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119TH CONGRESS
1ST SESSION

S. 1014

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

IN THE SENATE OF THE UNITED STATES

MARCH 13, 2025

Mrs. MOODY (for herself and Mr. SCOTT of Florida) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Maintaining Cooperative Permitting Act of 2025''.

SEC. 2. STATE DISCHARGE OF DREDGED OR FILL MATERIAL PROGRAMS.

(a) WITHDRAWAL OF APPROVAL WITHOUT CONGRESSIONAL AUTHORIZATION PROHIBITED.—

(1) IN GENERAL.—The permit programs described in paragraph (2) are ratified, approved, and of full force and effect, and the Administrator of the Environmental Protection Agency (referred to in this section as the ''Administrator'') may not withdraw the approval of those permit programs, including through the process described in section 404(i) of the Federal Water Pollution Control Act (33 U.S.C. 1344(i)), unless the withdrawal is expressly authorized by an Act of Congress enacted after the date of enactment of this Act.

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

(A) The program of the State of Michigan, approved in the notice of the Environmental Protection Agency entitled ''Michigan Department of Natural Resources Section 404 Permit Program Approval'' (49 Fed. Reg. 38947 (October 2, 1984)) and as described in section 233.70 of title 40, Code of Federal Regulations

(including any updates to the program described in a successor Federal Register notice).

(B) The program of the State of New Jersey, approved in the final rule and notice of the Environmental Protection Agency entitled ''New Jersey Department of Environmental Protection and Energy Section 404 Permit Program Approval'' (59 Fed. Reg. 9933 (March 2, 1994)) and as described in section 233.71 of title 40, Code of Federal Regulations (including any updates to the program described in a successor Federal Register notice).

(C) The program of the State of Florida, as described in the notice of the Environmental Protection Agency entitled ''EPA's Approval of Florida's Clean Water Act Section 404 Assumption Request'' (85 Fed. Reg. 83553 (December 22, 2020)) (including any updates to the program described in a successor Federal Register notice), including the Programmatic Biological Opinion with Incidental Take Statement associated with the program.

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

through the Chief of Engineers (referred to in this section as the ''Secretary''), and the State of Florida may both issue permits authorized under the program described in paragraph (2)(C) into navigable waters (as described in subsection 404(g)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1344(g)(1))) within the jurisdiction of the State of Florida.

(4) APPROVAL OF COMPARABLE STATE PROGRAMS.—

(A) IN GENERAL.—If the Administrator determines that a State program submitted under subsection (g)(1) of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is comparable to a State program described in any of subparagraphs (A) through (C) of paragraph (2), the Administrator shall make the determination described in subsection (h)(2)(A) of that section with respect to that program.

(B) NOTIFICATION.—On making the determination required under subparagraph (A), the Administrator shall notify the Secretary and the applicable State of that determination.

(C) SUSPENSION.—On notification from the Administrator under subparagraph (B) and from a State that the State has begun to administer a program approved pursuant to subparagraph (A), the Secretary shall suspend the issuance of permits under subsections (a) and (e) of section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) for activities with respect to which a permit may be issued by the State under that program.

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

''(6) NOT A RULE OR REGULATION.—The approval of a State permit program under this section shall not be considered to be a rule or regulation.''.

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