To: Shapiro, Mike[Shapiro.Mike@epa.gov]; Peck, Gregory[Peck.Gregory@epa.gov]; Loop, Travis[Loop.Travis@epa.gov]; Best-Wong, Benita[Best-Wong.Benita@epa.gov]; Goodin, John[Goodin.John@epa.gov]; Downing, Donna[Downing.Donna@epa.gov]; Kwok, Rose[Kwok.Rose@epa.gov]; Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Klasen, Matthew[Klasen.Matthew@epa.gov]; Wendelowski, Karyn[wendelowski.karyn@epa.gov]; Kaiser, Sven-Erik[Kaiser.Sven-Erik@epa.gov]; Christensen, Damaris[Christensen.Damaris@epa.gov]; Campbell, Ann[Campbell.Ann@epa.gov]; Schnare, David[schnare.david@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Bangerter, Layne[bangerter.layne@epa.gov]; McDavit, Michael W.[Mcdavit.Michael@epa.gov]; Frithsen, Jeff[Frithsen.Jeff@epa.gov]; Nickerson, William[Nickerson.William@epa.gov]; Stokely, Peter[Stokely.Peter@epa.gov]
Cc: FertikEdgerton, Rachel[FertikEdgerton.Rachel@epa.gov]; Borum, Denis[Borum.Denis@epa.gov]; Orvin, Chris[Orvin.Chris@epa.gov]; Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Kupchan, Simma[Kupchan.Simma@epa.gov]; Cherry, Andrew[Cherry.Andrew@epa.gov]; Lousberg, Macara[Lousberg.Macara@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]; Theis, Joseph[Theis.Joseph@epa.gov]; Bahk, Benjamin[Bahk.Benjamin@epa.gov]; Packard, Elise[Packard.Elise@epa.gov]

To: Hewitt, Julie[Hewitt.Julie@epa.gov]; Keating, Jim[Keating.Jim@epa.gov]; Frazer, Brian[Frazer.Brian@epa.gov]; Doley, Todd[Doley.Todd@epa.gov]; Bahk, Benjamin[Bahk.Benjamin@epa.gov]
Cc: Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Goodin, John[Goodin.John@epa.gov]; Kwok, Rose[Kwok.Rose@epa.gov]; Christensen, Damaris[Christensen.Damaris@epa.gov]
From: Downing, Donna
Sent: Tue 3/14/2017 12:01:26 AM
Subject: FYI -- latest draft WOTUS-2 briefing paper with sub-option considerations
WOTUS2 briefing paper 3.13.17 - clean (002).docx
Table for Options 3-8-2017 v4.docx

Hi folk:

Attached please find materials we've developed for discussion with senior management on WOTUS-2 options. These may be part of the discussion at tomorrow's 11am meeting with the Corps, as well as Wednesday's 10am meeting between Mike and leadership at the Army Corps. Please note these are for close hold and not for sharing further. Thanks!

Donna

From: Downing, Donna
Sent: Monday, March 13, 2017 7:48 PM
To: Shapiro, Mike <Shapiro.Mike@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Rose Kwok <Kwok.Rose@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>; Ann Campbell <Campbell.Ann@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Karyn Wendelowski <wendelowski.karyn@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Auerbach, Daniel <Auerbach.Daniel@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>
Subject: As requested: latest draft WOTUS-2 briefing paper with sub-option considerations

Hi Mike:

Attached please find the latest draft briefing paper on WOTUS-2, reflecting additional discussion on sub-options and their considerations. This reflects a collaboration between

OWOW and OGC.

We also developed sub-option discussions in a table format, but have tentatively concluded the briefing paper approach is a better vehicle for briefing on this complex issue. I'll attach that table as well, both to show the details behind the draft briefing paper, and to get your opinions on what would be the best approach for Wednesday's meeting and for subsequently briefing the Administrator.

We just received a number of helpful comments on the draft table from the Corps, but have not yet had time to incorporate all of those comments into either the draft briefing paper or the table. We'll be working on that before and during our 11am meeting with Army Corps staff tomorrow.

Have a good evening, and a manageable bit of weather!

Donna

Donna Downing

Acting Chief, Wetlands and Aquatic Resources Regulatory Branch

Office of Wetlands, Oceans & Watersheds

U.S. Environmental Protection Agency

ph: (202) 566-1367

downing.donna@epa.gov

USPS Address:

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Washington, DC 20460

Delivery Address:

1301 Constitution Avenue, NW, room 7214-D

Washington, DC 20004

From: Eargle, Frances
Location: DCRoomARN3528/OCIR
Importance: Normal
Subject: LGAC Water Workgroup
Start Date/Time: Wed 5/3/2017 8:30:00 PM
End Date/Time: Wed 5/3/2017 9:30:00 PM
WaterWG-AGENDA-May3-2017.pdf
FedWOTUS2 (003).pdf
WOTUSFedSlides4.19.17.pdf
LGAC-WOTUS-DraftCharge-05-01(1).pdf
Water WG template for May 3 meeting.pdf
Regulatory_Reform_Agenda (EO 13777).pdf
Water Workgroup Timetable.pdf

The LGAC Water Workgroup will meet **Wednesday, May 3, 4:30-5:30 EST.** The Call in number is Nonresponsive Conference Code/Ex. 6 **code-** Nonresponsive Conference Code/Ex. 6

To join the meeting via adobe connect go to:
http://epawebconferencing.acms.com/r3msxeocgc2/

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

April 10, 2017

THE ADMINISTRATOR

Dear Intergovernmental Association Colleague:

I am writing to solicit your input and wisdom on a forthcoming proposal to rescind and revise the definition of waters of the United States (Clean Water Rule: Definition of "Waters of the United States"; Final Rule, 80 Fed. Reg. 37,054 (June 29, 2015)).

This action follows the February 28, 2017, Presidential Executive Order on "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule." The order states that it is in the national interest to ensure that the nation's navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty and showing due regard for the roles of Congress and the States under the Constitution. It also directs the U.S. Environmental Protection Agency and the Department of the Army to review the existing Clean Water Rule for consistency with these priorities and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with the law. Further, the order directs the agencies to consider interpreting the term "navigable waters," as defined in 33 U.S.C. 1362(7), in a manner consistent with the opinion of Justice Antonin Scalia in *Rapanos v. United States*, 547 U.S. 715 (2006).

Consulting with state and local government officials, or their representative national organizations, is a priority to both myself and President Trump. We believe this is an important step in the process prior to proposing regulations that may have implications on federalism as defined by the EPA's policy for implementing the order.

We greatly look forward to the opportunity to sit at the table with our state and local partners from across the country to discuss the rule and develop an approach to address this significant issue while keeping the States at the forefront of our mission.

The agencies intend to follow an expeditious, two-step process that will provide certainty across the country: 1) an initial rulemaking to rescind the 2015 rule and reinstate the regulatory approach that, except for a brief two-month period prior to the 6th Circuit stay of that rule, has been the law in place since 1986, and thus maintains the status quo, and 2) promulgation of a revised definition of waters of the U.S. consistent with direction in the February 28, 2017, E.O. At the upcoming meeting, the EPA will provide brief background information on our process, and you will have the opportunity to provide input, particularly with regard to the charge in the E.O. You and your organizations' members are vital to this process and may also provide written comments after the meeting. I am hopeful you will be able to attend this important discussion and look forward to hearing your thoughts.

Internet Address (URL) • http://www.epa.gov
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The meeting will be on April 19, 2017, from 2:00 – 4:00 pm EDT in Room 3233 of the William Jefferson Clinton East Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460. The entrance to the Clinton East (formerly EPA East) building is near the intersection of 12th and Constitution.

Please let us know if you will be able to attend by contacting Andrew Hanson in the EPA's Office of Congressional and Intergovernmental Relations at hanson.andrew@epa.gov or (202) 564-3664. If you have questions regarding the rule, you may contact Donna Downing of the Office of Wetlands, Oceans and Watersheds at downing.donna@epa.gov or (202) 566-1367.

Respectfully yours,

E. Scott Pruitt

cc: Douglas Lamont, Senior Official
Performing the Duties of the Assistant
Secretary of the Army for Civil Works

EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE (LGAC) DRAFT CHARGE ON 'WATERS OF THE U.S.' (WOTUS)

OVERVIEW

1. Background and Description

On February 28, 2017, the President signed the Executive Order on *Restoring the Rule of Law, Federalism, and Economic Growth* by Reviewing the "Waters of the United States" Rule (issued June 2015).[1] The Executive Order gives direction to the Administrator and the Assistant Secretary of the Army for Civil Works to review the final Clean Water Rule (CWR) and "publish for notice and comment a proposed rule rescinding or revising the rule." The E.O. also directs that EPA and the Army "shall consider interpreting the term 'navigable waters' in a manner "consistent with Justice Scalia's opinion in *Rapanos* [2]which includes relatively permanent waters and wetlands with a continuous surface connection to relatively permanent waters.

As part of EPA's efforts to consult with state and local government officials, EPA's Local Government Advisory Committee (LGAC) will provide its recommendations to the Administrator on revising the definition of "Waters of the United States" (WOTUS) and identifying ways to reduce the regulatory burden on local communities as well as balance that with environmental protection.

2. Project Scope

The agencies intend to follow an expeditious two-step process to provide certainty with the rule:

1) Establish the legal status quo by re-codifying the regulation that was in place prior to issuance of the CWR now under the U.S. Court of Appeals for the Sixth Circuit's stay of that rule.

2) Propose a new definition of Waters of the U.S. that would replace the 2015 CWR that reflects the principles outlined by Justice Scalia (Rapanos plurality opinion).

The LGAC consists of 36 local, state and tribal government elected and appointed officials representing cities, parishes, counties, municipalities, and other local political jurisdictions. Local officials are knowledgeable and provide unique perspectives on issues relating to a revised rule. Further, the LGAC has potential to engage other knowledgeable local officials with unique valuable on-the-ground perspectives and knowledge. Through this collaborative process, the chartered LGAC will provide Administrator Pruitt with expeditious and meaningful advice relating to a revised "Waters of the U.S." rule. Overall, the goal would be to develop recommendations to the EPA for consideration on a revised rule. This advice and recommendations come from an 'on the ground' local government perspective which will assist the agency in providing the best means to communicate a revised rule with local officials.

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1 [1] *https://www.whitehouse.gov/the pres-office/2017/02/28/presidential-exeuctive-order-restoring-rule-law-federalism-and-economic*

[2] *Rapanos v. United States, 547 U.S. 715 (2006) 126 Supreme Court 2208; 165 L.Ed. 2d 159*

DRAFT

3. Charge Issues

LGAC Charge:

The LGAC will develop recommendations for the EPA to consider in developing approaches to a revised rule defining "waters of the U.S." that ensures that the nation's waters are kept free from pollution while at the same time promoting economic growth and minimizing regulatory uncertainty. The following are specific charge questions and issues for the LGAC to consider:

Charge Questions

1) How would you like to see the concepts of 'relatively permanent' and 'continuous surface connection' be defined? How would you like to see the agencies interpret 'consistent with Scalia'? Are there particular features or implications of any such approaches that the agencies should be mindful of in developing the step 2 proposed rule?

2) What opportunities and challenges exist for your locality with relying on Justice Scalia's opinion?

3) Are there other approaches to defining "waters of the U.S." that you would like the agencies to consider to providing clarity and regulatory certainty?

4) The agencies' economic analysis for step 2 intends to review programs under CWA 303, 311, 401, 402 and 404. Are there any other programs specific to your locality that could be affected but would not be captured in such an economic analysis?

5) What additional information can you provide from a local government perspective that EPA should be aware of?

6) Are there other issues the agencies should consider which would help ease the regulatory burden for implementation of WOTUS for state, local and tribal government?

7) What should the agencies consider in communicating the final rule to state, local and tribal governments to help them fully understand these regulatory changes and implementing them efficiently and most cost-effectively?

8) The Workgroup will also develop recommendations on how the EPA can better work with local governments and engage local governments on issues such as: What additional regulatory issues could be revised or clarified to more effectively to help local governments understand how this rule would apply? Are there additional policy discussions that could help address local questions about implementation, in agricultural and rural small communities? Are there other considerations such as ditch maintenance, stormwater management or green infrastructure?

DRAFT

4. Deliverables

The LGAC will provide a letter of recommendation to the Administrator to identify approaches to consider in a revised "Waters of the U.S." rule. The chartered LGAC will prioritize and summarize these issues in a report to the EPA that focuses on the charge issues. A final LGAC report will be conveyed to the EPA Administrator with a transmittal letter summarizing findings and recommendations. This Report will be published on the EPA's website for LGAC.

5. Preliminary Timeline/Schedule

April 26, 2017 – Executive Committee meets to discuss and approve the LGAC's Charge (Protecting America's Waters Workgroup) and develops a work plan with timeline.

May 3– LGAC's Protecting America's Waters Workgroup meets to discuss charge (via teleconference).

May 17- LGAC's Protecting America's Waters Workgroup meets with National Intergovernmental organizations to discuss charge (via teleconference).

June 7 – LGAC's Protecting America's Waters Workgroup meets to discuss charge (via teleconference).

June 28, 2017-The LGAC meets in a public meeting (via teleconference) to review recommendations on rescission of the 2015 CWR and revising the CWR. (Deliverable: Letter of Recommendation)

DRAFT

APPROVAL AND AUTHORITY TO PROCEED

We approve the project as described above, and authorize to proceed.

Name	Title	Date

Approved By _____ Date _____ Approved By _____ Date _____

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

March 24, 2017

THE ADMINISTRATOR

MEMORANDUM

SUBJECT: Executive Order 13777: Enforcing the Regulatory Reform Agenda

FROM: E. Scott Pruitt

TO: Acting Deputy Administrator
General Counsel
Assistant Administrators
Inspector General
Chief Financial Officer
Chief of Staff
Associate Administrators
Regional Administrators
Director, Office of Small and Disadvantaged Business Utilization

On February 24, 2017, the President issued Executive Order 13777 on Enforcing the Regulatory Agenda. The EO, designed to reduce the regulatory burdens agencies place on the American people, directs agencies to undertake several activities to further this goal.

As a first step, the EO requires the designation of a Regulatory Reform Officer and the establishment of a Regulatory Reform Task Force. I have asked Samantha Dravis, Senior Counsel and Associate Administrator for Policy, to lead our efforts in this area and serve as the EPA's RRO. Further, I have asked that Ryan Jackson, Chief of Staff, serve as the chairman of the Task Force. Other members of the Task Force include Byron Brown and Brittany Bolen, Deputy Chief of Staff for Policy and Office of Policy Deputy Associate Administrator, respectively.

The Task Force is charged with evaluating existing regulations and making recommendations to me regarding those that can be repealed, replaced or modified to make them less burdensome. The EO also requires that the Task Force seek input from entities significantly affected by our regulations, including state, local and tribal governments, small businesses, consumers, non-governmental organizations and trade associations.

As a first step, by May 15, 2017, the Offices of Air and Radiation, Land and Emergency Management, Chemical Safety and Pollution Prevention, Water, Environmental Information, Congressional and Intergovernmental Relations and Small and Disadvantaged Business

Utilization should provide the Task Force with recommendations regarding specific rules that should be considered for repeal, replacement or modification. While we intend to do some general outreach regarding this effort, I would like the recommendations from those offices to be informed by consultation with their particular stakeholders. Specifically, each of those offices should hold a dedicated public meeting on this topic so that we can listen and learn directly from those impacted by our regulations. All of the regional and headquarters offices receiving this memo should provide their recommendations to the Task Force by May 15. Regional offices should send their comments to OCIR for consolidation before they are provided to the Task Force.

Samantha and Ryan will be reaching out with additional information. Thank you for your help with this extremely important initiative.

cc: Sarah Rees
Al McGartland

	Subject	LGAC Recommendation	Source	Date	Collaboration	Regulatory Reform, WOTUS, Both
1	Clean Water Section 404	There was strong agreement that clean water is an essential foundation for public health, recreation and commerce.foundation for public health, recreation and commerce. Local governments are frustrated with the uncertainties and challenges of trying to permit good projects in their communities. A revised rule should be clear and propose a predictable permitting process.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS & Regulatory Reform
2	Clean Water Section 404	The current rule as written does not provide clear definitions of jurisdictional waters.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS & Regulatory Reform
3	Clean Water Section 404	The LGAC recommends that EPA should, where appropriate, use definitions that are used consistently across all of the federal agencies, e.g. EPA, Army Corps of Engineers, Federal Emergency Management Agency, Department of Agriculture, U.S. Geological Survey and U.S. Forest Services.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS & Regulatory Reform
4	Clean Water Section 404	The LGAC recommends that EPA Administrator work with the Chief of the US Army Corps of Engineers to determine a process to reduce the issue of permitting delays of Section 404 permits. These delays are a significant and costly issue for local governments.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS & Regulatory Reform
5	Clean Water Section 404	Significant regional differences must be considered and addressed. Regional differences and/or unique circumstances strongly justify the need for flexibility in permitting/implementation.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS & Regulatory Reform
6	Clean Water Section 404	There are many local, state and federal (specifically MS4) programs and regulations that protect the nation's water quality. The rule should acknowledge and incentivize best management practices already underway.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS & Regulatory Reform
7	Clean Water Section 404	The LGAC believes that State Assumed CWA 404 program and tribal-led programs may provide substantial cost-savings in time and money and should be investigated further.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS & Regulatory Reform
8	Clean Water Section 404	For State Assumed CWA 404 programs to be successful, adequate resources must be made available and comparable water quality protections must be adopted by the state or tribal government. Incentivizing the delegation program could achieve a strong return on investment. NOTE: Local agencies may also be more receptive to the rule if there are state-run programs which are more responsive to local and regional issues.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS & Regulatory Reform
9	Clean Water Section 404	The permitting process becomes more streamlined, effective and predictable.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS & Regulatory Reform
10	Clean Water Section 404	The LGAC recommends that the EPA, before issuing a permit such as those for MS4s, analyze the impact to nearby communities and identify whether a community is disproportionately affected. The Committee recommends that if a community is disproportionately affected, a permit should not be authorized.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS & Regulatory Reform
11	Waters of the U.S.	Definitions: The LGAC recommends that **riparian areas** be defined as "an area bordering a water where surface or subsurface hydrology directly influence the ecological processes and plant and animal community structure in that area. Riparian areas are transitional areas between aquatic and terrestrial ecosystems that influence the exchange of energy and materials between those ecosystems."	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
12	Waters of the U.S.	Definitions: The LGAC recommends a clear definition of '**ditch'** be provided in the proposed rule. The LGAC recommends the following Google Dictionary definition of 'ditch': a "narrow channel dug in the ground typically used for drainage". Examples listed are trench, croft, channel, dike, drain, watercourse conduits.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
13	Waters of the U.S.	Definitions: The LGAC recommends a clear definition of **'tributaries**' be included in the proposed rule using clarifying examples. The proposed rule refers to a term "rain dependent stream". The LGAC recommends that this term be defined and an example of a stream that is not rain dependent be provided.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS

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FOIA 2020-001799-0000013

	Subject	LGAC Recommendation	Source	Date	Collaboration	Regulatory Reform, WOTUS, Both
14	Waters of the U.S.	Definitions: The LGAC does not agree with the term "significant effect" and also recommends language of "insignificant or speculative" be deleted.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
15	Waters of the U.S.	Jurisdictional: The LGAC recommends that the agency consider all three parameters of water quality in this determination so that "the chemical, physical, and biological integrity of water" be the criteria used for 'significant nexus'. Likewise, the LGAC does not agree that only one of these features be used as the benchmark, but that all three parameters of chemical, physical and biological integrity of a water body are all equally important.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
16	Waters of the U.S.	Definitions: The LGAC recommends that '**floodway'** be defined as a flood course within the banks or within a canyon where water would be expected to flow under normal circumstances.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
17	Waters of the U.S.	Definitions: The LGAC recommends that EPA consider a bright-line on **'other waters'** to provide more clarity on what is jurisdictional under the CWA. For example, it would be well-advised that EPA determine with accuracy what areas are considered to be ecologically significant and to list these areas and provide examples.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
18	Waters of the U.S.	Rule-making Process: The agency should do a robust economic analysis of the cost of a revised rule. Cost remains a concern, especially in the context of uncertain jurisdictional assertion and an unpredictable permitting process	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
19	Waters of the U.S.	Definitions: The LGAC recommends that narrative descriptions with examples be provided to augment the definitions, as well as pictures, where this could achieve greater clarity+B25	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
20	Waters of the U.S.	Definitions: The LGAC recommends that the current definition of **wetlands** be used: "areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas."	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
21	Waters of the U.S.	Definitions: The LGAC recommends that the following terms, among others, be defined concisely and with clarity: '**other waters', 'significant nexus', 'adjacent' and 'upland'.** Furthermore the LGAC recommends 'upland' be defined based upon exclusion of what it is not.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
22	Waters of the U.S.	Definitions: The LGAC recommends that an Interagency Workgroup be tasked to develop a glossary of definitions and publish this Interagency Glossary of Terms, following public review.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
23	Waters of the U.S.	Ditches: The LGAC highly recommends explicitly specifying when ditches would be considered jurisdictional.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
24	Waters of the U.S.	Exemptions: Agricultural exemptions must be explicitly and clearly stated	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
25	Waters of the U.S.	Exemptions: The LGAC recommends that the jurisdiction of farm ponds, artificial lakes and ponds created by excavation and/or diking dry land for purposes of stock watering, irrigation, settling basins or rice production be excluded from WOTUS.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
26	Waters of the U.S.	Jurisdictional: The LGAC recommends that natural conveyance components of MS4s are included in Waters of the United States. This includes natural wetlands and associated modifications to natural wetlands.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
27	Waters of the U.S.	Exemptions: The LGAC recommends that there be some criteria which exempt certain activities in Waters of the U.S. for public safety and hazards. This is particularly critical in flood prone areas and for disadvantaged communities in floodways that may need to have emergency relief quickly and rapidly.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
28	Waters of the U.S.	Exemptions: The LGAC recommends that green infrastructure projects should be exempt from the rule and should be incentivized.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS

	Subject	LGAC Recommendation	Source	Date	Collaboration	Regulatory Reform, WOTUS, Both
29	Waters of the U.S.	Exemptions: The LGAC recommends that manmade conveyance components of MS4s be exempt from Waters of the United States. This includes manmade green infrastructure, roads, pipes, manmade gutters, manmade ditches, manmade drains, and manmade ponds.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
30	Waters of the U.S.	Exemptions: The LGAC recommends that dams and drainages designed for fire prevention be exempt from WOTUS.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
31	Waters of the U.S.	Exemptions: The LGAC recommends that dams and drainages designed for fire prevention be exempt from WOTUS.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
32	Waters of the U.S.	Jurisdictional: The LGAC recommends that settling ponds and basins be determined on a regional case by case specific basis.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
33	Waters of the U.S.	Jurisdictional: The LGAC recommends that EPA work to identify regional areas where jurisdictional determinations could be problematic in terms of sea level rise and where groundwater and surface flow intermix. For example, it is unclear how the state of Florida juxtaposed nearly at sea level, will be categorized. In this specific region, conceivably all waters could potentially be jurisdictional. The LGAC recommends that specific guidance be developed to address and classify these areas with region-specific criteria used to assess this determination.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
34	Waters of the U.S.	Implementation: The LGAC recommends that EPA, working with the Corps of Engineers, develop a tool for use by local governments which a permittee can use to assess their own jurisdictional status. For example, this could involve a simple categorical, printable questionnaire in a decision tree framework with questions aimed with an outcome of 'yes', 'no' or 'maybe-call your local Corps representative'. The LGAC recommends this method be computerized and developed as a smartphone application which yields a simple predictive outcome.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
35	Waters of the U.S.	Jurisdictional: The LGAC recommends that EPA look to stormwater experts and the practical advice that stormwater professionals can lend to the final rule the EPA is considering in Waters of the U.S.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
36	Waters of the U.S.	Jurisdictional: The LGAC recommends addressing how mining impoundments or borrow pits will be addressed within jurisdiction of WOTUS.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
37	Waters of the U.S.	Implementation: The LGAC recommends that regional and local technical manuals as well as other communication tools (e.g. checklists, smartphone apps, etc.) that account for geographic differences in each EPA region be developed to assist with jurisdictional calls.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
38	Waters of the U.S.	Implementation: The LGAC recommends that EPA provide planning maps at the state level which could be used as a planning tool to ascertain jurisdictional probability with high certainty. Such mapping would include the Hydrologic Unit Codes (HUC) for waterways. (It is presumed that all waterways with a designation of HUC-12 or less will be included in WOTUS.)	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
39	Waters of the U.S.	Implementation: The LGAC recommends that EPA develop a "rural strategy" which would address the issue of Waters of the U.S. on agricultural lands and rural communities. This rural strategy could provide more comprehensive planning and resources to address the full range of water quality and community issues associated with rural America and disadvantaged small communities.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
40	Waters of the U.S.	Implementation: The LGAC recommends that there be consistency between Natural Resources Conservation Services (NRCS) and EPA on interpretation of normal farming practices and that a clear definition of normal farming practices be included. Furthermore, the LGAC recommends a manual of agricultural exemptions be developed and published.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS

	Subject	LGAC Recommendation	Source	Date	Collaboration	Regulatory Reform, WOTUS, Both
41	Waters of the U.S.	Implementation: The LGAC was made aware of the State of Tennessee's Water Quality program, and the LGAC recommends that the EPA investigate this approach in regard to jurisdictional waters on agricultural lands.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
42	Waters of the U.S.	Implementation: The LGAC recommends that EPA facilitate better working relationships with the Corps, especially in regard to agricultural lands.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
43	Waters of the U.S.	Implementation: The LGAC recommends increasing the boundaries of riparian areas in the Conservation Reserve program so that they enhance protection of waters.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
44	Waters of the U.S.	Implementation: The LGAC recommends that the rule stipulate time frames for permit review and jurisdictional determinations. Time frames such as 60 to 90 days to obtain a permit would be well-received at the local level.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
45	Waters of the U.S.	Implementation: The LGAC recommends that state agency staff be utilized to make jurisdictional calls and work in cooperation with local districts with subject matter expertise such as county-based Conservation Districts or water management districts (e.g. Florida Water Management District). These local agencies can work together with the Corps to streamline permitting.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
46	Waters of the U.S.	Implementation: The LGAC recommends that EPA regionalize wetlands delineation manuals to take into account regional and local variability of vegetation, hydro morphology and hydroperiods.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
47	Waters of the U.S.	Implementation: The LGAC recommends that EPA work further with the Committee to develop a cohesive strategy to address local tools for stream and tributary protection so that it does not interfere with local governments protecting and maintaining water resources for its citizens and communities. For example, many local governments have zoning ordinances and coastal management plans that are protective of streams, riparian areas, and sensitive wetland areas. It is unclear how the proposed rule in its current state will affect our ability at the local level to protect our significant ecological areas.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
48	Waters of the U.S.	Implementation: The LGAC recommends that EPA acknowledge that some states have jurisdiction which is more protective than the federal WOTUS regulation. The LGAC recommends that where these local protections are in place that the federal rule would work in concert with, but not overrule, local protections.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
49	Waters of the U.S.	Implementation: The LGAC recommends that EPA strongly engage the US Army Corps of Engineers to ensure that the permit process is predictable and value-added. The proposed rule must be viewed in the context of how it will be implemented to validate that the resource protection outcome is balanced against the economic cost of the permitting process. Local, tribal and state agencies are at the front lines of achieving the goals of the Clean Water Act. Engaging local agencies as collaborative partners in the conversation with EPA and the US Army Corps of Engineers regarding implementation can only improve the process and the desired water resources protection results.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
50	Waters of the U.S.	Implementation: The LGAC recommends that EPA better understand the cost and resource implications, especially to local, state and tribal agencies, before drafting the final rule. Local agencies are very concerned about cost, which is exacerbated by the uncertainty in the permitting process.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
51	Waters of the U.S.	Implementation: The LGAC recommends that flexibility is included within the regulatory context so that conservation practices can be considered nationwide and be consistent, particularly on agricultural lands.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
52	Waters of the U.S.	Implementation: The LGAC recommends that EPA work with state and local governments once the final rule is developed regarding enforcement options.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
53	Waters of the U.S.	Outreach on Rule: The LGAC recommends that a clear one pager with graphics and side by side comparison of what the rule currently is and what is proposed be developed and included to enhance public understanding of the rule.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS

	Subject	LGAC Recommendation	Source	Date	Collaboration	Regulatory Reform, WOTUS, Both
54	Waters of the U.S.	Outreach on Rule: The LGAC believes it is important that EPA is aware of the potential for mixed messages in their communication with local agencies regarding the economic impact of the proposed rule. Based on the Workgroup's field meetings, local agencies are already skeptical of EPA's strong statement that the proposed rule does not change the definition of the Waters of the U.S. Although this statement may be factually correct, what will likely occur in the field is that local agencies will experience a permitting environment in direct contrast to this statement, as jurisdictional assertion is expected to increase. It is important that the EPA and the US Army Corps of Engineers do not understate the impact the rule may have on local jurisdictions	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
55	Waters of the U.S.	Outreach on Rule: The LGAC recommends that the EPA continue to evolve and improve its communication with local governments, as well as EJ, agricultural and small communities with respect to the Waters of the United States.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
56	Waters of the U.S.	The LGAC recommends that EPA expand their communication of the proposed rule and its effects to low income EJ communities, especially those with poor access to clean water. This would involve on-the-ground engagement with community members and creating outreach materials that are community-oriented and multi-lingual.B98	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	5-Nov-14	Workgroup meetings in St. Paul, MN; Atlanta, GA; Tacoma, WA and Worcester, MA in summer 2014. A list of public presenters is included in Appendix II and the meeting summaries are in Appendix III of the referenced source document.	WOTUS
57	Safe Drinking Water Act	The EPA should develop a comprehensive Communication Strategy as part of a National Drinking Water Action Plan, which aims to assist local governments in communicating messaging for local governments especially in understanding the value of water, citizen actions and a better understanding of health advisories.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
58	Safe Drinking Water Act	The EPA should take the lead to develop a compendium of best practices, highlighting those communities whose citizens have a strong understanding of the cost of delivering safe, clean drinking water as well as the cost of effectively treating wastewater.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
59	Safe Drinking Water Act	The State Source Water Assessment programs need to be updated. The EPA should provide guidance on measures necessary to protect and promote clean drinking water.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
60	Safe Drinking Water Act	The EPA should assist states, tribes and local governments in identifying ways they could work together to protect source water through regional partnerships.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
61	Safe Drinking Water Act	The EPA should continue its efforts with the Science Advisory Board (SAB) to fully investigate the health impacts of hydraulic fracturing on drinking water quality and quantity. This should include a cumulative risk analysis.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
62	Safe Drinking Water Act	The EPA should provide coordinators in the Regions to help communities with compliance, monitoring and identifying funding opportunities to address drinking water issues.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
63	Safe Drinking Water Act	The EPA, in coordination with the Bureau of Land Management (BLM), should identify and monitor the estimated 500,000 abandoned mines and prioritize those most hazardous and most likely to negatively impact source water and wells. Abandoned uranium mines are also an issue.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
64	Safe Drinking Water Act	The EPA should identify ways to enhance water reuse through use of treated storm water, constructed wetlands for treatment and other means of reuse for drinking water.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
65	Safe Drinking Water Act	The EPA should continue its work to assist local officials to better understand responsibilities and compliance with drinking water programs. This will help local officials better plan and integrate local tools such as codes, ordinances and incentives for better water quality protection	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
66	Safe Drinking Water Act	The EPA should identify ways in the Plan to enhance water reuse through use of treated stormwater, constructed wetlands for treatment and other means of reuse.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
67	Safe Drinking Water Act	The EPA should work with the military installations to identify potential areas of contamination and work on plans to identify these areas of potential contamination on military facilities, identify potential areas for source water protection, and identify impact areas where federal 'good neighbor' policies should be implemented to protect drinking water	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform

	Subject	LGAC Recommendation	Source	Date	Collaboration	Regulatory Reform, WOTUS, Both
68	Safe Drinking Water Act	The LGAC recommends that the EPA take a more active role in immediately communicating to local officials on how to respond to any release, spill, exposure or threats to drinking water supplies.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
69	Safe Drinking Water Act	The LGAC recommends that a Chemical Exposure Standard be made public and accessible upon request, especially when drinking water systems have been compromised. Furthermore, companies should be obligated to ensure their employees, contractors and visitors are not exposed to contaminants at levels above the workplace Chemical Exposure Standard.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
70	Safe Drinking Water Act	The EPA should develop new guidance on the "Right to Know," which addresses citizens', employees' and first responders' right to know the chemicals to which they may be exposed. These should be presented in a manner that is clearly understood by all and in languages necessary to reach all populations.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
71	Safe Drinking Water Act	The LGAC also recommends that the EPA work in partnership with FEMA on conducting training simulations, community awareness and communication to understand the potential hazardous chemical risks to drinking water and to prepare and respond in such an event. All information should be provided in a manner that is understood by the user and should be multilingual.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
72	Safe Drinking Water Act	EPA should focus on reducing the risks associated with hazardous chemicals on drinking water B23by enhancing the training, safety and security of threats to chemicals at their facilities. The EPA should work with industry to provide and assist local communities.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
73	Safe Drinking Water Act	The EPA should continue to coordinate with the Department of Homeland Security, Centers for Disease Control and Prevention, Assistant Secretary for Preparedness and Response and other appropriate agencies in implementing regulations.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
74	Safe Drinking Water Act	The LGAC recommends expanding the work the EPA is doing through IP for compliance with Clean Water Act programs to also include Safe Drinking Water Act programs	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
75	Safe Drinking Water Act	The LGAC recommends that it is equally important to consider the protection of water treatment and conveyance infrastructure to ensure the supply of clean and potable water to our communities. While water security nexus issues are not immediately apparent in the charge, the EPA should take serious consideration of water infrastructure security factors (including cybersecurity) and they should be underlying elements in any future discussions on water protection and water rights issues. The EPA should include a plan to strengthen security and cybersecurity of our nation's water infrastructure.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
76	Safe Drinking Water Act	The EPA should provide tools for local governments about how to communicate health advisories and risks to citizens effectively, so that risk of exposure can be minimized.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
77	Safe Drinking Water Act	The EPA should continue to advance the science and technologies needed to address emerging contaminants. The EPA should develop more comprehensive science on the health effects of lead, copper and asbestos as well as other emerging contaminants.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
78	Safe Drinking Water Act	Water treatment technologies should be developed ideally to address multiple contaminants.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
79	Safe Drinking Water Act	The EPA should continue work to reduce the harmful impacts of pharmaceuticals in source water and drinking water. The LGAC provided recommendations to the EPA regarding the pharmaceutical rule designed to aid in reducing the impacts of unused pharmaceuticals	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
80	Safe Drinking Water Act	The EPA, in setting standards for emerging contaminants, should utilize sound science and risk assessment. However, those standards should be set where treatment technologies are commensurate with detection limits.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
81	Safe Drinking Water Act	The EPA should work with municipalities and communities where violations have occurred to work on agreements to find solutions instead of leveraging fines.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform

	Subject	LGAC Recommendation	Source	Date	Collaboration	Regulatory Reform, WOTUS, Both
82	Safe Drinking Water Act	Standards for emerging contaminants are important. However, monitoring at the tap is not necessarily an adequate measure and is a poor proxy for the managerial, operational or enforcement aspects of infrastructure. Drinking water quality is highly dependent on the contaminant level in the source water, the treatment train and even the monitoring locations and frequency. Other monitoring techniques need to be developed for emerging contaminants that show, for example, differences in contaminant concentration; when the water did meet standards, and other indicators.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
83	Safe Drinking Water Act	It is important that local governments and tribes receive any notifications, advisories and resources concerning drinking water. We believe that documents such as the aforementioned memorandum and the "Suggested Directions for Homeowner Tap Sample Collection Procedures" should be disseminated to local governments, so that local officials can use it as a resource for citizens and their public water systems. We recommend that the EPA regional offices send out these above-mentioned documents directly to local governments as soon as possible. The EPA Regions may also work with state-municipal leagues and other intergovernmental organizations to help get the word out immediately.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
84	Safe Drinking Water Act	The LGAC recommends that health advisories which address emerging contaminants in drinking water should be sent directly to local governments and tribes. This gives local governments the chance to act in a timely manner. Local governments can inform citizens directly and can work collaboratively with the local public works to address any issues.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
85	Safe Drinking Water Act	The DWSRF is a significant financial tool for drinking water infrastructure investments. Through state programs, the DWSRF delivers access to low interest credit and subsidies for infrastructure investments. The EPA should continue to promote innovative uses of the DWSRF by providing guidance and incentives, as well as flexibility to protect water sources and help public water systems deliver reliable and safe drinking water. The LGAC recommends that the EPA identify and share best practices where these funds have addressed challenges successfully.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
86	Safe Drinking Water Act	The EPA should include actions for improvements to Give states guidance to target underserved and EJ communities; promote ease of the application process; Streamline the process; standardize practices across states; and highlight case studies where DWSRF has provided needed resources for communities and make them available.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
87	Drinking Water SRF	As a starting point, the EPA could convene a collaborative "think tank" to focus on financing issue of drinking water in the coming years.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
88	Drinking Water SRF	In the Plan, the EPA should include work with the Federal Deposit Insurance Corporation to identify and provide incentives for private investments in water infrastructure.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
89	Drinking Water SRF	The EPA should not regulate individual homeowner lines but should notify homeowners when lead contamination is an issue and provide homeowners with options to reduce lead contamination.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
90	Integrated Planning	The EPA should work to expand Integrated Planning (IP) approaches with municipalities to incorporate all of the water quality regulations such as stormwater, wastewater and drinking water to reduce regulatory burden municipalities.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
91	Integrated Planning	The LGAC recommends that EPA work with cities and communities on Integrated Water Quality Planning that will incorporate all of the Clean Water Act provisions into local plans. This planning process is already ongoing and the LGAC looks forward to these proactive approaches to address water quality concerns while providing green infrastructure and multi-use amenities to serve our public and create jobs.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform

	Subject	LGAC Recommendation	Source	Date	Collaboration	Regulatory Reform, WOTUS, Both
92	Integrated Planning	The LGAC recommends that EPA incentivize local, tribal and state agencies to engage in Integrated Water Quality Planning and develop polices, programs and projects that further the goals of the Clean Water Act. The rule should not in any way discourage local efforts to improve water quality through projects and programs.	Initial Findings and Recommendations Pertaining to EPA's Clean Water Act Waters of the US Proposed Rule	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
93	Integrated Planning	The EPA should work with supplemental funds where businesses, industries and others are fined for environmental damages to address drinking water funding issues.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
94	Integrated Planning	The EPA should work with communities that may be left with contaminated source water from mining to use an Integrated Planning approach.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
95	Integrated Planning	The EPA should work collaboratively with state regulators to reduce punitive approaches and increase facilitative solutions. Generally, communities facing fines and citations are already struggling with compliance. Fines rarely increase water quality; fines only reduce the local resources available to achieve compliance. A collaborative approach can be most effective in reaching water quality goals.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
96	Integrated Planning	The EPA should create a program to pilot municipalities, tribes and small communities to add drinking water in IP and to develop model IP programs.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
97	Integrated Planning	The EPA should work with supplemental funds where businesses, industries and others are fined for environmental damages to address drinking water funding issues.	Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations	26-Oct-16	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
98	Integrated Planning	The EPA must continue to aggressively implement a plan to address toxic algal blooms and partner with rural communities to address agricultural runoff. The EPA should include work to develop a Memorandum of Agreement with the U.S. Department of Agriculture to work with the states and agricultural communities to protect source water and drinking water by reducing agricultural runoff, implementing water quality best practices and fully utilizing precision agriculture.	A Letter to the Administrator on Toxic Algal Blooms	11-Dec-15	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
99	Toxic Algal Blooms	The LGAC recommends working with states to develop nutrient reduction strategies in areas where harmful algal blooms are most prevalent and threaten drinking water sources.	A Letter to the Administrator on Toxic Algal Blooms	Dec 11 2015	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
100	Toxic Algal Blooms	The LGAC recommends that the Clean Water Act Section 319 program guidance be used as a tool to address toxic algal bloom and prevent harmful runoff contributing to water quality problems.	A Letter to the Administrator on Toxic Algal Blooms	Dec 11 2015	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
101	Toxic Algal Blooms	The LGAC recommends that the lessons learned on nutrient reduction through the Gulf Hypoxia Taskforce efforts be identified and shared with other regions where toxic algal blooms are identified as an issue.	A Letter to the Administrator on Toxic Algal Blooms	Dec 11 2015	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
102	Toxic Algal Blooms	The EPA should distribute best practices of local, state and tribal governments that have effectively protected source water and addressed toxic algal blooms through source water protection.	A Letter to the Administrator on Toxic Algal Blooms	Dec 11 2015	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
103	Toxic Algal Blooms	The LGAC recommends that the EPA work with local communities to utilize the regulatory tools that the Clean Water Act (CWA) and the Safe Drinking Water Act (SOWA) provide in order to protect source water, especially for low-income, minority, rural and tribal communities where toxic algal bloom threats remain.	A Letter to the Administrator on State Water Quality Standards	Dec 11 2015	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
104	Toxic Algal Blooms	State water quality standards are a critical safeguard for the environment and human health. State and local government partnerships are necessary to ensure that water quality standards are adhered to and adequately protect the environment and public health. The LGAC recommends that the EPA strongly encourage states and tribes to update their water quality standards especially to address emerging contaminants and promote a more robust set of public health criteria.	A Letter to the Administrator on State Water Quality Standards	Dec 11 2015	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform

	Subject	LGAC Recommendation	Source	Date	Collaboration	Regulatory Reform, WOTUS, Both
105	Clean Water Act-Section 303	Water quality standards can be an important tool for local governments to protect waterbodies and designated uses. Local governments can use this as a tool at the local level to protect water quality promote economic growth, property and tourism, as well as public health. This is particularly important to the fishing industry and coastal economies. EPA should encourage states to update water quality standards aligned with economic progress.	A Letter to the Administrator on State Water Quality Standards	Dec 11 2015	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
106	Clean Water Act-Section 303	The LGAC further recommends that the EPA develop outreach materials for local governments to better understand how to use water quality standards to protect the designated uses of their communities' waters.	A Letter to the Administrator on State Water Quality Standards	Dec 11 2015	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform
107	Clean Water Act-Section 303	The EPA should develop a comprehensive Communication Strategy as part of a National Drinking Water Action Plan, which aims to assist local governments in communicating messaging for local governments especially in understanding the value of water, citizen actions and a better understanding of health advisories.	A Letter to the Administrator on State Water Quality Standards	Dec 11 2015	Workgroup meetings via teleconference that engaged public presenters, national intergovernmental organizations and municipalities. See Appendix	Regulatory Reform

Water Workgroup Timetable

May 10th- Workgroup Comments on Regulatory Reform Due to Fran and Sue

May 15th- LGAC Comments Deadline in Regulatory Reform Docket

May 17th- **4:30-5:30 ET-** Water Workgroup Teleconference -Purpose: Workgroup to discuss WOTUS charge w/National Intergovernmental Organizations invited

June 7th -4:30-5:30 ET-Water Workgroup Teleconference-Purpose: Workgroup to formulate recommendations on WOTUS charge for the LGAC

Late June TBD- LGAC Full Committee Meeting -Purpose: To discuss and take action on WOTUS recommendations

EPA's Local Government Advisory Committee (LGAC) 2017

Protecting America's Waters Workgroup

Wednesday, May 03, 2017 4:30 PM- 5:30 PM ET

Call in Number: 1-866-299-3188, Code-202-564-3115#

A G E N D A

4:30-4:35 PM	**Call to Order and Opening Remarks** *Susan Hann, Chairwoman* *Mayor Elizabeth Kautz, Vice-Chair*
4:35-4:40	**EPA Remarks** *Layne Bangerter, Deputy Associate Administrator, Office of Intergovernmental Relations*
4:40-5:00	**Waters of the United States Executive Order** *John Goodin* Acting Director, EPA's Office of Wetlands, Oceans and Watersheds
5:00-5:30	**Discussion of LGAC's Waters of the United States (WOTUS) and Regulatory Reform** *Susan Hann, Chairwoman* ACTION: Workgroup Discussion
5:30 PM	**Wrap-Up/Next Steps** *Susan Hann, Chairwoman*

United States Environmental Protection Agency

The Definition of "Waters of the U.S."

E.O. 13132 Federalism Consultation Meeting

April 19, 2017

Purpose & Agenda

Purpose:

- Initiate Federalism consultation to obtain state and local government officials' perspectives
- Provide an overview of potential changes under consideration for the definition of "Waters of the U.S."

Agenda:

- Federalism overview
- "Waters of the U.S." over time
- The Executive Order
- Proposed two-step process
  - Step 1
  - Step 2
- Discussion of Potential Approaches
- Next steps

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E.O. 13132, Federalism

The Order requires that Federal agencies consult with elected state and local government officials, or their representative national organizations, when developing regulations that have federalism implications.

The agencies are consulting due to strong interest on the part of state and local governments on this issue over the years and potential effects associated with a change in the definition of "waters of the U.S."

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"Waters of the U.S." Over Time

From the 1970s through the 1990s, the majority of federal courts, as well as the agencies, consistently interpreted a broad scope of Clean Water Act jurisdiction.

Supreme Court decisions in 2001 and 2006 held that the scope of navigable waters must be linked more directly to protecting the integrity of waters used in navigation. The justices in the 2006 *Rapanos* decision were split on how this was to be accomplished.

The agencies have been working since these Supreme Court decisions to provide clarification and predictability in the procedures used to identify waters that are – and are not – covered by the Clean Water Act.

The 2015 Clean Water Rule was an effort to provide that needed clarification and predictability. Many stakeholders, including many states, expressed concerns with the 2015 Rule.

The agencies are now embarking on another effort to provide clarity and predictability to members of the public.

ED_001271_00011979-00004 FOIA 2020-001799-0000027

The Executive Order

On February 28, 2017, the President signed the "Executive Order on Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule."

The E.O. calls on the EPA Administrator and the Assistant Secretary of the Army for Civil Works to review the final Clean Water Rule and "publish for notice and comment a proposed rule rescinding or revising the rule…."

The E.O. directs that EPA and the Army "shall consider interpreting the term 'navigable waters'" in a manner "consistent with Justice Scalia's opinion" in *Rapanos*. Justice Scalia's opinion indicates CWA jurisdiction includes relatively permanent waters and wetlands with a continuous surface connection to relatively permanent waters.

https://www.whitehouse.gov/the-press-office/2017/02/28/presidential-executive-order-restoring-rule-law-federalism-and-economic

ED_001271_00011979-00005 FOIA 2020-001799-0000028

Two-Step Process

The agencies are implementing the Executive Order in two steps to provide as much certainty as possible as quickly as possible to the regulated community and the public during the development of the ultimate replacement rule.

1. The agencies are taking action to establish the legal status quo in the Code of Federal Regulations, by recodifying the regulation that was in place prior to issuance of the Clean Water Rule and that is being implemented now under the U.S. Court of Appeals for the Sixth Circuit's stay of that rule.
2. The agencies plan to propose a new definition that would replace the approach in the 2015 Clean Water Rule with one that reflects the principles that Justice Scalia outlined in the *Rapanos* plurality opinion.

The agencies are aware that the scope of CWA jurisdiction is of intense interest to many stakeholders and therefore want to provide time for appropriate consultation and deliberations on the ultimate regulation.

In the meantime, the agencies will continue to implement regulatory definition in place prior to the 2015 rule, consistent with the 2003 and 2008 guidances, in light of the *SWANCC* and *Rapanos* decisions, pursuant to the Sixth Circuit stay of the Clean Water Rule.

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Step 1: Withdraw 2015 Clean Water Rule

While the Sixth Circuit stay may remain in effect for some time, its duration is uncertain.

To provide greater certainty, the agencies will move to reinstate the preexisting regulations and guidance and to withdraw the 2015 Rule.

In the Step 1 proposed rule, the agencies will define “waters of the United States” using the regulatory definition in place before the Clean Water Rule, which the agencies will continue to implement according to longstanding practice, just as they are today.

The Step 1 proposed rule would maintain the approach in place for decadesuntil a revised rule with a new definition can be promulgated.

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Step 2: Develop New Rule Consistent with the Executive Order

The E.O. directs the agencies to consider interpreting the term "navigable waters," as defined in 33 U.S.C. 1362(7), in a manner consistent with the opinion of Justice Antonin Scalia in *Rapanos v. United States*, 547 U.S. 715 (2006).

Justice Scalia's opinion indicates Clean Water Act jurisdiction includes relatively permanent waters and wetlands with a continuous surface connection to relatively permanent waters.

The agencies are consulting with state and local government officials as we begin to develop the new definition.

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Potential Approaches to "Relatively Permanent" Waters

Perennial plus streams with "seasonal" flow

Current practice: seasonal flow = about 3 months (varies regionally)

Perennial plus streams with another measure of flow

Use appropriate, implementable metrics, e.g., frequency of flow, intersecting water table

Perennial streams only

Streams that carry flow throughout the year except in extreme drought

Other

Thoughts?

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FOIA 2020-001799-0000032

Potential Approaches to Wetlands with a "Continuous Surface Connection"

Surface connection even through non-jurisdictional feature

Current practice considers directly abutting wetlands and those with a continuous surface connection, regardless of distance, to be jurisdictional

Some degree of connectivity

Use appropriate, implementable metrics, e.g., distance

Wetland must directly touch jurisdictional waters

Only wetlands that directly touch a jurisdictional water

Other

Thoughts?

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FOIA 2020-001799-0000033

Discussion:

The change in jurisdictional waters will vary across states and localities and with the options suggested above. Given that:

1. How would you like to see the concepts of "relatively permanent" and "continuous surface connection" defined and implemented? How would you like to see the agencies interpret "consistent with" Scalia? Are there particular features or implications of any such approaches that the agencies should be mindful of in developing the step 2 proposed rule?

2. What opportunities and challenges exist for your state or locality with taking a Scalia approach?

3. Do you anticipate any changes to the scope of your state or local programs (e.g., regulations, statutes or emergency response scope) regarding CWA jurisdiction? In addition, how would a Scalia approach potentially affect the implementation of state programs under the CWA (e.g., 303, 311, 401, 402 and 404)? If so, what types of actions do you anticipate would be needed?

4. The agencies' economic analysis for step 2 intends to review programs under CWA 303, 311, 401, 402 and 404. Are there any other programs specific to your region, state or locality that could be affected but would not be captured in such an economic analysis?

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Next Steps

Do you have any additional information that the EPA should be aware of?

- If so, please provide.

Do you have any other approaches that you would like the agencies to consider?

Comments will be due to the EPA in approximately 8 weeks, June 19, 2017.

Please send written comments to: CWAwotus@epa.gov and copy Hanson.Andrew@epa.gov

ED_001271_00011979-00012 FOIA 2020-001799-0000035

Contacts

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- CWAwotus@epa.gov

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- (202) 564-3664
- Hanson.Andrew@epa.gov

ED_001271_00011979-00013 FOIA 2020-001799-0000036

From: Shapiro, Mike
Location: 3233 WJCE Call in Nonresponsive Conference Code/ Ex. 6
Importance: Normal
Subject: Clean Water Rule
Start Date/Time: Thur 2/9/2017 3:00:00 PM
End Date/Time: Thur 2/9/2017 3:45:00 PM
Powerpoint -- Transition briefing Clean Water Rule 8Feb2017pm.pptx

MS

Message

From: Hanson, Andrew [Hanson.Andrew@epa.gov]
Sent: 6/7/2017 7:33:38 PM
To: Bangerter, Layne [bangerter.layne@epa.gov]; Goodin, John [Goodin.John@epa.gov]; Christensen, Damaris [Christensen.Damaris@epa.gov]; Downing, Donna [Downing.Donna@epa.gov]; Cook-Shyovitz, Becky [Cook-Shyovitz.Becky@epa.gov]
Subject: FW: Waters of the US
Attachments: 2017-06-06-Railroad Commission of Texas-Comments-Waters of the US.pdf

L -

Some feedback from the Texas RRC, an IOGCC member and the State's regulatory authority for oil and gas development and extraction. (also, a vestige of the early 20th C) Leslie's worked with us before (specifically, Jan Matuszko in OW/OST) on oil and gas effluent limitations guidelines.

FWIW, the Texas Railroad Commission is often a launching pad for folks who go on to be members of Congress, etc, so they carry some weight.

From: Leslie Savage [mailto:Leslie.Savage@rrc.texas.gov]
Sent: Wednesday, June 07, 2017 3:07 PM
To: CWAwotus <CWAwotus@epa.gov>
Cc: Hanson, Andrew <Hanson.Andrew@epa.gov>
Subject: Waters of the US

Mr. Hanson and Ms. Downing;

Comments from the Railroad Commission of Texas are attached.

We appreciate the opportunity to provide these comments and look forward to working with you in the future on this effort.

RAILROAD COMMISSION OF TEXAS

June 6, 2017

Scott Pruitt, Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 2822T
Washington, DC 20460

Douglass W. Lamont, P.E.
Senior Official Performing the Duties
of the Assistant Secretary of the Army
108 Army Pentagon
Washington, D.C. 20310

Re: Clean Water Rule: Definition of "Waters of the United States"
Under the Clean Water Act

Dear Administrator Pruitt and Acting Secretary Lamont:

We have received a copy of your letter dated May 8, 2017, to Texas Governor Gregg Abbott requesting our input on the proposal to revise the definition of waters of the United State (Clean Water Rule: Definition of "Waters of the United States"; Final Rule, 80 Fed. Reg. 37,054 (June 29, 2015)). We appreciate your request for our input.

The Railroad Commission of Texas (Commission) has effectively regulated the oil and natural gas industry in the State of Texas since 1919. The Commission's primary statutory responsibilities in the regulation of Texas oil, gas and geothermal resources, as well as lignite mining, are to conserve the State's natural resources; prevent the waste of natural resources; protect the correlative rights of mineral interest owners; protect the environment from pollution associated with oil, gas, geothermal, and surface mining activities; and ensure safety. The Commission works closely with the Texas Commission on Environmental Quality. Both agencies have jurisdiction over prevention of pollution of surface water in the State.

Below are our responses to the questions included in the PowerPoint presentation attached to your letter dated May 8, 2017, to Governor Abbott:

1. How would you like to see the concepts of "relatively permanent" and "continuous surface connection" defined and implemented? How would you like to see the agencies interpret "consistent with" Scalia? Are there particular features or implications of any such approaches that the agencies should be mindful of in developing the step 2 proposed rule?

Justice Scalia's opinion in *Rapanos v. United States*, 547 U.S. 715 (2006) found that Clean Water Act jurisdiction includes relatively permanent waters and wetlands with a continuous surface connection to relatively permanent waters. As determined by Justice Scalia, the term "relatively permanent" should not include dry channels "through which water flows intermittently or ephemerally, or channels that periodically provide drainage for rainfall." The term should include

only those waters that flow year-round or continuous seasonally. As such, the term should be determined based on site-specific characteristics.

With respect to the term "continuous surface connection," Justice Scalia stated that such a connection would make it "difficult to determine where the 'water' ends and the 'wetland' begins." In other words, there should be no clear distinction between the 'waters' and the wetlands."

In keeping with Justice Scalia's opinion, any rule adopted by the Agencies should not include the concept of aggregation of similarly situated "other waters." Congress did not envision federal Clean Water Act jurisdiction over any land feature that could possibly hold water.

2. What opportunities and challenges exist for your state or locality with taking a Scalia approach?

Defining the scope of the Clean Water Act in a manner consistent with Justice Scalia's opinion in *Rapanos* would greatly clarify the scope and requirements of the Federal regulations. Such an approach would create greater certainty for the States and reduce the frustration and uncertainty of the public by eliminating the ambiguity regarding the reach of the Clean Water Act. It would protect private property rights and encourage economic development. And, it would ensure that the regulatory burden is proportionate to reasonable water protection benefits.

3. Do you anticipate any changes to the scope of your state or local programs (e.g., regulations, statutes or emergency response scope) regarding CWA jurisdiction? In addition, how would a Scalia approach potentially affect the implementation of state programs under the CWA (e.g., 303, 311, 401, 402 and 404)? If so, what types of actions do you anticipate would be needed?

We do not, at this time, anticipate any changes to the scope of our programs regarding Clean Water Act jurisdiction.

4. The agencies' economic analysis for step 2 intends to review programs under CWA 303, 311, 401, 402 and 404. Are there any other programs specific to your region, state or locality that could be affected but would not be captured in such an economic analysis?

An economic analysis of Clean Water Act programs under Section 303 (Impaired Waters and Total Maximum Daily Loads); Section 311 (oil spill); Section 401 (State water quality certification); 401 (State water quality certification); Section 402 (NPDES program); and Section 404 (discharge of dredged and fill material) should capture all the Clean Water Act programs under the Commission's jurisdiction.

The Commission appreciates the opportunity to comment on this important issue.

Sincerely,

Christi Craddick, Chairman | Ryan Sitton, Commissioner | Wayne Christian, Commissioner