

Support the “No WOTUS Before SCOTUS” Amendment

Over the course of 2022, the Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA) have been working to issue a new rule that redefines what constitutes a “Navigable Waters of the United States” (WOTUS) and subjected to obtaining a federal water permit under the Clean Water Act (CWA). In its spring [Regulatory Agenda](#), the agencies indicate the final rule is going through review at OMB and could be finalized in the coming months. This will be the fourth change to WOTUS in a decade.

- The new rule proposed by the Corps and EPA does make *substantive* and *new* changes to the definition of WOTUS. In February, the [Small Business Administration found](#) that the agencies have improperly certified the proposed rule, determined the proposed rule expands the definition of WOTUS and impacts small businesses requiring a small business regulatory review.

Concurrently, the Supreme Court of the United States (SCOTUS) has agreed to hear the *Sackett v. EPA* case. It is highly anticipated the outcome of their decision in this case will change how EPA and the Corps define a WOTUS. Oral arguments are scheduled for October 3 -- the first case of the fall SCOTUS session -- with an expected decision late 2022 or early 2023.

Under the current timeline, the administration will implement their proposed changes to WOTUS and then shortly thereafter the Supreme Court will likely require the agencies to, once again, issue another change to WOTUS, prompting the fifth change in a decade.

The current regulatory ambiguity is impacting industry ability to obtain CWA permits to establish new domestic manufacturing facilities and build infrastructure projects that are critical to addressing our supply chain crisis.

Unfortunately, despite hearing from impacted stakeholders, [201 Members of the House and 50 U.S. Senators](#), the agencies are still proceeding with their final rule prior to the Supreme Court action.

Industries that support our modern way of life like farmers, energy suppliers, manufacturers, home builders, materials producers, construction, etc. desire an enduring WOTUS rule that provides certainty. **Member of the House Appropriations Committee are strongly urged to support:**

1. **Rep. Simpson’s Amendment** during the markup of the FY 2023 Energy and Water bill, and;
2. **Rep. Newhouse’s Amendment** during the markup of the FY 2023 Interior and Environment bill

These amendments do not stop the agencies from proceeding with future rulemakings or dictate new policy changes to WOTUS.

These commonsense amendments only provide certainty to industries that are producing materials, goods, and food to continue operating and investing in our communities instead of forcing an unnecessary and avoidable regulatory change that will only be changed again in the coming months. These amendments will help keep prices low by giving 85% of our nation’s economy greater certainty and save taxpayer dollars on unnecessary red tape.