



News Release

2101 Wilson Blvd., Suite 400, Arlington, VA 22201
703.243.6111 • www.nmpf.org

“Connecting Cows, Cooperatives, Capitol Hill, and Consumers”

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Contact: Christopher Galen
(703) 243-6111 ext. 356
Email: CGalen@nmpf.org

NMPF Asks EPA to Clarify Proposed WOTUS Regulation Expanding Federal Reach under the Clean Water Act

Either Include Changes in the Draft or Withdraw and Rewrite It, Dairy Group Says

ARLINGTON, VA – The National Milk Producers Federation has recommended a series of changes to the Environmental Protection Agency’s controversial Waters of the U.S. regulation, a proposal that could greatly expand the waterways subject to regulation under the federal Clean Water Act (CWA).

NMPF, the voice of more than 32,000 dairy producers in Washington, asked EPA to either include the organization’s recommendations in the proposed regulation, or withdraw the proposal and rewrite it.

In lengthy comments filed with the agency, NMPF stressed that, above all, agriculture needs certainty on which waterways fall under the jurisdiction of the CWA, and which do not. The draft regulation, it said, doesn’t provide that clarity.

NMPF asked EPA to clarify numerous terms in the draft, including “other waters,” “upland ditches,” “floodplain,” “tributary,” and “significant nexus.” In addition, it urged that any final regulation exclude from federal jurisdiction intermittent streams and wetlands adjacent to excluded streams. NMPF also asked EPA to publish maps clearly indicating the features that make a waterway covered under the CWA.

“Clean water is essential to milk production and the dairy industry is very willing to work with EPA to protect U.S. waters,” said NMPF President and CEO Jim Mulhern. “But EPA’s draft would only lead to more confusion and uncertainty around which waterways fall under the jurisdiction of the Clean Water Act. In addition, it would intrude on state responsibilities and do nothing to actually stop pollution.”

“This doesn’t help dairy farmers and doesn’t meet the requirements of the Supreme Court rulings that triggered the need for the regulation,” Mulhern said.

NMPF submitted 23 pages of [comments](#) on the EPA regulation, along with additional [comments](#)

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on EPA guidance for when farmers must seek CWA permits for a long list of normal farming activities near wetlands.

The draft WOTUS regulation, issued in March, expanded the waterways covered under the Clean Water Act to nearly all those connected to U.S. navigable waters. Many opponents argued the draft would have a devastating impact, particularly on agriculture.

NMPF first [urged](#) the EPA to rethink the regulation last spring, citing its many ambiguities and uncertainties. A subsequent NMPF analysis demonstrated that the EPA and Army Corps of Engineers' proposal does not meet the requirements of various Supreme Court rulings that were the catalyst for the development of the regulation.

“As a result,” Mulhern said, “the proposed regulation does not provide certainty for the dairy industry, and it needs to be reworked, either through this comment process, or with a new proposal from the agency.”

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The National Milk Producers Federation, based in Arlington, VA, develops and carries out policies that advance the wellbeing of dairy producers and the cooperatives they own. The members of NMPF's cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of more than 32,000 dairy producers on Capitol Hill and with government agencies. For more on NMPF's activities, visit our website at www.nmpf.org.