



## Rolling Back the Obama Rules

**Why a Michigan farmer thinks D.C. is 'running like a well-oiled machine.'**

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When Laura Campbell heard about new water regulations emanating from President Barack Obama's Environmental Protection Agency a few years back, she started calling up maps on her computer.

The EPA was proposing to give itself the authority to regulate any water feature within 1,500 feet of a stream, and Campbell, who manages the agricultural ecology department for the Michigan Farm Bureau, wanted to see how far that authority would reach. Michigan—set amongst the Great Lakes—has lots of water, and thousands of miles of tributaries run in every direction. When she tried to overlay a 1,500-foot buffer onto a map of Michigan's streams on her office computer in Lansing, it took too much processing power. Everything froze. She finally succeeded in printing out maps on smaller scales and sent them out to the affected farmers.

About 4,000 farmers inundated Campbell with comments and questions. Some sent maps and photos of their fields, wondering if they would need to apply for permits for the fertilizers, pesticides, and plowing involved in everyday farm life. The expansion of the EPA's jurisdiction, she realized, would put "so much of our farmland under federal control that it would make it difficult for farmers to farm at all."

The Obama EPA issued the final rule, known informally as the "Waters of the United States" or WOTUS, in 2015. Eighteen states, including Michigan, sued to stop it. Federal courts immediately put the regulation on hold, noting that the new definitions might violate Supreme Court guidance and that the EPA appeared not to have followed proper rule-making procedures.

In February, with the WOTUS rule still in legal limbo, President Donald Trump signed an executive order directing the EPA to take a new look at it—beginning the process of killing it. In a White House ceremony, Trump called it a "massive power grab" and "one of the worst examples of federal regulation."

A two-year-old EPA rule that never took effect might not sound particularly important in these times of almost daily political earthquakes. But Trump's young presidency has seen dozens and dozens of tactical skirmishes against the regulatory state, fights that Trump and his cabinet have

been largely winning. It's not difficult to imagine a scenario under which Trump, battling low approval ratings and investigations, achieves few legislative victories during his presidency and instead points to executive regulatory moves as a major accomplishment—much as Obama in 2014 declared, "I've got a pen, and I've got a phone" when Congress refused to accede to his plans.

Those in favor of new regulations often frame them as baseball and apple pie issues that nobody could oppose, things like improving water quality or enhancing worker safety. But such efforts come with costs, and those bearing the burden of the rules say that the time and expense of complying with them should play a greater role in government decision-making.

Barring major legislation, the government has two main ways to roll back regulations: executive orders, which usually set in motion a long process for agencies to review rules, and the Congressional Review Act, which allows new rules to be immediately overturned following a vote by Congress and the president's signature. Trump has signed around a dozen executive orders related to Obama-era regulations and has undone 14 more through congressional acts. In the Obama years, regulators added 488 economically significant rules, according to George Washington University's Regulatory Studies Center.

The regulations being repealed or reviewed by Trump appointees cut across a wide range of industries. Construction companies cheered the overturning in March of the so-called "blacklisting rule," which required companies seeking federal contracts to report allegations of labor violations. Energy companies applauded executive orders designed to expand offshore oil exploration and boost coal plants. Tech and telecom companies supported the repeal of rules forcing them to require permission before using customer information to tailor online ads. There have been occasional setbacks, too: The Labor Department said last month that it would allow the "fiduciary rule," an investment-advice regulation opposed by the financial services industry, to take effect in June even though "it may not align with President Trump's deregulatory goals."

Many of the rescinded regulations sound insignificant—like WOTUS. But to Michigan farmers, the promise of erasing the Obama water regulations is "absolutely huge," Campbell says. "If you are a farmer, a builder, a golf course manager, if you're trying to do work out on the landscape, then this is dominating your life. If you're not—if you live in the city and you work in the service industry—then it's probably not something that's hit your radar. But it's still affecting you."

In Bay County, about 120 miles north of Detroit, Mike Mulders worried about the effect the WOTUS rule would have on his farm, where he grows potatoes, tomatoes, melons, sweet corn, and other vegetables. Like the other farms in the area, his 600 acres include a series of ditches built to drain the fields and collect rainwater, which is then pumped to irrigate the crops. Water from the ditches eventually drains into Saginaw Bay, part of Lake Huron. If the EPA has the power to regulate the water in his ditches, he worries he would need a permit to apply pesticides to crops within 1,500 feet of a ditch.

"If there's an invasive insect or fungal disease, we can't wait two, three, four weeks for a permit, or the entire crop would be lost," he says. "It's a significant issue. Our business would not be able to survive."

Supporters of the rule say farmers' fears are overblown and that the regulations include protections for ordinary farming. But farmers say they never know how the EPA will interpret and enforce a rule until it actually does.

In southeastern Michigan, Kevin Robson is encouraged by the regulatory rollback and what it means for his family's fourth-generation greenhouse operation, which grows plants and vegetables across 10 acres.

He's not so interested in water regulations like WOTUS, but rather the EPA's stance on chlorpyrifos, an insecticide used on fruits and vegetables. Environmentalists want it banned, citing some studies that suggest but do not prove that the insecticide could inhibit brain development in children. Robson says there's no alternative pesticide for some crops and that banning it would wipe out Michigan's onion industry. He says he wants decisions based on "sound science," not scaremongering. EPA administrator Scott Pruitt said in March that no determination on chlorpyrifos would be made until at least 2022.

Robson sees Pruitt's decision as a stark contrast to the ways of the Obama administration. "For the previous eight years," he says, "there was nothing growers would get excited about. When you said 'EPA,' they'd say, 'What's the next regulation they are going to slap on me?'"

And now?

"Things are moving and things are happening and things are positive," he says. "Even though you read everything in the news about 'Trump tweeted this,' all that stuff hasn't sidelined anything. D.C. is running like a well-oiled machine. Things are getting done. We've seen that. We've witnessed it."

It's hard to match that enthusiasm in Washington itself. Dan Mitchell, senior fellow at the Cato Institute, agrees that the Trump administration has headed in the right direction, and he is encouraged by the installation of free-market champions atop big regulatory agencies. But he's skeptical that the rollback will continue. Big changes will require legislation, he says. And he's unsure that the administration will have the courage to withstand the predictable howls of media outrage. The reversals so far, he notes, are minuscule compared with the immense regulatory burden.

"They are doing the right things, and I can't complain about any of the steps they've taken so far," he says. "But I'm waiting to see how much follow-through there will be to keep the process going. . . . If you're driving in the wrong direction and hit the brakes, that's good. But you're still on the wrong side of town. It would be nice to put it in reverse."