

Creating Confidence in Clean Water Permitting Act: U.S. House of Representatives Passes Legislation



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The United States House of Representatives voted on a partisan-basis to pass H.R. 7023 which is titled:

Creating Confidence in Clean Water Permitting Act.

The introduction to H.R. 7023 states as its purpose:

...To amend the Federal Water Pollution Control Act to provide regulatory and judicial certainty for regulated entities and communities, increase transparency, and promote water quality, and for other purposes.”

H.R. 7023 modifies various components of the Clean Water Act such as:

- Water quality criteria.
- National Pollutant Discharge Elimination System (“NPDES”) program.
- 404 dredged or fill material permit process.
- Meaning of “Waters of the United States.”

Examples of the H.R. 7023’s directives include:

- Require EPA to provide written notification two years before the expiration of a general permit (if notice is not provided by that deadline, such a discharge under the expired permit may continue until a new permit is issued).
- Modifies the NPDES permit shield.
- Limits EPA’s veto authority to restrict, prohibit, deny, or withdraw the specification by the United States Army Corps of Engineers of a site for the discharge of dredged or fill material.
- Modifies requirements for general permits to discharge dredged or fill material that are issued on a nationwide, regional, or state basis for particular categories of activities.
- Extends the maximum term for a general U.S. Army Corps of Engineers nationwide, regional, or state permit from a five-year to a ten-year period.
- Exempts the U.S. Army Corps of Engineers from certain consultation/environmental review requirements when reissuing nationwide general permits.
- Directs the EPA and U.S. Army Corps of Engineers to begin a process to issue guidance on the implementation of the 2023 Final Rule titled: Revised Definition of Waters of the United States.
- The above-referenced guidance must comply with the decision of the United States Supreme Court in *Sackett v. EPA*.
- Addresses Clean Water Act judicial review timeline.

- Requires EPA and the U.S. Army Corps of Engineers to provide the United States Congress information on their staffing needs to process applications and issue permits under the Clean Water Act.
- Provides that the delegation of the state of Florida's request to carry out a program for the discharge of dredged or fill material pursuant to Section 404 of the Clean Water Act should have the force of effect of law (i.e., overrides a recent judicial decision revoking the Florida delegation).

The Republican United States House of Representatives majority enabled the Bill's passage. The legislation would presumably be difficult to pass in a Democratic United States Senate. However, *InsideEPA* reported in its March 25th edition that despite Congressional Democrats and the Biden Administration's criticism of H.R. 7023, that:

...they are carefully leaving the door open to bipartisan permit reforms.

A copy of H.R. 7023 can be downloaded [here](#).