APRIL 23, 2015

RULES COMMITTEE PRINT 114-13 TEXT OF H.R. 1732, REGULATORY INTEGRITY PROTECTION ACT OF 2015

[Showing the text of the bill as ordered reported by the Committee on Transportation and Infrastructure.]

1 SECTION 1. SHORT TITLE.

- 2 This Act may be cited as the "Regulatory Integrity
- 3 Protection Act of 2015".

4 SEC. 2. WITHDRAWAL OF EXISTING PROPOSED RULE.

- 5 Not later than 30 days after the date of enactment
- 6 of this Act, the Secretary of the Army and the Adminis-
- 7 trator of the Environmental Protection Agency shall with-
- 8 draw the proposed rule described in the notice of proposed
- 9 rule published in the Federal Register entitled "Definition
- 10 of 'Waters of the United States' Under the Clean Water
- 11 Act" (79 Fed. Reg. 22188 (April 21, 2014)) and any final
- 12 rule based on such proposed rule (including RIN 2040-
- 13 AF30).

14 SEC. 3. DEVELOPMENT OF NEW PROPOSED RULE.

- 15 (a) IN GENERAL.—The Secretary of the Army and
- 16 the Administrator of the Environmental Protection Agen-
- 17 cy shall develop a new proposed rule to define the term

| 1 | "waters of the United States" as used in the Federal |
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| 2 | Water Pollution Control Act (33 U.S.C. 1251 et seq.). |
| 3 | (b) Development of New Proposed Rule.—In |
| 4 | developing the new proposed rule under subsection (a), the |
| 5 | Secretary and the Administrator shall— |
| 6 | (1) take into consideration the public comments |
| 7 | received on— |
| 8 | (A) the proposed rule referred to in section |
| 9 | 2; |
| 10 | (B) the accompanying economic analysis of |
| 11 | the proposed rule entitled "Economic Analysis |
| 12 | of Proposed Revised Definition of Waters of the |
| 13 | United States" (dated March 2014); and |
| 14 | (C) the report entitled "Connectivity of |
| 15 | Streams & Wetlands to Downstream Waters: A |
| 16 | Review & Synthesis of Scientific Evidence' |
| 17 | (EPA/600/R-14/475F; dated January 2015); |
| 18 | (2) jointly consult with and solicit advice and |
| 19 | recommendations from representative State and |
| 20 | local officials, stakeholders, and other interested par- |
| 21 | ties on how to define the term "waters of the United |
| 22 | States" as used in the Federal Water Pollution Con- |
| 23 | trol Act; and |
| 24 | (3) prepare a regulatory proposal that will, con- |
| 25 | sistent with applicable rulings of the United States |

| 1 | Supreme Court, specifically identify those waters |
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| 2 | covered under, and those waters not covered under, |
| 3 | the Federal Water Pollution Control Act— |
| 4 | (A) taking into consideration— |
| 5 | (i) the public comments referred to in |
| 6 | paragraph (1); and |
| 7 | (ii) the advice and recommendations |
| 8 | made by the State and local officials, |
| 9 | stakeholders, and other interested parties |
| 10 | consulted under this section; and |
| 11 | (B) incorporating the areas and issues |
| 12 | where consensus was reached with the parties. |
| 13 | (c) Federalism Consultation Requirements.— |
| 14 | As part of consulting with and soliciting advice and rec- |
| 15 | ommendations from State and local officials under sub- |
| 16 | section (b), the Secretary and the Administrator shall— |
| 17 | (1) seek to reach consensus with the State and |
| 18 | local officials on how to define the term "waters of |
| 19 | the United States" as used in the Federal Water |
| 20 | Pollution Control Act; |
| 21 | (2) provide the State and local officials with no- |
| 22 | tice and an opportunity to participate in the con- |
| 23 | sultation process under subsection (b); |
| 24 | (3) consult with State and local officials that |
| 25 | represent a broad cross-section of regional, eco- |

| 1 | nomic, policy, and geographic perspectives in the |
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| 2 | United States; |
| 3 | (4) emphasize the importance of collaboration |
| 4 | with and among the State and local officials; |
| 5 | (5) allow for meaningful and timely input by |
| 6 | the State and local officials; |
| 7 | (6) recognize, preserve, and protect the primary |
| 8 | rights and responsibilities of the States to protect |
| 9 | water quality under the Federal Water Pollution |
| 10 | Control Act, and to plan and control the develop- |
| 11 | ment and use of land and water resources in the |
| 12 | States; |
| 13 | (7) protect the authorities of State and local |
| 14 | governments and rights of private property owners |
| 15 | over natural and manmade water features, including |
| 16 | the continued recognition of Federal deference to |
| 17 | State primacy in the development of water law, the |
| 18 | governance of water rights, and the establishment of |
| 19 | the legal system by which States mediate disputes |
| 20 | over water use; |
| 21 | (8) incorporate the advice and recommendations |
| 22 | of the State and local officials regarding matters in- |
| 23 | volving differences in State and local geography, hy- |
| 24 | drology, climate, legal frameworks, economies, prior- |
| 25 | ities, and needs; and |

| 1 | (9) ensure transparency in the consultation |
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| 2 | process, including promptly making accessible to the |
| 3 | public all communications, records, and other docu- |
| 4 | ments of all meetings that are part of the consulta- |
| 5 | tion process. |
| 6 | (d) Stakeholder Consultation Require- |
| 7 | MENTS.—As part of consulting with and soliciting rec- |
| 8 | ommendations from stakeholders and other interested par- |
| 9 | ties under subsection (b), the Secretary and the Adminis- |
| 10 | trator shall— |
| 11 | (1) identify representatives of public and pri- |
| 12 | vate stakeholders and other interested parties, in- |
| 13 | cluding small entities (as defined in section 601 of |
| 14 | title 5, United States Code), representing a broad |
| 15 | cross-section of regional, economic, and geographic |
| 16 | perspectives in the United States, which could poten- |
| 17 | tially be affected, directly or indirectly, by the new |
| 18 | proposed rule under subsection (a), for the purpose |
| 19 | of obtaining advice and recommendations from those |
| 20 | representatives about the potential adverse impacts |
| 21 | of the new proposed rule and means for reducing |
| 22 | such impacts in the new proposed rule; and |
| 23 | (2) ensure transparency in the consultation |
| 24 | process, including promptly making accessible to the |
| 25 | public all communications, records, and other docu- |

| 1 | ments of all meetings that are part of the consulta- |
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| 2 | tion process. |
| 3 | (e) Timing of Federalism and Stakeholder |
| 4 | CONSULTATION.—Not later than 3 months after the date |
| 5 | of enactment of this Act, the Secretary and the Adminis- |
| 6 | trator shall initiate consultations with State and local offi- |
| 7 | cials, stakeholders, and other interested parties under sub- |
| 8 | section (b). |
| 9 | (f) Report.—The Secretary and the Administrator |
| 10 | shall prepare a report that— |
| 11 | (1) identifies and responds to each of the public |
| 12 | comments filed on— |
| 13 | (A) the proposed rule referred to in section |
| 14 | 2; |
| 15 | (B) the accompanying economic analysis of |
| 16 | the proposed rule entitled "Economic Analysis |
| 17 | of Proposed Revised Definition of Waters of the |
| 18 | United States" (dated March 2014); and |
| 19 | (C) the report entitled "Connectivity of |
| 20 | Streams & Wetlands to Downstream Waters: A |
| 21 | Review & Synthesis of Scientific Evidence" |
| 22 | (EPA/600/R–14/475F; dated January 2015); |
| 23 | (2) provides a detailed explanation of how the |
| 24 | new proposed rule under subsection (a) addresses |
| 25 | the public comments referred to in paragraph (1); |

| 1 | (3) describes in detail— |
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| 2 | (A) the advice and recommendations ob- |
| 3 | tained from the State and local officials con- |
| 4 | sulted under this section; |
| 5 | (B) the areas and issues where consensus |
| 6 | was reached with the State and local officials |
| 7 | consulted under this section; |
| 8 | (C) the areas and issues of continuing dis- |
| 9 | agreement that resulted in the failure to reach |
| 10 | consensus; and |
| 11 | (D) the reasons for the continuing dis- |
| 12 | agreements; |
| 13 | (4) provides a detailed explanation of how the |
| 14 | new proposed rule addresses the advice and rec- |
| 15 | ommendations provided by the State and local offi- |
| 16 | cials consulted under this section, including the |
| 17 | areas and issues where consensus was reached with |
| 18 | the State and local officials; |
| 19 | (5) describes in detail— |
| 20 | (A) the advice and recommendations ob- |
| 21 | tained from the stakeholders and other inter- |
| 22 | ested parties, including small entities, consulted |
| 23 | under this section about the potential adverse |
| 24 | impacts of the new proposed rule and means for |

| 1 | reducing such impacts in the new proposed rule; |
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| 2 | and |
| 3 | (B) how the new proposed rule addresses |
| 4 | such advice and recommendations; |
| 5 | (6) provides a detailed explanation of how the |
| 6 | new proposed rule— |
| 7 | (A) recognizes, preserves, and protects the |
| 8 | primary rights and responsibilities of the States |
| 9 | to protect water quality and to plan and control |
| 10 | the development and use of land and water re- |
| 11 | sources in the States; and |
| 12 | (B) is consistent with the applicable rul- |
| 13 | ings of the United States Supreme Court re- |
| 14 | garding the scope of waters to be covered under |
| 15 | the Federal Water Pollution Control Act; and |
| 16 | (7) provides comprehensive regulatory and eco- |
| 17 | nomic impact analyses, utilizing the latest data and |
| 18 | other information, on how definitional changes in |
| 19 | the new proposed rule will impact, directly or indi- |
| 20 | rectly— |
| 21 | (A) each program under the Federal Water |
| 22 | Pollution Control Act for Federal, State, and |
| 23 | local government agencies; and |

| 1 | (B) public and private stakeholders and |
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| 2 | other interested parties, including small enti- |
| 3 | ties, regulated under each such program. |
| 4 | (g) Publication.— |
| 5 | (1) Federal register notice.—Not later |
| 6 | than 3 months after the completion of consultations |
| 7 | with and solicitation of recommendations from State |
| 8 | and local officials, stakeholders, and other interested |
| 9 | parties under subsection (b), the Secretary and the |
| 10 | Administrator shall publish for comment in the Fed- |
| 11 | eral Register— |
| 12 | (A) the new proposed rule under sub- |
| 13 | section (a); |
| 14 | (B) a description of the areas and issues |
| 15 | where consensus was reached with the State |
| 16 | and local officials consulted under this section; |
| 17 | and |
| 18 | (C) the report described in subsection (f). |
| 19 | (2) Duration of Review.—The Secretary and |
| 20 | the Administrator shall provide not fewer than 180 |
| 21 | days for the public to review and comment on— |
| 22 | (A) the new proposed rule under sub- |
| 23 | section (a); |
| 24 | (B) the accompanying economic analysis |
| 25 | for the new proposed rule; and |

| 1 | (C) the report described in subsection (f). |
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| 2 | (h) Procedural Requirements.—Subchapter II |
| 3 | of chapter 5, and chapter 7, of title 5, United States Code |
| 4 | (commonly known as the "Administrative Procedure Act") |
| 5 | shall apply to the development and review of the new pro- |
| 6 | posed rule under subsection (a). |
| 7 | (i) STATE AND LOCAL OFFICIALS DEFINED.—In this |
| 8 | section, the term "State and local officials" means elected |
| 9 | or professional State and local government officials or |
| 10 | their representative regional or national organizations. |
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