

Office of Water Policy for Draft Documents: U.S. Environmental Protection Agency Guidance Document



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08/27/2019

The United States Environmental Protection Agency (“EPA”) issued an August 6th policy titled:

Office of Water Policy for Draft Documents (“Policy”)

The Policy is transmitted from Assistant Administrator David P. Ross to Office of Water Program Directors.

The purpose of the Policy is described as instituting:

. . . a policy for draft guidance documents issued by the Office of Water.

The Policy is stated to be effective immediately and apply to all draft documents issued by the Office of Water.

EPA’s Office of Water states that it has identified more than 2,500 interim or final documents. It further states that approximately 70 are draft documents that have never been finalized or formally withdrawn.

The Policy states that while guidance documents can be informative and helpful, the Office of Water is “concerned that draft documents that are never issued in final or formally withdrawn may cause confusion for regulators, the regulated community, and the general public.” Agency guidance or policy documents, whether issued in draft, interim, or final, are described as not having the force or effect of law. Instead, they are characterized as only providing information and recommendations to states and stakeholders. Also, draft documents are unable to mandate any specific action, outcome, or requirement without first going through the rulemaking process.

All draft documents issued more than two years ago and that have not been finalized are rescinded. Further, the Policy states that:

. . . any draft documents that have been recently issued must be finalized within two years of the draft date or will be automatically rescinded.

Finally, future draft documents not issued in final within two years of the draft date are considered rescinded.

A copy of the Policy can be found [here](#).