PROTECTING AMERICA'S WATERS

One in three Americans gets drinking water from streams that are not clearly protected by the Clean Water Act. Two confusing and controversial Supreme Court decisions in 2001 and 2006 left many of our nation's smaller streams and wetlands in a legal limbo.

The lack of clarity has compromised enforcement in hundreds—perhaps thousands—of pollution cases. And for the first time in decades, the rate of wetland loss is on the rise.

In 2015, the U.S. Army Corps of Engineers and the Environmental Protection Agency finalized a rule clarifying how the Clean Water Act applies to these smaller streams and wetlands. The final rule restores Clean Water Act protections for 60 percent of the nation's stream miles and millions of acres of wetlands. These waters are a buffer against floods, provide water during droughts, and filter pollutants from drinking water.

The Supreme Court and the regulated communities called for this rulemaking process for a decade. The EPA and Army Corps based the rule on the best available science, a lengthy stakeholder input process, and roughly one million comments from the public. The final rule is a clear, science-based standard that will protect our waters while reducing the need for case-by-case determinations.

Poll after poll shows that the vast majority of Americans strongly support broad and effective Clean Water Act protections for all our waters—including streams and wetlands.

The Clean Water Rule will better protect drinking water supplies for 117 million Americans.

83 percent of America's hunters and anglers support applying the Clean Water Act to smaller streams and wetlands.

87 percent of the one million public comments on the rule were supportive.

The science is clear: These streams and wetlands have a significant impact on rivers and lakes downstream.

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TROUT UNLIMITED

BACKCOUNTRY HUNTERS & ANGLERS

affta AMERICAN FLY FISHING TRADE ASSOCIATION

Theodore Roosevelt Conservation Partnership

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Hunters and anglers know that small streams flow into larger rivers and ultimately to the coast.

THE CLEAN WATER RULE:

- Uses clear, measurable physical boundaries
- Reduces the need for burdensome case-by-case analysis
- Clearly defines the limits of tributaries (i.e., bed, bank, ordinary high water mark) and distinguishes them from dryland ditches and erosional features.
- Narrows the historic scope of Clean Water Act jurisdiction, excluding some wetlands and other waters protected for decades prior to 2001.
- Improves the case for protecting important wetlands located beyond river floodplains, such as the prairie potholes, western vernal pools in California, carolina and delmarva bays and pocosins along the Atlantic coastal plain, and Texas coastal prairie wetlands.

Protecting wetlands will benefit waterfowl while helping to buffer communities from flooding.

THE RULE RESTATES EXEMPTIONS FOR:

- Most common farming and ranching practices, including "plowing, cultivating, seeding, minor drainage, harvesting for the production of food, fiber, and forest products"
- "Construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches"
- "Agricultural stormwater discharges and return flows from irrigated agriculture"
- "Temporary sediment basins on a construction site"
- "Construction or maintenance of farm or forest roads or temporary roads for moving mining equipment"

Outdoor recreation—hunting, fishing, boating, etc—generates as much as $646 billion annually.

THE RULE EXPLICITLY EXCLUDES:

- Drainage ditches not constructed in streams and that flow only when it rains
- Artificially irrigated areas that would revert to upland should irrigation cease
- Artificial lakes or ponds constructed on dry land and used for agricultural purposes
- Artificial ornamental waters created in uplands for primarily aesthetic reasons
- Water-filled depressions created as a result of construction activity
- Groundwater, shallow subsurface flow, tile drains
- Gullies, rills, grass swales

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