

*A BILL*

*To direct the Secretary of the Army to revise a rule relating to compensatory mitigation, and for other purposes.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

*SECTION 1. SHORT TITLE.*

*This Act may be cited as the “Compensatory Mitigation Modernization Act of 2025.”*

*SEC. 2. REVISION OF FRAMEWORK FOR COMPENSATORY MITIGATION.*

*(a) Requirement to Revise.—*

*Not later than 180 days after the date of enactment of this Act, the Secretary of the Army, acting through the Chief of Engineers and in coordination with the Administrator of the Environmental Protection Agency, shall initiate a rulemaking, consistent with section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), to revise the regulations issued in the final rule titled “Compensatory Mitigation for Losses of Aquatic Resources”, published in the Federal Register on April 10, 2008 (73 Fed. Reg. 19594).*

*(b) Scope of Revisions.—*

*In carrying out the rulemaking under subsection (a), the Secretary shall—*

- 1. incorporate lessons learned since the implementation of the final rule described in subsection (a), and reflect advances in science, restoration practices, and regulatory efficiency;*
- 2. promote equivalency and flexibility among compensatory mitigation options, including mitigation banking, in-lieu fee programs, and permittee-responsible mitigation;*
- 3. expedite the approval of mitigation plans that utilize mitigation banks, in-lieu fee programs, and permittee-responsible mitigation;*
- 4. support regional watershed approaches that allow credit generation and sale across multiple hydrologic unit codes and implement systems that are consistent, predictable, and transparent;*
- 5. ensure timely coordination between Corps of Engineers district offices and Interagency Review Teams;*
- 6. ensure that, for projects involving temporary impacts to aquatic resources—including mining and other energy or infrastructure projects with approved reclamation plans—the revised regulations:*
  - (A) take into account the temporary nature of such impacts;*
  - (B) recognize reclamation activities as a form of minimization consistent with section 404(b)(1) guidelines;*
  - (C) consider financial assurances already required under applicable regulatory programs – including instruments such as surety bonds, collateral bonds, letters of credit, insurance, trust funds, and where permitted, self-bonding – when determining the need for additional financial assurances; and*
  - (D) allow the use, transfer, or sale of surplus compensatory mitigation credits generated through reclamation, provided such credits meet applicable*

*environmental performance standards; and, following issuance of the final rule under subsection (c), direct the Secretary to issue guidance establishing objective, measurable success criteria and a phased credit release schedule tied to reclamation milestones*

- 7. encourage the use of off-site and out-of-kind mitigation options where appropriate; and*
- 8. include any other revisions the Secretary determines appropriate.*

*(c) Deadline for Final Rule. –*

The Secretary shall issue a final rule under this section not later than 18 months after the date of enactment of this Act.