state of transportation infrastructure and supply chain challenges, along with potential improvements that could be made, including streamlining permitting process to provide certainty and efficiency.

On February 8, 2023, the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure held a hearing entitled, “Stakeholder Perspectives on the Impacts of the Biden Administration’s Waters of the United States (WOTUS) Rule.” At the hearing Members received testimony from Mr. Garrett Hawkins, President, Missouri Farm Bureau; Ms. Alicia Huey, Chairman, National Association of Home Builders; Mr. Mark Williams, Environmental Manager, Luck Companies, *on behalf of National Stone, Sand & Gravel Association*; Ms. Susan Parker Bodine, Partner, Earth & Water Law LLC; and Mr. Dave Owen, Professor of Law and Faculty Director of Scholarly Publications, UC College of the Law, San Francisco. This hearing examined the EPA and the Corps defining “waters of the United States” under the CWA, and its regulatory impact on stakeholders. During the hearing, witnesses also broadly discussed the need for permitting and regulatory reform under the CWA.

On Tuesday, May 16, 2023, the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure held a hearing entitled, “*The Next Fifty Years of the Clean Water Act: Examining the Law and Infrastructure Project Completion*.” The Subcommittee received testimony from Dr. Andreea Travnicek, Director, Department of Resources, State of North Dakota; Hon. Serena Coleman McIlwain, Secretary of the Environment, State of Maryland; Mr. Mickey Conway, CEO, Metro Water Recovery, Denver, Colorado *on behalf of the National Association of Clean Water Agencies*; and Mr. Brandon Farris, Vice President, Energy and Resources Policy, National Association of Manufacturers. This hearing examined proposals on how to modernize the CWA to ensure the completion of infrastructure and energy

⁹⁶*Sackett*, *supra* note 31.

projects, reduce supply chain challenges, and promote commerce, while protecting water quality.

On Thursday, June 22, 2023, the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure held a hearing entitled, “*Review of Fiscal Year 2024 Budget Request: Agency Perspectives (Part I)*.” The Subcommittee received testimony from The Honorable Michael L. Connor, Assistant Secretary of the Army for Civil Works, Department of the Army; Major General William “Butch” H. Graham, Deputy Chief of Engineers and Deputy Commanding General, United States Army Corps of Engineers; Mr. Jeff Lyash, President and CEO, Tennessee Valley Authority; and Mr. Adam Tindall-Schlicht, Administrator, Great Lakes St. Lawrence Seaway Development Corporation. This hearing provided Members with an opportunity to review the President’s Fiscal Year 2024 Budget Request, as well as the Administration’s program priorities within the jurisdiction of the Subcommittee, including permitting issues pursuant to the CWA.

On July 13, 2023, the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure held a hearing entitled, “*Review of Fiscal Year 2024 Budget Request: Agency Perspectives (Part II)*.” The hearing gave Members the opportunity to review the Fiscal Year 2024 budget request, as well as the Administration’s program priorities within the jurisdiction of the Subcommittee, including permitting issues pursuant to the CWA. The Subcommittee received testimony from the Honorable Radhika Fox, Assistant Administrator, Office of Water, EPA; Dr. Maria-Elena Giner, Commissioner, IWBC, United States Section; Mr. Louis Aspey Associate Chief, Natural Resources Conservation Service, United States Department of Agriculture; Dr. Aaron Bernstein, Director, Agency for Toxic Substances and Disease Registry; and Ms. Nicole R. LeBoeuf, Assistant Administrator, National Ocean Service, National Oceanic and Atmospheric Administration.

On December 5, 2023, the Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure held a hearing entitled, “*Water Resources Development Acts: Status of Past Provisions and Future Needs*.” At the hearing Members received testimony from The Honorable Michael L. Connor, Assistant Secretary of the Army for Civil Works, Department of the Army and Lieutenant General Scott A. Spellmon, Commanding General and Chief of Engineers, United States Army Corps of Engineers. The hearing gave Members the opportunity to review past provisions in *Water Resources Development Acts* (WRDAs) and discuss needs for future WRDAs. Also at the hearing, Members discussed various CWA permitting processes, including implementation of the post-Sackett WOTUS rule.

LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 3898, the “*Promoting Efficient Review for Modern Infrastructure Today Act*” or “*PERMIT Act*,” was introduced in the United States House of Representatives on June 11, 2025, by Mr. Collins of Georgia, with Mr. Graves as an original cosponsor, and referred to the Committee on Transportation and Infrastructure. Within the Committee on Transportation and Infrastructure, H.R. 3898 was referred to the Subcommittee on Water Resources and

Environment. The Subcommittee on Water Resources on Environment was discharged from further consideration of H.R. 3898 on June 25, 2025.

The Committee considered H.R. 3898 on June 25, 2025, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by a recorded vote of 34 yeas to 30 nays.

The following amendments were offered:

An Amendment in the Nature of a Substitute to H.R. 3898, offered by Mr. Collins of Georgia; was AGREED TO by voice vote.

A Manager's Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Chairman Graves of Missouri (Graves 01): Page 3, line 4, insert "(including whether the technologies have been demonstrated at an applicable scale)" after "treatment technologies". Page 3, line 15, strike "availability of treatment technologies" and insert "availability in the United States of treatment technologies (including whether the technologies have been demonstrated at an applicable scale)". Page 4, line 19, strike "comparable" and insert "an applicable". Page 4, line 24, strike "comparable" and insert "an applicable". Page 5, line 4, strike "comparable" and insert "an applicable". Page 8, strike lines 3 through 7 and insert the following: (ii) in the third sentence— (I) by striking "any water quality requirement in such State" and inserting "any water quality standard in effect for the State under section 303"; and (II) by inserting before the period "at a time that is agreed to by such State and the applicant"; After section 13, insert the following: SEC. 119. DEADLINE FOR REQUEST FOR SUBMISSION OF ADDITIONAL INFORMATION FOR PERMIT PROGRAMS FOR DREDGED OR FILL MATERIAL. Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended— (1) in subsection (g)— (A) by redesignating paragraph (3) as paragraph (4); and (B) by inserting after paragraph (2) the following: "(3) If the Administrator determines that additional information is necessary for the description of a program submitted by a State to be full and complete under paragraph (1), the Administrator shall, not later than 45 days after the date of the receipt of the program and statement submitted by the State under such paragraph, submit to the State a written request for all such information."; and (2) in subsection (h)(1), by striking "paragraph (1) of this subsection" and inserting "subsection (g)(1)". Strike section 19 and insert the following: SEC. _____. COORDINATION WITH FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL. With respect to any covered project (as defined under section 41001 of the FAST Act (42 U.S.C. 4370m)) for which a certification or permit from a State under section 401, 402, or 404 of the Federal Water Pollution Control Act is required, the State is encouraged to choose to participate, to the maximum extent practicable, in the environmental review and authorization process under section 41003(c) of the FAST Act (42 U.S.C. 4370m–2(c)), pursuant to paragraph (3)(A) of such section.; was AGREED TO by voice vote.

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Ranking Member Larsen of Washington (Larsen 01): Strike sections 2, 3, and 5.; was NOT AGREED TO by a recorded vote of 30 Yeas and 35 Nays (RC#45).

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Mr. Garamendi of California (Garamendi 036): Strike section 7 and insert the following: SEC. 7. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM TERMS. (a) IN GENERAL.—Section 402(b)(1)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1342(b)(1)(B)) is amended to read as follows: “(B) are for fixed terms— (i) not exceeding 10 years, for a permit issued to a State or municipality; and (ii) not exceeding 5 years, for a permit issued to any person not described in clause (i); and”. (b) TECHNICAL CORRECTIONS.—Section 402(l)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1342(l)(3)) is amended— (1) in subparagraph (B)— (A) by striking “section 402” and inserting “this section”; and (B) by striking “federal” and inserting “Federal”; and (2) in subparagraph (C)— (A) by striking “Section” and inserting “section”; (B) by striking “402(p)(6)” and inserting “subsection (p)(6)”; (C) by striking “402(l)(3)(A),” and inserting “subparagraph (A),”; and (D) by striking “402(l)(3)(A).” and inserting “such subparagraph.”; was WITHDRAWN.

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Ms. Titus of Nevada (Titus 173): Page 34, line 2, strike “Section 502(7)” and insert “(a) IN GENERAL.—Section 502(7)”. Page 36, after line 12, insert the following: (b) SAVINGS CLAUSE.—This section, including the amendments made by this section, shall not take effect until the date on which the Administrator of the Environmental Protection Agency issues a determination that the implementation of this section, including the amendments made by this section, will not result in 70 percent or more of the waters in any State losing any protection that such waters were provided under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) before May 25, 2023.; was NOT AGREED TO by a recorded vote of 30 Yeas and 35 Nays (RC#46).

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Ms. Wilson of Florida (Wilson 037): Add at the end the following: SEC. ____ . STUDY ON DISPARATE IMPACTS. Not later than 60 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency and the Secretary of the Army, acting through the Chief of Engineers, shall submit to Congress a report on any disparate impacts on minority, rural, disadvantaged, and Tribal communities, including impacts to human health, environmental quality, and local economies, that may result from the implementation of this Act, including the amendments made by this Act.; was NOT AGREED TO by voice vote.

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Ms. Titus of Nevada on behalf of Mr. Stanton of Arizona (Stanton 031): Add at the end the following: SEC. ____ . DETERMINATION ON WATER SUPPLY SOURCES. This Act, including the amendments made by this Act, shall not take effect until the date on which the Administrator of the Environmental Protection Agency issues a determination that the implementation of this Act, including the amendments made by this Act, will not— (1) result in a surface water body failing to meet its State-designated uses under the Federal Water Pollution Control Act, including use as a source of public water supply; or (2) adversely affect the availability and quality of surface water for com-

munities in arid regions or drought-prone areas.; was NOT AGREED TO by a recorded vote of 30 Yeas and 35 Nays (RC#47).

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Mr. Garamendi of California, on behalf of Ms. Hoyle of Oregon (Hoyle 013): Strike section 9 and insert the following: SEC. 9. SAFE HARBOR FOR CERTAIN DISCHARGES OF WILDLAND FIRE CHEMICALS. (a) IN GENERAL.—Subject to subsection (b), no court may enjoin under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) a covered entity from conducting an aerial application of a covered fire retardant and water enhancer for wildfire suppression, control, or prevention activities that results in a discharge, if such aerial application is conducted in accordance with the requirements of the Federal Facility Compliance Agreement between the Environmental Protection Agency and the U.S. Forest Service, as agreed to on February 16, 2023. (b) PERIOD OF APPLICATION.—Subsection (a) shall apply to any aerial application described in such subsection that is conducted before the effective date of a permit issued by the Administrator of the Environmental Protection Agency or a State, as applicable, under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) that authorizes the discharge, from such aerial application, of a covered fire retardant and water enhancer for wildfire suppression, control, or prevention activities. (c) EFFECT.—Nothing in this section affects the authority of any court under the Federal Water Pollution Control Act with respect to any discharge resulting from an aerial application not conducted in accordance with the requirements described in subsection (a). (d) DEFINITIONS.—In this section: (1) COVERED ENTITY.—The term “covered entity” means—(A) any Federal agency, agency of a State or political subdivision thereof, or Tribal agency, authorized by law to conduct an aerial application of fire retardants and water enhancers for wildfire suppression, control, or prevention activities; and (B) any contractor, subcontractor, or other agent of an agency described in subparagraph (A). (2) COVERED FIRE RETARDANT AND WATER ENHANCER.—The term “covered fire retardant and water enhancer” means a fire retardant and water enhancer that—(A) has been evaluated, qualified, and approved by the Secretary of Agriculture; and (B) appears on the most current Forest Service Qualified Products List. (3) DISCHARGE; STATE.—The terms “discharge” and “State” have the meanings given those terms in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362). (e) SUNSET.—This section shall cease to be effective on the date that is 5 years after the date of enactment of this section.; was NOT AGREED TO by a recorded vote of 30 Yeas and 35 Nays (RC#48).

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Ms. Sykes of Ohio (Sykes 046): Strike section 17 and insert the following: SEC. 17. NO NET LOSS OF WETLANDS. Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency and the Secretary of the Army shall reinstate the no-net loss of wetlands policy, as outlined in the Executive Order 11990, titled “Protection of Wetlands”, issued on May 24, 1977 (42 Fed. Reg. 26961), and reaffirmed by the Presidential administrations of President George Herbert Walker Bush, William J. Clinton, George W. Bush,

and Barack H. Obama, through the implementation of the Federal Water Pollution Control Act and other Federal programs. The Administrator and the Secretary shall reinstate such policy through public notice and comment procedures that provide for a minimum of 30 days public comment and shall publish the final policy in the Federal Register. The Administrator and the Secretary shall consider all available measures to ensure that there is a no net loss of wetlands in the United States and shall jointly report annually to the Congress on the implementation of such policy.; was NOT AGREED TO by a recorded vote of 30 Yeas and 35 Nays (RC#49).

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Ms. Scholten of Michigan (Scholten 027): Page 22, line 11, strike the closed quotation mark and final period. Page 22, after line 11, add the following: “(D) Any discharge with respect to which there is evidence, based on peer-reviewed science, that the pesticide is known or suspected to— (i) cause adverse health effects on pregnant women; (ii) cause adverse effects to fetal growth or development; (iii) harm the neurological or physiological development of infants or children; or (iv) cause adverse effects on early childhood development. (E) Any discharge in a geographic area in which there is the occurrence of a greater than expected number of cancer cases among infants or children over a specific time period”.; was NOT AGREED TO by a recorded vote of 30 Yeas and 34 Nays (RC#50).

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Ms. McDonald Rivet of Michigan (McDonald Rivet 015): Add at the end the following: SEC. 20. DETERMINATION ON INCREASE IN DISCHARGES TO GREAT LAKES AND OTHER WATERBODIES. This Act, including the amendments made by this Act, shall not take effect until the date on which the Administrator of the Environmental Protection Agency issues a determination that the implementation of this Act, including the amendments made by this Act, will not result in an increase in the discharge of pollutants (within the meaning of the Federal Water Pollution Control Act), to the navigable waters contained within the geographic programs of the Federal Water Pollution Control Act, such as those within the Great Lakes System, as defined in section 118 of the Federal Water Pollution Control Act (33 U.S.C. 1268), including an increase in the discharge of— (1) any emerging contaminant, toxic pollutant, or forever chemical, as determined by the Administrator, such as a perfluoroalkyl substance or polyfluoroalkyl substance; or (2) any nutrient, including those associated with excessive algae growth and harmful algal blooms.; was NOT AGREED TO by a recorded vote of 30 Yeas and 33 Nays (RC#51).

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Ms. Friedman of California (Friedman 011): Add at the end the following: SEC. 20. DETERMINATION ON RISK OF POLLUTANT DISCHARGE. This Act, including the amendments made by this Act, shall not take effect until the date on which the Administrator of the Environmental Protection Agency issues a determination that the implementation of this Act, including the amendments made by this Act, will not result in an increase in the discharge of any pollutant into waters that are used (or are likely to be used) for water recapture, water recycling, or

groundwater recharge.; was NOT AGREED TO by a recorded vote of 30 Yeas and 33 Nays (RC#52).

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Ms. Gillen of New York (Gillen 024): Add at the end the following: SEC. 20. DETERMINATION ON INCREASE IN RISK OF DISCHARGE OF POLLUTANTS ASSOCIATED WITH CANCER. This Act, including the amendments made by this Act, shall not take effect until the date on which the Administrator of the Environmental Protection Agency issues a determination that the implementation of this Act, including the amendments made by this Act, will not result in an increase in the discharge of any pollutant (as such term is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362)) that is associated with cancer risk in humans, including (1) perfluoroalkyl and polyfluoroalkyl substances; (2) arsenic; (3) nitrates, nitrites, and any other byproduct associated with pesticides; (4) chromium; (5) radium; and (6) uranium.; was NOT AGREED TO by voice vote.

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Mr. Perry of Pennsylvania (Perry 040): Add at the end the following: SEC. _____. SENSE OF CONGRESS ON CHESAPEAKE BAY WATERSHED AGREEMENT. It is the sense of Congress that the Chesapeake Bay Watershed Agreement is a voluntary, cooperative agreement between the Federal Government, the State of Delaware, the District of Columbia, the State of Maryland, the Commonwealth of Pennsylvania, the State of New York, the Commonwealth of Virginia, and the State of West Virginia. As such, the Federal Government should take a collaborative and cooperative approach to the parties with regard to their compliance with the Chesapeake Bay Total Maximum Daily Load outlined in such agreement.; was AGREED TO by voice vote.

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Mr. DeSaulnier of California (DeSaulnier 010): Add at the end the following: SEC. _____. REPORT AND CERTIFICATION ON HARMFUL ALGAL BLOOMS. This Act, including the amendments made by this Act, shall not take effect until the date on which the Administrator of the Environmental Protection Agency publishes (1) a report on the estimated effects of the implementation of this Act, including the amendments made by this Act, on harmful algal blooms; and (2) a certification that the implementation of this Act, including the amendments made by this Act, will not cause an increase in harmful algal blooms.; was NOT AGREED TO by a recorded vote of 30 Yeas and 33 Nays (RC#53).

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Ms. Sykes of Ohio (Sykes 047): Add at the end the following: SEC. 20. DETERMINATION ON POTENTIAL INCREASED POLLUTANT LOADINGS AND COSTS TO RATEPAYERS. This Act, and the amendments made by this Act, shall not take effect until the date on which the Administrator of the Environmental Protection Agency issues a determination that the implementation of this Act, including the amendments made by this Act, will not result in an (1) increase in the volume, toxicity, or concentration of pollutants in a waterbody that has been designated by a State or an Indian Tribe for use supplying, or supporting the supply of, public water; or (2) increase in rates charged

for wastewater treatment services (including in rural, tribal, or economically disadvantaged communities) as a result of removing any pollutants, or treating such waterbody, to protect the public health or welfare.; was NOT AGREED TO by a recorded vote of 30 Yeas and 33 Nays (RC#54).

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Mr. Figures of Alabama (Figures 028): Add at the end the following: SEC. _____. DETERMINATION ON RISKS OF FLOODING AND POLLUTION. This Act, including the amendments made by this Act, shall not take effect until the date on which the Administrator of the Environmental Protection Agency issues a determination that the implementation of this Act, including the amendments made by this Act, will not worsen the risks of flooding or pollution in low-income or rural communities.; was NOT AGREED TO by voice vote.

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Mr. Huffman of California (Huffman 024): Add at the end the following: SEC. _____. NO EFFECT ON TRIBAL RIGHTS. Nothing in this Act, or the amendments made by this Act, shall be construed to affect any Tribal rights or authorities under the Federal Water Pollution Control Act, including any review by a Tribal Government of a discharge or activity under a Federal permit in order to protect treaty rights, including water rights, fishing rights, and cultural resources.; was NOT AGREED TO by a recorded vote of 30 Yeas and 33 Nays (RC#55).

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Mr. Huffman of California (Huffman 01): Page 22, line 22, insert “, if applicable,” after “(2)”. Page 23, line 1, strike “The period” and insert “Except as provided in paragraph (3), the period”. Page 23, line 13, strike the closed quotation mark and final period and insert the following: Page 23, after line 13, insert the following: “(3) EXCEPTION.—Paragraph (2) shall not apply with respect to any application for a permit under this section for the discharge of dredged or fill material at a disposal site in a defined area the specification of which has been prohibited (including the withdrawal of specification) by the Administrator before the date of enactment of this paragraph”.; was NOT AGREED TO by a recorded vote of 30 Yeas and 33 Nays (RC#56).

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Mr. Johnson of Georgia (Johnson 027): Add at the end the following: SEC. _____. SENSE OF CONGRESS RELATING TO INFRASTRUCTURE FUNDING. It is the sense of Congress that (1) clean water infrastructure supports the health of our ecosystems and keeps our water resources available for swimming, fishing, and drinking; (2) Federal funding for clean water infrastructure is critical to municipalities to update and modernize this infrastructure, keeping it fully operational and effective; (3) the Administration’s fiscal year 2026 Presidential Budget Request significantly underfunds programs that support clean water infrastructure, and if enacted, would substantially impede, or stop altogether, clean water infrastructure projects nationwide; (4) rural, small, and economically disadvantaged communities would be disproportionately impacted by funding cuts, and those with affordability concerns would be unable to address their aging water infrastructure or forced to significantly raise rates on communities

already struggling financially; and (5) funds for clean water infrastructure programs should be appropriated in the full Congressionally authorized amounts.; was NOT AGREED TO by a recorded vote of 30 Yeas and 33 Nays (RC#57).

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Ms. Pou of New Jersey (Pou 005): Add at the end the following: SEC. ____ DETERMINATION ON INCREASE IN RISK OF SEWER OVERFLOWS, STORMWATER, AND FLOODING. This Act, including the amendments made by this Act, shall not take effect until the date on which the Administrator of the Environmental Protection Agency issues a determination that the implementation of this Act, including the amendments made by this Act, will not (1) result in an increase in the discharge of pollutants (within the meaning of the Federal Water Pollution Control Act), including an increase in the discharge of raw or partially treated sewage associated with combined sewer overflows or sanitary sewer overflows; (2) result in an increase in the discharge of municipal or industrial stormwater; or (3) exacerbate the risk or consequence of flooding, including flooding associated with precipitation events, to (A) public or private property; (B) private businesses (including small businesses); (C) local, regional, or national economies; (D) critical public infrastructure or essential public services; or (E) human life or safety.; was NOT AGREED TO by a recorded vote of 30 Yeas and 33 Nays (RC#58).

An Amendment to the Amendment in the Nature of a Substitute to H.R. 3898, offered by Mr. Ryan of New York (Ryan 042): Add at the end the following: SEC. ____ DETERMINATION ON INCREASE IN DISCHARGES. This Act, including the amendments made by this Act, shall not take effect until the date on which the Administrator of the Environmental Protection Agency issues a determination that the implementation of this Act, including the amendments made by this Act, will not result in an increase in the discharge of pollutants (within the meaning of the Federal Water Pollution Control Act), including an increase in the discharge of (1) any emerging contaminant or forever chemical, as determined by the Administrator, such as a perfluoroalkyl substance or polyfluoroalkyl substance; or (2) any nutrient, including those associated with excessive algae growth and harmful algal blooms.; was NOT AGREED TO by a recorded vote of 30 Yeas and 33 Nays (RC#59).

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

Full Committee

Vote: 60

Measure: H.R. 3898

On: final passage: H.R.
3898, as amended

Yea	34	Nay	30
Present	0	Not Voting	3

Member	Vote	Member	Vote
Mr. Graves of MO	Y	Mr. Larsen of WA	N
Mr. Crawford	Y	Ms. Norton	N
Mr. Webster of FL	Y	Mr. Nadler	N
Mr. Massie		Mr. Cohen	N
Mr. Perry	Y	Mr. Garamendi	N
Mr. Babin	Y	Mr. Johnson of GA	N
Mr. Rouzer	Y	Mr. Carson	N
Mr. Bost	Y	Ms. Titus	N
Mr. LaMalfa	Y	Mr. Huffman	N
Mr. Westerman	Y	Ms. Brownley	N
Mr. Mast	Y	Ms. Wilson of FL	N
Mr. Stauber	Y	Mr. DeSaulnier	N
Mr. Burchett	Y	Mr. Carbajal	N
Mr. Johnson of SD	Y	Mr. Stanton	N
Mr. Van Drew	Y	Ms. Davids of KS	N
Mr. Nehls	Y	Mr. García of IL	N
Mr. Mann	Y	Mr. Pappas	N
Mr. Owens	Y	Mr. Moulton	N
Mr. Burlison	Y	Ms. Strickland	N
Mr. Collins	Y	Mr. Ryan	N
Mr. Ezell	Y	Ms. Hoyle of OR	N
Mr. Kiley	Y	Mrs. Sykes	N
Mr. Fong	Y	Ms. Scholten	N
Mr. Wied	Y	Mrs. Foushee	N
Mr. Barrett	Y	Mr. Deluzio	N
Mr. Begich	Y	Mr. Garcia of CA	
Mr. Bresnahan	Y	Ms. Pou	N
Mr. Hurd	Y	Ms. McDonald Rivet	N
Mr. Shreve		Ms. Friedman	N
Mr. McDowell	Y	Ms. Gillen	N
Mr. Taylor	Y	Mr. Figures	N
Mr. Knott	Y		
Ms. King-Hinds	Y		
Mr. Kennedy	Y		
Mr. Onder	Y		
Mr. Patronis	Y		

Full Committee

Vote: 45

Measure: H.R. 3898

On: Amdt. 01, offered
by Mr. Larsen

Yea 30 Nay 35

Present 0 Not Voting 2

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	Ms. Norton	Y
Mr. Webster of FL	N	Mr. Nadler	Y
Mr. Massie		Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y
Mr. Rouzer	N	Mr. Carson	Y
Mr. Bost	N	Ms. Titus	Y
Mr. LaMalfa	N	Mr. Huffman	Y
Mr. Westerman	N	Ms. Brownley	Y
Mr. Mast	N	Ms. Wilson of FL	Y
Mr. Stauber	N	Mr. DeSaulnier	Y
Mr. Burchett	N	Mr. Carbajal	Y
Mr. Johnson of SD	N	Mr. Stanton	Y
Mr. Van Drew	N	Ms. Davids of KS	Y
Mr. Nehls	N	Mr. García of IL	Y
Mr. Mann	N	Mr. Pappas	Y
Mr. Owens	N	Mr. Moulton	Y
Mr. Burlison	N	Ms. Strickland	Y
Mr. Collins	N	Mr. Ryan	Y
Mr. Ezell	N	Ms. Hoyle of OR	Y
Mr. Kiley	N	Mrs. Sykes	Y
Mr. Fong	N	Ms. Scholten	Y
Mr. Wied	N	Mrs. Foushee	Y
Mr. Barrett	N	Mr. Deluzio	Y
Mr. Begich	N	Mr. Garcia of CA	
Mr. Bresnahan	N	Ms. Pou	Y
Mr. Hurd	N	Ms. McDonald Rivet	Y
Mr. Shreve	N	Ms. Friedman	Y
Mr. McDowell	N	Ms. Gillen	Y
Mr. Taylor	N	Mr. Figures	Y
Mr. Knott	N		
Ms. King-Hinds	N		
Mr. Kennedy	N		
Mr. Onder	N		
Mr. Patronis	N		

Full Committee

Vote: 46

Measure: H.R. 3898

On: Amdt. 173, offered
by Ms. Titus

Yea 30 Nay 35

Present 0 Not Voting 2

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	Ms. Norton	Y
Mr. Webster of FL	N	Mr. Nadler	Y
Mr. Massie		Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y
Mr. Rouzer	N	Mr. Carson	Y
Mr. Bost	N	Ms. Titus	Y
Mr. LaMalfa	N	Mr. Huffman	Y
Mr. Westerman	N	Ms. Brownley	Y
Mr. Mast	N	Ms. Wilson of FL	Y
Mr. Stauber	N	Mr. DeSaulnier	Y
Mr. Burchett	N	Mr. Carbajal	Y
Mr. Johnson of SD	N	Mr. Stanton	Y
Mr. Van Drew	N	Ms. Davids of KS	Y
Mr. Nehls	N	Mr. García of IL	Y
Mr. Mann	N	Mr. Pappas	Y
Mr. Owens	N	Mr. Moulton	Y
Mr. Burlison	N	Ms. Strickland	Y
Mr. Collins	N	Mr. Ryan	Y
Mr. Ezell	N	Ms. Hoyle of OR	Y
Mr. Kiley	N	Mrs. Sykes	Y
Mr. Fong	N	Ms. Scholten	Y
Mr. Wied	N	Mrs. Foushee	Y
Mr. Barrett	N	Mr. Deluzio	Y
Mr. Begich	N	Mr. Garcia of CA	
Mr. Bresnahan	N	Ms. Pou	Y
Mr. Hurd	N	Ms. McDonald Rivet	Y
Mr. Shreve	N	Ms. Friedman	Y
Mr. McDowell	N	Ms. Gillen	Y
Mr. Taylor	N	Mr. Figures	Y
Mr. Knott	N		
Ms. King-Hinds	N		
Mr. Kennedy	N		
Mr. Onder	N		
Mr. Patronis	N		

Full Committee

Vote: 47

Measure: H.R. 3898

On: Amdt. 031, offered
by Ms. Titus

Yea 30 Nay 35

Present 0 Not Voting 2

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	Ms. Norton	Y
Mr. Webster of FL	N	Mr. Nadler	Y
Mr. Massie		Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y
Mr. Rouzer	N	Mr. Carson	Y
Mr. Bost	N	Ms. Titus	Y
Mr. LaMalfa	N	Mr. Huffman	Y
Mr. Westerman	N	Ms. Brownley	Y
Mr. Mast	N	Ms. Wilson of FL	Y
Mr. Stauber	N	Mr. DeSaulnier	Y
Mr. Burchett	N	Mr. Carbajal	Y
Mr. Johnson of SD	N	Mr. Stanton	Y
Mr. Van Drew	N	Ms. Davids of KS	Y
Mr. Nehls	N	Mr. García of IL	Y
Mr. Mann	N	Mr. Pappas	Y
Mr. Owens	N	Mr. Moulton	Y
Mr. Burlison	N	Ms. Strickland	Y
Mr. Collins	N	Mr. Ryan	Y
Mr. Ezell	N	Ms. Hoyle of OR	Y
Mr. Kiley	N	Mrs. Sykes	Y
Mr. Fong	N	Ms. Scholten	Y
Mr. Wied	N	Mrs. Foushee	Y
Mr. Barrett	N	Mr. Deluzio	Y
Mr. Begich	N	Mr. Garcia of CA	
Mr. Bresnahan	N	Ms. Pou	Y
Mr. Hurd	N	Ms. McDonald Rivet	Y
Mr. Shreve	N	Ms. Friedman	Y
Mr. McDowell	N	Ms. Gillen	Y
Mr. Taylor	N	Mr. Figures	Y
Mr. Knott	N		
Ms. King-Hinds	N		
Mr. Kennedy	N		
Mr. Onder	N		
Mr. Patronis	N		

Full Committee

Vote: 48

Measure: H.R. 3898

On: Amdt. 013, offered
by Mr. Garamendi

Yea	30	Nay	35
Present	0	Not Voting	2

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	Ms. Norton	Y
Mr. Webster of FL	N	Mr. Nadler	Y
Mr. Massie		Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y
Mr. Rouzer	N	Mr. Carson	Y
Mr. Bost	N	Ms. Titus	Y
Mr. LaMalfa	N	Mr. Huffman	Y
Mr. Westerman	N	Ms. Brownley	Y
Mr. Mast	N	Ms. Wilson of FL	Y
Mr. Stauber	N	Mr. DeSaulnier	Y
Mr. Burchett	N	Mr. Carbajal	Y
Mr. Johnson of SD	N	Mr. Stanton	Y
Mr. Van Drew	N	Ms. Davids of KS	Y
Mr. Nehls	N	Mr. Garcia of IL	Y
Mr. Mann	N	Mr. Pappas	Y
Mr. Owens	N	Mr. Moulton	Y
Mr. Burlison	N	Ms. Strickland	Y
Mr. Collins	N	Mr. Ryan	Y
Mr. Ezell	N	Ms. Hoyle of OR	Y
Mr. Kiley	N	Mrs. Sykes	Y
Mr. Fong	N	Ms. Scholten	Y
Mr. Wied	N	Mrs. Foushee	Y
Mr. Barrett	N	Mr. Deluzio	Y
Mr. Begich	N	Mr. Garcia of CA	
Mr. Bresnahan	N	Ms. Pou	Y
Mr. Hurd	N	Ms. McDonald Rivet	Y
Mr. Shreve	N	Ms. Friedman	Y
Mr. McDowell	N	Ms. Gillen	Y
Mr. Taylor	N	Mr. Figures	Y
Mr. Knott	N		
Ms. King-Hinds	N		
Mr. Kennedy	N		
Mr. Onder	N		
Mr. Patronis	N		

Full Committee

Vote: 49

Measure: H.R. 3898

On: Amdt. 046, offered
by Ms. Sykes

Yea 30 Nay 35

Present 0 Not Voting 2

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	Ms. Norton	Y
Mr. Webster of FL	N	Mr. Nadler	Y
Mr. Massie		Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y
Mr. Rouzer	N	Mr. Carson	Y
Mr. Bost	N	Ms. Titus	Y
Mr. LaMalfa	N	Mr. Huffman	Y
Mr. Westerman	N	Ms. Brownley	Y
Mr. Mast	N	Ms. Wilson of FL	Y
Mr. Stauber	N	Mr. DeSaulnier	Y
Mr. Burchett	N	Mr. Carbajal	Y
Mr. Johnson of SD	N	Mr. Stanton	Y
Mr. Van Drew	N	Ms. Davids of KS	Y
Mr. Nehls	N	Mr. Garcia of IL	Y
Mr. Mann	N	Mr. Pappas	Y
Mr. Owens	N	Mr. Moulton	Y
Mr. Burlison	N	Ms. Strickland	Y
Mr. Collins	N	Mr. Ryan	Y
Mr. Ezell	N	Ms. Hoyle of OR	Y
Mr. Kiley	N	Mrs. Sykes	Y
Mr. Fong	N	Ms. Scholten	Y
Mr. Wied	N	Mrs. Foushee	Y
Mr. Barrett	N	Mr. Deluzio	Y
Mr. Begich	N	Mr. Garcia of CA	
Mr. Bresnahan	N	Ms. Pou	Y
Mr. Hurd	N	Ms. McDonald Rivet	Y
Mr. Shreve	N	Ms. Friedman	Y
Mr. McDowell	N	Ms. Gillen	Y
Mr. Taylor	N	Mr. Figures	Y
Mr. Knott	N		
Ms. King-Hinds	N		
Mr. Kennedy	N		
Mr. Onder	N		
Mr. Patronis	N		

Full Committee

Vote: 50

Measure: H.R. 3898

On: Amdt. 027, offered
by Ms. Scholten

Yea	30	Nay	34
Present	0	Not Voting	3

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	Ms. Norton	Y
Mr. Webster of FL	N	Mr. Nadler	Y
Mr. Massie		Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y
Mr. Rouzer	N	Mr. Carson	Y
Mr. Bost	N	Ms. Titus	Y
Mr. LaMalfa	N	Mr. Huffman	Y
Mr. Westerman	N	Ms. Brownley	Y
Mr. Mast	N	Ms. Wilson of FL	Y
Mr. Stauber	N	Mr. DeSaulnier	Y
Mr. Burchett	N	Mr. Carbajal	Y
Mr. Johnson of SD	N	Mr. Stanton	Y
Mr. Van Drew	N	Ms. Davids of KS	Y
Mr. Nehls	N	Mr. García of IL	Y
Mr. Mann	N	Mr. Pappas	Y
Mr. Owens	N	Mr. Moulton	Y
Mr. Burlison	N	Ms. Strickland	Y
Mr. Collins	N	Mr. Ryan	Y
Mr. Ezell	N	Ms. Hoyle of OR	Y
Mr. Kiley	N	Mrs. Sykes	Y
Mr. Fong	N	Ms. Scholten	Y
Mr. Wied	N	Mrs. Foushee	Y
Mr. Barrett	N	Mr. Deluzio	Y
Mr. Begich	N	Mr. Garcia of CA	
Mr. Bresnahan	N	Ms. Pou	Y
Mr. Hurd	N	Ms. McDonald Rivet	Y
Mr. Shreve		Ms. Friedman	Y
Mr. McDowell	N	Ms. Gillen	Y
Mr. Taylor	N	Mr. Figures	Y
Mr. Knott	N		
Ms. King-Hinds	N		
Mr. Kennedy	N		
Mr. Onder	N		
Mr. Patronis	N		

Full Committee

Vote: 51

Measure: H.R. 3898

On: Amdt. 015, offered
by Ms. McDonald Rivet

Yea 30 Nay 33
Present 0 Not Voting 4

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	Ms. Norton	Y
Mr. Webster of FL	N	Mr. Nadler	Y
Mr. Massie		Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y
Mr. Rouzer	N	Mr. Carson	Y
Mr. Bost	N	Ms. Titus	Y
Mr. LaMalfa	N	Mr. Huffman	Y
Mr. Westerman	N	Ms. Brownley	Y
Mr. Mast		Ms. Wilson of FL	Y
Mr. Stauber	N	Mr. DeSaulnier	Y
Mr. Burchett	N	Mr. Carbajal	Y
Mr. Johnson of SD	N	Mr. Stanton	Y
Mr. Van Drew	N	Ms. Davids of KS	Y
Mr. Nehls	N	Mr. García of IL	Y
Mr. Mann	N	Mr. Pappas	Y
Mr. Owens	N	Mr. Moulton	Y
Mr. Burlison	N	Ms. Strickland	Y
Mr. Collins	N	Mr. Ryan	Y
Mr. Ezell	N	Ms. Hoyle of OR	Y
Mr. Kiley	N	Mrs. Sykes	Y
Mr. Fong	N	Ms. Scholten	Y
Mr. Wied	N	Mrs. Foushee	Y
Mr. Barrett	N	Mr. Deluzio	Y
Mr. Begich	N	Mr. Garcia of CA	
Mr. Bresnahan	N	Ms. Pou	Y
Mr. Hurd	N	Ms. McDonald Rivet	Y
Mr. Shreve		Ms. Friedman	Y
Mr. McDowell	N	Ms. Gillen	Y
Mr. Taylor	N	Mr. Figures	Y
Mr. Knott	N		
Ms. King-Hinds	N		
Mr. Kennedy	N		
Mr. Onder	N		
Mr. Patronis	N		

Full Committee

Vote: 52

Measure: H.R. 3898

On: Amdt. 011, offered
by Ms. Friedman

Yea	30	Nay	33
Present	0	Not Voting	4

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	Ms. Norton	Y
Mr. Webster of FL	N	Mr. Nadler	Y
Mr. Massie		Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y
Mr. Rouzer	N	Mr. Carson	Y
Mr. Bost	N	Ms. Titus	Y
Mr. LaMalfa	N	Mr. Huffman	Y
Mr. Westerman	N	Ms. Brownley	Y
Mr. Mast		Ms. Wilson of FL	Y
Mr. Stauber	N	Mr. DeSaulnier	Y
Mr. Burchett	N	Mr. Carbajal	Y
Mr. Johnson of SD	N	Mr. Stanton	Y
Mr. Van Drew	N	Ms. Davids of KS	Y
Mr. Nehls	N	Mr. García of IL	Y
Mr. Mann	N	Mr. Pappas	Y
Mr. Owens	N	Mr. Moulton	Y
Mr. Burlison	N	Ms. Strickland	Y
Mr. Collins	N	Mr. Ryan	Y
Mr. Ezell	N	Ms. Hoyle of OR	Y
Mr. Kiley	N	Mrs. Sykes	Y
Mr. Fong	N	Ms. Scholten	Y
Mr. Wied	N	Mrs. Foushee	Y
Mr. Barrett	N	Mr. Deluzio	Y
Mr. Begich	N	Mr. Garcia of CA	
Mr. Bresnahan	N	Ms. Pou	Y
Mr. Hurd	N	Ms. McDonald Rivet	Y
Mr. Shreve		Ms. Friedman	Y
Mr. McDowell	N	Ms. Gillen	Y
Mr. Taylor	N	Mr. Figures	Y
Mr. Knott	N		
Ms. King-Hinds	N		
Mr. Kennedy	N		
Mr. Onder	N		
Mr. Patronis	N		

Full Committee

Vote: 53

Measure: H.R. 3898

On: Amdt. 010, offered
by Mr. DeSaulnier

Yea	30	Nay	33
Present	0	Not Voting	4

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	Ms. Norton	Y
Mr. Webster of FL	N	Mr. Nadler	Y
Mr. Massie		Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y
Mr. Rouzer	N	Mr. Carson	Y
Mr. Bost	N	Ms. Titus	Y
Mr. LaMalfa	N	Mr. Huffman	Y
Mr. Westerman	N	Ms. Brownley	Y
Mr. Mast		Ms. Wilson of FL	Y
Mr. Stauber	N	Mr. DeSaulnier	Y
Mr. Burchett	N	Mr. Carbajal	Y
Mr. Johnson of SD	N	Mr. Stanton	Y
Mr. Van Drew	N	Ms. Davids of KS	Y
Mr. Nehls	N	Mr. García of IL	Y
Mr. Mann	N	Mr. Pappas	Y
Mr. Owens	N	Mr. Moulton	Y
Mr. Burlison	N	Ms. Strickland	Y
Mr. Collins	N	Mr. Ryan	Y
Mr. Ezell	N	Ms. Hoyle of OR	Y
Mr. Kiley	N	Mrs. Sykes	Y
Mr. Fong	N	Ms. Scholten	Y
Mr. Wied	N	Mrs. Foushee	Y
Mr. Barrett	N	Mr. Deluzio	Y
Mr. Begich	N	Mr. Garcia of CA	
Mr. Bresnahan	N	Ms. Pou	Y
Mr. Hurd	N	Ms. McDonald Rivet	Y
Mr. Shreve		Ms. Friedman	Y
Mr. McDowell	N	Ms. Gillen	Y
Mr. Taylor	N	Mr. Figures	Y
Mr. Knott	N		
Ms. King-Hinds	N		
Mr. Kennedy	N		
Mr. Onder	N		
Mr. Patronis	N		

Full Committee

Vote: 54

Measure: H.R. 3898

On: Amdt. 047, offered
by Ms. Sykes

Yea 30 Nay 33
Present 0 Not Voting 4

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	Ms. Norton	Y
Mr. Webster of FL	N	Mr. Nadler	Y
Mr. Massie		Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y
Mr. Rouzer	N	Mr. Carson	Y
Mr. Bost	N	Ms. Titus	Y
Mr. LaMalfa	N	Mr. Huffman	Y
Mr. Westerman	N	Ms. Brownley	Y
Mr. Mast		Ms. Wilson of FL	Y
Mr. Stauber	N	Mr. DeSaulnier	Y
Mr. Burchett	N	Mr. Carbajal	Y
Mr. Johnson of SD	N	Mr. Stanton	Y
Mr. Van Drew	N	Ms. Davids of KS	Y
Mr. Nehls	N	Mr. García of IL	Y
Mr. Mann	N	Mr. Pappas	Y
Mr. Owens	N	Mr. Moulton	Y
Mr. Burlison	N	Ms. Strickland	Y
Mr. Collins	N	Mr. Ryan	Y
Mr. Ezell	N	Ms. Hoyle of OR	Y
Mr. Kiley	N	Mrs. Sykes	Y
Mr. Fong	N	Ms. Scholten	Y
Mr. Wied	N	Mrs. Foushee	Y
Mr. Barrett	N	Mr. Deluzio	Y
Mr. Begich	N	Mr. Garcia of CA	
Mr. Bresnahan	N	Ms. Pou	Y
Mr. Hurd	N	Ms. McDonald Rivet	Y
Mr. Shreve		Ms. Friedman	Y
Mr. McDowell	N	Ms. Gillen	Y
Mr. Taylor	N	Mr. Figures	Y
Mr. Knott	N		
Ms. King-Hinds	N		
Mr. Kennedy	N		
Mr. Onder	N		
Mr. Patronis	N		

Full Committee

Vote: 55

Measure: H.R. 3898

On: Amdt. 024, offered
by Mr. Huffman

Yea	30	Nay	33
Present	0	Not Voting	4

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	Ms. Norton	Y
Mr. Webster of FL	N	Mr. Nadler	Y
Mr. Massie		Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y
Mr. Rouzer	N	Mr. Carson	Y
Mr. Bost	N	Ms. Titus	Y
Mr. LaMalfa	N	Mr. Huffman	Y
Mr. Westerman	N	Ms. Brownley	Y
Mr. Mast		Ms. Wilson of FL	Y
Mr. Stauber	N	Mr. DeSaulnier	Y
Mr. Burchett	N	Mr. Carbajal	Y
Mr. Johnson of SD	N	Mr. Stanton	Y
Mr. Van Drew	N	Ms. Davids of KS	Y
Mr. Nehls	N	Mr. Garcia of IL	Y
Mr. Mann	N	Mr. Pappas	Y
Mr. Owens	N	Mr. Moulton	Y
Mr. Burlison	N	Ms. Strickland	Y
Mr. Collins	N	Mr. Ryan	Y
Mr. Ezell	N	Ms. Hoyle of OR	Y
Mr. Kiley	N	Mrs. Sykes	Y
Mr. Fong	N	Ms. Scholten	Y
Mr. Wied	N	Mrs. Foushee	Y
Mr. Barrett	N	Mr. Deluzio	Y
Mr. Begich	N	Mr. Garcia of CA	
Mr. Bresnahan	N	Ms. Pou	Y
Mr. Hurd	N	Ms. McDonald Rivet	Y
Mr. Shreve		Ms. Friedman	Y
Mr. McDowell	N	Ms. Gillen	Y
Mr. Taylor	N	Mr. Figures	Y
Mr. Knott	N		
Ms. King-Hinds	N		
Mr. Kennedy	N		
Mr. Onder	N		
Mr. Patronis	N		

Full Committee

Vote: 56

Measure: H.R. 3898

On: Amdt. 01, offered
by Mr. Huffman

Yea	30	Nay	33
Present	0	Not Voting	4

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	Ms. Norton	Y
Mr. Webster of FL	N	Mr. Nadler	Y
Mr. Massie		Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y
Mr. Rouzer	N	Mr. Carson	Y
Mr. Bost	N	Ms. Titus	Y
Mr. LaMalfa	N	Mr. Huffman	Y
Mr. Westerman	N	Ms. Brownley	Y
Mr. Mast		Ms. Wilson of FL	Y
Mr. Stauber	N	Mr. DeSaulnier	Y
Mr. Burchett	N	Mr. Carbajal	Y
Mr. Johnson of SD	N	Mr. Stanton	Y
Mr. Van Drew	N	Ms. Davids of KS	Y
Mr. Nehls	N	Mr. García of IL	Y
Mr. Mann	N	Mr. Pappas	Y
Mr. Owens	N	Mr. Moulton	Y
Mr. Burlison	N	Ms. Strickland	Y
Mr. Collins	N	Mr. Ryan	Y
Mr. Ezell	N	Ms. Hoyle of OR	Y
Mr. Kiley	N	Mrs. Sykes	Y
Mr. Fong	N	Ms. Scholten	Y
Mr. Wied	N	Mrs. Foushee	Y
Mr. Barrett	N	Mr. Deluzio	Y
Mr. Begich	N	Mr. Garcia of CA	
Mr. Bresnahan	N	Ms. Pou	Y
Mr. Hurd	N	Ms. McDonald Rivet	Y
Mr. Shreve		Ms. Friedman	Y
Mr. McDowell	N	Ms. Gillen	Y
Mr. Taylor	N	Mr. Figures	Y
Mr. Knott	N		
Ms. King-Hinds	N		
Mr. Kennedy	N		
Mr. Onder	N		
Mr. Patronis	N		

Full Committee

Vote: 57

Measure: H.R. 3898

On: Amdt. 027, offered
by Mr. Johnson of GA

Yea 30 Nay 33
Present 0 Not Voting 4

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	Ms. Norton	Y
Mr. Webster of FL	N	Mr. Nadler	Y
Mr. Massie		Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y
Mr. Rouzer	N	Mr. Carson	Y
Mr. Bost	N	Ms. Titus	Y
Mr. LaMalfa	N	Mr. Huffman	Y
Mr. Westerman	N	Ms. Brownley	Y
Mr. Mast		Ms. Wilson of FL	Y
Mr. Stauber	N	Mr. DeSaulnier	Y
Mr. Burchett	N	Mr. Carbajal	Y
Mr. Johnson of SD	N	Mr. Stanton	Y
Mr. Van Drew	N	Ms. Davids of KS	Y
Mr. Nehls	N	Mr. García of IL	Y
Mr. Mann	N	Mr. Pappas	Y
Mr. Owens	N	Mr. Moulton	Y
Mr. Burlison	N	Ms. Strickland	Y
Mr. Collins	N	Mr. Ryan	Y
Mr. Ezell	N	Ms. Hoyle of OR	Y
Mr. Kiley	N	Mrs. Sykes	Y
Mr. Fong	N	Ms. Scholten	Y
Mr. Wied	N	Mrs. Foushee	Y
Mr. Barrett	N	Mr. Deluzio	Y
Mr. Begich	N	Mr. Garcia of CA	
Mr. Bresnahan	N	Ms. Pou	Y
Mr. Hurd	N	Ms. McDonald Rivet	Y
Mr. Shreve		Ms. Friedman	Y
Mr. McDowell	N	Ms. Gillen	Y
Mr. Taylor	N	Mr. Figures	Y
Mr. Knott	N		
Ms. King-Hinds	N		
Mr. Kennedy	N		
Mr. Onder	N		
Mr. Patronis	N		

Full Committee

Vote: 58

Measure: H.R. 3898

On: Amdt. 005, offered
by Mr. Pou

Yea 30 Nay 33

Present 0 Not Voting 4

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	Ms. Norton	Y
Mr. Webster of FL	N	Mr. Nadler	Y
Mr. Massie		Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y
Mr. Rouzer	N	Mr. Carson	Y
Mr. Bost	N	Ms. Titus	Y
Mr. LaMalfa	N	Mr. Huffman	Y
Mr. Westerman	N	Ms. Brownley	Y
Mr. Mast		Ms. Wilson of FL	Y
Mr. Stauber	N	Mr. DeSaulnier	Y
Mr. Burchett	N	Mr. Carbajal	Y
Mr. Johnson of SD	N	Mr. Stanton	Y
Mr. Van Drew	N	Ms. Davids of KS	Y
Mr. Nehls	N	Mr. García of IL	Y
Mr. Mann	N	Mr. Pappas	Y
Mr. Owens	N	Mr. Moulton	Y
Mr. Burlison	N	Ms. Strickland	Y
Mr. Collins	N	Mr. Ryan	Y
Mr. Ezell	N	Ms. Hoyle of OR	Y
Mr. Kiley	N	Mrs. Sykes	Y
Mr. Fong	N	Ms. Scholten	Y
Mr. Wied	N	Mrs. Foushee	Y
Mr. Barrett	N	Mr. Deluzio	Y
Mr. Begich	N	Mr. Garcia of CA	
Mr. Bresnahan	N	Ms. Pou	Y
Mr. Hurd	N	Ms. McDonald Rivet	Y
Mr. Shreve		Ms. Friedman	Y
Mr. McDowell	N	Ms. Gillen	Y
Mr. Taylor	N	Mr. Figures	Y
Mr. Knott	N		
Ms. King-Hinds	N		
Mr. Kennedy	N		
Mr. Onder	N		
Mr. Patronis	N		

Full Committee

Vote: 59

Measure: H.R. 3898

On: Amdt. 042, offered
by Mr. Ryan

Yea 30 Nay 33

Present 0 Not Voting 4

Member	Vote	Member	Vote
Mr. Graves of MO	N	Mr. Larsen of WA	Y
Mr. Crawford	N	Ms. Norton	Y
Mr. Webster of FL	N	Mr. Nadler	Y
Mr. Massie		Mr. Cohen	Y
Mr. Perry	N	Mr. Garamendi	Y
Mr. Babin	N	Mr. Johnson of GA	Y
Mr. Rouzer	N	Mr. Carson	Y
Mr. Bost	N	Ms. Titus	Y
Mr. LaMalfa	N	Mr. Huffman	Y
Mr. Westerman	N	Ms. Brownley	Y
Mr. Mast		Ms. Wilson of FL	Y
Mr. Stauber	N	Mr. DeSaulnier	Y
Mr. Burchett	N	Mr. Carbajal	Y
Mr. Johnson of SD	N	Mr. Stanton	Y
Mr. Van Drew	N	Ms. Davids of KS	Y
Mr. Nehls	N	Mr. Garcia of IL	Y
Mr. Mann	N	Mr. Pappas	Y
Mr. Owens	N	Mr. Moulton	Y
Mr. Burlison	N	Ms. Strickland	Y
Mr. Collins	N	Mr. Ryan	Y
Mr. Ezell	N	Ms. Hoyle of OR	Y
Mr. Kiley	N	Mrs. Sykes	Y
Mr. Fong	N	Ms. Scholten	Y
Mr. Wied	N	Mrs. Foushee	Y
Mr. Barrett	N	Mr. Deluzio	Y
Mr. Begich	N	Mr. Garcia of CA	
Mr. Bresnahan	N	Ms. Pou	Y
Mr. Hurd	N	Ms. McDonald Rivet	Y
Mr. Shreve		Ms. Friedman	Y
Mr. McDowell	N	Ms. Gillen	Y
Mr. Taylor	N	Mr. Figures	Y
Mr. Knott	N		
Ms. King-Hinds	N		
Mr. Kennedy	N		
Mr. Onder	N		
Mr. Patronis	N		

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974* and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has requested but has not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee has also requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Chairman of the Committee shall cause such estimate and statement to be printed in the *Congressional Record* upon its receipt by the Committee.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the *Congressional Budget Act of 1974* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to provide regulatory and judicial certainty for regulated entities and communities, increase transparency, and promote water quality, and for other purposes.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 3898, as amended, establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional

earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the *Unfunded Mandates Reform Act* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

PREEMPTION CLARIFICATION

Section 423 of the *Congressional Budget Act of 1974* requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 3898, as amended, does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the definition of Section 5(b) of the appendix to Title 5, United States Code, are created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the *Congressional Accountability Act* (Public Law 104–1).

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title; table of contents

This section lays out the table of contents for the bill, and states that the bill may be referred to as the “Promoting Efficient Review for Modern Infrastructure Today Act” or “PERMIT Act”.

Section 2. Water quality standards attainability

This section requires water quality standards, developed under *Clean Water Act* (CWA) section 303(c), to consider municipal combined sewer storm and sanitary sewer long-term control plans, as well as the ability of a permit holder to maintain compliance with the standards through commercially available technologies.

Section 3. Water quality criteria development and transparency

This section establishes a more transparent procedure for the development of water quality criteria by the Environmental Protection Agency (EPA) for National Pollutant Discharge Elimination System (NPDES) permits, which provides additional opportunities for public participation and limited judicial review.

Section 4. Water quality technology availability

This section requires that the technology used to develop effluent limitation guidelines wastewater discharges is viably commercially available in the United States.

Section 5. Improving water quality certifications and American energy infrastructure

This section modernizes and clarifies the water quality certification process and scope of review under CWA section 401.

Section 6. Clarifying Federal general permits

This section codifies EPA's practice of issuing general permits under CWA section 402 and requires EPA to provide a two-year notice if a general permit will not be renewed.

Section 7. NPDES permit terms

This section amends CWA section 402 to authorize NPDES permits to be issued for up to ten years

Section 8. Confidence in clean water permits

This section requires NPDES permit writers to use clear limits and terms when writing permits. It also codifies longstanding EPA policy related to when permit holders are shielded from liability.

Section 9. Forest protection and wildland firefighter safety

This section amends CWA section 402 to clarify that aerial discharges of fire retardants that appear on the Forest Service Qualified Products List do not require a NPDES permit.

Section 10. Agricultural stormwater discharge

This section amends CWA section 402 to clarify that agricultural stormwater discharges do not require a NPDES permit.

Section 11. Reducing regulatory burdens

This section amends CWA section 402 to clarify that pesticides regulated under the *Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)* do not require a NPDES permit.

Section 12. Reducing permitting uncertainty

This section clarifies that EPA cannot veto a CWA section 404 dredge and fill permit before an application is filed or after a permit has been issued by the United States Army Corps of Engineers (Corps).

Section 13. Nationwide permitting improvement

This section codifies and sets standards for Corps-issued Nationwide permits.

Section 14. Deadline for request for submission of additional information for permit programs for dredged or fill material

This section puts in place a timeline for the EPA to adhere to in the event more information from a State seeking authority to administer a CWA section 404 dredge and fill permitting program is required.

Section 15. Judicial review timeline clarity

This section sets judicial review timelines for CWA section 404 dredge and fill permits, as well as for the EPA's approval of state assumptions of 404 permit programs.

Section 16. Restoring federalism in clean water permitting

This section directs EPA to complete a review of the regulations applicable to state assumption of the CWA section 404 dredge and fill permitting program and identify revisions necessary to streamline the process.

Section 17. Jurisdictional determination backlog reduction

This section directs the Corps to reduce the backlog of jurisdictional determinations, wetlands delineations, and permit applications.

Section 18. Definition of navigable waters

This section codifies longstanding exclusions from the definition of "waters of the United States" for waste treatment systems, ephemeral features, prior converted cropland, and groundwater.

Section 19. Applicability of Spill Prevention, Control, and Countermeasure rule

This section increases the aggregate exemption level for oil tanks on certain farms under EPA's Spill Prevention, Control, and Countermeasure Rule under CWA section 311.

Section 20. Coordination with Federal Permitting Improvement Steering Council

This section directs the EPA, the Corps, and states, to the maximum extent practicable, to coordinate with the Federal Permitting Improvement Steering Council on the status of permit applications and requests for certification under sections 401, 402 and 404 of the CWA.

Section 21. Sense of Congress on Chesapeake Bay Watershed Agreement

This section provides the Sense of Congress that the Chesapeake Bay Watershed Agreement is a voluntary, cooperative agreement.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

FEDERAL WATER POLLUTION CONTROL ACT

* * * * *

TITLE III—STANDARDS AND ENFORCEMENT

* * * * *

WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS

SEC. 303. (a)(1) In order to carry out the purpose of this Act, any water quality standard applicable to interstate waters which was adopted by any State and submitted to, and approved by, or is awaiting approval by, the Administrator pursuant to this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, shall remain in effect unless the Administrator determined that such standard is not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall, within three months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after the date of such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

(2) Any State which, before the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, has adopted, pursuant to its own law, water quality standards applicable to intrastate waters shall submit such standards to the Administrator within thirty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. Each such standard shall remain in effect, in the same manner and to the same extent as any other water quality standard established under this Act unless the Administrator determines that such standard is inconsistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall not later than the one hundred and twentieth day after the date of submission of such standards, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

(3)(A) Any State which prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 has not adopted pursuant to its own laws water quality standards applicable to intrastate waters shall, not later than one hundred and eighty days after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, adopt and submit such standards to the Administrator.

(B) If the Administrator determines that any such standards are consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall approve such standards.

(C) If the Administrator determines that any such standards are not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, he shall, not later than the ninetieth day after the date of submission of such standards, notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standards pursuant to subsection (b) of this section.

(b)(1) The Administrator shall promptly prepare and publish proposed regulations setting forth water quality standards for a State in accordance with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, if—

(A) the State fails to submit water quality standards within the times prescribed in subsection (a) of this section,

(B) a water quality standard submitted by such State under subsection (a) of this section is determined by the Administrator not to be consistent with the applicable requirements of subsection (a) of this section.

(2) The Administrator shall promulgate any water quality standard published in a proposed regulation not later than one hundred and ninety days after the date he publishes any such proposed standard, unless prior to such promulgation, such State has adopted a water quality standard which the Administrator determines to be in accordance with subsection (a) of this section.

(c)(1) [The Governor of a State] (A) *The Governor of a State* or the State water pollution control agency of such State shall from time to time (but at least once each three year period beginning with the date of enactment of the Federal Water Pollution Control Act Amendments of 1972) hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards. [Results of such review shall be made available to the Administrator.]

(B) *Reviews under this paragraph shall include review, for purposes of ensuring that combined sewer overflow controls are cost effective, of any water quality standard applicable to a body of water into which, pursuant to a permit, order, or decree issued pursuant to this Act, a municipal combined storm and sanitary sewer discharges.*

(C) *Results of each review under this paragraph shall be made available to the Administrator.*

(2)(A) Whenever the State revises or adopts a new standard, such revised or new standard shall be submitted to the Administrator. Such revised or new water quality standard shall consist of the designated uses of the navigable waters involved and the water quality criteria for such waters based upon such uses. Such standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this Act. Such standards shall be established taking into consideration (i) their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes[, and also taking into consideration]; (ii) their use and value for navigation; and (iii) the cost and commercial avail-

ability in the United States of treatment technologies (including whether the technologies have been demonstrated at an applicable scale) that may be required to be applied to point sources in order to result in compliance with such standards.

(B) Whenever a State reviews water quality standards pursuant to paragraph (1) of this subsection, or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria for all toxic pollutants listed pursuant to section 307(a)(1) of this Act for which criteria have been published under section 304(a), the discharge or presence of which in the affected waters could reasonably be expected to interfere with those designated uses adopted by the State, as necessary to support such designated uses. Such criteria shall be specific numerical criteria for such toxic pollutants. Where such numerical criteria are not available, whenever a State reviews water quality standards pursuant to paragraph (1), or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria based on biological monitoring or assessment methods consistent with information published pursuant to section 304(a)(8). Nothing in this section shall be construed to limit or delay the use of effluent limitations or other permit conditions based on or involving biological monitoring or assessment methods or previously adopted numerical criteria.

(3) If the Administrator, within sixty days after the date of submission of the revised or new standard, determines that such standard meets the requirements of this Act, such standard shall thereafter be the water quality standard for the applicable waters of that State. If the Administrator determines that any such revised or new standard is not consistent with the applicable requirements of this Act, he shall not later than the ninetieth day after the date of submission of such standard notify the State and specify the changes to meet such requirements. If such changes are not adopted by the State within ninety days after the date of notification, the Administrator shall promulgate such standard pursuant to paragraph (4) of this subsection.

(4) The Administrator shall promptly prepare and publish proposed regulations setting forth a revised or new water quality standard for the navigable waters involved—

(A) if a revised or new water quality standard submitted by such State under paragraph (3) of this subsection for such waters is determined by the Administrator not to be consistent with the applicable requirements of this Act, or

(B) in any case where the Administrator determines that a revised or new standard is necessary to meet the requirements of this Act.

The Administrator shall promulgate any revised or new standard under this paragraph not later than ninety days after he publishes such proposed standards, unless prior to such promulgation, such State has adopted a revised or new water quality standard which the Administrator determines to be in accordance with this Act.

(d)(1)(A) Each State shall identify those waters within its boundaries for which the effluent limitations required by section 301(b)(1)(A) and section 301(b)(1)(B) are not stringent enough to implement any water quality standard applicable to such waters. The State shall establish a priority ranking for such waters, taking

into account the severity of the pollution and the uses to be made of such waters.

(B) Each State shall identify those waters or parts thereof within its boundaries for which controls on thermal discharges under section 301 are not stringent enough to assure protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife.

(C) Each State shall establish for the waters identified in paragraph (1)(A) of this subsection, and in accordance with the priority ranking, the total maximum daily load, for those pollutants which the Administrator identifies under section 304(a)(2) as suitable for such calculation. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.

(D) Each State shall estimate for the waters identified in paragraph (1)(B) of this subsection the total maximum daily thermal load required to assure protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife. Such estimates shall take into account the normal water temperatures, flow rates, seasonal variations, existing sources of heat input, and the dissipative capacity of the identified waters or parts thereof. Such estimates shall include a calculation of the maximum heat input that can be made into each such part and shall include a margin of safety which takes into account any lack of knowledge concerning the development of thermal water quality criteria for such protection and propagation in the identified waters or parts thereof.

(2) Each State shall submit to the Administrator from time to time, with the first such submission not later than one hundred and eighty days after the date of publication of the first identification of pollutants under section 304(a)(2)(D), for his approval the waters identified and the loads established under paragraphs (1)(A), (1)(B), (1)(C), and (1)(D) of this subsection. The Administrator shall either approve or disapprove such identification and load not later than thirty days after the date of submission. If the Administrator approves such identification and load, such State shall incorporate them into its current plan under subsection (e) of this section. If the Administrator disapproves such identification and load, he shall not later than thirty days after the date of such disapproval identify such waters in such State and establish such loads for such waters as he determines necessary to implement the water quality standards applicable to such waters and upon such identification and establishment the State shall incorporate them into its current plan under subsection (e) of this section.

(3) For the specific purpose of developing information, each State shall identify all waters within its boundaries which it has not identified under paragraph (1)(A) and (1)(B) of this subsection and estimate for such waters the total maximum daily load with seasonal variations and margins of safety, for those pollutants which the Administrator identifies under section 304(a)(2) as suitable for such calculation and for thermal discharges, at a level that would assure protection and propagation of a balanced indigenous population of fish, shellfish and wildlife.

(4) LIMITATIONS ON REVISION OF CERTAIN EFFLUENT LIMITATIONS.—

(A) STANDARD NOT ATTAINED.—For waters identified under paragraph (1)(A) where the applicable water quality standard has not yet been attained, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section may be revised only if (i) the cumulative effect of all such revised effluent limitations based on such total maximum daily load or waste load allocation will assure the attainment of such water quality standard, or (ii) the designated use which is not being attained is removed in accordance with regulations established under this section.

(B) STANDARD ATTAINED.—For waters identified under paragraph (1)(A) where the quality of such waters equals or exceeds levels necessary to protect the designated use for such waters or otherwise required by applicable water quality standards, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section, or any water quality standard established under this section, or any other permitting standard may be revised only if such revision is subject to and consistent with the antidegradation policy established under this section.

(e)(1) Each State shall have a continuing planning process approved under paragraph (2) of this subsection which is consistent with this Act.

(2) Each State shall submit not later than 120 days after the date of the enactment of the Water Pollution Control Amendments of 1972 to the Administrator for his approval a proposed continuing planning process which is consistent with this Act. Not later than thirty days after the date of submission of such a process the Administrator shall either approve or disapprove such process. The Administrator shall from time to time review each State's approved planning process for the purpose of insuring that such planning process is at all times consistent with this Act. The Administrator shall not approve any State permit program under title IV of this Act for any State which does not have an approved continuing planning process under this section.

(3) The Administrator shall approve any continuing planning process submitted to him under this section which will result in plans for all navigable waters within such State, which include, but are not limited to, the following:

(A) effluent limitations and schedules of compliance at least as stringent as those required by section 301(b)(1), section 301(b)(2), section 306, and section 307, and at least as stringent as any requirements contained in any applicable water quality standard in effect under authority of this section;

(B) the incorporation of all elements of any applicable areawide waste management plans under section 208, and applicable basin plans under section 209 of this Act;

(C) total maximum daily load for pollutants in accordance with subsection (d) of this section;

(D) procedures for revision;

(E) adequate authority for intergovernmental cooperation;

(F) adequate implementation, including schedules of compliance, for revised or new water quality standards, under subsection (c) of this section;

(G) controls over the disposition of all residual waste from any water treatment processing;

(H) an inventory and ranking, in order of priority, of needs for construction of waste treatment works required to meet the applicable requirements of sections 301 and 302.

(f) Nothing in this section shall be construed to affect any effluent limitation, or schedule of compliance required by any State to be implemented prior to the dates set forth in sections 301(b)(1) and 301(b)(2) nor to preclude any State from requiring compliance with any effluent limitation or schedule of compliance at dates earlier than such dates.

(g) Water quality standards relating to heat shall be consistent with the requirements of section 316 of this Act.

(h) For the purposes of this Act the term “water quality standards” includes thermal water quality standards.

(i) COASTAL RECREATION WATER QUALITY CRITERIA.—

(1) ADOPTION BY STATES.—

(A) INITIAL CRITERIA AND STANDARDS.—Not later than 42 months after the date of the enactment of this subsection, each State having coastal recreation waters shall adopt and submit to the Administrator water quality criteria and standards for the coastal recreation waters of the State for those pathogens and pathogen indicators for which the Administrator has published criteria under section 304(a).

(B) NEW OR REVISED CRITERIA AND STANDARDS.—Not later than 36 months after the date of publication by the Administrator of new or revised water quality criteria under section 304(a)(9), each State having coastal recreation waters shall adopt and submit to the Administrator new or revised water quality standards for the coastal recreation waters of the State for all pathogens and pathogen indicators to which the new or revised water quality criteria are applicable.

(2) FAILURE OF STATES TO ADOPT.—

(A) IN GENERAL.—If a State fails to adopt water quality criteria and standards in accordance with paragraph (1)(A) that are as protective of human health as the criteria for pathogens and pathogen indicators for coastal recreation waters published by the Administrator, the Administrator shall promptly propose regulations for the State setting forth revised or new water quality standards for pathogens and pathogen indicators described in paragraph (1)(A) for coastal recreation waters of the State.

(B) EXCEPTION.—If the Administrator proposes regulations for a State described in subparagraph (A) under subsection (c)(4)(B), the Administrator shall publish any revised or new standard under this subsection not later than 42 months after the date of the enactment of this subsection.

(3) APPLICABILITY.—Except as expressly provided by this subsection, the requirements and procedures of subsection (c) apply to this subsection, including the requirement in sub-

section (c)(2)(A) that the criteria protect public health and welfare.

INFORMATION AND GUIDELINES

SEC. 304. (a)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) criteria for water quality accurately reflecting the latest scientific knowledge (A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including ground water; (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes; and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) information (A) on the factors necessary to restore and maintain the chemical, physical, and biological integrity of all navigable waters, ground waters, waters of the contiguous zone, and the oceans; (B) on the factors necessary for the protection and propagation of shellfish, fish, and wildlife for classes and categories of receiving waters and to allow recreational activities in and on the water; and (C) on the measurement and classification of water quality; and (D) for the purpose of section 303, on and the identification of pollutants suitable for maximum daily load measurement correlated with the achievement of water quality objectives.

(3) Such criteria and information and revisions thereof shall be issued to the States and shall be published in the Federal Register and otherwise made available to the public.

(4) The Administrator shall, within 90 days after the date of enactment of the Clean Water Act of 1977 and from time to time thereafter, publish and revise as appropriate information identifying conventional pollutants, including but not limited to, pollutants classified as biological oxygen demanding, suspended solids, fecal coliform, and pH. The thermal component of any discharge shall not be identified as a conventional pollutant under this paragraph.

(5)(A) The Administrator, to the extent practicable before consideration of any request under section 301(g) of this Act and within six months after the date of enactment of the Clean Water Act of 1977, shall develop and publish information on the factors necessary for the protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and to allow recreational activities, in and on the water.

(B) The Administrator, to the extent practicable before consideration of any application under section 301(h) of this Act and within six months after the date of enactment of Clean Water Act of 1977,

shall develop and publish information on the factors necessary for the protection of public water supplies, and the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife, and to allow recreational activities, in and on the water.

(6) The Administrator shall, within three months after enactment of the Clean Water Act of 1977 and annually thereafter, for purposes of section 301(h) of this Act publish and revise as appropriate information identifying each water quality standard in effect under this Act or State law, the specific pollutants associated with such water quality standard, and the particular waters to which such water quality standard applies.

(7) GUIDANCE TO STATES.—The Administrator, after consultation with appropriate State agencies and on the basis of criteria and information published under paragraphs (1) and (2) of this subsection, shall develop and publish, within 9 months after the date of the enactment of the Water Quality Act of 1987, guidance to the States on performing the identification required by section 304(l)(1) of this Act.

(8) INFORMATION ON WATER QUALITY CRITERIA.—The Administrator, after consultation with appropriate State agencies and within 2 years after the date of the enactment of the Water Quality Act of 1987, shall develop and publish information on methods for establishing and measuring water quality criteria for toxic pollutants on other bases than pollutant-by-pollutant criteria, including biological monitoring and assessment methods.

(9) REVISED CRITERIA FOR COASTAL RECREATION WATERS.—

(A) IN GENERAL.—Not later than 5 years after the date of the enactment of this paragraph, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), the Administrator shall publish new or revised water quality criteria for pathogens and pathogen indicators (including a revised list of testing methods, as appropriate), based on the results of the studies conducted under section 104(v), for the purpose of protecting human health in coastal recreation waters.

(B) REVIEWS.—Not later than the date that is 5 years after the date of publication of water quality criteria under this paragraph, and at least once every 5 years thereafter, the Administrator shall review and, as necessary, revise the water quality criteria.

(10) CONSIDERATION OF TREATMENT TECHNOLOGIES.—*In developing or revising water quality criteria under this subsection, the Administrator shall take into consideration the cost and commercial availability in the United States of treatment technologies (including whether the technologies have been demonstrated at an applicable scale) that may be required to be applied to point sources in order to result in compliance with water quality standards adopted or promulgated under section 303.*

(11) ADMINISTRATIVE PROCEDURE.—*After the date of enactment of this paragraph, the Administrator shall issue any new*

or revised water quality criteria under paragraph (1) or (9) by rule.

(b) For the purpose of adopting or revising effluent limitations under this Act the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish within one year of enactment of this title, regulations, providing guidelines for effluent limitations, and, at least annually thereafter, revise, if appropriate, such regulations. Such regulations shall—

(1)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best practicable control technology currently available for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the control measures and practices to be applicable to point sources (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best practical control technology currently available to comply with subsection (b)(1) of section 301 of this Act shall include consideration of the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, and shall also take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements), *the commercial availability in the United States of the technology (including whether the technology has been demonstrated at an applicable scale)*, and such other factors as the Administrator deems appropriate;

(2)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods, and other alternatives for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the best measures and practices available to comply with subsection (b)(2) of section 301 of this Act to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best available technology shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), *the commercial availability in the United States of the technology (including whether the technology has been demonstrated at an applicable scale)*, and such other factors as the Administrator deems appropriate;

(3) identify control measures and practices available to eliminate the discharge of pollutants from categories and classes of point sources, taking into account the cost of achieving such elimination of the discharge of pollutants; and

(4)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best conventional pollutant control technology (including measures and practices) for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the best conventional pollutant control technology measures and practices to comply with section 301(b)(2)(E) of this Act to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best conventional pollutant control technology (including measures and practices) shall include consideration of the reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from the discharge from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources, and shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements), *the commercial availability in the United States of the technology (including whether the technology has been demonstrated at an applicable scale)*, and such other factors as the Administrator deems appropriate.

(c) The Administrator, after consultation, with appropriate Federal and State agencies and other interested persons, shall issue to the States and appropriate water pollution control agencies within 270 days after enactment of this title (and from time to time thereafter) information on the processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of this Act. Such information shall include technical and other data, including costs, as are available on alternative methods of elimination or reduction of the discharge of pollutants. Such information, and revisions thereof, shall be published in the Federal Register and otherwise shall be made available to the public.

(d)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within sixty days after enactment of this title (and from time to time thereafter) information, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, on the degree of effluent reduction attainable through the application of secondary treatment.

(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within nine months after the date of enactment of this title (and from time to time thereafter) information on alternative waste

treatment management techniques and systems available to implement section 201 of this Act.

(3) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall promulgate within one hundred and eighty days after the date of enactment of this subsection guidelines for identifying and evaluating innovative and alternative wastewater treatment processes and techniques referred to in section 201(g)(5) of this Act.

(4) For the purposes of this subsection, such biological treatment facilities as oxidation ponds, lagoons, and ditches and trickling filters shall be deemed the equivalent of secondary treatment. The Administrator shall provide guidance under paragraph (1) of this subsection on design criteria for such facilities, taking into account pollutant removal efficiencies and, consistent with the objective of the Act, assuring that water quality will not be adversely affected by deeming such facilities as the equivalent of secondary treatment.

(e) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, may publish regulations, supplemental to any effluent limitations specified under subsections (b) and (c) of this section for a class or category of point sources, for any specific pollutant which the Administrator is charged with a duty to regulate as a toxic or hazardous pollutant under section 307(a)(1) or 311 of this Act, to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage which the Administrator determines are associated with or ancillary to the industrial manufacturing or treatment process within such class or category of point sources and may contribute significant amounts of such pollutants, to navigable waters. Any applicable controls established under this subsection shall be included as a requirement for the purposes of section 301, 302, 306, 307, or 403, as the case may be, in any permit issued to a point source pursuant to section 402 of this Act.

(f) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to appropriate Federal agencies, the States, water pollution control agencies, and agencies designated under section 208 of this Act, within one year after the effective date of this subsection (and from time to time thereafter) information including (1) guidelines for identifying and evaluating the nature and extent of nonpoint sources of pollutants, and (2) processes, procedures, and methods to control pollution resulting from—

(A) agricultural and silvicultural activities, including runoff from fields and crop and forest lands;

(B) mining activities, including runoff and siltation from new, currently operating, and abandoned surface and underground mines;

(C) all construction activity, including runoff from the facilities resulting from such construction;

(D) the disposal of pollutants in wells or in subsurface excavations;

(E) salt water intrusion resulting from reductions of fresh water flow from any cause, including extraction of ground water, irrigation, obstruction, and diversion; and

(F) changes in the movement, flow, or circulation of any navigable waters or ground waters, including changes caused by the construction of dams, levees, channels, causeways, or flow diversion facilities.

Such information and revisions thereof shall be published in the Federal Register and otherwise made available to the public.

(g)(1) For the purpose of assisting States in carrying out programs under section 402 of this Act, the Administrator shall publish, within one hundred and twenty days after the date of enactment of this title, and review at least annually thereafter and, if appropriate, revise guidelines for pretreatment of pollutants which he determines are not susceptible to treatment by publicly owned treatment works. Guidelines under this subsection shall be established to control and prevent the discharge into the navigable waters, the contiguous zone, or the ocean (either directly or through publicly owned treatment works) of any pollutant which interferes with, passes through, or otherwise is incompatible with such works.

(2) When publishing guidelines under this subsection, the Administrator shall designate the category or categories of treatment works to which the guidelines shall apply.

(h) The Administrator shall, within one hundred and eighty days from the date of enactment of this title, promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 401 of this Act or permit application pursuant to section 402 of this Act.

(i) The Administrator shall (1) within sixty days after the enactment of this title promulgate guidelines for the purpose of establishing uniform application forms and other minimum requirements for the acquisition of information from owners and operators of point-sources of discharge subject to any State program under section 402 of this Act, and (2) within sixty days from the date of enactment of this title promulgate guidelines establishing the minimum procedural and other elements of any State program under section 402 of this Act which shall include:

- (A) monitoring requirements;
- (B) reporting requirements (including procedures to make information available to the public);
- (C) enforcement provisions; and
- (D) funding, personnel qualifications, and manpower requirements (including a requirement that no board or body which approves permit applications or portions thereof shall include, as a member, any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit).

(j) LAKE RESTORATION GUIDANCE MANUAL.—The Administrator shall, within 1 year after the date of the enactment of the Water Quality Act of 1987 and biennially thereafter, publish and disseminate a lake restoration guidance manual describing methods, procedures, and processes to guide State and local efforts to improve, restore, and enhance water quality in the Nation's publicly owned lakes.

(k)(1) The Administrator shall enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior, and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, to provide for the maximum utilization of other Federal laws and programs for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 208 of this Act and nonpoint source pollution management programs approved under section 319 of this Act.

(2) The Administrator is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, any funds appropriated under paragraph (3) of this subsection to supplement funds otherwise appropriated to programs authorized pursuant to any agreement under paragraph (1).

(3) There is authorized to be appropriated to carry out the provisions of this subsection, \$100,000,000 per fiscal year for the fiscal years 1979 through 1983 and such sums as may be necessary for fiscal years 1984 through 1990.

(l) INDIVIDUAL CONTROL STRATEGIES FOR TOXIC POLLUTANTS.—

(1) STATE LIST OF NAVIGABLE WATERS AND DEVELOPMENT OF STRATEGIES.—Not later than 2 years after the date of the enactment of this subsection, each State shall submit to the Administrator for review, approval, and implementation under this subsection—

(A) a list of those waters within the State which after the application of effluent limitations required under section 301(b)(2) of this Act cannot reasonably be anticipated to attain or maintain (i) water quality standards for such waters reviewed, revised, or adopted in accordance with section 303(c)(2)(B) of this Act, due to toxic pollutants, or (ii) that water quality which shall assure protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water;

(B) a list of all navigable waters in such State for which the State does not expect the applicable standard under section 303 of this Act will be achieved after the requirements of sections 301(b), 306, and 307(b) are met, due entirely or substantially to discharges from point sources of any toxic pollutants listed pursuant to section 307(a);

(C) for each segment of the navigable waters included on such lists, a determination of the specific point sources discharging any such toxic pollutant which is believed to be preventing or impairing such water quality and the amount of each toxic pollutant discharged by each such source; and

(D) for each such segment, an individual control strategy which the State determines will produce a reduction in the discharge of toxic pollutants from point sources identified by the State under this paragraph through the establishment of effluent limitations under section 402 of this Act and water quality standards under section 303(c)(2)(B) of

this Act, which reduction is sufficient, in combination with existing controls on point and nonpoint sources of pollution, to achieve the applicable water quality standard as soon as possible, but not later than 3 years after the date of the establishment of such strategy.

(2) APPROVAL OR DISAPPROVAL.—Not later than 120 days after the last day of the 2-year period referred to in paragraph (1), the Administrator shall approve or disapprove the control strategies submitted under paragraph (1) by any State.

(3) ADMINISTRATOR'S ACTION.—If a State fails to submit control strategies in accordance with paragraph (1) or the Administrator does not approve the control strategies submitted by such State in accordance with paragraph (1), then, not later than 1 year after the last day of the period referred to in paragraph (2), the Administrator, in cooperation with such State and after notice and opportunity for public comment, shall implement the requirements of paragraph (1) in such State. In the implementation of such requirements, the Administrator shall, at a minimum, consider for listing under this subsection any navigable waters for which any person submits a petition to the Administrator for listing not later than 120 days after such last day.

(m) SCHEDULE FOR REVIEW OF GUIDELINES.—

(1) PUBLICATION.—Within 12 months after the date of the enactment of the Water Quality Act of 1987, and biennially thereafter, the Administrator shall publish in the Federal Register a plan which shall—

(A) establish a schedule for the annual review and revision of promulgated effluent guidelines, in accordance with subsection (b) of this section;

(B) identify categories of sources discharging toxic or nonconventional pollutants for which guidelines under subsection (b)(2) of this section and section 306 have not previously been published; and

(C) establish a schedule for promulgation of effluent guidelines for categories identified in subparagraph (B), under which promulgation of such guidelines shall be no later than 4 years after such date of enactment for categories identified in the first published plan or 3 years after the publication of the plan for categories identified in later published plans.

(2) PUBLIC REVIEW.—The Administrator shall provide for public review and comment on the plan prior to final publication.

* * * * *

TITLE IV—PERMITS AND LICENSES

CERTIFICATION

SEC. 401. (a)(1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which **may result** *may directly result* in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the

discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of this Act. In the case of any such [activity] *discharge* for which there is not an applicable effluent limitation or other limitation under sections 301(b) and 302, and there is not an applicable standard under sections 306 and 307, the State shall so certify, except that any such certification shall not be deemed to satisfy section 511(c) of this Act. Such State or interstate agency shall establish procedures for public notice in the case of all [applications] *requests* for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific [applications] *requests*. In any case where a State or interstate agency has no authority to give such a certification, such certification shall be from the Administrator. *Not later than 30 days after the date of enactment of the PERMIT Act, each State and interstate agency that has authority to give such a certification, and the Administrator, shall publish requirements for certification to demonstrate to such State, such interstate agency, or the Administrator, as the case may be, compliance with the applicable provisions of sections 301, 302, 303, 306, and 307. A decision to grant or deny a request for certification shall be based only on compliance with the applicable provisions of sections 301, 302, 303, 306, and 307, and the grounds for the decision shall be set forth in writing and provided to the applicant. Not later than 90 days after receipt of a request for certification, the State, interstate agency, or Administrator, as the case may be, shall identify in writing all specific additional materials or information necessary for the request for certification to be complete, as described in subsection (g). The State, interstate agency, or the Administrator, as the case may be, may grant a request for certification with or without conditions, deny a request for certification, or waive the requirement for certification under this subsection with respect to such Federal application. If the State, interstate agency, or Administrator, as the case may be, fails or refuses to [act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection] grant the request for certification with or without conditions, deny the request for certification, or waive the requirement for certification under this subsection with respect to such Federal application, within a reasonable period of time to be determined by the licensing or permitting agency (which shall not exceed one year) after receipt of such request, the requirement for certification under this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been [waived as provided in the preceding sentence] waived under this paragraph. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.*

(2) [Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Administrator of such application and certification.] *On receipt of a request for certification, the certifying State or interstate agency, as applica-*

ble, shall immediately notify the Administrator of the request. Whenever such a discharge may affect, as determined by the Administrator, the quality of the waters of any other State, the Administrator within thirty days of the date of [notice of application for such Federal license or permit] receipt of a notice under the preceding sentence shall so notify such other State, the licensing or permitting agency, and the applicant. *If the Administrator determines under the preceding sentence that such a discharge will not affect the waters of any other State, no such notification is required.* If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate [any water quality requirement in such State] *any water quality standard in effect for the State under section 303*, and within such sixty-day period notifies the Administrator and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing *at a time that is agreed to by such State and the applicant.* The Administrator shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Administrator, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to [insure compliance with applicable water quality requirements.] *ensure compliance with the applicable provisions of sections 301, 302, 303, 306, and 307.* If the imposition of conditions cannot [insure] *ensure* such compliance such agency shall not issue such license or permit.

(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying State, agency, or Administrator, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Administrator, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that [there will be compliance] *any such discharge will comply* with the applicable provisions of sections 301, 302, 303, 306, and 307 of this Act because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or, if appropriate, the interstate agency or the Administrator, with notice of any proposed changes in the construction or operation of the facility with respect to which a construction license or permit has been granted, which changes may result in violation of [section] *any applicable provision of section 301, 302, 303, 306, or 307 of this Act.*

(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may *directly* result in any discharge into the navigable waters and with respect to which a certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State, or, if appropriate, the interstate agency or the Administrator to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that **[applicable effluent limitations or other limitations or other applicable water quality requirements will not be violated]** *no applicable provision of section 301, 302, 303, 306, or 307 will be violated*. Upon notification by the certifying State, or if appropriate, the interstate agency or the Administrator that the operation of any such federally licensed or permitted facility or activity **[will violate applicable effluent limitations or other limitations or other water quality requirements]** *will directly result in a discharge that violates an applicable provision of section 301, 302, 303, 306, or 307*, such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Administrator, as the case may be, that there is reasonable assurance that **[such facility or activity will not violate the applicable provisions]** *operation of such facility or activity will not directly result in a discharge that violates any applicable provision of section 301, 302, 303, 306, or 307 of this Act*.

(5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under this Act that such facility or activity has been operated in violation of **[the applicable provisions]** *any applicable provision of section 301, 302, 303, 306, or 307 of this Act*.

(6) Except with respect to a permit issued under section 402 of this Act, in any case where actual construction of a facility has been lawfully commenced prior to April 3, 1970, no certification shall be required under this subsection for a license or permit issued after April 3, 1970, to operate such facility, except that any such license or permit issued without certification shall terminate April 3, 1973, unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this section.

(b) **[Nothing in this section]** *Except as provided in subsection (e), nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with any applicable water quality requirements. The Administrator shall, upon the request of any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable effluent limitations, or other limitations, standards, regulations, or requirements, or water quality criteria, and shall, when requested by any such department or agency or State or interstate agency, or applicant, comment on any methods to comply*

with such limitations, standards, regulations, requirements, or criteria.

(c) In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensees or permittees, and to make an appropriate charge for such use. Moneys received from such licensees or permittees shall be deposited in the Treasury as miscellaneous receipts.

(d) Any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any [applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 301 or 302 of this Act, standard of performance under section 306 of this Act, or prohibition, effluent standard, or pretreatment standard under section 307 of this Act, and with any other appropriate requirement of State law set forth in such certification, and shall become a condition on any Federal license or permit subject to the provisions of this section] *discharge subject to this section will comply with the applicable provisions of sections 301, 302, 303, 306, and 307, and any such limitations or requirements shall be imposed by the licensing or permitting agency as a condition on any Federal license or permit subject to the provisions of this section.*

(e) *Notwithstanding section 505, any condition imposed on a Federal license or permit by a licensing or permitting agency under this section may be enforced only by such licensing or permitting agency.*

(f) *For purposes of this section, the applicable provisions of sections 301, 302, 303, 306, and 307 are any applicable effluent limitations and other limitations under section 301 or 302, any water quality standard in effect for a State under section 303, any standard of performance under section 306, and any prohibition, effluent standard, or pretreatment standard under section 307.*

(g) *A request for certification under this section shall be made in writing to the State, interstate agency, or Administrator, as the case may be. A complete request for certification shall consist of the following:*

(1) Identification of each applicant for the Federal license or permit with respect to which the certification is requested.

(2) A statement that information included in the request for certification is truthful, accurate, and complete, to the best knowledge of each such applicant.

(3) In the case of a request for certification with respect to an individual permit or license—

(A) identification of the Federal license or permit that is the subject of the application with respect to which the certification is requested;

(B) identification of any activity the conduct of which is subject to such Federal license or permit;

(C) identification of the location and nature of any discharge that may directly result from such activity, and the location of the receiving waters;

(D) a description of means that may be used to monitor, control, or manage any such discharge; and

(E) a list of all other Federal, interstate, Tribal, State, or local agency authorizations required for the conduct of such activity, and any approval or denial of such an authorization already received.

(4) In the case of a request for certification with respect to the issuance of a general license or general permit—

(A) identification of the proposed categories of activities to be covered by the general license or general permit for which certification is requested;

(B) a description of the proposed general license or general permit, which may include a draft of the proposed general license or permit; and

(C) an estimate of the number of discharges expected to result from the proposed general license or general permit annually.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

SEC. 402. (a)(1) Except as provided in sections 318 and 404 of this Act, the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 301(a), upon condition that such discharge will meet either (A) all applicable requirements under sections 301, 302, 306, 307, 308, and 403 of this Act, or (B) prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act.

(2) The Administrator shall prescribe conditions for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits issued thereunder under subsection (b) of this section.

(4) All permits for discharges into the navigable waters issued pursuant to section 13 of the Act of March 3, 1899, shall be deemed to be permits issued under this title, and permits issued under this title shall be deemed to be permits issued under section 13 of the Act of March 3, 1899, and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this Act.

(5) No permit for a discharge into the navigable waters shall be issued under section 13 of the Act of March 3, 1899, after the date of enactment of this title. Each application for a permit under section 13 of the Act of March 3, 1899, pending on the date of enactment of this Act shall be deemed to be an application for a permit under this section. The Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objective of this Act, to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on the date of enactment of this Act and ends either on the ninetieth day after the date of the first promulgation of

guidelines required by section 304(i)(2) of this Act, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this Act. No such permit shall issue if the Administrator objects to such issuance.

(6) *GENERAL PERMITS.*—

(A) *PERMITS AUTHORIZED.*—*The Administrator may issue general permits under this section on a State, regional, or nationwide basis, or for a delineated area, for discharges associated with any category of activities, which discharges are of similar types and from similar sources.*

(B) *PERMIT EXPIRATION NOTIFICATION REQUIREMENT.*—*If a general permit issued under this section will expire and the Administrator decides not to issue a new general permit for discharges similar to those covered by the expiring general permit, the Administrator shall publish in the Federal Register a notice of such decision at least two years prior to the expiration of the general permit.*

(C) *APPLICATION OF PERMIT TERMS OF AN EXPIRED PERMIT.*—

(i) *IN GENERAL.*—*If a general permit issued under this section expires and the Administrator has not published a notice in accordance with subparagraph (B), the Administrator shall, until the date described in clause (ii)—*

(I) continue to apply the terms, conditions, and requirements of the expired general permit to any discharge that was covered by the expired general permit; and

(II) apply such terms, conditions, and requirements to any discharge that would have been covered by the expired general permit (in accordance with any relevant requirements for such coverage) if the discharge had occurred before such expiration.

(ii) *DATE DESCRIBED.*—*The date described in this clause is the earlier of—*

(I) the date on which the Administrator issues a new general permit for discharges similar to those covered by the expired general permit; or

(II) the date that is two years after the date on which the Administrator publishes in the Federal Register a notice of a decision not to issue a new general permit for discharges similar to those covered by the expired general permit.

(b) At any time after the promulgation of the guidelines required by subsection (i)(2) of section 304 of this Act, the Governor of each State desiring to administer its own permit program for discharges into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a state-

ment from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each such submitted program unless he determines that adequate authority does not exist:

(1) To issue permits which—

(A) apply, and insure compliance with, any applicable requirements of sections 301, 302, 306, 307, and 403;

(B) are for fixed terms not exceeding **five years** *ten years*; and

(C) can be terminated or modified for cause including, but not limited to, the following:

(i) violation of any condition of the permit;

(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(D) control the disposal of pollutants into wells;

(2)(A) To issue permits which apply, and insure compliance with, all applicable requirements of section 308 of this Act, or

(B) To inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act;

(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit;

(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

(6) To insure that no permit will be issued if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby;

(7) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement;

(8) To insure that any permit for a discharge from a publicly owned treatment works includes conditions to require the identification in terms of character and volume of pollutants of any significant source introducing pollutants subject to pretreatment standards under section 307(b) of this Act into such works and a program to assure compliance with such pretreatment standards by each such source, in addition to adequate notice to the permitting

agency of (A) new introductions into such works of pollutants from any source which would be a new source as defined in section 306 if such source were discharging pollutants, (B) new introductions of pollutants into such works from a source which would be subject to section 301 if it were discharging such pollutants, or (C) a substantial change in volume or character of pollutants being introduced into such works by a source introducing pollutants into such works at the time of issuance of the permit. Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works; and

(9) To insure that any industrial user of any publicly owned treatment works will comply with sections 204(b), 307, and 308.

(c)(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those discharges subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 304(i)(2) of this Act. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 304(i)(2) of this Act.

(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

(4) LIMITATIONS ON PARTIAL PERMIT PROGRAM RETURNS AND WITHDRAWALS.—A State may return to the Administrator administration, and the Administrator may withdraw under paragraph (3) of this subsection approval, of—

(A) a State partial permit program approved under subsection (n)(3) only if the entire permit program being administered by the State department or agency at the time is returned or withdrawn; and

(B) a State partial permit program approved under subsection (n)(4) only if an entire phased component of the permit program being administered by the State at the time is returned or withdrawn.

(d)(1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

(2) No permit shall issue (A) if the Administrator within ninety days of the date of his notification under subsection (b)(5) of this

section objects in writing to the issuance of such permit, or (B) if the Administrator within ninety days of the date of transmittal of the proposed permit by the State objects in writing to the issuance of such permit as being outside the guidelines and requirements of this Act. Whenever the Administrator objects to the issuance of a permit under this paragraph such written objection shall contain a statement of the reasons for such objection and the effluent limitations and conditions which such permit would include if it were issued by the Administrator.

(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

(4) In any case where, after the date of enactment of this paragraph, the Administrator, pursuant to paragraph (2) of this subsection, objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing, or, if no hearing is requested within 90 days after the date of such objection, the Administrator may issue the permit pursuant to subsection (a) of this section for such source in accordance with the guidelines and requirements of this Act.

(e) In accordance with guidelines promulgated pursuant to subsection (i)(2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (d) of this section at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

(f) The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

(g) Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the Department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

(h) In the event any condition of a permit for discharges from a treatment works (as defined in section 212 of this Act) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved or where the Administrator determines pursuant to section 309(a) of this Act that a State with an approved program has not commenced appropriate enforcement action with respect to such permit, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

(i) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

(j) A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

[(k) Compliance with] (k) COMPLIANCE WITH PERMITS.—

(1) *IN GENERAL.*—*Subject to paragraph (2), compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 302, 306, 307, and 403, except any standard imposed under section 307 for a toxic pollutant injurious to human health. Until December 31, 1974, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation of (1) section 301, 306, or 402 of this Act, or (2) section 13 of the Act of March 3, 1899, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application. For the 180-day period beginning on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, in the case of any point source discharging any pollutant or combination of pollutants immediately prior to such date of enactment which source is not subject to section 13 of the Act of March 3, 1899, the discharge by such source shall not be a violation of this Act if such a source applies for a permit for discharge pursuant to this section within such 180-day period.*

(2) *SCOPE.*—*For purposes of paragraph (1), compliance with the conditions of a permit issued under this section shall be considered compliance with respect to a discharge of—*

(A) any pollutant for which an effluent limitation is included in the permit; and

(B) any pollutant for which an effluent limitation is not included in the permit that is—

(i) specifically identified as controlled or monitored through indicator parameters in the permit, the fact sheet for the permit, or the administrative record relating to the permit;

(ii) specifically identified during the permit application process as present in discharges to which the permit will apply; or

(iii) whether or not specifically identified in the permit or during the permit application process—

(I) present in any waste streams or processes of the point source to which the permit applies, which waste streams or processes are specifically identified during the permit application process; or

(II) otherwise within the scope of any operations of the point source to which the permit applies, which scope of operations is specifically identified during the permit application process.

(l) LIMITATION ON PERMIT REQUIREMENT.—

(1) *AGRICULTURAL RETURN FLOWS.*—The Administrator shall not require a permit under this section for discharges com-

posed entirely of return flows from irrigated agriculture, nor shall the Administrator directly or indirectly, require any State to require such a permit.

(2) **STORMWATER RUNOFF FROM OIL, GAS, AND MINING OPERATIONS.**—The Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any State to require a permit, for discharges of stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.

(3) **SILVICULTURAL ACTIVITIES.**—

(A) **NPDES PERMIT REQUIREMENTS FOR SILVICULTURAL ACTIVITIES.**—The Administrator shall not require a permit under this section nor directly or indirectly require any State to require a permit under this section [for a discharge from] for—

(i) *a discharge from runoff resulting from the conduct of the following silviculture activities conducted in accordance with standard industry practice: nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance* [.] ; or

(ii) *a discharge resulting from the aerial application of a product used for fire control and suppression purposes that appears on the most current Forest Service Qualified Products List (or any successor list).*

(B) **OTHER REQUIREMENTS.**—Nothing in this paragraph exempts a discharge from silvicultural activity from any permitting requirement under section 404, existing permitting requirements under section 402, or from any other federal law.

(C) The authorization provided in Section 505(a) does not apply to any non-permitting program established under 402(p)(6) for the silviculture activities listed in 402(l)(3)(A), or to any other limitations that might be deemed to apply to the silviculture activities listed in 402(l)(3)(A).

(4) **AGRICULTURAL STORMWATER DISCHARGE.**—

(A) **IN GENERAL.**—*The Administrator shall not require a permit, nor directly or indirectly require any State to require a permit, under this section for discharges of stormwater, including from subsurface drainage, from agricultural land that occur in direct response to a precipitation event.*

(B) **AGRICULTURAL LAND DEFINED.**—*In this paragraph, the term “agricultural land” includes—*

(i) *land on which an agricultural input (such as manure and other crop nutrients, crop protection, or seed) is applied;*

(ii) *land on which animals (including fish and shellfish), crops (including fruit and nut trees), crop residue, plants, seed, or vegetation are present for purposes of farming or ranching; and*

(iii) *land that is—*

(I) *immediately adjacent to, and functionally related to, land described in clause (i) or (ii); and*

(II) *necessary to support agricultural production, soil conservation, flood control, or water quality.*

(m) **ADDITIONAL PRETREATMENT OF CONVENTIONAL POLLUTANTS NOT REQUIRED.**—To the extent a treatment works (as defined in section 212 of this Act) which is publicly owned is not meeting the requirements of a permit issued under this section for such treatment works as a result of inadequate design or operation of such treatment works, the Administrator, in issuing a permit under this section, shall not require pretreatment by a person introducing conventional pollutants identified pursuant to a section 304(a)(4) of this Act into such treatment works other than pretreatment required to assure compliance with pretreatment standards under subsection (b)(8) of this section and section 307(b)(1) of this Act. Nothing in this subsection shall affect the Administrator's authority under sections 307 and 309 of this Act, affect State and local authority under sections 307(b)(4) and 510 of this Act, relieve such treatment works of its obligations to meet requirements established under this Act, or otherwise preclude such works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit under this section.

(n) **PARTIAL PERMIT PROGRAM.**—

(1) **STATE SUBMISSION.**—The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

(2) **MINIMUM COVERAGE.**—A partial permit program under this subsection shall cover, at a minimum, administration of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b).

(3) **APPROVAL OF MAJOR CATEGORY PARTIAL PERMIT PROGRAMS.**—The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if—

(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b).

(4) **APPROVAL OF MAJOR COMPONENT PARTIAL PERMIT PROGRAMS.**—The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b) if—

(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b); and

(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) by a specified date not more than 5 years after submission of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.

(o) ANTI-BACKSLIDING.—

(1) GENERAL PROHIBITION.—In the case of effluent limitations established on the basis of subsection (a)(1)(B) of this section, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section 304(b) subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of section 301(b)(1)(C) or section 303(d) or (e), a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with section 303(d)(4).

(2) EXCEPTIONS.—A permit with respect to which paragraph (1) applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if—

(A) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

(B)(i) information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

(ii) the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under subsection (a)(1)(B);

(C) a less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

(D) the permittee has received a permit modification under section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a); or

(E) the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

Subparagraph (B) shall not apply to any revised waste load allocations or any alternative grounds for translating water quality standards into effluent limitations, except where the cumulative effect of such revised allocations results in a decrease in the amount of pollutants discharged into the concerned waters, and such revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of this Act or for reasons otherwise unrelated to water quality.

(3) LIMITATIONS.—In no event may a permit with respect to which paragraph (1) applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, reissued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 303 applicable to such waters.

(p) MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.—

(1) GENERAL RULE.—Prior to October 1, 1994, the Administrator or the State (in the case of a permit program approved under section 402 of this Act) shall not require a permit under this section for discharges composed entirely of stormwater.

(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to the following stormwater discharges:

(A) A discharge with respect to which a permit has been issued under this section before the date of the enactment of this subsection.

(B) A discharge associated with industrial activity.

(C) A discharge from a municipal separate storm sewer system serving a population of 250,000 or more.

(D) A discharge from a municipal separate storm sewer system serving a population of 100,000 or more but less than 250,000.

(E) A discharge for which the Administrator or the State, as the case may be, determines that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

(3) PERMIT REQUIREMENTS.—

(A) INDUSTRIAL DISCHARGES.—Permits for discharges associated with industrial activity shall meet all applicable provisions of this section and section 301.

(B) MUNICIPAL DISCHARGE.—Permits for discharges from municipal storm sewers—

(i) may be issued on a system- or jurisdiction-wide basis;

(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other

provisions as the Administrator or the State determines appropriate for the control of such pollutants.

(4) PERMIT APPLICATION REQUIREMENTS.—

(A) INDUSTRIAL AND LARGE MUNICIPAL DISCHARGES.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraphs (2)(B) and (2)(C). Applications for permits for such discharges shall be filed no later than 3 years after such date of enactment. Not later than 4 years after such date of enactment the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(B) OTHER MUNICIPAL DISCHARGES.—Not later than 4 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraph (2)(D). Applications for permits for such discharges shall be filed no later than 5 years after such date of enactment. Not later than 6 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

(5) STUDIES.—The Administrator, in consultation with the States, shall conduct a study for the purposes of—

(A) identifying those stormwater discharges or classes of stormwater discharges for which permits are not required pursuant to paragraphs (1) and (2) of this subsection;

(B) determining, to the maximum extent practicable, the nature and extent of pollutants in such discharges; and

(C) establishing procedures and methods to control stormwater discharges to the extent necessary to mitigate impacts on water quality.

Not later than October 1, 1988, the Administrator shall submit to Congress a report on the results of the study described in subparagraphs (A) and (B). Not later than October 1, 1989, the Administrator shall submit to Congress a report on the results of the study described in subparagraph (C).

(6) REGULATIONS.—Not later than October 1, 1993, the Administrator, in consultation with State and local officials, shall issue regulations (based on the results of the studies conducted under paragraph (5)) which designate stormwater discharges, other than those discharges described in paragraph (2), to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources. The program shall, at a minimum, (A) establish priorities, (B) establish requirements for State stormwater management programs, and (C) establish expeditious deadlines. The program may include performance standards, guidelines, guidance, and

management practices and treatment requirements, as appropriate.

(q) COMBINED SEWER OVERFLOWS.—

(1) REQUIREMENT FOR PERMITS, ORDERS, AND DECREES.—Each permit, order, or decree issued pursuant to this Act after the date of enactment of this subsection for a discharge from a municipal combined storm and sanitary sewer shall conform to the Combined Sewer Overflow Control Policy signed by the Administrator on April 11, 1994 (in this subsection referred to as the “CSO control policy”).

(2) WATER QUALITY AND DESIGNATED USE REVIEW GUIDANCE.—Not later than July 31, 2001, and after providing notice and opportunity for public comment, the Administrator shall issue guidance to facilitate the conduct of water quality and designated use reviews for municipal combined sewer overflow receiving waters.

(3) REPORT.—Not later than September 1, 2001, the Administrator shall transmit to Congress a report on the progress made by the Environmental Protection Agency, States, and municipalities in implementing and enforcing the CSO control policy.

(r) DISCHARGES INCIDENTAL TO THE NORMAL OPERATION OF RECREATIONAL VESSELS.—No permit shall be required under this Act by the Administrator (or a State, in the case of a permit program approved under subsection (b)) for the discharge of any graywater, bilge water, cooling water, weather deck runoff, oil water separator effluent, or effluent from properly functioning marine engines, or any other discharge that is incidental to the normal operation of a vessel, if the discharge is from a recreational vessel.

(s) INTEGRATED PLANS.—

(1) DEFINITION OF INTEGRATED PLAN.—In this subsection, the term “integrated plan” means a plan developed in accordance with the Integrated Municipal Stormwater and Wastewater Planning Approach Framework, issued by the Environmental Protection Agency and dated June 5, 2012.

(2) IN GENERAL.—The Administrator (or a State, in the case of a permit program approved by the Administrator) shall inform municipalities of the opportunity to develop an integrated plan that may be incorporated into a permit under this section.

(3) SCOPE.—

(A) SCOPE OF PERMIT INCORPORATING INTEGRATED PLAN.—A permit issued under this section that incorporates an integrated plan may integrate all requirements under this Act addressed in the integrated plan, including requirements relating to—

- (i) a combined sewer overflow;
- (ii) a capacity, management, operation, and maintenance program for sanitary sewer collection systems;
- (iii) a municipal stormwater discharge;
- (iv) a municipal wastewater discharge; and
- (v) a water quality-based effluent limitation to implement an applicable wasteload allocation in a total maximum daily load.

(B) INCLUSIONS IN INTEGRATED PLAN.—An integrated plan incorporated into a permit issued under this section may include the implementation of—

- (i) projects, including innovative projects, to reclaim, recycle, or reuse water; and
- (ii) green infrastructure.

(4) COMPLIANCE SCHEDULES.—

(A) IN GENERAL.—A permit issued under this section that incorporates an integrated plan may include a schedule of compliance, under which actions taken to meet any applicable water quality-based effluent limitation may be implemented over more than 1 permit term if the schedule of compliance—

- (i) is authorized by State water quality standards; and
- (ii) meets the requirements of section 122.47 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

(B) TIME FOR COMPLIANCE.—For purposes of subparagraph (A)(ii), the requirement of section 122.47 of title 40, Code of Federal Regulations, for compliance by an applicable statutory deadline under this Act does not prohibit implementation of an applicable water quality-based effluent limitation over more than 1 permit term.

(C) REVIEW.—A schedule of compliance incorporated into a permit issued under this section may be reviewed at the time the permit is renewed to determine whether the schedule should be modified.

(5) EXISTING AUTHORITIES RETAINED.—

(A) APPLICABLE STANDARDS.—Nothing in this subsection modifies any obligation to comply with applicable technology and water quality-based effluent limitations under this Act.

(B) FLEXIBILITY.—Nothing in this subsection reduces or eliminates any flexibility available under this Act, including the authority of a State to revise a water quality standard after a use attainability analysis under section 131.10(g) of title 40, Code of Federal Regulations (or a successor regulation), subject to the approval of the Administrator under section 303(c).

(6) CLARIFICATION OF STATE AUTHORITY.—

(A) IN GENERAL.—Nothing in section 301(b)(1)(C) precludes a State from authorizing in the water quality standards of the State the issuance of a schedule of compliance to meet water quality-based effluent limitations in permits that incorporate provisions of an integrated plan.

(B) TRANSITION RULE.—In any case in which a discharge is subject to a judicial order or consent decree, as of the date of enactment of this subsection, resolving an enforcement action under this Act, any schedule of compliance issued pursuant to an authorization in a State water quality standard may not revise a schedule of compliance in that order or decree to be less stringent, unless the order or decree is modified by agreement of the parties and the court.

(t) *EXPRESSION OF WATER QUALITY-BASED EFFLUENT LIMITATIONS.*—If the Administrator (or a State, in the case of a permit program approved by the Administrator) determines that a water quality-based limitation on a discharge of a pollutant is necessary to include in a permit under this section in addition to any appropriate technology-based effluent limitations included in such permit, the Administrator (or the State) may include such water quality-based limitation in such permit only in the form of a limitation that—

- (1) specifies the pollutant to which it applies; and
- (2) clearly describes the manner in which compliance with the limitation may be achieved, which shall include—

- (A) a numerical limit on the discharge of such pollutant;

- (B) a narrative description of required actions to be applied to the discharge (including any measures or practices required to be applied); or

- (C) a narrative description of a limitation on the discharge that specifies the level of control to be applied.

(u) *DISCHARGES OF PESTICIDES.*—

(1) *NO PERMIT REQUIREMENT.*—Except as provided in paragraph (2), a permit shall not be required by the Administrator or a State under this Act for a discharge from a point source into navigable waters of a pesticide authorized for sale, distribution, or use under the Federal Insecticide, Fungicide, and Rodenticide Act, or the residue of such a pesticide, resulting from the application of such pesticide.

(2) *EXCEPTIONS.*—Paragraph (1) shall not apply to the following discharges of a pesticide or pesticide residue:

(A) A discharge resulting from the application of a pesticide in violation of a provision of the Federal Insecticide, Fungicide, and Rodenticide Act that is relevant to protecting water quality, if—

- (i) the discharge would not have occurred but for the violation; or

- (ii) the amount of pesticide or pesticide residue in the discharge is greater than would have occurred without the violation.

(B) Stormwater discharges subject to regulation under subsection (p).

(C) The following discharges subject to regulation under this section:

- (i) Manufacturing or industrial effluent.

- (ii) Treatment works effluent.

- (iii) Discharges incidental to the normal operation of a vessel, including a discharge resulting from ballasting operations or vessel biofouling prevention.

* * * * *

PERMITS FOR DREDGED OR FILL MATERIAL

SEC. 404. (a) The Secretary may issue permits, after notice and opportunity for public hearings for the discharge of dredged or fill material into the navigable waters at specified disposal sites. Not later than the fifteenth day after the date an applicant submits all the information required to complete an application for a permit

under this subsection, the Secretary shall publish the notice required by this subsection.

(b) Subject to subsection (c) of this section, each such disposal site shall be specified for each such permit by the Secretary (1) through the application of guidelines developed by the Administrator, in conjunction with the Secretary, which guidelines shall be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the ocean under section 403(c), and (2) in any case where such guidelines under clause (1) alone would prohibit the specification of a site, through the application additionally of the economic impact of the site on navigation and anchorage.

[(c) The Administrator] (c) *SPECIFICATION OR USE OF DEFINED AREA.*—

(1) *IN GENERAL.*—*The Administrator is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, during the period described in paragraph (2) and after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Before making such determination, the Administrator shall consult with the Secretary. The Administrator shall set forth in writing and make public his findings and his reasons for making any determination under this subsection.*

(2) *PERIOD OF PROHIBITION.*—*The period during which the Administrator may prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, or deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, under paragraph (1) shall—*

(A) begin on the date on which an applicant submits all the information required to complete an application for a permit under this section; and

(B) end on the date on which the Secretary issues the permit.

(d) The term “Secretary” as used in this section means the Secretary of the Army, acting through the Chief of Engineers.

[(e)(1) In carrying] (e) *GENERAL PERMITS.*—

(1) *PERMITS AUTHORIZED.*—*In carrying out his functions relating to the discharge of dredged or fill material under this section, the Secretary may, after notice and opportunity for public hearing, issue general permits on a State, regional, or nationwide basis for any category of activities involving discharges of dredged or fill material if the Secretary determines that the activities in such category are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment. Any general permit issued under this subsection shall (A) be based on the guidelines described in subsection (b)(1) of this section, and (B) set forth the*

requirements and standards which shall apply to any activity authorized by such general permit.

[(2) No general]

(2) *TERM.*—*No general permit issued under this subsection shall be for a period of more than [five years] ten years after the date of its issuance and such general permit may be revoked or modified by the Secretary if, after opportunity for public hearing, the Secretary determines that the activities authorized by such general permit have an adverse impact on the environment or such activities are more appropriately authorized by individual permits.*

(3) *CONSIDERATIONS.*—*In determining the environmental effects of an activity under paragraph (1) or (2), the Secretary—*

(A) shall consider only the effects of any discharge of dredged or fill material resulting from such activity;

(B) shall consider any effects of a discharge of dredged or fill material into less than 3 acres of navigable waters to be a minimal adverse environmental effect; and

(C) may consider any effects of a discharge of dredged or fill material into 3 acres or more of navigable waters to be a minimal adverse environmental effect.

(4) *NATIONWIDE PERMITS FOR LINEAR PROJECTS.*—

(A) IN GENERAL.—*Notwithstanding any other provision of this section, the Secretary shall maintain general permits on a nationwide basis for—*

(i) linear infrastructure projects that result in a discharge of dredged or fill material into less than 3 acres of navigable waters for each single and complete project; and

(ii) linear pipeline projects that do not result in the loss of navigable waters in an amount that is greater than 0.5 acres for each single and complete project.

(B) DEFINITIONS.—*In this paragraph:*

(i) LINEAR INFRASTRUCTURE PROJECT.—*The term “linear infrastructure project” means a project to carry out any activity required for the construction, expansion, maintenance, modification, or removal of infrastructure and associated facilities for the transmission from a point of origin to a terminal point of communications or electricity, or for the transportation from a point of origin to a terminal point of people, water, or wastewater.*

(ii) LINEAR PIPELINE PROJECT.—*The term “linear pipeline project” means a project to carry out any activity required for the construction, expansion, maintenance, modification, or removal of infrastructure and associated facilities for the transportation from a point of origin to a terminal point of carbon dioxide, fuel, or hydrocarbons, in the form of a liquid, liquescent, gaseous, or slurry substance or supercritical fluid, including oil and gas pipeline facilities.*

(iii) SINGLE AND COMPLETE PROJECT.—*The term “single and complete project” has the meaning given that term in section 330.2 of title 33, Code of Federal Regu-*

lations (as in effect on the date of enactment of this paragraph).

(5) *REISSUANCE OF NATIONWIDE PERMITS.—In determining whether to reissue a general permit issued under this subsection on a nationwide basis—*

(A) no consultation with an applicable State pursuant to section 6(a) of the Endangered Species Act of 1973 (16 U.S.C. 1535(a)) is required;

(B) no consultation with a Federal agency pursuant to section 7(a)(2) of such Act (16 U.S.C. 1536(a)(2)) is required; and

(C) the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall be satisfied by preparing an environmental assessment with respect to such general permit.

(f)(1) Except as provided in paragraph (2) of this subsection, the discharge of dredged or fill material—

(A) from normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

(B) for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

(C) for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches;

(D) for the purpose of construction of temporary sedimentation basins on a construction site which does not include placement of fill material into the navigable waters;

(E) for the purpose of construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

(F) resulting from any activity with respect to which a State has an approved program under section 208(b)(4) which meets the requirements of subparagraphs (B) and (C) of such section, is not prohibited by or otherwise subject to regulation under this section or section 301(a) or 402 of this Act (except for effluent standards or prohibitions under section 307).

(2) Any discharge of dredged or fill material into the navigable waters incidental to any activity having as its purpose bringing an area of the navigable waters into a use to which it was not previously subject, where the flow or circulation of navigable waters may be impaired or the reach of such waters be reduced, shall be required to have a permit under this section.

(g)(1) The Governor of any State desiring to administer its own individual and general permit program for the discharge of dredged

or fill material into the navigable waters (other than those waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark, or mean higher high water mark on the west coast, including wetlands adjacent thereto) within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program.

(2) Not later than the tenth day after the date of the receipt of the program and statement submitted by any State under paragraph (1) of this subsection, the Administrator shall provide copies of such program and statement to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(3) If the Administrator determines that additional information is necessary for the description of a program submitted by a State to be full and complete under paragraph (1), the Administrator shall, not later than 45 days after the date of the receipt of the program and statement submitted by the State under such paragraph, submit to the State a written request for all such information.

[(3)] (4) Not later than the ninetieth day after the date of the receipt by the Administrator of the program and statement submitted by any State, under paragraph (1) of this subsection, the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall submit any comments with respect to such program and statement to the Administrator in writing.

(h)(1) Not later than the one-hundred-twentieth day after the date of the receipt by the Administrator of a program and statement submitted by any State under [paragraph (1) of this subsection] subsection (g)(1), the Administrator shall determine, taking into account any comments submitted by the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, pursuant to subsection (g) of this section, whether such State has the following authority with respect to the issuance of permits pursuant to such program:

(A) To issue permits which—

(i) apply, and assure compliance with, any applicable requirements of this section, including, but not limited to, the guidelines established under subsection (b)(1) of this section, and sections 307 and 403 of this Act;

(ii) are for fixed terms not exceeding five years; and

(iii) can be terminated or modified for cause including, but not limited to, the following:

(I) violation of any condition of the permit;

(II) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

(III) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(B) To issue permits which apply, and assure compliance with, all applicable requirements of section 308 of this Act, or to inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act.

(C) To assure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application.

(D) To assure that the Administrator receives notice of each application (including a copy thereof) for a permit.

(E) To assure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing.

(F) To assure that no permit will be issued if, in the judgment of the Secretary, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby.

(G) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.

(H) To assure continued coordination with Federal and Federal-State water-related planning and review processes.

(2) If, with respect to a State program submitted under subsection (g)(1) of this section, the Administrator determines that such State—

(A) has the authority set forth in paragraph (1) of this subsection, the Administrator shall approve the program and so notify (i) such State and (ii) the Secretary, who upon subsequent notification from such State that it is administering such program, shall suspend the issuance of permits under subsection (a) and (e) of this section for activities with respect to which a permit may be issued pursuant to such State program; or

(B) does not have the authority set forth in paragraph (1) of this subsection, the Administrator shall so notify such State, which notification shall also describe the revisions or modifications necessary so that such State may resubmit such program for a determination by the Administrator under this subsection.

(3) If the Administrator fails to make a determination with respect to any program submitted by a State under subsection (g)(1) of this section within one-hundred-twenty days after the date of the receipt of such program, such program shall be deemed approved pursuant to paragraph (2)(A) of this subsection and the Administrator shall so notify such State and the Secretary who, upon sub-

sequent notification from such State that it is administering such program, shall suspend the issuance of permits under subsection (a) and (e) of this section for activities with respect to which a permit may be issued by such State.

(4) After the Secretary receives notification from the Administrator under paragraph (2) or (3) of this subsection that a State permit program has been approved, the Secretary shall transfer any applications for permits pending before the Secretary for activities with respect to which a permit may be issued pursuant to such State program to such State for appropriate action.

(5) Upon notification from a State with a permit program approved under this subsection that such State intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e) of this section with respect to activities in such State to which such general permit applies, the Secretary shall suspend the administration and enforcement of such general permit with respect to such activities.

(i) Whenever the Administrator determines after public hearing that a State is not administering a program approved under section (h)(2)(A) of this section, in accordance with this section, including, but not limited to, the guidelines established under subsection (b)(1) of this section, the Administrator shall so notify the State, and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days after the date of the receipt of such notification, the Administrator shall (1) withdraw approval of such program until the Administrator determines such corrective action has been taken, and (2) notify the Secretary that the Secretary shall resume the program for the issuance of permits under subsections (a) and (e) of this section for activities with respect to which the State was issuing permits and that such authority of the Secretary shall continue in effect until such time as the Administrator makes the determination described in clause (1) of this subsection and such State again has an approved program.

(j) Each State which is administering a permit program pursuant to this section shall transmit to the Administrator (1) a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State, and (2) a copy of each proposed general permit which such State intends to issue. Not later than the tenth day after the date of the receipt of such permit application or such proposed general permit, the Administrator shall provide copies of such permit application or such proposed general permit to the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service. If the Administrator intends to provide written comments to such State with respect to such permit application or such proposed general permit, he shall so notify such State not later than the thirtieth day after the date of the receipt of such application or such proposed general permit and provide such written comments to such State, after consideration of any comments made in writing with respect to such application or such proposed general permit by the Secretary and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, not later than the ninetyth day after the date of such receipt. If such State is so notified

by the Administrator, it shall not issue the proposed permit until after the receipt of such comments from the Administrator, or after such ninetieth day, whichever first occurs. Such State shall not issue such proposed permit after such ninetieth day if it has received such written comments in which the Administrator objects (A) to the issuance of such proposed permit and such proposed permit is one that has been submitted to the Administrator pursuant to subsection (h)(1)(E), or (B) to the issuance of such proposed permit as being outside the requirements of this section, including, but not limited to, the guidelines developed under subsection (b)(1) of this section unless it modifies such proposed permit in accordance with such comments. Whenever the Administrator objects to the issuance of a permit under the preceding sentence such written objection shall contain a statement of the reasons for such objection and the conditions which such permit would include if it were issued by the Administrator. In any case where the Administrator objects to the issuance of a permit, on request of the State, a public hearing shall be held by the Administrator on such objection. If the State does not resubmit such permit revised to meet such objection within 30 days after completion of the hearing or, if no hearing is requested within 90 days after the date of such objection, the Secretary may issue the permit pursuant to subsection (a) or (e) of this section, as the case may be, for such source in accordance with the guidelines and requirements of this Act.

(k) In accordance with guidelines promulgated pursuant to subsection (i)(2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (j) of this section at the time of the approval of a program pursuant to subsection (h)(2)(A) of this section for any category (including any class, type, or size within such category) of discharge within the State submitting such program.

(l) The Administrator shall promulgate regulations establishing categories of discharges which he determines shall not be subject to the requirements of subsection (j) of this section in any State with a program approved pursuant to subsection (h)(2)(A) of this section. The Administrator may distinguish among classes, types, and sizes within any category of discharges.

(m) Not later than the ninetieth day after the date on which the Secretary notifies the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service that (1) an application for a permit under subsection (a) of this section has been received by the Secretary, or (2) the Secretary proposes to issue a general permit under subsection (e) of this section, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall submit any comments with respect to such application or such proposed general permit in writing to the Secretary.

(n) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

(o) A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or portion thereof, shall further be available on request for the purpose of reproduction.

(p) Compliance with a permit issued pursuant to this section, including any activity carried out pursuant to a general permit issued under this section, shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 307, and 403.

(q) Not later than the one-hundred-eightieth day after the date of enactment of this subsection, the Secretary shall enter into agreements with the Administrator, the Secretaries of the Departments of Agriculture, Commerce, Interior, and Transportation, and the heads of other appropriate Federal agencies to minimize, to the maximum extent practicable, duplication, needless paperwork, and delays in the issuance of permits under this section. Such agreements shall be developed to assure that, to the maximum extent practicable, a decision with respect to an application for a permit under subsection (a) of this section will be made not later than the ninetieth day after the date the notice of such application is published under subsection (a) of this section.

(r) The discharge of dredged or fill material as part of the construction of a Federal project specifically authorized by Congress, whether prior to or on or after the date of enactment of this subsection, is not prohibited by or otherwise subject to regulation under this section, or a State program approved under this section, or section 301(a) or 402 of the Act (except for effluent standards or prohibitions under section 307), if information on the effects of such discharge, including consideration of the guidelines developed under subsection (b)(1) of this section, is included in an environmental impact statement for such project pursuant to the National Environmental Policy Act of 1969 and such environmental impact statement has been submitted to Congress before the actual discharge of dredged or fill material in connection with the construction of such project and prior to either authorization of such project or an appropriation of funds for such construction.

(s)(1) Whenever on the basis of any information available to him the Secretary finds that any person is in violation of any condition or limitation set forth in a permit issued by the Secretary under this section, the Secretary shall issue an order requiring such persons to comply with such condition or limitation, or the Secretary shall bring a civil action in accordance with paragraph (3) of this subsection.

(2) A copy of any order issued under this subsection shall be sent immediately by the Secretary to the State in which the violation occurs and other affected States. Any order issued under this subsection shall be by personal service and shall state with reasonable specificity the nature of the violation, specify a time for compliance, not to exceed thirty days, which the Secretary determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be served on any appropriate corporate officers.

(3) The Secretary is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction for any violation for which he is authorized to issue a compliance order under paragraph (1) of this subsection. Any action under this paragraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing

business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State.

(4) Any person who violates any condition or limitation in a permit issued by the Secretary under this section, and any person who violates any order issued by the Secretary under paragraph (1) of this subsection, shall be subject to a civil penalty not to exceed \$25,000 per day for each violation. In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require.

(t) JUDICIAL REVIEW.—

(1) STATUTE OF LIMITATIONS.—Notwithstanding any applicable provision of law relating to statutes of limitations—

(A) an action seeking judicial review of the approval by the Administrator of a State permit program pursuant to this section shall be filed not later than the date that is 60 days after the date on which the approval was issued;

(B) an action seeking judicial review of an individual permit or general permit issued under this section shall be filed not later than the date that is 60 days after the date on which the permit was issued; and

(C) an action seeking judicial review of a verification that an activity involving a discharge of dredged or fill material is authorized by a general permit issued under this section shall be filed not later than the date that is 60 days after the date on which such verification was issued.

(2) LIMITATION ON COMMENCEMENT OF CERTAIN ACTIONS.—Notwithstanding any other provision of law, no action described in subparagraph (A) or (B) of paragraph (1) may be commenced unless the action—

(A) is filed by a party that submitted a comment—

(i) during the public comment period for the administrative proceedings related to the action; and

(ii) which was sufficiently detailed to put the Administrator, the Secretary, or the State, as applicable, on notice of the issue upon which the party seeks judicial review; and

(B) is related to such comment.

(3) REMEDIES.—

(A) ACTIONS RELATING TO PERMIT PROGRAMS.—If a court determines that the Administrator did not comply with the requirements of this section in issuing an approval of a State permit program pursuant to this section—

(i) the court shall remand the matter to the Administrator for further proceedings consistent with the determination of the court; and

(ii) the court may not vacate, revoke, enjoin, or otherwise limit the authority of the State to issue permits under such State permit program.

(B) ACTIONS RELATING TO PERMITS.—If a court determines that the Secretary or the State, as applicable, did not

comply with the requirements of this section in issuing an individual or general permit under this section, or in verifying that an activity involving a discharge of dredged or fill material is authorized by a general permit issued under this section, as applicable—

(i) the court shall remand the matter to the Secretary or the State, as applicable, for further proceedings consistent with the determination of the court;

(ii) with respect to a determination regarding the issuance of an individual or general permit under this section, the court may not vacate, revoke, enjoin, or otherwise limit the permit, unless the court finds that activities authorized under the permit would present an imminent and substantial danger to human health or the environment for which there is no other equitable remedy available under the law; and

(iii) with respect to a determination regarding a verification that an activity involving a discharge of dredged or fill material is authorized by a general permit issued under this section, the court may not enjoin or otherwise limit the discharge unless the court finds that the activity would present an imminent and substantial danger to human health or the environment for which there is no other equitable remedy available under the law.

(4) TIMELINE TO ACT ON COURT ORDER.—*If a court remands a matter under paragraph (3), the court shall set and enforce a reasonable schedule and deadline, which may not exceed 180 days from the date on which the court remands such matter, except as otherwise required by law, for the Administrator, the Secretary, or the State, as applicable, to take such actions as the court may order.*

[(t) Nothing in the section] (u) SAVINGS PROVISION.—*Nothing in this section shall preclude or deny the right of any State or interstate agency to control the discharge of dredged or fill material in any portion of the navigable waters within the jurisdiction of such State, including any activity of any Federal agency, and each such agency shall comply with such State or interstate requirements both substantive and procedural to control the discharge of dredged or fill material to the same extent that any person is subject to such requirements. This section shall not be construed as affecting or impairing the authority of the Secretary to maintain navigation.*

* * * * *

TITLE V—GENERAL PROVISIONS

* * * * *

GENERAL DEFINITIONS

SEC. 502. Except as otherwise specifically provided, when used in this Act:

(1) The term “State water pollution control agency” means the State agency designated by the Governor having responsibility for enforcing State laws relating to the abatement of pollution.

(2) The term “interstate agency” means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator.

(3) The term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(4) The term “municipality” means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of this Act.

(5) The term “person” means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

(6) The term “pollutant” means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean (A) “sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces” within the meaning of section 312 of this Act; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources.

[(7) The term]

(7) NAVIGABLE WATERS.—

(A) *IN GENERAL.*—The term “navigable waters” means the waters of the United States, including the territorial seas.

(B) *EXCLUSIONS.*—The term “navigable waters” does not include the following:

(i) *Any component of a waste treatment system, including any lagoon or treatment pond (such as a settling or cooling pond), designed to actively or passively—*

(I) convey or retain wastewater; or

(II) concentrate, settle, reduce, or remove pollutants from wastewater.

(ii) *Ephemeral features that flow only in direct response to precipitation.*

(iii) *Any area that—*

(I) prior to December 23, 1985, was drained or otherwise manipulated for the purpose, or having the effect, of making production of an agricultural product possible, as determined by the Administrator and the Secretary of the Army, acting

through the Chief of Engineers, which determinations shall be consistent with any designations of prior converted cropland made by the Secretary of Agriculture; and

(II) as determined by the Administrator—

(aa) at least once in the immediately preceding five years has been used for, or in support of, agricultural purposes, including grazing, haying, idling land for conservation use (such as habitat management, pollinator and wildlife management, water storage and supply management, and flood management), irrigation tailwater storage, farm-raised fish production, cranberry production, nutrient retention, and idling land for soil recovery after natural disasters such as hurricanes and drought; and

(bb) has not reverted to wetlands (as defined in section 120.2 of title 40, Code of Federal Regulations, as in effect on the date of enactment of this clause).

(iv) Groundwater.

(v) Any other features determined to be excluded by the Administrator and the Secretary of the Army, acting through the Chief of Engineers.

(8) The term “territorial seas” means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

(9) The term “contiguous zone” means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

(10) The term “ocean” means any portion of the high seas beyond the contiguous zone.

(11) The term “effluent limitation” means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules of compliance.

(12) The term “discharge of a pollutant” and the term “discharge of pollutants” each means (A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

(13) The term “toxic pollutant” means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.

(14) The term “point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

(15) The term “biological monitoring” shall mean the determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants (A) by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain appropriate to the volume and the physical, chemical, and biological characteristics of the effluent, and (B) at appropriate frequencies and locations.

(16) The term “discharge” when used without qualification includes a discharge of a pollutant, and a discharge of pollutants.

(17) The term “schedule of compliance” means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.

(18) The term “industrial user” means those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented, under the category “Division D—Manufacturing” and such other classes of significant waste producers as, by regulation, the Administrator deems appropriate.

(19) The term “pollution” means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(20) The term “medical waste” means isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes and potentially contaminated laboratory wastes; dialysis wastes; and such additional medical items as the Administrator shall prescribe by regulation.

(21) COASTAL RECREATION WATERS.—

(A) IN GENERAL.—The term “coastal recreation waters” means—

- (i) the Great Lakes; and
- (ii) marine coastal waters (including coastal estuaries) that are designated under section 303(c) by a State for use for swimming, bathing, surfing, or similar water contact activities.

(B) EXCLUSIONS.—The term “coastal recreation waters” does not include—

- (i) inland waters; or
- (ii) waters upstream of the mouth of a river or stream having an unimpaired natural connection with the open sea.

(22) FLOATABLE MATERIAL.—

(A) IN GENERAL.—The term “floatable material” means any foreign matter that may float or remain suspended in the water column.

(B) INCLUSIONS.—The term “floatable material” includes—

- (i) plastic;
- (ii) aluminum cans;
- (iii) wood products;
- (iv) bottles; and
- (v) paper products.

(23) PATHOGEN INDICATOR.—The term “pathogen indicator” means a substance that indicates the potential for human infectious disease.

(24) OIL AND GAS EXPLORATION AND PRODUCTION.—The term “oil and gas exploration, production, processing, or treatment operations or transmission facilities” means all field activities or operations associated with exploration, production, processing, or treatment operations, or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities.

(25) RECREATIONAL VESSEL.—

(A) IN GENERAL.—The term “recreational vessel” means any vessel that is—

- (i) manufactured or used primarily for pleasure; or
- (ii) leased, rented, or chartered to a person for the pleasure of that person.

(B) EXCLUSION.—The term “recreational vessel” does not include a vessel that is subject to Coast Guard inspection and that—

- (i) is engaged in commercial use; or
- (ii) carries paying passengers.

(26) TREATMENT WORKS.—The term “treatment works” has the meaning given the term in section 212.

(27) GREEN INFRASTRUCTURE.—The term “green infrastructure” means the range of measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store, infiltrate, or evapotranspire stormwater and reduce flows to sewer systems or to surface waters.

* * * * *

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 509. (a)(1) For purposes of obtaining information under section 305 of this Act, or carrying out section 507(e) of this Act, the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for effluent data, upon a showing satisfactory to the Administrator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the

United States concerned with carrying out this Act, or when relevant in any proceeding under this Act. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(2) The district courts of the United States are authorized, upon application by the Administrator, to issue subpoenas for attendance and testimony of witnesses and the production of relevant papers, books, and documents, for purposes of obtaining information under sections 304 (b) and (c) of this Act. Any papers, books, documents, or other information or part thereof, obtained by reason of such a subpoena shall be subject to the same requirements as are provided in paragraph (1) of this subsection.

(b)(1) Review of the Administrator's action (A) in promulgating any standard of performance under section 306, (B) in making any determination pursuant to section 306(b)(1)(C), (C) in promulgating any effluent standard, prohibition, or pretreatment standard under section 307, (D) in making any determination as to a State permit program submitted under section 402(b), (E) in approving or promulgating any effluent limitation or other limitation under sections 301, 302, 306, or 405, (F) in issuing or denying any permit under [section 402, and] *section 402*, (G) in promulgating any individual control strategy under section 304(l), and (H) in *issuing any criteria for water quality pursuant to section 304(a)(11)*, may be had by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts business which is directly affected by such action upon application by such person. Any such application shall be made within 120 days from the date of such determination, approval, promulgation, issuance or denial, or after such date only if such application is based solely on grounds which arose after such 120th day.

(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(3) AWARD OF FEES.—In any judicial proceeding under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party whenever it determines that such award is appropriate.

(4) DISCHARGES INCIDENTAL TO NORMAL OPERATION OF VESSELS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any interested person may file a petition for review of a final agency action under section 312(p) of the Administrator or the Secretary of the department in which the

Coast Guard is operating in accordance with the requirements of this subsection.

(B) VENUE EXCEPTION.—Subject to section 312(p)(7)(C)(v), a petition for review of a final agency action under section 312(p) of the Administrator or the Secretary of the department in which the Coast Guard is operating may be filed only in the United States Court of Appeals for the District of Columbia Circuit.

(c) In any judicial proceeding brought under subsection (b) of this section in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

* * * * *

WATER RESOURCES REFORM AND DEVELOPMENT ACT OF 2014

* * * * *

TITLE I—PROGRAM REFORMS AND STREAMLINING

* * * * *

SEC. 1049. APPLICABILITY OF SPILL PREVENTION, CONTROL, AND COUNTERMEASURE RULE.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) FARM.—The term “farm” has the meaning given the term in section 112.2 of title 40, Code of Federal Regulations (or successor regulations).

(3) GALLON.—The term “gallon” means a United States gallon.

(4) OIL.—The term “oil” has the meaning given the term in section 112.2 of title 40, Code of Federal Regulations (or successor regulations).

(5) OIL DISCHARGE.—The term “oil discharge” has the meaning given the term “discharge” in section 112.2 of title 40, Code of Federal Regulations (or successor regulations).

(6) REPORTABLE OIL DISCHARGE HISTORY.—

(A) IN GENERAL.—Subject to subparagraph (B), the term “reportable oil discharge history” means a single oil discharge, as described in section 112.1(b) of title 40, Code of Federal Regulations (including successor regulations), that exceeds 1,000 gallons or 2 oil discharges, as described in section 112.1(b) of title 40, Code of Federal Regulations (including successor regulations), that each exceed 42 gallons within any 12-month period—

(i) in the 3 years prior to the certification date of the Spill Prevention, Control, and Countermeasure plan (as described in section 112.3 of title 40, Code of Federal Regulations (including successor regulations); or

(ii) since becoming subject to part 112 of title 40, Code of Federal Regulations, if the facility has been in operation for less than 3 years.

(B) EXCLUSIONS.—The term “reportable oil discharge history” does not include an oil discharge, as described in section 112.1(b) of title 40, Code of Federal Regulations (including successor regulations), that is the result of a natural disaster, an act of war, or terrorism.

(7) SPILL PREVENTION, CONTROL, AND COUNTERMEASURE RULE.—The term “Spill Prevention, Control, and Countermeasure rule” means the regulation, including amendments, promulgated by the Administrator under part 112 of title 40, Code of Federal Regulations (or successor regulations).

(b) CERTIFICATION.—In implementing the Spill Prevention, Control, and Countermeasure rule with respect to any farm, the Administrator shall—

(1) require certification by a professional engineer for a farm with—

(A) an individual tank with an aboveground storage capacity greater than 10,000 gallons;

(B) an aggregate aboveground storage capacity greater than or equal to ~~20,000~~ 42,000 gallons; or

(C) a reportable oil discharge history; or

(2) allow certification by the owner or operator of the farm (via self-certification) for a farm with—

[(A) an aggregate aboveground storage capacity less than 20,000 gallons and greater than the lesser of—

[(i) 6,000 gallons; and

[(ii) the adjustment quantity established under subsection (d)(2); and]

(A) *an aggregate aboveground storage capacity greater than 10,000 gallons but less than 42,000 gallons; and*

(B) no reportable oil discharge history; and

(3) not require compliance with the rule by any farm—

[(A) with an aggregate aboveground storage capacity greater than 2,500 gallons and less than the lesser of—

[(i) 6,000 gallons; and

[(ii) the adjustment quantity established under subsection (d)(2); and]

(A) *with an aggregate aboveground storage capacity of less than or equal to 10,000 gallons; and*

(B) no reportable oil discharge history[; and].

[(4) not require compliance with the rule by any farm with an aggregate aboveground storage capacity of less than 2,500 gallons.]

(c) REGULATION OF ABOVEGROUND STORAGE AT FARMS.—

(1) CALCULATION OF AGGREGATE ABOVEGROUND STORAGE CAPACITY.—For purposes of subsection (b), the aggregate aboveground storage capacity of a farm excludes—

(A) all containers on separate parcels that have a capacity that is 1,000 gallons or less; and

(B) all containers holding animal feed ingredients approved for use in livestock feed by the Commissioner of Food and Drugs.

(2) CERTAIN FARM CONTAINERS.—Part 112 of title 40, Code of Federal Regulations (or successor regulations), shall not apply to the following containers located at a farm:

(A) Containers on a separate parcel that have—

(i) an individual capacity of not greater than [1,000] 1,320 gallons; and

(ii) an aggregate capacity of not greater than [2,500] 3,000 gallons.

(B) A container holding animal feed ingredients approved for use in livestock feed by the Food and Drug Administration.

[(d) STUDY.—

[(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Agriculture, shall conduct a study to determine the appropriate exemption under paragraphs (2) and (3) of subsection (b), which shall be not more than 6,000 gallons and not less than 2,500 gallons, based on a significant risk of discharge to water.

[(2) ADJUSTMENT.—Not later than 18 months after the date on which the study described in paragraph (1) is complete, the Administrator, in consultation with the Secretary of Agriculture, shall promulgate a rule to adjust the exemption levels described in paragraphs (2) and (3) of subsection (b) in accordance with the study.]

* * * * *

GLENN THOMPSON, PENNSYLVANIA,
CHAIRMAN

FRANK D. LUCAS, OKLAHOMA
AUSTIN SCOTT, GEORGIA, VICE CHAIRMAN
FRED A. THORNTON, ARIZONA
SCOTT DEJABLAIS, FLORIDA
DAVID LAMALLE, CALIFORNIA
DAVID HOUTZ, NORTH CAROLINA
TERRY KELLY, MISSISSIPPI
DON HIGDON, NEBRASKA
AMAL KUL, ILLINOIS
PUSHTA JOHNSON, SOUTH DAKOTA
KATHY B. BAIRD, INDIANA
FRANCY MAZEL, KANSAS
RHONDA PETERSON, TEXAS
MARY K. MILLER, ILLINOIS
ROBERT ANDRE, ALABAMA
KAT CAMMARCA, FLORIDA
BRIAN FINCHAM, MINNESOTA
JOHN W. ROUSE, TENNESSEE
KENNETH JACKSON, TEXAS
MONICA DE LA CRUZ, TEXAS
ZACHARY ALLEN, IOWA
GEORGE VAN DIEREN, WISCONSIN
DAN NEUBERGER, WASHINGTON
TERRY AVELL, WISCONSIN
ROBERT J. GREENSMITH, JR., PENNSYLVANIA
MARK B. MCCORMICK, INDIANA
KEVIN HARRIS, NORTH CAROLINA
DAVID J. TAYLOR, OHIO

COMMITTEE CORRESPONDENCE

U.S. House of Representatives Committee on Agriculture Room 1301, Longworth House Office Building Washington, DC 20515-0001 (202) 225-2171

July 1, 2025

ANGIE CRAIG, MINNESOTA
RANKING MEMBER

DAVID SCOTT, GEORGIA
JIM COSTA, MAINE
JAMES P. MCGOVERN, MASSACHUSETTS
ALMA S. ADAMS, NORTH CAROLINA
JAHANA HAYES, CONNECTICUT
SHORTTE M. BROWN, OHIO
VICE RANKING MEMBER
SHARICE DAVIES, KANSAS
ANDREA SALINAS, UTAH
DUNALO G. STAYS, NORTH CAROLINA
JILL H. THORPE, HAWAII
ANDY BURNING, ILLINOIS
ERIC GORENSEN, ILLINOIS
TAMAR VASQUEZ, NEW MEXICO
JONATHAN L. JACKSON, ILLINOIS
SABIR THAKUR, MICHIGAN
ADAM GRAY, CALIFORNIA
KRISTEN McDONALD RIVET, MICHIGAN
SHOMAR FOLBERG, ALABAMA
EUGENE SIMPSON, VIRGINIA
JOHN W. MANNION, NEW YORK
APRIL MCCANN, MARYLAND
CHELSEA PINOYE, MAINE
SALVIO O. CARRERA, CALIFORNIA

PARISH BRADEN,
STAFF DIRECTOR
BRIAN SCHWYDA,
MINORITY STAFF DIRECTOR

The Honorable Sam Graves, Chairman
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

This letter confirms our mutual understanding regarding H.R. 3824, the "Reducing Regulatory Burdens Act of 2025." Thank you for collaborating with the Committee on Agriculture on the matters within our jurisdiction.

The Committee on Agriculture will forego any further consideration of this bill. However, by foregoing consideration at this time, we do not waive any jurisdiction over any subject matter contained in this or similar legislation. The Committee on Agriculture also reserves the right to seek appointment of an appropriate number of conferees, should it become necessary, and ask that you support such a request.

We would appreciate a response to this letter confirming this understanding with respect to H.R. 3824 and request a copy of our letters on this matter be published in the Congressional Record during Floor consideration.

Sincerely,

Glenn "GT" Thompson
Chairman

Cc: The Honorable Angie Craig, Ranking Member, Committee on Agriculture
The Honorable Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure
The Honorable Mike Johnson, Speaker of the U.S. House of Representatives
The Honorable Jason Smith, Parliamentarian, U.S. House of Representatives



Committee on Transportation and Infrastructure
U.S. House of Representatives
 Washington, DC 20515

Sam Graves
 Chairman

Rick Larsen
 Ranking Member

Nick Christensen, Staff Director

July 1, 2025

Katherine W. Dedrick, Democratic Staff Director

The Honorable Glenn "GT" Thompson
 Chairman
 Committee on Agriculture
 1301 Longworth House Office Building
 Washington, DC 20515

Dear Chairman Thompson:

I write regarding H.R. 3898, the *Promoting Efficient Review of Modern Infrastructure Today Act* or the *PERMIT Act*, which was ordered report by the Committee on Transportation and Infrastructure.

I recognize that the bill, as amended, contains provisions that fall within the jurisdiction of the Committee on Agriculture, specifically provisions from H.R. 3824, the *Reducing Regulatory Burdens Act of 2025*, and appreciate your willingness to forgo further consideration of the bill. I acknowledge that the Committee on Agriculture will not seek an additional referral on the bill and agree that inaction of your Committee with respect to the bill does not waive any jurisdiction of the subject matter contained therein.

I am pleased to support your request to name Members of the Committee on Agriculture to any conference committee to consider such provisions. I will ensure that our exchange of letters is included in the *Congressional Record* during floor consideration of the bill and will include such letters in the Committee report to H.R. 3898. I appreciate your cooperation regarding this legislation.

Sincerely,

Sam Graves
 Chairman
 Committee on Transportation
 and Infrastructure

cc: The Honorable Mike Johnson, Speaker
 The Honorable Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure
 The Honorable Angie Craig, Ranking Member, Committee on Agriculture
 The Honorable Jason Smith, Parliamentarian, U.S. House of Representatives

BRUCE WESTERMAN OF ARKANSAS
CHAIRMAN

JARED HUFFMAN OF CALIFORNIA
RANKING DEMOCRAT

VIVIAN MOEGLEIN
STAFF DIRECTOR

ANA UNRUH COHEN
DEMOCRATIC STAFF DIRECTOR

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

June 30, 2025

The Honorable Sam Graves
Chairman
Committee on Transportation and Infrastructure
U.S. House of Representatives
2165 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Graves:

I write regarding H.R. 3898, the "Promoting Efficient Review for Modern Infrastructure Today Act" or the "PERMIT Act". The bill was referred to the Committee on Transportation and Infrastructure. Specifically, there are certain provisions of H.R. 3898, as amended, that fall within the Rule X jurisdiction of the Committee on Natural Resources.

I recognize and appreciate your desire to bring this legislation before the House of Representatives in an expeditious manner, and accordingly, agree that the Committee on Natural Resources shall not seek a jurisdictional referral on the amended legislation. However, this is conditional on our mutual understanding that by forgoing consideration of H.R. 3898 at this time, we do not waive any jurisdiction over the subject matter contained in this or similar legislation that falls within the Committee on Natural Resources' Rule X jurisdiction, and that the Committee will be appropriately consulted and involved on this or similar legislation as it moves forward. Further, this does not prejudice the Committee on Natural Resources with respect to the appointment of conferees and should a conference on the bill be necessary, I appreciate your agreement to support my request to have the Committee represented on the conference committee.

Finally, I would ask that a copy of this letter and your response acknowledging the jurisdictional interest of the Committee on Natural Resources in the bill be included in the *Congressional Record* during consideration of H.R. 3898 on the House floor.

Sincerely,



Bruce Westerman
Chairman
Committee on Natural Resources

cc: The Honorable Mike Johnson, Speaker
The Honorable Rick Larsen, Ranking Member, Committee on Transportation and
Infrastructure
The Honorable Jared Huffman, Ranking Member, Committee on Natural Resources
The Honorable Jason Smith, Parliamentarian



Committee on Transportation and Infrastructure
U.S. House of Representatives
 Washington, DC 20515

Sam Graves
 Chairman

Rick Larsen
 Ranking Member

Nick Christensen, Staff Director

Katherine W. Dedrick, Democratic Staff Director

July 1, 2025

The Honorable Bruce Westerman
 Chairman
 Committee on Natural Resources
 1324 Longworth House Office Building
 Washington, D.C. 20515

Dear Chairman Westerman:

I write regarding H.R. 3898, the *Promoting Efficient Review of Modern Infrastructure Today Act* or the *PERMIT Act*, which was ordered report by the Committee on Transportation and Infrastructure.

I recognize that the bill, as amended, contains provisions that fall within the jurisdiction of the Committee on Natural Resources and appreciate your willingness to forgo further consideration of the bill. I acknowledge that the Committee on Natural Resources will not seek an additional referral on the bill and agree that inaction of your Committee with respect to the bill does not waive any jurisdiction of the subject matter contained ther

I am pleased to support your request to name Members of the Committee on Natural Resources to any conference committee to consider such provisions. I will ensure that our exchange of letters is included in the *Congressional Record* during floor consideration of the bill and will include such letters in the Committee report on H.R. 3898. I appreciate your cooperation regarding this legislation.

Sincerely,

Sam Graves
 Chairman
 Committee on Transportation
 and Infrastructure

cc: The Honorable Mike Johnson, Speaker
 The Honorable Rick Larsen, Ranking Member, Committee on Transportation and Infrastructure
 The Honorable Jared Huffman, Ranking Member, Committee on Natural Resources
 The Honorable Jason Smith, Parliamentarian

MINORITY VIEWS

We oppose H.R. 3898. The *Clean Water Act* (CWA) is the nation's bedrock environmental law for "restoring and maintaining the chemical, physical, and biological integrity of the Nation's waters." H.R. 3898 defies the Act's overarching intent to keep our nation's water clean, guts the authority of federal agencies to minimize the impact that projects have on water resources, and undermines the authority of states and Tribes to protect locally important waterbodies.

This bill significantly restricts U.S. Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (Corps) oversight and regulatory authorities under the *Act*, which, when paired with the Trump Administration's efforts to eviscerate federal funding and purge agency personnel, will leave the federal agencies powerless to fulfill their responsibilities under the law. This bill also undermines the "cooperative federalism" partnership the federal government has with states and Tribes to prevent pollution under the *Clean Water Act*, weakening the ability of states and Tribes to defend local waterbodies.

Simply put, this partisan bill makes it easier to release harmful and toxic pollution into our nation's rivers, streams, lakes, and other waterbodies through loopholes, legal shields, and limited oversight of polluters. The bill eviscerates over 50 years of *Clean Water Act* success that has doubled the percentage of waters that are safe for fishing, swimming, and use as drinking water. H.R. 3898 undermines permitting requirements; eliminates judicial review and public engagement; rolls back oversight of mining companies and industrial polluters; slows down permit processing with increased bureaucracy; and weakens state-led decisions on locally important waters.

Congressional Republicans offer these overarching, anti-*Clean Water Act* changes as their response to specific projects that have been blocked or to address the grievances of special interests and polluters rather than provide a sustainable solution for reasonable permitting efforts or to ensure the protection of water quality for current or future generations.

For example, large-scale mining proposals, such as Pebble Mine in Alaska or Spruce Mine in West Virginia, or ecologically devastating flood control projects, such as the Yazoo Pumps in Mississippi, were blocked by presidential administrations from both parties under the EPA's Section 404(c) authority once the impacts were thoroughly documented and publicly evaluated. Although EPA has utilized this authority very sparingly (only 14 times among the tens-of-millions of permitted activities since 1972), H.R. 3898 will effectively eliminate the authority altogether.

Similarly, for over 50 years, states and Tribes have judiciously used section 401 of the CWA to ensure that projects or activities

carried out within their jurisdictions are consistent with state water quality standards and other relevant state and Tribal laws. Yet, in response to two specific instances where states legitimately used this authority to prevent the construction of fossil fuel-related facilities within their borders, H.R. 3898 changes the law to allow special interests to override state and Tribal concerns over potential development within their own borders.

In a multitude of ways, H.R. 3898 will weaken federal, state, and local efforts to restore, maintain, or clean up local waterbodies. The bill tells communities of all sizes, especially rural, minority, and economically-disadvantaged communities, that clean water is simply too costly for them to have. At the same time, the bill increases the likelihood that American families will have to spend more for safe drinking water for their homes or to access water-related recreational areas, if such resources are still available. For example, H.R. 3898 increases the likelihood for discharges of toxic chemicals and pesticides, such as PFAS, mercury, and arsenic—chemicals that, once in a local drinking water source, are extremely expensive, and potentially impossible, to remove completely. Under this bill, permittees are discouraged from investigating what toxic chemicals might be in their waste-stream, which increases the likelihood of exposure to American families, including vulnerable populations, such as pregnant women, infants, and children. Yet, even the Trump Administration’s Make America Healthy Again Commission’s report recognizes the obvious risk to human health from increased exposure to toxic chemicals and pesticides.¹

The bill also exacerbates the likelihood of downstream contamination and flooding as upstream waters and wetlands are developed or destroyed—increasing the risk and the cost to American families, businesses, and economies. H.R. 3898 rewards polluters and special interests by reducing their responsibility to prevent or treat their waste—shifting the cost from polluters to American families who will be forced to pay more for clean water.

H.R. 3898 also allows private industry and development to steamroll through towns and states, polluting waterbodies due to minimal review and disregarding local perspectives. The bill greenlights large projects with minimal review while also limiting opportunities for public comment or challenges to ecologically damaging permits or projects. The bill also prevents judicial review by vastly shortening the statute of limitations; limiting standing to file suit; and limiting the Court’s options for recourse.

If H.R. 3898 is enacted, the potential adverse impacts to waterbodies (such as reduced water quality or availability); to the environment (such as increased greenhouse gas emissions or other contamination); and to residents (such as perpetuating environmental justice concerns) will be borne by the local and surrounding communities without a voice or venue to have their concerns heard. This legislation puts polluters over people.

Ironically, H.R. 3898 also contradicts itself by slowing down permitting processes, sowing uncertainty, and decreasing flexibility. For example, H.R. 3898 will add a formal rulemaking process in

¹ See <https://www.whitehouse.gov/wp-content/uploads/2025/05/WH-The-MAHA-Report-Assessment.pdf>.

place of an existing and more efficient guidance process. This will slow down the issuance of water quality criteria without increasing transparency or public participation and remove flexibility for updates. It will also open the criteria to judicial review, allowing aggrieved polluters another opportunity to challenge state and local efforts to protect local waterbodies and human health.

Proponents of H.R. 3898 contend that it will speed up jurisdictional determinations and wetland permits following the U.S. Supreme Court's decision in *Sackett v. EPA*. That decision severely restricted what waters remain subject to CWA protection and is estimated to have removed such protection on at least 50% of wetlands and at least 60% of streams nationwide. Yet, section 17 seeks to, again, redefine what waters and wetlands remain subject to federal protection. When combined with the Trump Administration's efforts to redefine by rulemaking the scope of federally protected waters and eliminate federal employees responsible for permitting requirements, the net result will be *more confusion and uncertainty and longer wait times for necessary permits*.

Congressional Republicans can claim, over and over, that they support clean water and healthy communities; however, their support for this bill tells the real story. If Republicans were serious about protecting our water resources, our families, and our water-related economy, they would look comprehensively at the remaining sources of impairment to our rivers, streams, lakes, wetlands, and coastal areas, and take the necessary steps and make the necessary investment to address these challenges. When Democrats last controlled the U.S. House of Representatives, we not only enacted the single largest investment in wastewater infrastructure ever through the *Bipartisan Infrastructure Law*, but we initiated efforts to repair the damage to the *Clean Water Act* caused by a conservative Supreme Court and worked towards finally achieving the elusive goal of "fishable and swimmable" waters for all Americans.

The litany of loopholes, legal shields, and limited oversight contained in H.R. 3898 are the opposite of what Congress needs to be doing to protect our water resources. Exposing the waters and wetlands that remain under *Clean Water Act* protections to unrestricted and unchallengeable pollution or destruction will do nothing to restore and maintain clean water.

During consideration of H.R. 3898, several Committee Democrats sought to lessen the negative impacts of this legislation and require EPA to verify that the changes in the bill would not adversely impact the health, safety, and availability of clean water in communities nationwide.

Ranking Member Rick Larsen (WA-02) offered an amendment to remove several provisions from the bill which undermine the "cooperative federalism" partnership the federal government has with states and Tribes to protect against the pollution of local waterbodies. The amendment would have restored the ability of states and Tribes to make locally important decisions related to the protection of locally important waterbodies. In many instances, states are better suited to understand the unique needs, demands, and importance on local waterbodies; this amendment would allow states to continue to lead local efforts to protect clean water.

Representative Dina Titus (NV-01) offered an amendment to highlight how the bill's attempt to codify the draconian losses of *Clean Water Act* protections from the *Sackett* decision will disproportionately and adversely affect certain states. For example, in the state of Nevada, the loss of Clean Water Act protections for ephemeral streams will mean that close to 88 percent of the stream miles covered before the *Sackett* decision will no longer be federally protected.² Similarly, under the most damaging scenario, 92 percent of wetland area in the State of Washington has likely lost federal protection under the rationale of the Supreme Court and this legislation.

Representatives Emilia Sykes (OH-13) and Shomari Figures (AL-02) each offered an amendment to ensure that the loopholes, legal shields, and limited oversight of polluters contained in H.R. 3898 do not disproportionately impact rural, economically-disadvantaged, and Tribal communities. Nine out of 10 Americans receive their drinking water from public water systems that rely on a network of surface and subsurface waters to provide the water entering our homes and businesses. The Sykes and Figures amendments sought to prevent any increase in the volume, toxicity, or concentration of pollution entering our waters and to prevent any corresponding increase in local utility rates that would be required to remove increased pollution levels caused by this bill. We cannot continue to allow the economic and human health burdens of increased pollution to be placed on those communities that are least able to bear these burdens.

Representatives Hillary Scholten (MI-03), Laura Gillen (NY-04), and Pat Ryan (NY-18) each offered an amendment to protect communities, families, and individuals from increased exposure to pollution that would result from the changes in H.R. 3898. The Scholten amendment sought to retain existing Clean Water Act protections for the use of pesticides that could adversely affect the health of pregnant women, fetal development, infants, or children. The Gillen amendment sought to protect communities and individuals from the increased likelihood of exposure to chemicals and materials linked to cancer, such as PFAS, arsenic, nitrates, nitrites, pesticides, chromium, radium, and uranium that would result from the changes in this bill. The Ryan amendment delays the effective date of the bill until the EPA Administrator determines that the changes will not result in increased discharges of forever chemicals (such as PFAS) or nutrients that cause harmful algal blooms. The amendment would have ensured that communities are not left with the environmental and economic burden of cleaning up and removing such pollutants.

Representative Kristen McDonald Rivet (MI-08) offered an amendment that would protect the Great Lakes and other *Clean Water Act* geographic programs from the potential for increased discharges of pollution because of this bill. The Great Lakes are the largest source of freshwater in the United States, containing 21 percent of the world's surface freshwater by volume. This amendment would prevent the changes contained in H.R. 3898 from re-

²See Mapping Destruction: Using GIS Modeling to Show the Disastrous Impacts of *Sackett v. EPA* on America's Wetlands, accessed at https://www.nrdc.org/sites/default/files/2025-03/Wetlands_Report_R_25-03-B_05_locked.pdf.

sulting in increased discharges of pollution to the Great Lakes, and other critical regional waterbodies, which could degrade the human, ecological, and economic health of the region that depends on clean water.

Representative Laura Friedman (CA-30) offered an amendment that sought to minimize the discharge of pollutants into waterbodies that states, especially western states, are using to augment local water supplies through water recapture, water reuse and recycling, and groundwater recharge. The availability of safe, reliable, and affordable water is critical, not only to the survival of life, but also to the economic health of communities and regions, contributing to the success of industry, manufacturing, agriculture, transportation, and recreation. This amendment would have ensured that forward-looking states and Tribes, which are rightly preparing for the future through maximizing efforts to conserve, reuse, and replenish every drop of water, are not hindered by increased levels of pollution resulting from the changes in H.R. 3898.

Representative Nellie Pou (NJ-09) offered an amendment that sought to prevent this bill from increasing the discharge of raw or partially treated sewage into our waters. The *Clean Water Act* currently requires dischargers of wastewater to take every step possible to treat sewage before it is released into the environment. H.R. 3898 would weaken those requirements, calling into question whether polluters will still be required to implement treatment technologies sufficient to prevent the discharge of raw or partially treated sewage into our nation's waters, especially if a polluter suggests that such technologies are "too expensive" or "not commercially available in the United States . . . at comparable scale." The Pou amendment would have prevented these new loopholes from resulting in an increase in combined and sanitary sewer overflows or an increase in the risk (and economic consequences) of flooding associated with the discharge of increased volumes of industrial or municipal stormwater.

The *Clean Water Act* has been an effective tool for improving the health of our rivers, streams, lakes, and wetlands. Unfortunately, progress restoring impaired waterbodies has slowed and, in some areas, reversed. Communities face new challenges from emerging contaminants and impacts of climate change, and an increased need for affordable federal assistance—especially rural, minority, and economically-disadvantaged communities; yet the Trump Administration proposes to decimate funding for federal and state clean water agencies, as well as critical infrastructure funding for communities of all sizes. An activist conservative court has reinterpreted the CWA to protect significantly fewer waterbodies and prevent fewer discharges of pollutants. Rather than address these growing challenges to fishable and swimmable water for all Americans, H.R. 3898 provides additional loopholes, legal shields, and limited oversight for special interests and polluters.

In our view, this legislation is unnecessary, unwarranted, and a dangerous attack on clean water nationwide. For these reasons, we oppose H.R. 3898.

RICK LARSEN,
Ranking Member.
 FREDERICA WILSON,

EMILIA SYKES,
HILLARY SCHOLTEN,
ELEANOR HOLMES NORTON,
JERROLD NADLER,
STEVE COHEN,
JOHN GARAMENDI,
HENRY "HANK" JOHNSON,
ANDRÉ CARSON,
DINA TITUS,
JARED HUFFMAN,
JULIA BROWNLEY,
MARK DESAULNIER,
SALUD CARBAJAL,
GREG STANTON,
SHARICE DAVIDS,
JESÚS "CHUY" GARCÍA,
CHRIS PAPPAS,
SETH MOULTON,
MARILYN STRICKLAND,
PAT RYAN,
VAL HOYLE,
VALERIE FOUSHEE,
CHRIS DELUZIO,
ROBERT GARCIA,
NELLIE POU,
KRISTEN McDONALD RIVET,
LAURA FRIEDMAN,
LAURA GILLEN,
SHOMARI FIGURES,
Members of Congress.

