



January 5, 2026

The Honorable Lee Zeldin
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20004

The Honorable Adam R. Telle
Assistant Secretary of the Army (Civil Works)
Department of the Army
108 Army Pentagon
Washington, DC 20310

RE: Proposed Rule Revising the Definition of "Waters of the United States" (EPA-HQ-OW-2025-0322)

Administrator Zeldin and Assistant Secretary Telle:

The undersigned organizations committed to protecting water resources and communities across the Great Lakes and the Midwest region, write to express our strong opposition to the proposed 2025 definition of "waters of the United States. The proposed rule represents the most restrictive interpretation of the Clean Water Act (CWA) in the statute's history and would dramatically undermine Congress's clear intent to protect the nation's waters from pollution.

The Great Lakes define our region's way of life, sustaining a \$6 trillion binational economy and protecting more than 90% of North America's supply of surface freshwater, the source of drinking water for more than 40 million people in the United States and Canada.¹

Our region of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, Wisconsin, and its federally recognized Tribes are already struggling from loss of Clean Water Act protections as a result of the Supreme Court's *Sackett* decision. Moreover, under the proposed rule, more than 80% of wetlands in the contiguous United States and at least 5 million miles of streams would lose federal protection and would become exposed to filling, dredging, and pollution

This rulemaking is unnecessary and contrary to the interests of the American public, all of whom depend upon clean, safe water resources for their health, their families' health, their livelihood, and their safety from contaminated drinking water, flooding, waterborne illnesses, and more. This proposal is harmful to our region and the nation's economic prosperity and well-being. It is also poorly conceived, contrary to science, and will only create further regulatory confusion, weakening the Clean Water Act and our clean water safeguards. The proposed rule:

Puts Polluters First

¹ GLC Resolution, 10/13/22

Removing federal protections for streams and wetlands will not provide safer drinking water, cleaner swimming beaches, more fish, healthier fish, more wildlife, healthier wildlife, more shellfish, healthier shellfish, or any other benefit that one would expect to see referenced in a CWA proposal from the EPA and the Corps. In fact, the proposal says explicitly that it is not analyzing the costs of the impacts from reduced federal protections.

EPA explicitly provides that the benefits of this proposal are for those who want to dispose of their effluent and fill more inexpensively. It is a return to the days of viewing U.S. waterways as sewers for disposal of toxins, sewage, manure, industrial waste and other chemicals that cause rivers to burn, stink, and kill the wildlife living in them, rather than to fuel a strong, healthy economy and population in the Great Lakes region and across the country.

Creates Uncertainty

The rule's reliance on an undefined and scientifically unsupported concept of a "wet season" is especially troubling. The requirement that a stream must flow for the entire duration of an unspecified "wet season" in order to qualify for protection is both arbitrary and unworkable. Any break in flow--whether natural, drought-induced, or caused by human activities--would sever jurisdiction for an entire system upstream. This would eliminate protections for countless intermittent and ephemeral streams that are well known to significantly influence downstream water integrity.

The approach to wetlands is equally problematic. According to the most recent analysis of U.S. wetlands trends, the U.S. has already lost more than half of the wetlands it once had across the country.² By restricting protections only to wetlands that directly abut another jurisdictional water and remain wet for the entire "wet season," the rule ignores the scientific reality that wetlands perform critical functions regardless of whether they meet such rigid criteria. It would exclude vast acreages of wetlands that filter pollutants, store floodwater, recharge groundwater, and provide irreplaceable habitat.

In many regions, including the Great Lakes, the proposed definition of "wet season" does not align with hydrologic conditions on the ground. For example, snowmelt-driven systems experience peak flows outside typical precipitation-based wet seasons. By failing to acknowledge this well-documented variability, and accounting for the dramatic impacts climate change is having on temperatures, rainfall patterns and seasons, the rule would exclude waters that are vital to downstream water quality and watershed resilience.

Ignores Public Support for Clean Water Nationally and in the Great Lakes Region

Americans want clean, safe water. That has been true since the CWA was enacted in 1972, and it is still true today. Support for clean water tops 90% in poll after poll over the years, and almost 8 of 10 Americans living in the Great Lakes watershed specifically support restoring CWA protection for small streams and wetlands. From Healing our Waters Voter Survey 2024. Americans want their waterways protected because they know that toxic pollution into upstream waterways can contaminate their drinking water. This is true whether the upstream water flows all the time or only some of the time – either way, pollution flows downhill. Americans want EPA and the Corps to protect its drinking water from contamination, not to protect polluters. This rule is inconsistent with the purposes of the CWA, the values of the people who live in the Great Lakes watershed and want to see it protected, and with EPA's

² <https://www.fws.gov/project/2019-wetlands-status-and-trends-report>

mission. Americans want to see EPA fulfill its statutory mission and protect the rivers, lakes, and wetlands that we value and protect our public health and environment.

Impacts the Great Lakes Region

The impacts of this severe restriction in federal protections for wetlands and streams will be significant. EPA and the Corps' own analysis notes that Illinois is expected to lose 95% of its wetlands from those previously protected; Indiana is expected to all but 3.5%; Michigan is expected to lose almost 97%; Minnesota is expected to lose 98%; New York is expected to lose almost 93%; Ohio is expected to lose almost 94%; Pennsylvania is expected to lose almost 98%; and Wisconsin is expected to lose more than 98%% (Table 3.1 on pp. 46-47 of the proposal). Those wetlands losses can be expected to have devastating impacts on the drinking water quality, flood protection, wildlife habitat, groundwater abundance and safety, and climate mitigation functions and values that those wetlands now provide (Table 3.1 pp. 46-47 of the proposal).

No states stand to potentially lose more than Michigan, Minnesota, and Wisconsin. Even in the least damaging of the three regulatory scenarios NRDC modeled — categorized as “Damaging,” “More Damaging,” and “Most Damaging” — they were the only states to lose federal protections for more than 1 million acres of wetlands. Compared to the rest of the Great Lakes basin, Michigan, Minnesota, and Wisconsin have retained the greatest share of their historic wetlands: roughly 50 percent each. Regionally, these risks are concentrated in three specific areas: shoreline along Michigan's Upper Peninsula, woodland bogs in northern Minnesota, and the agricultural communities of the Wisconsin River watershed. Loss of wetlands protections is expected to hit those regions particularly hard with flooding, drinking water contamination, and increased wildfire risk.³

At the other end of the spectrum, several Great Lakes states have already lost 90% or more of their wetlands and cannot afford to lose more. Illinois, Ohio, and Indiana have already lost between 85 percent and 90 percent of these ecosystems to development and agriculture. As a result of these losses, the remaining wetlands in Illinois, Ohio, and Indiana are crucial for maintaining water purity, recharging groundwater, watering livestock, and preventing flooding. The Polluted Water proposal's one-size-fits-all approach fails to account in any way for the special circumstances that wetlands and small streams play in many ecosystems. The functions that are not directly dependent on continuous surface connections to other protected waters are completely ignored.

Conservationists from Great Lakes and Mississippi River Basin watersheds are sounding the alarm. These proposed changes to CWA protections will not only expose the waterways they love to more pollution but may also reverse the progress they have made in restoring water quality to these waterways over the 53 years of CWA protection.

For these reasons, the undersigned groups strongly urge EPA and the Army Corps to withdraw the proposed regulations and instead retain and implement the 2023 Conforming Rule. The 2023 Conforming Rule is the most faithful to the Supreme Court's *Sackett* decision while providing certainty and ensuring scientifically grounded and workable protections for the waters that our communities, the Great Lakes ecosystem, and our local and national economies depend on.

Thank you for considering these comments.

Sincerely,

³ <https://www.circleofblue.org/2025/water-policy-politics/three-great-lakes-states-at-greatest-risk-as-epa-rolls-back-wetland-protections/>

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