
PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 5078) TO PRESERVE EXISTING RIGHTS AND RESPONSIBILITIES WITH RESPECT TO WATERS OF THE UNITED STATES, AND FOR OTHER PURPOSES, AND PROVIDING FOR CONSIDERATION OF THE RESOLUTION (H. RES. 644) CONDEMNING AND DISAPPROVING OF THE OBAMA ADMINISTRATION'S FAILURE TO COMPLY WITH THE LAWFUL STATUTORY REQUIREMENT TO NOTIFY CONGRESS BEFORE RELEASING INDIVIDUALS DETAINED AT UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA, AND EXPRESSING NATIONAL SECURITY CONCERNS OVER THE RELEASE OF FIVE TALIBAN LEADERS AND THE REPERCUSSIONS OF NEGOTIATING WITH TERRORISTS

September 8, 2014.—Referred to the House Calendar and ordered to be printed.

MR. BISHOP of UTAH, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res.]

The Committee on Rules, having had under consideration House Resolution____, by a record vote of 7 to 3, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act of 2014, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Transportation and Infrastructure. The resolution waives all points of order against consideration of the bill. The resolution waives all points of order against provisions in the bill. The resolution makes in order only those amendments printed in this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be

debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in this report. The rule provides one motion to recommit with or without instructions.

Section 2 of the resolution provides for consideration of H. Res. 644, Condemning and disapproving of the Obama administration's failure to comply with the lawful statutory requirement to notify Congress before releasing individuals detained at United States Naval Station, Guantanamo Bay, Cuba, and expressing national security concerns over the release of five Taliban leaders and the repercussions of negotiating with terrorists, under a closed rule. The resolution provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Armed Services. The resolution waives all points of order against consideration of the resolution. The resolution provides that the amendments to the resolution and the preamble recommended by the Committee on Armed Services now printed in the resolution shall be considered as adopted and the resolution, as amended, shall be considered as read. The resolution provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 5078 includes a waiver of clause 4(a) of rule XIII, which prohibits consideration of legislation in the House until the third calendar day on which each report of a committee on that measure or matter has been available to Members, Delegates and the Resident Commissioner. The waiver is necessary because the Committee on Transportation and Infrastructure filed a supplemental report to accompany H.R. 5078 on September 8, 2014. However, it is important to note that the Congressional Budget Office cost estimate included in the supplemental report has been publicly available since August 1, 2014.

Although the resolution waives all points of order against provisions in H.R. 5078, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments printed in this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of H. Res. 644, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee Record Vote No. 185

Motion by Ms. Foxx to report the rule. Adopted: 7-3

Majority Members	Vote	Minority Members	Vote
Ms. Foxx.....	Yea	Ms. Slaughter.....	Nay
Mr. Bishop of Utah.....		Mr. McGovern.....	Nay
Mr. Cole.....	Yea	Mr. Hastings of Florida.....	Nay
Mr. Woodall.....	Yea	Mr. Polis.....	
Mr. Nugent.....	Yea		
Mr. Webster.....	Yea		
Ms. Ros-Lehtinen.....			
Mr. Burgess.....	Yea		
Mr. Sessions, Chairman.....	Yea		

SUMMARY OF THE AMENDMENTS TO H.R. 5078 MADE IN ORDER

1. DeFazio (OR): Requires the Secretary of the Army and the Administrator of the EPA to withdraw both the proposed and interpretive rules published in April 2014, and to instead develop and issue for public comment a revised proposed rule to define Waters of the United States after consultation with States, local governments and stakeholders. (10 minutes)
2. Bishop, Tim (NY): Provides policy provisions that the Secretary and Administrator are prohibited from including in a final rule. (10 minutes)
3. Bishop, Tim (NY): States that provisions of the bill do not apply if it is determined implementation is likely to have an adverse impact on water quality. (10 minutes)

TEXT OF AMENDMENTS TO H.R. 5078 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
DEFAZIO OF OREGON OR HIS DESIGNEE, DEBATABLE FOR 10
MINUTES

**AMENDMENT TO H.R. 5078, AS REPORTED
OFFERED BY MR. DEFAZIO OF OREGON**

Page 3, strike line 3 and all that follows through line 23 on page 8 and insert the following (and redesignate the subsequent section accordingly):

1 **SECTION 1. WITHDRAWAL OF PROPOSED AND INTERPRE-**
2 **TIVE RULES.**

3 Not later than 30 days after the date of enactment
4 of this Act, the Secretary and the Administrator shall
5 withdraw—

6 (1) the proposed rule described in the notice of
7 proposed rule published in the Federal Register enti-
8 tled “Definition of ‘Waters of the United States’
9 Under the Clean Water Act” (79 Fed. Reg. 22188
10 (April 21, 2014)); and

11 (2) the interpretive rule described in the notice
12 of availability published in the Federal Register enti-
13 tled “Notice of Availability Regarding the Exemp-
14 tion from Permitting Under Section 404(f)(1)(A) of
15 the Clean Water Act to Certain Agricultural Con-
16 servation Practices” (79 Fed. Reg. 22276 (April 21,
17 2014)).

1 **SEC. 2. DEVELOPMENT OF REVISED RULE.**

2 (a) **IN GENERAL.**—The Secretary and the Adminis-
3 trator shall develop a revised proposed rule to define the
4 term “waters of the United States” as used in the Federal
5 Water Pollution Control Act (33 U.S.C. 1251 et seq.) and
6 to identify—

7 (1) the scope or types of waters covered under
8 that Act; and

9 (2) the scope or types of waters not covered
10 under that Act.

11 (b) **CONSULTATION.**—In developing the revised pro-
12 posed rule, the Secretary and the Administrator shall—

13 (1) consider the public comments received on
14 the proposed and interpretive rules referred to in
15 section 1; and

16 (2) consult with and solicit recommendations
17 from State and local officials, stakeholders, and
18 other interested parties.

19 (c) **PUBLICATION.**—Not later than 1 year after the
20 date of withdrawal of the proposed and interpretive rules
21 under section 1, the Secretary and the Administrator shall
22 publish the revised proposed rule in the Federal Register.



2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
BISHOP OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10
MINUTES

**AMENDMENT TO H.R. 5078, AS REPORTED
OFFERED BY MR. BISHOP OF NEW YORK**

Beginning on page 3, strike line 7 and all that follows through page 4, line 20, and insert the following:

1 (a) IN GENERAL.—The Secretary and the Adminis-
2 trator are prohibited from implementing any final rule
3 that is based on the proposed rule described in the notice
4 of proposed rule published in the Federal Register entitled
5 “Definition of ‘Waters of the United States’ Under the
6 Clean Water Act” (79 Fed. Reg. 22188 (April 21, 2014))
7 if such final rule—

8 (1) expands the scope of the Federal Water
9 Pollution Control Act (33 U.S.C. 1251 et. seq.) be-
10 yond those waterbodies covered prior to the decisions
11 of the U.S. Supreme Court in *Solid Waste Agency of*
12 *Northern Cook County v. U.S. Army Corps of Engi-*
13 *neers* (531 U.S. 159 (2001)) and *Rapanos v. United*
14 *States* (547 U.S. 715 (2006));

15 (2) is inconsistent with the judicial opinions of
16 Justice Scalia or Justice Kennedy in the *Rapanos*
17 decision;

1 (3) increases the regulation of ditches when
2 compared to existing Federal Water Pollution Con-
3 trol Act regulations or guidance;

4 (4) eliminates historical statutory or regulatory
5 exemptions for agriculture;

6 (5) increases the scope of the Federal Water
7 Pollution Control Act with respect to groundwater;

8 (6) requires Federal Water Pollution Control
9 Act regulation of erosional features;

10 (7) requires Federal Water Pollution Control
11 Act permits for land-use activities;

12 (8) requires Federal Water Pollution Control
13 Act regulation of farm ponds, puddles, water on
14 driveways, birdbaths, or playgrounds;

15 (9) is inconsistent with the latest peer-reviewed
16 studies; or

17 (10) was promulgated without public notice or
18 comment.



3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
BISHOP OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10
MINUTES

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**AMENDMENT TO H.R. 5078, AS REPORTED
OFFERED BY MR. BISHOP OF NEW YORK**

At the end of the bill, add the following:

1 **SEC. 5. LIMITATION ON APPLICABILITY.**

2 None of the provisions in this Act shall apply if the
3 Administrator determines that the implementation of such
4 provisions is likely—

5 (1) to increase the interstate movement of pol-
6 lutants through surface waters;

7 (2) to increase the costs to be incurred by a
8 State to maintain or achieve approved water quality
9 standards for the State; or

10 (3) to cause or contribute to the impairment of
11 surface or coastal waters of a State.



House Calendar No. _____

113TH CONGRESS
2D SESSION

H. RES. _____

Report No. 113-_____

Providing for consideration of the bill (H.R. 5078) to preserve existing rights and responsibilities with respect to waters of the United States, and for other purposes, and providing for consideration of the resolution (H. Res. 644) condemning and disapproving of the Obama administration's failure to comply with the lawful statutory requirement to notify Congress before releasing individuals detained at United States Naval Station, Guantanamo Bay, Cuba, and expressing national security concerns over the release of five Taliban leaders and the repercussions of negotiating with terrorists.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2014

Mr. BISHOP of Utah, from the Committee on Rules, reported the following resolution; which was referred to the House Calendar and ordered to be printed

RESOLUTION

Providing for consideration of the bill (H.R. 5078) to preserve existing rights and responsibilities with respect to waters of the United States, and for other purposes, and providing for consideration of the resolution (H. Res. 644) condemning and disapproving of the Obama administration's failure to comply with the lawful statutory requirement to notify Congress before releasing indi-

viduals detained at United States Naval Station, Guantanamo Bay, Cuba, and expressing national security concerns over the release of five Taliban leaders and the repercussions of negotiating with terrorists.

1 *Resolved*, That at any time after adoption of this reso-
2 lution the Speaker may, pursuant to clause 2(b) of rule
3 XVIII, declare the House resolved into the Committee of
4 the Whole House on the state of the Union for consider-
5 ation of the bill (H.R. 5078) to preserve existing rights
6 and responsibilities with respect to waters of the United
7 States, and for other purposes. The first reading of the
8 bill shall be dispensed with. All points of order against
9 consideration of the bill are waived. General debate shall
10 be confined to the bill and shall not exceed one hour equal-
11 ly divided and controlled by the chair and ranking minor-
12 ity member of the Committee on Transportation and In-
13 frastructure. After general debate the bill shall be consid-
14 ered for amendment under the five-minute rule. The bill
15 shall be considered as read. All points of order against
16 provisions in the bill are waived. No amendment to the
17 bill shall be in order except those printed in the report
18 of the Committee on Rules accompanying this resolution.
19 Each such amendment may be offered only in the order
20 printed in the report, may be offered only by a Member
21 designated in the report, shall be considered as read, shall
22 be debatable for the time specified in the report equally

1 divided and controlled by the proponent and an opponent,
2 shall not be subject to amendment, and shall not be sub-
3 ject to a demand for division of the question in the House
4 or in the Committee of the Whole. All points of order
5 against such amendments are waived. At the conclusion
6 of consideration of the bill for amendment the Committee
7 shall rise and report the bill to the House with such
8 amendments as may have been adopted. The previous
9 question shall be considered as ordered on the bill and
10 amendments thereto to final passage without intervening
11 motion except one motion to recommit with or without in-
12 structions.

13 SEC. 2. Upon adoption of this resolution it shall be
14 in order without intervention of any point of order to con-
15 sider in the House the resolution (H. Res. 644) con-
16 demning and disapproving of the Obama administration's
17 failure to comply with the lawful statutory requirement to
18 notify Congress before releasing individuals detained at
19 United States Naval Station, Guantanamo Bay, Cuba,
20 and expressing national security concerns over the release
21 of five Taliban leaders and the repercussions of negoti-
22 ating with terrorists. The amendments to the resolution
23 and the preamble recommended by the Committee on
24 Armed Services now printed in the resolution shall be con-
25 sidered as adopted. The resolution, as amended, shall be

1 considered as read. The previous question shall be consid-
2 ered as ordered on the resolution and preamble, as amend-
3 ed, to adoption without intervening motion except: (1) one
4 hour of debate equally divided and controlled by the chair
5 and ranking minority member of the Committee on Armed
6 Services; and (2) one motion to recommit with or without
7 instructions.