

Waters of the United States/Clean Water Act: U.S. Environmental Protection Agency/Corps of Engineers Finalizes Two-Year Delay of Definition



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The United States Environmental Protection Agency and United States Corps of Engineers (collectively “EPA”) finalized a rule that would add an applicability date to the Obama Administration era revised definition of the Clean Water Act term “waters of the United States” (“WOTUS”).

The 2015 definition will not become applicable until two years following publication of the applicability date in the Federal Register.

EPA states the delay will provide the time needed to “reconsider” the definition.

The definition of WOTUS is arguably one of the three critical jurisdictional terms in the Clean Water Act. Its importance is magnified by the fact that it is also relevant to non-National Pollution Discharge Elimination System programs such as:

- Section 404 of the Clean Water Act Wetland Permits
- Section 311 Oil/Hazardous Substance Release Requirements
- Clean Water Act Spill Prevention Control and Countermeasure Regulations

[A link to the final rule can be found here.](#)