



Memorandum

Water Quality Subcommittee

Coal Policy Task Force

Minerals Policy Task Force

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June WOTUS Update

The U.S. Environmental Protection Agency (EPA) today [announced](#) that the agency and the U.S. Department of the Army have completed listening sessions intended to inform their reconsideration rulemaking on the definition of the Waters of the United States (WOTUS) under the Clean Water Act. Since April, EPA and the U.S. Army Corps of Engineers have held nine WOTUS listening sessions, including two public sessions in Utah and West Virginia. **Notably, EPA also announced their commitment to issuing a proposed rule "in the coming months" and "with the intention of issuing a final rule by the end of 2025."**

EPA Administrator Lee Zeldin praised these listening sessions for providing "real-world perspectives as [the agency] work[s] toward a proposed rule that follows the Supreme Court decision in *Sackett*, ends the regulatory uncertainty and ping-pong that has persisted for years, supports our nation's farmers who feed and fuel the world, and advances the agency's [Powering the Great American Comeback initiative](#)." EPA recognized the input of "miners" and other industry sectors, states, Tribes, elected officials, environmental groups and the general public.

The National Mining Association (NMA) provided [testimony](#) at the May 1, 2025, listening session for industry and agriculture stakeholders, highlighting

numerous recommendations made in our [written comments](#) on the public docket, "WOTUS Notice: The Final Response to SCOTUS." Specifically, the NMA recommended that the agencies should undergo a targeted notice-and-comment rulemaking process to revise the 2023 Rule's preamble and regulatory text, provide clarifications around key regulatory terms such as "continuous surface connection" and "relatively permanent," exclude most ditches from federal jurisdiction, and preserve the longstanding waste treatment system exclusion.

Separately, the NMA was made aware through our participation in the Waters Advocacy Coalition that EPA and the Corp quietly released at the end of April a [new training presentation](#) on the "2025 Continuous Surface Connection Guidance," that was [released](#) in March. See NMA [memorandum](#) distributed on March 12, 2025, summarizing this guidance. Counsel to the coalition highlighted example two in this presentation as potentially problematic because EPA and the Corps are asserting jurisdiction over the wetland that is only hydrologically connected to a relatively permanent water (RPW) through a culvert with non-RPW flow. Additionally, the RPW and wetland are physically separated by a road. The coalition is elevating concerns with this example to EPA's Office of Water.

If you have any questions regarding this update, please contact me at tbridgeford@nma.org or (202) 463-2629.

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