



December 19, 2025

Comment Clerk

[ID: EPA-HQ-OW-2025-0322-0001](#)

Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

**Re: Updated Definition of “Waters of the United States”**

The Association of State Drinking Water Administrators (ASDWA) appreciates the opportunity to provide comments to the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers (the agencies) on the *Updated Definition of “Waters of the United States (WOTUS).”* ASDWA is the national, nonpartisan, non-profit association representing the collective interests of the drinking water program administrators in the 50 states, five territories, the District of Columbia, and the Navajo Nation. ASDWA’s members implement the Safe Drinking Water Act (SDWA) every day to provide safe drinking water and protect public health. These comments do not necessarily represent the specific views and concerns of individual states or consensus from all states. We encourage the agencies to consider individual state comments, in addition to ASDWA’s, to gain further perspective.

**Work with States as Co-Regulators:** As with ASDWA’s previous comments, ASDWA recommends that the agencies work closely with states, as co-regulators, to refine and finalize this proposed rule, to develop subsequent guidance, and to ensure durable and consistent rule implementation actions. States have extensive experience with political, legal, scientific, and practical implementation of WOTUS regulations both before and after the 2015 Clean Water Rule, the 2020 Navigable Waters Protection Rule, and the 2023 Revised Definition and then Amendments based on the [Supreme Court decision in \*Sackett v. EPA\*](#). State involvement is essential to create buy-in and eliminate the continuous recurrence of litigation and future changes to the WOTUS definition based on shifting political leadership.

**Consider State Costs and Implementation Timelines:** ASDWA recommends that the agencies consider and ensure funding for state administrative costs and direct implementation costs and timelines, including significant costs and timelines for revisiting and revising current statutes and regulations for these new WOTUS rulemakings, and additional state statutes and rules to add protections beyond WOTUS. For this reason, ASDWA also requests that the agencies consider delayed implementation of these WOTUS rulemakings 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:** To enhance cooperative federalism, the agencies should work directly with (and provide assistance for) states that want to keep expanded protections (e.g., for wetlands, ephemeral streams, and groundwater). Some states that want to keep protections will lose them because they are not able to adopt regulations that are more stringent than federal standards. This updated WOTUS definition will be problematic for these states where they already have permits in place to address water quality contaminants and concerns but will now have to redact them. These states will not only lose their

current protections but most importantly, will also lose the federal resources and assistance with enforcement that go along with the protections.

This action by the agencies will affect states across the country very differently. States have different opinions, legal frameworks, knowledge, permit processes, and expertise to address site specific hydrogeologic conditions based on state priorities, and across state boundaries. While some states may want expanded protections and/or can enact additional state statutes and implement regulations to add protections beyond WOTUS, other states may welcome the updated definition of WOTUS to reduce statutory burdens (e.g., for intermittent streams and physically remote hydrologic connections).

**Consider the Role of Groundwater:** As ASDWA recommended in our previous comments on WOTUS rulemakings, the agencies must include considerations for groundwater in this rulemaking, and in subsequent implementation, guidance, and coordination across programs. While ASDWA understands that groundwater is not a jurisdictional water under the CWA, the agencies must use coordinated approaches to ensure that groundwater discharges do not create CWA water quality impairments and conversely, actions taken to achieve CWA goals do not inadvertently contribute to groundwater contamination, particularly for groundwater sources of drinking water that may be wholly isolated from CWA protections. In this regard, ASDWA appreciates the agencies' clarification that the Maui Supreme Court decision still stands to require CWA permits when non-point source pollutants can be directly traced to navigable waters through groundwater transport.

**Look Broadly Across Programs Using a Holistic Lifecycle Approach and Protect Drinking Water Sources:** ASDWA emphasizes that EPA should work across programs using a holistic lifecycle approach to address sources of contamination and ensure that pollutants are not transferred from one media (and one waterbody) to another, especially to those that serve as sources of drinking water, or potential future sources of drinking water. A holistic lifecycle approach is essential to ensure that connections between the CWA and SDWA, surface water and groundwater quality and quantity, and across media are considered in all the agencies' current and future efforts and actions. The SDWA uses a "multiple-barrier approach" that includes source water protection, treatment, and distribution system integrity to ensure safe drinking water. This multi-barrier approach relies on effective implementation of rules, guidance, and funding for the CWA, the SDWA and Underground Injection Control (UIC) Program, as well as individual state laws to protect both surface water and groundwater sources of drinking water from potential point and nonpoint sources of pollution. This approach is not intended to leave the burden of responsibility on the public water systems (PWSs) to remove contaminants from the environment, it is to ensure that these barriers will protect existing water quality and minimize human exposure. Preventing contaminants from impacting surface water and groundwater, including those that serve as sources of drinking water, is more effective and less expensive than having to remove them once contamination has occurred.

ASDWA worked with the Association of Clean Water Administrators (ACWA), the Ground Water Protection Council (GWPC) and our state members, along with EPA Headquarters and Regions as part of an extensive effort to develop the [2014 CWA-SDWA Toolkit](#) entitled, "Opportunities to Protect Drinking Water Sources and Advance Watershed Goals through the Clean Water Act: A Toolkit for State, Interstate, Tribal and Federal Water Program Managers." This document highlights how CWA provisions and tools including Water Quality Standards; Monitoring, Assessment, and Impaired Waters Listings; Total Maximum Daily Loads (TMDLs); the National Pollutant Discharge Elimination System (NPDES); and Nonpoint Source and 319 programs, can be used to mitigate impacts to drinking water sources. The

opportunities identified in the toolkit continue to be relevant for current and future federal, state, and local coordinated actions.

In closing, ASDWA emphasizes that in addition to working directly with states as co-regulators, the agencies must directly engage with water and wastewater systems and other important stakeholders to ensure that these rulemakings and the subsequent guidance and implementation are clear and concisely defined, with detailed information that addresses the questions, challenges, and site-specific needs of all affected stakeholders across the nation. The agencies must also ensure continued and future coordination across agencies and programs to prevent the transfer of contaminants from one media to another using linked CWA-SDWA and holistic lifecycle approaches. This holistic approach is essential for sustaining safe drinking water supplies, and for protecting public health, the environment, and the economy.

ASDWA looks forward to working with the agencies and other partners on these important efforts. If you have any questions regarding these comments, please contact Deirdre White of ASDWA at [dwhite@asdwa.org](mailto:dwhite@asdwa.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony DeRosa', with a long horizontal line extending to the right.

Anthony DeRosa, Executive Director

Cc: Jess Kramer, Assistant Administrator, EPA Office of Water  
Jennifer McLain, Director, EPA Office of Ground Water and Drinking Water  
Andrew Sawyers, Director, EPA Office of Wastewater Management