

From: Bennett, Tate [Bennett.Tate@epa.gov]
Sent: 11/16/2017 6:29:26 PM
To: Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, E]
CC: Gordon, Stephen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7c8fb4d82bff4eec98f5c5d00a47f554-Gordon, Ste]
Subject: EMBARGOED UNTIL 2 PM- EPA and the Army Propose to Amend the Effective Date of the 2015 Rule Defining "Waters of the United States"

EPA and the Army Propose to Amend the Effective Date of the 2015 Rule Defining "Waters of the United States"

WASHINGTON – The U.S. Environmental Protection Agency (EPA) and U.S. Department of the Army (the agencies) are proposing to amend the effective date of the 2015 rule defining "waters of the United States." The agencies are proposing that the 2015 rule would not go into effect until two years after today's action is finalized and published in the Federal Register. This amendment would give the agencies the time needed to reconsider the definition of "waters of the United States."

"Today's proposal shows our commitment to our state and tribal partners and to providing regulatory certainty to our nation's farmers, ranchers and businesses," said EPA Administrator Scott Pruitt. "This step will allow us to minimize confusion as we continue to receive input from across the country on how we should revise the definition of the 'waters of the United States.'"

The 2015 rule, which redefined the scope of where the Clean Water Act applies, had an effective date of August 28, 2015. Implementation of the 2015 rule is currently on hold as a result of the Sixth Circuit's nationwide stay of the rule, but that stay may be affected by a pending Supreme Court case. The 2015 rule is also stayed in 13 states due to a North Dakota district court ruling. EPA and the Army are taking this action to provide certainty and consistency to the regulated community.

"The Army, together with the Army Corps of Engineers, propose this rule with EPA to help continue to provide clarity and predictability to the regulated public during the rule making process. We are committed to implementing the Clean Water Act Section 404 regulatory program as transparently as possible for the regulated public," said Mr. Ryan Fisher, Acting Assistant Secretary of the Army (Civil Works).

This action 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.

The agencies' proposal is separate from the two-step process the agencies propose to take to reconsider the 2015 rule. The comment period for the Step 1 rule closed in September and the agencies are currently working to review the comments received from the public. The agencies are also in the process of holding listening sessions with stakeholders as we work to develop a proposed Step 2 rule that would revise the definition of "waters of the United States."

The agencies will be collecting public comment on this proposal for 21 days after publication in the Federal Register and plan to move quickly to take final action in early 2018.

Additional information on this proposal and how to comment: www.epa.gov/wotus-rule

Elizabeth Tate Bennett

Associate Administrator for Public Engagement & Environmental Education
Office of the Administrator
U.S. Environmental Protection Agency
(202) 564-1460
Bennett.Tate@epa.gov