



July 10, 2024

The Honorable James Comer
Chair
House Committee on Oversight and Accountability
U.S. House of Representatives
Washington, DC 20515

The Honorable Jamie Raskin
Ranking Member
House Committee on Oversight and Accountability
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Comer, Ranking Member Raskin and Members of the Committee on Oversight and Accountability:

On behalf of Associated Builders and Contractors, a national construction industry trade association with 67 chapters representing more than 23,000 members, I appreciate the opportunity to comment on today's hearing, "[Oversight of the U.S. Environmental Protection Agency](#)." While ABC recognizes the importance of maintaining environmental safeguards, the Biden administration's harmful regulations continue to threaten America's contractors that work to deliver federal construction projects on time and on budget.

On Aug. 29, 2023, the EPA and U.S. Army Corps of Engineers issued a [final rule](#) regarding amendments to the definition of "waters of the United States" subject to Clean Water Act regulation, aimed at bringing their original January 2023 WOTUS rule into compliance with the U.S. Supreme Court's May 25, 2023, decision in *Sackett v. Environmental Protection Agency*. While ABC applauds the court's decision, the revised rule fails to fully implement the court's opinion specifically on the definition of "relatively permanent" waters. The revised rule will likely result in continued litigation, regulatory uncertainty and confusion in the business community surrounding WOTUS. The final rule took effect on Sept. 8, 2023, in states where it is not blocked by the courts but failed to appropriately consider input from the construction industry and other stakeholders.

ABC urges the EPA and Corps to return to the clear, concise definition of WOTUS implemented in the ABC-supported 2020 [Navigable Waters Protection Rule](#) so that our members have the information they need to comply with the law while also serving as good stewards of the environment. Similarly, ABC encourages Congress to consider legislation like the RESTART Act ([S. 1449](#)), introduced by Sen. Shelley Moore Capito, R-W.V., that provides a clear and concise definition of WOTUS by codifying the NWPR. Finally, ABC [applauds](#) House passage of the Creating Confidence in Clean Water Permitting Act ([H.R. 7023](#)), introduced by Rep. David Rouzer, R-N.C., that creates a coordinated, predictable and transparent process to streamline permitting. The bill requires the EPA and Corps to begin the process of issuing guidance on the implementation of the revised WOTUS rule and requires that the guidance be in accordance with the Supreme Court's ruling in *Sackett*.

In addition to WOTUS, the EPA's authorization of new California regulations on locomotive emissions, implemented by the California Air Resources Board, states that all locomotives in California must be zero-emission models by 2030. The rule would impose enormous compliance costs and likely have national impacts on the railway system, creating new logistical challenges for a key part of the supply chain and potentially leading to significantly increased construction materials prices.

ABC and its members stand ready to build and maintain America's infrastructure, but an overstep by the EPA in their authority over the Clean Water Act has resulted in permitting delays and increased regulatory pressure. Furthermore, the CARB regulations have the potential to further exacerbate supply chain issues affecting the construction industry. ABC appreciates the committee's efforts to investigate the EPA's practices and looks forward to our continued work toward modernizing and streamlining America's permitting process.

Sincerely,

Kristen Swearingen
Vice President, Legislative & Political Affairs