

Background: H.R. 5078 - The Waters of the United States Regulatory Overreach Protection Act

The Waters of the United States Regulatory Overreach Protection Act will uphold the federal-state partnership to regulate the Nation's waters by preserving existing rights and responsibilities with respect to "waters of the United States" under the Clean Water Act.

The bill prohibits the Environmental Protection Agency and the Army Corps of Engineers from developing, finalizing, adopting, implementing, applying, administering, or enforcing:

- The proposed rule that would redefine "waters of the United States" under the CWA, or using the rule as a basis for future administrative actions that would undermine the federal-state partnership or usurp Congress' express authority to change the scope of the Clean Water Act through a redefinition of "waters of the United States."
- Any agency guidance that would expand the scope of waters covered by the CWA, as the Administration's proposed WOTUS rule and draft guidance would do.
- The agencies' interpretive rule that would broaden regulation of the agricultural community by restricting the exemption from CWA Section 404 permitting for certain agricultural conservation practices.

The bill also requires the EPA and the Corps to engage in a federalism consultation with the states and local governments by:

- Jointly consulting with relevant state and local officials to formulate recommendations for a consensus regulatory proposal that would identify the scope of waters to be covered under the Clean Water Act, and those waters to be reserved for the states to determine how to regulate. The proposal would need to be consistent with the applicable rulings of the United States Supreme Court.
- Preparing a draft report describing the recommendations for a consensus regulatory proposal developed as a result of the consultation with relevant state and local officials, and publish the draft report in the Federal Register for public review and comment.
- Preparing and submitting to Congress a final report describing the recommendations for a consensus regulatory proposal, based on the consultation with relevant state and local officials and the public review of the draft report.