To preserve existing rights and responsibilities with respect to waters of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2015

Mr. SHUSTER (for himself, Mr. GIBBS, Mr. CONAWAY, Mrs. MILLER of Michigan, Mr. PETERSON, Mr. SMITH of Texas, Mr. UPTON, Mr. YOUNG of Alaska, Mr. GRAVES of Missouri, Mr. CRAWFORD, Mr. BARLETTA, Mr. DENHAM, Mr. RIBBLE, Mr. MASSIE, Mr. MEADOWS, Mr. RODNEY DAVIS of Illinois, Mr. WOODALL, Mr. ROKITA, Mr. KATKO, Mr. BABIN, Mr. HARDY, Mrs. MIMI WALTERS of California, Mr. ROUZER, Mr. GOSAR, Mrs. HARTZLER, Mr. LABRADOR, and Mrs. WALORSKI) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To preserve existing rights and responsibilities with respect to waters of the United States, 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 “Regulatory Integrity Protection Act of 2015”.

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2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Regulatory Integrity

5 Protection Act of 2015”.


SEC. 2. WITHDRAWAL OF EXISTING PROPOSED RULE.

Not later than 30 days after the date of enactment of this Act, the Secretary of the Army and the Administrator of the Environmental Protection Agency shall withdraw the proposed rule described in the notice of proposed rule published in the Federal Register entitled “Definition of ‘Waters of the United States’ Under the Clean Water Act” (79 Fed. Reg. 22188 (April 21, 2014)) and any final rule based on such proposed rule (including RIN 2040–AF30).

SEC. 3. DEVELOPMENT OF NEW PROPOSED RULE.

(a) In General.—The Secretary of the Army and the Administrator of the Environmental Protection Agency shall develop a new proposed rule to define the term “waters of the United States” as used in the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(b) Development of New Proposed Rule.—In developing the new proposed rule under subsection (a), the Secretary and the Administrator shall—

(1) take into consideration the public comments received on—

(A) the proposed rule referred to in section 2;

(B) the accompanying economic analysis of the proposed rule entitled “Economic Analysis
of Proposed Revised Definition of Waters of the United States’’ (dated March 2014); and

(C) the report entitled ‘‘Connectivity of Streams & Wetlands to Downstream Waters: A Review & Synthesis of Scientific Evidence’’ (EPA/600/R–14/475F; dated January 2015);

(2) jointly consult with and solicit advice and recommendations from representative State and local officials, stakeholders, and other interested parties on how to define the term ‘‘waters of the United States’’ as used in the Federal Water Pollution Control Act; and

(3) prepare a regulatory proposal that will, consistent with applicable rulings of the United States Supreme Court, specifically identify those waters covered under, and those waters not covered under, the Federal Water Pollution Control Act—

(A) taking into consideration—

(i) the public comments referred to in paragraph (1); and

(ii) the advice and recommendations made by the State and local officials, stakeholders, and other interested parties consulted under this section; and
(B) incorporating the areas and issues
where consensus was reached with the parties.

(c) FEDERALISM CONSULTATION REQUIREMENTS.—
As part of consulting with and soliciting advice and rec-
ommendations from State and local officials under sub-
section (b), the Secretary and the Administrator shall—

(1) seek to reach consensus with the State and
local officials on how to define the term “waters of
the United States” as used in the Federal Water
Pollution Control Act;

(2) provide the State and local officials with no-
tice and an opportunity to participate in the con-
sultation process under subsection (b);

(3) consult with State and local officials that
represent a broad cross-section of regional, eco-
omic, policy, and geographic perspectives in the
United States;

(4) emphasize the importance of collaboration
with and among the State and local officials;

(5) allow for meaningful and timely input by
the State and local officials;

(6) recognize, preserve, and protect the primary
rights and responsibilities of the States to protect
water quality under the Federal Water Pollution
Control Act, and to plan and control the develop-
ment and use of land and water resources in the States;

(7) protect the authorities of State and local governments and rights of private property owners over natural and manmade water features;

(8) incorporate the advice and recommendations of the State and local officials regarding matters involving differences in State and local geography, hydrology, climate, legal frameworks, economies, priorities, and needs; and

(9) ensure transparency in the consultation process, including promptly making accessible to the public all communications, records, and other documents of all meetings that are part of the consultation process.

(d) Stakeholder Consultation Requirements.—As part of consulting with and soliciting recommendations from stakeholders and other interested parties under subsection (b), the Secretary and the Administrator shall—

(1) identify representatives of public and private stakeholders and other interested parties, including small entities (as defined in section 601 of title 5, United States Code), representing a broad cross-section of regional, economic, and geographic
perspectives in the United States, which could potentially be affected, directly or indirectly, by the new proposed rule under subsection (a), for the purpose of obtaining advice and recommendations from those representatives about the potential adverse impacts of the new proposed rule and means for reducing such impacts in the new proposed rule; and

(2) ensure transparency in the consultation process, including promptly making accessible to the public all communications, records, and other documents of all meetings that are part of the consultation process.

(e) TIMING OF FEDERALISM AND STAKEHOLDER CONSULTATION.—Not later than 3 months after the date of enactment of this Act, the Secretary and the Administrator shall initiate consultations with State and local officials, stakeholders, and other interested parties under subsection (b).

(f) REPORT.—The Secretary and the Administrator shall prepare a report that—

(1) identifies and responds to each of the public comments filed on—

(A) the proposed rule referred to in section 2;
(B) the accompanying economic analysis of
the proposed rule entitled “Economic Analysis
of Proposed Revised Definition of Waters of the
United States” (dated March 2014); and

(C) the report entitled “Connectivity of
Streams & Wetlands to Downstream Waters: A
Review & Synthesis of Scientific Evidence”
(EPA/600/R–14/475F; dated January 2015);

(2) provides a detailed explanation of how the
new proposed rule under subsection (a) addresses
the public comments referred to in paragraph (1);

(3) describes in detail—

(A) the advice and recommendations ob-
tained from the State and local officials con-
sulted under this section;

(B) the areas and issues where consensus
was reached with the State and local officials
consulted under this section;

(C) the areas and issues of continuing dis-
agreement that resulted in the failure to reach
consensus; and

(D) the reasons for the continuing dis-
agreements;

(4) provides a detailed explanation of how the
new proposed rule addresses the advice and rec-
ommendations provided by the State and local officials consulted under this section, including the areas and issues where consensus was reached with the State and local officials;

(5) describes in detail—

(A) the advice and recommendations obtained from the stakeholders and other interested parties, including small entities, consulted under this section about the potential adverse impacts of the new proposed rule and means for reducing such impacts in the new proposed rule; and

(B) how the new proposed rule addresses such advice and recommendations;

(6) provides a detailed explanation of how the new proposed rule—

(A) recognizes, preserves, and protects the primary rights and responsibilities of the States to protect water quality and to plan and control the development and use of land and water resources in the States; and

(B) is consistent with the applicable rulings of the United States Supreme Court regarding the scope of waters to be covered under the Federal Water Pollution Control Act; and
(7) provides comprehensive regulatory and economic impact analyses, utilizing the latest data and other information, on how definitional changes in the new proposed rule will impact, directly or indirectly—

(A) each program under the Federal Water Pollution Control Act for Federal, State, and local government agencies; and

(B) public and private stakeholders and other interested parties, including small entities, regulated under each such program.

(g) Publication.—

(1) Federal Register Notice.—Not later than 3 months after the completion of consultations with and solicitation of recommendations from State and local officials, stakeholders, and other interested parties under subsection (b), the Secretary and the Administrator shall publish for comment in the Federal Register—

(A) the new proposed rule under subsection (a);

(B) a description of the areas and issues where consensus was reached with the State and local officials consulted under this section; and
(C) the report described in subsection (f).

(2) DURATION OF REVIEW.—The Secretary and the Administrator shall provide not fewer than 180 days for the public to review and comment on—

(A) the new proposed rule under subsection (a);

(B) the accompanying economic analysis for the new proposed rule; and

(C) the report described in subsection (f).

(h) PROCEDURAL REQUIREMENTS.—Subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the “Administrative Procedure Act”) shall apply to the development and review of the new proposed rule under subsection (a).

(i) STATE AND LOCAL OFFICIALS DEFINED.—In this section, the term “State and local officials” means elected or professional State and local government officials or their representative regional or national organizations.