

118TH CONGRESS  
2D SESSION

# S. 4157

To amend the Water Resources Development Act of 1986 to improve  
compensatory mitigation, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 18, 2024

Mr. PADILLA (for himself and Mr. TILLIS) introduced the following bill; which  
was read twice and referred to the Committee on Environment and Public  
Works

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## A BILL

To amend the Water Resources Development Act of 1986  
to improve compensatory mitigation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Improving Corps Civil  
5 Works Compensatory Mitigation Act”.

6 **SEC. 2. FISH AND WILDLIFE MITIGATION.**

7 Section 906 of the Water Resources Development Act  
8 of 1986 (33 U.S.C. 2283) is amended—

9 (1) in subsection (d)(3)(B)(iv)—

1 (A) in subclause (I), by inserting “or con-  
2 tract (as defined in subsection (i)(1))” after  
3 “instrument”; and

4 (B) in subclause (II), by inserting “or con-  
5 tract (as so defined)” after “instrument”;

6 (2) in subsection (i)—

7 (A) by redesignating paragraphs (1)  
8 through (4) as paragraphs (2) through (5), re-  
9 spectively;

10 (B) by inserting before paragraph (2) (as  
11 so redesignated) the following:

12 “(1) DEFINITION OF CONTRACT.—In this sub-  
13 section, the term ‘contract’ means an agreement be-  
14 tween the Secretary and a mitigation provider  
15 that—

16 “(A) uses accepted Corps of Engineers  
17 District-level mitigation practices described in  
18 part 332 of title 33, Code of Federal Regula-  
19 tions (or successor regulations); and

20 “(B) prioritizes implementation of an ex-  
21 isting restoration plan developed by a State,  
22 local, or regional entity that covers the area or  
23 resources affected by the civil works project  
24 that is the subject of the third-party arrange-  
25 ment.”;

1 (C) in subparagraph (A) of paragraph (2)  
2 (as so redesignated)—

3 (i) in clause (i), by striking “and” at  
4 the end; and

5 (ii) by adding at the end the fol-  
6 lowing:

7 “(iii) the purchase of credits under  
8 part 332 of title 33, Code of Federal Regu-  
9 lations (or successor regulations) in ac-  
10 cordance with section 332.4(c)(6) of that  
11 title (or a successor regulation) through a  
12 contract to satisfy the mitigation plan re-  
13 quired under subsection (d); and”;

14 (D) in paragraph (3) (as so redesignated),  
15 by striking “paragraph (1)” and inserting  
16 “paragraph (2)”; and

17 (E) in paragraph (4) (as so redesignated),  
18 in the matter preceding subparagraph (A)—

19 (i) by inserting “the Secretary shall  
20 ensure that” before “contributions”; and

21 (ii) by striking “may”; and

22 (3) by adding at the end the following:

23 “(1) COMPLIANCE.—In carrying out this section, the  
24 Secretary shall ensure compliance with this section and  
25 with the final rule of the Corps of Engineers and the Envi-

1 Environmental Protection Agency entitled ‘Compensatory Miti-  
2 gation for Losses of Aquatic Resources’ (73 Fed. Reg.  
3 19594 (April 10, 2008)) or any subsequent rule.’’.

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