



Citizens for a  
Healthy  
Bay

November 28, 2017

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EPA Administrator Scott Pruitt  
William Jefferson Clinton Building 1101A  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Pruitt.scott@Epa.gov

Re: Docket ID No. EPA-HQ-OW-2017-0644: Comments on the Proposed Rule:  
Definition of “Waters of the United States” – Addition of an Applicability Date to 2015  
Clean Water Rule (November 16, 2017)

Dear EPA Administrator Pruitt:

*Executive Director*  
Melissa Malott

Thank you for providing the opportunity to review and comment on the proposed addition of an applicability date to the 2015 Definition of Waters of the United States.

*Board of Directors*

Jeff Barney  
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Citizens for a Healthy Bay (CHB) is a 27-year old environmental organization whose mission is to represent and engage citizens in the cleanup, restoration and protection of Commencement Bay, the surrounding waters and natural habitat. We are a 501(c)3 nonprofit providing practical, solutions-based environmental leadership in the Puget Sound area. We work side-by-side with local residents, tribes, businesses and governments to prevent water pollution and make our community more sustainable.

CHB staff and expert members of our Policy and Technical Advisory Committee have reviewed the proposed rulemaking on the 2015 Definition of Waters of the United States (“WOTUS” or “the Rule”). CHB adamantly opposes the current Administration’s efforts to delay the implementation of WOTUS.

### Background

In 2015, the Clean Water Rule (“CWR” or “the Rule”) was introduced to clarify which bodies of water fall under the protection of the landmark Clean Water Act (“CWA” or “the Act”). The new rule allowed streams, rivers, wetlands and “navigable waters” – particularly ones that are seasonal – to be included under the Act, expanding vital protection to wetlands and small streams that provide drinking water to one in three Americans and to provide our communities with flood and storm protection, water pollution filtration, recreation, and habitat for culturally and economically significant wildlife such as salmon.

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On November 16, the U.S. Environmental Protection Agency (EPA) and U.S. Department of the Army proposed to add an applicability date to the Rule. The agencies proposed that the 2015 rule would not be applicable until two years after the action is finalized and published in the Federal Register.

## General Comments

Citizens for a Healthy Bay writes, on behalf of our thousands of members and supporters, in strong opposition to the EPA and Corps' proposal to add an applicability date to the 2015 WOTUS Rule. We also firmly oppose the plan to weaken decades-old protections via the effort to repeal and replace the rule. This proposal recklessly threatens waters upon which all Americans depend. Low-income populations and communities of color are already disproportionately impacted by polluted water, which can cause serious health problems, especially for children.

Nearly 45 years after the Clean Water Act was passed, many of our nation's streams, rivers, lakes and bays are still not safe for swimming or fishing. We need to be doing more now, not less, to rein in harmful polluting industries like industrial agriculture, oil and gas operations, and mining. The WOTUS Rule is vital to meeting our goals to make all water swimmable, fishable and drinkable. The Rule ensures polluters don't receive a free pass to cause real, direct harm to public health and the environment. It is backed by science, supported by cities and towns throughout the nation, small businesses, and the vast majority of Americans. CHB expects the federal government to authentically abide by and enforce the Clean Water Act to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters."<sup>1</sup>

Our waters are interconnected, and if we want to have clean water in our larger streams, rivers, lakes and wetlands, we need to protect the smaller bodies of water that flow into these larger systems. It is impossible to overstate the damage that would result from irresponsibly delaying the Rule that protects over half of the nation's waters from pollution and destruction.

The current Administration's claim that this amendment would give the agencies the time needed to reconsider the definition of the "waters of the United States," ignores the strong legal and scientific foundation for the current Rule, disrespects its broad public support, and provides little opportunity for the many clean water stakeholders to voice their interest in inclusive Clean Water Act coverage to protect our waters. Any proposal to reexamine the Clean Water Rule should be based in the Act's purpose, history, and text, and the best scientific evidence available about water bodies' functions – it should also have a longer comment period than the 13 days given for this proposal. Additionally, any rulemaking should be as inclusive of diverse stakeholder opinions as the 2015 Clean Water Rule and should be built on a scientific foundation that is as robust as that of the Clean Water Rule.

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<sup>1</sup> Clean Water Act (CWA) section 101(a).

We urge the EPA to extend the public comment period for this proposed amendment by at least 30 days. The Administrations' hasty and haphazardly constructed attempt to delay the rule does not solicit thoughtful, science-based, legally sound input on potential revisions, but rather intentionally limits the opportunity for affected communities to express their views about this proposal. The rulemaking process for the 2015 Clean Water Rule started in 2011, which itself followed many years of public debate about the proper scope of the Clean Water Act. The agencies held a public comments period from April 21 – November 14, 2014, received more than 1.1 million comments, more than 80% of which were supportive of the rule. There is clear disparity in the public involvement opportunity for the current proposal.

The Clean Water Rule is about preventing pollution before it happens. People and their communities suffer when polluters get free passes to destroy our rivers and drinking water sources. We need to be doing more to rein in polluters and stop pollution at the source, not less. Delaying the Rule is shortsighted, economically unsound, and flies in the face of public opinion. More than 800,000 Americans supported the WOTUS Rule when it was proposed. It is grounded in science and the law, and is an essential tool to help us achieve the goal of ensuring all our waters are swimmable, fishable and drinkable.

CHB absolutely opposes the proposed amendment to the WOTUS Rule. Delaying this vital safeguard will put the health of our economy, environment and communities at risk. We strongly urge you to reconsider your position and to drop the delay of the WOTUS Rule. If the agencies decide to consider any potential revisions to the 2015 Rule, they must engage in thoughtful, inclusive, science-based, and legally sound process for doing so.

Please contact me if there are questions regarding these comments. Thank you for the opportunity to provide feedback.

Sincerely,

A handwritten signature in black ink that reads "Melissa Malott". The signature is written in a cursive, flowing style.

Melissa Malott  
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