



REDEFINING REGULATION OF US WATERWAYS

On December 11, 2018, the U.S. Environmental Protection Agency (EPA) and United States Army Corps of Engineers (USACE) proposed a [new definition](#) of “waters of the United States” (or WOTUS) to clarify which waterways are federally protected under the Clean Water Act. This new definition is expected to be published in the Federal Register and interested parties will be able to provide feedback on the definition during the 60-day public comment period.

A little background on WOTUS

In June 2017, the EPA and USACE formally proposed to repeal the 2015 Clean Water Rule, commonly referred to as the Waters of the United States (WOTUS) Rule, which expanded guidance for the regulation of certain waterways under the Clean Water Act. The [WOTUS repeal](#) meant returning to 2008 regulations to determine whether a waterway is subject to federal oversight. The agencies’ proposal also called for re-evaluating and redefining the scope of “waters of the United States” in a new rule. The agencies held outreach meetings in 2017 to hear from stakeholders in various sectors as they reviewed the WOTUS rule and considered a revised definition.

So, what’s included in the new WOTUS definition?

The Trump Administration’s [revised “waters of the United States”](#) definition under the Clean Water Act will encompass:

- Traditional navigable waters, including the territorial seas
- Tributaries (river, streams, or other naturally occurring surface water channels) that contribute perennial or intermittent flow to such waters
- Certain ditches
- Certain lakes and ponds
- Impoundments of otherwise jurisdictional waters
- Wetlands adjacent to other jurisdictional waters

This proposed rule is intended to increase Clean Water Act program predictability and consistency by clarifying the scope of the waterways federally regulated under the Act. It is also intended to implement the overall objective of the Clean Water Act to restore and maintain the quality of the nation's waters while respecting state and tribal authority over their own land and water resources.

Want to learn more?

Contact us with questions about the new proposed rule.

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verb: research or make inquiries into something
synonyms: investigate, inquire into, probe, explore, research, look into