



Oppose Implementation of the USEPA Rule on Waters of the United States

GROWMARK Position:

GROWMARK opposes the implementation of the U.S. Environmental Protection Agency (EPA) rule to revise the definition of “Waters of the United States” (WOTUS).

The proposed rule would significantly increase federal control of land and water resources across the nation. It would expand the scope of “navigable waters” subject to Clean Water Act (CWA) jurisdiction, thus triggering substantial additional permitting and regulatory requirements.

Background:

- The broad scope of the proposed rule expands the definitions of existing regulatory areas, such as tributaries, and regulates new areas such as non-adjacent wetlands that were previously not under CWA jurisdiction.
- Scientific evidence has not been found to justify this expansion. The assessment the EPA and U.S. Army Corps of Engineers are using as backing for the proposed rule has yet to be completed or peer-reviewed.
- Clarity is not provided in the proposed rule. Key terms and concepts are still vague or undefined and are left to the “best judgment” of agency authorities.
- Previous Supreme Court cases have set precedent that does not align with EPA’s proposed rule. Although the previous cases failed to fully clarify the definition of “Waters of the U.S.”, the Court ruled that to be regulated as tributaries conveyances must have a “significant chemical, physical and biological nexus” with traditionally navigable waters.
- Agricultural practices are not guaranteed protection under the interpretive rule. It does not have the force of law and is simply agency guidance. The interpretive rule would introduce compliance for farmers with NRCS standards and affect every day weed control, fertilizer applications and other common farm practices.

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