

2025 Proposed “Waters of the United States” (WOTUS) Rule

On November 17, 2025, the U.S. Environmental Protection Agency (EPA) and the Department of the Army announced proposed revisions to the 2023 definition of “waters of the United States,” which defines the scope of federal jurisdiction over Clean Water Act permitting. When finalized, this WOTUS rule will help accelerate economic prosperity while protecting vital water resources. It will fully implement the direction provided by the U.S. Supreme Court’s 2023 decision in *Sackett v. EPA*. It will cut red tape and provide clarity for American industry, energy producers, farmers, ranchers, developers, businesses, and landowners. The proposal will also protect water quality by striking balance between federal and state authority, recognizing that states and tribes are best positioned to appropriately manage their local land and water resources.

Proposed Revisions to the Definition of WOTUS

The agencies’ proposed definition of WOTUS would fully implement the Court’s direction by ensuring federal jurisdiction is focused on relatively permanent, standing or continuously flowing bodies of water—such as streams, oceans, rivers, and lakes—and wetlands that are connected and indistinguishable from such waterbodies. Specifically, the proposed rule would:

- Define “relatively permanent” to ensure the *Sackett* decision is fully implemented. The term focuses on those waters that are standing or continuously flowing year-round or at least during the “wet season.” This would be applicable to the tributaries and lakes and ponds categories.
- Define “tributary” to ensure only those relatively permanent bodies of water that meet specific requirements be considered jurisdictional.
- Define “continuous surface connection” to fully implement the *Sackett* decision. This term would require wetlands to meet a new two-part test to be jurisdictional: 1) they must abut a jurisdictional water, and 2) they must have surface water at least during the wet season.
- Remove interstate waters from the categories of jurisdictional waters to make clear that such waters no longer gain jurisdiction by simply crossing state lines.
- Clarify what constitutes “excluded ditches” through a proposed definition of ditch to distinguish these features from other types of waters and exclude those ditches constructed or excavated in dry land.
- Clarify what constitutes “excluded prior converted cropland” with a definition that allows the agencies to identify prior converted cropland and to ensure that prior converted cropland only loses its designation when it has been abandoned and reverts to wetlands. The definition provides additional context on abandonment to ensure agricultural producers do not inappropriately lose the exclusion under the Act for doing good work on their lands.
- Clarify what constitutes “excluded waste treatment systems” through the addition of a definition which provides helpful direction as to the breadth of systems that meet the exclusion.
- Underscore that groundwater is not considered WOTUS through a proposed exclusion.

Next Steps

The proposed rule will be published in the *Federal Register*, which will start a 45-day public comment period. EPA and the Army will host two hybrid public meetings. Details about commenting either in writing or during a public meeting can be found on EPA's website. The agencies look forward to reviewing public comment while working to expeditiously develop a final rule. Please see additional information on [Waters of the United States](#).