

Revised Definition of “Waters of the United States” Response to Comments Document

INTRODUCTION

This Response to Comments Document, together with the preamble to the final rule on a Revised Definition of “Waters of the United States,” presents responses of the U.S. Environmental Protection Agency and U.S. Department of the Army (together, “the agencies”) to the comments received on the proposed rule, 86 FR 69372 (Dec. 7, 2021).

In developing the final rule, the agencies reviewed approximately 114,000 comments received on the proposed rule from a broad spectrum of interested parties. Commenters provided a wide range of feedback on the proposal, including: the legal basis for the proposed rule; the agencies’ proposed treatment of categories of jurisdictional waters and those features that would not be jurisdictional; the Economic Analysis and Technical Support Document for the proposed rule; and the need for a clear and implementable rule that is easy for the public to understand. The agencies fully considered these timely comments and addressed all significant issues raised therein, including by revising the rule to improve the clarity, implementability, and durability of the definition.

To prepare this document, the agencies grouped comment summaries by topic across a total of eighteen sections. The agencies then developed responses to the comments summarized in each topic. In this document, the agencies’ responses appear in **bold text**.

The responses presented in this document respond to comments that are not otherwise addressed in the preamble to the final rule and, in some instances, supplement the preamble’s responses to key issues raised in comments. Although portions of the preamble to the final rule are paraphrased in this document where useful to add clarity to responses, the preamble itself is the definitive statement of the agencies’ rationale for the final rule. To the extent a response in this document could be construed as in conflict with the preamble or the final rule, the language in the final rule preamble and regulatory text controls and should be used for purposes of understanding the scope, requirements, and basis of the final rule.

In many instances, responses presented in this Response to Comments Document include cross-references to responses on similar or related issues located in the preamble to the final rule, the Economic Analysis for the Final Rule, the Technical Support Document for the Final Rule, and/or other sections of the Response to Comments Document.

Accordingly, this Response to Comments Document, together with the preamble to the final rule, the Economic Analysis for the Final Rule, the Technical Support Document for the Final Rule, and the rest of the administrative record should be considered collectively as the agencies’ response to all of the significant comments submitted on the proposed rule.