



**National Conference of State Legislatures
Office of State-Federal Relations**

EPA Proposes to Rescind 2015 WOTUS Final Rule and Issues Final Rules for Chemical Safety Implementation

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Waters of the United States (WOTUS)

On June 27, the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE), [announced](#) a proposed rule which would repeal the [Clean Water Rule: Definition of Waters of the United States](#), commonly referred to as WOTUS.

Finalized in June 2015, the Clean Water Rule was intended to define “Waters of the United States,” as used in the Clean Water Act (CWA). The rule aimed to determine both the scope of federal authority to regulate such water, as well as when states, local governments, and others must seek federal permits to develop land because it contains WOTUS. EPA’s action to rescind the rule follows a February 2017 Executive Order (EO) 13778, [“Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the “Waters of the United States” Rule.”](#) The EO directed EPA to begin the process of reviewing, and potentially rescinding the rule. For more information on the EO, please see [NCSL’s Info Alert](#).

The action proposes to rescind the 2015 rule and recodify regulations that existed prior to the 2015 rule, in order to “provide continuity and certainty for regulated entities, the states, agency staff, and the public.” The proposed rule also announces a second step in which the agencies will pursue notice-and-comment rulemaking as they conduct a “substantive re-evaluation” of WOTUS. Following an April 19 federalism consultation at which the agency outlined its initial schedule for making modifications to the 2015 rule, NCSL [submitted](#) input on the upcoming modification process.

Lautenberg Chemical Safety Act (LCSA)

Additionally, on June 22, the one-year anniversary of the signing of the Frank R. Lautenberg Chemical Safety for the 21st Century Act (LCSA), which amended the 40-year old Toxic Substances Control Act (TSCA), EPA [issued](#) three new rules and documents related to the implementation of the statute including:

- A [final rule](#) establishing EPA's process and criteria for identifying high priority chemicals for risk evaluation, and low priority chemicals for which risk evaluation is unnecessary.
- A [final rule](#) detailing how the agency plans to assess health and environmental risks from high-risk chemicals.
- A [final rule](#) requiring industry reporting of chemicals manufactured or processed in the U.S. within the last 10 years, thus reducing EPA's chemical inventory from 85,000 chemicals down to those only used commercially since 2008.
- [Guidance](#) for companies, industry groups, advocacy groups, research institutions and other organizations to submit draft risk assessments for individual chemicals.

EPA also released [scoping documents](#) describing how it plans to evaluate the [first 10 chemicals](#) to be reviewed under the law. The first 10 chemicals include asbestos, various chemicals used in dry cleaning and flame retardants, and a dye often used in paints and plastics. The chemicals were chosen from a list of 90 high-hazard compounds determined under the agency's [2014 TSCA work plan](#).

If there are any questions or further concerns on EPA's actions, please contact NCSL staff [Ben Husch](#) (202-624-7779), or [Kristen Hildreth](#) (202-624-3597).