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# Waters of the United States - U.S. EPA/Corps of Engineers Revision of Trump Era Rule: U.S. Senate Environment and Public Works Ranking Member Request for Transparency

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Shelley Moore Capito (R-W.Va.) sent a June 21st letter to the United States Environmental Protection Agency and the United States Army Corps of Engineers (collectively “EPA”) on behalf of the Senate Environment and Public Works Committee Republicans addressing the Clean Water Act definition of waters of the United States (“WOTUS”).

The letter addresses EPA’s June 9th announcement of their intent to revise the Clean Water Act definition of WOTUS that had been promulgated during President Trump’s Administration.

The Trump Administration’s WOTUS definition was promulgated in 2020 and denominated the Navigable Waters Protection Rule (“NWPR”). It rescinded an Obama-era revision/clarification of WOTUS.

Senator Capito’s letter stated in part:

After the Administration’s continued commitments to transparency, engagement, and communication with stakeholders and Congress on this issue, the lack of transparency surrounding the decision to abandon this legally defensible and environmentally sound rule is disheartening. . .

The letter asserts that EPA has not provided a complete analysis to back certain assertions regarding “significant environmental damage” and “ongoing environmental harm” that would be caused by the NWPR.

Consequently, the letter asks that EPA provide certain materials addressing:

- Details on, and the definitions of, the “significant environmental damage” and “ongoing environmental harm” EPA and the Corps cite in justifying this action, including the specific instances and locations of the purported “damage” or “harm” EPA and the Corps observed and documented due to the NWPR.
- Details on the “implementation challenges” EPA staff explicitly cited during the briefing call as a basis for repealing the NWPR, including the NWPR’s prior converted croplands exclusion, treatment of ditches, and treatment of inundated wetlands.

- The complete analysis conducted by the Corps and any supporting information, which reportedly found that there were 333 projects that did not require a permit under the NWPR that would have required a permit under the 2015 “Clean Water Rule: Definition of ‘Waters of the United States’” (2015 WOTUS Rule).
- If not included in the analysis, please provide a list and details on the jurisdictional determinations of the waters in each of these projects, including the purported “damage” or “harm” EPA and the Corps observed and documented due to the NWPR.
- If not included in the analysis, please provide a list and details on the alleged 75 percent of ephemeral streams that would have been jurisdictional under the 2015 WOTUS Rule are not jurisdictional under the NWPR, including the purported “damage” or “harm” EPA and the Corps observed and documented due to the NWPR.
- Details on the process and standards by which EPA and the Corps will review any permitting decisions currently pending and submitted under the NWPR, as well as any future federal permitting decisions made before a potential replacement rule is in place.
- Details and a timeline on the process to gather stakeholder input—including the types of stakeholders consulted—and all input that was provided or obtained in advance of the June 9th decision.
- Please also describe your plans for future information gathering and stakeholder listening sessions going forward as you prepare the proposal to repeal the NWPR.

A copy of the June 21st letter can be downloaded [here](#).