**6 things to know: Trump erodes water protections:**

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The Trump administration on Thursday signed its long-promised regulation to remove millions of miles of streams and roughly half the country’s wetlands from federal protection, the largest rollback of the Clean Water Act since the modern law was passed in 1972.

The move delivers a major win for the agriculture, homebuilding, mining, and oil and gas industries, which have for decades sought to shrink the scope of the water law that requires them to obtain permits to discharge pollution into waterways or fill in wetlands, and imposes fines for oil spills into protected waterways.

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Those industries had fiercely fought an Obama-era regulation that cemented broad protections for headwater streams, which are at the beginning of the river network, as well as certain wetlands. President Donald Trump, whose golf courses and other businesses had fought with regulators over Clean Water Act permits, has lambasted that rule as "disastrous" and his administration [repealed](https://www.politico.com/story/2019/09/12/trump-repeal-epa-water-rule-1492183) it last year.

Here are six things to know about the new regulation, known as the Navigable Waters Protection Rule:

**1) It goes beyond overturning Obama to erase protections that have been in place for decades**

The Trump administration has made a point of rolling back environmental rules put in place by its predecessor, accusing the Obama administration of federal overreach. But the new regulation goes much beyond repealing the Obama-era rule, unwinding the previous rules that have been in place to protect headwater streams and wetlands since the 1970s and ‘80s.

“President Trump’s administration wants to make our waters burn again,” Earthjustice attorney Janette Brimmer said in a statement, referring to the 1969 fire on the Cuyahoga River in Cleveland that served as a major impetus for passing the Clean Water Act.**“**This all-out assault on basic safeguards will send our country back to the days when corporate polluters could dump whatever sludge or slime they wished into the streams and wetlands that often connect to the water we drink.”

**2) It drew complaints from EPA's own advisers**

The Trump administration issued the rule despite concerns raised by EPA’s outside scientific advisers, who issued a [draft report](https://yosemite.epa.gov/sab/sabproduct.nsf/ea5d9a9b55cc319285256cbd005a472e/5939af1252ddadfb852584e10053d472/$FILE/WOTUS%20SAB%20Draft%20Commentary_10_16_19_.pdf) in late December that said the proposed version of the rule was “in conflict with established science … and the objectives of the Clean Water Act.” The criticism was particularly notable given that the majority of the board members were handpicked by the Trump administration.

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When the Obama administration issued its more expansive rule in 2015, it did so based on a [massive scientific report](https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=296414) that documented the importance of small streams to the health of downstream rivers and bays. In overturning that rule and issuing a far narrower one that would remove federal protections for waterways that don't flow regularly and wetlands that don't have an immediate surface water connection to larger waterways, the Trump administration has argued that it's a matter of policy rather than of science.

"This isn’t about what’s an important water body. All water is important. This is about what waters Congress intended the agency to regulate," a senior EPA official said on a call with reporters Thursday.

**3) Half the country's wetlands could lose protection**

Wetlands, the in-between zone separating water and land, serve a crucial role in soaking up flood waters, filtering pollution and providing habitat to fish and wildlife. Despite a goal by President Ronald Reagan to have "no net loss" of wetlands, the U.S. has drained or filled in the lion's share of its marshes and bogs, and is [continuing](https://www.fws.gov/wetlands/documents/Status-and-Trends-of-Wetlands-in-the-Conterminous-United-States-2004-to-2009.pdf) on a downward trend.

The new rule lifts federal protections for roughly half of the country's wetlands, according to the agency's own [internal estimates](https://www.sciencemag.org/news/2018/12/epa-claims-no-data-impact-weakening-water-rule-numbers-exist) Environmental groups say this would surely accelerate the trend of lost wetlands at a time when the changing climate makes their benefits all the more important.

**4) Dry, Western states will see the biggest impact**

Waterways in arid regions of the country, particularly in the West, are likely to be among those most affected by the new rule, which removes federal protections for streams that flow only after rainfall. [According to EPA](https://www.epa.gov/sites/production/files/2015-03/documents/ephemeral_streams_report_final_508-kepner.pdf), as much as 94 percent of Arizona’s waterways could lose Clean Water Act protection under the regulation, as well as 89 percent of Nevada's.

The Trump administration argues that just because a waterway isn't federally regulated doesn't mean that it's not protected, since states can still set more expansive protections. "Many states already have a robust network of regulations that protect their state’s waterways," EPA Administrator Andrew Wheeler told reporters. But many states, including Arizona, have laws on the books that prevent them from regulating more stringently than the federal government and states have been [cutting](https://www.environmentalintegrity.org/reports/the-thin-green-line/) the budgets for their environmental agencies.

**5) Après WOTUS, the deluge of lawsuits**

The new rule will set off the the latest fight in a decades’ long legal brawl over the scope of the Clean Water Act, which intensified following a muddled Supreme Court decision in 2006. With environmental groups already vowing to sue, the new Trump rule will likely become quickly entangled in litigation, much as its Obama-era predecessor was.

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The water law is aimed at cleaning up “navigable waters” like the Mississippi River and the Chesapeake Bay, but it is widely recognized that those can’t be protected without also restricting pollution into the streams and creeks that flow into them, as well as the wetlands that buffer them from runoff. But how far upstream the law’s protections reach has been a source of heated controversy.

In 2006, the Supreme Court issued a splintered decision in a case involving a patch of Michigan wetlands slated for development. The court’s four conservative justices, led by the late Justice Antonin Scalia, backed a narrow approach to federal jurisdiction, while the court’s four liberal justices endorsed broad federal authority. Justice Anthony Kennedy, who retired from the bench in 2018, joined the conservatives but issued his own, stand-alone opinion that set a more inclusive standard that gave federal protection to any streams and wetlands that had a “significant nexus” to navigable waters.

Federal appeals courts have found Kennedy’s opinion to be the guiding one, but barely a month after taking office, President Trump issued an executive order directing EPA and the Army Corps of Engineers, which issues certain Clean Water Act permits, to hew to Scalia’s opinion in drafting a new definition of which waterways should be protected.

**6) Expect confusion on the ground**

Legal experts say the Trump rule is likely to be placed on hold by federal courts in at least some states, if not nationwide, as the litigation works its way through the courts. In the meantime. developers and other industries will have to decide how much of a risk they're willing to take.

While the Trump administration rule will technically allow them to impact many streams and wetlands without permits, Vermont Law School Professor Patrick Parenteau said that it’ll be a legal gamble for them to do so, given the legal uncertainty and the Clean Water Act’s hefty financial penalties for damaging protected waterways without a permit. Companies will have to ask themselves: “How much money is at stake and what happens if you guess wrong?” he said.

*Kelsey Tamborrino contributed to this report.*