



Massachusetts Association of Conservation Commissions

protecting wetlands, open space and biological diversity through education and advocacy

April 15, 2019

Andrew Wheeler, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington D.C. 20460

R.D. James, Assistant Secretary of the Army
for Civil Works
Department of the Army
108 Army Pentagon
Washington DC 20310-0108

U.S. Environmental Protection Agency
EPA Docket Center
Office of Water Docket
Mail Code 28221T
1200 Pennsylvania Ave NW
Washington DC 20460
OW-Docket@epa.gov

**Re: Opposition to the Revised Definition of “Waters of the United States”
Docket ID No. EPA-HW-OW-2018-0149**

Dear Administrator Wheeler and Assistant Secretary James:

The Massachusetts Association of Conservation Commissions (MACC) is opposed to the revised definition of the Waters of the United States (“WOTUS”) and requests additional public comment time for this complex proposal. MACC is the non-profit 501(c)(3) association dedicated to protecting Massachusetts wetlands, open spaces, and natural resources by supporting conservation commissions and other environmental professionals through education and advocacy.

MACC has more than 2,800 members in 351 towns and cities across Massachusetts. Our association provides educational resources and technical assistance to the municipal boards responsible for administering the state Wetlands Protection Act and municipal wetland bylaws and ordinances; conservation commissions are also responsible for managing municipally-owned conservation land.

MACC opposes the proposed new definition of WOTUS proposed by U.S. Environmental Protection Agency (USEPA) and the Army Corps of Engineers (the “agencies”). This proposal disregards the progress and the experience gained from implementation of the 1972 Clean Water Act (CWA). It ignores the scientific evidence, interagency review, and extensive public comment that supported the 2015 WOTUS Rule, and it threatens to leave many critical waters unprotected. We urge you to withdraw this proposal, because it is expected to eliminate CWA protections for more than half of the nation’s wetlands and thousands of miles of streams, including sources of drinking water.

The proposed rule represents a drastic roll-back in Federal protections under a long list of important CWA programs. It removes from protection many intermittent (seasonal) streams, all ephemeral (rain-dependent) waters, and many wetlands with important connections to nearby

rivers, lakes and streams. The proposal relies on vague or undefined terms (such as “typical year”) that would have major implications for CWA coverage.

Wetlands are extremely important for protecting drinking water quality and minimizing flooding. The proposed rule would remove from CWA protections an estimated 51% of the wetland areas remaining in the continental U.S. It would also remove protection from nearly 18% of all streams (those that are classified as ephemeral) and potentially many more stream miles. An extremely low percentage of perennial stream miles (an estimated 30%) will be protected under the new WOTUS proposal.

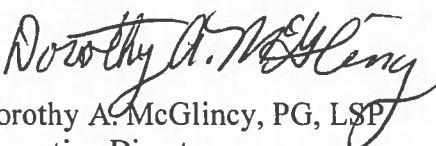
In Massachusetts, the proposed rule would likely reduce Federal protection of vernal pools, isolated vegetated wetlands, ephemeral streams and many intermittent streams. Even where these waters would retain protection under the state’s Wetlands Protection Act the proposed rule would disrupt many years of effort to coordinate and streamline implementation of federal and state permitting requirements. Impacts to current streamlined and coordinated permitting processes will be detrimental to businesses and the economy, in addition to losses of wetland protections in the state. In addition, Massachusetts waters receive flow from New Hampshire and Vermont, and contribute flow to Rhode Island, Connecticut and ultimately to Long Island Sound. Eliminating consistent protections of interstate waters could negatively impact the health of these interconnected waterways.

The goal of the 1972 Clean Water Act is to “restore and maintain the chemical, physical and biological integrity of the Nation’s waters.” Since the law was passed, we have made significant progress in cleaning up many of our most treasured rivers. The proposed rule threatens to reverse that progress, in service of controversial legal interpretations. The proposed WOTUS definition does not reflect watershed science, which was extensively considered in developing the 2015 rule. The proposal is also not supported by full analysis of the affected waters or the likely public health, environmental, and economic impacts.

The current proposal will negatively impact the goals of the Clean Water Act to restore and maintain the chemical, physical, and biological integrity of the nations’ waters. We urge you to withdraw the proposed rule, add additional time for public comments (and additional public hearings), and maintain the 2015 WOTUS rule while taking a more measured and scientific approach to evaluating whether additional changes are needed.

Thank you for your consideration.

Sincerely,
Massachusetts Association of Conservation Commissions


Dorothy A. McGlincy, PG, LSP
Executive Director