



News Release

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"Connecting Cows, Cooperatives, Capitol Hill, and Consumers"

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Waters of the U.S. Regulation Must Be Permanently Repealed and Rewritten, NMPF Says

ARLINGTON, VA – The 2015 version of the Waters of the U.S. (WOTUS) rule must be permanently rescinded, and the prior version of the regulation re-codified, to provide certainty for dairy farmers, the National Milk Producers Federation (NMPF) said today.

In [comments submitted](#) to the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (ACE) Monday, NMPF outlined its support for both agencies' proposal to repeal the current definition of WOTUS and rewrite it to reflect common-sense approaches to protecting the environment. In addition, NMPF joined numerous farm and food organizations to submit an additional 22 pages of comments that provided an extensive legal and technical assessment of what the two agencies did wrong three years ago in an attempt to update the regulation.

"Dairy farmers undertake extensive efforts to manage the natural resources that are critical to their livelihoods," said NMPF President and CEO Jim Mulhern. "WOTUS must provide proper clarity on what falls under its jurisdiction so that farmers can better meet the industry's shared commitment to clean water."

In early 2017, the Trump Administration ordered a review of the WOTUS rule in response to concerns many farm groups had raised since the measure was finalized in 2015. Because the WOTUS regulation significantly expanded the EPA's authority over waterways used by farmers for drainage and irrigation, the measure was challenged in a federal appeals court and ultimately put on hold.

"The 2015 Rule should be repealed and, for absolute clarity, done so permanently," NMPF said. "We believe the 2015 rule failed to provide regulatory certainty and consistency and exceeded the Agencies' legal authority under the [Clean Water Act]." The Clean Water Act (CWA) of 1972 gave the federal government jurisdiction over navigable waters but left the regulation of non-navigable waters to the states. However, over the years, the federal government has continually and wrongfully expanded its authority over these non-navigable waters, according to NMPF.

NMPF said the two agencies need to apply the definitions of the WOTUS rule in ways that are consistent with recent Supreme Court decisions and long-standing farming practices. Re-codifying the

regulations that existed before the 2015 rule was developed will provide continuity and certainty for dairy farmers, other regulated entities, states governments, agency staff, and the public, the comments said.

The EPA and ACE should proceed with a notice-and-comment rulemaking process, in which two agencies re-evaluate the definition of WOTUS. NMPF said this must be done to correct the 2015 rule's lack of clarity on key terms, such as "adjacent," "floodplain," and "significant nexus." Dairy producers must be able to understand what constitutes federally-regulated waters of the United States, so they can better manage water quality on their farms.

With the repeal docket now closed, it is likely that the 2015 rule will be repealed permanently. NMPF will now focus on suggesting modifications to the pre-2015 rule and how it can be changed to provide the necessary clarity and certainty.

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The National Milk Producers Federation (NMPF), based in Arlington, VA, develops and carries out policies that advance the well-being 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 dairy producers on Capitol Hill and with government agencies. For more on NMPF's activities, visit our website at www.nmpf.org.