



National Wildlife Federation

National Advocacy Center

1200 G Street NW, Suite 900 • Washington, DC 20005 • 202-797-6800

July 17, 2017

Dear Representative,

Section 431 of the draft Interior and Environment Appropriations bill for fiscal year 2018 creates a sweeping and dangerous exemption from the Administrative Procedure Act (APA) for the Administration's proposed repeal of the 2015 Clean Water Rule. This unprincipled policy rider would allow the Trump administration to ignore longstanding requirements for administrative rulemaking and public engagement as it moves forward with its plans to dramatically roll back the clean water safeguards that have protected our nation's waters for more than four decades. **The National Wildlife Federation, on behalf of our more than six million members and supporters, urges you to vote to remove this provision from the draft bill.**

Whether for drinking, swimming, fishing, brewing, boating, or wildlife watching, we all need clean water. For almost 45 years, the Clean Water Act has been effectively implemented and enforced in streams and wetlands small and large in order to keep our water clean.

The 2015 Clean Water Rule was a critical clarification of what waters fall under the scope of the Clean Water Act. It clarified longstanding protections for 60% of the nation's stream miles, the drinking water for 1 in 3 Americans, and millions of acres of wetlands that provide essential fish and wildlife habitat, supporting our nation's \$201 billion fishing and hunting economy – and the 1.5 million American jobs these activities sustain. The Clean Water Rule was subject to an extensive and rigorous rulemaking process precisely because the definition of which "Waters of the United States" are covered – and not covered – by the Clean Water Act is fundamental to the effective functioning of the Act. The comment period for the 2015 Clean Water Rule was open for 207 days, during which the agencies received nearly 1 million comments from the public, 87% of which were supportive.

If enacted, Section 431 would allow the Environmental Protection Agency and Army Corps of Engineers to "withdraw the Waters of the United States rule *without regard to any provision of statute or regulation* that establishes a requirement for such withdrawal." Section 431 represents a shocking disregard for the APA's provisions requiring that agency rules be subject to meaningful opportunity for public comment, be "in accordance with law," and not be arbitrary or capricious. Section 431 would allow the agencies to repeal the Clean

Water Rule and undermine longstanding Clean Water Act protections without meaningful public engagement and without a robust record or rationale for their action.

To exempt such an important rulemaking from the APA and any other requirement for administrative rulemaking without consideration of the strong legal and scientific foundation of the Clean Water Rule and without allowing the many clean water stakeholders and affected communities to comment is unfair and anti-democratic. It intentionally silences the voices of all who depend on clean water for drinking, fishing, swimming, and way of life.

We urge you to vote to remove this unprincipled and undemocratic policy rider from the bill for the sake of wildlife and Americans alike.

Sincerely,

A handwritten signature in cursive script that reads "Jan Goldman-Carter". The signature is written in black ink and is positioned below the word "Sincerely,".

Jan Goldman-Carter
Director, Wetlands and Water Resources
National Wildlife Federation