

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: H2/1/21

A Bill

HOUSE BILL 1261

By: Representative Ladyman

By: Senator L. Eads

For An Act To Be Entitled

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

Subtitle

TO AMEND THE LAW CONCERNING THE STATE WATER POLLUTION CONTROL AGENCY; TO AUTHORIZE THE AGENCY TO ADMINISTER THE SECTION 404 PERMITTING PROGRAM OF THE FEDERAL CLEAN WATER ACT IN LIEU OF THE UNITED STATES ARMY CORPS OF ENGINEERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 8-4-207(1), concerning the state water pollution control agency, is amended to add an additional subdivision to read as follows:

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



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

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

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

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

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

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

/s/Ladyman

APPROVED: 3/8/21