

Message

From: Bennett, Tate [Bennett.Tate@epa.gov]
Sent: 6/26/2017 8:38:45 PM
To: Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, E]
CC: Cory, Preston (Katherine) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bfd80b15f6d04a3ba11fc8ca3c85bc50-Cory, Kathe]
Subject: WOTUS- Do not forward, please.

All-

Administrator Pruitt could potentially sign a Federal Register notice as early as tomorrow afternoon proposing a rule to repeal the 2015 WOTUS final rule.

Knowing of the importance of this issue to your state/office, we just wanted to flag now so your teams can plan any releases/statements accordingly. We will circle back with an update tomorrow.

Below are a few notes on the FR notice, and please let us know if you have any questions in the meantime.

Best.

Tate Bennett

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--The Environmental Protection Agency, Department of Army, and Army Corps of Engineers (the agencies) are proposing a rule to repeal the Clean Water Rule and re-codify the regulatory text that existed prior to 2015 defining "waters of the United States."

--This action would provide regulatory continuity and certainty in the interim pending a second rulemaking in which the agencies will engage in a substantive re-evaluation of the definition of "waters of the United States."

--The proposed rule would be implemented in accordance with Supreme Court decisions, agency guidance, and longstanding practice.

--This proposed rule follows the February 28, 2017, Presidential Executive Order on "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule."

--The February Order states that it is in the national interest to ensure that the Nation's navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of Congress and the States under the Constitution. To meet these objectives, the agencies intend to follow an expeditious, two-step process that will provide certainty across the country.

--The proposed rule would recodify the identical regulatory text that was in place prior to the 2015 Clean Water Rule and that is currently in place as a result of the U.S. Court of Appeals for the Sixth Circuit's stay of the 2015 rule. Therefore, this action, when final, will not change current practice with respect to how the definition applies.

--The agencies have also begun deliberations and outreach on the second step rulemaking involving a re-evaluation and revision of the definition of "waters of the United States" in accordance with the Executive Order.