

EPA's proposed 'Waters Rule' is unworkable

By **FRANK PRIESTLEY, President Idaho Farm Bureau**

The American Farm Bureau Federation recently reviewed EPA's March 25 release of the 'waters of the U.S.' proposed rule. The results of the review are dismaying.

The EPA proposal poses a serious threat to farmers, ranchers and other landowners. Under EPA's proposed new rule, waters – even ditches – are regulated even if they are miles from the nearest 'navigable' waters.

Indeed, so-called 'waters' are regulated even if they aren't wet most of the time.

EPA says its new rule will reduce uncertainty, and that much seems to be true: there isn't much uncertainty if most every feature where water flows or stands after a rainfall is federally regulated.

Under this proposed rule, farmers, ranchers and every other landowner across the countryside will face a tremendous new roadblock to ordinary land use activities. This is not just about the paperwork of getting a permit to farm, or even about having farming practices regulated.

The fact is there is no legal right to a Clean Water Act permit – if farming or ranching activities need a permit, EPA or the Army Corps of Engineers can deny that permit. That's why Clean Water Act jurisdiction over farmlands amounts to nothing less than federal veto power over a farmer's ability to farm.

EPA accompanied its proposal with a new 'interpretive rule' claiming to clarify certain statutory exemptions for agricultural conservation practices, including activities as commonplace and essential to farming as building a fence.

But these exemptions apply only to 'dredge and fill' permit requirements.

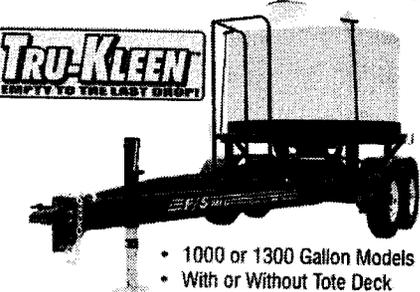
They do not protect farmers from federal veto power over pest and weed control, fertilizer application, and other essential farming activities that may result in the addition of 'pollutants' to 'navigable waters,' – providing one views every ditch and wet spot across the landscape as 'navigable waters.'

The American Farm Bureau Federation will dedicate itself to opposing this attempted end run around the limits set by Congress and the Supreme Court. The Supreme Court has ruled repeatedly that Congress meant what it said: 'navigable waters' does not mean all waters.

This proposed rule shows that EPA refuses to accept those limits.

For more information on this issue go to www.ditchtherule.fb.org. All Idaho landowners, farmers and ranchers – as well as from other states – are encouraged to fill out a comment form and send it to EPA. ★

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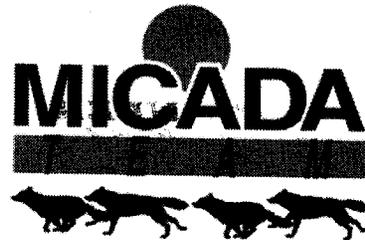
new farm risk management strategy. Crop insurance is a public/private partnership whereby the federal government discounts a portion of a farmer's crop insurance premium to ensure that it is widely purchased, and 19 participating crop insurance companies sell and service the claims.

Banks do not always require crop insurance, but they certainly feel better making loans to farmers who have purchased it. Why? Because bankers like to know that if disaster strikes, that some of the money they loaned will be coming back to them.

reference in rural America, pumping billions of dollars into the rural economy – purchasing fuel, equipment, storage building and paying farmhands – while producing the food, fiber and fuel this nation needs. Believe me, Americans really would not want to be reliant on other nations for our food security.

When we lose our food security, next will come our independence. And none of us want to lose that. ★

(Klodette and Rick Smith farm 1,800 acres near Powell, Wyo. Klodette is also a member of Women Involved in Farm Economics.)



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OUR VIEWS

Proposed EPA water rule deserves more scrutiny

A proposed Environmental Protection Agency water rule which would have far reaching impacts deserves a much closer look before it is enacted.

The EPA and the U.S. Army Corps of Engineers announced the rule on March 25 to clarify which streams and wetlands are protected under the Clean Water Act which was passed in 1972 to control water pollution.

However, the EPA said the protections had become confusing after U.S. Supreme Court rulings in 2001 and 2006 and that the proposed rule clarifies that the Clean Water Act protects most seasonal and rain-dependent streams, as well as wetlands near rivers and streams. The EPA said other types of waters would be evaluated on a case by case basis.

A 90-day comment period began when the proposed rule was published in the Federal Register on April 21. However, many officials in agriculture are asking that the comment period be extended for at least an additional 90 days because of its potential impact on farming and because few farmers, because they're busy with planting, have had the opportunity to read the nearly 400 pages of the proposal.

We agree.

The rule has come under a great deal of criticism lately with some agriculture officials saying it could change the definition of navigable waters and could have serious implications for farmers and ranchers. It could also filter down to other areas besides agriculture.

North Dakota Agriculture Commissioner Doug Goehring has

called it a blatant attempt by EPA to bypass Congress and expand federal authority over the nation's surface waters. Other ag officials are calling it an egregious attempt at federal overreach that could infringe on water use.

Some fear the rule could lead to permits being required for such basic farming practices as applying pesticides, herbicides or fertilizer.

Others fear the proposed rule could bring federal oversight into county matters such as roadwork or placing culverts which could create a difficult timeline in the short construction period that is typical in the northern states.

In the Federal Register, EPA has stated the purpose of the rule is to clarify jurisdiction of water. EPA also said the proposal is not meant to impair the power of each state "to allocate quantities of water within its jurisdiction."

Goehring, on the other hand, said the EPA is using hydrology and its definition of "significant nexus" waterways to widen its jurisdiction over wetlands, ditches, floodplains, seasonal streams, ponds and other waters.

The rule, he said, would give the EPA "limitless powers to dictate land use decisions through shallow connectivity."

Some want the agency to withdraw the proposed rule completely or at least extend the 90-day comment period which ends July 21.

Given the fact many farmers are still very busy out in the field and haven't had the time to digest the EPA proposal, extending the deadline another 90 days should not be too difficult a burden. In the mean time, producers should be providing their comments and also calling on the Congressional delegations to voice their opinions. ★

Our
Views



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