

PROTECTING KENTUCKY WATERS

WHAT THE NEW FEDERAL RULE MEANS FOR OUR COMMONWEALTH

January 2026 Rev.0

During the 2025 Kentucky Legislative Session, Senate Bill 89 changed Kentucky's legal definition of "water of the Commonwealth" to mirror the federal government's definition of Waters of the United States (WOTUS). This means that whenever the federal government changes its rules about which rivers, streams, wetlands, or reservoirs are protected from pollution, those rules may change for Kentucky too, without any comments from the public or debate in the Legislature.

Potential impacts to the Commonwealth:

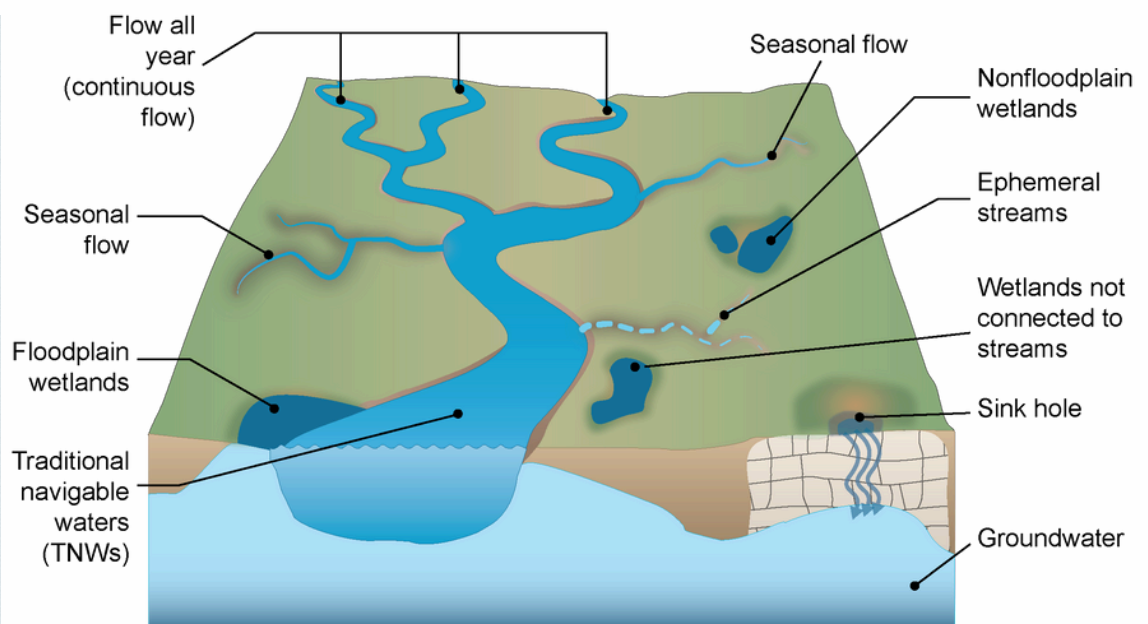
- **Hunting & Fishing:** Impacts to bird and waterfowl habitat could limit hunting and fishing opportunities
- **Flood Protection:** Loss of natural areas that help absorb and store water for our flood prone communities
- **Recreation & Tourism:** Reduced protections could degrade lakes and rivers used for recreation, leading to fewer outdoor opportunities and lost tourism revenue
- **Drinking Water:** Potential increased costs to treat drinking water sources across the Commonwealth

Kentucky is in a uniquely vulnerable position. Because Kentucky's statute now defines its waters consistent with the jurisdictional reach of the federal government, these impacts are ultimately tied to US Environmental Protection Agency (EPA) and US Army Corps of Engineers (USACE) rulemakings defining WOTUS. This means that questions about what waters the state protects will depend on which political party is in power rather than a true scientific or geological standard.

Kentucky's Water Resources

Kentucky's water supply is supported by a diverse, interconnected network of rivers, streams, lakes, and groundwater aquifers.

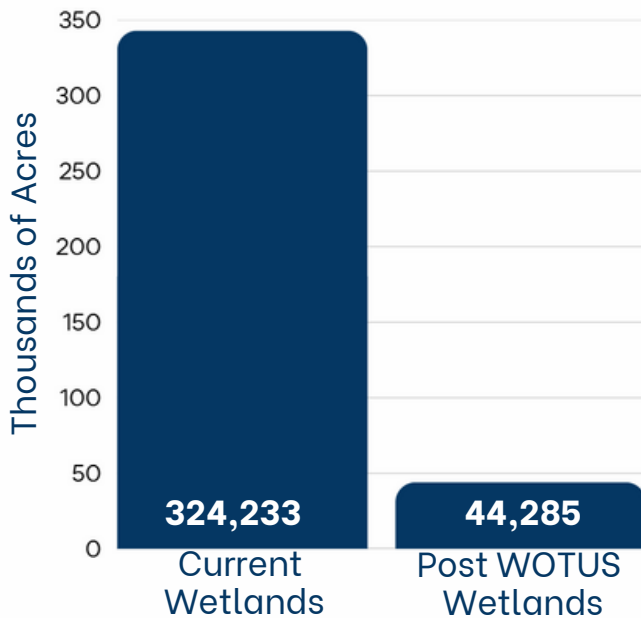
Senate Bill 89 ceded the federal government authority to define what parts of that network can be regulated, using definitions from Waters of the US (WOTUS).



WETLANDS

NATURE'S FLOOD DEFENSE

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Wetlands act like natural sponges, soaking up heavy rains and holding onto water during storms. They slow down runoff, spread out floodwaters and release water slowly, reducing the pressure on nearby communities. Each acre of a wetland is capable of holding up to 1.5 million gallons of floodwater.

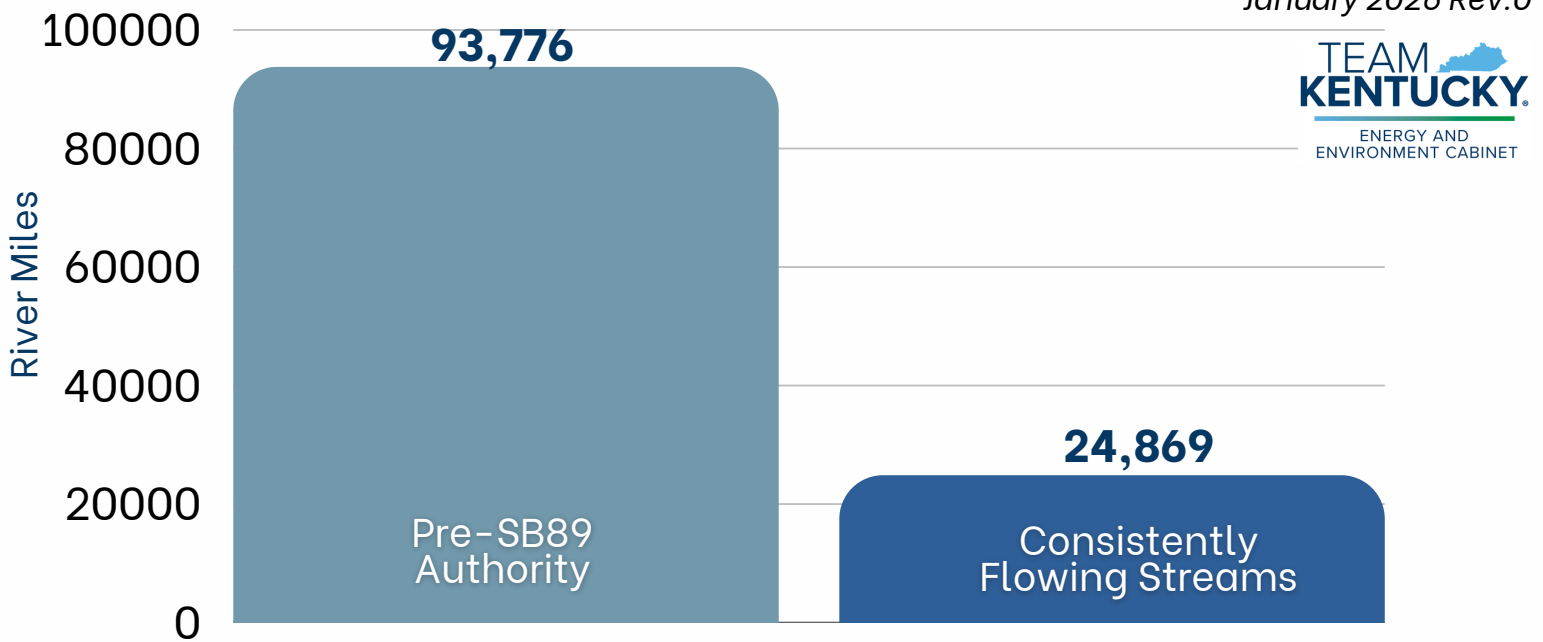
- Under the proposed WOTUS rule, the EPA estimates that only 14 percent of Kentucky's wetlands would remain protected.
- The wetlands at risk currently store over 280 billion gallons of water – **that is the same volume as Barren River Lake, Green River Lake or Cave Run Lake!**
- Without protection under Kentucky law, more frequent and severe flooding, fewer hunting and outdoor opportunities, and harm to wildlife could occur.

If the federal government adopts a narrower definition, many wetlands will no longer be protected under Kentucky law.

PROPOSED KENTUCKY AUTHORITY

CONTINUOUSLY FLOWING RIVERS & STREAMS

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Under the proposed WOTUS definition, federal protection may apply only to rivers flowing consistently through most of the year. Most of Kentucky's streams only flow seasonally. The new WOTUS rule could leave many of these streams unprotected under Kentucky law.

- Approximately 74 percent of all streams, nearly 69,000 miles, flow only during certain times.
- These changes could result in greater flood risks, poorer water quality, impacts to outdoor tourism and recreation, and higher water treatment costs for Kentucky families.
- Identifying which seasonal streams qualify would be complicated and lead to potential delays in permitting.

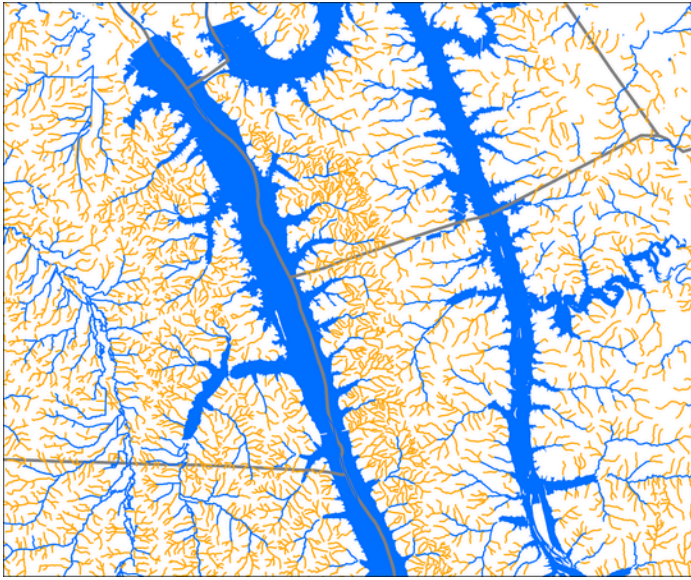
If the federal government adopts a narrower definition, seasonal streams will no longer be protected under Kentucky law.

PROPOSED KENTUCKY AUTHORITY

CONTINUOUSLY FLOWING RIVERS & STREAMS

Western Kentucky Region - Kentucky Lake

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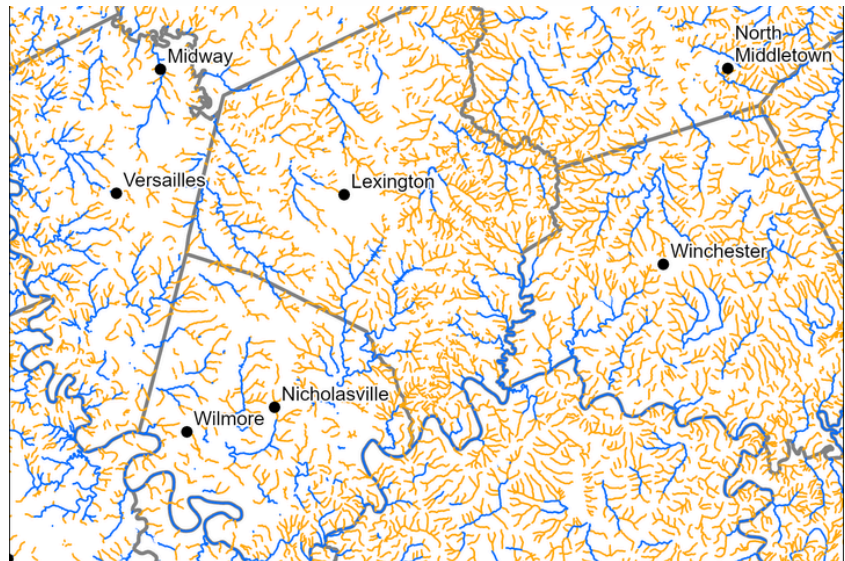


**See if this impacts your
backyard stream**

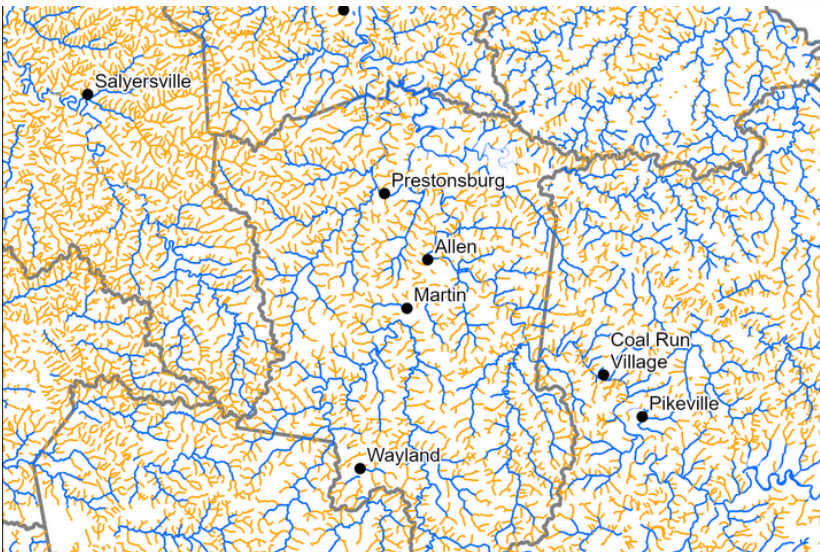


Central Kentucky Region - Lexington

**If the federal government
adopts a narrower
definition, all orange lines
could no longer be protected
under current Kentucky law.**



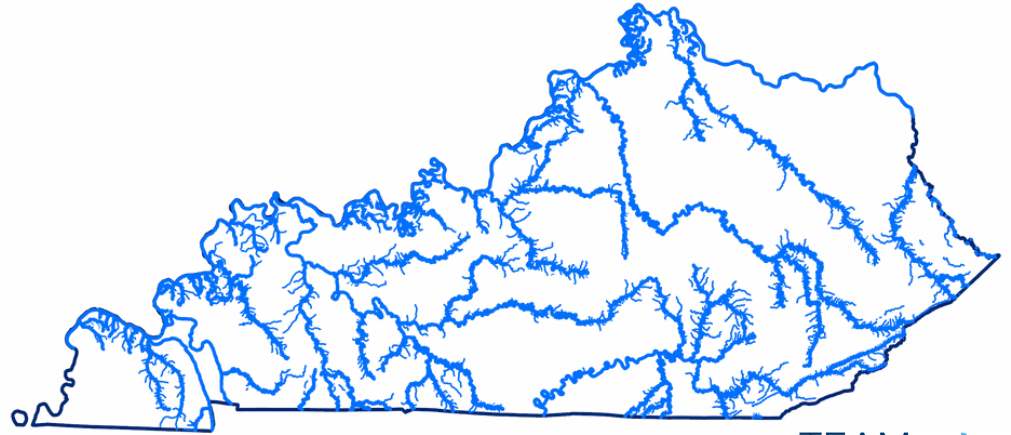
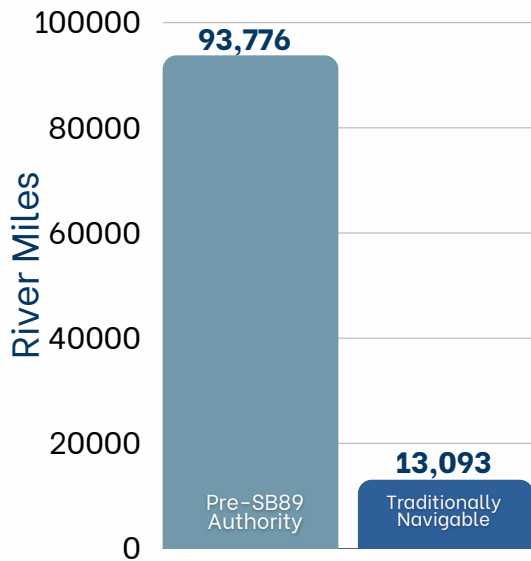
Eastern Kentucky Region - Pikeville



PROPOSED KENTUCKY AUTHORITY

TRADITIONALLY NAVIGABLE WATERS & TRIBUTARIES

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TEAM KENTUCKY.
ENERGY AND ENVIRONMENT CABINET

Under the proposed WOTUS definition, federal protection may apply only to traditionally navigable waters and the streams that flow directly into them.

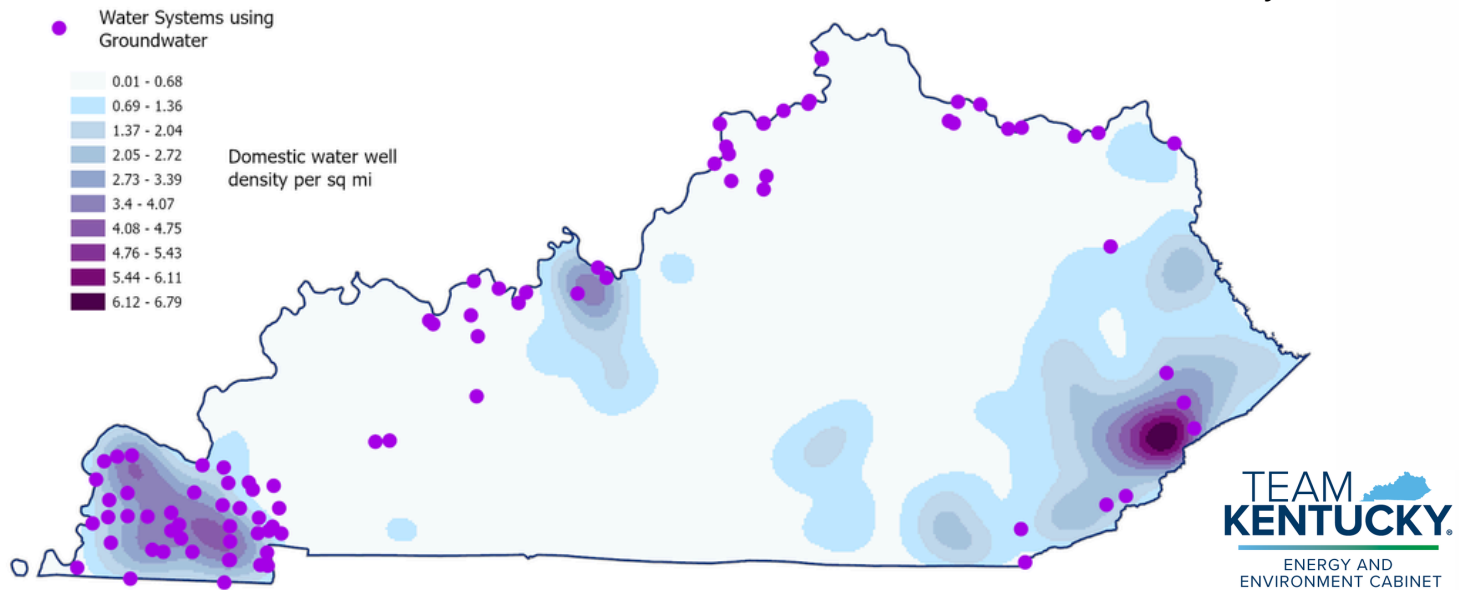
- These waters make up approximately 14 percent of Kentucky's 93,000 stream miles.
- The remaining 86 percent, no longer protected under Kentucky law, are the streams that supply drinking water, reduce flooding, support wildlife, and filter pollution.
- Under this proposed definition, more pollution could reach the waterways that supply Kentucky's drinking water systems, driving up the cost of treating and producing clean water.
- This potential change could also mean fewer safeguards for the creeks and small streams that support fishing, swimming and boating, and healthy habitats across Kentucky.

If the federal government adopts a narrower definition, a large portion of the Commonwealth's creeks and streams will no longer be protected under Kentucky law.

GROUNDWATER IMPACTS

DRINKING WATER SOURCES

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The proposed update to WOTUS has excluded groundwater completely from the definition. If fewer streams and wetlands are protected under federal and state law, groundwater could be affected in several ways:

- 127 Public water systems supply ~760,000 residents with clean drinking water from groundwater sources.
- While these areas are protected under SB89 and a Wellhead Protection Area, not all domestic use wells have the same protection
- Many Kentucky families rely on private wells as their only source of drinking water. These private wells are **not** protected under current Kentucky law.
- Since 1984, the Division of Water has privately drilled well records for 30,000 wells.
- Streams and wetlands act as natural filters for these wells. If certain streams and wetlands are no longer protected under Kentucky law, pollution may enter the ground more easily and contaminate groundwater.

If the federal government adopts a narrower definition, groundwater resources could no longer be protected under Kentucky law.