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114TH CONGRESS
1ST SESSION

S. 234

To amend the Federal Water Pollution Control Act to confirm the scope of the authority of the Administrator of the Environmental Protection Agency to deny or restrict the use of defined areas as disposal sites.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2015

Mr. VITTER (for himself, Mr. MANCHIN, Mr. HELLER, Mr. MCCONNELL, Mr. ENZI, Mr. RISCH, Mr. CRAPO, Mr. BARRASSO, and Mr. PERDUE) 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 Federal Water Pollution Control Act to confirm the scope of the authority of the Administrator of the Environmental Protection Agency to deny or restrict the use of defined areas as disposal sites.

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 ''Regulatory Fairness Act of 2015''.

SEC. 2. PERMITS FOR DREDGED OR FILL MATERIAL.

Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended by striking subsection (c) and inserting the following:

''(c) DENIAL OR RESTRICTION OF USE OF SPECIFIED DISPOSAL SITES.—

''(1) IN GENERAL.—During and only during the period beginning on the date on which the Secretary publishes the notice required under subsection (a) of this section and ending once the Secretary issues a permit under such subsection, the Administrator may deny or restrict the use of any defined area identified in such notice as a specified disposal site if the Administrator determines, after notice and opportunity for public comment, that the discharge of dredged or fill material into such defined area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas.

''(2) CONSULTATION.—Before making a determination under paragraph (1), the Administrator shall consult with the Secretary.

''(3) EXPLANATION OF DETERMINATION.—The Administrator shall set forth in writing and make publicly available—

''(A) any findings of the Administrator;

''(B) the basis of and reasons for making a determination under paragraph (1); and

''(C) all information and data reviewed in making any determination under paragraph (1).

''(4) PREVIOUS ACTION IN ABSENCE OF NOTICE INVALID.—No previous action by the Administrator to deny or restrict the use or prohibit the specification of any defined area as a disposal site, and which occurred in the absence of the Secretary's publishing of a notice under subsection (a) of this section, is valid or otherwise enforceable.

''(5) PREVIOUS ACTION AFTER PERMIT ISSUED INVALID.—No previous action by the Administrator to deny or restrict the use or prohibit the specification of any defined area as a disposal site and for which the Secretary had issued a permit under subsection (a) of this section, and which occurred after the Secretary issued the permit, is valid or otherwise enforceable.''.

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