

Your Input is Shaping the Clean Water Rule

By U.S. EPA Administrator Gina McCarthy and Assistant Secretary of the Army (Civil Works) Jo-Ellen Darcy

Water is the lifeblood of healthy people and healthy economies. We have a duty to protect it. That's why EPA and the U.S. Army Corps of Engineers are finalizing a Clean Water Rule later this spring to protect critical streams and wetlands that are currently vulnerable to pollution and destruction. On April 3 we sent the draft rule to the Office of Management and Budget for interagency review. Since it's not final yet, we can't speak to every detail. But the spirit of this rule boils down to three facts:

First, people depend on clean water: one in three Americans get their drinking water from streams currently lacking clear protection.

Second, our economy depends on clean water: manufacturing, farming, ranching, tourism, recreation, and other major economic sectors need clean water to function and flourish.

Third, our cherished way of life depends on clean water: healthy ecosystems support precious wildlife habitat and pristine places to hunt, fish, boat, and swim.

A year ago, our agencies released the draft Clean Water Rule. Since then, we've held more than 400 meetings across the country and received more than one million public comments from farmers, manufacturers, business owners, hunters and anglers, and others. The input helped us understand the genuine concerns and interests of a wide range of stakeholders and think through options to address them. In the final rule, people will see that we made changes based on those comments, consistent with the law and the science. We've worked hard to reach a final version that works for everyone – while protecting clean water.

We're confident the final rule will speak for itself. But we can broadly share some of the key points and changes we're considering.

Better defining how protected waters are significant. A key part of the Clean Water Rule is protecting water bodies, like streams and wetlands, which have strong impacts downstream – the technical term is “significant nexus.” We will respond to requests for a better description of what connections are important under the Clean Water Act and how agencies make that determination.

Defining tributaries more clearly. We've heard feedback that our proposed definition of tributaries was confusing and ambiguous, and could be interpreted to pick up erosion in a farmer's field, when that's not our aim. So we looked at ways to refine that definition, be precise about the streams we're talking about, and make sure there are bright lines around exactly what we mean.

Providing certainty in how far safeguards extend to nearby waters. The rule will protect wetlands that are situated next to protected waterways like rivers and lakes, because science shows us they impact downstream waters. We will provide a clear definition about what waters are considered adjacent waters.

Being specific in the protection of the nation's regional water treasures. We heard concerns that the category we called “other waters” in the rule was too broad and undefined. We've thought through ways to be more specific about the waters that are important to protect, instead of what we do now, which too often is for the Army Corps to go through a long, complicated, case by case process to decide whether waters are protected.

Focusing on tributaries, not ditches. We're limiting protection to ditches that function like tributaries and can carry pollution downstream—like those constructed out of streams. Our proposal talked about upland

ditches, and we got feedback that the word “upland” was confusing, so we’ll approach ditches from another angle.

Preserving Clean Water Act exclusions and exemptions for agriculture. We will protect clean water without getting in the way of farming and ranching. Normal agriculture practices like plowing, planting, and harvesting a field have always been exempt from Clean Water Act regulation; this rule won’t change that at all.

Maintaining the status of waters within Municipal Separate Storm Sewer Systems. Some state and local governments raised questions about waters within these permitted systems. We listened carefully as we did not intend to change how those waters are treated and have considered ways to address this concern. We will also continue to encourage the use of creative solutions like green infrastructure and low-impact development, as many of these communities have advocated.

The public will see that the agencies listened carefully and made changes based on their input. That’s how an open and collaborative process works – so we can ensure everyone’s voices are heard, in a way that follows the law and the latest science. Our mission is to uphold that commitment to the American people.

We may have different opinions on how we best protect our water resources, but we can all agree that clean water matters, and that it deserves our protection. The health of our people, our economies, and our way of life deserve protection. That’s what the Clean Water Rule is all about.