



Overview of the Final “Waters of the U.S.” Rule

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Spring Board of Directors Meeting
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Waters of the United States (WOTUS)

- (1) Traditional navigable waters (TNWs)
 - (2) Interstate waters
 - (3) Territorial seas
 - (4) Impoundments of WOTUS
 - (5) Tributaries of (1) – (3) waters
 - (6) Waters adjacent to (1) – (5) waters
 - (7) Regional types of wetlands provided they have a significant nexus to a (1) – (3) water
 - (8) Waters in the 100-yr floodplain or within 4,000 feet of a (1) – (5) water provided they have a significant nexus to a (1) – (3) water
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- Jurisdictional by Rule
- Require Sig. Nexus

NOT Waters of the United States (WOTUS)

- Waste treatment systems designed to meet requirements of CWA
- Prior converted cropland
- Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary
- Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands
- Ditches that don't contribute flow to (1) – (3) waters
- Artificially irrigated areas that would revert to dry land
- Artificial lakes, ponds, reflecting pools, swimming pools created in dry land
- Small ornamental features created in dry land
- Water filled depressions created in dry land incidental to construction activity
- Erosional features (gullies, rills, ephemeral features) that don't meet the tributary definition
- Puddles
- Groundwater
- Stormwater control features created in dry land
- Wastewater recycling structures constructed in dry land

All tributaries are jurisdictional by rule.

bed + bank + OHWM + contributes flow = tributary



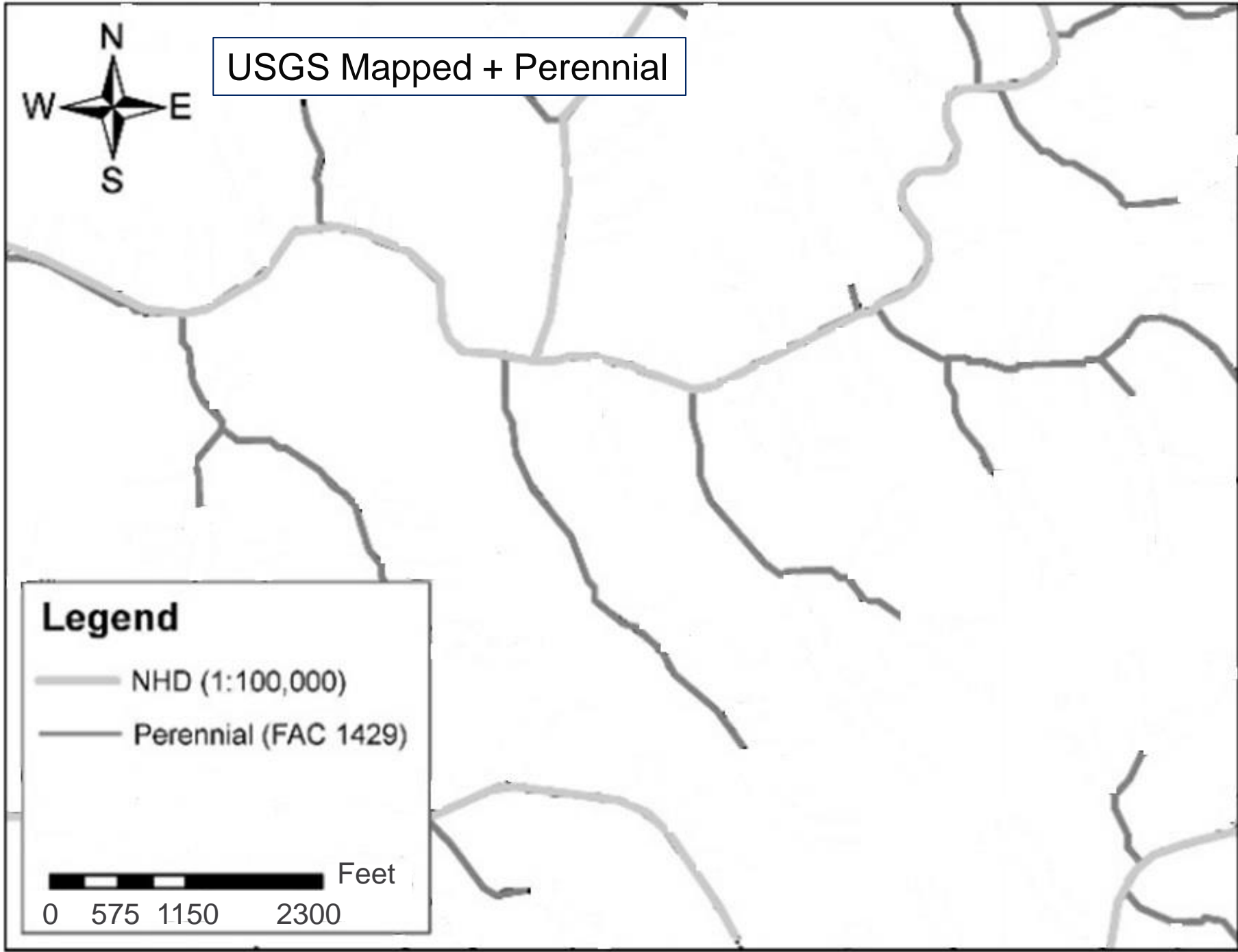
USGS Mapped

Legend

— NHD (1:100,000)

0 575 1150 2300 Feet

USGS Mapped + Perennial



Legend

- NHD (1:100,000)
- Perennial (FAC 1429)

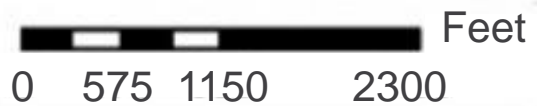


USGS Mapped + Perennial + Intermittent

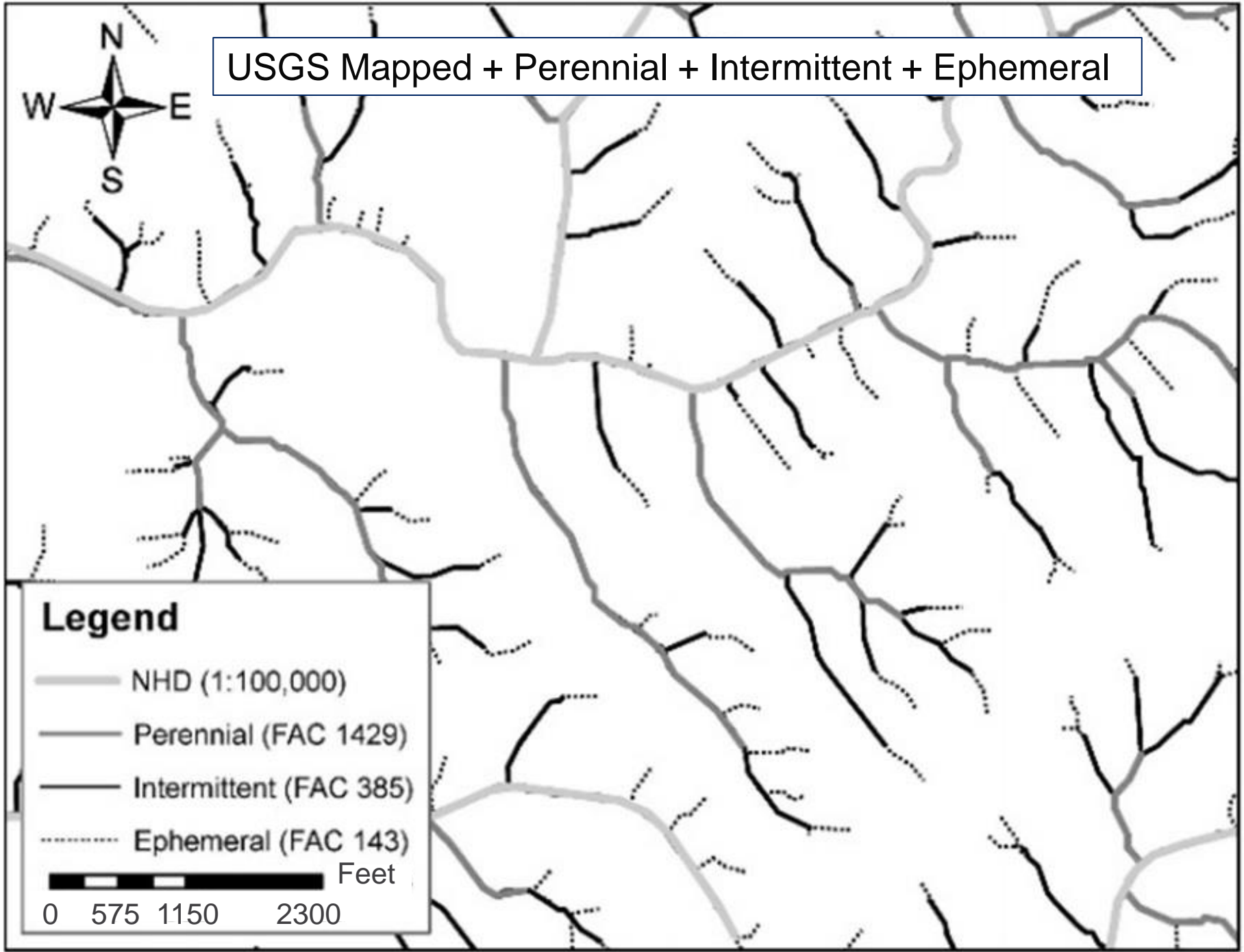


Legend

- NHD (1:100,000)
- Perennial (FAC 1429)
- Intermittent (FAC 385)



USGS Mapped + Perennial + Intermittent + Ephemeral



Legend

- NHD (1:100,000)
- Perennial (FAC 1429)
- - - Intermittent (FAC 385)
- · · Ephemeral (FAC 143)



All adjacent waters are jurisdictional by rule.

Adjacent waters are all waters within:

- 100 ft of the OHWM of a (1) – (5) water
- the 100-yr floodplain and not more than 1,500 ft from the OHWM of a (1) – (5) water,
- 1,500 ft of the high tide line of a (1) – (3) water,
- 1,500 ft of the OHWM of the Great Lakes.

Adjacent waters are those within:

- 100 ft of the OHWM of a (1) – (5) water
- the 100-yr floodplain and not more than 1,500 ft from the OHWM of a (1) – (5) water



Legend

- NHD (1:100,000)
- Perennial (FAC 1429)
- Intermittent (FAC 385)
- ⋯ Ephemeral (FAC 143)

0 575 1150 2300 Feet

All adjacent waters are jurisdictional by rule.

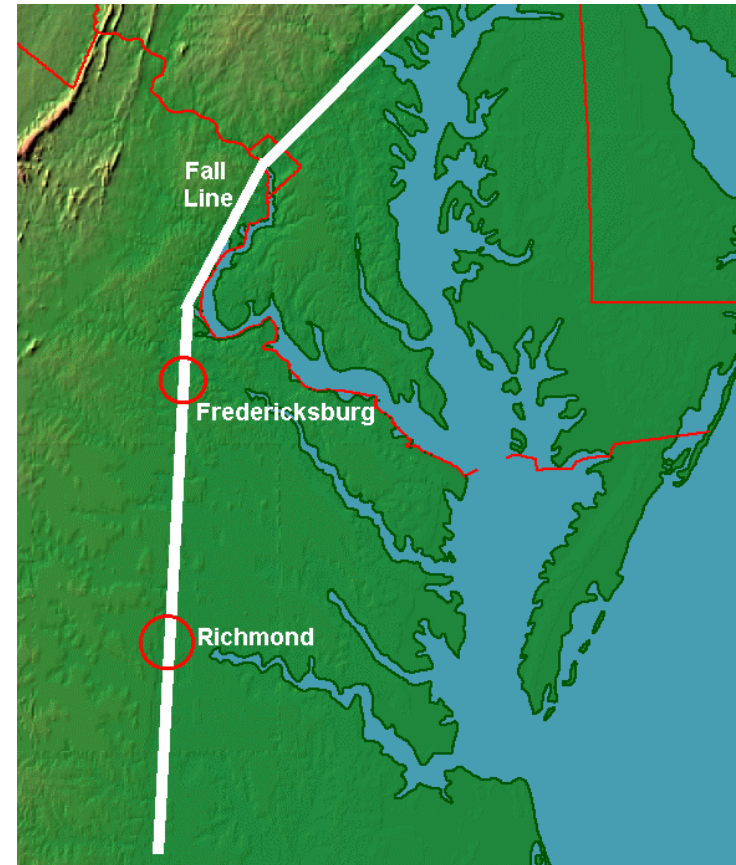
Adjacent waters

- 100 ft of the river's 315 mile course between Lake Tear of the Clouds, in the Adirondacks and the Battery at the tip of Manhattan
- the 100-ft from the OHWWM of a (1) – (5) water,
- 1,500 ft of the high tide line of a (1) – (3) water,
- 1,500 ft of the OHWWM of the Great Lakes.

The Hudson estuary stretches 153 miles from Troy to New York Harbor, nearly half the river's 315 mile course between Lake Tear of the Clouds, in the Adirondacks and the Battery at the tip of Manhattan

TIDAL TRIBUTARIES OF THE POTOMAC RIVER

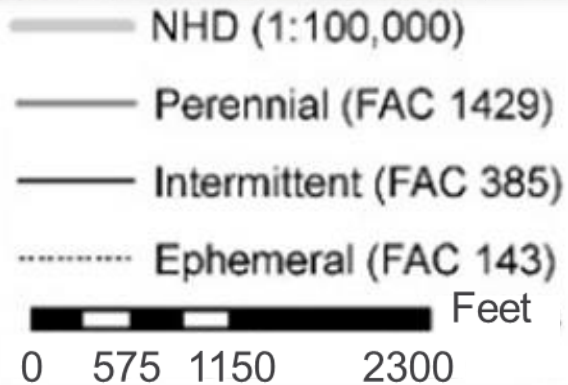
Gulf Branch (VA)	Doctors Run (VA)	Chopawamsic Creek (VA)
Donaldson Run (VA)	Lucky Run (VA) (paved over)	Tank Creek (VA)
Windy Run (VA)	Long Branch (lower) (VA)	Aquia Creek (VA)
Spout Run (VA)	Oxon Creek (DC/MD)	Potomac Creek (VA)
Maddox Branch (DC)	Hunting Creek (VA)	Accokeek Creek (VA)
Foundry Branch (DC)	Broad Creek (MD)	Nanjemoy Creek (MD)
Rock Creek (DC/MD)	Henson Creek (MD)	Port Tobacco River (MD)
Rocky Run (VA) (paved over)	Swan Creek (MD)	Popes Creek (MD)
Tiber Creek (DC) (paved over)	Piscataway Creek (MD)	Gambo Creek (VA)
Roaches Run (VA)	Little Hunting Creek (VA)	Piccowaxen Creek (MD)
Washington Channel (DC)	Dogue Creek (VA)	Upper Machodoc Creek (VA)
Anacostia River (DC/MD)	Accotink Creek (VA)	Cuckold Creek (MD)
Stickfoot Branch (DC)	Pohick Creek (VA)	Wicomico River (MD)
Pope Branch (DC)	Pomonkey Creek (MD)	Cobb Island (MD)
Watts Branch (DC/MD)	Occoquan River (VA)	Monroe Creek (VA)
Hickey Run (DC)	Bull Run (VA)	Mattox Creek (VA)
Beaverdam Creek (DC/MD)	Broad Run (VA)	Popes Creek (VA)
Northwest Branch (MD)	Cedar Run (VA)	Breton Bay (MD)
Sligo Creek (MD)	Neabsco Creek (VA)	St. Marys River (MD)
Northeast Branch (MD)	Powells Creek (VA)	Yeocomico River (VA)
Paint Branch (MD)	Mattawoman Creek (MD)	Coan River (VA)
Four Mile Run (VA)	Chicamuxen Creek (MD)	Hull Creek (VA)
Lubber Run (VA)	Quantico Creek (VA)	Sword's Creek (MD)
Long Branch (upper) (VA)	Little Creek (VA)	



Waters in the 100-yr floodplain or within 4,000 feet of a (1) – (5) water provided they have a significant nexus to a (1) – (3) water are jurisdictional



a minimal effect on the costs and benefits identified in the agencies' economic analysis. The agencies are, however, unable to quantify the effect. The agencies have determined that the vast majority of the nation's water features are located within 4,000 feet of a covered tributary, traditional navigable water, interstate water, or territorial sea. We believe, therefore, that very few waters will be located outside 4,000 feet and within a 100-year floodplain. And even where these waters do exist, they would have to be found to have a significant nexus on a case-specific basis to be covered under the CWA. The agencies conclude, therefore, that this provision will not affect the indirect costs and benefits associated with the final rule, in a material way.



The rule is final.

It will be published in the
Federal Register soon.

It becomes effective 60 days
after publication.



Thank You.

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