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## Local Opinions

# Water is precious. Virginia shouldn't be alone in protecting it.

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By Robert Whitescarver

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My wife, Jeanne, and I run a farm in the legendary Shenandoah Valley that has been in her family since 1746. She's a ninth-generation farmer here in Swoope, Va. Together with Jeanne's mother, we raise cows to produce calves for sale. I am also retired from the Agriculture Department's Natural Resources Conservation Service with 31 years of field experience.

We know a thing or two about agriculture. And we depend on abundant clean water for our livelihood. That's exactly why we have grave concerns about the proposed "waters of the United States" (WOTUS) rule that is [open for public comment until April 15](#).

For decades, I worked with farmers to help them improve water quality in the streams and wetlands on their farms by fencing livestock out of streams, installing alternate water supplies for livestock and planting trees and shrubs as streamside buffers. These measures reduce the erosion of land, sedimentation of streams and nutrient and pathogen pollution. Keeping cows out of streams and wetlands also reduces calf mortality. Livestock can't thrive on polluted, pathogen-laden water.

When Congress passed the [Clean Water Act](#) in 1972, it gave the Environmental Protection Agency and the Army Corps of Engineers the daunting task of determining what streams, rivers, lakes, seeps, springs and wetlands should be protected by federal law.

How far upstream should we have federal protection of our waters for those downstream? We have been redefining this point since 1972. Judicial interpretations and federal agency rulemakings have made the definition an ever-changing target. Some opposed the [Obama administration's 2015 definition](#). The [Trump administration is attempting to redefine](#) that point again to eliminate protections for many wetlands and intermittent streams.

I read the 67-page [proposal](#), and I don't think it's any clearer than the 2015 rule. What is clear is that the EPA and the corps would regulate and protect a lot less water than they do now, burdening states with more responsibility and threatening the success of major water-quality improvement programs such as the [Chesapeake Clean Water Blueprint](#).

The proposed rule provides protection for navigable waters, certain tributaries of those navigable waters and wetlands adjacent to those waters. Tributaries that in a "typical year" have surface-water flow to those waters are protected in the proposal. The rule offers a very complicated method for defining a typical year. And even worse, the EPA is considering eliminating protections for intermittent streams.

The bottom line is that, in effect, most wetlands would no longer be protected. The "adjacent" requirement for wetlands means they must abut or connect by surface water to navigable waters or their tributaries. If only groundwater connects them, or the connection does not meet the typical-year requirement, there will be no Clean Water Act protection.

Disturbingly, the proposed rule states that "tributaries as defined in this proposal do not include surface features that flow only in direct response to precipitation." This means that all ephemeral streams will be unprotected — even if they follow a defined channel.

I shake my head in disbelief.

Precipitation directly charges all freshwater streams, rivers, springs, seeps, groundwater and wetlands. We must understand that all water is connected, whether it is on the surface, in the ground, in the air as water vapor or clouds, or in the vascular system of a tree — it's all part of the hydrologic cycle.

The proposed rule will leave many streams and wetlands open to pollution or destruction.

I believe, at a minimum, all channels that were naturally formed by the forces of flowing water, whether they have water in them or not, should be protected under the Clean Water Act.

The proposed WOTUS rule would profoundly limit current protections and enable polluters to pollute more streams and developers to destroy more wetlands.

For something as precious as water, more regulation is better than less. States are supposed to have regulatory powers over what the feds don't. But I'm not confident states are up to the challenge. For example, in Virginia the builders of the Mountain Valley Pipeline have been cited for more than [300 water quality violations of state law](#), and yet the [pipeline](#) is still under construction.

We have seen the benefits of clean water on our own farm. Middle River, a tributary of the South Fork of the Shenandoah, flows for a half-mile through the farm. Two ephemeral tributaries flow into the river from our pastures. We have fenced our cattle out of the river and both tributaries. We sample the river for E. coli where it enters our farm and where it leaves and see on average a 55 percent reduction in just a half-mile. This is attributable to keeping our cattle out of the river and maintaining a forested riparian buffer, which allows the river's ecosystem to clean itself.

Water is precious. We need to protect it.

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