



## Construction Industry Round Table

## Regulatory News

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### 4/23/2014 – Fed Seeks to Expand Its Reach Through Proposed New Clean Water Act Definitions

EPA and the Corps of Engineers have published a proposed rule that would define the scope of the waters protected under the Clean Water Act (CWA). The agencies' propose to assess on a case-specific basis which "other waters" are covered waters, based on whether they have a "significant nexus" to a traditional navigable water, interstate water, or the territorial seas. The proposal, which is being published for public comment, proposes defining the scope of waters protected under the Clean Water Act (CWA), in light of the U.S. Supreme Court cases in *U.S. v. Riverside Bayview*, *Rapanos v. United States*, and *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC)*. The agencies claim the changes will enhance protection for the nation's public health and aquatic resources, and increase CWA program predictability and consistency by increasing clarity as to the scope of "waters of the United States" protected under the Act. To this end, the Administration has already put on a full court PR campaign trying to influence the public and interested parties that EPA's reach will not really be expanded on the newly expansive definitions it is proposing. Critics see it otherwise, and are pushing back saying the new definitions invite federal control over virtually every body of water, down to the smallest pond or ditch.

Comments on this rulemaking must be submitted on or before **July 21, 2014**.

When submitting your comments, identify by **Docket ID No. EPA-HQ-OW-2011-0880**; and send by one of the following methods:

- *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email*: [ow-docket@epa.gov](mailto:ow-docket@epa.gov). Include EPA-HQ-OW-2011-0880 in the subject line of the message.
- *Mail*: Send the original and three copies of your comments to: Water Docket, Environmental Protection Agency, Mail Code 2822T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, Attention: Docket ID No. EPA-HQ-OW-2011-0880.
- *Hand Delivery/Courier*: Deliver your comments to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20460, Attention Docket ID No. EPA-HQ-OW-2011-0880. Such deliveries are accepted only during the Docket's normal hours of operation, which are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information. The telephone number for the Water Docket is 202-566-2426.