

US EPA ARCHIVE DOCUMENT

DITCH THE MYTH

LET'S GET SERIOUS ABOUT PROTECTING CLEAN WATER

This document addresses concerns and misconceptions about the proposal by the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers to protect clean water. The proposed rule clarifies protection under the Clean Water Act for streams and wetlands that form the foundation of the nation's water resources. The following facts emphasize that this proposed rule cuts through red tape to make normal farming practices easier while also ensuring that waters are clean for human health, communities, and the economy.

Learn more facts at www.epa.gov/ditchthemyth



MYTH: The rule would regulate all ditches, even those that only flow after rainfall.

TRUTH: The proposed rule actually reduces regulation of ditches because for the first time it would exclude ditches that are constructed through dry lands and don't have water year-round.

MYTH: A permit is needed for walking cows across a wet field or stream.

TRUTH: No. Normal farming and ranching activities don't need permits under the Clean Water Act, including moving cattle.

MYTH: Ponds on the farm will be regulated.

TRUTH: The proposed rule does not change the exemption for farm ponds that has been in place for decades. It would for the first time specifically exclude stock watering and irrigation ponds constructed in dry lands.

MYTH: Groundwater is regulated by the Clean Water Act.

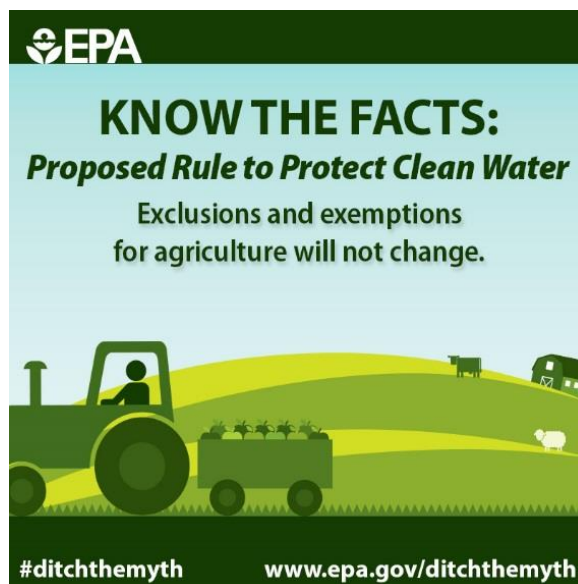
TRUTH: The proposed rule specifically excludes groundwater.

MYTH: The federal government is going to regulate puddles and water on driveways and playgrounds.

TRUTH: Not remotely true. Such water is never jurisdictional.

MYTH: EPA is gaining power over farms and ranches.

TRUTH: No. All historical exclusions and exemptions for agriculture are preserved.



MYTH: Only the 56 conservation practices are now exempt from the Clean Water Act.

TRUTH: No. The proposal did not remove the normal farming exemption. It adds 56 beneficial conservation practices to the exemption, which is self-implementing.

MYTH: The proposed rule will apply to wet areas or erosional features on fields.

TRUTH: Water-filled areas on crop fields are not jurisdictional and the proposal specifically excludes erosional features.

MYTH: This is the largest land grab in history.

TRUTH: The Clean Water Act only regulates the pollution and destruction of U.S. waters. The proposed rule would not regulate land or land use.

MYTH: EPA and the Army Corps are going around Congress and the Supreme Court.

TRUTH: EPA and the Army Corps are responding to calls from Congress and the Supreme Court to clarify regulations. Chief Justice Roberts said that a rulemaking would provide clarification of jurisdiction.

MYTH: The proposal will now require permits for all activities in floodplains.

TRUTH: The Clean Water Act does not regulate land, and the agencies are not asserting jurisdiction over land in floodplains.



MYTH: This proposed rule will harm the economy.

TRUTH: Protecting water is vital to the health of the economy. Streams and wetlands are economic drivers because of their role in fishing, hunting, agriculture, recreation, energy, and manufacturing.

MYTH: The costs of this proposal are too burdensome.

TRUTH: The potential economic benefits of the proposed rule are estimated to be about double the potential costs – \$390 to \$510 million in benefits versus \$160 to \$278 million in costs.

MYTH: This is a massive expansion of federal authority

TRUTH: The proposal does not protect any waters that have not historically been covered under the Clean Water Act. The proposed rule specifically reflects the more narrow reading of jurisdiction established by the Supreme Court and protects fewer waters than prior to the Supreme Court cases.

MYTH: This is increasing the number of regulated waters by including waters that do not flow year-round as waters of the U.S.

TRUTH: Streams that only flow seasonally or after rain have been protected by the Clean Water Act since it was enacted in 1972. More than 60 percent of streams nationwide do not flow year-round and contribute to the drinking water supply for 117 million Americans.



MYTH: Only actual navigable waters can be covered under the Clean Water Act.

TRUTH: Court decisions and the legislative history of the Clean Water Act make clear that waters do not need actual navigation to be covered, and these waters have been protected by the Clean Water Act since it was passed in 1972.

MYTH: The proposal sets no limits on federal jurisdiction.

TRUTH: The proposed rule does not protect any types of waters that have not historically been covered under the Clean Water Act and specifically reflects the Supreme Court's more narrow reading of jurisdiction, and includes several specific exclusions.



MYTH: This rule is coming before the science is available.

TRUTH: EPA's scientific assessment is based on more than 1,000 pieces of previously peer-reviewed and publicly available literature. The rule will not be finalized until the scientific assessment is finalized.

MYTH: This is about little streams in the middle of nowhere that don't matter.

TRUTH: Everyone lives downstream. This means that our communities, our cities, our businesses, our schools, and our farms are all impacted by the pollution and destruction that happens upstream.

MYTH: The proposal infringes on private property rights and hinders development.

TRUTH: EPA, the Army Corps, and states issue thousands of permits annually that allow for property development and economic activity in ways that protect the environment. The proposed rule will help reduce regulatory confusion and delays in determining which waters are covered.

MYTH: Stakeholders were not consulted in the development of the proposed rule.

TRUTH: This is a proposal. Agencies are seeking public comment and participating in extensive outreach to state and tribal partners, the regulated community including small business, and the general public.



MYTH: The federal government is taking authority away from the states.

TRUTH: The proposed rule fully preserves and respects the effective federal-state partnership and federal-tribal partnership established under the Clean Water Act. The proposed rule will not affect state water laws, including those governing water supply and use.

MYTH: Nobody wanted a rulemaking to define Waters of U.S.

TRUTH: A rulemaking to provide clarity was requested by the full spectrum of stakeholders – Congress, industry, agriculture, businesses, hunters and fisherman, and more.

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