



Consortium of
Aquatic Science Societies

January 5, 2026

Ms. Stacey Jensen, Director
Oceans, Wetlands and Communities Division
Office of Water
U.S. Environmental Protection Agency

Mr. Milton Boyd, Acting Director for Policy and Legislation
Office of the Assistant Secretary of the Army for Civil Works
Department of the Army

Re: Docket ID No. EPA-HQ-OW-2025-0322

Dear Ms. Jensen and Mr. Boyd:

Members of the Consortium of Aquatic Science Societies (CASS) would like to offer comments for the Updated Definition of “Waters of the United States”. Our aquatic science professionals work in the private sector, academia, nongovernmental organizations, and various tribal, state, and federal agencies. We support the development and use of the best-available science to sustainably manage our freshwater, estuarine, coastal, and ocean resources for broad economic, environmental and public health benefits.

The proposed 2025 Waters of the United States (WOTUS) definition narrows the scope of protection under the Clean Water Act (CWA) compared to prior rules, substantially weakening federal protection of U.S. waters. With the passage of the CWA in 1972, Congress aimed “to restore and maintain the chemical, physical, and biological integrity of the nation's waters.” To achieve this, the CWA curbed pollutant discharges and restricted the dredging and filling of waters, including wetlands, to protect water quality for fish, wildlife, recreation, and human consumption. Congress intended to make waters fishable and swimmable. The proposed rule will not meet the intentions of the CWA and it is neither clear nor durable for determining jurisdiction.

Weakened protections will lead to economic and ecologic harm to U.S. waters and communities.

Although the CWA (33 U.S.C. §§ 1251-1387) specifically mentioned groundwater and the necessity of protecting it from non-point sources of pollution, the WOTUS rule has not yet incorporated this critical component of our aquatic systems. Yet aquatic science, industry, agriculture, and even municipal water treatment facilities have long recognized the vital connection between surface and groundwaters, as the amount and quality of one is intrinsically linked to the other. Current attempts to exclude groundwater from WOTUS will likely lead to violations not only of the CWA but also the Safe Drinking Water Act (SDWA) and place the responsibility of expensive treatments on communities rather than polluters. The State of Minnesota, for example, is in violation of the SDWA in southeastern Minnesota due to elevated levels of nitrate. Protecting the quantity and quality of WOTUS waters is fundamental to helping the nation achieve Safe Drinking Water Act standards. It is critical to lessen rather than widen the gap between protected waters and our drinking water faucets.

Under the new rule, wetlands must have water throughout a yet-to-be-defined “wet season” and maintain a continuous surface connection with navigable water. Wetlands that dry during the wet season, or those separated by structures like levees, berms, or roads, will not be protected. Wetlands in a mosaic will be subject to individual agency delineation, again reducing important off-channel water storage and ecosystem services such as processing pollutants. The most restrictive interpretation of the change projects up to 84% of wetlands that previously required a federal permit to dredge or fill would no longer be covered under the CWA (NRDC 2025). Their loss will lead to increased risk of flooding and degraded water quality (Acreman and Holden 2013; Creed et al. 2017).

If the final rule protects only perennial waters, federal jurisdiction could lose up to 8 million miles of streams (NRDC 2025). This legal definition conflicts with water connectivity science (EPA 2015). Headwaters process and retain significant nutrients (e.g., nitrogen), protecting the chemical integrity of downstream navigable waters (Alexander et al. 2007). Headwater streams (first through third order) comprise roughly 53% of US streams and 79% of total stream length (Colvin et al. 2019, Nadeau and Rains 2007). Crucially, 60% of US streams flow only seasonally or after precipitation, and these provide over half the volume of downstream waters (US EPA 2019; Brinkerhoff et al. 2024). The proposed rule therefore leaves half the nation’s flow without federal protection.

This rulemaking ultimately leaves critical systems supporting drinking water, floodwater storage, and biodiversity unprotected, and these systems are vital for our nation's security and economic prosperity.

Public polls show that 72% of the U.S. public supports restoring federal protections of wetlands and streams to pre-rollback levels, and 96% of voters believe protecting the water in lakes, streams, and rivers is important (Walton Family Foundation 2024). Yet the proposed WOTUS rule further weakens these protections. And for the 24 states relying solely on the CWA, this creates a total regulatory vacuum, leaving those waters with little to no state or federal oversight (Sulliván et al 2025).

Thank you for this opportunity to provide feedback on issues pertaining to the implementation of the definition of the waters of the United States. We remain committed to working with your agencies to offer proactive solutions for protecting our priceless natural resource: **water**.

Sincerely,

American Fisheries Society
Association for the Sciences of Limnology and Oceanography
Freshwater Mollusk Conservation Society
International Association for Great Lakes Research
North American Lake Management Society
Phycological Society of America
Society for Freshwater Science
Society of Wetland Scientists

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