



## Memorandum

TO: Water Quality Subcommittee  
Coal Policy Task Force  
Minerals Policy Task Force

FROM: Tawny Bridgeford, General Counsel & Senior Vice President,  
Regulatory Affairs

DATE: August 29, 2025

SUBJECT: **NOTICE:** Teams Meeting Sept. 3 to Discuss Upcoming  
WOTUS Proposed Rule

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The National Mining Association (NMA) has scheduled a Teams Meeting on Wednesday, **Sept. 3, 2025, at 3 p.m. (Eastern)** to discuss the latest information on the U.S. Environmental Protection Agency's (EPA) upcoming proposed rule to revise the definition of "Waters of the United States." **To add this meeting to your calendar, click [here](#).** As you may have read yesterday, E&E news published an article that included links to a leaked internal agency presentation, revealing details on the proposed rule and how the agency is handling "relatively permanent," "continuous surface connection," certain exclusions including ditches, and other details.

One [slide](#) provides details on the phrase "relatively permanent" as including "standing or continuously flowing bodies of surface water that are standing or continuously flowing, year-round or at least during the wet season." According to a separate [slide](#), the wet season would vary depending on the location of a water body. In the arid West, for example, it would be three months. EPA is also [proposing](#) a new definition of "continuous surface connection," as "having surface water at least during the wet season and abutting (i.e., touching) a jurisdictional water." Finally, EPA is planning to revise certain [exclusions](#), including the waste treatment system, prior converted cropland, and ditches. A separate [slide](#) contains more details on the proposed ditch exclusion revision. According to EPA's [summary](#) of the regulatory impact analysis, EPA found that "the approach whereby non-relatively permanent flow in a channel would break jurisdiction of upstream relatively permanent flow to be the most impactful in terms of reducing the scope of jurisdictional waters relative to baseline."

EPA's proposed "Final Clarifying Definition of 'Waters of the United States'" is currently at the Office of Management and Budget (OMB) for interagency

review. The Waters Advocacy Coalition has requested an OMB meeting, which the NMA will attend. The Waters Advocacy Coalition also met with EPA earlier this month to again reiterate [topline issues](#) with political staff. As a reminder, the NMA submitted [comments](#) during the pre-rulemaking stage in April and gave [oral testimony](#) in May.

Please come prepared to discuss the information provided above. Your feedback on this new information will assist the NMA in developing any mining-specific advocacy points that need to be raised in the OMB meeting and in developing our advocacy plan for the proposed rule. **If you are unable to participate next week, please send written feedback to me at [tbridgeford@nma.org](mailto:tbridgeford@nma.org).** We expect EPA to publicly release this rule in early to mid-September.

Please contact me at the email address above or (202) 463-2629 if you have any questions.

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