

Alert

EPA and U.S. Army Corps of Engineers Issue Final Wetlands Jurisdiction Regulations

May 29, 2015

On May 27, 2015 the Environmental Protection Agency and the United States Army Corps of Engineers finalized the long awaited rule clarifying the scope of federal Clean Water Act jurisdiction over wetlands (the "Final Rule"). The 297-page document is intended to address the regulatory uncertainty over the scope of jurisdictional waters caused by the United States Supreme Court's 2006 decision in *Rapanos v. United States*. The Final Rule was issued after extensive public comment.

In announcing the rule, EPA officials indicated that its intent is to clarify, but not expand, the scope of federal jurisdiction, stating flatly that the Final Rule "does not interfere with or change private property rights or address land use." A number of lawmakers and industry groups strongly disagree with this assessment. Both the American Farm Bureau and the U.S. Chamber of Commerce have indicated that legal challenge is likely.

While the Final Rule is expansive, a few substantive highlights include that it limits jurisdiction over ditches and erosional or ephemeral features, and provides an important new set of distanced-based metrics for determining whether certain features are jurisdictional.

Linowes and Blocher's Environmental Practice Group is continuing to review the Final Rule given its likely impacts upon the residential and commercial real estate and agricultural sectors. To the extent that you have any questions or would like more information regarding the Final Rule, do not hesitate to contact:

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