

CLEAN WATER FOR ALL

THE TRUTH ABOUT AGRICULTURE AND THE CLEAN WATER ACT

There is a lot of talk these days about farmers and the recent regulation from the Biden administration identifying waters covered by the Clean Water Act's pollution control programs. Most of it is empty rhetoric, gross exaggeration, or just plain false.

Agribusiness Doesn't Have Free Rein to Pollute Waterways

The pollution control programs of the Clean Water Act apply nationwide to all "waters of the United States," whether they're on industrial land, public property, or agricultural areas.

Under the Biden administration rule, "waters of the United States" are those streams, wetlands, ponds, and other waters that significantly contribute to the water quality in larger waters and interstate waters. *This rule uses a framework developed by the G.W. Bush administration, and any weaker level of protection would frustrate the clean water goals of the law.*

But Agriculture is Treated Easier Under the Clean Water Act in Numerous Ways

(1) The law exempts discharges of solid material, like rock and dirt, associated with normal farming activities like plowing, seeding, harvesting, etc.; maintenance of drainage ditches; construction and maintenance of irrigation ditches; construction and maintenance of farm or stock ponds; and construction and maintenance of farm and forest roads, in accordance with best management practices. *It's not surprising, therefore, that only 0.6% of Army Corps' permits for these discharges are for agricultural activities.*

(2) Pollution running off farm fields in irrigation water or in agricultural stormwater is exempt from permitting.

(3) The new Biden administration rule exempts several features commonly found on agricultural land from being considered "waters of the United States." That includes wetlands designated as prior converted cropland by USDA, as well as features constructed on dry land, including ditches and stock ponds, and irrigated areas that would revert to dry land without irrigation. *Many of these features are not guaranteed to be exempt without the new regulation.*

(4) In the very rare circumstance that a discharge triggers permitting, the Army Corps has a fast-track permit for agricultural activities that destroy less than ½-acre of a water body. Likewise, EPA has a fast-track permit for applications of pesticides that reach water bodies.