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# Waters of the United States: A Case Study in Government Abuse

In a coast-to-coast power play, the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) have released a rule to revise the definition of “waters of the United States” (WOTUS) for application of the Clean Water Act (CWA or the Act). The new WOTUS definition, with hundreds of pages of explanatory material, defines the “waters of the United States” so generally that federal regulators will have power over almost all of the nation’s waters and much of the nation’s land around those waters. “Navigable waters” and the lands associated with those waters will now fall under EPA regulatory control and will include all “tributaries” (no matter how small or remote), “adjacent” water bodies,” 100-year floodplains, and, on a case-by-case basis, any water within 4,000 feet of a “tributary” or other covered water.

The rule is so broad and vague that federal regulators will be licensed to micromanage property owners who are far away from genuinely navigable waters such as rivers, lakes or the ocean. This move threatens to unleash a flood of federal regulations over people’s land and their lives, from one end of the continent to the other.

The agencies contend that the new rule explains existing regulations. But, in fact, it expands regulations by completely redefining the scope of federal authority under the Act. The Corps and EPA claim to have found authority under the CWA to regulate virtually all waters, and apparently dry land, in the United States. With absurdly few exceptions, nearly any wet area may now be subject to federal control.

Paynes Prairie in Gainesville, is located in a 100-year floodplain. Under the new EPA WOTUS rule it would be considered navigable water and therefore subject to EPA





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This expansion of federal power may be unrivaled in American federal regulatory history. The agencies' new rule exceeds federal jurisdiction and usurps the power of the States, including Florida's right to manage local land and water resources. It nullifies constitutional limits on federal authority and its implementation puts virtually all waters and much of the land in Florida under the control of the Army Corps of Engineers and the EPA.

The result of this expanded regulatory authority is that property owners must contend with a new federal layer of compliance and permitting bureaucracies before altering or using their property. Since an individual permit typically costs on average more than \$270,000, and \$28,000 for a nationwide permit, this power grab will come at a monumental cost to Florida's economy. If you own property in Florida, you may very well face federal oversight over any changes you seek to make to that property, because of this new rule.

According to the U.S. Supreme Court, sudden and expansive interpretations of long-standing laws are unreasonable and should be met with skepticism. The WOTUS rule certainly fits that bill. Floridians who believe in States' rights and limited government must understand the nature of this power grab and work with others to oppose the federal government's efforts to thwart years of Supreme Court precedent via this unprecedented arrogation of power.

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Read this case study on the Waters of the U.S. [here](#).

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