

US EPA ARCHIVE DOCUMENT

Environmental Justice Report for the Clean Water Rule: Definition of “Waters of the United States” Under the Clean Water Act; Final Rule

A summary of public outreach and stakeholder engagement used to ensure transparency and meaningful participation of Minority, Low-Income, and Indigenous Populations

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Contents

Executive Summary.....	3
Purpose.....	4
The Clean Water Rule	4
Background.....	4
Summary of the Final Rule	4
Seeking Public Input to Strengthen the Final Rule	5
Environmental Justice Analysis	5
What is Environmental Justice?	5
How does one assess Environmental Justice?	6
Evaluation of Environmental Justice through Public Participation	7
Conclusion	13
References	14
Appendix A. Environmental Justice Advocacy Group Participants in 2014 Public Outreach Events for the Proposed Clean Water Rule: Definition of "Waters of the United States"	15
Appendix B. Summary of Public Outreach Events Attended by Environmental Justice Stakeholders in 2014 for the Proposed Clean Water Rule and Feedback Received	18
Appendix C. Environmental Justice Comments on the Proposed Clean Water Rule; Definitions of "Waters of the United States"	23

Executive Summary

The U.S. Environmental Protection Agency (EPA) and the Department of the Army (Army) published a final rule defining the scope of waters protected under the Clean Water Act (CWA), in light of the U.S. Supreme Court cases in *U.S. v. Riverside Bayview Homes*, *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC)*, and *Rapanos v. United States (Rapanos)*. The agencies' goal is to respond to requests from stakeholders across the country to make the process of identifying waters protected under the CWA easier to understand, more predictable, and easier to implement. This rule improves the process for making jurisdictional determinations under the CWA by minimizing delays and costs, makes protection of the nation's clean water more effective, and improves predictability and consistency for landowners. This rule will result in a reduction in the geographic scope of waters historically protected under the CWA to reflect the decisions of the Supreme Court.

Executive Order (E.O.) 12898: *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629; February 16, 1994) establishes federal executive policy on Environmental Justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make Environmental Justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the U.S. EPA defines Environmental Justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EPA has this goal for all communities and persons across this Nation. It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.

Meaningful involvement from minority, low-income, and indigenous populations, as well as other stakeholders, has been a cornerstone of development of the final rule. Consistent with E.O. 12898, EPA hosted a stakeholder briefing on May 12, 2014, in Washington D.C., and an additional 24 meetings between April – November 2014, through which Environmental Justice stakeholders were specifically engaged for technical input and meaningful involvement in this rulemaking process.

The agencies have determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations, because the Clean Water Rule does not establish any specific regulatory requirements that would affect these communities. Instead, it is a definitional rule that clarifies the scope of "waters of the United States" consistent with the CWA, Supreme Court precedent, and science. The definition itself imposes no direct impacts on the environment or public health for communities at large. All potential impacts are measured through CWA program implementation, which is outside of the scope of this rule. When the rule is implemented through the permitting process, Environmental Justice issues will be further addressed on a more site-specific basis.

Purpose

The purpose of this report is to: (1) Present a summary of the Clean Water Rule: Definition of “Waters of the United States”, (2) Describe the evaluation of Environmental Justice concerns in the context of the final rule, and (3) Discuss the findings of the Environmental Justice analysis, including the technical input received through outreach and public comments, and how that feedback has been considered in the development of the final rule.

The Clean Water Rule

Background

Congress enacted the amendments to the Federal Water Pollution Control Act, or Clean Water Act (CWA), in 1972 to address pollution entering the nation’s waters and to complement statutes such as the Rivers and Harbors Act that protects the navigability of waters. As a pollution prevention statute, the CWA extends beyond waters that are navigable in fact to include the headwater streams, lakes, and wetlands that require protection to meet its stated public health, environmental, and water quality goals.

For almost 40 years, the legal test applied in determining the geographic scope of waters protected under the CWA was based on the authority given the Federal government under the Commerce Clause of the United States Constitution. The courts, including decisions of the Supreme Court, have consistently agreed that the geographic scope of the CWA should reach beyond waters that are navigable in fact. As a result, the CWA has consistently protected rivers, streams, creeks, wetlands, lakes, the territorial seas, and other water bodies on which Americans rely for clean, healthy, and abundant sources of water. The CWA serves as the nation’s single most important statute for protecting America’s clean water.

In light of Supreme Court cases in *U.S. v. Riverside Bayview Homes*, *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC)*, and *Rapanos v. United States (Rapanos)* regarding the scope of “waters of the United States,” the agencies are revising their longstanding regulations defining the “waters of the United States.”

Summary of the Final Rule

In this final rule, EPA and Army clarify the scope of “waters of the United States” that are protected under the Clean Water Act (CWA), using the text of the statute, Supreme Court decisions, the best available peer-reviewed science, public input, and the agencies’ technical expertise and experience in implementing the statute. This rule makes the process of identifying waters protected under the CWA easier to understand, more predictable, and consistent with the law and peer-reviewed science, while protecting the streams and wetlands that form the foundation of our nation’s water resources.

This final rule interprets the CWA to cover those waters that require protection in order to restore and maintain the chemical, physical, or biological integrity of traditional navigable waters, interstate waters, and the territorial seas. This interpretation is based not only on legal precedent and the best available peer-reviewed science, but also on the agencies’ technical expertise and extensive experience in implementing the CWA over the past four decades. The rule will clarify and simplify implementation

of the CWA consistent with its purposes through clearer definitions and increased use of bright-line rules.

In this final rule, the agencies define “waters of the United States” to include eight categories of jurisdictional waters. The rule maintains existing exclusions for certain categories of waters, and adds additional categorical exclusions that are regularly applied in practice. The rule reflects the agencies’ goal of providing simpler, clearer, and more consistent approaches for identifying the geographic scope of the CWA. The rule establishes jurisdiction in three basic categories: waters that are jurisdictional in all instances, waters that are jurisdictional but only if they meet specific definitions in the rule, and a narrowed category of waters subject to case-specific analysis.

For more information on the rule, see Clean Water Rule: Definition of “Waters of the United States” in the *Federal Register* [EPA-HQ-2011-0880: FRL-991-47-OW].

Seeking Public Input to Strengthen the Final Rule

During this rulemaking process, the agencies committed themselves to providing a transparent, comprehensive, and effective process for taking public comment on the proposed rule. The agencies strove to gather all the input possible from a broad range of stakeholders who have critical experience, scientific information, or business perspectives regarding clean water programs. To meet this goal, the agencies convened over 400 meetings nationwide with states, small businesses, farmers, academics, miners, energy companies, counties, municipalities, environmental organizations, other federal agencies, and many others to provide an enhanced opportunity to provide input on the proposal. The agencies also received over one million public comments that informed the rule.

This report will focus on the feedback received from Environmental Justice stakeholders, an evaluation of potential impacts, and the agencies’ incorporation of public comments to develop the final rule.

Environmental Justice Analysis

In setting the stage for the analysis, we first define Environmental Justice, and then identify the parameters of the analysis:

What is Environmental Justice?

Executive Order (E.O.) 12898 (1994) states “... each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority, low-income, and indigenous populations.”

The E.O. directs federal agencies to develop Environmental Justice strategies that identify and address disproportionately high and adverse human health or environmental effects of their programs on minority, low-income, and indigenous populations. The E.O. also is intended to promote nondiscrimination in federal programs that affect human health and the environment, and aims to provide minority, low-income, and indigenous communities with access to public information and opportunities for meaningful public participation in matters relating to human health and the environment.

As outlined in EPA's "Environmental Justice Strategy: Executive Order 12898" (1995), EPA defines Environmental Justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. More specifically:

- Fair treatment means that no group of persons should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental, and commercial operations or policies.
- Meaningful involvement means that: (1) people have an opportunity to participate in decisions about activities that may affect their environment and/or health; (2) the public's contribution can influence the regulatory agency's decision; (3) their concerns will be considered in the decision making process; and (4) the decision makers seek out and facilitate the involvement of those potentially affected.

Environmental Justice is an important element of policy-making and project planning for the U.S. Army Corps of Engineers (Corps) as well. In compliance with Executive Order (EO) 12898, the Corps adheres to the tenets of EPA's guidance on Environmental Justice, in addition to guidance developed by the Council on Environmental Quality (CEQ) entitled; "Environmental Justice under the National Environmental Policy Act" (1997). This guidance requires the Corps to develop an evaluation of the potential effect any proposed action may have on the "human environment."

EPA and Army continue to work toward full implementation of the E.O. in their policies and programs. In honor of the 20th anniversary of the signing of E.O. 12898 on Environmental Justice, EPA developed *Plan EJ 2014* (2011). *Plan EJ 2014* is EPA's overarching strategy for advancing Environmental Justice. This document outlines a comprehensive implementation plan that seeks to build stronger relationships with communities overburdened by environmental and health hazards and build partnerships that improve conditions in such communities (USEPA 2014). Through *Plan EJ 2014*, EPA has worked to develop a suite of tools to integrate Environmental Justice and civil rights into its programs, policies, and activities.

[How does one assess Environmental Justice?](#)

EPA and Army followed EPA's guidance for the assessment of Environmental Justice impacts on disadvantaged communities. The most recent EPA guidance outlined in *Plan EJ 2014* and the *Plan EJ 2014 Progress Report* describes the agencies' steps and strategies to fully implement Environmental Justice into their programs and policies. To meet the requirements of E.O. 12898, EPA directs rule writers and decision-makers to respond to three basic questions (EPA 2011 and 2014):

1. How did your public participation process provide transparency and meaningful participation for minority, low-income, and indigenous populations?
2. How did you identify and address existing and new disproportionate environmental and public health impacts on minority, low-income, and indigenous populations?
3. How did actions taken under #1 and #2 impact the outcome or final decision?

The agencies used these questions to guide their evaluation of potential Environmental Justice impacts, which is further summarized below.

Evaluation of Environmental Justice through Public Participation

The agencies committed themselves to providing a transparent, comprehensive, and effective process for taking public comment on the proposed rule. The agencies strove to gather all the input possible from a broad range of stakeholders who have critical experience, scientific information, or business perspectives regarding clean water programs. To meet this goal, the agencies convened over 400 meetings nationwide with states, small businesses, farmers, academics, miners, energy companies, counties, municipalities, environmental organizations, other federal agencies, and many others to provide an enhanced opportunity to provide input on the proposal. The agencies also received over one million public comments that informed this rule.

The public comments identified a number of areas where the proposed rule could be more effective in protecting clean water, could be more clear and easy to understand, could help to reduce potential burdens on farmers and small businesses, and could be more responsive to the needs of states and local governments. Below are some of the major comments the agencies heard during meetings with stakeholders and in public comments submitted to the agencies:

- Protect and enhance the key role given to states and tribes under the statute to implement CWA programs.
- Understand potential indirect effects on cities, counties, and other municipalities that must comply with the requirements of the CWA.
- Define the scope of CWA jurisdiction consistent with decisions of the Supreme Court.
- Recognize the role of farmers in conserving the nation's vital aquatic resources.
- Address potential burdens on the small business community.
- Ensure the CWA remains effective in protecting the clean water on which the nation depends for our health, the economy, and the environment.
- Make this rule less complicated, easier to understand, and more predictable to implement.

Consistent with E.O. 12898, EPA hosted a stakeholder briefing on May 12, 2014, in Washington D.C., and an additional 24 meetings between April and November 2014, through which Environmental Justice stakeholders were specifically engaged for technical input and meaningful involvement in this rulemaking process. In response to the E.O., the agencies have assessed the technical feedback and recommendations collected from Environmental Justice stakeholders according to the three questions for rule writers and decision-makers, and summarized the feedback received below. Detailed information on the meetings, participants, and written comments received can be found in Appendices A, B, and C.

1. How did your public participation process provide transparency and meaningful participation for minority, low-income, and indigenous populations?

During each public meeting, the agencies provided an overview of the proposed rule, and answered questions from the stakeholders in attendance. The participants offered comments on the proposed rule and its potential impact on low-income, minority, and indigenous communities. Many of the

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comments provided by Environmental Justice stakeholders were consistent with major comments received nationally such as:

- Make this rule less complicated, easier to understand, and more predictable to implement.
- Ensure the CWA remains effective in protecting the clean water on which the nation depends for our health, the economy, and the environment.
- Understand potential indirect effects on cities, counties, and other municipalities who must comply with the requirements of the CWA.

Additional comments from Environmental Justice stakeholders included:

- Ensure the final rule maintains tribal sovereignty on waters bordering state and tribal lands.
- Consider the ecological significance of other categories of waterways, such as Carolina bays, prairie potholes, and vernal pools that deserve regulatory protection without the need to undertake a case-by-case determination of whether they qualify as “waters of the United States” for purposes of the CWA.
- Consider developing guidance to further assist states and tribal nations in implementing the final rule
- Be mindful of the indirect effect this rule has on the relationship to endangered species listings and protection of beneficial uses.

In review of the written comments, EPA and Army received seventeen letters from Environmental Justice organizations, Members of Congress, and concerned citizens regarding the potential impact of this rule on Environmental Justice communities. Additional comment letters submitted on the proposed rule that mentioned terms like “minority” and “disadvantaged” with respect to the commenter’s public interest (ex. agriculture, or small business development) were reviewed and considered separately.

Of the seventeen letters received, eight provided support for the proposed rule, five opposed the proposed rule, two focused comments on their concern with the potential environmental impact of this rule on disadvantaged communities, and two requested additional analyses to determine the socio-economic impact of this rule on disadvantaged communities. Recommendations for final rule development were also provided in fifteen of the letters received. Many of the comments provided were consistent with the major comments received, nationally, through public outreach. A summary of unique comments provided by the Environmental Justice community are highlighted below.

Letters of Support

- Clarifies the scope of the CWA.
- Restores protection to headwaters, intermittent and ephemeral streams, and to wetlands and other waters located near or within the floodplain of tributaries.
- Clarifies of jurisdictional coverage for a number of wetlands and stream segments that are currently in limbo under the CWA, thereby protecting their role in providing clean and affordable drinking water supply, recreation, and aquatic habitat.
- Eliminates confusion in how clean water protections are interpreted and implemented. The healthy communities that we are building cannot continue without reliable, clean water.
- Finalize the Waters of the U.S. rule that clarifies what waterways are protected under the CWA.

Letters of Opposition

- Fails to explicitly exempt waters that directly impact human health and waters used for agricultural practices. This rule change will require federal funding for implementation.
- Fails to recognize states' primary role in regulating and protecting their streams, ponds, wetlands, and other bodies of water.
- Creates economic impacts to States. Additional and substantial regulatory costs associated with changes in jurisdiction and increased permitting requirements will result in bureaucratic barriers to economic growth, negatively impacting farms, small businesses, commercial development, road construction, and energy production.
- Fails to identify the point on the continuum from non-connectivity to full connectivity at which a significant nexus would occur and instead the determination is left to the judgment of the agencies.

Concerns and Recommendations

- Clarify how the agency will incorporate EJ into the final rule, and whether EJ communities will be given consideration in permitting consistent with E.O. 12898.
- Increase engagement with EJ communities on this rule. The proposed rule could improve access to clean and safe water for these communities but in order to do so, communication of this rule is critical.
- Clarify potential impact on our community and region.
- Strengthen the final rule by further clarifying that important wetlands and other waters located beyond floodplains are also categorically protected under the CWA.
- Include headwaters and wetlands explicitly in the definition.
- Urge the agencies to be expansive and inclusive in providing CWA protection to headwater streams, intermittent and ephemeral waters, and wetlands.
- Define non-adjacent "other waters" as "Waters of the United States" and identify additional subcategories of waters that are jurisdictional, rather than requiring case-by-case determinations.
- Include other categories of waters, such as Carolina bays, prairie potholes, and vernal pools that deserve regulatory protection without the need to undertake a case-by-case determination of whether they qualify as "waters of the United States" for purposes of the CWA.
- Restore critical protections to waterways currently at risk due to loopholes in the law.
- Provide for new science by not categorically excluding any of the "other waters." Establish a process that allows evolving science to inform future jurisdictional decisions.
- Clarify that all waters with a "significant nexus" to downstream waters are clearly protected under the CWA.
- Clarify the exact nature of "traditional navigable waters" to eliminate any uncertainty as to which waters are intended to be covered by that term.
- Clarify wastewater treatment exemptions.
- Clarify terms such as floodplain and riparian area.
- Consider the unintended impacts of the proposed rule on water delivery systems.
- Define specific terms like similarly situated, ephemeral, intermittent, perennial, gullies, rills, non-wetland swales, and uplands.

- Revise the preamble and proposed Definition so that it protects the broadest category of waters allowed under the Commerce Clause, Article 1, Section 8, Clause 3 of the U.S. Constitution, as intended by Congress.
- Urge the agencies to leave in place all portions of the existing definition that have not been invalidated by the Supreme Court.
- Remove new definitions and other language that limit jurisdiction in a manner not supported by law or science.
- Remove categorical exclusions that are not supported by law or science.
- Rely on all valid jurisdictional tests for categorically protecting waters to the full extent allowed under the Commerce Clause.
- Consider the economic impacts of the agencies' policies knowing that their actions will have serious impacts on struggling families, seniors, low-income households and small business owners.
- Expand analysis of the potential costs and benefits associated with this action in the analysis of Environmental Justice in minority and low-income populations, especially for ranchers.
- Recommend that the agencies analyze the impact to nearby communities and identify whether a community is disproportionately affected before issuing a permit such as those for Municipal Separate Storm Sewer Systems (MS4s).
- Expand communication with the EJ community on the proposed rule, and its effects on low-income communities¹.

2. How did you identify and address existing and new disproportionate environmental and public health impacts on minority, low-income, and indigenous populations?

Because the final rule does not itself establish any specific regulatory requirements, there are no existing or new disproportionate environmental or public health impacts on minority, low-income, or indigenous populations. Instead, it is a definitional rule that clarifies the scope of "waters of the United States" consistent with the CWA, Supreme Court precedent, and science. Programs established by the CWA, such as the section 402 National Pollutant Discharge Elimination System (NPDES) permit program, the section 404 permit program for discharge of dredged or fill material, and the section 311 oil spill prevention and cleanup programs, all rely on the definition of "waters of the United States."

The final rule includes eight categories of jurisdictional waters, maintains existing exemptions for certain categories of activities and waters, and adds additional exclusions for categories of waters that are never covered under the Act. The final rule does not establish regulatory requirements and, therefore, does not impose direct costs on any entity. Instead, it is a definitional rule that clarifies the scope of "waters of the United States." The agencies prepared an economic analysis to better understand the indirect incremental costs and benefits that may result from any change in the number

¹ This Clean Water Rule imposes no direct impacts on the environment or public health. All potential impacts of this definitional rule are measured through CWA program implementation. This comment references meaningful involvement in the permitting process, and not specifically the definition in the rule.

of positive jurisdictional determinations² associated with CWA programs relying on the definition of “waters of the United States.”

Key Elements of the Analysis

When determining which waters are covered by the CWA today, the agencies make jurisdictional determinations consistent with the law, existing regulations and policy, and the Supreme Court rulings in 2001 (*SWANCC*) and 2006 (*Rapanos*). This scope of waters currently covered by the CWA is considerably smaller than the scope of waters historically covered prior to the *SWANCC* and *Rapanos* Supreme Court decisions. Based on the reduction in the scope of CWA jurisdiction, the agencies conclude that the new rule would impose no additional costs when compared to historic application of the regulation it replaces.

For purposes of this economic analysis, however, the agencies evaluated costs and benefits associated with the difference in jurisdictional determinations between the new rule and current field practice, which is based on the 2008 EPA and Army jurisdiction guidance. This policy guidance has been implemented by the agencies since 2008 and reflects the Supreme Court decisions that limited assertion of CWA jurisdiction for some types of waters. Compared to this baseline, the agencies anticipate the new rule will result in an increase in the number of positive jurisdictional determinations and an associated increase in both costs and benefits that derive from the implementation of CWA programs.

Evaluation of Jurisdictional Determinations

To calculate indirect costs and benefits to CWA programs, the agencies first estimated the potential changes to jurisdictional determinations due to the final rule. The agencies reviewed a sample of negative jurisdictional determinations (JDs) (i.e., determinations of no jurisdiction) completed by the Corps in fiscal years 2013 and 2014 to assess whether or not the JD would change under the final rule.³ The agencies relied upon JDs covering three categories of waters— streams, wetlands, and other waters — as the basis for analysis. Conservative assumptions were applied that have the effect of consistently increasing the number of positive JDs that results from the new rule.

As a result of the estimates derived for all three categories of JDs in the FY13 and FY14 data, the agencies estimate that there will be an increase in positive jurisdictional determinations annually due to the new rule when compared with current field practice.

Costs and Benefits

Although not part of the Environmental Justice analysis, as part of the economic analysis described above, EPA conducted a robust cost benefit analysis for this rule. That analysis addresses some concerns raised by minority or low-income ranchers/farmers who are concerned about the cost of this

² A “positive jurisdictional determination” is a decision to assert CWA jurisdiction over a particular water. The alternative is a “negative jurisdictional determination” which is a decision not to assert CWA jurisdiction over a particular water. It is important to note that the purpose of the economic analysis is not to estimate the change in the numbers of waters subject to jurisdiction.

³ The information available in the Corps’ ORM2 database does not allow the agencies to evaluate the percent of waters currently found to be jurisdictional that will not be under the final rule.

rule. For more detail please see *Economic Analysis of the EPA-Army Clean Water Rule* (Docket EPA-HQ-2011-0880) in the docket for this rule.

Overall, the agencies' analysis indicates that for all scenarios of costs and benefits associated with the future implementation of this rule through CWA programs, the indirect incremental benefits exceed indirect incremental costs by a ratio of up to 2:1, which is further explained in the Economic Analysis report. The greatest potential for changes in jurisdictional determinations will likely be seen in case-specific determinations of similarly situated and adjacent waters, previously defined as "other waters." Lastly, indirect costs and benefits may be over-estimated because each newly jurisdictional water will not be affected by all CWA programs simultaneously, and a particular activity affecting a water may be exempt from permitting under the CWA.

3. How did actions taken under #1 and #2 impact the outcome or final decision?

A detailed response to comments document has been prepared by the agencies and is available in the public docket for this rulemaking (Docket EPA-HQ-2011-0880).

The agencies listened carefully to what the public had to say and their input has been reflected in a number of key revisions to the final rule:

- **Protect Tributaries and their Adjacent Waters:** Science clearly demonstrates that tributaries and their adjacent waters as defined in the final rule must be protected under the CWA. The nation's streams, creeks, rivers, and their adjacent waters are not just connected to downstream traditional navigable waters, interstate waters and the territorial seas, they are integral to protecting the chemical, physical, and biological integrity of these downstream waters.
- **Provide More Bright Lines:** Science also shows that certain wetlands contribute to downstream waters by holding flood waters, filtering pollutants, and trapping sediments. This rule identifies the places where these wetlands are found and provides for case-specific determinations of whether they are "waters of the United States."
- **Simplify Definitions:** The final rule establishes that only those waters that have the physical indicators of sufficient flow – bed and banks and an ordinary high water mark – are protected tributaries. The public also raised concerns that the definition of "neighboring" was unnecessarily complicated and confusing. The final rule is revised by removing some terms that caused confusion and providing clearer lines identifying protected waters.
- **Reduce Potential Burdens on Farmers:** Groundwater, including tile drain systems, grassed waterways on farms, ditches with ephemeral flow and those that do not connect to the tributary system, gullies and erosion channels, and features on farm land including swales, farm and stock ponds that are built on dry land, as well as all features that do not have the physical indicators of protected tributaries, and all prior converted croplands, are not covered by this rule.
- **Exclude Many Stormwater Control and Water Recycling/Reuse Structures:** The final rule makes clear that many municipal separate storm sewer system structures and water recycling structures, including retention and detention basins, infiltration

structures, curbs and gutters, and water delivery systems constructed on dry land, are not covered by this rule.

The agencies' final rule is based on sound peer-reviewed science and the law, and is easier to understand and implement. In addition, it protects jobs dependent on clean water, saves time and money for the regulated community and agencies implementing the CWA, and ensures that the nation will continue to have abundant and safe supplies of clean water for businesses, farming, communities, fishing and swimming, and drinking water. The final rule reflects important improvements identified in hundreds of meetings with stakeholders and hundreds of thousands of public comments.

The Clean Water Rule will benefit future implementation of the CWA by clarifying the extent of jurisdictional waters, and identifying where data collection and analysis may be appropriate for future program evaluations.

America thrives on clean water. The final rule is vital for the success of the nation's businesses, agriculture, energy development, and the health of our communities. The agencies have defined the scope of the CWA in a final regulation that protects clean water and public health, promotes jobs and the economy, and ensures the agricultural community has clarity needed to continue to produce the food, fuel, and fiber we rely upon.

Conclusion

For the waters defined as "water of the United States" under the CWA, the agencies proposed revisions to the following categorical definitions: (1) Tributaries, (2) Adjacency, (3) Other waters, and (4) Exclusions. The public comments received from Environmental Justice stakeholders have helped to reshape each of the definitions as proposed, which now incorporate features that provide increased clarity for regulators, stakeholders, and the regulated public for identifying waters as "waters of the United States."

The Clean Water Rule imposes no direct impacts on the environment or public health for communities at large, and does not change the current structure of permit and regulatory processes under the Act. Therefore, EPA finds that this rule will not have disproportionately high and adverse human health or environmental effects. Understanding that all potential impacts of this definitional rule are measured through CWA program implementation, which is outside of the scope of this rule, the agencies will encourage additional data collection for future evaluations by the implementing programs.

EPA has developed EJSCREEN, a screening and mapping tool used by EPA to help identify areas with potential Environmental Justice concerns that may warrant further consideration, analysis, or outreach as the Agency develops programs, policies, and other activities that may affect communities. This and other tools like EJSCREEN may be useful to assist in further evaluation of environmental justice within CWA programs.

The Clean Water Rule will further benefit future implementation of the CWA by clarifying the extent of jurisdictional waters, and identifying where data collection and analysis may be appropriate for future program evaluations.

References

1. CEQ 1997. Environmental Justice Guidance under the National Environmental Policy Act
2. E.O. 12898. 1994. Presidential Executive Order; Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations
3. Federal Water Pollution Control Act (Clean Water Act) (33 U.S.C. 1251 - 1376; Chapter 758; P.L. 845, June 30, 1948; 62 Stat. 1155)
4. 33 U.S.C. 403. Rivers and Harbors Appropriation Act of 1899
5. USEPA 2014. Plan EJ 2014 Progress Report
6. USEPA 2011. Plan EJ 2014
7. USEPA 2010. Interim Guidance on Considering Environmental Justice During the Development of an Action. OPEI regulatory development series
8. USEPA 1995. Environmental Justice Strategy. Memo from Administrator Carol Browner
9. USEPA website: Clean Water Rule: (<http://www2.epa.gov/cleanwaterrule>)

Appendix A. Environmental Justice Advocacy Group Participants in 2014 Public Outreach Events for the Proposed Clean Water Rule: Definition of "Waters of the United States"

Organizations	State
National Tribal Water Council	Various
American Agri-Women	Various
Center for Water Advocacy	Alaska
Chickaloon Native Village	Alaska
Georgetown Tribal Council	Alaska
Alaska Inter-Tribal Council	Alaska
CSP2	Alaska
Alaska's Big Village Network	Alaska
Alaska Inter-Tribal Council	Alaska
Southeast Alaska Conservation Council	Alaska
Chignik Lagoon IGAP	Alaska
Alatna Village Council	Alaska
San Carlos Apache Tribal EPA	Arizona
San Carlos Apache Tribe	Arizona
White Mountain Apache Tribe	Arizona
Bishop Paiute Tribe	California
Karuk Tribe	California
Cortina Band of Wintun of California	California
Habematolel Pomo of Upper Lake	California
Soboba Band of Luiseno Indians	California
Hopland Band of Pomo Indians	California
Soboba Band of Luiseño Indians	California
Tule River Tribe	California
Fort Independence Paiute Indian Reservation	California
Big Pine Paiute Tribe of the Owens Valley	California
Lytton Rancheria	California
Elk Valley Rancheria	California
Big Pine Paiute Tribe of the Owens Valley	California
Klamath Riverkeeper	California
Karuk Tribe	California
Cold Springs Rancheria	California
Big Valley Band of Pomo Indians	California
Campo Band of Mission Indians Tribal EPA	California
Latino Ranchers Association	Colorado
Southern Ute Indian Tribe	Colorado
Trees, Water & People	Colorado
League of Women Voters	Colorado, Montana, Nebraska, North Dakota
Mohegan Tribe of Indians of Connecticut	Connecticut
Seminole Tribe of Florida	Florida

Nez Perce Tribe	Idaho
Sac and Fox Tribe of the Mississippi in Iowa	Iowa
Sac and Fox Nation of Missouri in Kansas and Nebraska	Kansas
Floyds Fork Environmental Association	Kentucky
Saginaw Chippewa Indian Tribe of Michigan	Michigan
Keweenaw Bay Indian Community	Michigan
Little River Band of Ottawa Indians	Michigan
Little Band of Ottawa Indians	Michigan
Little Traverse Bay Bands of Odawa Indians	Michigan
Nottawaseppi Huron Band of the Potawatomi	Michigan
Saginaw Chippewa Indian Tribe	Michigan
Grand Traverse Band of Ottawa and Chippewa Indians	Michigan
Lac Vieux Desert Band of Lake Superior Chippewa	Michigan
Sault Tribe of Chippewa Indians	Michigan
Leech Lake Band of Ojibwe	Minnesota
Fond du Lac Band of Lake Superior	Minnesota
Red Cliff Band of Lake Superior Chippewa	Minnesota
Fon du Lac Reservation	Minnesota
Fort Belknap Indian Community	Montana
Confederated Salish and Kootenai Tribes	Montana
Ponca Tribe of Nebraska	Nebraska
Pyramid Lake Paiute Tribe	Nevada
Inter-Tribal Council of Nevada	Nevada
Shoshone-Paiute Tribes	Nevada
Pueblo of San Ildefonso	New Mexico
Pueblo of Laguna	New Mexico
Pueblo of Sandia	New Mexico
Pueblo of Tesuque Environment Department	New Mexico
Pueblo of Santa Ana	New Mexico
Division of Natural Resources	New Mexico
Haudenosaunee Environmental Task Force	New York
Shinnecock Environmental Department	New York
Spirit Lake Tribe	North Dakota
Standing Rock Sioux Tribe	North Dakota, South Dakota
River Network	Ohio
Quapaw Tribe of Oklahoma	Oklahoma
Otoe-Missouria Tribe	Oklahoma
Wyandotte Nation	Oklahoma
Kialegee Tribal Town	Oklahoma
Iowa tribe of Oklahoma	Oklahoma
The Tonkawa Tribe of Indians of Oklahoma	Oklahoma
Sac and Fox Nation	Oklahoma
Chickasaw Nation	Oklahoma
Columbia River Inter-Tribal Fish Commission	Oregon

Sisseton Wahpeton Oyate	South Dakota
Skokomish Indian Tribe	Washington
Yakama Nation Environmental Management	Washington
Colville Confederated Tribes	Washington
Yakama Nation	Washington
Quinault Indian Nation	Washington
Rural Coalition	Washington DC
Menominee Tribe	Wisconsin
Forest County Potawatomi Community	Wisconsin
Sokaogon Chippewa Community	Wisconsin
Lac du Flambeau Tribe	Wisconsin
Great Lakes Fish and Wildlife Commission	Wisconsin
Bad River Natural Resources Department	Wisconsin
Bad River Band of Lake Superior Tribe of Chippewa Indians	Wisconsin
Great Lakes Indian Fish and Wildlife Commission	Michigan, Minnesota, Wisconsin
Wind River Reservation	Wyoming
Non-Traditional Stakeholders Meeting Participants (see Appendix B)	Various

Appendix B. Summary of Public Outreach Events Attended by Environmental Justice Stakeholders in 2014 for the Proposed Clean Water Rule and Feedback Received

Meeting/Call/Event	Date	Location	Organizations/Groups Represented	Topics Discussed
EPA HEADQUARTERS				
National Tribal Water Council Call	April 9, 2014	Conference Call	United South and Eastern Tribes	Overview of proposed rule, review of consultation process and next steps
General Stakeholders - Call	April 11, 2014	Washington, DC	Tribes, State, Local Government, NGOs, Associations, Industry: Clearwater, Wetland Studies, Alabama Department of Environmental Management, Montana Department of Environmental Quality, Michigan Department of Environmental Quality, National Congress of American Indians, Iowa Governor's Office, Ground Water Protection Council, Water Alliance, National Association of State Departments of Agriculture, National Association of Water Companies, Sierra Club, National Association of Home Builders, National Association of Counties, Izaak Walton League, U.S. Council of Mayors	Ditches, MS4s, ditch maintenance exclusion, conservation practices, green infrastructure, waters going through tribal lands, adjacent waters and subsurface flow, neighboring
National Tribal Water Council	April 22, 2014	Washington, DC	Tribal: National Tribal Water Council and EPA National Tribal Caucus	Overview of proposed rule
Non-Traditional Stakeholders Briefing	May 12, 2014	Washington, DC	Variety of stakeholders: Sustainable Business Network of Massachusetts, Local First Chicago, Klean Kanteen, One Percent for the Planet, Rural Coalition, Boxed Water is Better, American Sustainable Business Council, Lake Champlain International, Triple Ethos, Office of Senator Kirsten Gillibrand, Junxion Strategy, Barrett International Technology, Mile High Business, Illinois Green Business Association, Howard University, Ethical Markets Media, Night and Day Distribution, Transitioning to Green, The Young Zeronauts, University of St. Andrews, RxArtisans, Illinois Green Business Association	Overview of proposed rule, impact on agriculture
River Network Webinar	May 13, 2014	Washington, DC	NGO: River Network Groups	Overview of proposed rule
River Rally	June 2, 2014	Pittsburgh, PA	NGO: River Network River Rally	Overview of proposed rule, other waters, connectivity report

Meeting/Call/Event	Date	Location	Organizations/Groups Represented	Topics Discussed
American Agri-Women	June 9, 2014	Washington, DC	Agriculture: American Agri-Women	Overview of proposed rule, ephemeral tributaries, scope of jurisdiction, exemptions and exclusions
Rural Coalition/National Wildlife Federation Call	July 30, 2014	Conference Call	NGOs: Rural Coalition, National Wildlife Federation, Conservation Stewards (CO), National Latino Farmers and Ranchers Trade Association (DC), North Carolina Association of Black Lawyers Land Loss Preservation Project, Federation of Southern Cooperatives (AL), Oklahoma Black Historical Research Project/Muscvggee Food Sovereignty Association, Colorado Latino Farmers and Ranchers Trade Association, Northern New Mexico Stockman's Association, New Mexico Acequia Association, Mississippi Association of Cooperatives, RC board member/tribal community, Farmworker Association of Florida, National Hmong American Farmers (Fresno, CA)	Overview of proposed rule, scope of rule, interpretive rule and Section 404 exemptions, exclusions, ditches, ephemeral waters/tributaries, adjacent waters
Tribal Consultation Call	October 23, 2014	Conference Call	Tribes: Pala Band of Luiseno Mission Indians (CA), Quapaw Tribe (OK), Barona Band of Inaja Mission Indians (CA), Pueblo of Santa Ana (NM), Confederated Tribes of the Colville Indians, Ricon Tribe, Great Lakes Indian Wildlife and Fish Commission	Overview of proposed rule, definition of tributary, significant nexus, expansion of EPA jurisdiction
River Network Tribal Webinar	November 3, 2014	Webinar	NGO: Tribal River Network, Tribes (88 webinar participants, mostly tribes)	Tribal perspectives; native corporations; interstate commerce; ditches; definition of tributary, upland, neighboring; new types of waters not covered; impacts on boundary waters; prairie potholes; seepage lakes

EPA REGION 1				
Meeting/Event	Date	Location	Organizations/Groups Represented	Topics Discussed
Regional Tribal Council Call	September 10, 2014	Boston, MA	Tribes	Impacts to agriculture, questions on consultation

EPA REGION 2				
Meeting/Event	Date	Location	Organizations/Groups Represented	Topics Discussed

Meeting/Call/Event	Date	Location	Organizations/Groups Represented	Topics Discussed
NYC Parks, Bronx River Alliance, others - Outdoor Sampling Event	August 18, 2014	Bronx, NY	State, NGO: NYC Parks, Bronx River Alliance	Water quality

EPA REGION 3				
Meeting/Event	Date	Location	Organizations/Groups Represented	Topics Discussed
Greening America's Capitals	September 23, 2014	Richmond, VA	Local Officials	Grant announcement, City of Richmond
EPA REGION 6				
Meeting/Event	Date	Location	Organizations/Groups Represented	Topics Discussed
Tribes: Regional Tribal Operations Committee Meeting	March 28, 2014	Dallas, TX	Tribes	Waters of the U.S. overview, partnership
City of San Antonio Urban Waters	October 29, 2014	San Antonio, TX	San Antonio city leadership, Congressman Doggett, general public	Waters of the U.S. overview, upcoming opportunity for partnership
National Hispanic Medical Association	November 8, 2014	San Antonio, TX	NGO: National Hispanic Medical Association	Briefly touched on Waters of US, upcoming opportunity for partnership

EPA REGION 7				
Meeting/Event	Date	Location	Organizations/Groups Represented	Topics Discussed
Other Stakeholders Roundtable	April 29, 2014	Topeka, KS	Kansas Canoe & Kayak Association; League of Women Voters; Sierra Club; Kansas Natural Resource Council; Kansas Building Industry Association; The Nature Conservancy; Friends of the Kaw	Connectivity report and science, ephemeral, timing of the final rule, specific waters like playas and Sandhills, mitigation, diversion canals
Other Stakeholders Roundtable	May 6, 2014	Ames, IA	Sierra Club, League of Women Voters of Iowa, U.S. Congressional staff, The Nature Conservancy, Iowa Environmental Council, Iowa State University, Iowa Department of Natural Resources, Iowa League of Cities	Need for formal implementation guidance; interpretive rule and 404(f) exemptions; definition of neighboring; appropriate watershed size for similarly situated waters; cost impact to municipalities; waters of the state; groundwater connectivity

EPA REGION 8				
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Meeting/Call/Event	Date	Location	Organizations/Groups Represented	Topics Discussed
Meeting/Event	Date	Location	Organizations/Groups Represented	Topics Discussed
Tribal Directors and Chairs Call	March 25, 2014	Teleconference	Tribal Directors and Chairs	Overview of proposed rule
EPA/Rocky Mountain Farmers Union (RMFU) Stakeholder Event	October 9, 2014	Denver, CO	Speakers (invited*): RMFU, Clean Water Action, Senator Udall*, Senator Bennet*, Gov. Hickenlooper*, Colorado University Water Policy Experts, National Latino Ranchers & Farmers Trade Association, Colorado Foundation for Water Education, local ranchers/farmers Media (invited): Colorado rural and statewide newspapers, radio and TV stations, Associated Press, The New York Times, Social media	Overview of the proposed rule, rule impact on agricultural community in Colorado; importance of clean water for agricultural production; agricultural exemptions; ditches
The River Network	October 9, 2014	Webinar	River network membership	Overview of the proposed rule. Questions: Agricultural activities regulated under the proposal; exemptions for agriculture activities; ephemeral streams and intermittent streams (including those that are covered up in urban areas); impact of the proposed rule on to agriculture community

EPA REGION 9				
Meeting/Event	Date	Location	Organizations/Groups Represented	Topics Discussed
Region 9 Tribes, Regional Tribal Operations Committee (RTOC) Spring Meeting	May 1, 2014	Santa Rosa, CA	Tribes	Need to rehabilitate streams that are dry now to prior conditions; relationship to endangered species listings and protection of beneficial uses;
HQ Outreach Tour (NRCD, Tribes, AZ Farm Bureau)	August 11-12, 2014	Prescott and Phoenix, AZ	Agriculture: NRCD, Arizona Farm Bureau	Ephemeral waters, ditches, exemptions

EPA REGION 10				
Meeting/Event	Date	Location	Organizations/Groups Represented	Topics Discussed
Regional Tribal Operations Meeting	May 29, 2014		Tribal representatives	Overview of proposed rule

Meeting/Call/Event	Date	Location	Organizations/Groups Represented	Topics Discussed
Workshop presented to agricultural producers, tribal representatives and other state resource agencies at the Washington Department of Ecology	June 5, 2014		Agricultural producers, tribes, state resource agencies	Overview of proposed rule
Waters of the U.S. Proposed Rule Webinar for Tribal Interests	November 5, 2014	Webinar	Cascade Environmental Group, Chickaloon Native Village, Confederated Umatilla Tribes, Cow Creek Band of Umpqua Tribe of Indians, Idaho Rivers United, Kalispel Tribe of Indians, Kiana Traditional Council, Makah Tribe, Regional Tribal Operations Committee, Tulalip Tribe, Washington State Department of Agriculture	Isolated wetlands; ditches; groundwater connections; tributary definition emphasis on hydrology (instead of presence of fish); clarifications between exemptions and excluded waters
Waters of the U.S. Outreach Webinar Presentation to General Audience	November 5, 2014	Webinar	12 participants from tribes, state agencies, NGOs, federal agencies, general public	Wetlands considered as tributaries; water quality standards (for temperature and turbidity) for wetlands with little or infrequent hydrologic connections.

Appendix C. Environmental Justice Comments on the Proposed Clean Water Rule; Definitions of "Waters of the United States"

Commenter	Support the Rule	Oppose the Rule	EJ-related Concern	Recommendations for Final Rule Development
Annette Shafer: Idaho Farm Bureau		The rule does not explicitly exempt waters that directly impact human health and waters used for agricultural practices. This rule change will require federal funding for implementation		A full environmental impact assessment in order to determine all potential socio-economic impacts, impacts to rural and disadvantaged communities and areas, impacts to irrigable lands.
Anonymous (tracking # 1jy-8buzu-j)				Please consider the economic impacts of your policies knowing that your actions will have serious impacts on struggling families, seniors, low-income households and small business owners.
Audubon California	Our organizations support the proposed rule for the clear protections it restores to headwaters, intermittent and ephemeral streams, and to wetlands and other waters located near or within the floodplain of these tributaries.			We urge the Agencies to strengthen the final rule by further clarifying that important wetlands and other waters located beyond floodplains are also categorically protected under the Clean Water Act. Additional recommendations include: 1. Categorically define certain non-adjacent “other waters” as “Waters of the United States” and identify additional subcategories of waters that are jurisdictional, rather than requiring case-by-case determinations. 2. Provide for new science by not categorically excluding any of the “other waters.” Establish a process that allows evolving science to inform future jurisdictional decisions. 3. Our organizations urge the Agencies to swiftly finalize a rule to clarify that all waters with a “significant nexus” to downstream waters are clearly protected under the Clean Water Act.

Commenter	Support the Rule	Oppose the Rule	EJ-related Concern	Recommendations for Final Rule Development
Cochise County		It is important for both the study and the proposed rule to acknowledge that connectivity falls along a continuum from non-connectivity to full connectivity and also to acknowledge that it is the responsibility of the government to fully define when a "significant nexus" occurs along that spectrum. Unfortunately, the agencies fail to identify the point on the continuum from non-connectivity to full connectivity at which a significant nexus would occur and instead the determination is left to the judgment of the agencies.	The Connectivity report, upon which the proposed rule is based, offers a scientific presumption of connectivity for both tributaries and other waters.	Alternatives to the proposed rule have not been fully analyzed in the analysis of the potential costs and benefits associated with this action (under Executive Orders 12866 and 13563, page 22220), in the analysis of economic impact on a substantial number of small entities (under the Regulatory Flexibility Act, page 22220), in the analysis of environmental justice in minority and low-income populations, especially for ranchers (under Executive Order 12898, page 22221), and in the analysis of environmental impacts (under the National Environmental Policy Act [NEPA], page 22222). All of the analyses would need to be rewritten and supplied for public comment prior to including the alternatives in a revised proposed rule supplied for public comment prior to issuing a final rule.
Environmental Justice Coalition of Water	Thank you for proposing a rule to clarify the scope of the Clean Water Act and urge you to restore critical protections to the waterways in California that are currently at risk due to loopholes in the law. California's disadvantaged communities are disproportionately harmed by environmental pollution.			Urge your agencies to strengthen the categorical protections to be extended to our nation's wetlands. Many non-adjacent waters, referred to in the proposed rule as "other waters" provide critical benefits to the waterways we love, filtering our pollution and preventing flooding. We urge you to follow the best science available on the connectivity of our waterways and use it to shape jurisdictional decisions.
Georgia Water Coalition	Support of the proposed regulatory definition of "waters of the United States" contained in 40 C.F.R. § 230.3(s)-(u). For us in Georgia, it would bring a number of wetlands and stream segments that are currently in limbo under the Clean Water Act, thereby protecting their role in providing clean and affordable drinking water supply, recreation, and aquatic habitat. The current regulatory regime has been			While we do support the proposed rule, we see several opportunities for improvement. The exact nature of "traditional navigable waters" can be more fully spelled out so as to eliminate any uncertainty as to which waters are intended to be covered by that term. There are also other categories of waterways, such as Carolina bays, that deserve regulatory protection without the need to undertake a case-by-case determination of whether they qualify as "waters of the United States" for purposes of the Clean Water Act.

Commenter	Support the Rule	Oppose the Rule	EJ-related Concern	Recommendations for Final Rule Development
	confused in recent years by several Supreme Court decisions that have deviated from the Act’s original scope.			
Greybull Valley Irrigation District		A significant nexus would occur and instead the determination is left to the judgment of the agencies.		We ask that you consider the economic impacts of your policies knowing that your actions will have on struggling families, seniors, low-income households and small business owners.
Rep. Dennis Hedke (KS)				Additional Analyses needed to determine impact. Request EPA produce studies and information detailing how your agency assessed the economic impact of WOTUS to individual Kansas counties, agriculture, local business, families, and disadvantaged populations.
Sen. Larry Powell (KS) - September 9, 2014				Additional analyses needed to determine impact. Request EPA produce studies and information detailing how your agency assessed the economic impact of WOTUS to individual Kansas counties, agriculture, local business, families, and disadvantaged populations.
Sen. Larry Powell (KS) October 1, 2014		For those concerned about the impact WOTUS might have on disadvantaged, minorities, and families, the requirements of Executive Orders 12602 and 12298 have been systematically ignored.		

Commenter	Support the Rule	Oppose the Rule	EJ-related Concern	Recommendations for Final Rule Development
MSWD (Mission Springs Water District)			Federal assistance has helped leverage state and local investments into one of the economically disadvantaged areas of our region. It is in this spirit that "we" express concern for the proposed rule and its potential impact on our community and region.	Clarify wastewater treatment exemptions, Floodplain and Riparian Area Designations. Be mindful of the unintended impacts of the proposed rule on water delivery systems, clarify or define specific terms (Significant nexus, similarly situated, ephemeral, intermittent, perennial, gullies, rills, non-wetland swales, and uplands).
Pamilico-Tar Riverkeeper	Support the proposed rule to the extent that it maintains protections for Traditionally Navigable Waters (TNWs). Interstate Waters, and Territorial Seas. Also support the agencies' and SAB's work to document "significant nexus."			We urge the agencies to strengthen and clarify the final rule in line with our more detailed comments below, and to revise the preamble and Proposed Definition so that it protects the broadest category of waters allowed under the Commerce Clause, Article 1, Section 8, Clause 3 of the U.S. Constitution, as intended by Congress. Among other things, we urge the agencies to leave in place all portions of the existing definition that have not been invalidated by the Supreme Court, to remove new definitions and other language that limit jurisdiction in a manner not supported by law or science, remove categorical exclusions that are not supported by law or science, and to rely on all valid jurisdictional tests for categorically protecting waters to the full extent allowed under the Commerce Clause.
National Religious Partnership for the Environment	Writing to urge the Administration to finalize the Waters of the U.S. rule that clarifies what waterways are protected under the Clean Water Act. The proposed rule will protect waters in parishes such as Orleans, St. James, West Baton Rouge, Caddo, Terrebonne, and Lafourche that have significant populations of African Americans, Native Americans, or low-income communities.			

Commenter	Support the Rule	Oppose the Rule	EJ-related Concern	Recommendations for Final Rule Development
Eco-Justice Ministries	Eco-Justice Ministries affirms the proposed definition of "waters of the United States" under the Clean Water Act as an important and helpful clarification of the currently ambiguous language.			We strongly encourage definitions that are inclusive of headwaters and wetlands. We urge the EPA to be expansive and inclusive in providing CWA protection to headwater streams, intermittent and ephemeral waters, and wetlands.
New Jersey Environmental Justice Alliance	Support the proposed rule.			Call for the strengthening of the proposed Definition of Waters of the United States Under the Clean Waters Act to clarify which streams, wetlands and other waters are protected under the Clean Water Act.
Brian: City Greens	I support the Waters of the U.S. rulemaking that is underway by the US EPA and the Corps of Engineers. We believe this rulemaking will clear up confusion in how clean water protections are interpreted and implemented. The healthy communities that we are building cannot continue without reliable, clean water.			I implore the EPA to approve this rule and strengthen it by fully restoring protections to other waters, such as prairie potholes and vernal pools. By doing so, it brings Missouri another step closer to full compliance with the Clean Water Act.
Local Government Advisory Committee (LGAC)			(1) “ The LGAC has concerns about how the agency will incorporate EJ into the final rule; and whether EJ communities will be given consideration in permitting consistent with Executive Order 12898”.(2) “The LGAC urges the EPA to further their engagement with EJ communities. The proposed rule could improve access to clean and safe water for these communities but in order to do so, communication of the rule is critical.”	(1) “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.”(2) “The LGAC recommend 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 is a community is disproportionately affected, a permit should not be authorized”.