



116TH CONGRESS  
1ST SESSION

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

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

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IN THE SENATE OF THE UNITED STATES

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

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**A BILL**

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

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

1 (1) in subsection (c)—

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

4 “(5) FINDINGS.—The Administrator”;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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