

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

SOUTHEAST STORMWATER  
ASSOCIATION, INC.; FLORIDA  
STORMWATER ASSOCIATION, INC.;  
FLORIDA RURAL WATER  
ASSOCIATION, INC.; and FLORIDA  
LEAGUE OF CITIES, INC.

Petitioners,

**PETITION FOR REVIEW**

v.

**AGENCY DOCKET NO.  
EPA-HQ-OW-2011-0880**

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY; GINA  
MCCARTHY, in her official capacity as  
Administrator of the United States  
Environmental Protection Agency; UNITED  
STATES ARMY CORPS OF ENGINEERS;  
JOHN MCHUGH, in his official capacity as  
Secretary of the Army; and JO-ELLEN  
DARCY, in her official capacity as Assistant  
Secretary of the Army for Civil Works.

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**PETITION FOR REVIEW OF JOINT FINAL RULE ADOPTED  
BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY  
AND U.S. ARMY CORPS OF ENGINEERS**

The Southeast Stormwater Association,<sup>1</sup> Florida Stormwater Association,  
Florida Rural Water Association, and Florida League of Cities (collectively  
“Petitioners”) file this Petition for Review. The Petitioners challenge the validity  
of a Final Rule adopted jointly by the U.S. Environmental Protection Agency and

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<sup>1</sup>The Southeast Stormwater Association represents members from the following  
states: Kentucky, Alabama, Florida, Georgia, Mississippi, North Carolina, South  
Carolina, and Tennessee.

U.S. Army Corps of Engineers (collectively “Respondents”), and entitled the “Clean Water Rule.” 80 Fed. Reg. 37, 054 (Jun. 29, 2015). This Petition for Review is filed pursuant to § 509(b)(1) of the Clean Water Act, *see* 33 U.S.C. § 1369(b)(1), and Rule 15 of the Federal Rules of Appellate Procedure. A copy of the Final Rule is attached to this Petition for Review.

The Petitioners are non-profit organizations whose members include general purpose local governments, special districts and authorities, academic institutions, and private engineering and consulting firms that have an interest in promoting and enhancing the effective management and operation of stormwater management systems. Many members of the organizations are required to obtain permits under §§ 402 and 404 of the Clean Water Act. The Final Rule’s definition of “waters of the United States,” as used in the Clean Water Act, would immediately and directly affect these members. Thus, on behalf of their members, the Petitioner organizations challenge the Final Rule, which expands federal jurisdiction under the Clean Water Act in a manner inconsistent with binding U.S. Supreme Court precedent, relevant Clean Water Act provisions, and other substantive and procedural standards that apply to agency rulemaking.

Petitioners believe that the federal district courts have original jurisdiction to consider challenges to the Final Rule. But the Petitioners file this Petition for Review in an abundance of caution, mindful of the requirement that any such

petition must be filed “within 120 days from the date” of a relevant “determination, approval, promulgation, issuance or denial.” 33 U.S.C. § 1369(b)(1). And in the interest of a quick resolution of the threshold jurisdictional issue already being briefed before the Court, the Petitioners join the arguments made by those who explain that the district courts do indeed have original jurisdiction.

Respectfully submitted,

/s/ Mohammad O. Jazil

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Dated: October 26, 2015

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**CERTIFICATE OF SERVICE**

On October 26, 2015, I served by certified mail one copy of the foregoing

Petition for Review on the following:

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/s/ Mohammad O. Jazil  
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