

118TH CONGRESS
1ST SESSION

H. R. 5983

To amend the Federal Water Pollution Control Act to restore a national minimum standard of protection for the water resources of the United States while providing certainty to regulated entities.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 2023

Mr. LARSEN of Washington (for himself, Mrs. NAPOLITANO, Mr. BEYER, Ms. STANSBURY, Mr. AGUILAR, Mr. ALLRED, Mr. AUCHINCLOSS, Ms. BALINT, Ms. BARRAGÁN, Mrs. BEATTY, Mr. BLUMENAUER, Ms. BONAMICI, Mr. BOWMAN, Ms. BROWNLEY, Mr. CARBAJAL, Mr. CÁRDENAS, Mr. CARSON, Mr. CARTER of Louisiana, Mr. CASAR, Mr. CASE, Ms. CASTOR of Florida, Mr. CLEAVER, Mr. COHEN, Mr. CONNOLLY, Ms. CROCKETT, Mr. CROW, Mr. DAVIS of Illinois, Ms. DEGETTE, Mr. DESAULNIER, Mrs. DINGELL, Ms. ESCOBAR, Mr. ESPAILLAT, Mr. EVANS, Mrs. FOUSHEE, Ms. LOIS FRANKEL of Florida, Mr. GARCÍA of Illinois, Mr. ROBERT GARCIA of California, Ms. GARCIA of Texas, Mr. GOLDMAN of New York, Mr. GOMEZ, Mr. GOTTHEIMER, Mr. GRIJALVA, Ms. HOYLE of Oregon, Mr. HUFFMAN, Ms. JACKSON LEE, Ms. JACOBS, Ms. JAYAPAL, Mr. JOHNSON of Georgia, Ms. KAMLAGER-DOVE, Ms. KAPTUR, Mr. KHANNA, Mr. KILMER, Mr. KIM of New Jersey, Mr. KRISHNAMOORTHY, Ms. LEE of California, Mr. LEVIN, Mr. LIEU, Mr. LYNCH, Mr. MAGAZINER, Ms. MATSUI, Ms. MCCLELLAN, Ms. MCCOLLUM, Mr. MCGARVEY, Mr. MCGOVERN, Mr. MENENDEZ, Ms. MENG, Mr. MFUME, Ms. MOORE of Wisconsin, Mr. MORELLE, Mr. MOULTON, Mr. MULLIN, Mr. NADLER, Mr. NEGUSE, Mr. NORCROSS, Ms. NORTON, Ms. OCASIO-CORTEZ, Mr. PALLONE, Mr. PASCRELL, Mr. PAYNE, Mr. PETERS, Ms. PINGREE, Ms. PORTER, Ms. PRESSLEY, Mrs. RAMIREZ, Mr. RASKIN, Mr. RUPPERSBERGER, Ms. SALINAS, Ms. SÁNCHEZ, Mr. SARBANES, Ms. SCANLON, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SCHNEIDER, Ms. SCHOLTEN, Mr. SCOTT of Virginia, Ms. SEWELL, Mr. SMITH of Washington, Ms. STEVENS, Ms. STRICKLAND, Mr. TAKANO, Mr. THANEDAR, Mr. THOMPSON of Mississippi, Ms. TITUS, Ms. TOKUDA, Mr. TONKO, Mr. TORRES of New York, Mrs. TRAHAN, Mr. TRONE, Mr. VARGAS, Mr. VASQUEZ, Ms. VELÁZQUEZ, Ms. WASSERMAN SCHULTZ, Mrs. WATSON COLEMAN, Ms. WEXTON, Ms. WILLIAMS of Georgia, Ms. WILSON of Florida, Mr. CASTRO of Texas, and Ms. WATERS) introduced the following bill

OCTOBER 25, 2023

Referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Federal Water Pollution Control Act to restore a national minimum standard of protection for the water resources of the United States while providing certainty to regulated entities.

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 “Clean Water Act of
5 2023”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are as follows:

8 (1) To reaffirm the commitment of Congress to
9 restore and maintain the chemical, physical, and bio-
10 logical integrity of the Nation’s protected water re-
11 sources.

12 (2) To clearly define the Nation’s protected
13 water resources that are subject to the Federal
14 Water Pollution Control Act (33 U.S.C. 1252 et
15 seq.) (commonly known as the “Clean Water Act”)
16 based on the best available scientific evidence and

1 decades of partnership between the Federal, State,
2 and Tribal governments to protect water quality.

3 (3) To eliminate the confusion initiated by the
4 Supreme Court’s overly narrow interpretation of the
5 term “navigable waters” and to reestablish the com-
6 prehensive authority necessary to meet the codified
7 objective of the Clean Water Act.

8 (4) To restore a national minimum standard of
9 protection of the Nation’s protected water resources
10 to the fullest extent of the legislative authority of
11 Congress under the Constitution.

12 **SEC. 3. FINDINGS.**

13 Congress finds the following:

14 (1) Water is a singular and precious resource
15 that sustains all life and is fundamental to civiliza-
16 tion’s survival, cultural practices, and indigenous
17 ways of life.

18 (2) Clean and abundant water is important for
19 public health, agriculture, transportation, flood con-
20 trol, energy production, recreation, fishing, and mu-
21 nicipal and commercial uses.

22 (3) Rivers, streams, wetlands, and other water
23 bodies are hydrologically connected within their wa-
24 tersheds, and scientific evidence shows that the pol-
25 lution, impairment, or destruction of a water body in

1 one location may significantly affect the chemical,
2 physical, and biological integrity of other waters.

3 (4) The Supreme Court’s decision in *Sackett v.*
4 EPA, 598 U.S. 651 (2023), reduces the protections
5 of the Clean Water Act contrary to, and impairing,
6 the congressional objective of restoring and main-
7 taining the chemical, physical, and biological integ-
8 rity of the Nation’s protected water resources.

9 (5) The decision eliminates Clean Water Act
10 protections for tens of millions of acres of wetlands,
11 including wetlands that perform vital functions such
12 as storing water to help reduce flooding, improving
13 water quality by filtering pollutants, providing crit-
14 ical and important habitats for aquatic and other
15 species, and recharging groundwater that provides
16 drinking water and contributes to downstream flows.

17 (6) The decision also puts at risk Clean Water
18 Act protections for millions of miles of small, inter-
19 mittent, and ephemeral streams that—

20 (A) comprise the majority of stream miles
21 in the United States;

22 (B) transport large volumes of water to
23 downstream rivers;

24 (C) reduce the introduction of pollutants to
25 large streams and rivers;

1 (D) provide and purify drinking water sup-
2 plies;

3 (E) are especially important to the life cy-
4 cles of aquatic organisms; and

5 (F) aid in flood prevention.

6 (7) The peer reviewed scientific literature un-
7 equivocally demonstrates that—

8 (A) streams, regardless of their size or fre-
9 quency of flow, are connected to, and strongly
10 influence the function of, downstream waters;
11 and

12 (B) wetlands, including wetlands that lack
13 surface water connections, are physically,
14 chemically, and biologically connected to, and
15 affect the integrity of, other protected water re-
16 sources.

17 (8) Restoring and maintaining the Nation's
18 protected water resources, including intrastate
19 waters, is necessary to prevent significant harm to
20 interstate commerce and sustain a robust system of
21 interstate commerce in the future.

22 (9) This Act restores Clean Water Act protec-
23 tions to the Nation's protected water resources to
24 ensure their chemical, physical, and biological integ-
25 rity.

1 (10) The pollution or other degradation of the
2 Nation's protected water resources, individually and
3 in the aggregate, has a substantial relation to and
4 effect on interstate commerce.

5 (11) Protected water resources, including
6 streams and wetlands, provide protection from flood-
7 ing, and draining or filling wetlands and channel-
8 izing or filling streams can cause or exacerbate
9 flooding, placing a significant burden on interstate
10 commerce.

11 (12) Millions of individuals in the United States
12 depend on the Nation's protected water resources,
13 including streams and wetlands, to filter water and
14 recharge surface and subsurface drinking water sup-
15 plies, protect human health, and create economic op-
16 portunity.

17 (13) Source water protection areas containing
18 small, intermittent, and ephemeral streams replenish
19 public drinking water supplies serving more than
20 110 million individuals in the United States.

21 (14)(A) Millions of individuals in the United
22 States enjoy recreational activities that depend on
23 protected water resources, including streams and
24 wetlands, such as waterfowl hunting, bird watching,
25 fishing, paddling, and photography.

1 (B) Those activities and associated travel gen-
2 erate hundreds of billions of dollars of income each
3 year for the travel, tourism, recreation, and sporting
4 sectors of the economy of the United States.

5 (15) Regionally specific protected water re-
6 sources, such as prairie potholes in the upper Mid-
7 western prairies, pocosins in the Atlantic coastal
8 plain, playa lakes in the southern High Plains, and
9 Carolina and Delmarva bays along the eastern coast
10 of the United States, provide unique and critical
11 benefits to their surrounding regions, including sus-
12 tainable water quality and availability, groundwater
13 recharge, wildlife habitat, and ecological benefits.

14 (16) Activities that result in the discharge of
15 pollutants into the Nation's protected water re-
16 sources, including through dredging and filling, are
17 commercial or economic in nature, and, in the aggre-
18 gate, have a substantial effect on interstate com-
19 merce.

20 (17) Restoring and maintaining the quality of,
21 and regulating activities affecting, the Nation's pro-
22 tected water resources is essential to fulfilling the
23 United States treaty obligations.

1 (18) Restoring and maintaining wetlands and
2 other protected water resources is essential to North
3 American wildlife, hunters, and anglers.

4 (19) Restoring and maintaining the quality of,
5 and regulating activities affecting, the Nation’s pro-
6 tected water resources is necessary to protect Fed-
7 eral land and waters from degradation.

8 **SEC. 4. PROTECTED WATER RESOURCES.**

9 (a) DEFINITIONS.—Section 502 of the Federal Water
10 Pollution Control Act (33 U.S.C. 1362) is amended—

11 (1) by amending paragraph (7) to read as fol-
12 lows:

13 “(7) PROTECTED WATER RESOURCES.—

14 “(A) IN GENERAL.—The term ‘protected
15 water resources’ means all waters subject to the
16 ebb and flow of the tide, the territorial seas,
17 and all interstate and intrastate waters (and
18 their tributaries), including lakes, rivers,
19 streams (including intermittent and ephemeral
20 streams), wetlands, and all impoundments of
21 the foregoing, to the fullest extent that these
22 waters are subject to the legislative power of
23 Congress under the Constitution.

24 “(B) EXCLUSIONS.—The term ‘protected
25 water resources’ does not include—

1 “(i) any category of water body or
2 feature listed in paragraphs (1) through
3 (8) of section 120.2(b) of title 40, Code of
4 Federal Regulations, as in effect on March
5 20, 2023; or

6 “(ii) any other category of water body
7 or feature excluded by the Administrator
8 in accordance with subparagraph (C).

9 “(C) REVIEW AND MODIFICATIONS.—

10 “(i) REVIEW REQUIRED.—Not later
11 than 1 year after the date of enactment of
12 the Clean Water Act of 2023, and periodi-
13 cally thereafter, the Administrator shall, by
14 rule, review the categories of water body or
15 feature excluded under subparagraph (B)
16 to determine, based on the best available
17 scientific evidence, whether the implemen-
18 tation of such exclusions, or any individual
19 exclusion, has a significant cumulative ad-
20 verse effect on—

21 “(I) the chemical, physical, or bi-
22 ological integrity of—

23 “(aa) the waters described
24 in subparagraph (A); or

1 “(bb) surface waters, other
2 than those described in subpara-
3 graph (A), that are sources of
4 water for public water systems,
5 as such term is defined in section
6 1401 of the Safe Drinking Water
7 Act (42 U.S.C. 300f);

8 “(II) environmental justice com-
9 munities; or

10 “(III) water resources described
11 in section 518(e)(2).

12 “(ii) MODIFICATIONS AND RE-
13 MOVAL.—If the Administrator determines
14 under clause (i) that the implementation of
15 the exclusions, or any individual exclusion,
16 under subparagraph (B) has a significant
17 adverse effect described in clause (i), the
18 Administrator shall, by rule and concu-
19 rent with such determination—

20 “(I) modify the category of water
21 body or feature so excluded to ensure
22 that, based on the best available sci-
23 entific evidence, the implementation of
24 such category will not have a signifi-

1 cant cumulative adverse effect de-
2 scribed in clause (i); or

3 “(II) remove such category.

4 “(iii) ADDITIONAL EXCLUSIONS.—The
5 Administrator may, by rule, exclude an ad-
6 ditional category of water body or feature
7 under subparagraph (B) if the Adminis-
8 trator determines, based on the best avail-
9 able scientific evidence, that the implemen-
10 tation of such additional exclusion will not
11 have a significant cumulative adverse effect
12 described in clause (i).”; and

13 (2) by adding at the end the following:

14 “(28) WETLANDS.—The term ‘wetlands’ means
15 those areas that are inundated or saturated by sur-
16 face or ground water at a frequency and duration
17 sufficient to support, and that under normal cir-
18 cumstances do support, a prevalence of vegetation
19 typically adapted for life in saturated soil condi-
20 tions.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) FEDERAL WATER POLLUTION CONTROL
23 ACT.—The Federal Water Pollution Control Act (33
24 U.S.C. 1251 et seq.) is amended—

1 (A) in sections 101, 102, 104, 106, 208,
2 301, 302, 303, 304, 319, 401, 404, 405, and
3 511(c), by striking “navigable waters” each
4 place it appears and inserting “protected water
5 resources”;

6 (B) in section 303(c)—

7 (i) in paragraph (2)(A), by striking
8 “such waters” and inserting “such pro-
9 tected water resources”; and

10 (ii) in paragraph (4)(A), by striking
11 “such waters” and inserting “such pro-
12 tected water resources”;

13 (C) in section 304(l)(1) by striking “NAVI-
14 GABLE WATERS” in the heading and inserting
15 “PROTECTED WATER RESOURCES”;

16 (D) in section 305—

17 (i) in subsection (a), by striking “nav-
18 igrable waters” each place it appears and
19 inserting “protected water resources”; and

20 (ii) in subsection (b)(1)—

21 (I) in subparagraph (A), by strik-
22 ing “navigable waters” and inserting
23 “protected water resources”; and

24 (II) in subparagraph (B), by
25 striking “navigable waters of” and in-

1 serting “protected water resources
2 in”;

3 (E) in section 311—

4 (i) in subsections (a)(11), (b), and
5 (m), by striking “navigable waters of the
6 United States” each place it appears and
7 inserting “protected water resources”; and

8 (ii) in subsections (c) and (j), by
9 striking “navigable waters” each place it
10 appears and inserting “protected water re-
11 sources”;

12 (F) in section 312—

13 (i) in subsections (a) and (b), by
14 striking “navigable waters” each place it
15 appears and inserting “protected water re-
16 sources”; and

17 (ii) in subsections (h), (l), and (n), by
18 striking “navigable waters of the United
19 States” each place it appears and inserting
20 “protected water resources”;

21 (G) in section 319, by striking “such
22 waters” each place it appears and inserting
23 “such protected water resources”;

24 (H) in section 402—

1 (i) in subsection (a)(4), by striking
2 “into the navigable waters”;

3 (ii) in subsections (b), (g), and (n)(1),
4 by striking “navigable waters” each place
5 it appears and inserting “protected water
6 resources”; and

7 (iii) in subsection (n)(2), by striking
8 “navigable waters of” and inserting “pro-
9 tected water resources in”;

10 (I) in section 404—

11 (i) in subsection (f)(2), by striking
12 “such waters” and inserting “such pro-
13 tected water resources”; and

14 (ii) in subsection (g)(1)—

15 (I) by striking “those waters”
16 and inserting “those protected water
17 resources”; and

18 (II) by striking “all waters” and
19 inserting “all protected water re-
20 sources”;

21 (J) in paragraphs (11) and (12) of section
22 502, by striking “navigable waters” each place
23 it appears and inserting “protected water re-
24 sources”; and

1 (K) in section 511(b), by inserting “as dis-
2 charges of pollutants into protected water re-
3 sources” after “shall be regulated”.

4 (2) OIL POLLUTION ACT OF 1990.—Section
5 1001(21) of the Oil Pollution Act of 1990 (33
6 U.S.C. 2701(21)) is amended by striking “waters of
7 the United States, including the territorial sea” and
8 inserting “protected water resources (as defined in
9 section 502 of the Federal Water Pollution Control
10 Act)”.

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