

117TH CONGRESS  
1ST SESSION

# S. 2567

To enact the definition of “waters of the United States” into law, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 29, 2021

Mrs. CAPITO (for herself, Mr. COTTON, Mr. CRAMER, Mrs. HYDE-SMITH, Mr. HAWLEY, Mr. BARRASSO, Mrs. BLACKBURN, Mr. HAGERTY, Mr. BLUNT, Mr. INHOFE, Mr. DAINES, Mr. SCOTT of South Carolina, Mr. LANKFORD, Mr. TILLIS, Mr. MORAN, Mr. TUBERVILLE, Mrs. FISCHER, Mr. ROUNDS, Mr. CRAPO, Mr. CRUZ, Mr. SASSE, Mr. HOEVEN, Ms. LUMMIS, Ms. ERNST, Mr. SULLIVAN, Mr. BOOZMAN, Mr. GRAHAM, Mr. WICKER, Mr. SHELBY, Mr. RISCH, Mr. MARSHALL, Mr. GRASSLEY, and Mr. BURR) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To enact the definition of “waters of the United States” into law, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Navigable Waters Pro-  
5 tection Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1           (1) as of March 2021, the final rule of the Sec-  
2           retary of the Army, acting through the Assistant  
3           Secretary of the Army for Civil Works, and the Ad-  
4           ministrator of the Environmental Protection Agency  
5           entitled “The Navigable Waters Protection Rule:  
6           Definition of ‘Waters of the United States’” (85  
7           Fed. Reg. 22250 (April 21, 2020)) (referred to in  
8           this section as the “Navigable Waters Protection  
9           Rule”) is being implemented in all 50 States;

10           (2) the final rule issued by the Administrator of  
11           the Environmental Protection Agency and the Sec-  
12           retary of the Army, acting through the Assistant  
13           Secretary of the Army for Civil Works, entitled  
14           “Clean Water Rule: Definition of ‘Waters of the  
15           United States’” (80 Fed. Reg. 37054 (June 29,  
16           2015))—

17                   (A) was subject to a vote under chapter 8  
18                   of title 5, United States Code (commonly known  
19                   as the “Congressional Review Act”), in which  
20                   members of both parties in the House of Rep-  
21                   resentatives and the Senate voted in favor of  
22                   disapproving the final rule under that chapter;  
23                   and

24                   (B) was stayed across the United States  
25                   for over 2 years due to legal deficiencies; and

1           (3) the Navigable Waters Protection Rule es-  
2           tablished a definition of “navigable waters” under  
3           the Federal Water Pollution Control Act (33 U.S.C.  
4           1251 et seq.) that—

5                   (A) for the first time, provides clarity, pre-  
6                   dictability, and consistency while ensuring envi-  
7                   ronmental protection; and

8                   (B) clearly delineates where Federal regu-  
9                   lations apply and gives State and local authori-  
10                  ties the flexibility to determine how to best  
11                  manage water resources within their borders.

12 **SEC. 3. WATERS OF THE UNITED STATES.**

13           The definitions of the term “waters of the United  
14 States” and the other terms defined in section 328.3 of  
15 title 33, Code of Federal Regulations (as in effect on the  
16 date of enactment of this Act), are enacted into law.

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