

Message

From: Jones, Enesta [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=65B8E6C6E5CA4A7A9AE85D98A4C8EEDB-EJONES02]
Sent: 12/6/2017 9:56:11 PM
To: Ex. 6
CC: Press [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b293283291dc44e0b5d1c36be9281d8a-Press]
Subject: WOTUS Timing

Hi Ellen. I am sending our response on behalf of Tricia. Please attribute to an agency spokesperson.

Action: Applicability date

Status: Proposed rule undergoing public comment

Public comment: The agencies will be collecting public comment on this proposal for 21 days following its Nov 22 publication in the *Federal Register*, and plan to move quickly to take final action in early 2018. Comments should be submitted, identified by Docket ID No. EPA-HQ-OW-2017-0644, to <http://www.regulations.gov> by December 13, 2017.

Most recently, the agencies signed a proposed rule to add an applicability date to the 2015 rule defining “waters of the United States.” The agencies are proposing that the 2015 rule would not be applicable until two years after the new 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.” The agencies’ proposal is separate from the two-step process the agencies propose to take to reconsider the 2015 rule.

Action: Step 1 – Rescind of the Clean Water Rule

Status: Proposed rule, public comment period is closed

Public comment: The public comment period closed on September 27, 2017. The agencies are working to review the comments submitted to the Step 1 docket.

Step 1: The agencies are taking action to establish the legal status quo in the *Code of Federal Regulations*, by proposing to recodify the regulation that was in place prior to issuance of the Clean Water Rule. This previous regulation is being implemented now under the U.S. Court of Appeals for the Sixth Circuit’s stay of the 2015 rule.

Action: Step 2: Redefinition of Waters of the US

Status: Pre-proposal outreach; recommendations docket is closed.

Public comment: Rather than comments on a proposal, the agencies invited stakeholders to provide recommendations to the agencies as they were developing a proposed rule to redefine “waters of the US.” This administrative docket, Docket ID No. EPA-HQ-OW-2017-0480, closed on November 28, 2017.

The agencies plan to propose a new definition interpreting the jurisdictional bounds of the Clean Water Act that would replace the broader approach of the 2015 Rule, taking into consideration the principles that Justice Scalia outlined in the Rapanos plurality opinion. Justice Scalia's opinion indicates Clean Water Act jurisdiction includes relatively permanent waters and wetlands with a continuous surface connection to relatively permanent waters. The agencies have not yet proposed a Step 2 rule.

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](#)