Summary of Anti-Clean Water Provisions in H.R. 3898, the "Promoting Efficient Review for Modern Infrastructure Act" July 2025

Sec. 2, Water quality standards attainability:

This section would prevent EPA from developing accurate water quality "criteria." Criteria are supposed to be based only on scientific evidence and reflect the level of pollution that a water body can have and still meet state-established uses, like fishing or swimming. Under this provision, criteria would have to be set considering polluters' costs of treating their pollution to meet these targets. Essentially, it would force EPA to say that unsafe levels of pollution are safe if it would cost polluters too much to make it truly safe. The Clean Water Act and EPA's regulations already allow for accommodations for dischargers if technology to meet standards is infeasible, but do not require EPA to provide misleading information about the health and environmental impacts of pollution.

Sec. 3, Water quality criteria development and transparency:

This section would give polluters new ways to slow down the EPA's process for updating water quality criteria, which reflect EPA's scientific assessment and recommendations to states about pollution standards for different water bodies – i.e., how little mercury must be in a river used by a tribe for fishing, or how much bacteria can be in a lake used for recreational swimming.

By subjecting EPA's issuance of criteria to additional administrative processes and opening them up to industry lawsuits, this provision could delay improved protections (which are already often long-overdue) reflective of scientific developments – which is particularly concerning for emerging contaminants. This provision would add needless bureaucracy and litigation to a process which is already too slow.

Sec. 4, Water quality technology availability:

This section weakens the Clean Water Act's requirements for setting technology-based pollution standards, known as effluent limitation guidelines ("ELGs"), reversing existing law.

The Clean Water Act requires EPA to establish ELGs for categories of industrial dischargers, which are supposed to reflect the "best" technology, considering factors such as costs of upgrades, pollution reduction benefits derived, age of equipment, energy requirements, and more. H.R. 3898 would require EPA to consider whether the technology is commercially available in the U.S. and has been demonstrated "at comparable scale". This provision would

narrow the scope of available technologies EPA can require a wastewater polluter to use only to technology already widely in use.

For example, if affordable, effective treatment technology was available in Canada but not the U.S., then EPA and polluters could pretend such technology does not exist for purposes of setting standards. Similarly, if a technology is affordable and effective, but only a few industry leaders have it, EPA could *still* choose not to require polluters to utilize it.

Congress designed this CWA program to be technology-forcing, but if standards have to be based on equipment already broadly in use, they will fail to drive innovation and pollution control. As it is, effluent standards already are weaker than Congress intended, because EPA currently does not update standards regularly, and this would make that problem much worse.

Sec. 5, Improving water quality certifications and American energy infrastructure:

This section completely decimates state and Tribal authority under Section 401 of the Clean Water Act. Section 401 provides states and authorized Tribes the ability to review federally permitted activities (like oil and gas pipelines) and stop or place conditions on the action if it would harm state/Tribal waters.

It severely narrows states' and Tribes' longstanding authority to consider the impact of an *entire federally permitted project or activity*, so that harms upstream and downstream of the specific discharge that triggers review could be off-limits to controls. This would undo decades of how the law has been implemented and specifically undo a Supreme Court decision interpreting the Clean Water Act.

Additionally, the section places unreasonable constraints on states' and Tribes' time to act, which will likely result in rushed or inadequately informed decisions on harmful projects, or a wave of certification rejections from authorities who lack the capacity or time to fully evaluate projects.

It also would eliminate section 401's express authority enabling states to make certification decisions based on requirements of state law, so if a state had stronger water protections than the Clean Water Act requires, they would be unable to account for that – even though that is the entire purpose of this section of the CWA. Finally, the bill would eliminate any meaningful authority to enforce state- or Tribally-imposed conditions, leaving that to the federal licensing or permitting agency, eliminating a longstanding authority for states and tribes to conditionally allow projects to move ahead provided certain alterations are made to comply with state water quality priorities.

Sec. 6, Clarifying Federal general permits:

This section would authorize EPA to issue "general" permits under the CWA Section 402 National Pollutant Discharge Elimination System program for industrial and municipal polluters.

This new authority lacks safeguards that Congress included in the parallel CWA Section 404 general permitting program for "dredge and fill" activities, namely that the activities must have minimal adverse environmental impacts.

Sec. 7, NPDES permit terms:

This section would extend National Pollutant Discharge Elimination System permits (which set pollution limits for industrial and municipal discharges into our waters) terms from 5 to 10 years.

Amending the Act to allow permit terms of 10 years or longer would allow dischargers to operate for a decade or more under pollution control standards that have long since become outdated – potentially putting public health and environmental safety at risk.

The five-year permit terms are an essential part of the Clean Water Act's design that should not be altered. A key premise of the Clean Water Act is that, as environmental science and technology advance over time, the nation will make steady progress on reducing water pollution. The five-year limit on NPDES permit terms to ensure that discharge limits are strengthened regularly to account for updated water quality and pollution control standards that reflect the most current science and technology, as well as to account for any other relevant changes in the governing law or in our scientific understanding of water pollution and its impacts.

Finally, many permits already last far longer than their five-year permit terms due to state and federal agencies not having enough capacity to review them in a timely fashion. The solution is not to weaken the system governing pollution into waters, but to appropriately resource the federal and state agencies implementing the law and protect our waters.

Sec. 8, Confidence in clean water permits:

This section would shield dischargers from Clean Water Act liability even if they are aware of certain pollutants in their waste streams but do not disclose it to pollution control officials who do not have reason to expect such contaminants. This provision would make industrial operations able to dump "forever chemicals" like PFAS and other emerging contaminants into the nation's waters without accountability, since dischargers would no longer have a requirement to look for and disclose such information.

Sec. 9, Forest protection and wildland firefighter safety:

This section exempts discharge of any fire control/suppression substance on a list of approved products maintained by US Forest Service from Clean Water Act NPDES permitting. This issue was largely on track to be addressed through a general permit that had been developed by EPA for the use of these products, but which was scrapped by the current administration.

Sec. 10, Agricultural stormwater discharge:

This section would vastly expand an exemption in current law, which specifies that "agricultural stormwater" is not subject to industrial discharge permitting requirements. If this exemption is dramatically expanded, pollution control officials would lose the ability to effectively manage the discharges from industrial operations like livestock factories, including liquid manure that is irresponsibly stored or over-applied to nearby fields.

Sec. 11, Reducing regulatory burdens:

This section eliminates common sense protections for people and wildlife from harmful pesticide discharges into water bodies.

Although an efficient system is in place to enable widespread pesticide use while minimizing the harm caused by pesticides reaching waterways – one that could help address the contamination in the nearly 2,000 water bodies impaired by pesticide pollution – this provision would remove these important protections under the Clean Water Act by allowing pesticides authorized for sale to be discharged into waters *without* permits. Just because a pesticide is approved for certain uses doesn't mean our waters should be contaminated by them, nor does it mean the public should be in the dark about their presence in waters we rely on for drinking, recreation, and business.

In fact, EPA already developed an efficient solution to this issue: a general permit for pesticide application, which has been used by numerous states, establishing clear management practices for pesticide applicators that would impact water bodies.

Sec. 12, Reducing permitting uncertainty:

This section would virtually eliminate the Environmental Protection Agency's ability to stop mammoth polluting projects like the Pebble Mine in Alaska's Bristol Bay watershed or West Virginia's Spruce Mine. This rarely-used authority (invoked only 14 times in the Act's history) is crucial to prevent the most egregious projects from destroying precious fisheries, drinking water supplies, and other resources. Eliminating this provision takes a rarely-used but critical tool away from EPA for protecting valuable precious waters.

Sec. 13, Nationwide permitting improvement:

This section would greatly weaken the US Army Corps of Engineers' nationwide permitting program – a program that is already far too lax in preventing and mitigating the harm caused by projects that fill in the nation's waters.

This provision restricts the Corps from considering harms caused by activities as a whole, and forces them to look only at narrow footprint where fill activity takes place, as well as exempting the permit program from the Endangered Species Act and National Environmental Policy Act.

It would also double the duration of general permits, such that advancements in best practices for the dozens of activities covered by such permits would not be required promptly.

This section also creates a blanket presumption that activities filling in or destroying less than 3 acres of water bodies is minimally harmful. Allowing an unlimited number of up to 3 acre fills across the country is a recipe for massive wetland and stream destruction with no effective oversight. Considering that headwater streams are generally only a couple of yards wide, allowing 3 acres of such streams to be filled would mean miles of streams per project could be eliminated. The cumulative impact of this loophole would be significantly harmful.

Finally, it would also require the Corps to continue to pretend that each water crossing associated with "linear" projects like highways and pipelines is a stand-alone project, which allows extremely harmful projects to proceed under general permits despite covering hundreds of miles and filling in parts of hundreds of water bodies.

Sec. 14, Deadline for request for submission of additional information for permit programs for dredged and fill material:

This provision would affect the process in the Clean Water Act by which EPA reviews states' applications to administer the Act's permitting program for discharges of dredged or fill material. Under current law, EPA's approval process starts when a state submits "a full and complete description of the program" and a statement from the state Attorney General (or comparable official) about the state's legal authority to carry out the program.

This section would add a provision saying that if EPA needs additional information for a state's submission to be "full and complete," it has to request such information within 45 days. The new provision does not specify, however, what happens if EPA is unable to respond in this timeframe (for instance, if it lacks the staff capacity to review the submission by that time) and the submission is nevertheless deficient.

Sec. 15, Judicial review timeline clarity:

This section would prevent effective judicial review of projects that fill in and destroy wetlands, streams, and other waters. This provision would impose an impractically short statute of limitations on court review of "dredge and fill" permits, which would likely force concerned citizens to file suit on more permits in order to preserve their rights, in many instances before the impacts of the permitted project are fully understood. This provision would also severely hamstring courts' authority to provide a remedy for illegal permits because permits found

unlawful would ordinarily remain in effect and allow continued harm to water resources while the Army Corps of Engineers reexamines them.

Sec. 16, Restoring federalism in clean water permitting:

This section unnecessarily authorizes the EPA to review 404 permitting regulations. In 2024, EPA finalized a long-awaited rule to facilitate and streamline state assumption of 404 permitting. EPA's rule was based on considerable input from states over many years.

Sec. 17, Jurisdictional determination backlog reduction:

This section would require agencies to fast-track determinations of whether specific water bodies are protected by the Clean Water Act without providing any more resources for agency staff to conduct these reviews.

This provision would leave important water bodies at risk, and is especially worrisome in the face of proposed cuts to agency budgets and staff capacity. The end result will be haphazard, rushed approvals that lead to more harmful development and pollution.

Sec. 18, Definition of navigable waters:

This section would drastically weaken the scope of the entire Clean Water Act. The bill would give blanket authority to exclude from the Act's pollution control programs "any other features determined to be excluded by the Administrator or the Secretary of the Army, acting through the Chief of Engineers." This provision is unbelievably broad and could be used to exclude any kind of water body. For example, if the Army Corps decided to exclude all ponds from the Clean Water Act, this section would allow it. It is hard to overstate what an enormous loophole this would be.

Incredibly, this bill would allow for the exclusion of huge categories of important waters after the Supreme Court already severely curtailed the law's applicability to certain streams and most of the country's wetlands.

Additionally, this provision codifies and expands on certain regulatory exclusions, making it easier to pollute or destroy natural features.

Sec. 19, Applicability of Spill Prevention, Control, and Countermeasure rule:

This section changes the threshold for when certain agricultural operations have to comply with the 'Spill Prevention, Control, and Countermeasure rule', which requires facilities storing certain amounts of oil to prepare plans to avoid and manage spills that could impact water bodies.

This section would allow agricultural operations to store significantly more oil on-site before having to prepare a plan or, for larger operations, to have the plan certified by a professional engineer. Agricultural operations already are treated more leniently under this program, due to a 2014 law passed by Congress, and there is no need to make it even less protective against oil spills.

Sec. 20, Coordination with Federal Permitting Improvement Steering Council:

This section encourages the Administrator of EPA and the Secretary of the Army Corps to cooperate with other "permit streamlining initiatives" which have historically attempted to weaken accountability to communities and protections for ecosystems in order to expedite polluting projects.

Sec. 21, Sense of Congress on Chesapeake Bay Watershed Agreement:

This provision seeks to minimize dischargers' and states' responsibilities under the Chesapeake Bay TMDL or Clean Water Blueprint and EPA's authority to enforce those responsibilities.