

AMENDMENT TO H.R. 3898, AS REPORTED
OFFERED BY MR. BEAN OF FLORIDA

Insert after section 15 the following:

1 **SEC. ____.** **MAINTAINING COOPERATIVE PERMITTING.**

2 (a) **WITHDRAWAL OF APPROVAL WITHOUT CON-**
3 **GRESSIONAL AUTHORIZATION PROHIBITED.**—The permit
4 programs described in subsection (b) are ratified, ap-
5 proved, and of full force and effect, and the Administrator
6 of the Environmental Protection Agency (referred to in
7 this section as the “Administrator”) may not withdraw the
8 approval of those permit programs, including through the
9 process described in section 404(i) of the Federal Water
10 Pollution Control Act (33 U.S.C. 1344(i)), unless the
11 withdrawal is expressly authorized by an Act of Congress
12 enacted after the date of enactment of this Act.

13 (b) **PERMIT PROGRAMS DESCRIBED.**—The permit
14 programs referred to in subsection (a) are the following
15 State permit programs for the discharge of dredged or fill
16 material approved under section 404 of the Federal Water
17 Pollution Control Act (33 U.S.C. 1344):

18 (1) The program of the State of Michigan, ap-
19 proved in the notice of the Environmental Protection
20 Agency entitled “Michigan Department of Natural

1 Resources Section 404 Permit Program Approval”
2 (49 Fed. Reg. 38947 (October 2, 1984)) and as de-
3 scribed in section 233.70 of title 40, Code of Federal
4 Regulations (including any updates to the program
5 described in a successor Federal Register notice).

6 (2) The program of the State of New Jersey,
7 approved in the final rule and notice of the Environ-
8 mental Protection Agency entitled “New Jersey De-
9 partment of Environmental Protection and Energy
10 Section 404 Permit Program Approval” (59 Fed.
11 Reg. 9933 (March 2, 1994)) and as described in sec-
12 tion 233.71 of title 40, Code of Federal Regulations
13 (including any updates to the program described in
14 a successor Federal Register notice).

15 (3) The program of the State of Florida, as de-
16 scribed in the notice of the Environmental Protec-
17 tion Agency entitled “EPA’s Approval of Florida’s
18 Clean Water Act Section 404 Assumption Request”
19 (85 Fed. Reg. 83553 (December 22, 2020)) (includ-
20 ing any updates to the program described in a suc-
21 cessor Federal Register notice), including the Pro-
22 grammatic Biological Opinion with Incidental Take
23 Statement associated with the program.

24 (c) PROGRAM TRANSITION PERIOD.—During the 90-
25 day period beginning on the date of enactment of this Act,

1 the Secretary of the Army, acting through the Chief of
2 Engineers (referred to in this section as the “Secretary”),
3 and the State of Florida may both issue permits author-
4 ized under the program described in subsection (b)(3) for
5 the discharge of dredged or fill material into navigable
6 waters (as described in subsection 404(g)(1) of the Fed-
7 eral Water Pollution Control Act (33 U.S.C. 1344(g)(1)))
8 within the jurisdiction of the State of Florida.

9 (d) APPROVAL OF COMPARABLE STATE PRO-
10 GRAMS.—

11 (1) IN GENERAL.—If the Administrator deter-
12 mines that a State program submitted under sub-
13 section (g)(1) of section 404 of the Federal Water
14 Pollution Control Act (33 U.S.C. 1344) is com-
15 parable to a State program described in any of para-
16 graphs (1) through (3) of subsection (b) of this sec-
17 tion, the Administrator shall make the determination
18 described in subsection (h)(2)(A) of such section 404
19 with respect to that program.

20 (2) NOTIFICATION.—On making the determina-
21 tion required under paragraph (1), the Adminis-
22 trator shall notify the Secretary and the applicable
23 State of that determination.

24 (3) SUSPENSION.—On notification from the Ad-
25 ministrator under paragraph (2) and from a State

1 that the State has begun to administer a program
2 approved pursuant to paragraph (1), the Secretary
3 shall suspend the issuance of permits under sub-
4 sections (a) and (e) of section 404 of the Federal
5 Water Pollution Control Act (33 U.S.C. 1344) for
6 activities with respect to which a permit may be
7 issued by the State under that program.

