

116TH CONGRESS
2D SESSION

H. R. 6745

To prohibit implementation of a rule defining “waters of the United States” under the Federal Water Pollution Control Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2020

Mr. DEFAZIO (for himself and Mrs. NAPOLITANO) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To prohibit implementation of a rule defining “waters of the United States” under the Federal Water Pollution Control Act, 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 “Clean Water for All
5 Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are to—

8 (1) reaffirm Congress’ commitment to “restore
9 and maintain the chemical, physical, and biological

1 integrity of the Nation's waters'', as enacted
2 through the Federal Water Pollution Control Act
3 Amendments of 1972, more commonly known as the
4 Clean Water Act, by a 10-to-1 margin over the veto
5 of President Richard M. Nixon;

6 (2) overturn the Trump administration's Dirty
7 Water Rule, which eliminates Clean Water Act pro-
8 tections for countless rivers, streams, lakes, and wet-
9 lands that have been protected by the Clean Water
10 Act for decades under regulations established by the
11 Corps of Engineers under the Reagan administra-
12 tion in 1986, and implemented by Republican and
13 Democratic administrations alike; and

14 (3) restore bipartisan Clean Water Act protec-
15 tions over the Nation's network of streams, lakes,
16 rivers, and wetlands that are necessary for sus-
17 taining life, are critical to the economic and environ-
18 mental health of the Nation, and are essential for
19 the well-being of farmers, small businesses, commu-
20 nities, and the Nation's way of life.

21 **SEC. 3. FINDINGS.**

22 Congress finds the following:

23 (1) Access to clean water is a fundamental
24 right; it is necessary to sustain life and the economic

1 and environmental health and well-being of cities,
2 towns, and communities.

3 (2) Americans rely on the Nation’s network of
4 streams and rivers, and the bodies of water into
5 which they flow, for human and environmental
6 health, as well as the economic health of cities,
7 towns, and communities.

8 (3) This network of streams and rivers, includ-
9 ing the intermittent and ephemeral streams that
10 constitute more than two-thirds of all streams in the
11 conterminous United States, feed the public drinking
12 water systems of approximately 117 million Ameri-
13 cans.

14 (4) The Environmental Protection Agency’s
15 own comprehensive review of peer-reviewed scientific
16 publications stated that “the scientific literature un-
17 equivocally demonstrates that streams, individually
18 or cumulatively, exert a strong influence on the in-
19 tegrity of downstream waters” and that the connec-
20 tions between streams and downstream waters are
21 critical to the health of downstream waters, includ-
22 ing where the upstream waters serve as the primary
23 source of water for the downstream waters, and the
24 myriad other chemical, physical, and biological con-
25 nections.

1 (5) Americans also rely on wetlands, including
2 non-floodplain wetlands, to capture and store excess
3 water, nutrients, and materials from stormwater or
4 runoff, preventing or reducing pollution to down-
5 stream waters, and lessening the potential for down-
6 stream flooding.

7 (6) There is overwhelming scientific evidence,
8 which has been reviewed and confirmed by the Envi-
9 ronmental Protection Agency’s Science Advisory
10 Board, that there are no streams or rivers safe to
11 pollute or degrade, and that wetlands, both individ-
12 ually and cumulatively, have a direct and consequen-
13 tial impact on the quality of downstream waters and
14 on the health and safety of downstream commu-
15 nities.

16 (7) Restoring the protection of the network of
17 streams, rivers, lakes, and wetlands, and other
18 waters of the United States, is necessary to restore
19 and maintain the chemical, physical, and biological
20 integrity of all waters in the United States.

21 (8) Recent events demonstrate how increased
22 pollution in and degradation of streams, rivers,
23 lakes, and wetlands, and other waters of the United
24 States, can cause catastrophic harm to communities’
25 health and economic strength, such as—

1 (A) the 2014 harmful algal bloom in west-
2 ern Lake Erie, which resulted in a three-day
3 shutdown of the drinking water supply of To-
4 ledo, Ohio, affecting approximately 500,000
5 people;

6 (B) the 2014 chemical spill into the Elk
7 River in Charleston, West Virginia, causing the
8 city to shut down its municipal drinking water
9 supply for approximately 300,000 people for
10 several days;

11 (C) outbreaks of blue-green algae and red
12 tide in the State of Florida in 2018 and 2019,
13 causing widespread harm to businesses, rec-
14 reational opportunities, local economies, and the
15 local environment;

16 (D) recent flooding events, including along
17 the Mississippi and Missouri River watersheds,
18 and in communities, such as Houston, Texas,
19 demonstrate how destruction of critical wet-
20 lands and degradation of watersheds can exac-
21 erbate the severity and duration of flood events
22 and increase the financial impacts to local com-
23 munities, homeowners, farmers, economies, and
24 businesses; and

1 (E) worsening drought conditions and fre-
2 quency have highlighted the importance of
3 source water protection, reclamation, and recy-
4 cling to ensure communities, farmers, and small
5 businesses have sufficient quantities and quality
6 of water resources for current and future needs.

7 (9) Congress has recently recognized the impor-
8 tance of comprehensive approaches to protect critical
9 waterbodies, such as the Chesapeake Bay, the Great
10 Lakes, Lake Pontchartrain, the Long Island Sound,
11 the Puget Sound, and the San Francisco Bay, and
12 national estuaries, which depend on protection of the
13 entire watersheds of these waterbodies to reduce lev-
14 els of pollution and prevent further degradation of
15 rivers, streams, and wetlands that feed and maintain
16 these critical waterbodies.

17 (10) Despite the overwhelming, bipartisan sup-
18 port for clean water and the overwhelming scientific
19 evidence on the interconnectivity of rivers, streams,
20 lakes, wetlands, and other waters of the United
21 States, following calls by corporate polluters to
22 weaken the Clean Water Act, the Trump administra-
23 tion finalized its Dirty Water Rule, also known as
24 the “Navigable Waters Protection Rule”, to radically

1 narrow decades-old regulations established by Presi-
2 dent Ronald Reagan.

3 (11) According to Environmental Protection
4 Agency documents, the Trump administration's
5 Dirty Water Rule would—

6 (A) eliminate Clean Water Act protections
7 on between 18 to 71 percent of the Nation's
8 stream and river miles that were protected
9 under the Reagan-era regulations;

10 (B) eliminate Federal protections on over
11 half of the Nation's wetlands in the continental
12 United States that were protected under the
13 Reagan-era regulations; and

14 (C) result in approximately 16,000 existing
15 Clean Water Act permitted facilities (including
16 industrial facilities and sewage treatment sys-
17 tems) that may be allowed to discharge pollut-
18 ants without Federal oversight under the Clean
19 Water Act.

20 (12) In addition to the adverse human and en-
21 vironmental health impacts of the Trump adminis-
22 tration's Dirty Water Rule, this effort will also have
23 lasting adverse economic impacts on American fami-
24 lies, on farmers and other small businesses, and on
25 the national, regional, and local economies.

1 (13) Additionally, America’s wildlife-watching,
2 hunting, fishing, and \$887 billion outdoor recreation
3 economy all depend upon access to clean water.

4 (14) In some rural communities, river recre-
5 ation, hunting, fishing, and related activities gen-
6 erate the largest share of the local economy; the
7 streams and wetlands that will lose Federal protec-
8 tions under this rule include waters that provide es-
9 sential aquatic habitat for the fish, waterfowl, and
10 wildlife that sustain this way of life.

11 (15) The Trump administration’s own docu-
12 ment entitled “Economic Analysis for the Navigable
13 Waters Protection Rule: Definition of ‘Waters of the
14 United States’”, dated January 22, 2020, recog-
15 nizes the potential adverse impacts of its Dirty
16 Water Rule on local economies, individual house-
17 holds, and public health, including—

18 (A) an increase in the discharge of pollut-
19 ants from point sources to newly unprotected
20 rivers, streams, lakes, and wetlands, including
21 “reduced protection for aquatic ecosystems and
22 public health and welfare”;

23 (B) a degradation of water quality in riv-
24 ers, streams, and lakes “as a result of pollution
25 loadings from newly non-jurisdictional waters”

1 that will adversely affect the environment, will
2 increase the costs of drinking water treatment
3 and reservoir maintenance, and will negatively
4 affect recreational opportunities for downstream
5 waters, such as fishing and swimming;

6 (C) a “loss of wetlands and streams with-
7 out corresponding mitigation”;

8 (D) an increased risk for communities
9 from flooding, both in terms of the magnitude
10 of potential floods as well as the duration of
11 flooding events; and

12 (E) an increased risk in the frequency and
13 duration of oil and chemical spills and the ad-
14 verse consequences of such spills on human and
15 environmental health and local communities.

16 (16) Despite recognizing the potential adverse
17 impacts of the Trump administration’s Dirty Water
18 Rule on local economies, individual households, and
19 the public health, the Trump administration has re-
20 peatedly refused to quantify these impacts to Con-
21 gress and the American people.

22 (17) With many communities living with unsafe
23 waters and increased risks from extreme weather,
24 flooding, and drought, now is not the time to cut
25 back on the protection of clean water, as would

1 occur with implementation of the Trump administra-
2 tion’s Dirty Water Rule.

3 (18) The American people demand more, not
4 less, protection for clean water.

5 **SEC. 4. PROHIBITION ON IMPLEMENTATION OF RULE.**

6 The Administrator of the Environmental Protection
7 Agency and the Secretary of the Army may not implement
8 or enforce the final rule entitled “The Navigable Waters
9 Protection Rule: Definition of ‘Waters of the United
10 States’”, published in the Federal Register on April 21,
11 2020 (85 Fed. Reg. 22250), and such rule shall have no
12 force or effect.

13 **SEC. 5. REGULATIONS.**

14 (a) IN GENERAL.—Not later than 2 years after the
15 date of enactment of this Act, the Administrator of the
16 Environmental Protection Agency and the Secretary of the
17 Army shall promulgate a regulation defining “waters of
18 the United States” for all purposes under the Federal
19 Water Pollution Control Act, in accordance with this sec-
20 tion.

21 (b) REQUIREMENTS.—In carrying out subsection (a),
22 the Administrator and the Secretary shall ensure that—

23 (1) the rulemaking process includes an oppor-
24 tunity for public comment on the proposed regula-
25 tion lasting no fewer than 180 days and at least one

1 public hearing allowing for in-person presentations
2 by the public;

3 (2) the promulgated definition of “waters of the
4 United States” includes categories of water bodies
5 that affect the physical, chemical, or biological integ-
6 rity of traditionally navigable and interstate waters,
7 based on the best available scientific evidence; and

8 (3) implementation of the Federal Water Pollu-
9 tion Control Act using such definition will prevent
10 any—

11 (A) degradation of surface water quality;

12 (B) increased contaminant levels in drink-
13 ing water sources;

14 (C) increased flooding-related risks to
15 human life or property; and

16 (D) disproportionate adverse impacts on
17 minority or low-income populations.

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