



Ecological Restoration Business Association
8270 Greensboro Drive, Suite 700
Tysons, Virginia 22102
P: 703-584-8375 · www.ecologicalrestoration.org

January 24, 2020

To: ERBA Membership & ERBA Website
Re: *Navigable Waters Protection Rule (NWPR or the "Rule")*

Yesterday the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers released their final revised definition of WOTUS, the newly termed "Navigable Waters Protection Rule." This significant announcement marks the end of a multi-year two-step regulatory process to narrow and streamline the definition of jurisdictional waters, with the protection of "navigable waters" as the principal focus. ERBA submitted comments on the proposed Rule in April 2019, including detailed comments on where the Rule would benefit from additional clarity, consideration of practitioner and scientific concerns, and requests for a Rule that offers predictability and durability to permittees and providers. As with any new regulation, there is uncertainty as we wait to see how the NWPR is implemented in the field.

While certain press coverage includes claims that the NWPR removes protection for half of our nation's wetlands, we remind our community that some of those aquatic features were already in practice exempted from federal jurisdictional protections and many features are still protected under state level regulations and other environmental programs. These claims on loss of federal protection should not be construed as an equal loss in the need for wetland mitigation services. The NWPR marks a new approach in the ongoing legal debate around the scope and intent of the Clean Water Act, but the growing political and societal movement for responsible development and more ecological restoration projects remains strong. Our industry has grown exponentially over the past two decades, showing great adaptability and maturity to support a new jobs and economic sector while swiftly responding to an evolving regulatory environment. We remain poised to serve as a resource to our agency partners and permittee clients, and look forward to continuing to deliver high quality ecological restoration projects.