



**John McMillan**  
Commissioner

**STATE OF ALABAMA**  
**DEPARTMENT OF AGRICULTURE AND INDUSTRIES**  
1445 Federal Drive • Montgomery, Alabama 36107-1123

---

June 19, 2017

Ms. Donna Downing  
Office of Water (4502-T)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460-0001

Submitted via email: [cwawotus@epa.gov](mailto:cwawotus@epa.gov); [hanson.andrew@epa.gov](mailto:hanson.andrew@epa.gov)

Re: Comments on EPA's Federalism Consultation on "The Definition of Waters of the U.S."

The Alabama Department of Agriculture and Industries (ADAI) is pleased to have this opportunity to provide comments regarding the Environmental Protection Agency's (EPA) re-proposal of a Waters of the United States (WOTUS) rule under the Clean Water Act (CWA). The comments are submitted based on Executive Order (EO) 13778 and EPA's subsequent federalism consultation on April 19, 2017.

ADAI is responsible for an extensive range of programs on behalf of consumers and agricultural producers. It is the mission of ADAI to provide timely, fair and expert regulatory control over various products ranging from, but not limited to pesticides, plant and animal diseases, weights & measuring devices and food safety. Furthermore, ADAI consults routinely with the Alabama Department of Environmental Management (ADEM) regarding the administration of Section 402 National Pollutant Discharge System (NPDES) for Concentrated Animal Feeding Operations (CAFO).

ADAI believes that a healthy environment is essential for the agricultural industry. The federal consultation process is one which ADAI feels will benefit federal and state partnerships. The federalism process before a new WOTUS rule should benefit the outcome of the future final WOTUS rule.

As EPA considers re-proposing a WOTUS rule, EPA & the Corps of Engineers (USACE) should uphold the framework of cooperative federalism. When preparing a new WOTUS rule ADAI recommends the following:

- Protect exemptions for farming operations for past, present and future farmland.
- Ensure sound science.
- EPA should conduct an extensive economic analysis specific to agriculture related to the impact of the new rule.
- Impact on rural America.
- Continued federalism consultation with state and local entities throughout the entire rule making process.

ADAI encourages EPA and the Corps to make sure that normal farming exemptions are interpreted consistently. American agricultural production is viable to a vastly growing population both nationally and globally. Therefore, a new WOTUS rule should minimize impacts to American agriculture production along with reducing impacts to the environment.

Prior to the issuance, ADAI requests that EPA and the Corps share details on the direction of the new rule. This opportunity would allow all stakeholders to provide necessary input to the agencies. "Educate before you regulate" should be EPA's approach to the new WOTUS rule.

In summary, ADAI encourages EPA to create clear administrable definitions and to respect state authority. We support a scientifically sound science approach to exemptions to farming practices. We look forward to working with EPA throughout this entire process.

Sincerely,



John McMillan, Commissioner

cc: Hon. Sonny Perdue, Secretary, U.S. Department of Agriculture (USDA)