

Executive Order—Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the “Waters of the United States” Rule

EXECUTIVE ORDER

RESTORING THE RULE OF LAW, FEDERALISM, AND ECONOMIC GROWTH
BY REVIEWING THE “WATERS OF THE UNITED STATES” RULE

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Policy.* It is in the national interest to ensure that the Nation’s navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles played by Congress and the States under the Constitution.

Sec. 2. *Review of the Waters of the United States Rule.*

(a) The Administrator of the Environmental Protection Agency (the Administrator) and the Assistant Secretary of the Army for Civil Works (Assistant Secretary) shall review the final rule entitled, “Clean Water Rule: Definition of ‘Waters of the United States,’” 80 Fed. Reg. 37054 (June 29, 2015), for consistency with the policy set forth in section 1 of this order and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law.

(b) The Administrator, the Assistant Secretary, and the heads of all executive departments and agencies shall review all orders, rules, regulations, guidelines, or policies implementing or enforcing the final rule listed in subsection (a) of this section for consistency with the policy set forth in section 1 of this order and shall rescind or revise, or publish for notice and comment proposed rules rescinding or revising, those issuances, as appropriate and consistent with law and with any changes made as a result of a rulemaking proceeding undertaken pursuant to subsection (a) of this section.

(c) With respect to litigation before the Federal courts related to the final rule listed in subsection (a) of this section, the Administrator and the Assistant Secretary shall promptly notify the Attorney General of the pending review under subsection (b) of this section so that the Attorney General may, as he deems appropriate, inform the court (or courts) of such review and take such measures as he deems appropriate concerning any such case or action pending the completion of further administrative proceedings related to the rule.

Sec. 3. *Definition of “Navigable Waters” in Future Rulemaking.* In connection with the proposed rule described in section 2(a) of this order, the Administrator and the Assistant Secretary shall consider interpreting the term “navigable waters,” as defined in 33 U.S.C.

1362(7), in a manner consistent with the opinion of Justice Antonin Scalia in *Rapanos v. United States*, 547 U.S. 715 (2006).

Sec. 4. General Provisions.

(a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof;
or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.