

efforts to stakeholders, and the results of those evaluations are already reflected in the September 2023 Definition and its extensive supporting administrative record.⁴⁸

If the agencies proceed with a reevaluation of the WOTUS definition, it will require evaluation and assessment of, among many other things:⁴⁹

- The previous administrative records for WOTUS decisions.⁵⁰
- EPA and Corps jurisdictional determinations under all of the regulatory definitions and implementation approaches.
- Maps and records of projects that have historically affected or currently affect flow regimes and continuous surface connections.⁵¹
- Current and historical federal and state flow data.
- Current and historical land use information, waterbody inventories, maps, aerial imagery, GIS layers, and satellite imagery.
- Data from watershed models, monitoring, studies, and scientific literature.
- Impacts of proposed changes on the chemical, physical, and biological integrity of the nation's waters in a wide variety of different climates, geological settings, and terrains in diverse watersheds.⁵²
- Assessments and consultation regarding impacts to endangered and threatened species under the ESA, and an Environmental Assessment and Environmental Impact Statement under the National Environmental Policy Act ("NEPA").⁵³

⁴⁸ See, e.g., January 2023 Definition, 88 Fed. Reg. at 3084-88 (approach, basis, and tools for identifying relatively permanent tributaries), 3095-96 (approach, basis, and tools for identifying adjacent wetlands under the relatively permanent standard), 3102 (implementing the relatively permanent standard for (a)(5) waters).

⁴⁹ For example, the evaluation of WOTUS impacts must also include the economic, health, and environmental impacts of any definitional changes on receiving and downstream waters, including impacts on drinking water supplies and treatment, fisheries and other aquatic life and commercial fishing, recreational waters and tourism, agricultural production, and interstate water compacts consistent with 33 U.S.C. § 1251(g).

⁵⁰ See, e.g., *Docket Documents for Revised Definition of "Waters of the United States,"* Docket ID: EPA-HQ-OW-2021-0602, REGULATIONS.GOV, <https://www.regulations.gov/docket/EPA-HQ-OW-2021-0602/document> (April 21, 2025).

⁵¹ These projects include, but are not limited to, federal and state water projects, road construction projects, and agricultural projects built since the passage of the Federal Water Pollution Control Act in 1948.

⁵² This includes, for example, pollutant-by-pollutant changes to receiving water and downstream water quality, and evaluating the impacts of all facilities with Clean Water Act Section 402, 33 U.S.C. § 1342, NPDES permits and Section 404, 33 U.S.C. § 1344, Dredge and Fill permits, discharging to waters that may no longer be considered WOTUS, including facilities covered under general permits.

⁵³ National Environmental Policy Act, 42 U.S.C. §§ 4321-4347.