



ROY COOPER  
*Governor*

MICHAEL S. REGAN  
*Secretary*

June 19, 2017

E. Scott Pruitt  
Administrator, United States Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

Douglas W. Lamont, P.E.  
Senior Official Performing the Duties of the Assistant Secretary of the Army for Civil Works  
108 Army Pentagon  
Washington, DC 20310-0108

Dear Administrator Pruitt and Mr. Lamont:

Thank you for your letter of May 8, 2017, inviting input from Governors on the upcoming rulemaking to develop a new definition for Waters of the United States (WOTUS). North Carolina is committed to protecting and preserving the state's water quality, as this important public resource is essential to all our citizens.

Water quality protections and sound wastewater management strategies are fundamental to promoting public health and strengthening our state's economy. State regulations and permitting processes affect North Carolina's drinking water, fisheries, recreation, and preparedness against natural disasters such as hurricanes and flooding. Our General Statutes as well as the requirements of the Clean Water Act guide our commitment to water quality. In order to achieve these clean water goals, we need a definition of WOTUS that is clear and allows state regulators appropriate discretion.

I appreciate the challenge before the United States Environmental Protection Agency (USEPA) and the United States Army Corps of Engineers (USACE) regarding the WOTUS definition. The N.C. Department of Environmental Quality has met with North Carolina stakeholders to get their perspectives on the upcoming rulemaking. Based on those conversations and North Carolina's commitment to regulating North Carolina waters for the health, safety, and economic prosperity of N.C. citizens, I offer the following comments to your agencies as the rulemaking effort begins.

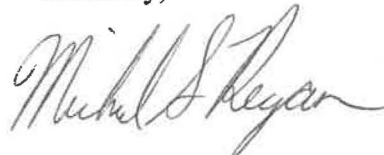
First, the USEPA and the USACE should undertake a meaningful stakeholder process in developing the new rule. This means formally hearing from all stakeholders and considering their concerns. For example, state agencies responsible for implementing the Clean Water Act have extensive experience and can offer perspectives on the impact to a given state. Citizens and businesses that rely on and are affected by water regulations have insights on how the new rule

will impact their daily lives and operations. Stakeholders bring diverse expertise and experience to the question at hand and can offer input on specific issues associated with the definition. Second, I recommend that the USEPA and USACE use the following guiding principles when developing the definition of WOTUS:

- Strive to promulgate a clear definition of WOTUS, based upon the best current scientific understanding of the interconnected nature of water systems.
- Allow states the flexibility to regulate the waters necessary to achieve the goals of the Clean Water Act and in a manner that ensures the health, safety, and economic prosperity of their citizens.
- Consider defining WOTUS in a way that recognizes regional differences in water flows and fluvial geomorphological features. For example, the headwaters, streams, and wetlands in the southeastern United States behave differently than the streams in the southwestern part of the country.
- Strive to have clear, consistent communications on the intent and impacts of the new rule.
- Develop a complete evaluation of the expected costs and benefits of the new rule.

Finally, I appreciate the opportunity to provide comments on this important rulemaking effort. I encourage you to consult states often throughout this process in order to provide the practical implementation impacts of any proposed definition. It will take all parties working together to achieve the clean water goals. An effective collaborate stakeholder process for this rulemaking is an ideal place to begin.

Sincerely,



Michael S. Regan  
Secretary, NCDEQ