

Chris Polychron, CIPS, CRS, GRI
2015 President

Dale A. Stinton
Chief Executive Officer

**GOVERNMENT AFFAIRS
DIVISION**

Jerry Giovaniello, Senior Vice President
Gary Weaver, Vice President
Joe Ventrone, Vice President
Scott Reiter, Vice President
Jamie Gregory, Deputy Chief Lobbyist

500 New Jersey Ave., NW
Washington, DC 20001-2020
Ph. 202-383-1194 Fax 202-383-7580
www.REALTOR.org

April 13, 2015

The Honorable Bill Shuster
Chairman
House Committee on Transportation
and Infrastructure
Washington, D.C. 20515

The Honorable Peter DeFazio
Ranking Member
House Committee on Transportation
and Infrastructure
Washington, D.C. 20515

Dear Chairman Shuster and Ranking Member DeFazio:

On behalf of our one million members, the National Association of REALTORS® strongly supports the “Regulatory Integrity Protection Act” draft legislation.

In 1972, Congress amended the Clean Water Act and built a partnership with the States to protect the Nation’s water bodies. Recognizing the primary role of the States in planning land use and preventing water pollution, Congress restricted the federal government’s authority to “navigable waters” defined as “waters of the United States.” For years, federal agencies pushed and tested the boundaries of this definition until it was based on the presence of migratory birds or any hydrologic connection. Twice, the Supreme Court rejected these all-inclusive theories and returned the proposal to the agency to articulate a limiting principle that would tie federal jurisdiction directly to navigable water quality.

The Environmental Protection Agency and Army Corps of Engineers have once again re-proposed to regulate all waters that have more than a “speculative or insubstantial nexus.” Rather than defining those terms or articulating any kind of a limiting principle, the agencies simply propose to shift the burden to property owners to prove they are not near regulated waters. According to the agencies, conducting site-specific data and analysis to justify their U.S.-water determinations is too costly and time consuming for the federal government; yet under this re-proposal, individual property owners would have to conduct that analysis themselves or else go through lengthy federal negotiations over what’s regulated or not and potentially spend tens of thousands of dollars on permits which would only complicate and confuse home sales in many parts of the country.

The agencies claim that their proposal merely responds to State and industry requests for “certainty” by “clarifying” that virtually all waters are federally controlled. If the goal is to “save small businesses time and money,” it unclear why these agencies opted not to convene a panel under the Regulatory Flexibility Act which seeks to find ways to increase certainty and reduce burden on small businesses while still protecting the environment. The agencies also assert that they have the science to back up their proposal this time; however, they continue to rely on the same old science that the Supreme Court did not find persuasive the first two times these agencies proposed this U.S.-waters definition.

The draft legislation would prevent these federal agencies from moving forward with a misguided, unjustified rule and send them back to the drawing board to consult with States and stakeholders. The bill does not roll back any existing environmental protections or prevent these agencies from regulating where they find common ground with the States and provide a legal, policy and scientific basis for their regulatory decisions. It simply acknowledges that the administrative process for the current proposal was flawed and opportunities for meaningful input, data and consultation could strengthen the rulemaking while minimizing unnecessary red tape and burden.

NAR asks for your support for the “Regulatory Integrity Protection Act.” We look forward to working with you and the Congress to protect high value water bodies and wetlands while minimizing unnecessary red tape and permitting burden on the property owners and the rest of the economy.

Sincerely,



Chris Polychron
2015 President, National Association of REALTORS®

