

119TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To ensure that certain permit approvals by the Environmental Protection Agency have the force and effect of law, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mrs. MOODY introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## A BILL

To ensure that certain permit approvals by the Environmental Protection Agency have the force and effect of law, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Maintaining Coopera-  
5 tive Permitting Act of 2025”.

6 **SEC. 2. STATE DISCHARGE OF DREDGED OR FILL MATE-**  
7 **RIAL PROGRAMS.**

8 (a) WITHDRAWAL OF APPROVAL WITHOUT CON-  
9 GRESSIONAL AUTHORIZATION PROHIBITED.—

1           (1) IN GENERAL.—The permit programs de-  
2           scribed in paragraph (2) are ratified, approved, and  
3           of full force and effect, and the Administrator of the  
4           Environmental Protection Agency (referred to in  
5           this section as the “Administrator”) may not with-  
6           draw the approval of those permit programs, includ-  
7           ing through the process described in section 404(i)  
8           of the Federal Water Pollution Control Act (33  
9           U.S.C. 1344(i)), unless the withdrawal is expressly  
10          authorized by an Act of Congress enacted after the  
11          date of enactment of this Act.

12          (2) PERMIT PROGRAMS DESCRIBED.—The per-  
13          mit programs referred to in paragraph (1) are the  
14          following State permit programs for the discharge of  
15          dredged or fill material approved under section 404  
16          of the Federal Water Pollution Control Act (33  
17          U.S.C. 1344):

18                (A) The program of the State of Michigan,  
19                approved in the notice of the Environmental  
20                Protection Agency entitled “Michigan Depart-  
21                ment of Natural Resources Section 404 Permit  
22                Program Approval” (49 Fed. Reg. 38947 (Oc-  
23                tober 2, 1984)) and as described in section  
24                233.70 of title 40, Code of Federal Regulations

1 (including any updates to the program de-  
2 scribed in a successor Federal Register notice).

3 (B) The program of the State of New Jer-  
4 sey, approved in the final rule and notice of the  
5 Environmental Protection Agency entitled  
6 “New Jersey Department of Environmental  
7 Protection and Energy Section 404 Permit Pro-  
8 gram Approval” (59 Fed. Reg. 9933 (March 2,  
9 1994)) and as described in section 233.71 of  
10 title 40, Code of Federal Regulations (including  
11 any updates to the program described in a suc-  
12 cessor Federal Register notice).

13 (C) The program of the State of Florida,  
14 as described in the notice of the Environmental  
15 Protection Agency entitled “EPA’s Approval of  
16 Florida’s Clean Water Act Section 404 As-  
17 sumption Request” (85 Fed. Reg. 83553 (De-  
18 cember 22, 2020)) (including any updates to  
19 the program described in a successor Federal  
20 Register notice), including the Programmatic  
21 Biological Opinion with Incidental Take State-  
22 ment associated with the program.

23 (3) PROGRAM TRANSITION PERIOD.—During  
24 the 90-day period beginning on the date of enact-  
25 ment of this Act, the Secretary of the Army, acting

1 through the Chief of Engineers (referred to in this  
2 section as the “Secretary”), and the State of Florida  
3 may both issue permits authorized under the pro-  
4 gram described in paragraph (2)(C) into navigable  
5 waters (as described in subsection 404(g)(1) of the  
6 Federal Water Pollution Control Act (33 U.S.C.  
7 1344(g)(1))) within the jurisdiction of the State of  
8 Florida.

9 (4) APPROVAL OF COMPARABLE STATE PRO-  
10 GRAMS.—

11 (A) IN GENERAL.—If the Administrator  
12 determines that a State program submitted  
13 under subsection (g)(1) of section 404 of the  
14 Federal Water Pollution Control Act (33 U.S.C.  
15 1344) is comparable to a State program de-  
16 scribed in any of subparagraphs (A) through  
17 (C) of paragraph (2), the Administrator shall  
18 make the determination described in subsection  
19 (h)(2)(A) of that section with respect to that  
20 program.

21 (B) NOTIFICATION.—On making the deter-  
22 mination required under subparagraph (A), the  
23 Administrator shall notify the Secretary and the  
24 applicable State of that determination.

1                   (C) SUSPENSION.—On notification from  
2                   the Administrator under subparagraph (B) and  
3                   from a State that the State has begun to ad-  
4                   minister a program approved pursuant to sub-  
5                   paragraph (A), the Secretary shall suspend the  
6                   issuance of permits under subsections (a) and  
7                   (e) of section 404 of the Federal Water Pollu-  
8                   tion Control Act (33 U.S.C. 1344) for activities  
9                   with respect to which a permit may be issued  
10                  by the State under that program.

11               (b) CLARIFICATION OF PROCESS.—Section 404(h) of  
12 the Federal Water Pollution Control Act (33 U.S.C.  
13 1344(h)) is amended by adding at the end the following:

14               “(6) NOT A RULE OR REGULATION.—The ap-  
15               proval of a State permit program under this section  
16               shall not be considered to be a rule or regulation.”.