

Hicks-Ray Associates

Implementing Strategies, Achieving Success



May 27, 2015

TO: WESTCAS Membership

FROM: Hicks-Ray Associates

SUBJECT: WOTUS Rule to be Released This Morning By USEPA

USEPA is expected to release the WOTUS Rule this morning. WESTCAS members can follow the action by logging onto: www2.epa.gov/cleanwaterrule

USEPA will be hosting a national conference call this afternoon at 3:15 PM EDT with regard to the Rule. Here is the contact information:

Dial in #: (877) 290-8017

ID #: 54181712

EPA suggests that participants plan to call in at least 15 minutes before the 3:15 PM start.

So now EPA moves into implementation mode for WOTUS and the Congress has to decide if it is serious with regard to Congressional Rider language stopping FY16 funding for the new Rule. The House version of the FY16 Energy and Water Appropriations bills passed by a vote of 240 to 177 earlier this month contains the following provision:

“Section 105. None of the funds made available in this or any other Act making Appropriations for Energy and Water Development for any fiscal year may be used by the Corps of Engineers to develop, adopt, implement, administer or enforce any change to the regulations and guidance in effect on October 1, 2012 pertaining to the definition of waters under the jurisdiction of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) including the provisions of the rules dated November 13, 1986, and August 25, 1993, relating to such jurisdiction and the guidance documents dated January 15, 2003, and December 2, 2008, relating to such jurisdictions.”

This House provision would remove funding for WOTUS implementation from the Corps of Engineers and the Bureau of Reclamation. The Senate version of the bill passed the full Senate Appropriations Committee last week **without this provision** although it could be added during floor debate. The Appropriations Subcommittee on Interior and Environment which has jurisdiction over USEPA may also chose to add its own riders stripping FY16 funding for WOTUS. The WESTCAS annual conference in San Diego will provide a great venue for the membership to fully discuss this issue and determine “next steps.” So stay tuned. The WOTUS issue just came to a “full boil.”

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