

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3898
OFFERED BY MR. COLLINS OF GEORGIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

5 (b) TABLE OF CONTENTS.—The table of contents for
6 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. Judicial review timeline clarity.
- Sec. 15. Restoring federalism in clean water permitting.
- Sec. 16. Jurisdictional determination backlog reduction.
- Sec. 17. Definition of navigable waters.
- Sec. 18. Applicability of Spill Prevention, Control, and Countermeasure rule.
- Sec. 19. Coordination with Federal Permitting Improvement Steering Council.

1 **SEC. 2. WATER QUALITY STANDARDS ATTAINABILITY.**

2 (a) STATE WATER QUALITY STANDARDS.—Section
3 303(c) (33 U.S.C. 1313(c)) of the Federal Water Pollu-
4 tion Control Act is amended—

5 (1) in paragraph (1)—

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

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

12 “(B) Reviews under this paragraph shall include re-
13 view, for purposes of ensuring that combined sewer over-
14 flow controls are cost effective, of any water quality stand-
15 ard applicable to a body of water into which, pursuant
16 to a permit, order, or decree issued pursuant to this Act,
17 a municipal combined storm and sanitary sewer dis-
18 charges.

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

21 (2) in paragraph (2)(A)—

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

24 (B) by striking “, and also taking into con-
25 sideration” and inserting “; (ii)”;

1 (C) by inserting before the period at the
2 end the following: “; and (iii) the cost and com-
3 mercial availability in the United States of
4 treatment technologies that may be required to
5 be applied to point sources in order to result in
6 compliance with such standards”.

7 (b) STATE WATER QUALITY CRITERIA.—Section
8 304(a) of the Federal Water Pollution Control Act (33
9 U.S.C. 1314(a)) is amended by adding at the end the fol-
10 lowing new paragraph:

11 “(10) CONSIDERATION OF TREATMENT TECH-
12 NOLOGIES.—In developing or revising water quality
13 criteria under this subsection, the Administrator
14 shall take into consideration the cost and commer-
15 cial availability of treatment technologies that may
16 be required to be applied to point sources in order
17 to result in compliance with water quality standards
18 adopted or promulgated under section 303.”.

19 **SEC. 3. WATER QUALITY CRITERIA DEVELOPMENT AND**
20 **TRANSPARENCY.**

21 (a) INFORMATION AND GUIDELINES.—Section
22 304(a) of the Federal Water Pollution Control Act (33
23 U.S.C. 1314(a)) is further amended by adding at the end
24 the following:

1 “(11) ADMINISTRATIVE PROCEDURE.—After
2 the date of enactment of this paragraph, the Admin-
3 istrator shall issue any new or revised water quality
4 criteria under paragraph (1) or (9) by rule.”.

5 (b) ADMINISTRATIVE PROCEDURE AND JUDICIAL
6 REVIEW.—Section 509(b)(1) of the Federal Water Pollu-
7 tion Control Act (33 U.S.C. 1369(b)(1)) is amended—

8 (1) by striking “section 402, and” and inserting
9 “section 402,”; and

10 (2) by inserting “and (H) in issuing any cri-
11 teria for water quality pursuant to section
12 304(a)(11),” after “strategy under section 304(l),”.

13 **SEC. 4. WATER QUALITY TECHNOLOGY AVAILABILITY.**

14 Section 304(b) of the Federal Water Pollution Con-
15 trol Act (33 U.S.C. 1314(b)) is amended—

16 (1) in paragraph (1)(B), by inserting “the com-
17 mercial availability in the United States of the tech-
18 nology (including whether the technology has been
19 demonstrated at comparable scale),” before “and
20 such other factors”;

21 (2) in paragraph (2)(B), by inserting “the com-
22 mercial availability in the United States of the tech-
23 nology (including whether the technology has been
24 demonstrated at comparable scale),” before “and
25 such other factors”; and

1 (3) in paragraph (4)(B), by inserting “the com-
2 mercial availability in the United States of the tech-
3 nology (including whether the technology has been
4 demonstrated at comparable scale),” before “and
5 such other factors”.

6 **SEC. 5. IMPROVING WATER QUALITY CERTIFICATIONS AND**
7 **AMERICAN ENERGY INFRASTRUCTURE.**

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

10 (1) in subsection (a)—

11 (A) in paragraph (1)—

12 (i) in the first sentence by striking
13 “may result” and inserting “may directly
14 result”; and

15 (ii) in the second sentence, by striking
16 “activity” and inserting “discharge”;

17 (iii) in the third sentence, by striking
18 “applications” each place it appears and
19 inserting “requests”;

20 (iv) in the fifth sentence, by striking
21 “act on a request for certification, within
22 a reasonable period of time (which shall
23 not exceed one year) after receipt of such
24 request, the certification requirements of
25 this subsection” and inserting “grant the

1 request for certification with or without
2 conditions, deny the request for certifi-
3 cation, or waive the requirement for certifi-
4 cation under this subsection with respect
5 to such Federal application, within a rea-
6 sonable period of time to be determined by
7 the licensing or permitting agency (which
8 shall not exceed one year) after receipt of
9 such request, the requirement for certifi-
10 cation under this subsection”;

11 (v) in the sixth sentence, by striking
12 “waived as provided in the preceding sen-
13 tence” and inserting “waived under this
14 paragraph”; and

15 (vi) by inserting after the fourth sen-
16 tence the following: “Not later than 30
17 days after the date of enactment of the
18 PERMIT Act, each State and interstate
19 agency that has authority to give such a
20 certification, and the Administrator, shall
21 publish requirements for certification to
22 demonstrate to such State, such interstate
23 agency, or the Administrator, as the case
24 may be, compliance with the applicable
25 provisions of sections 301, 302, 303, 306,

1 and 307. A decision to grant or deny a re-
2 quest for certification shall be based only
3 on compliance with the applicable provi-
4 sions of sections 301, 302, 303, 306, and
5 307 and the grounds for the decision shall
6 be set forth in writing and provided to the
7 applicant. Not later than 90 days after re-
8 ceipt of a request for certification, the
9 State, interstate agency, or Administrator,
10 as the case may be, shall identify in writ-
11 ing all specific additional materials or in-
12 formation that are necessary for the re-
13 quest for certification to be complete, as
14 described in subsection (g). The State,
15 interstate agency, or the Administrator, as
16 the case may be, may grant a request for
17 certification with or without conditions,
18 deny a request for certification, or waive
19 the requirement for certification under this
20 subsection with respect to such Federal ap-
21 plication.”;

22 (B) in paragraph (2)—

23 (i) in the second sentence, by striking
24 “notice of application for such Federal li-

1 cense or permit” and inserting “receipt of
2 a notice under the preceding sentence”;

3 (ii) in the third sentence, by striking
4 “any water quality requirement in such
5 State” and inserting “any water quality
6 standard in effect for the State under sec-
7 tion 303”;

8 (iii) in the fifth sentence, by striking
9 “insure compliance with applicable water
10 quality requirements.” and inserting “en-
11 sure compliance with the applicable provi-
12 sions of sections 301, 302, 303, 306, and
13 307.”;

14 (iv) in the final sentence, by striking
15 “insure” and inserting “ensure”;

16 (v) by striking the first sentence and
17 inserting “On receipt of a request for cer-
18 tification, the certifying State or interstate
19 agency, as applicable, shall immediately
20 notify the Administrator of the request.”;
21 and

22 (vi) by inserting after the second sen-
23 tence the following: “If the Administrator
24 determines under the preceding sentence
25 that such a discharge will not affect the

1 waters of any other State, no such notifica-
2 tion is required.”;

3 (C) in paragraph (3)—

4 (i) in the first sentence, by striking
5 “there will be compliance” and inserting
6 “any such discharge will comply”; and

7 (ii) in the second sentence, by striking
8 “section” and inserting “any applicable
9 provision of section”;

10 (D) in paragraph (4)—

11 (i) in the first sentence—

12 (I) by inserting “directly” before
13 “result in any discharge”; and

14 (II) by striking “applicable efflu-
15 ent limitations or other limitations or
16 other applicable water quality require-
17 ments will not be violated” and insert-
18 ing “no applicable provision of section
19 301, 302, 303, 306, or 307 will be
20 violated”;

21 (ii) in the second sentence, by striking
22 “will violate applicable effluent limitations
23 or other limitations or other water quality
24 requirements” and inserting “will directly
25 result in a discharge that violates an appli-

1 cable provision of section 301, 302, 303,
2 306, or 307.”; and

3 (iii) in the third sentence, by striking
4 “such facility or activity will not violate the
5 applicable provisions” and inserting “oper-
6 ation of such facility or activity will not di-
7 rectly result in a discharge that violates
8 any applicable provision”; and

9 (E) in paragraph (5), by striking “the ap-
10 plicable provisions” and inserting “any applica-
11 ble provision”;

12 (2) in subsection (b), by striking “Nothing in
13 this section” and inserting “Except as provided in
14 subsection (e), nothing in this section”;

15 (3) in subsection (d), by striking “applicant for
16 a Federal license or permit will comply with any ap-
17 plicable effluent limitations and other limitations,
18 under section 301 or 302 of this Act, standard of
19 performance under section 306 of this Act, or prohi-
20 bition, effluent standard, or pretreatment standard
21 under section 307 of this Act, and with any other
22 appropriate requirement of State law set forth in
23 such certification, and shall become a condition on
24 any Federal license or permit subject to the provi-
25 sions of this section” and inserting “discharge sub-

1 ject to this section will comply with the applicable
2 provisions of sections 301, 302, 303, 306, and 307,
3 and any such limitations or requirements shall be
4 imposed by the licensing or permitting agency as a
5 condition on any Federal license or permit subject to
6 the provisions of this section”; and

7 (4) by adding at the end the following:

8 “(e) Notwithstanding section 505, any condition im-
9 posed on a Federal license or permit by a licensing or per-
10 mitting agency under this section may be enforced only
11 by such licensing or permitting agency.

12 “(f) For purposes of this section, the applicable provi-
13 sions of sections 301, 302, 303, 306, and 307 are any
14 applicable effluent limitations and other limitations under
15 section 301 or 302, any water quality standard in effect
16 for a State under section 303, any standard of perform-
17 ance under section 306, and any prohibition, effluent
18 standard, or pretreatment standard under section 307.

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

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

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

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

7 “(A) identification of the Federal license or
8 permit that is the subject of the application
9 with respect to which the certification is re-
10 quested;

11 “(B) identification of any activity the con-
12 duct of which is subject to such Federal license
13 or permit;

14 “(C) identification of the location and na-
15 ture of any discharge that may directly result
16 from such activity, and the location of the re-
17 ceiving waters;

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

21 “(E) a list of all other Federal, interstate,
22 Tribal, State, or local agency authorizations re-
23 quired for the conduct of such activity, and any
24 approval or denial of such an authorization al-
25 ready received.

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

4 “(A) identification of the proposed cat-
5 egories of activities to be covered by the general
6 license or general permit for which certification
7 is requested;

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

12 “(C) an estimate of the number of dis-
13 charges expected to result from the proposed
14 general license or general permit annually.”.

15 **SEC. 6. CLARIFYING FEDERAL GENERAL PERMITS.**

16 Section 402(a) of the Federal Water Pollution Con-
17 trol Act (33 U.S.C. 1342(a)) is amended by adding at the
18 end the following:

19 “(6) GENERAL PERMITS.—

20 “(A) PERMITS AUTHORIZED.—The Admin-
21 istrator may issue general permits under this
22 section on a State, regional, or nationwide
23 basis, or for a delineated area, for discharges
24 associated with any category of activities, which

1 discharges are of similar types and from similar
2 sources.

3 “(B) PERMIT EXPIRATION NOTIFICATION
4 REQUIREMENT.—If a general permit issued
5 under this section will expire and the Adminis-
6 trator decides not to issue a new general permit
7 for discharges similar to those covered by the
8 expiring general permit, the Administrator shall
9 publish in the Federal Register a notice of such
10 decision at least two years prior to the expira-
11 tion of the general permit.

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

14 “(i) IN GENERAL.—If a general per-
15 mit issued under this section expires and
16 the Administrator has not published a no-
17 tice in accordance with subparagraph (B),
18 the Administrator shall, until the date de-
19 scribed in clause (ii)—

20 “(I) continue to apply the terms,
21 conditions, and requirements of the
22 expired general permit to any dis-
23 charge that was covered by the ex-
24 pired general permit; and

1 “(II) apply such terms, condi-
2 tions, and requirements to any dis-
3 charge that would have been covered
4 by the expired general permit (in ac-
5 cordance with any relevant require-
6 ments for such coverage) if the dis-
7 charge had occurred before such expi-
8 ration.

9 “(ii) DATE DESCRIBED.—The date de-
10 scribed in this clause is the earlier of—

11 “(I) the date on which the Ad-
12 ministrator issues a new general per-
13 mit for discharges similar to those
14 covered by the expired general permit;
15 or

16 “(II) the date that is 2 years
17 after the date on which the Adminis-
18 trator publishes in the Federal Reg-
19 ister a notice of a decision not to issue
20 a new general permit for discharges
21 similar to those covered by the expired
22 general permit.”.

1 **SEC. 7. NPDES PERMIT TERMS.**

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

5 **SEC. 8. CONFIDENCE IN CLEAN WATER PERMITS.**

6 (a) COMPLIANCE WITH PERMITS.—Section 402(k) of
7 the Federal Water Pollution Control Act (33 U.S.C.
8 1342(k)) is amended—

9 (1) by striking “(k) Compliance with” and in-
10 serting the following:

11 “(k) COMPLIANCE WITH PERMITS.—

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

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

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

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

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

24 “(i) specifically identified as controlled
25 or monitored through indicator parameters
26 in the permit, the fact sheet for the per-

1 mit, or the administrative record relating
2 to the permit;

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

7 “(iii) whether or not specifically iden-
8 tified in the permit or during the permit
9 application process—

10 “(I) present in any waste
11 streams or processes of the point
12 source to which the permit applies,
13 which waste streams or processes are
14 specifically identified during the per-
15 mit application process; or

16 “(II) otherwise within the scope
17 of any operations of the point source
18 to which the permit applies, which
19 scope of operations is specifically iden-
20 tified during the permit application
21 process.”.

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

1 “(t) EXPRESSION OF WATER QUALITY-BASED EF-
2 FLUENT LIMITATIONS.—If the Administrator (or a State,
3 in the case of a permit program approved by the Adminis-
4 trator) determines that a water quality-based limitation
5 on a discharge of a pollutant is necessary to include in
6 a permit under this section in addition to any appropriate
7 technology-based effluent limitations included in such per-
8 mit, the Administrator (or the State) may include such
9 water quality-based limitation in such permit only in the
10 form of a limitation that—

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

13 “(2) clearly describes the manner in which com-
14 pliance with the limitation may be achieved, which
15 shall include—

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

18 “(B) a narrative description of required ac-
19 tions to be applied to the discharge (including
20 any measures or practices required to be ap-
21 plied); or

22 “(C) a narrative description of a limitation
23 on the discharge that specifies the level of con-
24 trol to be applied.”.

1 **SEC. 9. FOREST PROTECTION AND WILDLAND FIRE-**
2 **FIGHTER SAFETY.**

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

5 (1) by striking “for a discharge from” and in-
6 serting the following: “for—

7 “(i) a discharge from”;

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

10 (3) by adding at the end the following:

11 “(ii) a discharge resulting from the
12 aerial application of a product used for fire
13 control and suppression purposes that ap-
14 pears on the most current Forest Service
15 Qualified Products List (or any successor
16 list).”.

17 **SEC. 10. AGRICULTURAL STORMWATER DISCHARGE.**

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

21 “(4) AGRICULTURAL STORMWATER DIS-
22 CHARGE.—

23 “(A) IN GENERAL.—The Administrator
24 shall not require a permit, nor directly or indi-
25 rectly require any State to require a permit,
26 under this section for discharges of stormwater,

1 including from subsurface drainage, from agri-
2 cultural land that occur in direct response to a
3 precipitation event.

4 “(B) AGRICULTURAL LAND DEFINED.—In
5 this paragraph, the term ‘agricultural land’ in-
6 cludes—

7 “(i) land on which an agricultural
8 input (such as manure and other crop nu-
9 trients, crop protection, or seed) is applied;

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

15 “(iii) land that is—

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

19 “(II) necessary to support agri-
20 cultural production, soil conservation,
21 flood control, or water quality.”.

22 **SEC. 11. REDUCING REGULATORY BURDENS.**

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

1 “(u) DISCHARGES OF PESTICIDES.—

2 “(1) NO PERMIT REQUIREMENT.—Except as
3 provided in paragraph (2), a permit shall not be re-
4 quired by the Administrator or a State under this
5 Act for a discharge from a point source into navi-
6 gable waters of a pesticide authorized for sale, dis-
7 tribution, or use under the Federal Insecticide, Fun-
8 gicide, and Rodenticide Act, or the residue of such
9 a pesticide, resulting from the application of such
10 pesticide.

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

14 “(A) A discharge resulting from the appli-
15 cation of a pesticide in violation of a provision
16 of the Federal Insecticide, Fungicide, and
17 Rodenticide Act that is relevant to protecting
18 water quality, if—

19 “(i) the discharge would not have oc-
20 curred but for the violation; or

21 “(ii) the amount of pesticide or pes-
22 ticide residue in the discharge is greater
23 than would have occurred without the vio-
24 lation.

1 “(B) Stormwater discharges subject to reg-
2 ulation under subsection (p).

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

5 “(i) Manufacturing or industrial efflu-
6 ent.

7 “(ii) Treatment works effluent.

8 “(iii) Discharges incidental to the nor-
9 mal operation of a vessel, including a dis-
10 charge resulting from ballasting operations
11 or vessel biofouling prevention.”.

12 **SEC. 12. REDUCING PERMITTING UNCERTAINTY.**

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

16 (1) by striking “(c) The Administrator” and in-
17 serting the following:

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

19 “(1) IN GENERAL.—The Administrator”;

20 (2) in paragraph (1), as so designated, by in-
21 serting “during the period described in paragraph
22 (2) and” before “after notice and opportunity for
23 public hearings”; and

24 (3) by adding at the end the following:

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

8 “(A) begin on the date on which an appli-
9 cant submits all the information required to
10 complete an application for a permit under this
11 section; and

12 “(B) end on the date on which the Sec-
13 retary issues the permit.”.

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

19 **SEC. 13. NATIONWIDE PERMITTING IMPROVEMENT.**

20 (a) IN GENERAL.—Section 404(e) of the Federal
21 Water Pollution Control Act (33 U.S.C. 1344) is amend-
22 ed—

23 (1) by striking “(e)(1) In carrying” and insert-
24 ing the following:

25 “(e) GENERAL PERMITS.—

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

2 (2) in paragraph (2)—

3 (A) by striking “(2) No general” and in-
4 serting the following:

5 “(2) TERM.—No general”; and

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

8 (3) by adding at the end the following:

9 “(3) CONSIDERATIONS.—In determining the en-
10 vironmental effects of an activity under paragraph
11 (1) or (2), the Secretary—

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

15 “(B) shall consider any effects of a dis-
16 charge of dredged or fill material into less than
17 3 acres of navigable waters to be a minimal ad-
18 verse environmental effect; and

19 “(C) may consider any effects of a dis-
20 charge of dredged or fill material into 3 acres
21 or more of navigable waters to be a minimal ad-
22 verse environmental effect.

23 “(4) NATIONWIDE PERMITS FOR LINEAR
24 PROJECTS.—

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

5 “(i) linear infrastructure projects that
6 result in a discharge of dredged or fill ma-
7 terial into less than 3 acres of navigable
8 waters for each single and complete
9 project; and

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

14 “(B) DEFINITIONS.—In this paragraph:

15 “(i) LINEAR INFRASTRUCTURE
16 PROJECT.—The term ‘linear infrastructure
17 project’ means a project to carry out any
18 activity required for the construction, ex-
19 pansion, maintenance, modification, or re-
20 moval of infrastructure and associated fa-
21 cilities for the transmission from a point of
22 origin to a terminal point of communica-
23 tions or electricity, or for the transpor-
24 tation from a point of origin to a terminal
25 point of people, water, or wastewater.

1 “(ii) LINEAR PIPELINE PROJECT.—

2 The term ‘linear pipeline project’ means a
3 project to carry out any activity required
4 for the construction, expansion, mainte-
5 nance, modification, or removal of infra-
6 structure and associated facilities for the
7 transportation from a point of origin to a
8 terminal point of carbon dioxide, fuel, or
9 hydrocarbons, in the form of a liquid, li-
10 quescent, gaseous, or slurry substance or
11 supercritical fluid, including oil and gas
12 pipeline facilities.

13 “(iii) SINGLE AND COMPLETE
14 PROJECT.—The term ‘single and complete
15 project’ has the meaning given that term
16 in section 330.2 of title 33, Code of Fed-
17 eral Regulations (as in effect on the date
18 of enactment of this paragraph).

19 “(5) REISSUANCE OF NATIONWIDE PERMITS.—

20 In determining whether to reissue a general permit
21 issued under this subsection on a nationwide basis—

22 “(A) no consultation with an applicable
23 State pursuant to section 6(a) of the Endan-
24 gered Species Act of 1973 (16 U.S.C. 1535(a))
25 is required;

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

4 “(C) the requirements of section 102(2)(C)
5 of the National Environmental Policy Act of
6 1969 (42 U.S.C. 4332(2)(C)) shall be satisfied
7 by preparing an environmental assessment with
8 respect to such general permit.”.

9 (b) REGULATORY REVISIONS REQUIRED.—The Sec-
10 retary of the Army, acting through the Chief of Engineers,
11 shall expeditiously revise the regulations applicable to car-
12 rying out section 404(e) of the Federal Water Pollution
13 Control Act (33 U.S.C. 1344) in order to streamline the
14 processes for issuing general permits under such section
15 to promote efficient and consistent implementation of such
16 section.

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

24 (1) general condition 15 (relating to single and
25 complete projects), as included in the final rule titled

1 “Reissuance and Modification of Nationwide Per-
2 mits” and published on January 13, 2021, by the
3 Department of the Army, Corps of Engineers (86
4 Fed. Reg. 2868);

5 (2) the definition of the term “single and com-
6 plete linear project”, as included in such final rule
7 (86 Fed. Reg. 2877); or

8 (3) the definition of the term “single and com-
9 plete project”, as included in section 330.2 of title
10 33, Code of Federal Regulations (as in effect on the
11 date of enactment of this Act).

12 **SEC. 14. JUDICIAL REVIEW TIMELINE CLARITY.**

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

15 (1) by redesignating subsection (t) as sub-
16 section (u);

17 (2) in subsection (u), as so redesignated, by
18 striking “Nothing in the section” and inserting
19 “SAVINGS PROVISION.—Nothing in this section”;
20 and

21 (3) by inserting after subsection (s) the fol-
22 lowing:

23 “(t) JUDICIAL REVIEW.—

1 “(1) STATUTE OF LIMITATIONS.—Notwith-
2 standing any applicable provision of law relating to
3 statutes of limitations—

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

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

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

22 “(2) LIMITATION ON COMMENCEMENT OF CER-
23 TAIN ACTIONS.—Notwithstanding any other provi-
24 sion of law, no action described in subparagraph (A)

1 or (B) of paragraph (1) may be commenced unless
2 the action—

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

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

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

13 “(B) is related to such comment.

14 “(3) REMEDIES.—

15 “(A) ACTIONS RELATING TO PERMIT PRO-
16 GRAMS.—If a court determines that the Admin-
17 istrator did not comply with the requirements
18 of this section in issuing an approval of a State
19 permit program pursuant to this section—

20 “(i) the court shall remand the matter
21 to the Administrator for further pro-
22 ceedings consistent with the determination
23 of the court; and

24 “(ii) the court may not vacate, revoke,
25 enjoin, or otherwise limit the authority of

1 the State to issue permits under such
2 State permit program.

3 “(B) ACTIONS RELATING TO PERMITS.—If
4 a court determines that the Secretary or the
5 State, as applicable, did not comply with the re-
6 quirements of this section in issuing an indi-
7 vidual or general permit under this section, or
8 in verifying that an activity involving a dis-
9 charge of dredged or fill material is authorized
10 by a general permit issued under this section,
11 as applicable—

12 “(i) the court shall remand the matter
13 to the Secretary or the State, as applica-
14 ble, for further proceedings consistent with
15 the determination of the court;

16 “(ii) with respect to a determination
17 regarding the issuance of an individual or
18 general permit under this section, the
19 court may not vacate, revoke, enjoin, or
20 otherwise limit the permit, unless the court
21 finds that activities authorized under the
22 permit would present an imminent and
23 substantial danger to human health or the
24 environment for which there is no other eq-

1 uitable remedy available under the law;
2 and

3 “(iii) with respect to a determination
4 regarding a verification that an activity in-
5 volving a discharge of dredged or fill mate-
6 rial is authorized by a general permit
7 issued under this section, the court may
8 not enjoin or otherwise limit the discharge
9 unless the court finds that the activity
10 would present an imminent and substantial
11 danger to human health or the environ-
12 ment for which there is no other equitable
13 remedy available under the law.

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

22 **SEC. 15. RESTORING FEDERALISM IN CLEAN WATER PER-**
23 **MITTING.**

24 Not later than 180 days after the date of enactment
25 of this Act, the Administrator of the Environmental Pro-

1 tection Agency shall complete a review of the regulations
2 applicable to the approval of State permit programs under
3 section 404 of the Federal Water Pollution Control Act
4 (33 U.S.C. 1344) in order to identify revisions to such
5 regulations necessary to streamline the approval process,
6 reduce administrative burdens, and encourage additional
7 States to administer a permit program under such section,
8 and the Administrator shall implement any such revisions
9 as appropriate.

10 **SEC. 16. JURISDICTIONAL DETERMINATION BACKLOG RE-**
11 **DUCTION.**

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

18 (1) applications for permits under section 404
19 of the Federal Water Pollution Control Act (33
20 U.S.C. 1344); or

21 (2) requests for jurisdictional determinations or
22 wetlands delineations under the jurisdiction of the
23 Secretary.

1 **SEC. 17. DEFINITION OF NAVIGABLE WATERS.**

2 Section 502(7) of the Federal Water Pollution Con-
3 trol Act (33 U.S.C. 1362(7)) is amended—

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

6 “(7) NAVIGABLE WATERS.—

7 “(A) IN GENERAL.—The term”; and

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

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

11 “(i) Any component of a waste treat-
12 ment system, including any lagoon or
13 treatment pond (such as a settling or cool-
14 ing pond), designed to actively or pas-
15 sively—

16 “(I) convey or retain wastewater;
17 or

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

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

22 “(iii) Any area that—

23 “(I) prior to December 23, 1985,
24 was drained or otherwise manipulated
25 for the purpose, or having the effect,
26 of making production of an agricul-

1 tural product possible, as determined
2 by the Administrator and the Sec-
3 retary of the Army, acting through
4 the Chief of Engineers, which deter-
5 minations shall be consistent with any
6 designations of prior converted crop-
7 land made by the Secretary of Agri-
8 culture; and

9 “(II) as determined by the Ad-
10 ministrator—

11 “(aa) at least once in the
12 immediately preceding five years
13 has been used for, or in support
14 of, agricultural purposes, includ-
15 ing grazing, haying, idling land
16 for conservation use (such as
17 habitat management, pollinator
18 and wildlife management, water
19 storage and supply management,
20 and flood management), irriga-
21 tion tailwater storage, farm-
22 raised fish production, cranberry
23 production, nutrient retention,
24 and idling land for soil recovery

1 after natural disasters such as
2 hurricanes and drought; and

3 “(bb) has not reverted to
4 wetlands (as defined in section
5 120.2 of title 40, Code of Federal
6 Regulations, as in effect on the
7 date of enactment of this clause).

8 “(iv) Groundwater.

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

13 **SEC. 18. APPLICABILITY OF SPILL PREVENTION, CONTROL,**
14 **AND COUNTERMEASURE RULE.**

15 Section 1049 of the Water Resources Reform and De-
16 velopment Act of 2014 (33 U.S.C. 1361 note) is amend-
17 ed—

18 (1) in subsection (b)—

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

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

23 “(A) an aggregate aboveground storage ca-
24 pacity greater than 10,000 gallons but less than
25 42,000 gallons; and”;

1 (C) in paragraph (3)—

2 (i) by amending subparagraph (A) to
3 read as follows:

4 “(A) with an aggregate aboveground stor-
5 age capacity of less than or equal to 10,000
6 gallons; and”; and

7 (ii) in subparagraph (B), by striking
8 “; and” and inserting a period; and

9 (D) by striking paragraph (4);

10 (2) in subsection (c)(2)(A)—

11 (A) in clause (i), by striking “1,000” and
12 inserting “1,320”; and

13 (B) in clause (ii), by striking “2,500” and
14 inserting “3,000”; and

15 (3) by striking subsection (d).

16 **SEC. 19. COORDINATION WITH FEDERAL PERMITTING IM-**
17 **PROVEMENT STEERING COUNCIL.**

18 To the maximum extent practicable, the Adminis-
19 trator of the Environmental Protection Agency, the Sec-
20 retary of the Army, acting through the Chief of Engineers,
21 and States authorized to administer programs under sec-
22 tions 402 or 404 of the Federal Water Pollution Control
23 Act, or act on a request for certification under section 401
24 of such Act, are encouraged to coordinate and cooperate
25 with the Executive Director of the Federal Permitting Im-

1 provement Steering Council, pursuant to section
2 41003(c)(3)(A) of the FAST Act (42 U.S.C. 4370m–
3 2(c)(3)(A)), with respect to covered projects, as defined
4 under section 41001 of the FAST Act (42 U.S.C. 4370m).

