



September 27, 2017

Water Docket
U.S. Environmental Protection Agency Docket
ID No. EPA-HQ-OW-2017-0203

VIA PORTAL

RE: Definition of “Waters of United States” - Recodification of Pre-Existing Rules,
Docket ID No. EPA-HQ-OW-2017-0203

The Water Environment Federation (WEF) thanks the U.S. Environmental Protection Agency (EPA) and Department of Army (the agencies) for the opportunity to comment on the proposed rule, *Definition of “Waters of United States” - Recodification of Pre-Existing Rules, Docket ID No. EPA-HQ-OW-2017-0203* under the Clean Water Act (CWA).

During the past rulemaking for the Proposed Rule defining “Waters of the United States” (WOTUS) under Docket ID No. EPA-HQ-OW-2017-0203, WEF provided comments supporting exemptions and clarifications in a November 14, 2014 letter. These comments reflect input from member associations and its members across the United States. While WEF supports the EPA’s intent in protecting our nations’ waters, WEF wishes to preserve the critical exclusions that allow its public wastewater treatment and stormwater utility members to do their jobs in protecting the nation’s water quality. These comments are only submitted to provide initial input in response to EPA’s call for how a new rule defining WOTUS might be developed.

WEF is a not-for-profit association that has provided technical education and training for the world’s water quality professionals since 1928. The Federation has over 33,000 individual members and 75 affiliated Member Associations who support its mission to preserve and enhance the global water environment. WEF is supportive of regulations that are science based, achievable, and protective of human health and the environment.

WEF appreciates that the proposed rule explicitly specifies that the agencies propose no changes to the longstanding regulations that exclude waste treatment systems designed to meet the requirements of the CWA and prior converted cropland from the definition of “Waters of the United States.” (79 FR 22217) These regulations provide an essential component of the existing regulatory framework that ensures effective agency operations. The retention of the waste treatment exemption is one of the highest priorities for WEF and its Member Associations.

WEF also requests that exclusions be extended to other highly regulated activities such as MS4s, along with “green infrastructure” practices; water reuse, recycling, and reclamation operations; and commercial, industrial and manufacturing water treatment systems. In the case of MS4s, any new proposal for exclusion and solicitation of public comment should extend to their conveyances that channel and discharge stormwater runoff as well as “green infrastructure” approaches which attempt to infiltrate, reuse, retain

and evaporate stormwater flows.

While these comments represent WEF's initial thoughts in this two-step process, WEF will be engaging it's members to provide substantive and detailed comments during the second step, when the agencies plan to propose a new definition that would replace the approach in the 2015 Clean Water Rule, taking into consideration the principles that Justice Scalia outlined in the *Rapanos* plurality opinion.

We again thank you for this opportunity to provide input on the Definition of "Waters of United States" - Recodification of Pre-Existing Rules and welcome engagement with EPA on these issues. WEF invites EPA to a dialogue on several implementation issues contained in this letter as well as others WEF is still exploring. Should you have questions, you may contact me at (703) 684-2416 or at cternieden@wef.org.

Sincerely,

Claudio H. Ternieden
Senior Director
Government Affairs and Strategic Partnerships
Water Environment Federation