



January 5, 2022

Mr. Michael Regan, Administrator  
Environmental Protection Agency  
Works)

Mr. Michael Connor  
Assistant Secretary of the Army (Civil

Washington, DC Washington, DC  
regan.michael@epa.gov michael.l.connor.civ@mail.mil

Ms. Radhika Fox  
Assistant Administrator, Office of Water  
Environmental Protection Agency  
Washington, DC 20460  
fox.radhika@epa.gov

Dear Administrator Regan, Assistant Administrator Fox, and Assistant Secretary  
Conner,

The Association of Clean Water Administrators (ACWA) is the independent, nonpartisan, national organization of state and interstate (hereinafter “states”) water program directors, responsible for the daily implementation of the Clean Water Act’s (CWA) water quality programs. We appreciate the co-regulator engagement opportunities the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) have provided the states, as you begin your efforts to revise the definition of “waters of the United States.” We write to you today to urge you to plan for further specific co-regulator engagement opportunities as you move forward with crafting a durable definition of “waters of the United States”, informed by diverse perspectives, and based on an inclusive foundation.

Because of states’ unique and congressionally designated role under the CWA as co-regulators, ACWA recommends that EPA consider this journey to be a partnership that includes regular contact and dialogue through workgroups, focus groups, forums, calls, and other communication channels, throughout the life of this effort. Just as with past rules, state commissioners and elected officials will turn to ACWA members as the state water quality program implementing experts who will grapple with a new rule and its effects on state and local government programs, local landowners and citizenry, and other related stakeholders. ACWA urges EPA to continue to take advantage of this expertise and experience by working directly with ACWA and its members as the proposed rule is drafted and ultimately finalized.

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In advance of initiating this second rulemaking, we urge you to reach out to state co-regulators and invite them or their designees to participate in future national workshops or workshops focused on regional challenges such as climate, geography, hydrology, and legal doctrines that are constraints to water and water quality administration. We suggest that the agencies plan to organize co-regulator meetings similar to the workshop held at EPA headquarters on March 8-9, 2018. That meeting stands out as an unusually open and frank discussion about possible paths forward in writing a new rule. A representative number of states were able to discuss federal and state responsibilities under the CWA and related programs that rely on state authorities.

Thank you again for the opportunity to provide pre-proposal recommendations on this effort. Please contact ACWA's Executive Director Julia Anastasio at [janastasio@acwa-us.org](mailto:janastasio@acwa-us.org) or (202) 756-0600 with any questions regarding ACWA's comments.

Sincerely,

A handwritten signature in blue ink that reads "Andrew J. Gavin". The signature is fluid and cursive, with the first name "Andrew" and last name "Gavin" clearly legible.

Andrew Gavin  
ACWA President