

115TH CONGRESS  
1ST SESSION

# H. R. 1261

To clarify the definition of navigable waters, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2017

Mr. THORNBERRY introduced the following bill; which was referred to the  
Committee on Transportation and Infrastructure

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## A BILL

To clarify the definition of navigable waters, 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. SHORT TITLE.**

4       This Act may be cited as the “Federal Regulatory  
5       Certainty for Water Act”.

6       **SEC. 2. REPEAL OF AGENCY REGULATIONS.**

7       The final rule issued by the Administrator of the En-  
8       vironmental Protection Agency and the Secretary of the  
9       Army entitled “Clean Water Rule: Definition of ‘Waters  
10      of the United States’”, signed by the Administrator and

1 the Assistant Secretary on May 27, 2015, shall have no  
2 force or effect.

3 **SEC. 3. DEFINITION OF NAVIGABLE WATERS.**

4 Section 502 of the Federal Water Pollution Control  
5 Act (33 U.S.C. 1362) is amended by striking paragraph  
6 (7) and inserting the following:

7 “(7) NAVIGABLE WATERS.—

8 “(A) IN GENERAL.—The term ‘navigable  
9 waters’ means the waters of the United States,  
10 including the territorial seas, that are—

11 “(i) navigable-in-fact; or

12 “(ii) permanent or continuously flow-  
13 ing bodies of water that form geographical  
14 features commonly known as streams,  
15 oceans, rivers, and lakes that are con-  
16 nected to waters that are navigable-in-fact.

17 “(B) EXCLUSIONS.—The term ‘navigable  
18 waters’ does not include—

19 “(i) waters that do not physically abut  
20 waters described in subparagraph (A)  
21 through an actual and continuous surface  
22 water connection;

23 “(ii) man-made or natural structures  
24 or channels through which water flows

1                   intermittently or ephemerally, including for  
2                   the periodic drainage of rainfall; or

3                   “(iii) wetlands, including playa lakes,  
4                   prairie potholes, wet meadows, wet prai-  
5                   ries, and vernal pools, that lack a contin-  
6                   uous surface water connection to bodies of  
7                   water that are waters described in sub-  
8                   paragraph (A).

9                   “(C) NO AGGREGATION.—The aggregation  
10                  of wetlands or waters shall not be used to de-  
11                  termine whether the wetlands or waters are  
12                  navigable waters.”.

13 **SEC. 4. COAST GUARD.**

14                  Nothing in this Act or the amendments made by this  
15 Act shall be construed to impair, diminish, or otherwise  
16 affect the authority, function, jurisdiction, or power of the  
17 Coast Guard, or any member thereof, with respect to the  
18 navigable waters of the United States, or to affect or alter  
19 the status of such waters as navigable waters of the  
20 United States for such purposes.

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