



National Association of Home Builders

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Government Affairs

James W. Tobin III
Senior Vice President & Chief Lobbyist

April 13, 2015

The Honorable Bill Shuster, Chairman
House Transportation and Infrastructure Committee
U.S. House of Representatives
2268 Rayburn House Office Building
Washington, DC 20515

The Honorable Peter DeFazio, Ranking Member
House Transportation & Infrastructure Committee
U.S. House of Representatives
2134 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Shuster and Ranking Member DeFazio:

On behalf of the 140,000 members of the National Association of Home Builders (NAHB), I am writing to express NAHB's support for the *Regulatory Integrity Protection Act*, introduced by Congressman Bill Shuster (R-PA). This bill requires the Environmental Protection Agency and the Army Corps of Engineers (the agencies) to withdraw their proposed rule defining "waters of the United States." The agencies would be permitted to release an updated rule after completing a number of missed regulatory requirements.

Last year, the agencies proposed a rule that greatly expands federal authority under the Clean Water Act. While we disagree with the substance of the proposed rule, we were also disappointed to learn that the agencies failed to complete many of the regulatory requirements that are designed to ensure a fair and balanced rule. For example, as required under Executive Order 13132, the agencies failed to adequately consult with state and local governments and consequently, more than 33 states have formally requested that the proposed rule be withdrawn. These states have expressed concerns that the proposed rule dismisses the role of state and local governments as co-regulators, as intended by Congress when the Clean Water Act was drafted.

In addition, the agencies never assessed the impacts the rule will have on small business stakeholders, as required by the Regulatory Flexibility Act. In a letter dated October 1, 2014, the Small Business Administration's (SBA) Office of Advocacy publicly admonished the agencies because they "improperly certified this rule" and stated that the rule "will have a direct impact on small businesses." Since the home building industry is dominated by family-owned small businesses, we are frustrated that the burdens this proposed rule places on small businesses were never considered.

The agencies have also failed to provide an accurate and statistically valid cost-benefit analysis to accompany this rule. The agencies first attempt to do so was plagued with errors and omissions. Nonetheless, on April 6th, 2015, the proposed rule was sent over to the Office of Management and Budget for review, which represents the last hurdle for the agencies before finalization. If the rule is finalized, the public will have no opportunity to comment on the final economic report. Considering the flaws in the first analysis, this is of great concern.

Congress put in place these regulatory safeguards to ensure all stakeholder opinions are considered during the promulgation of a regulation. Yet, the agencies have disregarded these protections by either completing the task to the barest minimum standard or outright ignoring these requirements. This legislation would withdraw the proposed rule and force the agencies to develop a new proposal in consultation with state and local governments, as well as other affected entities, while also relying on a sound economic and scientific analysis. NAHB urges you to support the *Regulatory Integrity Protection Act*.

Thank you for giving consideration to our views.

Sincerely,

A handwritten signature in black ink, appearing to read 'James W. Tobin III', with a stylized flourish at the end.

James W. Tobin III

Cc: All members of the House Transportation and Infrastructure Committee.