

114TH CONGRESS  
1ST SESSION

# S. 234

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.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2015

Mr. VITTER (for himself, Mr. MANCHIN, Mr. HELLER, Mr. McCONNELL, Mr. ENZI, Mr. RISCH, Mr. CRAPO, Mr. BARRASSO, and Mr. PERDUE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## 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 2015”.

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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