



CLEAN WATER RULE

FARM BUREAU SUPPORTS CLEAN WATER BUT OPPOSES EPA'S CLEAN WATER RULE

The California Farm Bureau Federation supports regulatory reform that ensures a clean water supply for agriculture and the environment, but we oppose EPA's unnecessary expansion of federal jurisdiction of "Waters of the United States" under the Clean Water Act. We are disappointed that the final Clean Water Rule did not address our concerns. Implementation will be economically harmful for California agriculture.

UNCERTAINTY

- While EPA claims that the Clean Water Rule provides greater certainty to farmers, the truth is the Final Rule leaves the definition of "waters of the United States" subjective and unpredictable, and fails to put regulated parties on notice of when their conduct violates the law.
- Agencies will be able to identify a water of the United States even if *invisible* to the landowner and even if it *no longer exists* on the landscape.
- Mapping for delineation purposes is problematic and not preferred, and publicly-accessible maps are not as detailed as those the government uses for delineations of property, further placing farmers at a disadvantage.

COMPLEX PERMITTING PROCESS

- By broadening the definition of what is jurisdictional, even dry low spots or depressions on farmland could trigger the need to obtain a Clean Water Act permit.
- Despite the rhetoric of a farming exemption for normal and routine activities, those who began farming near wetlands or ephemeral storm water paths after 1977 without a Section 404 permit would be considered in violation of the Clean Water Act for any dredge or fill activities.
- Many farmers will not qualify for an exemption and will face permitting requirements and potentially devastating enforcement liability as a result of this rule.

ECONOMIC BURDEN ON AGRICULTURE

- EPA may impose civil penalties of \$37,500 per discharge, per day, per offense, on a landowner even if the landowner lacked any knowledge that a jurisdictional water is on the property.
- In order to comply with the regulation, farmers and ranchers will become increasingly reliant on attorneys and consultants, making farming the land more difficult and costly.
- Under the Final Rule, farmers, ranchers, and other landowners would face a tremendous roadblock to ordinary land-use activities that are near waters of the United States, from building a fence to treating for or pulling weeds to controlling insects. These "roadblocks" are both costly and time consuming.
- Many farmers and ranchers will now have to obtain jurisdictional determinations and permits in order to continue to be able to farm their properties. An individual permit application averages over \$270,000 to prepare and takes over two years to obtain. A nationwide permit, if a farmer is eligible, averages almost \$30,000 to prepare and takes almost a year to obtain.
- Third-party lawsuits have become the new norm for regulating farmers. Even if farmers protect water quality and comply with the law, they could be forced to defend themselves in court.

Farmers simply want to continue to farm and be stewards of the land, leaving it in better shape for future generations.

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