

St. George (843) 563-0100
St. George Fax 563-0137
Summerville (843) 832-0100
Summerville Fax 832-0137



JASON L. WARD
County Administrator

OFFICE OF THE DORCHESTER COUNTY ADMINISTRATOR
201 JOHNSTON STREET
ST. GEORGE, SOUTH CAROLINA 29477

June 9, 2017

Administrator E. Scott Pruitt
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Secretary Douglas W. Lamont
Office of the Assistant Secretary of the Army for Civil Works
Department of the Army
104 Army Pentagon
Washington, DC 20310

Re: Executive Order 13132—Dorchester County, South Carolina “Waters of the U.S.”
Rulemaking Comments

Dear Administrator Pruitt and Secretary Lamont:

Dorchester County, South Carolina appreciates the opportunity to provide comments to the Environmental Protection Agency (EPA) and the United States Army Corps of Engineers (Corps) as you revisit and rewrite the 2015 “Waters of the United States” Rule under the 1972 Clean Water Act (CWA). We ask that your review include how wetlands are defined and delineated.

Under Section 404 of the CWA, the EPA and Corps must delineate wetlands in order to regulate them as “Waters of the United States.” During the process of wetland delineation, the EPA and the Corps use 1987 Corps of Engineers Wetland Delineation Manual (1987 Manual). In addition to the 1987 Manual, a 2010 Regional Supplement for the Atlantic and Gulf Coastal Plain Region (2010 Regional Supplement) is used during the delineation process. We respectfully ask that the EPA and the Corps only use the 1987 Manual and not the 2010 Regional Supplement during the delineation process. The sole use of the 1987 Manual conforms with Congress’s preference for wetland delineation.

Under the Energy and Water Development Appropriations Act of 1991, Congress prohibited federal funds from being used for wetland delineation in accord with the 1989 Corps of Engineers Wetland Delineation Manual. Additionally, funds were denied for wetland delineation that used “any subsequent manual not adopted in accordance with the requirements for notice and public comment of the rule-making process of the Administrative Procedure Act.” As a result of this legislation, the Corps returned to the 1987 Manual, but eventually adopted a 2010 Regional Supplement. The 2010 Regional Supplement replaces part of the 1987 Manual, however, it did not go through the formal notice and public comment period as required by Congress. Accordingly, the 2010 Regional Supplement impacts how a wetland is delineated and whether it is considered part of the “Waters of the United States.”

Since the 2010 Regional Supplement did not undergo a formal notice and public comment period, the implementation of the supplement has significantly impacted Dorchester County. The county engages in long-term, comprehensive planning which balances quality of life, including the environment, and economic development. How wetlands are delineated under the WOTUS Rule greatly impacts planning and decision making. Often times, the delineation changes at the time that the strategic plan is implemented. For example, based on a 2009 jurisdictional delineation, Dorchester County invested millions of dollars in an industrial park. Shortly thereafter, the Corps used the 2010 Regional Supplement to delineate the site as almost entirely wetlands. A similar event occurred with a proposed manufacturing plant. Even though the plant had a previous delineation outside the scope of the CWA, as determined by the 1987 Manual, the insistence upon using the 2010 Regional Supplement required additional environmental studies and impact assessments because it was delineated as being on a wetland.

Thank you for the opportunity to submit comments about these issues. We ask that you consider our concerns regarding how wetlands are delineated under the WOTUS Rule and return to only using the 1987 Manual as you consider how “Waters of the United States” are defined.

Best regards,



Jason L. Ward
Dorchester County Administrator