FACTSHEET

The Clean Water Rule for: AGRICULTURE

#CleanWaterRules www.epa.gov/cleanwaterrule

WHY CLEAN WATER IS IMPORTANT

Clean water is vital to our health, communities, and economy. We need clean water upstream to have healthy communities downstream, and the health of rivers, lakes, bays, and coastal waters depend on the streams and wetlands where they begin. Streams and wetlands provide many benefits to communities by trapping floodwaters, recharging groundwater supplies, filtering pollution, and providing habitat for fish and wildlife. Farms across America depend on clean, reliable water for livestock, crops, and irrigation. This rule protects water sources without getting in the way of farming, ranching, and forestry.

Protection for the nation's streams and wetlands has been confusing and complex since Supreme Court decisions in 2001 and 2006. So EPA and the U. S. Army are finalizing a rule to protect the streams and wetlands that are scientifically shown to have the greatest impact on downstream water quality and form the foundation of our nation's water resources.

EPA and the Army are making the process of identifying waters protected under the Clean Water Act easier to understand, more predictable, and consistent with the law and the latest science. **The Clean Water Rule will provide greater clarity and certainty to farmers, will not create any new permitting requirements, and will not add economic burden on agriculture.**

> The Clean Water Act protects the nation's waters. A Clean Water Act permit is only needed if these water are going to be polluted or destroyed.

Normal farming and ranching—including planting, harvesting, and moving livestock—have long been exempt from Clean Water Act regulation, and the Clean Water Rule doesn't change that. The final rule specifically recognizes the vital role that agriculture serves in providing food, fuel, and fiber for the United States and the world.

INPUT SHAPED THE CLEAN WATER RULE

In developing the rule, EPA and the Army listened carefully to input from the agriculture community, the U.S. Department of Agriculture, and state Departments of Agriculture. Agriculture groups raised important questions about what it means for waters to be "covered" under the Clean Water Act. The Act requires a permit if a protected water is going to be polluted or destroyed, however, agricultural activities like planting, harvesting, and moving livestock across a stream have long been excluded from permitting, and that won't change under the rule. In other words, *farmers and ranchers won't need a permit for normal agricultural activities* that happen in and around those waters.

After releasing the proposed rule last year, the agencies held more than 400 meetings with stakeholders across the country to provide information, hear concerns, and answer questions. EPA officials visited farms in Arizona, Colorado, Maryland, Mississippi, Missouri, New York, Pennsylvania, Texas, and Vermont. The 207-day public comment period on the proposed rule resulted in more than one million comments. All of this public input helped to shape the final Clean Water Rule.

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Feedback from the agricultural community led to several improvements in the final Clean Water Rule.

- **Defining tributaries more clearly.** The rule is precise about the streams being protected so that it could not be interpreted to pick up erosion in a farmer's field. The rule says a tributary must show physical features of flowing water – a bed, bank, and ordinary high water mark – to warrant protection.
- **Providing certainty in how far safeguards extend to nearby waters.** The rule sets limits on covering nearby waters that for the first time are physical and measurable.
- **Focusing on streams, not ditches.** The rule limits protection to ditches that are constructed out of streams or function like streams and can carry pollution downstream. So ditches that are not constructed in streams and that flow only when it rains are not covered.

THE RULE DOES: Preserve agricultural exemptions from permitting, including:

- Normal farming, silviculture, and ranching practices. Those activities include plowing, seeding, cultivating, minor drainage, and harvesting for production of food, fiber, and forest products.
- Soil and water conservation practices in dry land.
- Agricultural stormwater discharges.
- Return flows from irrigated agriculture.
- Construction and maintenance of farm or stock ponds or irrigation ditches on dry land.
- Maintenance of drainage ditches.
- Construction or maintenance of farm, forest, and temporary mining roads.
- Ensure fields flooded for rice are exempt and can be used for water storage and bird habitat.

THE RULE ALSO DOES:

Preserve and expand common sense exclusions from jurisdiction, including:

- Prior converted croplands.
- Waste treatment systems (including treatment ponds or lagoons).
- Artificially irrigated areas that are otherwise dry land.
- Artificial lakes or ponds constructed in dry land and used for purposes like rice growing, stock watering, aesthetics, or irrigation.
- Water-filled depressions created as a result of construction activity.
- Pits excavated in dry land for fill, sand, or gravel.
- Grass swales.

THE RULE DOES NOT:

- Protect any types of waters that have not historically been covered by the Clean Water Act.
- Add any new requirements for agriculture.
- Interfere with or change private property rights.
- Regulate most ditches.
- Change policy on irrigation or water transfers.
- Address land use.
- Cover erosional features such as gullies, rills and non-wetland swales.
- Include groundwater, shallow subsurface flow and tile drains.

MORE INFORMATION: WWW.EPA.GOV/CLEANWATERRULE & WWW.ARMY.MIL/ASACW

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