



Fact Sheet: Waters of the United States legislation

Senate Republican bills would either block or nullify the President's recent Clean Water Rule, which will protect the drinking water of 117 million Americans under the clear authority of the Clean Water Act.

Legislation to roll back the Clean Water Rule would take away new protections for the drinking water of 117 million Americans and would invite attacks on 40-years of clean water protections during its consideration.

S.J.Res.22 is a Congressional Review Act (CRA) resolution challenge to the Clean Water Rule. Sen. Joni Ernst's (R-IA) resolution would prevent the Clean Water Rule from taking effect. It would also permanently prevent EPA and the Army Corps of Engineers from reissuing a rule in substantially the same form, which could lock in place the current uncertainty about the scope of the Clean Water Act. [[Text of S.J. Res. 22](#)]

S.1140 states that any change to the definition of "waters of the United States" (i.e., the Clean Water Rule) shall have no force and effect unless the burdensome requirements of S. 1140 are met. Sen. John Barrasso's (R-WY) bill would require EPA and the Army Corps of Engineers to conduct additional consultation and complete numerous analyses before any rule could take effect. Many of these analyses were already completed for the Clean Water Rule and EPA held over 400 meetings and reviewed more than one million comments before finalizing the rule. S.1140 would also require any new regulatory definition of "waters of the United States" to meet new criteria that have not already been defined in the Clean Water Act, effectively narrowing the scope of the Act. According to Clean Water Act legal experts, the bill "would constitute a massive weakening of the Clean Water Act." [Letter from legal scholars on S.1140 to EPW committee available upon request]

Key Facts on the President's proposed Clean Water Rule

The Clean Water Rule maintains ALL existing exemptions for agriculture and does not create any new permitting requirements for our nation's farmers. Farms across America depend on clean, reliable water for livestock, crops and irrigation. The Clean Water Rule simply provides greater clarity and certainty to farmers without adding new permitting requirements or eliminating any existing exemptions from the Clean Water Act for agriculture. Normal farming and ranching – including planting, harvesting, and moving livestock – will remain exempt from Clean Water Act regulation. Farmers won't need a permit for normal agricultural activities. The Clean Water Rule preserves agricultural exemptions, including: [[EPA](#)]

- Normal farming, silviculture, and ranching practices. [[EPA](#)]
- Soil and water conservation practices in dry land. [[EPA](#)]

- Agricultural stormwater discharges. [\[EPA\]](#)
- Return flows from irrigated agriculture. [\[EPA\]](#)
- Construction and maintenance of farm or stock ponds or irrigation ditches on dry land. [\[EPA\]](#)
- Maintenance of drainage ditches. [\[EPA\]](#)
- Construction or maintenance of farm, forest, and temporary mining roads. [\[EPA\]](#)
- Fields previously flooded for rice are exempt and can be used for water storage and bird habitat. [\[EPA\]](#)

The Clean Water Rule will ensure protections for currently unprotected streams and water bodies that provide drinking water to 117 million Americans. About one in three Americans get drinking water from streams that lacked clear protection before the Clean Water Rule. According to an analysis of over 1,200 peer-reviewed scientific reports, small streams and wetlands play a critical role in the health of larger downstream bodies such as rivers, lakes, bays, and coastal waters. [\[EPA, 5/27/15\]](#)

The Clean Water Rule will resolve years of confusion created by several Supreme Court cases and provide regulatory certainty for businesses, farmers, and local governments. The Clean Water Rule clearly defines which waters are protected under the Clean Water Act and which are not. In response to Supreme Court decisions in 2001 and 2006, requests to provide clarity regarding the scope of waters protected under the Clean Water Act came in from members of Congress, state and local officials, industry, agriculture, environmental groups and the public. After holding more than 400 meetings with stakeholders and processing over 1 million public comments, the rule will provide certainty on which waters are subject to the Clean Water Act and those that are not. [\[EPA, 5/27/15\]](#)

The Clean Water Rule only protects waters that have historically been covered by the Clean Water Act and does not interfere with private property rights or land use. It does not interfere with or change private property rights, or address land use. It does not regulate most ditches or regulate groundwater, shallow subsurface flows or tile drains. It does not change policy on irrigation or water transfers. It does not apply to rills, gullies, or erosional features. [\[EPA\]](#)

Every sector of our economy depends on clean water, yet 60% of the nation's streams and millions of acres of wetlands lack clear protection under the Clean Water Act. Consider these facts about the value of clean water to Americans: [\[EPA testimony before Senate EPW and House T&I Committees, 2/4/15\]](#)

- Approximately 117 million people – one in three Americans – get their drinking water from public systems that rely on seasonal, rain-dependent, and headwater streams.
- Manufacturing companies use nine trillion gallons of fresh water every year.
- 31 percent of all water withdrawals in the U.S. are for irrigation, highlighting the extent to which the nation's farmers depend on clean water.
- About 40 million anglers spend \$45 billion annually to fish in U.S. waters.

- The beverage industry uses more than 12 billion gallons of water annually to produce products valued at \$58 billion.
- About 60 percent of stream miles in the U.S. only flow seasonally or after rain, but are critically important to the health of downstream waters.

Scientists conclusively agree that failure to protect streams and wetlands from pollution will have a clear impact on drinking water supplies provided by downstream rivers. A peer-reviewed scientific report comprised of over 1,200 papers verified the consequences of undermining the Clean Water Rule. Specifically, the report concluded that: [EPA testimony before Senate EPW and House T&I Committees, [2/4/15](#)]

- All tributary streams are physically, biologically and chemically connected to downstream rivers and thus affect the integrity of downstream rivers.
- Wetlands and open waters in floodplains are physically, chemically, and biologically connected to downstream rivers and affect the integrity of downstream rivers.