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EPA Proposes to Scale Back WOTUS Definition

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On November 17, 2025, the U.S. Environmental Protection Agency (EPA) and Army Corps of Engineers (the Corps) proposed a revised definition of “waters of the United States” (WOTUS) under the Clean Water Act (Proposed Rule). The Trump administration announced that the Proposed Rule would “provide greater regulatory certainty and increase Clean Water Act program predictability and consistency.”

The new definition is expected to reduce the number of streams and wetlands that are regulated under the Clean Water Act and will impact several federal regulatory programs, including Section 404 permitting of impacts to regulated waters. The agencies drafted the Proposed Rule to closely mirror the U.S. Supreme Court’s 2023 decision in *Sackett v. EPA*, which held that the Clean Water Act extends to “relatively permanent” bodies of water connected to traditional navigable waters and wetlands with a “continuous surface connection” to those waters.

The Proposed Rule adds definitions for several terms, including “relatively permanent,” “tributary,” “continuous surface connection,” “prior converted cropland,” and “ditch.”

The public comment period will begin when the Proposed Rule is published in the *Federal Register*. If finalized, it will replace the Biden administration’s 2023 definition of WOTUS. The definition of WOTUS has changed several times

in the last decade. Each new definition has been challenged in the courts.

Babst Calland will stay up to date on WOTUS developments and the Clean Water Act, in general. If you have any questions or would like any additional information, please contact Lisa Bruderly at (412) 394-6495 or lbruderly@babstcalland.com, or Ethan Johnson at (202) 853-3465 or ejohnson@babstcalland.com.