



April 30, 2015

Dear Representative,

On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, I am writing in support of H.R. 1732, *the Regulatory Integrity Protection Act of 2015*. This legislation would provide relief for small businesses by sending the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers (the Agencies) back to the drawing board on its problematic Waters of the United States rule. **H.R. 1732 will be considered an NFIB Key Vote for the 114<sup>th</sup> Congress.**

In a notice of proposed rulemaking published in the *Federal Register* on April 21, 2014, the Agencies aim to change the definition of waters of the United States in such a way that will vastly expand the federal government's authority over private landowners, including small businesses. Under this proposal, land formations that only fill and hold water during heavy rain would be regulated if the Agencies determine that these formations affect the quality of downstream navigable waters.

When Congress granted the Agencies the authority to define waters of the United States in the 1970s, it was clear that the intent was for the Agencies to protect navigable waters, not every drop of water that might eventually end up in a navigable water. As a result of this proposal, the Agencies would bring seasonal streams, ponds, ditches, depressions in fields, and large puddles into federal jurisdiction. The financial impacts of this rule would disproportionately impact small businesses; Clean Water Act permits can cost tens of thousands of dollars and lead to lengthy project delays.

Unfortunately, despite claims by the Agencies, the proposed rule will only increase uncertainty. The proposed rule still requires the Agencies to determine on a case-by-case basis whether many common land formations fall under federal jurisdiction. Often, this determination does not occur until after substantial investments and planning by a small business have taken place – thus chilling investment and expansion. Small businesses cannot be speculative with their resources and capital.

In addition, the Agencies failed to adequately analyze the proposed rule under the Regulatory Flexibility Act. This law requires EPA to conduct a Small Business Advocacy Review panel when a rule will have a significant economic impact on a substantial number of small entities. In this case, the EPA incorrectly certified that the rule will not have a small business impact.

H.R. 1732 would stop this egregious regulatory overreach by requiring the Agencies to withdraw the 2014 proposed rule. The Agencies would then have to restart the process and work directly with small businesses, states and municipalities to craft a better rule that takes into account the economic implications of the rule.

NFIB strongly supports this commonsense legislation that will ensure that the property rights of small business owners are upheld. We look forward to working with you to enact this important legislation.

**NFIB strongly supports passage of H.R. 1732 and will consider it an NFIB Key Vote for the 114<sup>th</sup> Congress.** We look forward to working with you to protect small business as the 114<sup>th</sup> Congress moves forward.

Sincerely,

A handwritten signature in black ink that reads "Amanda Austin". The signature is written in a cursive style with a large initial "A".

Amanda Austin  
Vice President, Public Policy  
NFIB