

# Union Calendar No. 492

112TH CONGRESS  
2D SESSION

# H. R. 4965

[Report No. 112-681]

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

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2012

Mr. MICA (for himself, Mr. RAHALL, Mr. LUCAS, Mr. PETERSON, Mr. GIBBS,  
and Mrs. NOEM) introduced the following bill; which was referred to the  
Committee on Transportation and Infrastructure

SEPTEMBER 20, 2012

Additional sponsors: Mr. SHUSTER, Mr. RIBBLE, Mr. ROONEY, Mr. FLAKE,  
Mr. WALDEN, Mr. YOUNG of Alaska, Mr. HANNA, Mr. SCHILLING, Mr.  
SOUTHERLAND, Ms. JENKINS, Mr. GRAVES of Missouri, Mr. JONES, Mr.  
FARENTHOLD, Mr. DENHAM, Mr. STUTZMAN, Mr. POMPEO, Mr. BAR-  
ROW, Mr. SCHRADER, Mr. CARTER, Mr. CONAWAY, Mr. TIPTON, Mr.  
LATTA, Mr. SMITH of Nebraska, Mr. LATHAM, Mr. ROGERS of Kentucky,  
Mr. MCINTYRE, Mr. LUETKEMEYER, Mr. BISHOP of Georgia, Mr.  
CRAWFORD, Mr. LANKFORD, Mr. BISHOP of Utah, Mr. CRAVAACK, Mr.  
HURT, Mr. COSTA, Mr. BROUN of Georgia, Mr. NUGENT, Mrs. ELLMERS,  
Mr. CARDOZA, Mr. KINGSTON, Mr. WESTMORELAND, Mrs. EMERSON,  
Mr. COLE, Mr. HECK, Mr. STEARNS, Mr. WOMACK, Mr. HASTINGS of  
Washington, Mrs. MILLER of Michigan, Mr. PRICE of Georgia, Mr. COS-  
TELLO, Mr. GRAVES of Georgia, Mr. AUSTIN SCOTT of Georgia, Mr.  
BOREN, Mr. TERRY, Mr. CHANDLER, Mr. KISSELL, Mr. MATHESON,  
Mrs. CAPITO, Mr. BERG, Mr. PEARCE, Mr. FINCHER, Mr. BRADY of  
Texas, Mr. ALTMIRE, Mr. KLINE, Mr. BONNER, Mr. AMODEI, Mr.  
SCHOCK, Mr. MCCLINTOCK, Mr. GOSAR, Mr. POSEY, Mr. PALAZZO, Mr.  
MARINO, Mr. CASSIDY, Mr. HUELSKAMP, Mr. GRIFFIN of Arkansas, Mr.  
DUNCAN of South Carolina, Mr. POE of Texas, Mr. KING of Iowa, Mr.  
BACHUS, Mr. COFFMAN of Colorado, Mr. DAVIS of Kentucky, Mr. ROSS  
of Florida, Mr. GRIFFITH of Virginia, Ms. HOCHUL, Mrs. HARTZLER,  
Mrs. BACHMANN, Mr. DONNELLY of Indiana, Ms. BUERKLE, Mr.  
FRANKS of Arizona, and Mr. OWENS

SEPTEMBER 20, 2012

Reported with an amendment, committed to the Committee of the Whole  
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

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## **A BILL**

To preserve existing rights and responsibilities with respect  
to waters of the United States, 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. IDENTIFICATION OF WATERS PROTECTED BY**  
 4 **THE CLEAN WATER ACT.**

5 (a) IN GENERAL.—The Secretary of the Army and  
 6 the Administrator of the Environmental Protection Agen-  
 7 cy are prohibited from—

8 (1) finalizing, adopting, implementing, admin-  
 9 istering, or enforcing the proposed guidance de-  
 10 scribed in the notice of availability and request for  
 11 comments entitled “EPA and Army Corps of Engi-  
 12 neers Guidance Regarding Identification of Waters  
 13 Protected by the Clean Water Act” (EPA-HQ-OW-  
 14 2011-0409) (76 Fed. Reg. 24479 (May 2, 2011));  
 15 and

16 (2) using the guidance described in paragraph  
 17 (1), or any substantially similar guidance, as the  
 18 basis for any decision regarding the scope of the  
 19 Federal Water Pollution Control Act (33 U.S.C.  
 20 1251 et seq.) or any rulemaking.

21 (b) RULES.—The use of the guidance described in  
 22 subsection (a)(1), or any substantially similar guidance,  
 23 as the basis for any rule shall be grounds for vacating  
 24 the rule.

1 **SECTION 1. IDENTIFICATION OF WATERS PROTECTED BY**  
2 **THE CLEAN WATER ACT.**

3 (a) *IN GENERAL.*—*The Secretary of the Army and the*  
4 *Administrator of the Environmental Protection Agency are*  
5 *prohibited from—*

6 (1) *finalizing, adopting, implementing, admin-*  
7 *istering, or enforcing the proposed guidance described*  
8 *in the notice of availability and request for comments*  
9 *entitled “EPA and Army Corps of Engineers Guid-*  
10 *ance Regarding Identification of Waters Protected by*  
11 *the Clean Water Act” (EPA–HQ–OW–2011–0409)*  
12 *(76 Fed. Reg. 24479 (May 2, 2011)); and*

13 (2) *using the guidance described in paragraph*  
14 *(1), any successor document, or any substantially*  
15 *similar guidance made publicly available on or after*  
16 *December 3, 2008, as the basis for any decision re-*  
17 *garding the scope of the Federal Water Pollution Con-*  
18 *trol Act (33 U.S.C. 1251 et seq.) or any rulemaking.*

19 (b) *RULES.*—*The use of the guidance described in sub-*  
20 *section (a)(1), or any successor document or substantially*  
21 *similar guidance made publicly available on or after De-*  
22 *cember 3, 2008, as the basis for any rule shall be grounds*  
23 *for vacating the rule.*



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