

118TH CONGRESS  
2D 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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Mr. RUBIO 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 2024”.

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 unless  
7           the withdrawal is expressly authorized by an Act of  
8           Congress enacted after the date of enactment of this  
9           Act.

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

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

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

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

21 (3) SAVINGS PROVISION.—Nothing in this sub-  
22 section prohibits the Administrator, in accordance  
23 with section 404(i) of the Federal Water Pollution  
24 Control Act (33 U.S.C. 1344(i)), from withdrawing  
25 approval of a permit program described in para-

1 graph (2) if the Administrator determines that a  
2 State is not administering the permit program as  
3 approved.

4 (b) CLARIFICATION OF PROCESS.—Section 404(h) of  
5 the Federal Water Pollution Control Act (33 U.S.C.  
6 1344(h)) is amended by adding at the end the following:

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