In this report, top environmental economists find that the EPA used dubious methodology to justify weakening the Clean Water Act. The EPA and the Army Corps of Engineers repealed the Clean Water Rule, the Obama-era regulation that defined bodies of water protected from pollution under the Clean Water Act (CWA). The agencies replaced the Clean Water Rule with the Navigable Waters Protection Rule (NWPR), which strips CWA protection from isolated wetlands and ephemeral and intermittent streams.

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**Key Findings**

- **Assuming that every state has the same number of wetland acres**
- **Considering water quality to be a "local public good" only**
- **According to a 2017 staff analysis by the EPA and the Army Corps, the rule removes Clean Water Act protections from:**
  - Worsening water pollution onsite and downstream
  - Increased flood damage to communities as wetlands disappear
  - Loss of habitat for birds, fish and other species
  - Diminished recreational watersways
  - More frequent algal blooms
- **Assuming that many states will enact new legislation that doesn’t currently exist violates EPA’s own Guidelines for Preparing Economic Analyses.**
- **Assuming that states will protect bodies of water that have lost federal protection**
- **For the purposes of calculating nationwide benefits, one size fits all, from Arizona to Florida**

**Overview**

In this report, top environmental economists find that the EPA used dubious methodology to justify weakening the Clean Water Act. The EPA and the Army Corps of Engineers repealed the Clean Water Rule, the Obama-era regulation that defined bodies of water protected from pollution under the Clean Water Act (CWA). The agencies replaced the Clean Water Rule with the Navigable Waters Protection Rule (NWPR), which strips CWA protection from isolated wetlands and ephemeral and intermittent streams.

**In developing the rule, the E-EEAC found that the agencies' questionable methodology included:**

- Extensive research shows that even ephemeral streams and isolated wetlands connect to larger watersheds and affect what happens downstream
- Considering only local effects skewed the benefit-cost analysis
- The record shows this doesn’t happen: SCOTUS overturned the Migratory Bird Rule in 2001, removing federal protection from many wetlands. Since then, only a few states have extended jurisdiction to protect affected waters
- This assumption skewed the benefit-cost analysis
- Over half of U.S. wetlands
- 18% of U.S. streams
- 35% of streams in the West
- The new rule makes it easier for developers, agricultural operations, oil and gas companies, and mining companies to dredge, fill, divert and pollute waterways
- Worsening water pollution onsite and downstream
- Increased flood damage to communities as wetlands disappear
- Loss of habitat for birds, fish and other species
- Diminished recreational watersways
- More frequent algal blooms
- President-elect Biden has promised that his administration will review the rule change as part of its effort to undo environmental regulatory rollbacks by the Trump administration
- The Army Corps of Engineers is making faster decisions on permitting requests affecting wetlands and streams, and is finding it has no jurisdiction in most cases
- Companies are rushing to take advantage of the looser rule, from a titanium mining project near the Okefenokee National Wildlife Refuge in Georgia to coal mining companies in several states
- Op-ed by E-EEAC co-chairs looks at damage done to the EPA’s work over the past four years, and at what needs to change going forward
- The Biden administration will attempt to respond to a number of EPA rule rollbacks undertaken by the Trump administration. This report points to how a Biden administration can correct structural weaknesses in this rule as well as other important EPA policies.