As you likely know, the federal government has been working on a regulation defining "Waters of the United States" under the Clean Water Act. The term "Waters of the United States" determines whether the permitting requirements of the Clean Water Act apply to bodies of water. Due to differing opinions issued by the U.S. Supreme Court on this matter, the Environmental Protection Agency and the U.S. Army Corps of Engineers jointly promulgated the rule to define "Waters of the United States."

Comments to the draft rule were submitted in November, 2014. The agricultural community opposed the rule, largely on the basis of its vague definitions of waters included within the term "Waters of the United States."

The final rule was issued on Wednesday, May 27, 2015, and is available here: http://www2.epa.gov/cleanwaterrule/prepublication-version-final-rule. The summary of the rule states:

Additionally, Congress has exempted certain discharges, and the rule does not affect any of the exemptions from CWA section 404 permitting requirements provided by CWA section 404(f), including those for normal farming, ranching, and silviculture activities. CWA section 404(f); 40 CFR 232.3; 33 CFR 323.4. This rule not only maintains current statutory exemptions, it expands regulatory exclusions from the definition of "waters of the United States" to make it clear that this rule does not add any additional permitting requirements on agriculture. The rule also does not regulate shallow subsurface connections nor any type of groundwater, erosional features, or land use, nor does it affect either the existing statutory or regulatory exemptions from NPDES permitting requirements, such as for agricultural stormwater discharges and return flows from irrigated agriculture, or the status of water transfers. CWA section 402(l)(1); CWA section 402(l)(2); CWA section 502(14); 40 CFR 122.3(f); 40 CFR 122.2.

However, the agricultural community remains skeptical of additional regulations, especially regulations that are vague to the point of raising questions whether certain waters come within the new definition of "Waters of the United States." It remains to be seen how the new rule will operate, and whether there will be legal challenges to the rule.

Recent news articles criticize the Environmental Protection Agency's involvement and social media support for the new rule, and misleading statements leading to the issuance of the rule. New York Times: http://www.nytimes.com/2015/05/19/us/critics-hear-epas-voice-in-public-comments.html?_r=0. Agri Pulse: http://www.agri-pulse.com/Roberts-says-EPA-stacked-the-deck-on-WOTUS-comments-05212015.asp.