H. R. 6745

To prohibit implementation of a rule defining “waters of the United States” under the Federal Water Pollution Control Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2020

Mr. DeFazio (for himself and Mrs. Napolitano) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure.

A BILL

To prohibit implementation of a rule defining “waters of the United States” under the Federal Water Pollution Control Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Clean Water for All Act”.

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) reaffirm Congress’ commitment to “restore and maintain the chemical, physical, and biological
integrity of the Nation’s waters”, as enacted through the Federal Water Pollution Control Act Amendments of 1972, more commonly known as the Clean Water Act, by a 10-to-1 margin over the veto of President Richard M. Nixon;

(2) overturn the Trump administration’s Dirty Water Rule, which eliminates Clean Water Act protections for countless rivers, streams, lakes, and wetlands that have been protected by the Clean Water Act for decades under regulations established by the Corps of Engineers under the Reagan administration in 1986, and implemented by Republican and Democratic administrations alike; and

(3) restore bipartisan Clean Water Act protections over the Nation’s network of streams, lakes, rivers, and wetlands that are necessary for sustaining life, are critical to the economic and environmental health of the Nation, and are essential for the well-being of farmers, small businesses, communities, and the Nation’s way of life.

SEC. 3. FINDINGS.

Congress finds the following:

(1) Access to clean water is a fundamental right; it is necessary to sustain life and the economic
and environmental health and well-being of cities, towns, and communities.

(2) Americans rely on the Nation’s network of streams and rivers, and the bodies of water into which they flow, for human and environmental health, as well as the economic health of cities, towns, and communities.

(3) This network of streams and rivers, including the intermittent and ephemeral streams that constitute more than two-thirds of all streams in the conterminous United States, feed the public drinking water systems of approximately 117 million Americans.

(4) The Environmental Protection Agency’s own comprehensive review of peer-reviewed scientific publications stated that “the scientific literature unequivocally demonstrates that streams, individually or cumulatively, exert a strong influence on the integrity of downstream waters” and that the connections between streams and downstream waters are critical to the health of downstream waters, including where the upstream waters serve as the primary source of water for the downstream waters, and the myriad other chemical, physical, and biological connections.
(5) Americans also rely on wetlands, including non-floodplain wetlands, to capture and store excess water, nutrients, and materials from stormwater or runoff, preventing or reducing pollution to downstream waters, and lessening the potential for downstream flooding.

(6) There is overwhelming scientific evidence, which has been reviewed and confirmed by the Environmental Protection Agency’s Science Advisory Board, that there are no streams or rivers safe to pollute or degrade, and that wetlands, both individually and cumulatively, have a direct and consequential impact on the quality of downstream waters and on the health and safety of downstream communities.

(7) Restoring the protection of the network of streams, rivers, lakes, and wetlands, and other waters of the United States, is necessary to restore and maintain the chemical, physical, and biological integrity of all waters in the United States.

(8) Recent events demonstrate how increased pollution in and degradation of streams, rivers, lakes, and wetlands, and other waters of the United States, can cause catastrophic harm to communities’ health and economic strength, such as—
(A) the 2014 harmful algal bloom in western Lake Erie, which resulted in a three-day shutdown of the drinking water supply of Toledo, Ohio, affecting approximately 500,000 people;

(B) the 2014 chemical spill into the Elk River in Charleston, West Virginia, causing the city to shut down its municipal drinking water supply for approximately 300,000 people for several days;

(C) outbreaks of blue-green algae and red tide in the State of Florida in 2018 and 2019, causing widespread harm to businesses, recreational opportunities, local economies, and the local environment;

(D) recent flooding events, including along the Mississippi and Missouri River watersheds, and in communities, such as Houston, Texas, demonstrate how destruction of critical wetlands and degradation of watersheds can exacerbate the severity and duration of flood events and increase the financial impacts to local communities, homeowners, farmers, economies, and businesses; and
(E) worsening drought conditions and frequency have highlighted the importance of source water protection, reclamation, and recycling to ensure communities, farmers, and small businesses have sufficient quantities and quality of water resources for current and future needs.

(9) Congress has recently recognized the importance of comprehensive approaches to protect critical waterbodies, such as the Chesapeake Bay, the Great Lakes, Lake Pontchartrain, the Long Island Sound, the Puget Sound, and the San Francisco Bay, and national estuaries, which depend on protection of the entire watersheds of these waterbodies to reduce levels of pollution and prevent further degradation of rivers, streams, and wetlands that feed and maintain these critical waterbodies.

(10) Despite the overwhelming, bipartisan support for clean water and the overwhelming scientific evidence on the interconnectivity of rivers, streams, lakes, wetlands, and other waters of the United States, following calls by corporate polluters to weaken the Clean Water Act, the Trump administration finalized its Dirty Water Rule, also known as the “Navigable Waters Protection Rule”, to radically
narrow decades-old regulations established by President Ronald Reagan.

(11) According to Environmental Protection Agency documents, the Trump administration’s Dirty Water Rule would—

(A) eliminate Clean Water Act protections on between 18 to 71 percent of the Nation’s stream and river miles that were protected under the Reagan-era regulations;

(B) eliminate Federal protections on over half of the Nation’s wetlands in the continental United States that were protected under the Reagan-era regulations; and

(C) result in approximately 16,000 existing Clean Water Act permitted facilities (including industrial facilities and sewage treatment systems) that may be allowed to discharge pollutants without Federal oversight under the Clean Water Act.

(12) In addition to the adverse human and environmental health impacts of the Trump administration’s Dirty Water Rule, this effort will also have lasting adverse economic impacts on American families, on farmers and other small businesses, and on the national, regional, and local economies.
(13) Additionally, America’s wildlife-watching, hunting, fishing, and $887 billion outdoor recreation economy all depend upon access to clean water.

(14) In some rural communities, river recreation, hunting, fishing, and related activities generate the largest share of the local economy; the streams and wetlands that will lose Federal protections under this rule include waters that provide essential aquatic habitat for the fish, waterfowl, and wildlife that sustain this way of life.

(15) The Trump administration’s own document entitled “Economic Analysis for the Navigable Waters Protection Rule: Definition of ‘Waters of the United States’”, dated January 22, 2020, recognizes the potential adverse impacts of its Dirty Water Rule on local economies, individual households, and public health, including—

(A) an increase in the discharge of pollutants from point sources to newly unprotected rivers, streams, lakes, and wetlands, including “reduced protection for aquatic ecosystems and public health and welfare”;

(B) a degradation of water quality in rivers, streams, and lakes “as a result of pollution loadings from newly non-jurisdictional waters”
that will adversely affect the environment, will increase the costs of drinking water treatment and reservoir maintenance, and will negatively affect recreational opportunities for downstream waters, such as fishing and swimming;

(C) a “loss of wetlands and streams without corresponding mitigation”;

(D) an increased risk for communities from flooding, both in terms of the magnitude of potential floods as well as the duration of flooding events; and

(E) an increased risk in the frequency and duration of oil and chemical spills and the adverse consequences of such spills on human and environmental health and local communities.

(16) Despite recognizing the potential adverse impacts of the Trump administration’s Dirty Water Rule on local economies, individual households, and the public health, the Trump administration has repeatedly refused to quantify these impacts to Congress and the American people.

(17) With many communities living with unsafe waters and increased risks from extreme weather, flooding, and drought, now is not the time to cut back on the protection of clean water, as would
occur with implementation of the Trump administra-
tion’s Dirty Water Rule.

(18) The American people demand more, not
less, protection for clean water.

SEC. 4. PROHIBITION ON IMPLEMENTATION OF RULE.

The Administrator of the Environmental Protection
Agency and the Secretary of the Army may not implement
or enforce the final rule entitled “The Navigable Waters
Protection Rule: Definition of ‘Waters of the United
States’”, published in the Federal Register on April 21,
2020 (85 Fed. Reg. 22250), and such rule shall have no
force or effect.

SEC. 5. REGULATIONS.

(a) In General.—Not later than 2 years after the
date of enactment of this Act, the Administrator of the
Environmental Protection Agency and the Secretary of the
Army shall promulgate a regulation defining “waters of
the United States” for all purposes under the Federal
Water Pollution Control Act, in accordance with this sec-
tion.

(b) Requirements.—In carrying out subsection (a),
the Administrator and the Secretary shall ensure that—

(1) the rulemaking process includes an oppor-
tunity for public comment on the proposed regula-
tion lasting no fewer than 180 days and at least one
public hearing allowing for in-person presentations
by the public;

(2) the promulgated definition of “waters of the
United States” includes categories of water bodies
that affect the physical, chemical, or biological integ-
rity of traditionally navigable and interstate waters,
based on the best available scientific evidence; and

(3) implementation of the Federal Water Pollu-
tion Control Act using such definition will prevent
any—

(A) degradation of surface water quality;

(B) increased contaminant levels in drink-
ing water sources;

(C) increased flooding-related risks to
human life or property; and

(D) disproportionate adverse impacts on
minority or low-income populations.

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