



S.J. Res. 22 — Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Corps of Engineers and the Environmental Protection Agency relating to the definition of “waters of the United States” under the Federal Water Pollution Control Act (Sen. Ernst, R-IA)

CONTACT: [Nicholas Rodman](#), 202-226-8576

FLOOR SCHEDULE:

Scheduled for consideration on January 13, 2016, subject to a [closed rule](#)

TOPLINE SUMMARY:

[S.J. Res. 22](#) would express Congressional disapproval over the Army Corps of Engineers and the Environmental Protection Agency’s rule relating to “[Clean Water Rule: Definition of Waters of the United States](#)”.

COST:

No Congressional Budget Office (CBO) estimate is available.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

S.J. Res. 22 would express Congressional disapproval under [the Congressional Review Act](#) over the Army Corps of Engineers and the Environmental Protection Agency’s rule relating to “Clean Water Rule: Definition of Waters of the United States” ([80 Fed. Reg. 37054](#); June 29, 2015). The resolution deems that the rule would have no force or effect, and prohibits the rule from being reissued in substantially the same form. The rule would define which types of rivers, streams, lakes and marshes fall under the jurisdiction of the Environmental Protection Agency and the Army Corps of Engineers. However conservatives argue that

the rule greatly increases the federal government's jurisdiction over most bodies of water, including some not covered under the [Clean Water Act](#), and would greatly infringe upon the rights of property owners.

An op-ed from the Chairman of the Senate Committee on Environment and Public Works, Sen. Inhofe (R-OK) can be found [here](#). On overview of the EPA and the Army Corps of Engineers' final rule and an overview of Congressional responses to the rule provided by the Congressional Research Service can be found [here](#) and [here](#) respectively.

On May 12, 2015, the House [passed H.R. 1732](#), the Regulatory Integrity Protection Act of 2015, which would have prohibited EPA and the Army Corps of Engineers from implementing the final rule. The Senate introduced [S. 1140](#), the Federal Water Quality Protection Act which would have directed the EPA and the Corps to revise their clean water rule. The RSC's legislative bulletin for H.R. 1732 can be found [here](#). A fact sheet provided by the Senate Committee on Environment and Public Works on S. 1140 and issues related to the EPA and Army Corps of Engineers' clean water rule can be found [here](#).

OUTSIDE GROUPS IN OPPOSITION TO THE CLEAN WATER RULE:

- [U.S. Chamber of Commerce](#)
- [American Petroleum Institute](#)
- [American Gas Association](#)
- [American Farm Bureau Federation](#)
- [Associated Builders and Contractors](#)
- [National Association of Home Builders](#)
- [National Cattlemen's Beef Association](#)
- [Texas Wildlife Association](#)
- [Federal Forest Resources Coalition](#)
- [American Energy Alliance](#)
- Competitive Enterprise Institute

COMMITTEE ACTION:

S.J. Res. 22 was introduced on September 17, 2015 and was referred to the Senate Committee on Environment and Public Works. The resolution was then passed in the Senate without amendment by Yeas-Nays Vote: [53 – 44](#) on November 4, 2015.

ADMINISTRATION POSITION:

The Statement of Administration Policy can be found [here](#). According to the statement, if the President were presented with S.J. Res. 22, his senior advisors would recommend that he veto the bill.

CONSTITUTIONAL AUTHORITY:

Measures originating in the Senate do not require the inclusion of a constitutional authority statement.

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