



# City of Austin

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Founded by Congress, Republic of Texas, 1839  
Watershed Protection Department  
P.O. Box 1088, Austin, Texas 78767

April 12, 2019

U.S. Environmental Protection Agency  
EPA Docket Center  
Office of Water Docket  
Mail Code 28221T  
1200 Pennsylvania Ave NW  
Washington, DC 20460

Attention: Docket ID No. EPA-HQ-OW-2018-0149

Subject: Revision to Waters of the United States Definition

The City of Austin, Texas, respectfully requests that the U.S. Environmental Protection Agency preserve a broad definition of the “Waters of the United States” (WOTUS) that includes federal Clean Water Act protections for headwater, ephemeral, and intermittent streams and wetlands. The proposed revision to WOTUS more narrowly restricts those waters subject to federal protection under the Clean Water Act.

The Clean Water Act is the fundamental federal law protecting WOTUS from pollution, degradation, and destruction. The proposed revision represents the most substantial reduction in the protection of WOTUS since the establishment of the Clean Water Act. The stated goal of the Clean Water Act is to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” This goal cannot be met unless headwater, ephemeral, and intermittent streams and wetlands are considered WOTUS because these water resources have the potential to impact the chemical, physical, and biological integrity of larger permanently flowing water bodies.

More than 1,000 peer reviewed scientific studies have confirmed that headwater, intermittent, and ephemeral streams and wetlands affect the quantity and quality of water in larger bodies of water downstream. Excluding certain streams and wetlands from Clean Water Act protections puts all the Nation’s waters at risk of being polluted.

The proposed December 2018 Rule would deprive over half of the Nation’s wetlands, all ephemeral streams, and many intermittent streams of Clean Water Act Protections accorded to them under the 2015 Clean Water Rule and the pre-2015 regulations, including ephemeral and intermittent streams that are tributaries of the Colorado River which flows through Austin, Texas. The Colorado River is the primary source of drinking water for the City of Austin. Protecting the tributaries of the Colorado River is essential to protecting our drinking water supply. Degradation of the waters that flow into the Colorado River could have a serious fiscal impact on our water treatment facilities and negatively impact recreational uses of the river vital to our regional economy.

*The City of Austin is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request.*



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Many of the approximately 850 miles of creeks within the City of Austin and within its extraterritorial jurisdiction run dry during parts of most years. These waterways could lose their Clean Water Act protections under the proposed rule. Climate change is projected to lengthen and intensify periods of drought in our region, thereby increasing the number of streams that are ephemeral or intermittent. Additionally, climate change is also predicted to lead to larger rain events during wet periods in our region, thereby resulting in greater volumes of water flowing from ephemeral and intermittent streams into the Colorado River.

The City of Austin has expended considerable resources on creek restoration, erosion control, channel stability, flood control, and water quality improvements. The proposed rule would undermine these efforts.

The Clean Water Rule finalized in 2015 by the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers reflected input from stakeholders nationwide received during more than 400 meetings and from over one million public comments submitted during a 207-day comment period. The majority of public comments supported the 2015 rule.

The Waters of the United States provide for the protection of public health, important recreational opportunities, economic livelihood, and are treasured national resources. The Clean Water Act is the fundamental federal law protecting the Waters of the United States from pollution, degradation, and destruction. These strong federal standards are needed because water does not observe political boundaries and flows between states.

The City has a vested interest in protecting the quality and quantity of headwater, ephemeral, and intermittent streams and wetlands in the Austin area. Thus, the City respectfully requests that the proposed rulemaking be rejected and urges the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers to maintain the 2015 Clean Water Rule WOTUS definition as an important protection for our Nation's water resources.

Sincerely,

Christopher Herrington, P.E.  
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