

DITCH THE RULE!

Fact Sheet on EPA's proposed "Waters of the United States" Rule Prepared by Texas Farm Bureau

Background

The Environmental Protection Agency (EPA) and the US Army Corps of Engineers (Corps of Engineers) have proposed rules to greatly expand the federal jurisdiction of the Clean Water Act by adopting a regulatory definition of "waters of the United States".

The rule is in response to two U.S. Supreme Court rulings in 1999 and 2001 which severely limited federal jurisdiction under the Clean Water Act. Since, the agencies have had to prove that waters have a "significant" connection to navigable waters in order to assert jurisdiction.

The proposed definition of "waters of the United States" assumes that any connection is significant. As such, the proposed rule expands federal jurisdiction to include practically every place where water may collect and flow, even if water is not present.

In addition to traditional navigable waters such as rivers and their tributaries, the proposed rule would include the following water features as "waters of the United States".

- **Ditches and drainage features**
- **Floodplains and areas adjacent to streams (non-waters)**
- **Isolated wetlands**
- **Dry creek beds and arroyos**
- **Farm ponds (if found to have any connection to waters of the US)**
- **Erosion control and flood retention structures**
- **Grassed Waterways**
- **Playa Lakes**

What's at stake?

The proposed rule moves federal jurisdiction, reserved for rivers and lakes, into fields and pastures. This was never contemplated by Congress when they passed the Clean Water Act in 1972. Implementation of this rule will result in landowners having to apply for water quality and/or dredge and fill permits for every-day practices.

The designation of non-water features as "waters of the U.S." will have a profound impact on farmers and ranchers, industry, municipalities, developers, home builders, and any other entity that actively manages land. The proposed rule would expose landowners to additional regulatory burdens, excessive fines, and the threat of litigation via citizen lawsuits provisions embedded in the Clean Water Act.

Federal jurisdiction over privately held lands may also subject landowners to additional federal regulations, such as the Endangered Species Act.

What can I do?

The public comment period for the proposed rule was extended until Monday, October 20th. Texas Farm Bureau is encouraging everyone that owns property to oppose this rule.

To comments on this rule visit: http://www.texasfarmbureau.org/Legislative_Voter.aspx

For more information about the proposed rule visit: www.Ditchtherule.fb.org