



March 7, 2019

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency

The Honorable R.D. James
Assistant Secretary of the Army
Department of the Army, Civil Works

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U.S. Environmental Protection Agency
EPA Docket Center
Office of Water Docket
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1200 Pennsylvania Avenue NW
Washington, DC 20460
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Re: Revised Definition of “Waters of the United States,” Docket ID No. EPA-HQ-OW-2018-0149

Dear Acting Administrator Wheeler and Assistant Secretary James,

Friends of the Rappahannock would like to express our strong opposition to the changes to the definition of the Waters of the United States (WOTUS), currently being proposed as Docket ID No. EPA-HQ-OW-2018-0149 by the U.S. Environmental Protection Agency (EPA). At your confirmation hearing in the U.S. Senate you stated, “There is no more important responsibility than protecting human health and the environment”. We feel the proposed rule would negatively and significantly impact water resources in the Rappahannock River.

Our organization is the voice and active force for a healthy and scenic Rappahannock River which includes over 7,000 miles of small streams, tributaries, and wetlands that make up the foundational ecosystems of our watershed. We represent 2,000 members and serve 18 counties in the Commonwealth of Virginia spanning from the Blue Ridge Mountains to the Chesapeake Bay. Our watershed relies on strong water quality protections and the Clean Water Act is the foundation that guarantees the biological, physical, and chemical integrity of our waterways.

EXECUTIVE STAFF

Daria Christian
Executive Director

The proposed rule is a drastic departure from the goals of the Clean Water Act (Act) and represents the most severe weakening of clean water protections since the Act was passed over half a century ago. If the proposed rule becomes law, more than half of the stream miles in the United States would be at risk¹.

In Virginia more than 55,000 miles of streams that contribute to our larger rivers, lakes, and coastal waters would be at risk under the proposed rule.² Hundreds of thousands of acres of wetlands in Virginia that provide flood protection, filter pollution, and provide essential wildlife habitat are at risk under the proposed rule.³

The Rappahannock River watershed is a major tributary to the Chesapeake Bay, has a world class fishery, supports a billion dollar Virginia seafood and tourism industry, and is home to a variety of federally listed threatened and endangered species. The proposed rule would put 62% of streams and wetlands in the Rappahannock River at risk.⁴ These are the same wetlands which are nature's best defense against flooding. These wetlands are an essential portion of the Atlantic Flyway and support millions of migratory geese and ducks every year. These small streams support native eastern brook trout which is Virginia's state fish and are losing their habitat range every year. These small streams and wetlands are the lifeblood of our waterways and have a large impact on our fishing, hunting, swimming, and drinking water resources.

The Rappahannock River cannot afford to lose federal protection for 62% of its small streams and wetlands. The communities we serve cannot afford increased flooding and sediment loads. The requirements of the Chesapeake Bay Total Maximum Daily Load (TMDL) agreed upon by the Virginia Governor cannot be achieved without federal support and protection of our streams and wetlands.

The strong federal-State partnership for water quality protection, from which Virginia and other States now benefit, was built because of the historic broad definition of Waters of the United States, as now contained in the 2015 WOTUS regulations. The proposed rule will weaken, not strengthen, State programs.

¹ U.S. Environmental Protection Agency (EPA). 2013. Water: Streams. Accessed at <https://archive.epa.gov/water/archive/web/html/streams.html>.

² Calculations from EPA Safe Drinking Water Information System (SDWIS). 2017. Accessed at [https://ofmpub.epa.gov/apex/sfdw/f?p=108:1::NO:: AND U.S. Census Bureau \(USCB\). 2017. National and State Population Estimates. Accessed at https://www.census.gov/newsroom/press-kits/2017/estimates-demographics.html](https://ofmpub.epa.gov/apex/sfdw/f?p=108:1::NO::AND U.S. Census Bureau (USCB). 2017. National and State Population Estimates. Accessed at https://www.census.gov/newsroom/press-kits/2017/estimates-demographics.html)

³ U.S. Environmental Protection Agency (EPA) and U.S. Department of the Army. 2015. Economic Analysis of the EPA-Army Clean Water Rule. p53-54, 220. Accessed at https://www.epa.gov/sites/production/files/2015-06/documents/508-final_clean_water_rule_economic_analysis_5-20-15.pdf

⁴ Streams & Rivers - National Hydrologic Dataset, 2018. And US Fish & Wildlife Service <https://www.fws.gov/wetlands/data/Data-Download.html>, updated October 29, 2018

The Rappahannock River needs strong, science-based protections for all our streams and wetlands and federal management of this program is essential for success. In addition to our opposition to eliminating or severely curtailing federal jurisdiction over small streams and wetlands, we also oppose deleting “interstate waters” as a category of “Waters of the United States.”

While the States handle most of the regular permitting, programs and planning functions under the Clean Water Act and analogous State laws, this state-by-state implementation does not protect watersheds that occupy more than one State. There is abundant evidence, some of it shown in the docket for this proposed rulemaking (docket 0075), that State programs differ substantially in their programmatic coverage.

- State wetlands protection capability is highly variable from state to state
- State water quality standards can differ, even among adjacent states
- Water quality monitoring programs differ
- State funding for water quality programs is not consistent

The federal role is vital for interstate watershed protection. As exemplified by the Chesapeake Bay Program and associated TMDL, there are often complex scientific issues, research, and monitoring needs that require federal funding and information sharing to reach consensus among jurisdictions on the best strategies and requirements. A structured organization is useful to bring States and federal agencies together to work cost-effectively on the common issues.

Thus, including interstate waters in the coverage of Waters of the US is not just a matter of stream definition; it’s the basis for a nationwide system that promotes a level playing field for pollution control requirements, aids States to resolve interstate water quality issues, and provides funding and research support for the most effective type of water quality management – watershed protection.

Our members, communities, and all Americans deserve to have comprehensive stream and wetland protections as Waters of the United States under the Clean Water Act. We strongly oppose the proposed rule that would put our waters at risk.

With appreciation,



Daria Christian
Acting Executive Director
Friends of the Rappahannock