



ARKANSAS AGRICULTURE DEPARTMENT

ARKANSAS FORESTRY COMMISSION
ARKANSAS LIVESTOCK AND POULTRY COMMISSION
ARKANSAS STATE PLANT BOARD

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Good Afternoon,

Governor Hutchinson was recently contacted by the EPA and the Department of the Army about a forthcoming proposal to revise the definition of Waters of the United States (Clean Water Rule: Definition of "Waters of the United States"; Final rule, 80 Fed. Reg. 37,054 (June 29, 2015)).

These federal agencies were directed by a Presidential Executive Order to review the existing Clean Water Rule for consistency with the President's priorities and to publish for notice and comment a proposed rule rescinding or revising the rule. The Executive Order also directs the agencies to consider interpreting the term "navigable waters" as defined in 33 U.S.C. 1362(7) in a manner consistent with the opinion of Justice Antonin Scalia in *Rapanos v. United States*, 547 U.S. 715 (2006).

In order to implement the executive order, the federal agencies are taking action to establish the legal status quo in the Code of Federal Regulations, by re-codifying the regulation that was in place prior to issuance of the Clean Water Rule. The federal agencies are also planning to propose a new definition that would replace the approach in the 2015 Clean Water Rule with one that reflects the principles that Justice Scalia outlined in the *Rapanos* plurality opinion.

As a result, the federal agencies are soliciting written comments from Arkansas until June 19, 2017 seeking to understand what will work best for the states as they develop a new federal definition of "waters of the United States". The federal agencies are also interested in understanding how Arkansas might respond to a reduced scope of federal jurisdiction under the Clean Water Act.

Governor Hutchinson understands and greatly appreciates our agriculture and forestry industries and the tremendous impact that they have on our state. As a result, Governor Hutchinson wants to make sure that the thoughts and concerns of agriculture and forestry are adequately conveyed to the federal agencies and he would like your assistance in responding to this request.

If you would like to provide input on the definition of "Waters of the United States", please send your comments to myself (wes.ward@aad.ar.gov) or Cynthia Edwards (Cynthia.edwards@aad.ar.gov) no later than the close of business on Thursday, June 15, 2017. We will compile the comments and submit them to Governor Hutchinson for his review on Friday, June 16, 2017.

Please don't hesitate to contact me if you would like additional information or if I can help answer any questions about the Clean Water Rule or the "waters of the United States" definition.

Respectfully,
Wes Ward
Secretary of Agriculture, Arkansas Agriculture Department