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Submitted via <https://www.regulations.gov>, Docket (EPA-HQ-OW-2025-0322)

RE: Proposed Rule Updated Definition of “Waters of the United States”

On behalf of the Restore the Mississippi River Delta coalition, we are writing to express our comments on the recently proposed rule to revise the definition of “waters of the United States” (WOTUS) by the Environmental Protection Agency (EPA) and the Department of the Army¹.

For more than a decade, our organizations have partnered with local, state, and federal officials to confront Louisiana’s longstanding land-loss crisis and advance restoration of the Mississippi River Delta. With coastal wetlands disappearing at the rate of a football field every 100 minutes², any further land loss represents an existential threat to communities, industries, and wildlife across the region. Reversing this trend should be a coordinated priority at every level of government, and our coalition, comprised of conservation, policy, science, and outreach experts from Environmental Defense Fund, National Audubon Society, the National Wildlife Federation, and Pontchartrain Conservancy, has worked for decades to safeguard and restore Louisiana’s critical wetland ecosystems.

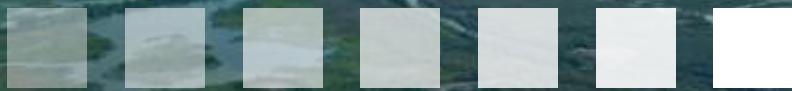
¹ Updated Definition of “Waters of the United States”, 90 Fed. Reg. 52,498 (proposed Nov. 20, 2025) (to be codified at 33 C.F.R. pt. 328; 40 C.F.R. pt. 120).

² Restore the Mississippi River Delta. (n.d.). *Causes of Land Loss*. Land Loss in the Mississippi River Delta. Retrieved December 18, 2025, from <https://mississippiriverdelta.org/our-coastal-crisis/land-loss/>



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Since the 1930s, Louisiana has lost over 2,000 square miles of land, an area roughly the size of Delaware³. Many factors have contributed to this collapse, including leveeing of the Mississippi River, the construction of shipping channels, canals, and oil and gas infrastructure, upriver dams, sea level rise, subsidence, hurricanes, and the Deepwater Horizon oil spill. Louisiana is ground zero for the coastal land loss crisis in the United States. Any efforts to dilute Clean Water Act (CWA) protections will accelerate Louisiana's catastrophic land loss, weaken safeguards for coastal communities, and undermine decades of coordinated restoration work essential to sustaining our economy, industries, and wildlife.

Below, we will discuss how the proposed rule:

- Misapplies the *Sackett* decision, introducing arbitrary requirements that would strip protections from the wetlands most essential to Louisiana's resilience;
- Disregards the national significance of Louisiana's coast;
- Puts communities at greater risk by stripping away natural flood protections; and,
- Undermines Louisiana's leadership in coastal restoration.

Unreasonable Interpretation of the *Sackett* Decision

According to an analysis from the Environmental Defense Fund⁴, **Louisiana could lose almost 70% of its remaining non-tidal wetlands** based on estimated protections under the proposed rule. The definitions provided in the proposed rule are an extreme and unreasonable interpretation of the *Sackett* decision. Most notable are definitions of "relative permanence" of waters and "continuous surface connection", which would only protect wetlands and streams that have surface water throughout the "wet season", a new and undefined concept in the interpretation of the *Sackett* rule. Described only in the preamble to the rule as "an extended period where there is continuous surface hydrology resulting from predictable seasonal precipitation patterns year after year," this arbitrary addition of a temporal requirement to a "continuous surface connection" would effectively remove most non-tidal wetlands and many intermittent waters from the scope of the CWA.

Text within the proposed rule incorrectly states that wetlands that have surface water "at least during the wet season" are most likely to provide the hydrological and ecological benefits typically associated with wetlands. This is false, according to evidence compiled by the EPA in 2015⁵; while all wetlands provide valuable downstream benefits, smaller and "drier" wetlands, which are not likely to meet the requirements of the proposed rule, are especially key for watershed resilience⁶. These wetlands and intermittent waters provide

³ Restore the Mississippi River Delta. (n.d.). *Causes of Land Loss*. Land Loss in the Mississippi River Delta. Retrieved December 18, 2025, from <https://mississippiriverdelta.org/our-coastal-crisis/land-loss/>

⁴ Environmental Defense Fund. (n.d.). *Estimating Clean Water Act wetlands protections*. Environmental Defense Fund. Retrieved December 18, 2025, from <https://www.edf.org/maps/wetlands-protections/>

⁵ U.S. EPA, *Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence* (Final Report), EPA/600/R-14/475F (2015).

⁶ C.R. Lane et al., *Vulnerable Waters Are Essential to Watershed Resilience*, 26 Ecosystems 1–28 (2023).

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outsized value as habitat for endangered species⁷, nutrient and sediment retention⁸, flood management⁹, and water supply¹⁰. The proposed rule will not protect the wetlands that are most likely to provide hydrological and ecological benefits – it will decimate nearly all wetlands and intermittent waters, including those that provide the greatest benefits.

Rather than supporting decades of coordinated restoration, this rule would undermine the very safeguards needed to reverse land loss in Louisiana, compounding a crisis that already claims land at an unprecedented pace.

National Significance of Louisiana's Coast

Louisiana's coast is not only vital to the state, but to the entire nation's economy. The Mississippi River Delta supports one of the world's busiest ports and hosts five of the nation's largest shipping ports by cargo volume¹¹, serving as a hub for shipping and trade that moves goods throughout the United States and globally. Its wetlands sustain commercial fisheries that provide a significant share of the country's seafood, as well as recreational fishing that provides nearly \$1.8 billion to the U.S. economy each year¹². Tourism, outdoor recreation, and cultural industries tied to Louisiana's coast generate billions of dollars in revenue each year. Wetlands sustain the state's oil and energy production by providing the natural foundation for pipelines, refineries, and transport routes, while at the same time buffering these critical facilities from storms and flooding through their ecological role as protective barriers.

Weakening of CWA protections under the proposed rule would strip federal safeguards from many of these wetlands, accelerating their loss and undermining the natural systems that sustain the shipping, fisheries, energy, and tourism industries. In economic terms, this rule would not only deepen Louisiana's existential land-loss crisis, but also jeopardize industries and supply chains that the nation depends on. Wetland loss in coastal Louisiana affects the entire country.

Putting Communities at Risk

Wetlands are natural flood buffers. During flood events, they can temporarily store millions of gallons of water, slowing the momentum of floodwaters and storm surges, protecting communities, and reducing the impacts of

⁷ Mitsch, W. J., Bernal, B., & Hernandez, M. E. (2015). Ecosystem services of wetlands. *International Journal of Biodiversity Science, Ecosystem Services & Management*, 11(1), 1–4. <https://doi.org/10.1080/21513732.2015.1006250>

⁸ M.J. Cohen et al., *Do Geographically Isolated Wetlands Influence Landscape Functions?*, 113 Proc. Nat'l Acad. Sci. 1978–1986 (2016).

⁹ Bo Yang et al., *Small Wetlands: Critical to Flood Management*, 386 Science 859 (2024).

¹⁰ Craig B. Brinkerhoff et al., *Ephemeral Stream Water Contributions to United States Drainage Networks*, 384 Science 1476–1482 (2024).

¹¹ Restore the Mississippi River Delta. (n.d.). *Economy: A Snapshot of Coastal Louisiana's Economic Importance*. Restore the Mississippi River Delta. Retrieved December 18, 2025, from <https://mississippiriverdelta.org/whats-at-stake/economy/>

¹² Restore the Mississippi River Delta. (n.d.). *Economy: A Snapshot of Coastal Louisiana's Economic Importance*. Restore the Mississippi River Delta. Retrieved December 18, 2025, from <https://mississippiriverdelta.org/whats-at-stake/economy/>



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flooding, our nation's costliest natural disaster. According to analysis from the Environmental Defense Fund, wetlands at-risk of losing protection under the proposed rule could store up to **3.64 trillion gallons** of floodwater¹³.

In Louisiana, the floodwater absorption capacity of wetlands is not just an ecological benefit - it's a lifesaving function. Every acre of wetland lost reduces the state's ability to buffer hurricanes, storm surges, and river flooding. Weakening CWA protections would strip away these natural defenses, leaving communities more exposed to disasters. This heightened vulnerability not only threatens homes and infrastructure, but could also lead to greater loss of life as communities are left exposed without the critical buffer that healthy wetlands provide.

Louisiana taxpayers already pay billions of dollars for flood damages and cleanup; the loss of wetlands and intermittent waters as a result of the proposed rule will leave communities further saddled with the burden of flooding, and the costs related to it. The natural buffering services that wetlands in the Delta provide carry a tremendous economic value - up to \$4.6 billion in avoided losses directly from land loss, nearly \$10 billion in losses from economic disruptions from land loss, as much as \$176.4 billion in direct damages, and \$67.7 billion in lost economic activity from storm surge¹⁴. The proposed rule would strip away Louisiana's most effective natural defenses, compounding land loss, escalating taxpayer costs, and putting lives, communities, and the nation's economy at greater risk.

Undermining Louisiana's Leadership in Coastal Restoration

Over the last few decades, Louisiana has established itself as a leader in coastal ecosystem restoration, with its Coastal Master Plan process serving as a blueprint for other states facing similar land loss challenges. The comprehensive plan guides billions in federal and state dollars invested in Louisiana's coastal restoration efforts. Further loss of wetlands as a result of this proposed rule will not only remove the federal backing for the wetlands the state has worked so hard to restore, but could also undermine the state's credibility as a leader in coastal restoration by undermining the effectiveness of its wetland restoration efforts.

Additionally, future coastal restoration planning could be impacted. Louisiana's Coastal Master Plan¹⁵ is built on decades of science, engineering, and policy coordination to reverse land loss and restore wetlands. Narrowing federal CWA protections would directly contradict the plan's foundation, making it harder to

¹³ Environmental Defense Fund. (n.d.). *Estimating Clean Water Act wetlands protections*. Environmental Defense Fund. Retrieved December 18, 2025, from <https://www.edf.org/maps/wetlands-protections/>

¹⁴ Restore the Mississippi River Delta. (n.d.). *Economic Research Reveals How Crucial Fast Action is to Coastal Restoration*. Restore the Mississippi River Delta. Retrieved December 18, 2025, from <https://mississippiriverdelta.org/economic-research-reveals-how-crucial-fast-action-is-to-coastal-restoration/>

¹⁵ Coastal Protection and Restoration Authority of Louisiana. (n.d.). *Our Plan; Louisiana's Coastal Master Plan*. Coastal Protection and Restoration Authority. Retrieved December 18, 2025, from <https://coastal.la.gov/our-plan/>

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implement projects that depend on strong wetland safeguards. Many of these restoration projects rely on federal permitting and protections to ensure wetlands are preserved while new land is being built. Weakening CWA jurisdiction would allow activities that degrade wetlands to happen adjacent to restoration sites, undermining the effectiveness of billions of dollars in planned investments backed by science.

If Louisiana's wetlands—the most critical and threatened in the nation—lose protections, it signals to other states that federal commitment to coastal restoration is weakening. This is a dangerous precedent to set, signaling that even the nation's most strategically important wetlands are not worthy of robust protection.

Conclusion

For these reasons, we urge the EPA and the Department of the Army to **address the fundamental flaws in the proposed rule by grounding it in the best-available science and aligning it with the intent of the CWA**.

Sackett does not require arbitrary requirements such as "wet season" surface connection, and the rule disregards decades of science showing that even smaller, intermittent wetlands provide outsized ecological and hydrological benefits. Rather than aligning with the CWA's intent to safeguard the nation's waters, this approach would accelerate catastrophic land loss, weaken community resilience, and undermine decades of coordinated restoration. While *Sackett* has undermined the agencies' ability to protect waters to the extent we believe Congress intended when it passed the CWA, this proposed rule poses needless and substantial further harm to waters.

We urge EPA and the Corps to ground decisions in science and the CWA's purpose to the fullest extent *Sackett* allows to help ensure that Louisiana's wetlands - among the most critical and threatened in the country - remain protected, sustaining lives, economies, and ecosystems for generations to come.

Respectfully submitted,
Restore the Mississippi River Delta:

Environmental Defense Fund
Pontchartrain Conservancy
National Audubon Society
National Wildlife Federation