

S 2122

Defense of Environment and Property Act of 2012

Congress: 112 (2011–2013, Ended)

Chamber: Senate

Policy Area: Environmental Protection

Introduced: Feb 16, 2012

Current Status: Read twice and referred to the Committee on Environment and Public Works.

Latest Action: Read twice and referred to the Committee on Environment and Public Works. (Feb 16, 2012)

Official Text: <https://www.congress.gov/bill/112th-congress/senate-bill/2122>

Sponsor

Name: Sen. Paul, Rand [R-KY]

Party: Republican • **State:** KY • **Chamber:** Senate

Cosponsors (9 total)

| Cosponsor | Party / State | Role | Date Joined |
|------------------------------|---------------|------|--------------|
| Sen. Lee, Mike [R-UT] | R · UT | | Feb 16, 2012 |
| Sen. DeMint, Jim [R-SC] | R · SC | | Feb 17, 2012 |
| Sen. Coburn, Tom [R-OK] | R · OK | | Feb 29, 2012 |
| Sen. Hatch, Orrin G. [R-UT] | R · UT | | Feb 29, 2012 |
| Sen. Johnson, Ron [R-WI] | R · WI | | Feb 29, 2012 |
| Sen. Toomey, Patrick [R-PA] | R · PA | | Feb 29, 2012 |
| Sen. McConnell, Mitch [R-KY] | R · KY | | Mar 15, 2012 |
| Sen. Rubio, Marco [R-FL] | R · FL | | Mar 21, 2012 |
| Sen. Chambliss, Saxby [R-GA] | R · GA | | Apr 24, 2012 |

Committee Activity

| Committee | Chamber | Activity | Date |
|--|---------|-------------|--------------|
| Environment and Public Works Committee | Senate | Referred To | Feb 16, 2012 |

Subjects & Policy Tags

Policy Area:

Environmental Protection

Related Bills

| Bill | Relationship | Last Action |
|-------------|--------------|---|
| 112 HR 4304 | Related bill | Mar 30, 2012: Referred to the Subcommittee on Water Resources and Environment. |

Defense of Environment and Property Act of 2012 - Amends the Federal Water Pollution Control Act (commonly known as the Clean Water Act) to redefine "navigable waters" to specify that included territorial seas are those that are: (1) navigable-in-fact; or (2) permanent, standing, or continuously flowing bodies of water that form geographical features commonly known as streams, oceans, rivers, and lakes that are connected to waters that are navigable-in-fact. Excludes from such term: (1) waters that do not physically abut navigable waters and lack a continuous surface water connection to navigable waters; (2) man-made or natural structures or channels through which water flows intermittently or ephemerally, or that periodically provide drainage for rainfall; or (3) wetlands without a continuous surface connection to bodies of water that are waters of the United States.

Prohibits activities carried out by the Administrator of the Environmental Protection Agency (EPA) or the Army Corps of Engineers from impinging upon states' power over land and water use.

Prohibits: (1) aggregation of such excluded wetlands or waters from being used to determine or assert federal jurisdiction; and (2) wetlands without a continuous surface connection to bodies of water that are waters of the United States from being considered to be under federal jurisdiction.

Authorizes states to appeal jurisdictional determinations by the Administrator that would affect their ability to plan the development and use of land and water resources for 30 days after such determination.

Considers ground water to be state water. Prohibits ground water from being considered in determining or asserting federal jurisdiction over isolated or other waters.

Prohibits the Administrator from using a significant nexus test to determine federal jurisdiction over navigable waters and waters of the United States.

Gives no force or effect to: (1) the Corps' rule entitled "Final Rule for Regulatory Programs of the Corps of Engineers"; (2) EPA's proposed rule entitled "Advance Notice of Proposed Rulemaking on the Clean Water Act Regulatory Definition of 'Waters of the United States'"; (3) the guidance document entitled "Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in *Rapanos v. United States* & *Carabell v. United States* (relating to the definition of waters under the jurisdiction of the Clean Water Act); and (4) any subsequent regulation of or guidance issued by federal agencies that defines or interprets the term "navigable waters."

Prohibits the Corps and EPA from promulgating rules or issuing guidance that expands or interprets the definition of navigable waters unless expressly authorized by Congress.

Sets forth provisions requiring federal agencies to obtain consent of private property owners prior to entering their land to collect information about navigable waters.

Requires federal agencies that issue regulations that relate to the definition of navigable waters or waters of the United States and diminish the fair market value or economic viability of a property to pay the affected property owner an amount equal to twice the value of the loss. Gives no force or effect to such regulation until landowners with such claims have been compensated.

Actions Timeline

- **Feb 16, 2012:** Introduced in Senate
- **Feb 16, 2012:** Read twice and referred to the Committee on Environment and Public Works.

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