



COMMONWEALTH of VIRGINIA

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Ken Kopocis
Deputy Assistant Administrator for Water
United States Environmental Protection Agency
Office of Water
William Jefferson Clinton Building
1200 Pennsylvania Ave NW, MC 4101M
Washington, DC 20460

Jo Ellen Darcy
Assistant Secretary of Army (Civil Works)
U.S. Army Corps of Engineers
108 Army Pentagon, Room 3E446
Washington, DC 20310-0108

Re: Clean Water Act Proposed Rule: Docket ID No. EPA-HQ-OW-2011-0880

Dear Deputy Assistant Administrator Kopocis and Assistant Secretary Darcy:

The Virginia Department of Environmental Quality (DEQ) is pleased to submit the following comments regarding the proposed national rulemaking *Definition of "Waters of the United States" Under the Clean Water Act* (79 Fed. Reg. 22188, April 21, 2014).

DEQ believes that EPA rule makers would have benefited from earlier consultation with states during the development of the Proposed Rule. Even though Virginia is a state with independent authority over activities in surface waters, we would have appreciated more time to assess how the reach of proposed jurisdiction may change our current authority under state law, and therefore, be in a better position to offer assistance with the rule making. As iterated by others, the Proposed Rule also raises implementation issues and questions at the state level.

DEQ also believes that waiting to implement the rule making until after the *Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence* report and EPA's Science Advisory Board (SAB) panel review were concluded would have

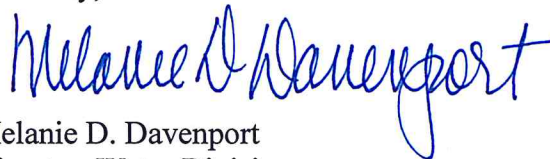
better served the rule makers and states in understanding the Proposed Rule, and thus, may have reduced confusion and concern among state regulators.

Lastly, due to the inherent geographical and hydrological differences across the nation, it seems that a regional approach may behoove the rule making effort, much like that which was done in the wetland delineation regional supplement efforts in recent years. We have heard from the regulated public that such differences make the rule difficult to predict when it comes to implanting policies at the state level.

Virginia will continue to track the status of the rule making as it proceeds but would encourage better coordination with state regulators in the coming months.

Thank you for this opportunity to comment.

Sincerely, .



Melanie D. Davenport
Director, Water Division