

GOP: EPA rule could ruin Fourth of July

By Michael Bastasch, Daily Caller

While Americans get ready for the thousands of fireworks shows that will be occurring across the country this weekend, Republicans are warning that pending federal water regulations could ruin fireworks displays next year.

The Environmental Protection Agency is trying to expand its authority under the Clean Water Act. Republicans warn that the agency's proposal to expand the definition of "waters of the United States" could allow the EPA to regulate bodies of water on private property.

Republicans are now warning that EPA water rules could threaten fireworks by allowing environmental activists to sue and shut down shows across the country.

"If the proposed 'waters of the United States' rule becomes final and serves as the eventual basis for future citizen suits against those who organize fireworks shows, we fear fewer homeowners, communities, or local organizations will be able to conduct fireworks displays as they have for decades or longer," wrote Republican Senators, including David Vitter of Louisiana and John Barrasso of Wyoming, in a letter to the EPA.

Environmentalists have already been using litigation to stop fireworks shows from happening near or over federally protected waters. Environmentalists sued the Lake Tahoe Visitors Authority alleging their fireworks show violated the Clean Water Act.

Environmentalists said the fireworks show would result in the unpermitted discharge of pollutants into the lake. The lawsuit

demanded that Lake Tahoe pay \$37,500 per day in penalties for each violation of the Clean Water Act. Lake Tahoe officials nearly canceled the show. The lawsuit was settled in April.

“By expanding federal Clean Water Act jurisdiction to include ditches, small streams, ponds, and other purely local waterbodies, EPA and the [Army Corps of Engineers] may be exposing landowners and municipalities across the country to costly citizen suit litigation if they should attempt to conduct a neighborhood fireworks show,” Republicans wrote.

“Commemorative fireworks displays have been a part of our nation’s history since its founding. However, there are individuals and groups who would like to significantly limit this tradition through heavy-handed citizen suit litigation under the Clean Water Act and other laws,” Republicans added.

In March, the EPA published its proposed “waters of the United States” rule. The agency said the rule was meant to clear up confusion surrounding two federal court decisions on the agency’s Clean Water Act authority.

But Republicans have said it’s no more than a power grab by the Obama administration. The rule could allow federal agents to regulate water on private property, they warned.

“As expected, the EPA’s proposed water rule expands the agency’s control over natural and man-made streams, lakes, ponds and wetlands,” said Rep. Lamar Smith, R-Texas. “If approved, this rule could allow the EPA to regulate virtually every body of water in the United States.”

The EPA’s draft rule defines “waters of the United States” as “traditional navigable waters; interstate waters, including interstate wetlands; the territorial seas; impoundments of traditional navigable waters, interstate waters, including interstate wetlands, the territorial seas, and tributaries, as defined, of such waters; tributaries, as defined, of traditional navigable waters, interstate waters, or the

territorial seas; and adjacent waters, including adjacent wetlands.”

But the agency says additional bodies of water could be regulated if they have a “significant nexus” to a “traditional navigable water, interstate water, or the territorial seas.” The EPA says it will provide a definition of “significant nexus” when the rule is published.

These waters need not even be navigable – the type of water body the federal government has traditionally regulated. Republicans have questioned how the EPA could justify regulating water bodies that are no longer connected to navigable waterways or other traditionally regulated bodies of water.

“In preparing this proposal, the EPA failed to incorporate adequate peer-reviewed science in accordance with the agency’s own statutory obligations,” Smith said. “It’s troubling that the administration proposed this expansion before its independent science advisers have had the chance to complete its review of the underlying science. The Obama administration continues to sidestep scientific integrity in order to fast track an abusive regulatory agenda.”