

113TH CONGRESS
2D SESSION

S. 2156

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

MARCH 25, 2014

Mr. VITTER (for himself and Mr. MANCHIN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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.

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 “Regulatory Fairness
5 Act of 2014”.

1 **SEC. 2. PERMITS FOR DREDGED OR FILL MATERIAL.**

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

5 “(c) DENIAL OR RESTRICTION OF USE OF SPECIFIED
6 DISPOSAL SITES.—

7 “(1) IN GENERAL.—During and only during the
8 period beginning on the date on which the Secretary
9 publishes the notice required under subsection (a) of
10 this section and ending once the Secretary issues a
11 permit under such subsection, the Administrator
12 may deny or restrict the use of any defined area
13 identified in such notice as a specified disposal site
14 if the Administrator determines, after notice and op-
15 portunity for public comment, that the discharge of
16 dredged or fill material into such defined area will
17 have an unacceptable adverse effect on municipal
18 water supplies, shellfish beds and fishery areas (in-
19 cluding spawning and breeding areas), wildlife, or
20 recreational areas.

21 “(2) CONSULTATION.—Before making a deter-
22 mination under paragraph (1), the Administrator
23 shall consult with the Secretary.

24 “(3) EXPLANATION OF DETERMINATION.—The
25 Administrator shall set forth in writing and make
26 publicly available—

1 “(A) any findings of the Administrator;

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

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

6 “(4) PREVIOUS ACTION IN ABSENCE OF NOTICE
7 INVALID.—No previous action by the Administrator
8 to deny or restrict the use or prohibit the specifica-
9 tion of any defined area as a disposal site, and
10 which occurred in the absence of the Secretary’s
11 publishing of a notice under subsection (a) of this
12 section, is valid or otherwise enforceable.

13 “(5) PREVIOUS ACTION AFTER PERMIT ISSUED
14 INVALID.—No previous action by the Administrator
15 to deny or restrict the use or prohibit the specifica-
16 tion of any defined area as a disposal site and for
17 which the Secretary had issued a permit under sub-
18 section (a) of this section, and which occurred after
19 the Secretary issued the permit, is valid or otherwise
20 enforceable.”.

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