EXECUTIVE SUMMARY

ARTBA COMMENTS: UPDATED WOTUS DEFINITION

Oct. 9, 2026

OVERVIEW

The U.S. Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers have issued a supplemental proposal offering alternative standards for determining which waters and wetlands are subject to federal Clean Water Act jurisdiction. ARTBA supports the proposed changes, which would provide greater regulatory certainty for transportation construction projects.

KEY PROVISIONS OF THE SUPPLEMENTAL PROPOSAL:



Perennial Waters Standard

Would define "relatively permanent" waters based on year-round standing or continuously flowing water, subject to limited exceptions. This would help distinguish jurisdictional waters from seasonal drainage features.



Wetlands Jurisdiction

Would require wetlands to maintain a continuous, perennial surface water connection to jurisdictional waters, providing clearer standards for evaluating wetlands along transportation corridors.



Roadside Ditch Exclusions

Leaves the previously proposed ditch exclusions unchanged, helping distinguish qualifying transportation drainage infrastructure from federally regulated waters.

ARTBA's Overall Recommendation

Adopt the 2026 supplemental standards and preserve the roadside ditch exclusions proposed in 2025. Clarify how snowmelt and temporary flow interruptions affect jurisdiction, how constructed drainage features factor into wetlands determinations, and how exclusions apply to older roadside ditches.

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