



**STATE OF MISSISSIPPI
DEPARTMENT OF AGRICULTURE AND COMMERCE**

ANDY GIPSON
COMMISSIONER

Mississippi Department of Environmental Quality
Attention: Waters of the State
P.O. Box 2261
Jackson, MS 39225
WOTS@mdeq.ms.gov

Re: Comments of Commissioner Andy Gipson re: State Water Alteration Program (formerly known as Waters of the State)

On behalf of Mississippi's farmers, ranchers, landowners, builders and economic developers, I submit these comments to the Mississippi Department of Environmental Quality (MDEQ) regarding your proposed regulations set out at: <https://www.mdeq.ms.gov/wp-content/uploads/2026/01/Draft-SWAP-Regulations.pdf>

I urge you to reject these SWAP regulations that would further encroach on Mississippi landowner rights. I encourage you instead to use this post-Sackett opportunity to adopt less burdensome regulations that will enhance and strengthen landowner rights and enhance economic development opportunities in Mississippi.

As set out in the proposed regulations, these new rules would redefine the phrase "Waters of the State" to include "all waters within the jurisdiction on of this State, including all streams, lakes, ponds, wetlands, impounding reservoirs, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, whether permanent, intermittent, or ephemeral, situated wholly or partly within or bordering upon the State, and such coastal waters as are within the jurisdiction of the State." Exceptions exist for certain types of ponds or water structures. Exceptions also exist for various "established and ongoing" farm and agricultural practices, but not new farm or agricultural practices.

It is noteworthy that the current regulations do not expressly govern intermittent or ephemeral streams. Nor do they extend to "lakes, ponds or other surface waters which are wholly landlocked and privately owned, and which are not regulated as waters of the United States under Section 404 of the Clean Water Act." This proposed new definition would add regulations to intermittent or ephemeral streams, and would eliminate a major exemption for lakes, ponds or other landlocked surface waters.

Having been actively engaged in the fight against this sort of regulation at the federal level since I took office in 2018, I am deeply concerned that this regulation presents an overbroad over-reach beyond the proper scope of state government. The "Waters of the United States" ("WOTUS") proposed rules have been a disaster as proposed by the federal government over the years, proposing to remove landowners' rights at an alarming level.

For background, I am incorporating into these comments by reference the comments I previously filed with the U.S. EPA regarding WOTUS in 2019 and in 2022. The 2019 proposed rule was headed in the

right direction. The 2022 proposed rule was headed the wrong direction. My prior comments to WOTUS are available as Exhibits A and B attached hereto. But the Sackett decision found that the EPA had pushed the Clean Water Act envelope too far, striking down EPA's authority over the wetlands issue in general, limiting EPA authority to wetlands that have a continuous surface connection to "waters of the United States" connected to traditional interstate navigable waters.

When the Supreme Court in the Sackett decision struck down key portions of the WOTUS authority under the Clean Water Act in 2023, most states including those of us here in Mississippi welcomed this relief. At the time, I wrote the following op-ed regarding the Sackett decision, which I reprint here for convenience:

On May 25, 2023, a great victory was won for farmers, ranchers and landowners across America and here in Mississippi. On that day the U.S. Supreme Court unanimously ruled that the U.S. Environmental Protection Agency (EPA) had overstepped its bounds, and that its interpretation of its powers went too far under the federal Clean Water Act. This ruling limited the scope of the term "wetlands" in response to Sackett v. U.S. Environmental Protection Agency in which the Supreme Court sided with an Idaho couple who argued that their land was not subject to the Clean Water Act. This news is welcomed by all of us as farmers, the stewards of the land and the original conservationists.

The battle over the definition of "Waters of the United States" (WOTUS) within the Clean Water Act has been ongoing for many years. Some of the prior interpretations applied by the EPA could have subjected all creeks and ditches to possible EPA regulation. Most recently, in 2015, the Obama Administration finalized a new and controversial WOTUS definition which was immediately challenged in the courts. That left the pre-2015 WOTUS rule in effect in 28 states, and the 2015 WOTUS rule was in effect in 22 states until April 2020. In 2020, the Trump Administration repealed and replaced the 2015 rule and released its definition of WOTUS within the Navigable Waters Protection Rule (NWPR). NWPR was supported by most agricultural organizations and stakeholders and was viewed as clear, understandable, implementable, and clarified federal authority under the Clean Water Act. Then again in 2023, the Biden Administration adopted a new "Revised Definition of 'Waters of the United States'" rule. The adoption of this new rule replaced the Navigable Waters Protection Rule (NWPR) and was viewed as premature by many since Sackett v. EPA was still pending in the court system. As a result of the current Supreme Court ruling that limits EPA's regulatory authority, agricultural organizations such as the National Association of State Departments of Agriculture and the American Farm Bureau Federation have called on the EPA and the U.S. Army Corps of Engineers to issue a revised version of the WOTUS rule. I too join in that request. Mississippi's farmers, ranchers, and landowners want to protect our natural resources; however, we need regulations based in common sense that are clear, easily interpreted, and do not overreach regulatory authority. Wetlands should not include every creek on the farm and every wet spot in the pasture. Commissioner Andy Gipson

Post-Sackett, a couple of liberal states have adopted statewide water regulations in place of WOTUS. Most conservative states, including most of our southern states, have recognized the post-Sackett enhanced landowner rights and have chosen not to adopt new state regulations, nor to impose new restrictions on land development within the state. In fact, many of Mississippi's surrounding states have either taken no action or, like Tennessee, have voted to roll back their state permit regulations.

A December, 2025 summary prepared by K&L Gates confirmed this to be the case: "Waters of the United States" Once Again in Flux | HUB | K&L Gates (attached hereto as Exhibit C).

Surprisingly, on the post-Sackett map, Mississippi appears to stick out like a sore thumb in contrast to our surrounding states who either a) have not adopted new state permit programs; b) only have programs for coastal waters; or c) have taken action to reduce state regulations post-Sackett. I would like Mississippi to be in category (c): let's find a way to roll back existing regulations rather than create new ones.

But instead of rolling back regulations like Tennessee and other states have taken, the MDEQ seems to be proposing a new major regulatory regime of WOTUS-style "SWAP Permits." These permits would impose new state control over large areas of Mississippi land, including ephemeral or intermittent streams (i.e. ditches), requiring new permits in many cases unless an approved exception is found. In other words, it would seem MDEQ is proposing to "SWAP" the old WOTUS-type rules for a new set of state-level SWAP regulations that could harm or further erode our Mississippi landowner rights.

In addition, these new SWAP permits could easily put a chilling effect on the current economic development and growth Mississippi is experiencing and hopes to experience. Land developers, contractors, homebuilders and new economic development projects would have to comply with a new set of State regulations that no surrounding state is requiring. At best that would delay ongoing economic development. At worst it could put Mississippi at a competitive disadvantage to the surrounding states.

Even with the proposed exemptions that arguably may apply under SWAP, the new rules could easily be abused by a future state administration. There should be no rush to adopt these SWAP regulations given these concerns.

The Legislature will reconvene in January, 2027. Mississippi will elect a new Governor in 2027. These issues can be addressed by legislative action, not regulatory action.

In conclusion, I urge MDEQ to reject the temptation to create the new SWAP system of state regulations in place of an antiquated and unconstitutional federal WOTUS wetland regulation. A seasonal ditch that runs dry on a farm or on someone's private property should not be subject to state control. A wet spot in a pasture or field should not be regulated. A landowner shouldn't be required to get a state permit to build a pond on private property or to start a new agricultural or forestry land use. Developers shouldn't be required to get yet another permit to build a road or construct a subdivision of new homes. Mississippians deserve more freedom, not less.

Sincerely,



Andy Gipson
Commissioner



STATE OF MISSISSIPPI
DEPARTMENT OF AGRICULTURE AND COMMERCE

ANDY GIPSON
COMMISSIONER

April 12, 2019

Submitted via www.regulations.gov

U.S. Environmental Protection Agency
EPA Docket Center
Office of Water Docket
Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Attention: Docket ID No. EPA-HQ-OW-2018-0149

Re: Comments on Revised Definition of "Waters of the United States," 84 Fed. Reg. 4,154 (Feb. 14, 2019)

Dear Administrator Wheeler,

Mississippi is blessed to have some of the most abundant natural resources within the U.S. Because of these great resources and conservation practices implemented by farmers across the state, agriculture is Mississippi's number one industry. As the Commissioner of the Mississippi Department of Agriculture and Commerce, I want to thank you on behalf of our farmers for the opportunity to provide comments regarding the Environmental Protection Agency's and Army Corps of Engineers' (collectively as "the agencies") proposed rule revising the definition of "waters of the United States."

I applaud the agencies' efforts to rescind the 2015 Clean Water Rule and to propose a new definition that is clear, understandable, implementable, and clarifies federal authority under the Clean Water Act. The 2015 Clean Water Rule impedes state authority, adversely impacts state regulatory programs, and undermines states' primacy in land and water use decisions. Farmers are some of the best conservationists and stewards of our land and water, and they understand that laws and regulations are needed to help conserve natural resources. However, it is imperative that we protect them from overreaching, burdensome regulations. The proposed rule provides regulatory certainty and clarity regarding the definition of WOTUS.

In closing, thank you once again for considering comments regarding the proposed WOTUS definition. Mississippi's farmers, ranchers, and landowners are some of the greatest conservationists found in our state and across the nation. They work daily to protect our water resources and to provide a clean and healthy environment. We look forward to working with the agencies throughout codification of a rule that provides clarity and certainty to farmers and allows easy implementation in the field.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andy Gipson", is written over a light blue horizontal line.

Andy Gipson
Commissioner



**STATE OF MISSISSIPPI
DEPARTMENT OF AGRICULTURE AND COMMERCE**

ANDY GIPSON
COMMISSIONER

February 7, 2022

Submitted via www.regulations.gov

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Stacey Jensen
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Attention: Docket ID No. EPA-HQ-OW-2021-0602

Re: Public Comments for Revised Definition of Waters of the United States

On November 18, 2021, the U.S. Environmental Protection Agency (EPA) and the Department of the Army announced a proposed rule to re-establish the pre-2015 definition of "waters of the United States" (WOTUS) and requested public comments. Thank you for allowing me the opportunity to comment on this issue of high importance. On behalf of Mississippi farmers, ranchers, and landowners, I want to express my support of the Navigable Waters Protection Rule (NWPR). I do not support the needless exercise of redefining WOTUS once again.

NWPR was clear, understandable, implementable, and clarified federal authority under the Clean Water Act. Farmers are some of the best conservationists and stewards of our land and water, and they understand that laws and regulations are needed to help conserve natural resources. However, it is imperative that we protect them from overreaching, burdensome regulations. Upholding NWPR would do so. The EPA has stated that waters have experienced significant degradation since NWPR went into effect. "Proof" of that degradation was merely the lack of jurisdiction over previously regulated waters of the United States. Lack of jurisdiction is not a defensible justification to enter this exercise once again. NWPR was not in effect long enough to gain the amount of information and data needed to determine that the rule needed to be rescinded.

Mississippi's farmers, ranchers, and landowners do want to protect natural resources, but they need regulations to be clear and easily interpreted. NWPR met that need and protected the nation's water for use by future generations to come. I ask that the Agencies withdraw the Proposed Rule and retain NWPR without revision. Once again, thank you for the opportunity to provide these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andy Gipson", with a long horizontal flourish extending to the right.

Andy Gipson
Commissioner

"WATERS OF THE UNITED STATES" ONCE AGAIN IN FLUX

Date: 8 December 2025

US Environment, Land, and Natural Resources Alert

By: **Christine A. Jochim** (/lawyers/Christine-A-Jochim), **Endre M. Szalay** (/lawyers/Endre-M-Szalay), **Tad J. Macfarlan** (/lawyers/Tad-J-Macfarlan), **Robert M. Smith** (/lawyers/Robert-M-Smith), **Ellery R. Richardson** (/lawyers/Ellery-R-Richardson), **Michael S. Heard Snow** (/lawyers/Michael-S-Heard-Snow)

The ephemeral meaning of what bodies of water qualify as "Waters of the United States" (WOTUS) is once again changing, spurring a renewed focus on state programs. On 17 November 2025, the Environmental Protection Agency (EPA) and the US Army Corps of Engineers (USACE) announced a proposed rule redefining WOTUS under the federal Clean Water Act (CWA) in the newest campaign in the prolonged legal war over the term's definition.¹

WOTUS is a crucial concept that defines the bodies of water subject to regulation under the CWA. Among other things, it determines when developers or landowners must obtain federal CWA permits for actions that affect wetlands and waters. The inclusion (or not) of an area as WOTUS determines when American industry, farmers, states, and landowners are required to seek CWA permits for activities such as dredging, filling, or discharging that may impact such waters. Changes to WOTUS that may reduce the scope of federal coverage will place greater emphasis on corresponding state regulations, which vary significantly concerning how closely they follow the federal regulations and, in some cases, provide distinct grounds for state water regulation.

The *Sackett* decision cemented a narrow interpretation of WOTUS, and the final rule must conform with that framework. Still, ambiguities will remain, particularly in the definition and application of "relatively permanent" waters and wetlands with a "continuous surface connection" to such waters. Public comments on the proposed rule close on 5 January 2026.

PROPOSED RULE HIGHLIGHTS

The proposed rule is the agencies' latest attempt to align the definition of WOTUS with the US Supreme Court's 2023 decision in *Sackett v. EPA*.² The *Sackett* decision significantly narrowed the scope WOTUS, holding that federal CWA jurisdiction reaches only "relatively permanent waters" (e.g., streams, river, lakes) connected to traditional navigable waters and wetlands with a "continuous surface connection" to such waters.³

A key feature of the proposed rule is a new limiting concept of "wet season," applicable to the proposed rule's definitions of "relatively permanent" and "continuous surface connection."⁴ The proposed rule requires that during the "wet season" surface hydrology must "be continuous," otherwise the CWA does not apply.⁵ The preamble to the proposed rule describes the agencies' interpretation of "wet season," but the proposed rule itself does not define the term.

The rule also removes "interstate waters" as an independent basis for CWA jurisdiction. Interstate waters must fall within the enumerated list of WOTUS (e.g., "relatively permanent, standing or continuously flowing bodies of water" (such as streams, oceans, rivers, and lakes) and wetlands that are connected and indistinguishable from such water bodies) to be covered under the CWA.

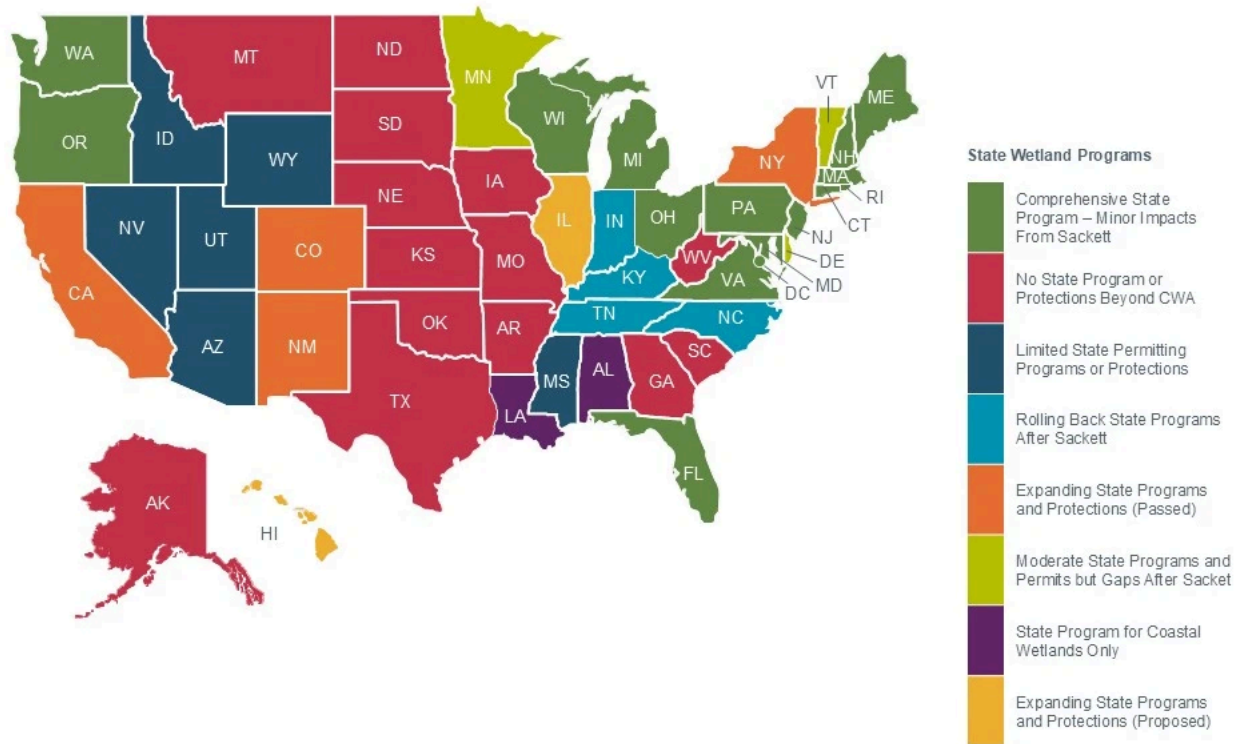
It also defines numerous terms such as "relatively permanent,"⁶ "tributary,"⁷ "continuous surface connection,"⁸ "excluded ditches,"⁹ excluded "prior converted cropland,"¹⁰ and excluded "waste treatment systems."¹¹

Although the rule attempts to add clarity about what kind of wetlands will be covered, the undefined term "wet season" will likely lead to more questions, challenges, and disparity in application between states. Ultimately, as federal coverage ebbs and flows, it will likely fall to the states to determine the level of protection granted to their waters.



SOME STATES FILL THE GAP, OTHERS ROLL BACK REGULATIONS

Many states rely on the CWA and its regulations as their only form of wetland protection for state waters. Others, such as California, Pennsylvania, Washington, and Virginia already have comprehensive regulatory programs. States have also responded to *Sackett* and the instability of the WOTUS rule by changing their laws: New Mexico and Colorado have responded by expanding protections and programs, while states such as Tennessee have rolled back their laws.



Source: K&L Gates LLP

STATES ALREADY PROTECTING WATERS BEYOND THE SCOPE OF CWA JURISDICTION

Many states already have comprehensive water protection and permitting schemes that apply to all waters within the state, including and beyond those covered by federal definitions.¹² For instance, Pennsylvania’s “Clean Streams Law” extends protections to all “waters of the Commonwealth,”¹³ and its Dam Safety and Encroachments Act¹⁴ continues current wetland protection standards and permitting requirements without regard to whether wetlands qualify as WOTUS.

In Virginia, the State Water Control Law has implemented requirements beyond the CWA since 2000 with the goal of protecting and restoring the quality of Virginia’s waters. The law requires permits for actions affecting state waters and covers pollution control, water conservation, and management, with penalties for violations.¹⁵ Virginia defines “state waters” as “all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.”¹⁶ Where wetlands are defined as “those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.”¹⁷

Similarly, in California, “waters of the state” are defined broadly as “any surface water or groundwater, including saline waters, within the boundaries of the state.”¹⁸ Both waters of the state and wetlands are protected and regulated under the *San Francisco Bay-Delta Water Quality Control Act* by the State Water Resources Control Board and Regional Water Quality

Control Boards, responsible for water quality protection and permitting activities that can affect water quality. The California Department of Fish and Wildlife is responsible for permitting streambed alterations of state waters.

STATES EXPANDING PROTECTIONS

Southwestern states were some of the most severely affected by *Sackett*; according to the New Mexico Legislature, approximately 90–95% of “waters” in the state lost protections, prompting the legislature to pass Senate Bills 21 and 22.¹⁹ The bills expand the New Mexico Water Quality Act to protect surface waters no longer covered by federal law. They also give New Mexico authority to seek the EPA’s approval to become the 48th state to gain authorization for surface water permitting,²⁰ and address polluted groundwater that falls outside federal Superfund program jurisdiction.

Similarly affected, Colorado is also expanding state regulations to address gaps left by *Sackett*. The state legislature directed the Water Quality Control Commission to establish dredge-and-fill permitting and mitigation rules by 31 December 2025 to protect state waters not otherwise protected by federal law. The outcome will be Regulation No. 87, which is expected to be finalized by 31 December 2025.

The California Legislature is also considering additional regulations to further protect California state waters to address a perceived rollback in protections due to the *Sackett* decision and Trump administration policies.²¹ The proposed regulations would explicitly extend protections to state waters no longer covered under federal law.

STATES ROLLING BACK PROTECTIONS

Tennessee has a robust state program but changed its wetlands protections during its 2025 legislative session in response to *Sackett*.²² These amendments to the Tennessee Water Quality Control Act establish new categories of wetlands with varying regulatory triggers for each. The thresholds for needing a state permit for altering isolated wetlands have been changed so that some isolated wetlands can be altered with no regulatory oversight as long as there is no water quality impact, and the trigger for needing a state permit for altering isolated wetlands has been limited.

CONCLUSION

Comments on the proposed WOTUS rule are being accepted until 5 January 2026. The Final Rule will take effect 60 days after it is published in the *Federal Register*. The EPA and USACE will also hold two hybrid public meetings during the comment period. Information on the public meetings can be found [here](https://urldefense.com/v3/__https://em.nei.org/NzY2LVdCTC04NzcAAAGePRqe45Z4G2foJDqLVZ5LZUPSEKkwQcMI_PU_e3hjSE6tAMI4sp8A=__!!JQLo8HXyDA4!07Y6jYG9G0rVhMbK6-aEJNITz_dWeQJdtlVF0iWOKdK6MFI9th1fptCZdxo5bUgJ_X3QuNU2zLblvs$) ([https://urldefense.com/v3/__https://em.nei.org/NzY2LVdCTC04NzcAAAGePRqe45Z4G2foJDqLVZ5LZUPSEKkwQcMI_PU_e3hjSE6tAMI4sp8A=__!!JQLo8HXyDA4!07Y6jYG9G0rVhMbK6-aEJNITz_dWeQJdtlVF0iWOKdK6MFI9th1fptCZdxo5bUgJ_X3QuNU2zLblvs\\$](https://urldefense.com/v3/__https://em.nei.org/NzY2LVdCTC04NzcAAAGePRqe45Z4G2foJDqLVZ5LZUPSEKkwQcMI_PU_e3hjSE6tAMI4sp8A=__!!JQLo8HXyDA4!07Y6jYG9G0rVhMbK6-aEJNITz_dWeQJdtlVF0iWOKdK6MFI9th1fptCZdxo5bUgJ_X3QuNU2zLblvs$)).

- AUDIO VERSION



FOOTNOTES

¹ Updated Definition of “Waters of the United States,” 90 Fed. Reg 52,498 (Nov. 20, 2025); *Revising the Definition of Waters of the United States*, ENV’T PROT. AGENCY (Nov. 17, 2025) <https://www.epa.gov/wotus/revising-definition->

waters-united-states (<https://www.epa.gov/wotus/revising-definition-waters-united-states>).

² Following Sackett, Another New Final WOTUS Rule, K&L GATES (Sept. 14, 2023), <https://www.klgates.com/Following-Sackett-Another-New-Final-WOTUS-Rule-9-14-2023> (<https://www.klgates.com/Following-Sackett-Another-New-Final-WOTUS-Rule-9-14-2023>).

³ *Sackett v. Env't Prot. Agency*, 598 U.S. 651, 680 (2023).

⁴ “The phrase ‘at least during the wet season’ is intended to include extended periods of predictable, continuous surface hydrology occurring in the same geographic feature year after year in response to the wet season, such as when average monthly precipitation exceeds average monthly evapotranspiration. As proposed, surface hydrology would be required to be continuous throughout the entirety of the wet season.” 90 Fed. Reg. at 52,518.

⁵ EPA and USACE state that they “intend to use the metrics from the Web-based Water-Budget Interactive Modeling Program (WebWIMP)” to identify “wet seasons,” but solicit comment on the most appropriate method to identify the “wet season.” *Id.* at 52,519.

⁶ Defined as “standing or continuously flowing bodies of surface water that are standing or continuously flowing year-round or at least during the wet season.” *Id.* at 52,545.

⁷ Defined as “a body of water with relatively permanent flow, and a bed and banks, that connects to a downstream traditional navigable water or the territorial seas, either directly or through one or more waters or features that convey relatively permanent flow. A tributary does not include a body of water that contributes surface water flow to a downstream jurisdictional water through a feature such as a channelized non-jurisdictional surface water feature, subterranean river, culvert, dam, tunnel, or similar artificial feature, or through a debris pile, boulder field, wetland, or similar natural feature, if such feature does not convey relatively permanent flow. When the tributary is part of a water transfer (as that term is applied under 40 CFR 122.3) currently in operation, the tributary would retain jurisdictional status.” *Id.*

⁸ “Continuous surface connection means having surface water at least during the wet season and abutting (i.e., touching) a jurisdictional water.” *Id.* at 52,546.

⁹ Defined as “[d]itches (including roadside ditches) that are constructed or excavated entirely in dry land.” *Id.* at 52,540.

¹⁰ Defined as “any area that, prior to December 23, 1985, was drained or otherwise manipulated for the purpose, or having the effect, of making production of an agricultural product possible. EPA and the Corps will recognize designations of prior converted cropland made by the Secretary of Agriculture. An area is no longer considered prior converted cropland for purposes of the Clean Water Act when the area is abandoned and has reverted to wetlands, as defined in paragraph (c)(1) of this section. Abandonment occurs when prior converted cropland is not used for, or in support of, agricultural purposes at least once in the immediately preceding five years. For the purposes of the Clean Water Act, the EPA Administrator shall have the final authority to determine whether prior converted cropland has been abandoned.” *Id.* at 52,545.

¹¹ Defined as “all components of a waste treatment system designed to meet the requirements of the Clean Water Act, including lagoons and treatment ponds (such as settling or cooling ponds), designed to either convey or retain, concentrate, settle, reduce, or remove pollutants, either actively or passively, from wastewater prior to discharge (or eliminating any such discharge).” *Id.* at 52,546.

¹² See, e.g., *Stream and Wetland Regulatory Program*, COMMONWEALTH PENN., <https://www.pa.gov/agencies/dep/programs-and-services/water/bureau-of-waterways-engineering-and-wetlands/stream-and-wetland-regulatory-program> (<https://www.pa.gov/agencies/dep/programs-and-services/water/bureau-of-waterways-engineering-and-wetlands/stream-and-wetland-regulatory-program>) (last visited Nov. 21, 2025).

¹³ 35 P.S. § 691.1 (“Waters of the Commonwealth’ shall be construed to include any and all rivers, streams, creeks, rivulets, impoundments, ditches, water courses, storm sewers, lakes, dammed water, ponds, springs and all other bodies or channels of conveyance of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth.”)

 n Safety and Encroachments Act, P.L. 1375, No. 325 (1978).

¹⁵ State Water Control Law, VA. CODE ANN. § 62.1-44.2.

¹⁶ *Id.* § 62.1-44.3.

¹⁷ *Id.*

¹⁸ Cal. Water Code § 13050(e).

¹⁹ New Mexico Senate Bill 21, available at: <https://www.nmlegis.gov/Sessions/25%20Regular/final/SB0021.pdf> (<https://www.nmlegis.gov/Sessions/25%20Regular/final/SB0021.pdf>); *Governor signs Strategic Water Supply and environmental protection bills*, OFFICE OF THE GOVERNOR (Apr. 8, 2025), <https://www.governor.state.nm.us/2025/04/08/governor-signs-strategic-water-supply-and-environmental-protection-bills-state-acts-to-protect-all-surface-waterbodies-a-targeted-response-to-the-2023-u-s-supreme-court-ruling-that-narrowed-federal/> (<https://www.governor.state.nm.us/2025/04/08/governor-signs-strategic-water-supply-and-environmental-protection-bills-state-acts-to-protect-all-surface-waterbodies-a-targeted-response-to-the-2023-u-s-supreme-court-ruling-that-narrowed-federal/>).

²⁰ New Mexico was the last Western state, and one of the only remaining states that allowed the federal government to manage surface discharge permitting in the state.

²¹ See California Senate Bill 601 (2025), available at: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260SB601 (https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260SB601).

²² 2025 Public Chapter 437 (S.B. 670)

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