

Message

From: Lynn, Tricia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D8747BA49CDE485EA4AC58DBF09C3DCD-TRICIA SLUSSER]
Sent: 12/13/2017 9:45:40 PM
To: Ellen Rosen [Ex. 6]
Subject: Re: WOTUS Timing follow-up

Ellen—

For attribution to “an EPA spokesperson:”

There are legal proceedings underway that may affect whether the 2015 Clean Water Rule remains stayed or whether it goes into effect. EPA’s proposal to add an applicability date to the 2015 rule is intended to ensure that the regulations that existed prior to promulgation of the rule in 2015 and that have been in effect nationwide since October 9, 2015, would remain in effect while the agency continues to work on the rules to rescind and replace the 2015 rule.

On background:

On August 27, 2015, a district court in North Dakota issued an order granting a motion for preliminary injunction before the rule’s effective date for the 13 states that were a party to that case. Most other district courts put their similar litigation on hold following the Sixth’s Circuit’s determination that such litigation was appropriately decided by the circuit courts. On October 9, 2015, the U.S. Court of Appeals for the Sixth Circuit stayed the 2015 rule nationwide pending further action of the court. The Supreme Court is currently weighing a decision on whether the proper court for litigation about the scope of the Clean Water Act are district courts or circuit courts. The Supreme Court’s decision may affect whether the Sixth Circuit’s nationwide halt on implementing the 2015 rule stays in effect.

Best,

Tricia

Tricia Lynn
Office of Public Affairs
U.S. EPA
Office: 202.564.2615

From: Ellen Rosen [Ex. 6]
Sent: Wednesday, December 13, 2017 12:40 PM
To: Jones, Enesta <Jones.Enesta@epa.gov>
Cc: Press <Press@epa.gov>
Subject: Re: WOTUS Timing follow-up

I’m sorry, but I’m still confused.

The comment period for step 1 closed in September.

There are two additional comment periods, as I read it — one for Step 2 and the other for the applicability date of WOTUS.

What I don't understand is that if Step 1 aims to withdraw the 2015 WOTUS, and Step 2 is to determine the replacement for 2015 WOTUS, why is there a need to postpone the effective date of the 2015 rule?

Thank you. I'm sorry it's taking me some time to understand this.

best,

Ellen Rosen

Ex. 6

On Dec 8, 2017, at 2:33 PM, Jones, Enesta <Jones.Enesta@epa.gov> wrote:

Hi Ellen, the listening sessions will inform the step 2 proposal that is forthcoming. The comment period that closed in September was for the Step 1 proposal that was issued in June and published in July.

EPA proposed to change the applicability date to two years after the final rule is published in the federal register. So if that rule is finalized early next year, the new applicability date for the 2015 rule would be in early 2020.

On Dec 6, 2017, at 1:37 PM, Ellen Rosen [Ex. 6] wrote:

I'm having a bit of trouble understanding the difference between steps 1 and 2 of WOTUS and the three different comment deadlines. Is there someone who can help me through this? I anticipate no more than 15 minutes by phone.

Thank you!

Ellen Rosen

Ex. 6

On Dec 5, 2017, at 2:08 PM, Jones, Enesta <Jones.Enesta@epa.gov> wrote:

Ellen, attributable to an EPA spokesperson:

We plan to make the summaries available at the time that we propose the Step 2 rule. We do not have timing for that at this time.

From: ellen rosen [Ex. 6]
Sent: Tuesday, December 05, 2017 4:54 PM
To: Jones, Enesta <Jones.Enesta@epa.gov>
Subject: Re: Waters of the U.S.

Thank you. But additionally, were there summaries of the sessions? Someone must have written something up to help with the rule-making process.

On Dec 5, 2017, at 1:34 PM, Jones, Enesta <Jones.Enesta@epa.gov> wrote:

Hi Ellen, attributable to an EPA spokesperson:

We did not record or make transcripts of these sessions, but the powerpoints are available on our website:

<https://www.epa.gov/wotus-rule/listening-session-presentations>

On Dec 5, 2017, at 4:04 PM, Ellen Rosen

Ex. 6

wrote:

I am a freelance writer interested in the review of the Waters of the U.S. Rule. Are there either videos or transcripts from the 11 sessions held this fall on the rule?

Thank you.

Ellen Rosen

Ex. 6