



Regulatory Definition of
"Waters of the United States"
WESTCAS Perspective
June 20, 2018

Waters of the United States – Current Status

Step 1 Proposed Rule

July 27, 2017 (82 Fed. Reg. 34899)

First of two step process to review and revise the definition of WOTUS, consistent with the President’s Executive Order “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule.”

Rescind 2015 Clean Water Rule & recodify post-*Rapanos* Code of Federal Regulations definition

WESTCAS submitted comments

Awaiting Final agency action

Industry Listening Sessions

August 28, 2017 (82 Fed. Reg. 40742)

A total of 10 teleconferences (9 industry-specific, 1 general) allowing stakeholders to provide the agencies with pre-proposal feedback before drafting the Step 2 rule.

WESTCAS submitted comments

Awaiting Step Two proposal

Applicability Date Rule

November 22, 2017 (82 Fed. Reg. 55542)

Proposal to add two years to “applicability date” of 2015 CWR. Finalized on February 6, 2018 (83 Fed. Reg. 5200).

New “applicability date” is February 6, 2020.

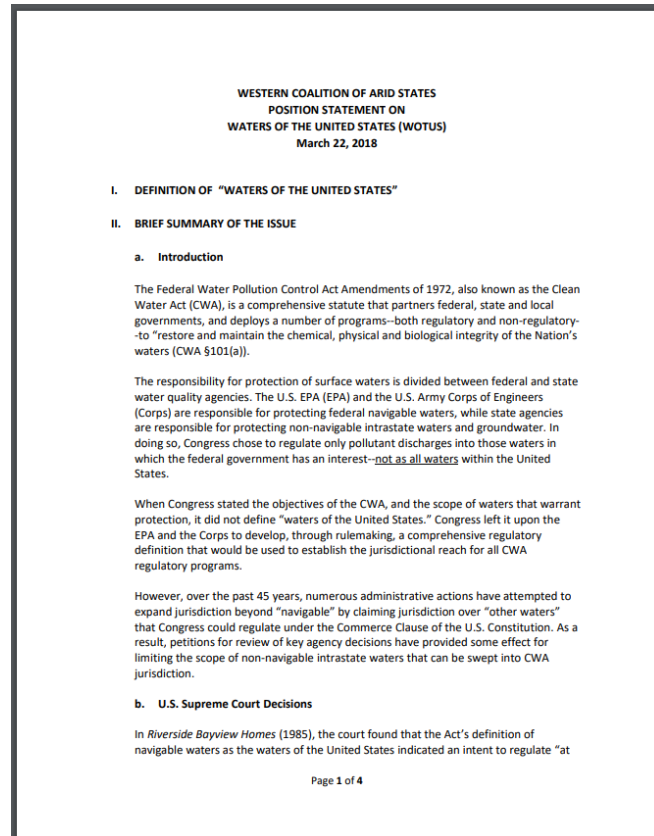
Will allow agency time to complete stakeholder process, seek consultations with local, state and tribal officials, and complete certain economic and cost-benefit analysis studies.

WESTCAS submitted comments

Facing multiple legal challenges



Waters of the United States – WESTCAS Positon



1. Actively engage and participate in waters of the United States rulemakings to promote the incorporation of sound science, relevant legal principles, and widely accepted agency guidance
2. Advocate for the development of an appropriate regulatory definition of waters of the United States that recognizes the unique climatic, geographical, and hydrological features of the arid West
3. Seek opportunities to assist water quality agencies with developing and implementing regulations, policies, procedures and guidance that are uniquely tailored to the arid West

