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Proposed Rule Changes to the Clean Water Act and Waters of the U.S.

- Congress passed the Clean Water Act in 1972 with the goal of improving water quality across the nation. The Act regulated only navigable waters and gave the states authority over land and water uses.
- Earlier this year, the United States Environmental Protection Agency (U.S. EPA) and the Army Corps of Engineers (Corps) proposed a rule change to the Clean Water Act that would significantly expand the agencies' regulatory authority.
- The proposal gives U.S. EPA and the Corps power to regulate or prohibit land use and farming practices by regulating tributaries, ponds, lakes, wetlands, roadside, irrigation and storm water ditches, adjacent waters, floodplains, riparian areas, puddles and even ephemeral streams, which are bodies of water that only contain water during a major storm event.
- Under the proposed rule, farmers and other landowners would have to apply for and wait for a permit to build fence, use pesticides or carry out other common farming practices on land the U.S. EPA considers part of the Waters of the U.S. The rule would make it more difficult to farm or change a farming operation to remain competitive and profitable.
- Farmers and landowners also could face the threat of third-party lawsuits challenging farming practices on or near land that falls under the proposed rule.
- The rule change would have a tremendous economic impact on more industries than agriculture, including home building, mining, and road construction.
- Illinois Farm Bureau sees these changes as limitless federal jurisdiction and an end-run around Congress, since the law can only be changed by Congress and the proposed rule changes are far beyond what Congress intended when it drafted the law.
- The U.S. EPA and the Corps' proposal ignores U.S. Supreme Court rulings that put limits on federal jurisdiction, and reject the U.S. EPA and the Corps' theory that they can regulate a water feature of dry land, if there is any hydrologic connection to traditional navigable water.
- Illinois Farm Bureau, along with the American Farm Bureau Federation, is filing comments with the U.S. EPA and the White House to stop this federal land grab and urges farmers and land owners to do the same.

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