

EPA publishes final Waters of the United States definition

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EPA and the Department of the Army last week finalized (<https://www.federalregister.gov/documents/2023/01/18/2022-28595/revised-definition-of-waters-of-the-united-states>) a rule defining the scope of waters protected under the Clean Water Act. EPA and the Department of the Army had previously released the pre-publication version of their final revised definition of Waters of the United States (WOTUS) on December 30, which AMWA described (<https://www.amwa.net/article/epa-finalizes-revisions-waters-united-states-definition>) in detail.

The agencies' definition of "waters of the United States" provides jurisdiction over water bodies that are protected under the Clean Water Act, including traditional navigable waters (e.g.,

certain large rivers and lakes), territorial seas, and interstate waters. AMWA submitted comments (<https://www.amwa.net/testimonycomments/comments-revised-wotus-definition>) on the proposed version of this rule on February 4, 2022.

EPA and the Army indicated in a Fall 2022 Unified Agenda (<https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202210&RIN=2040-AG19>) that they intend to move forward with a supplemental WOTUS rulemaking. This second rulemaking may come after the Supreme Court rules in *Sackett v. EPA*, a case that will address what wetlands are considered jurisdictional under the Clean Water Act. The Supreme Court plans to hear arguments in the case later this year.

More information, including the final version of the rule and related fact sheets (<https://www.epa.gov/system/files/documents/2022-12/Public%20Fact%20Sheet.pdf>), is available at EPA's "Waters of the United States" website (<https://www.epa.gov/wotus>). AMWA will continue to track developments and plans to provide input to EPA and the Department of the Army as it prepares its next round of revisions to the definition of WOTUS.

Back to *January 23, 2023* (<https://www.amwa.net/monday-morning-briefing/january-23-2023>)

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