

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: H2/1/21

A Bill

HOUSE BILL 1261

5 By: Representative Ladyman
6 By: Senator L. Eads
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING THE STATE WATER
10 POLLUTION CONTROL AGENCY; TO AUTHORIZE THE STATE
11 WATER CONTROL AGENCY TO SEEK AND ACCEPT DELEGATION OF
12 THE PERMITTING PROGRAM FOR SECTION 404 OF THE FEDERAL
13 CLEAN WATER ACT ACTIVITIES AND ADMINISTER THAT
14 PERMITTING PROGRAM IN LIEU OF THE UNITED STATES ARMY
15 CORPS OF ENGINEERS; AND FOR OTHER PURPOSES.
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Subtitle

18 TO AMEND THE LAW CONCERNING THE STATE
19 WATER POLLUTION CONTROL AGENCY; TO
20 AUTHORIZE THE AGENCY TO ADMINISTER THE
21 SECTION 404 PERMITTING PROGRAM OF THE
22 FEDERAL CLEAN WATER ACT IN LIEU OF THE
23 UNITED STATES ARMY CORPS OF ENGINEERS.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code § 8-4-207(1), concerning the state water
30 pollution control agency, is amended to add an additional subdivision to read
31 as follows:

32 (C) The director is authorized to require conditions in
33 permits issued under this chapter regarding the dredge and fill permitting
34 program established in Section 404 of the Clean Water Act, as amended, 33
35 U.S.C. § 1251 et seq. and regulations promulgated under Section 404 of the
36 Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.;



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2 SECTION 2. Arkansas Code § 8-4-208(a), concerning the state water
3 pollution control agency, is amended to read as follows:

4 (a)(1) The Division of Environmental Quality is authorized, subject to
5 the approval of the Governor, to administer on behalf of the state its own
6 permit program for discharges into navigable waters within its jurisdiction
7 in lieu of that of the United States Environmental Protection Agency. The
8 division is also authorized to submit to the Administrator of the United
9 States Environmental Protection Agency for approval a full and complete
10 description of the program which the division proposes to establish and
11 administer under state law, as provided by § 402(b) of the Federal Water
12 Pollution Control Act Amendments of 1972, 33 U.S.C. § 1342(b). To that end,
13 the division and the Arkansas Pollution Control and Ecology Commission are
14 vested with all necessary authority and power to meet the requirements of §
15 402(b) of the Federal Water Pollution Control Act Amendments of 1972, 33
16 U.S.C. § 1342(b), and the guidelines promulgated by the United States
17 Environmental Protection Agency pursuant to § 304(h)(2) of the Federal Water
18 Pollution Control Act Amendments of 1972, 33 U.S.C. § 1314(h), to engage in
19 an approved continuing planning process under § 303(e) of the Federal Water
20 Pollution Control Act Amendments of 1972, 33 U.S.C. § 1313(e), and to perform
21 any and all acts necessary to carry out the purposes and requirements of the
22 Federal Water Pollution Control Act Amendments of 1972 relating to this
23 state's participation in the National Pollutant Discharge Elimination System
24 established under the Federal Water Pollution Control Act Amendments of 1972,
25 subject to all restrictions contained in the Federal Water Pollution Control
26 Act Amendments of 1972 and guidelines.

27 (2)(A) Subject to the approval of the Governor, the division may
28 administer on behalf of the state its own permit program for the dredge and
29 fill permitting program established in Section 404 of the Clean Water Act, as
30 amended, 33 U.S.C. § 1251 et seq. and regulations promulgated under Section
31 404 of the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

32 (B) Any rule, standard, or other requirement adopted for
33 purposes of obtaining authorization for the permitting program under
34 subdivision (a)(2)(A) of this section may not become effective or otherwise
35 enforceable until the United States Environmental Protection Agency has
36 approved the state's application for the state permit program for the dredge

1 and fill permitting program established in Section 404 of the Clean Water
2 Act, as amended, 33 U.S.C. § 1251 et seq.

3 (C) The legislative authority under subdivision (a)(2)(A)
4 of this section is intended to be sufficient to enable the division to assume
5 and implement the federal Section 404 dredge and fill permitting program in
6 conjunction with the other permitting programs established in this chapter.

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8 */s/Ladyman*

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11 **APPROVED: 3/8/21**
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