



August 5, 2019

Support the Bill to Codify the Trump Administration WOTUS Rule Definition of Navigable Waters, S. 2356

On behalf of FreedomWorks' activist community, I urge you to contact your senators and ask them to cosponsor S. 2356 that would codify the Trump administration Waters of the United States (WOTUS) rule definition of navigable waters. Introduced by Sen. Mike Braun (R-Ind.), S. 2356 seeks to make permanent changes to the Obama-era Clean Water Rule, solidifying changes made by the Trump administration limiting the scope of the Clean Water Act.

Also referred to as the Clean Water Rule, the WOTUS rule was instituted in 2015 by the Obama-era Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) in an effort to clarify federal water resource management policy as it relates to the Clean Water Act of 1972. However, this move greatly reflects the Obama-era EPA's simple motive to increase federal regulation of private land for purely environmental reasons, ignoring the multiple-use policy the federal government has advocated for decades.

Since its original passage, the Clean Water Act has been the principal piece of the federal effort to combat pollution of America's waterways. Although the 2015 Clean Water Rule made several changes in federal policy as it relates to the Clean Water Act, the most significant changes came in the way that the Obama administration chose to define "navigable waters."

In an overreach of federal power, the Obama administration greatly expanded the existing definitions as established by the Clean Water Act. Rather than "provide clarity and certainty" to stakeholders around federal water regulations, the Obama-era rule confused landowners and regulators alike.

By expanding the definition of "navigable waters" haphazardly, the Obama administration granted Washington bureaucrats carte blanche to castigate landowners for minor violations. Even

worse, many of the affected landowners weren't even aware that their waterways had been redesignated until after being hit with court orders.

The reason for all the confusion was that the Obama administration's rapid expansion of the Clean Water Rule was too complicated for everyday Americans to fully understand. As acting Administrator of the EPA, Andrew Wheeler told the [Senate Environment and Public Works Committee](#), "I believe that any property owner should be able to stand on his or her property and be able to tell whether or not they have a 'water of the U.S.' on their property without having to hire an outside consultant or attorney." This was impossible under the Obama-era rule.

In late December 2018, the EPA, under guidance from the Trump administration, [announced](#) changes to the Obama-era WOTUS rule. The proposal more clearly defined which waterways are federally protected under the Clean Water Act and streamlined the process by which a landowner can determine whether or not they require a federal permit. One of the primary goals of the rule change was to enable landowners to determine for themselves the status of their waterways "without spending thousands of dollars on engineering and legal professionals."

Unlike the Obama-era rule that focused almost entirely on pollution, the Trump administration rule acknowledges the importance of minimizing regulatory uncertainty and promoting economic growth while simultaneously protecting our environment.

The changes that the Trump administration has made to the Clean Water Rule are a huge step away from the confusing mess that was Obama's Clean Water Rule. Yet, executive action is not enough to cement these reforms. Just as Trump is now modifying the Obama-era rule through executive action, future presidents could also change Trump's WOTUS rule, destroying the progress that this administration has made. Thus, passing S. 2356 and codifying the Trump administration WOTUS rule in statute is the only way to ensure we maintain effective water resource management.

With the partisan divide growing every day, it is quite likely, should the Democrats regain the White House, a Democratic president would see to the dismantlement of the Trump WOTUS rule. Not only does S. 2356 present a fantastic opportunity to capitalize on one of the deregulatory successes of the Trump administration, but it also provides an important avenue by which Congress should reassert its authority as the lawmakers of our federal government.

It is vital that Congress pass S. 2356 and codify the Trump administration rule redefining navigable waters. For these reasons, I urge you to contact your senators and strongly encourage them to cosponsor Sen. Braun's bill to define navigable waters, S. 2356.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Brandon', with a stylized flourish at the end.

Adam Brandon
President, FreedomWorks