

## Bill Banning EPA's Proposed Attack on Property Rights Expected to Be Considered By House

Daren Bakst

The House is expected to vote on legislation as soon as Tuesday that would prohibit the Environmental Protection Agency and the Army Corps of Engineers from moving forward with their proposed "waters of the U.S." rule.

In April, the EPA and Corps proposed [regulation](#) that would define what waters that they can regulate under the Clean Water Act. For decades, they have tried to expand their jurisdiction. This proposed rule is [no exception](#), acting as both a [water and land power grab](#). It has little to do with actually [improving the environment](#).

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The House will likely consider The Waters of the United States Regulatory Overreach Protection Act of 2014 ([H.R. 5078](#)), legislation which would put an end to this proposed rule.

Under the CWA, property owners often have to secure permits before taking action that will impact waters covered under the law. By greatly expanding their jurisdiction and covered waters, the EPA and Corps will force property owners to secure costly and time consuming permits far more often than they already do now. The scope of the proposed rule is chilling.

For example, the rule would regulate all ditches, except in very narrow circumstances. This would even include man-made ditches. The rule would cover tributaries that have ephemeral flow, including depressions in land that are dry most of the year except when there's heavy rain.

Both the EPA and the Corps are once again showing a complete disrespect for states and local governments. When Congress passed the Clean Water Act, states weren't an afterthought in the regulation of waters, but were critical to the law's success.

At the start of the CWA it [states](#), "It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources..."

H.R. 5078 recognizes this important aspect of the law. The EPA and the Corps would be required to work with state and local officials to develop recommendations for a regulatory proposal. Within a year after enactment of the law, a draft report would be required to be published in the Federal Register and the public must be given a chance to provide comments. Within two years after enactment, a final report would be required to be provided to Congress.

The legislation would also put an end to an [interpretive rule](#) that [narrows](#) an exemption under the Clean Water Act for normal farming activities. Further, it would put an end to 2012 draft guidance that also would create a federal power grab.

Ultimately, Congress must take action to define more precisely what waters are covered under the Clean Water Act. The EPA and the Corps are going to continue their efforts to expand their jurisdiction, and while state and local input will be valuable, it won't be enough to stop the overreach.

Meanwhile, this legislation provides some important protection so that property owners will be able to use their land without unreasonable restrictions and states won't have their power usurped by a power hungry federal government.