Waters of the United States/Clean Water Act: Golf Course Superintendent's Association of America Comments on U.S. EPA Supplemental Proposed Rule



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

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The Golf Course Superintendents Association of America ("GCSAA") submitted October 9th comments addressing the United States Environmental Protection Agency's ("EPA"):

Supplemental Notice of Proposed Rulemaking, Updated Definition of "Waters of the United States ("Supplemental Proposed Rule").

See Docket No. EPA-HQ-OW-2025-0322; 91 Fed. Reg. 57,284 (Sept. 9, 2026).

EPA and the U.S. Army Corps of Engineers (collectively, "EPA") describe the Supplemental Proposed Rule as:

… collecting input on additional regulatory language for defining "waters of the United States" ("WOTUS") to be considered alongside the 2025 proposed rule.

The Supplemental Proposed Rule would supplement the regulatory text in the November 20, 2025 Notice of Proposed Rulemaking, which proposes to revise the regulations defining the scope of waters federally covered under the Clean Water Act. See 90 Fed. Reg. 52498 (Nov. 20, 2025) ("2025 Proposed Rule").

The definition of WOTUS is arguably one of the most critical jurisdictional terms in the Clean Water Act ("CWA"). Its importance is magnified since it is relevant to both National Pollutant Discharge Elimination System ("NPDES") permitting and non-NPDES programs such as:

- Section 404 of the Clean Water Act wetland permits.
- Section 311 oil/hazardous substance release requirements.
- Clean Water Act Spill Prevention Control and Countermeasure regulations.

As a result, the definition of WOTUS has been and continues to be the subject of frequent litigation, legislative oversight, rulemakings, and public policy debates since the enactment of the modern version of the CWA in 1972.

EPA states that in regard to the 2025 Proposed Rule that it received approximately 220,000 public comments. The federal agencies state that they are now seeking additional input on the regulatory text for the following definitions:

- Relatively permanent.
- Continuous surface connection.
- Perennial.

GCSAA describes itself as a leading golf organization in the United States whose focus is on golf course management, and since 1926 has been the top professional association for the men and women who manage golf courses in the U.S. and worldwide.

By way of introduction, the GCSAA comments note that golf course superintendents manage complex landscapes containing:

- Natural streams.
- Wetlands.
- Irrigation ponds.
- Stormwater infrastructure.
- Drainage systems.
- Other water-management features.

Therefore, the organization believes that clear, predictable and practical jurisdictional standards are essential to responsible management of these resources.

GCSAA also initially notes that the organization:

- Supports the supplemental proposed definitions of "relatively permanent" and "continuous surface connection" as steps toward greater regulatory clarity consistent with the Supreme Court's decision in Sackett v. EPA.
- Recognizes that the Supplemental Proposed Rule builds upon the November 2025 rulemaking.
- Requests additional clarification regarding the jurisdictional treatment of constructed and actively managed water features.

GCSAA's comments focus on three priorities:

1. Establishing objective jurisdictional standards;
2. Protecting qualifying artificial water-management infrastructure;
3. Ensuring that the final rule can be consistently and practically implemented.

Components of the comments include:

- Establish Clear Standards for Relatively Permanent Waters.
- Clarify Continuous Surface Connection and Protect Artificial Water-Management Infrastructure.
- Categorical Exclusion for Artificial Water-Management Features.
- Existing Infrastructure and Historical Conditions.
- Clarification Regarding Culverts and Wetland Connections.
- Practical Implementation and Conclusion.
- Finalize clear and objective jurisdictional standards.
- Establish an express categorical exclusion.
- Clarify the treatment of culverts and other constructed infrastructure.

A copy of the GCSAA comments can be found here.