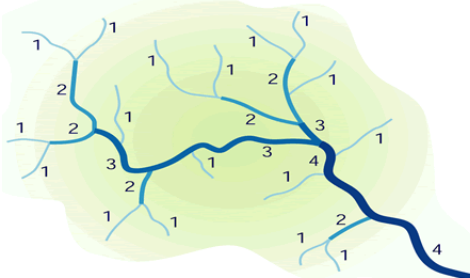


WETLAND 101 LUNCH & LEARN

Are you interested in learning more about how streams and wetlands impact your projects? We are happy to facilitate a lunch and learn covering a variety of topics

- Definition of jurisdictional streams and wetlands
- Jurisdictional wetland delineations vs. verifications.
- Nationwide permit overview
- Permitting strategies

AND, these sessions qualify for PDH credit. Just give us a call to set up a date – (828)553-9548



EPA REVISING THE DEFINITION OF “WATERS OF THE UNITED STATES”

The EPA began working on revising the current definition back in June 2021, public comment ended in February 2022, implementation yet to be determined. Here’s what we know so far:

The proposed definition interprets “waters of the United States” to mean the waters defined by the longstanding 1986 regulations, with amendments to certain parts of those rules to reflect the agencies’ interpretation of the statutory limits on the scope of the “waters of the United States” and informed by Supreme Court case law, including the Idaho case currently being heard.

“Waters of the United States” to include: Traditional navigable waters, interstate waters, and the territorial seas, and their adjacent wetlands; most impoundments of “waters of the United States”; tributaries to traditional navigable waters, interstate waters, the territorial seas, and impoundments that meet either the relatively permanent standard or the significant nexus standard; wetlands adjacent to impoundments and tributaries, that meet either the relatively permanent standard or the significant nexus standard; and “other waters” that meet either the relatively permanent standard or the significant nexus standard.

“GREAT, WHAT THE HECK DOES THAT MEAN?”

The EPA has made several attempts to define Waters of the US, most recently in 2015 and again in 2019.

In 2015, the standard used to define jurisdictional waters was “significant nexus” meaning the water in question had a significant chemical, physical and biological connection to a downstream traditionally navigable water.

In 2019, the standard was revised in part to make it easier to administer. The new standard was known as the relatively permanent standard and relied heavily on surface connection to a traditionally navigable water. This is largely understood to be an easier and more straightforward definition but is argued that it failed to capture a large percentage of water entering traditionally navigable waters, especially in the western states.

The newest version will rely on both standards. Jurisdiction would first be assessed on the 2019 standard, and if not met then it would be assessed on the 2015 standard.