S. 2410

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

IN THE SENATE OF THE UNITED STATES

JULY 31, 2019

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

A BILL

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

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

3 SECTION 1. SHORT TITLE.

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

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

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

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

“(5) FINDINGS.—The Administrator”;

(B) in the second sentence, by striking “Before making such determination” and inserting the following:

“(4) CONSULTATION.—Before making a determination under paragraph (1)”;

(C) by striking the subsection designation and all that follows through “The Administrator” in the first sentence and inserting the following:

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

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

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

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

“(A) if the area is or contains a project of the Secretary for flood control;
“(B) before an application for a permit under this section for the area has been filed; or
“(C) after a permit under this section for the area has been issued by the Secretary.
“(3) REQUIREMENTS.—A regional office of the Administrator shall—
“(A) before considering a determination under paragraph (1), obtain the approval of the Administrator; and
“(B) before publishing notice of a proposed determination under paragraph (1) for the area of a project, review, consider, and adequately refute the findings of an environmental impact statement for the project pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”; and
(E) by adding at the end the following:
“(6) IMMEDIATE WITHDRAWAL OF PRIOR DETERMINATIONS.—
“(A) IN GENERAL.—Notwithstanding any other provision of law, a determination made by the Administrator under paragraph (1) with respect to the area of a project that is or contains a project of the Secretary for flood control be-
fore the date of enactment of the Flood Reduc-
tion, Wildlife Habitat, and Water Quality Im-
provement Act of 2019 shall no longer apply
if—

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

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

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

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