Waters of the United States/Clean Water Act: Association of State Drinking Water Administrators Comments on U.S. EPA Proposed Rule



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The Association of State Drinking Water Administrators ("ASDWA") submitted December 19, 2025, comments to the United States Environmental Protection Agency ("EPA") and U.S. Army Corps of Engineers ("Corps") on the proposed rule to revise the definition of "Waters of the Untied States" ("WOTUS"). See Docket (EPA-HQ-OW-2025-0322).

ASDWA describes the organization as the:

… national, nonpartisan, non-profit association representing the collective interest of the drinking water program administrators in the 50 states, 5 territories, the District of Columbia, and the Navaho Nation.

ASDWA states that its members implement the Safe Drinking Water Act ("SDWA") "every day to provide safe drinking water and protect public health."

EPA and the Corps in announcing the proposed revisions to the definition of WOTUS stated that the intent included:

- Amending the definition of "waters of the United States" ("WOTUS") in light of the United States Supreme Court's 2023 decision in *Sackett v. Environmental Protection Agency*.
- Provide greater regulatory certainty/predictability/consistency by clarifying the definition of WOTUS.
- 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.

The Trump Administration has sought to narrow aspects of the Biden-era rulemaking addressing this definition in regard to a determination of *Sackett's* outline of when adjacent wetlands are jurisdictional.

EPA states by way of introduction to the proposed rule that in September 2023, the agencies issued a final rule without notice and comment amending the regulations defining WOTUS to conform to the Supreme Court's *Sackett* decision. They state that numerous concerns raised by stakeholders about the Amended 2023 Rule, including that the Amended 2023 Rule does not adequately comply with the Supreme Court's interpretation in *Sackett* of the scope of Federal jurisdiction under the Act as well as identifying implementation-related issues.

The agencies argue that in this proposed rule they are revising the 2023 rule to:

- Implement the *Sackett* decision.
- Provide greater regulatory certainty.

- Increase Clean Water Act program predictability and consistency.

ASDWA's points in the comments include:

- Recommends that EPA and Corps work closely with states as co-regulators, to refine and finalize the proposed rule, to develop subsequent guidance, and to ensure a durable and consistent rule in implementation actions.
- Notes that states have extensive experience with political, legal, scientific, and practical implementation of WOTUS regulations.
- Consider state costs and implementation timelines.
- Recommends consideration and ensure funding for state administrative costs and direct implementation costs and timelines, including significant costs and timelines for revisiting and revising current statute and regulations.
- Consider delayed implementation of WOTUS rulemaking to allow states additional time to update their respective legislative and administrative processes.
- Work with states wanting expanded protections but unable to adopt their own regulations (noting some states want to keep protections but will lose them because they are not able to adopt regulations that are more stringent than federal standards).
- Consider the role of groundwater (recognizes groundwater is not jurisdictional, but agencies must use coordinated approaches to ensure discharges to it do not create Clean Water Act water quality impairments, and conversely, actions taken to achieve Clean Water Act goals not inadvertently contribute to groundwater contamination).
- Look broadly across programs using a holistic lifecycle approach and protect drinking water sources.
- Holistic lifecycle approach is essential to ensure that connections between the Clean Water Act and SDWA, surface water and groundwater quality and quantity, and across media are considered in all the agencies' efforts and actions.
- Holistic lifecycle approach ensures that pollutants are not transferred from one media (in one waterbody) to another.
- Notes a collective effort to develop the 2014 CWA-SDWA Toolkit which highlights how Clean Water Act provisions and tools including Water Quality Standards; Monitoring, Assessment, and Impaired Waters Listings; and other provisions can be used to mitigate impacts to drinking water sources.

A copy of the ASDWA comments can be found here.