



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 8, 2014
(House Rules)

STATEMENT OF ADMINISTRATION POLICY
H.R. 5078 – Waters of the United States Regulatory Overreach Protection Act
(Rep. Southerland (R-FL) and 120 co-sponsors)

The Administration strongly opposes H.R. 5078, which would prohibit the Environmental Protection Agency (EPA) and the Army Corps of Engineers (COE) from finalizing specified draft regulations and guidance needed to clarify the jurisdictional boundaries of the Clean Water Act (CWA). The agencies' rulemaking, grounded in science, is essential to ensure clean water for future generations and reduce regulatory uncertainty, and is responsive to calls for rulemaking from Congress, industry, and community stakeholders as well as decisions of the U.S. Supreme Court.

Clean water is vital for the success of the Nation's businesses, agriculture, energy development, and the health of our communities. More than 115 million Americans get their drinking water from rivers, lakes, and reservoirs that are at risk of pollution from upstream sources. The protection of wetlands is vital for hunting and fishing. When Congress passed the CWA in 1972, to restore the Nation's waters, it recognized that to have healthy communities downstream, we need to protect the smaller streams and wetlands upstream. Clarifying the scope of the CWA helps to protect clean water, safeguard public health, and strengthen the economy.

H.R. 5078 would derail current efforts to clarify the scope of the CWA, hamstringing future regulatory efforts, and create significant ambiguity regarding existing regulations and guidance. It would deny businesses and communities the regulatory certainty needed to invest in projects that rely on clean water. In addition to vitiating the specified draft regulations and already withdrawn guidance, the bill would call into question "any successor document" or "substantially similar" proposed rule or guidance, even if all stakeholders reached consensus. If enacted, H.R. 5078 could also incite further litigation that would only magnify confusion and uncertainty among affected stakeholders.

Furthermore, H.R. 5078 would further delay any action to clarify the scope of the CWA for up to two years by requiring State and local governments to engage in further consultations even though they were engaged and consulted during the development of the proposed rule and they continue to be consulted as the agencies proceed with rulemaking.

In the end, H.R. 5078 would sow more confusion and invite more conflict at a time when our communities and businesses need clarity and certainty around clean water regulation. Simply put, this bill is not an act of good government; rather, it would hinder the ongoing rulemaking process and the agencies' ability to respond to the public as well as two Supreme Court rulings.

If the President were presented with H.R. 5078, his senior advisers would recommend that he veto the bill.

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