



January 2, 2014

Water Docket
Environmental Protection Agency
Mail Code 2822T
1200 Pennsylvania Ave. NW
Washington, D.C. 20460
Attn: Docket ID no. EPA-HQ-OW-2010-0606

VIA Online Submission to:

<http://www.regulations.gov>

**Re: Water Quality Standards Regulatory Clarifications, Proposed Rule
Docket ID No. EPA-HQ-OW-2010-0606**

Dear Office of Water:

Thank you for the opportunity to submit comments on the United States Environmental Protection Agency's ("EPA") Water Quality Standards Regulatory Clarifications Rulemaking, 78 Federal Register 54,518 (Sept. 4, 2013) (hereinafter the "Proposed Rule"). Waterkeeper Alliance, Inc. submits these comments on behalf of itself and the undersigned Waterkeeper organizations (hereinafter "Waterkeepers"). Waterkeeper Alliance is a global movement of on-the-ground and on-the-water community advocates. Waterkeepers defend their communities against anyone who threatens their right to clean water. There are currently more than 200 waterways protected by Waterkeepers around the world. Emphasizing citizen advocacy, Waterkeepers defend everyone's right to swimmable, drinkable and fishable waters, and combine firsthand knowledge of their waterways with an unwavering commitment to their communities and the rule of law.

The Clean Water Act ("CWA") is a "comprehensive water quality statute designed to 'restore and maintain the chemical, physical, and biological integrity of the Nation's waters.'" *PUD No. 1 of Jefferson County v. Wash. Dept. of Ecology*, 511 U.S. 700, 704 (1994) (quoting 33 U.S.C. § 1251(a)). Pursuant to CWA Section 303, each State must adopt and implement water quality standards to protect navigable waters within its borders, subject to oversight and approval by the EPA. 33 U.S.C. §1313. According to EPA:

A water quality standard defines the water quality goals of a water body, or portion thereof, by *designating the use or uses to be made of the water*, by *setting criteria* necessary to protect the uses, and by *preventing degradation* of water quality through antidegradation provisions. States adopt water quality standards to protect public health or welfare, *enhance the quality of water*, and serve the purposes of the Clean Water Act.

EPA, *Water Quality Standards Handbook: Second Edition* Int-8 (1993) (emphasis added). The CWA also requires that water quality standards be “established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation.” 33 U.S.C. §1313(c)(2)(A)

Sound interpretation and implementation of the CWA through EPA rulemaking and state delegated programs is essential to restoring and maintaining the chemical, physical and biological integrity of the Nation’s waters. Water quality standards are the core regulations under the CWA that the public depends on to ensure our nation’s waters are swimmable, drinkable and fishable. Any modification to water quality standards must be undertaken with extreme care to ensure that there will be no weakening of CWA protections for human health and the environment. Because water quality standards are implemented through widely divergent state programs, the federal standards must be clear, and any ambiguity that could lead to less stringent programs must be eliminated.

Although the Proposed Rule does include some amendments that will strengthen the existing water quality standards, other proposals lack clarity and are inconsistent with the goals and requirements of the CWA. Without significant changes, many of the proposed amendments to 40 C.F.R. Part 131 will likely lead to confusion in the interpretation and implementation of CWA requirements. Our specific comments and concerns with the Proposed Rule are outlined more fully in the following sections.

I. EPA Administrator’s Determinations under CWA Section 303(c)(4)(B)

Waterkeepers frequently encounter states that have failed to implement new and revised water quality standards necessary to implement the CWA and whose water quality standards are inconsistent with the requirements of the CWA. Under CWA Section 303(c)(4)(B), the EPA Administrator is required to promulgate water quality standards for states that fail to adopt new and revised water quality standards that are necessary to meet the requirements of the CWA. This obligation extends to situations where a state submitted a revised or new standard to EPA for approval and where states should adopt new or revised standard but have not done so. Unless EPA is willing to step in when states fail to act, water quality standards - the most fundamental aspect of the CWA - will not be adequate to protect the public from pollution that endangers human health and the environment.

Despite the fact that inadequate water quality standards are a well-known, national problem, EPA is proposing to narrow circumstances under which it must act when a state or tribe fails to maintain adequate standards to protect water quality. EPA’s reasoning behind this proposal is to allow it to provide states with “feedback” about their water quality standards without

“inadvertently” triggering EPA’s mandatory duty to adopt standards that meet CWA requirements. 78 Federal Register 54,521. Although EPA’s rationale is based on a purported concern that the public is confused by communications made to states from EPA about the adequacy of state water quality standards, it appears that the true motivation behind the change is EPA’s desire to avoid litigation that forces it to promulgate water quality standards required under the CWA.

Under the Proposed Rule, EPA would “amend paragraph (b) of § 131.22 to add a requirement that an Administrator’s determination must be signed by the Administrator or his or her duly authorized delegate, and must include a statement that the document is a determination for purposes of section 303(c)(4)(B) of the Act.” 78 Federal Register 54,521. The clear intent of this change is to allow EPA to avoid substantive review of its decisions as to whether a state needs new or revised water quality standards. *See e.g. Gulf Restoration Network v. Jackson*, Civ. Action No. 12-677 (E.D. La.) Order of Sept. 3, 2013.

The more realistic and pressing concern, from a water quality perspective, is a situation in which EPA fails to use its authority under Section 303(c)(4)(B) after a state has clearly failed to adopt adequate water quality standards. In that situation, which is unfortunately fairly common, the public would be harmed as this Proposed Rule attempts to foreclose a judicial finding that would compel EPA action. On the other hand, courts do not appear to be confused as to the need for EPA determinations in specific cases, and EPA has demonstrated a pattern of seeking to avoid promulgating standards where states have failed to meet their CWA obligations. *See e.g., Florida Wildlife Fed’n v. Jackson*, 853 F. Supp. 1138 (N.D. Fla. 2012) (EPA did not dispute that once it determined Florida’s nutrient standards were inadequate, it had a duty to promulgate standards under 303(d)(4)(B).); *Puget Soundkeeper Alliance et al. v. EPA*, No. 2:13-cv-01839-JCC (W.D. Wa) (where EPA has noted the shortcoming of the state’s fish consumption rate calculations and attendant human health criteria for almost a decade but has not promulgated standards).

To our knowledge, EPA has never been “inadvertently” forced to promulgate water quality standards for states as a result of communicating feedback or maintaining an open dialogue with the states. There is no legitimate basis for amending Part 131 to address this concern. In the preamble to the Proposed Rule, EPA states that it is concerned that litigation will trigger “a duty on the part of the EPA to propose and promulgate WQS before either a state, tribe or the Agency believes such a course is appropriate or necessary.” 78 Federal Register 54,521. EPA is not given discretion to determine whether promulgation is “appropriate or necessary” under the CWA, and EPA cannot give itself such discretion through this rulemaking. In CWA Section 303, Congress plainly requires EPA to evaluate whether states’ water quality standards meet the requirements of the CWA and to promulgate compliant standards for any state that fails to do so. Given the scope of this problem nationwide and the seriousness of the consequences associated

with inadequate water quality standards, EPA should be taking decisive action to increase compliance determinations and promulgate standards where states fail to act. Because of resource limitations, EPA should encourage citizen participation in ensuring that water quality standards are compliant with the CWA, as opposed to creating new standards to limit the public's ability to do so. Rather than do either of these things, the proposed language would reduce the instances in which water quality standards can be determined to be non-compliant with the CWA, and attempts to limit citizen's ability to take action when the states and EPA fail to act.

EPA should not adopt this section of the Proposed Rule as written. Instead, EPA should adopt language that requires a determination of compliance with the CWA for all WQS by the Administrator during triennial reviews, and that provides a mechanism for the public to seek a formal determination from the Administrator that requires a response in a reasonable amount of time. Accordingly, we recommend that the proposed language be amended as follows:

§ 131.22 EPA promulgation of water quality standards.

* * * * *

(b) The Administrator may also propose and promulgate a regulation, applicable to one or more States, setting forth a new or revised standard upon determining such a standard is necessary to meet the requirements of the Act. ~~To constitute an Administrator's determination, such determination must:~~ The Administrator or his or her duly authorized delegate shall review each state's water quality standards and determine compliance with the requirements of the Act as necessary to ensure compliance with the Act and after completion of the state's triennial review process. The triennial review determination must:

(1) Be signed by the Administrator or his or her duly authorized delegate, and

(2) Contain a statement that the document constitutes an Administrator's determination under section 303(c)(4)(B) of the Act.

This change to the proposed language will ensure that the EPA will be able to consult with the states during the triennial review process without fear that the public will misconstrue any feedback provided, while also ensuring that EPA will review the states water quality standards for compliance with the CWA on a regular basis and will be allowed, not forced, to make a formal determination that is contemplated by the CWA Section 303.

II. Designated Uses (78 Fed. Reg. 54,522-5)

With these proposed revisions to 40 C.F.R. §§131.1 and 131.10, EPA is proposing a radical change to long-standing interpretations of the CWA and water quality standards requirements. According to 40 C.F.R. §131.2:

A water quality standard defines the water quality goals of a water body, or portion thereof, by designating the use or uses to be made of the water and by setting criteria necessary to protect the uses. States adopt water quality standards to protect public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act (the Act). “Serve the purposes of the Act” (as defined in sections 101(a)(2) and 303(c) of the Act) means that water quality standards should, *wherever attainable*, provide water quality for the protection and propagation of fish, shellfish and wildlife and for recreation in and on the water and take into consideration their use and value of public water supplies, propagation of fish, shellfish, and wildlife, recreation in and on the water, and agricultural, industrial, and other purposes including navigation. [emphasis added]

The CWA, EPA’s implementing regulations, and EPA’s Water Quality Standards Handbook have long required protection of both 101(a)(2) uses (protection and propagation of fish, shellfish, and wildlife, and recreation in and on the water) and 303(c)(2) uses (public water supplies, propagation of fish and wildlife, recreation, agriculture and industrial purposes, and navigation).¹ CWA Section 101(a)(2) provides that “it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983.” CWA Section 303(c)(2) establishes a longer-term requirement that water quality “standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this chapter. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation.” States are required to adopt “[u]se designations consistent with the provisions of sections 101(a)(2) and 303(c)(2) of the Act.” 40 C.F.R. §131.6 (a). Further, 40 C.F.R. § 131.10(a) similarly requires that “[e]ach State must specify appropriate water uses to be achieved and protected. The classification of the waters of the State must take into consideration the use and value of water for public water supplies, protection and propagation of fish, shellfish and wildlife, recreation in and on the water, agricultural, industrial, and other purposes including navigation.”

¹ <http://water.epa.gov/scitech/swguidance/standards/handbook/> Chapters 1.2 and 2.1.

Once a use has been designated, the use cannot be removed if it is an existing use unless a use requiring more stringent criteria is added, and other designated uses cannot be removed unless the use is demonstrated not to be attainable and the requirements in 40 C.F.R. §131.10(g) are satisfied. Section 101(a)(2) uses are presumed attainable unless a state or tribe affirmatively demonstrates through a UAA that 101(a)(2) uses are not attainable as provided by one of six regulatory factors at Section 131.10(g). All uses are deemed to be “attainable, at a minimum, if the uses can be achieved (1) when effluent limitations under section 301(b)(1)(A) and (B) and section 306 are imposed on point source dischargers, and (2) when cost-effective and reasonable best management practices are imposed on nonpoint source dischargers.” 40 C.F.R. § 131.10(d).

Under the existing 40 C.F.R. §131.10(j), states “must conduct a use attainability analysis [“UAA”]. . . whenever: (1) the State designates or has designated uses that do not include the uses specified in section 101(a)(2) of the Act; *or* (2) the State wishes to remove a designated use that is specified in section 101(a)(2) of the Act or adopt subcategories of uses specified in section 101(a)(2) that require less stringent criteria.” [emphasis added]. A UAA is “a structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in § 131.10(g).” 40 C.F.R. §131.3(g). The only existing exception to the UAA requirement is for *designation* of 101(a)(2) uses. 40 C.F.R. §131.10(k).

In sum, designated uses, such as public water supply, recreation, and fish and wildlife propagation, are essential components of water quality standards. Wherever attainable, the water quality standards must provide water quality protection for all of the uses listed in 40 C.F.R. §131.2. Once a use of a waterbody has been designated, states develop criteria to protect those uses, which then serve as the fundamental basis for protecting, maintaining and improving state water quality under the CWA. These designated uses cannot be removed from the states’ water quality standards except in limited circumstances set forth in the existing EPA water quality regulations, including the requirements for UAAs. For example, states may not remove *any* designated use without conducting the analysis described in 40 C.F.R. § 131.10(g).

While it is not apparent from the rulemaking notice, the current proposal amends existing regulations in 40 C.F.R. §§131.3 and 131.10 in a manner that limits the requirements for removal of designated uses, even existing uses, to only uses specified in CWA Section 101(a)(2). The Proposed Rule does this by limiting the application of Section 131.10(g) to actions requiring a UAA in the revised Section 131.10(j). The revised Section 131.10(j) deletes the language requiring UAAs for removal of uses not listed in Section 101(a)(2), and Section 131.10(k) expressly states that UAAs are not required in order to “remove a designated use that is not specified in section 101(a)(2) of the Act”

This is contrary to other existing EPA regulations. Since “Tier One” of the antidegradation regulations provides a “floor” of water quality protection by requiring the maintenance of existing uses, this policy basically requires that uses which were attained as of November 28, 1975 cannot be eliminated. 40 C.F.R. §§131.12(a)(1), 131.3(e), and 131.10(h)(1). Thus, EPA’s regulations provide that “[w]here existing water quality standards specify designated uses less than those which are presently being attained, the State shall revise its standards to reflect the uses actually being attained.” 40 C.F.R. §131.10(i).

This new language in the Proposed Rule would allow states to remove designated uses for public water supplies, agriculture and industrial purposes, and navigation from their water quality standards without conducting a UAA and without protecting the highest attainable use. Under the proposed rule, if a state decides after a UAA is performed under 40 C.F.R. §131.10(g) that a CWA Section 101(a)(2) use is not attainable, it must adopt the “highest attainable use” (“HAU”). This requirement would not apply to uses that are not listed in Section 101(a)(2).

The proposal is contrary to the Section 303(c)(2) of the CWA, other EPA regulations, and long-standing interpretations of the CWA set forth in EPA guidance such as the Water Quality Standards Handbook. The uses specified in CWA Section 101(a)(2) represent an interim goal for the CWA that was supposed to be achieved by 1983, and do not represent the totality of the goals for the CWA and requirements for EPA and the states. EPA should be acting to limit the circumstances under which states can remove *any* designated use. Designated uses are the backbone of CWA protections for human health and the environment, and should have been attained long ago. Any revisions to the UAA requirements should prevent the states from circumventing the CWA’s core requirements through removal of designated uses.

Instead, EPA is now proposing to remove essential CWA protections for crucial water uses like public water supply, and allow states to simply remove that use from their water quality standards for any reason, including if they just don’t want to regulate pollution sources. It is difficult to imagine how EPA could reasonably propose this amendment. For example, public health is very obviously dependent on clean water for public water supplies, and these water supplies are required to be protected in water quality standards wherever attainable, yet EPA is proposing to allow states to remove this use from water quality standards without regard to any of the CWA requirements. Allowing states to remove a use like public water supply without any demonstration under 40 C.F.R. §131.10(g) or any other reasoned basis is not sound public policy, is prohibited by the CWA and EPA’s other regulations, and will endanger human health and the environment.

The rulemaking notice provides little in terms of justification for removal of uses not listed in CWA Section 101(a)(2) and no justification for failing to extend the HAU protections to uses not listed in CWA Section 101(a)(2). The notice indicates that EPA believes the existing

requirements are somehow ambiguous. While noting that “EPA’s 1998 ANPRM stated that the EPA’s position, at the time, was that a UAA is not limited to actions addressed in § 131.10(j),” the rulemaking notice states that EPA simply “now believes that the better interpretation of its regulations is that the factors in 131.10(g) are only required to be considered when a state or tribe is demonstrating that a use specified in § 101(a)(2) or a subcategory of such a use is not attainable through a UAA.” 78 Federal Register 54,524. However, the interpretation leading to EPA’s finding of ambiguity is focused solely on selected provisions of 40 C.F.R. §§ 131.3(g) and 131.10. As set forth in detail above, there is no ambiguity when the CWA, 40 C.F.R. Part 131, and EPA guidance are read together. Frankly, the fact that states should not be allowed to arbitrarily remove designated uses from their water quality standards is apparent solely from a plain reading of CWA Section 303(c)(2). Although EPA has now decided to “focus on uses specified in § 101(a)(2),” the CWA is focused on protection of public health and welfare, which is dependent on clean water for more than fishing, wildlife and recreation.

We object to the proposed amendment to the extent that it allows removal of designated uses that are not included in CWA Section 101(a)(2) without completion of a UAA under sections 131.10(g) and (j), and to the extent that it limits the requirement for adoption of the “highest attainable use” to designated uses under CWA Section 101(a)(2). We propose that the regulation be modified to address these concerns, and to clarify that if a state’s existing categories do not protect a waterway’s highest attainable use, then states are explicitly required to adopt a new category or subcategory of use in order to protect the highest attainable use. To address these concerns, we request that the proposed rule be modified to as follows:

§131.3(m) *Highest attainable use* is the aquatic life, wildlife, ~~and/or~~ recreation, public water supply, or other use that is both closest to the uses specified in sections 101(a)(2) and 303(c)(2) of the Act and attainable, as determined using best available data and information through a use attainability analysis defined in § 131.3(g).

§ 131.10 Designation of uses.

* * * * *

(g) ~~Pursuant to § 131.10(j),~~ States may designate or remove a designated use or a sub-category of a use as long as the action does *not* remove protection for an existing use, as defined in §131.3, and the State can demonstrate that attaining the use is not feasible because of one of the six factors in this paragraph. If a State adopts new or revised water quality standards based on a use attainability analysis, the State shall also adopt the highest attainable use and the criteria to protect that use. To meet this requirement, States may, at their discretion, utilize their current

use categories or subcategories as long as they are capable of protecting the highest attainable use, develop new use categories or subcategories, or adopt another use which may include a location-specific use. * * * * *

(j) A State must conduct a use attainability analysis as described in § 131.3(g), and §131.10(g), whenever:

(1) The State designates or has designated uses for a water body ~~for the first time~~ that do not include the uses specified in section 101(a)(2) of the Act, or

(2) The State wishes to remove a designated use that is specified in section 101(a)(2) of the Act, to remove a sub-category of such a use, or to designate a sub-category of such a use which requires criteria less stringent than previously applicable.

(k) A State is not required to conduct a use attainability analysis under this regulation whenever designating uses which include those specified in section 101(a)(2) of the Act: ~~(1) The State designates or has designated uses for a water body for the first time that include the uses specified in section 101(a)(2) of the Act, or~~

~~(2) The State wishes to remove a designated use that is not specified in section 101(a)(2) of the Act, or designate a sub-category of a use specified in section 101(a)(2) of the Act which requires criteria at least as stringent as previously applicable.~~

This language will accomplish EPA's goals of clarifying the regulation and protecting HAUs, while ensuring that all attainable and existing uses continue to be protected in accordance with the requirements of the CWA.

III. Triennial Reviews (78 Fed. Reg. 54,525)

Under CWA Section 303(c), states are required to hold public meetings for the purpose of reviewing the state's water quality standards and, as appropriate, for modifying and adopting standards at least every three years. 33 U.S.C. § 1313(c); 40 C.F.R. §§ 131.20(a) and (b). This process is referred to as a Triennial Review, and the results of the review are required to be submitted to EPA. Triennial Reviews are not merely a pro forma exercise. They are intended to ensure that a state is maintaining water quality standards that are adequate to protect human health and the environment, and that the most current scientific knowledge is being employed. According to the EPA Water Quality Standards Handbook, "[w]hen performing its triennial

review, the State must evaluate what uses are being attained. If a water body is designated for a use that requires less stringent criteria than a use that is being attained, the State must revise the use on that water body to reflect the use that is being attained.”² Triennial Reviews are also an important opportunity for the public and the regulated community to have input into the water quality standards process.

Despite this explicit mandate, many states are not meeting their obligation to review and revise their water quality standards every three years and, equally troubling, EPA has often failed to require these reviews or promulgate water quality standards in light of state intransigence. For example, North Carolina’s Department of Environment and Natural Resources (“DENR”) is already more than four years overdue in completing the triennial review of its water quality standards required by the CWA, and there is no end to the delay in sight. According to public statements made by the director of DENR’s Division of Water Resources (“DWR”), Tom Reeder, DWR does not currently anticipate updating its water quality standards and codifying any new water quality criteria until the end of 2015 at the earliest.³ The process of deciding whether to codify nutrient criteria is currently planned to extend even later, into 2020 at the earliest.⁴

Similarly, many states improperly attempt to limit EPA and citizen review of water quality standards by only proposing minor changes to water quality standards, often related to standards that impact industry. States, like Minnesota and Washington, do not consider comments from the public on any issue that was not identified in their rulemaking notice, thereby precluding meaningful public participation and thorough evaluation of the state’s water quality standards. EPA becomes complicit in this approach when it refuses to review any public comments that are unrelated to standards actually adopted by the state and fails to do its own review of the states’ water quality standards for compliance with the CWA. The result is that many states have outdated and inadequate water quality standards that are difficult, if not impossible, for the public to address and meaningful review is avoided.

Under this proposal, “EPA is proposing to amend the triennial review requirements of paragraph (a) of § 131.20 to clarify that a state or tribe shall re-examine its water quality criteria during its triennial review to determine if any criteria should be revised in light of any new or updated CWA section 304(a) criteria recommendations to assure that designated uses continue to be protected.” 78 Federal Register 54,525. We strongly support this amendment and the logic behind making the change. Specifically, we agree that “it is important for states and tribes to

² <http://water.epa.gov/scitech/swguidance/standards/handbook/chapter02.cfm#section8>, Section 2.8. See also 40 CFR §131.10(i).

³ Public statement T. Reeder made on November 19, 2013.

⁴ Draft Nutrient Criteria Development Plan, available at: <http://portal.ncdenr.org/web/wq/ps/mtu/nutrientcriteria>.

consider any new or updated 304(a) criteria as part of their triennial review, in order to ensure that state or tribal water quality criteria reflect current science and protect applicable designated uses.” *Id.* If EPA does not require states to consider the 304(a) criteria, the states may continue to utilize outdated criteria that are not protective of public health, the environment and designated uses.

We proposed that EPA modify this rule further to make it explicit that the states are required to accept comment and undertake review of *all* of its water quality standards, as well as submit the entire record supporting its actions or non-actions to EPA for review. While this should be apparent to the states from a plain reading of 40 C.F.R. § 131.20(c), many states are not completing timely reviews of all of their water quality standards, and this is limiting citizen’s ability to have meaningful input. This serious problem can be remedied with a simple modification to the proposed language as follows:

(a) *State Review.* The State shall from time to time, but at least once every 3 years, hold public hearings for the purpose of reviewing ~~applicable~~ all water quality standards and, as appropriate, modifying and adopting standards; in particular, any water body segment with water quality standards that do not include the uses specified in section 101(a)(2) of the Act shall be re-examined every 3 years to determine if any new information has become available. If such new information indicates that the uses specified in section 101(a)(2) of the Act are attainable, the State shall revise its standards accordingly. Similarly, a State shall re-examine its water quality criteria to determine if any criteria should be revised in light of any new or updated CWA section 304(a) criteria recommendations to assure that designated uses continue to be protected. Procedures States establish for identifying and reviewing water bodies for review should be incorporated into their Continuing Planning Process.

(b) *Public Participation.* The State shall hold a public hearings for the purpose of reviewing ~~or~~ and revising water quality standards, in accordance with provisions of State law, EPA’s water quality management regulations (40 CFR Part 131) and EPA’s public participation regulation (40 CFR part 25). The proposed water quality standards revision and supporting analyses shall be made available to the public prior to the hearing.

c) *Submittal to EPA.* The State shall submit the results of the review, any public comment received, any supporting analysis for the use attainability analysis, the methodologies used for site-specific criteria development, any general policies applicable to water quality standards, and any revisions of the standards to the Regional Administrator for review and approval, within 30 days of the final State

action to adopt and certify the revised standard, or if no revisions are made as a result of the review, within 30 days of the completion of the review.

Further, EPA must also begin using its authority under CWA Section 303(c)(4)(B) to promulgate or update water quality standards in any state that fails to conduct a Triennial Review if such standards are necessary to comply with the CWA. Where a state fails to consider CWA Section 304(a) criteria, EPA should also make a formal determination under CWA Section 303(c)(4)(B) whether new or updated criteria and upgraded uses are required under the CWA. As recommended in Section I of these comments, EPA should make amendments to 40 C.F.R. § 131.22 to address these issues.

IV. Antidegradation

A. Tier 2 “High Quality Waters” (78 Fed. Reg. 54,526-8)

Under 40 C.F.R. §131.12, states and tribes are required to adopt an antidegradation policy and identify implementation methods for that policy. EPA is proposing to amend the antidegradation policy as it relates to High Quality Waters (“Tier 2”) which are waters “where the quality of the waters exceed levels necessary to support the propagation of fish, shellfish, and wildlife and recreation in and on the water.” 40 C.F.R. §131.12. For Tier 2 waters, EPA’s current policy requires the maintenance and protection of high quality waters unless the state or authorized tribe finds that “allowing lower water quality is necessary” to accommodate “important economic or social development in the area in which the waters are located.” 40 C.F.R. §131.12(a)(2).

EPA acknowledges the need to change the way states are implementing antidegradation requirements. This is because many states are failing to implement antidegradation reviews in their permitting processes and, in turn, the number of impaired streams across the nation continue to expand.⁵ For example, a 2009 River Network Survey of eight western states “interviewed permit staff in each state and asked them if they had ever completed a Tier 2 review (which we defined as including an alternatives analysis and a socio-economic review) and, if so, how many. Only one state, Colorado, had completed a Tier 2 review.”⁶

⁵ For example, the most recent available data on impaired waters from EPA indicates that there are currently 518,143 miles of impaired rivers/streams and 12,121,931 acres of impaired lakes. http://ofmpub.epa.gov/waters10/attains_nation_cy.control. EPA’s 2004 305b Report concluded that there were 246,002 miles of impaired rivers/streams and 10,451,401 acres of impaired lakes as of 2004. http://water.epa.gov/lawsregs/guidance/cwa/305b/upload/2009_05_20_305b_2004report_report2004pt3.pdf

⁶ <http://www.rivernet.org/cwwpolicyanalysis>, Ch. 2, p. 47.

We support EPA's efforts to require states to implement antidegradation requirements through clear, regulatory requirements, but are concerned about the approach set forth in this proposal. Primarily, we are concerned that the Proposed Rule is ambiguous, and does not provide adequate guidance to the states in conducting Tier 2 reviews. We are also concerned that EPA has chosen to allow the states to adopt a waterbody-by-waterbody approach to Tier 2 Reviews that is limited by some vague factors that will inevitably lead to confusion at best and litigation at worst.

The waterbody-by-waterbody approach is not consistent with the CWA goal of maintaining the chemical, physical and biological integrity of our nation's waters, and should be excluded as an option in Tier 2 Reviews. Under the waterbody-by-waterbody approach, a state could exclude high quality waters from Tier 2 protections because one persistent pollutant is pervasive although the water is otherwise pristine. This approach represents, in essence, a loophole by which states can legally facilitate the degradation of high water quality by relying on a myopic interpretation of water quality standards. For example, Alabama has refused to upgrade the East (HUC 0314020102) and West (HUC 0314020103) Forks of the Choctawhatchee River to Outstanding Alabama Waters solely because of mercury pollution. EPA should not allow states to permit degradation of high quality waters on the basis of pollution by one pervasive pollutant. Further, the Proposed Rule does not establish any requirements for waterbody-by-waterbody designation, which may allow states to continue to follow widely divergent and often arbitrary standards for identifying high quality waters.

Alternatively, we urge EPA to revise its proposed language to require states to select the parameter-by-parameter approach for identifying high quality waters. This is a proven, accurate scientific methodology. This revision should make explicit that all parameters are to be evaluated, an issue the Proposed Rule fails to address. Towards this end, we propose that the agency adopt the following language in its new §131.12(b)(1) in lieu of the proposed language to clarify 40 C.F.R. §131.12(a)(2):

Where, for any parameter, the quality of the waters exceed levels necessary to support the propagation of fish, shellfish, and wildlife and recreation in and on the waters, that quality shall be maintained and protected unless the State or Tribe finds, after full satisfaction of intergovernmental coordination and public participation provisions of the State or Tribes' continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located.

B. Alternatives Analysis (78 Fed. Reg. 54,528-9)

The Proposed Rule would require an alternatives analysis that mandates states “consider a range of non-degrading and minimally degrading practicable alternatives” prior to allowing new or increased pollution. We do not believe this proposal is consistent with the existing antidegradation regulations. The current language prohibiting the lowering of water quality is quite plain and, if alternatives are available, the proposal is not necessary. *See* 40 C.F.R. §131.12(a)(2). Further, as proposed, the language is problematic because it requires states to consider both non-degrading and minimally degrading alternatives but, in turn, does not require a state to choose a non-degrading alternative or even the least degrading alternative. To the contrary, the proposed language appears to allow a state to choose any of the alternatives evaluated. Clearly, a minimally degrading alternative is going to lower water quality more than a non-degrading alternative, yet the Proposed Rule would allow a state to choose any of the practicable alternatives evaluated.

We believe that the proposed language is inconsistent with existing antidegradation and CWA requirements, and should not be adopted. If EPA proceeds with adoption of the proposal, the language should be altered to make it consistent with existing antidegradation requirements and the CWA.

C. Inclusion of Antidegradation Implementation into Water Quality Standards

Waterkeepers strongly support EPA’s proposal “to add paragraph (b) to 40 C.F.R. 131.12 to specify that states and tribes must develop and make available to the public antidegradation implementation methods.” 78 Federal Register 54,525. EPA also requested comment on whether it should “include a requirement that antidegradation implementation methods be adopted as WQS and thus subject to the EPA’s review and approval or disapproval.” We strongly urge EPA to expressly require states to adopt their antidegradation implementation methods as water quality standards, and subject them to formal review and approval by EPA.

Many states have antidegradation policies that have not been formally adopted and whose implementation methodologies are frequently unknown to the public and the regulatory community. For example, New York’s antidegradation policy and implementation process are not included in regulations, but instead are set forth in a 1985 guidance document.⁷ Similarly, a 2009 River Network Survey of eight western states found that “only five of the eight states in the region have the required antidegradation implementation policy developed in rule. Another state (Wyoming) has implementation guidance (with Colorado having both an implementation rule

⁷ See http://www.dec.ny.gov/docs/water_pdf/togs139.pdf.

and guidance). This leaves two states—Idaho and Nevada with no direction at all on how to protect existing water quality for permit writers, the public and others.”⁸

As the antidegradation requirements can be inadequately enforced, inconsistently applied or lost altogether through a state’s implementation methods, it is essential that all of state antidegradation policies, standards and implementation methods be subjected to public comment and EPA review and approval. States should not be allowed to provide EPA with non-binding assurances about how they will implement water quality standards. The public has a right to know how the state intends to implement the CWA and to have input into the state’s decision-making process. Undisclosed promises made by state to the EPA are commonplace, but they are not consistent with sound public policy, the requirements of the CWA or the requirements of state Administrative Procedures Acts. States should be required by regulation to adopt all antidegradation requirements, including implementation methods, as water quality standards.

We are concerned that the proposed amendment removes an existing requirement for adoption of implementation methods as water quality standards. The nation’s first antidegradation policy was released in 1968 and was incorporated into EPA’s first water quality regulation in 1975. According to EPA’s Water Quality Standards Handbook, “[a]ntidegradation requirements and methods for implementing those requirements are minimum conditions to be included in a State’s water quality standards.”⁹ As noted above, many states are not following this requirement and, as indicated by the request for comment on whether implementation should be incorporated into WQS, EPA is apparently considering removing the requirement, but it has provided no justification for doing so. To the contrary, EPA presents the issue as a strengthening of existing requirements. While we strongly support public notice and participation in the development of implementation methodologies, we believe that EPA should accomplish this goal by requiring adoption of implementation methods in water quality standards that are subject to review and approval by EPA.

We agree with EPA’s statements that “antidegradation implementation methods are an important component of implementing antidegradation policies” and that “[f]ormal adoption of implementation methods as WQS, along with EPA review under section 303(c) of the Act, would help ensure the consistent and effective implementation of the state or tribe’s antidegradation provisions so that waters will be maintained and protected in accordance with the objectives of the Act.” 78 Federal Register 54,529. We further agree that “antidegradation is an essential part of WQS and state and tribal approaches to implementing antidegradation requirements may have direct implications for NPDES permits, as well as other federal permits

⁸ <http://www.rivernetnetwork.org/cwwpolicyanalysis>, Ch. 2, p. 40.

⁹ <http://water.epa.gov/scitech/swguidance/standards/handbook/chapter04.cfm#section1>

and licenses for activities that affect water quality,” and we believe that this is the primary reason “why the regulations should require states and tribes to formally adopt, after providing an opportunity for public involvement, and obtain EPA approval for antidegradation implementation methods.” 78 Federal Register 54,530.

To address the concerns raised herein with what we believe to be a weakening of federal CWA requirements, and to ensure that states adopt implementation through a rulemaking and EPA approval process, we recommend adopt the following amendment to the proposed language in 40 C.F.R. §131.12(a) and (b):

(a) The State shall develop and adopt a statewide antidegradation policy and ~~identify~~ the methods for implementing such policy as water quality standards pursuant to this subpart. The antidegradation policy and implementation methods shall, at a minimum, be consistent with the following:

(b) The State shall develop, ~~and~~ make available to the public, ~~and adopt~~ statewide methods for implementing the antidegradation policy ~~adopted~~ pursuant to paragraph (a) of this section. A State’s antidegradation implementation methods shall be designed to achieve antidegradation protection consistent with paragraph (a) of this section. Such methods must ensure that:

We also request that EPA amend section 131.6(d) to clarify that implementation methods are one of the minimum requirements for a water quality standards submission in accordance with EPA’s request for comment on this issue. 78 Federal Register 54,530.

Further, the proposed requirements for implementation methods in 40 C.F.R. §§131.12(b)(1) and (2) are not truly implementation methods but, rather, represent core provisions relating to the policy itself. These provisions, subject to our comments above, should be included under antidegradation policy as opposed to implementation. More importantly, the inclusion of these two items under implementation methods gives the erroneous impression that these are the only issues that must be addressed in implementation methods. To the extent the EPA intends to establish requirements for antidegradation implementation, the requirements should address implementation of all antidegradation requirements and not just Tier 2 requirements. The list “of the areas states’ and tribes’ implementation methods would need to address, at a minimum, to be consistent with the WQS regulation” that EPA sets forth in the preamble to the Proposed Rule does not adequately ensure that states will be required to develop implementation methods that are consistent with the CWA and 40 C.F.R. Part 131. 78 Federal Register 54,530. Further, the list itself is inconsistent with the CWA and water quality standards regulation, and contains provisions which we have objected to previously in these comments. EPA should either include a general statement that implementation plans are required to be consistent with the CWA and 40

C.F.R. Part 131 in this Proposed Rule or it should propose standards for implementation plans that can be reviewed and commented by the public upon as part of this rulemaking.

V. Variances (78 Fed. Reg. 54,532)

EPA currently allows for variances from water quality standards, but variances are only referenced in 40 C.F.R. §131.13 as an option for states to utilize in their standards. This section currently provides that “[s]tates may, at their discretion, include in their State standards, policies generally affecting their application and implementation, such as mixing zones, low flows and variances. Such policies are subject to EPA review and approval.” 40 C.F.R. §131.13. Since 1977, EPA has officially allowed variances as long as they are “adopted consistent with the substantive and procedural requirements for permanently downgrading a designated use,” i.e. based on the factors in 40 C.F.R. §131.10(g). 78 Federal Register 54,531. EPA defined a variance as “the practice of temporarily downgrading the WQS as it applies to a specific discharger rather than permanently downgrading an entire water body or waterbody segment(s).” 78 Federal Register 54,531. Under existing variance guidance, a “discharger who is given a variance for one particular constituent is required to meet the applicable criteria for all other constituents. The variance is given for a limited time period and the discharger must either meet the WQS upon the expiration of this time period or the state or tribe must adopt a new variance or re-justify the current variance subject to EPA review and approval.” 78 Federal Register 54,531.

In the past, according to the Water Quality Standard Handbook,¹⁰ EPA approved variances so long as:

- Each individual variance is included as part of the water quality standard;
- The State demonstrates that meeting the standard is unattainable based on one or more of the grounds outlined in 40 CFR 131.10(g) for removing a designated use;
- The justification submitted by the State includes documentation that treatment more advanced than that required by sections 303(c)(2)(A) and (B) has been carefully considered, and that alternative effluent control strategies have been evaluated;
- The more stringent State criterion is maintained and is binding upon all other dischargers on the stream or stream segment;
- The discharger who is given a variance for one particular constituent is required to meet the applicable criteria for other constituents;

¹⁰ <http://water.epa.gov/scitech/swguidance/standards/handbook/chapter05.cfm#section3>

- The variance is granted for a specific period of time and must be rejustified upon expiration but at least every 3 years (Note: the 3-year limit is derived from the triennial review requirements of section 303(c) of the Act.);
- The discharger either must meet the standard upon the expiration of this time period or must make a new demonstration of “unattainability”;
- Reasonable progress is being made toward meeting the standards; and
- The variance was subjected to public notice, opportunity for comment, and public hearing. (See section 303(c)(1) and 40 CFR 131.20.) The public notice should contain a clear description of the impact of the variance upon achieving water quality standards in the affected stream segment.

Under the Proposed Rule, EPA is altering the long-standing requirement for the issuance of variances on the grounds that the new requirements “are tailored to better fit the circumstances where variances will allow for environmental progress toward achieving the goals of the CWA.” 78 Federal Register 54,532.

Waterkeepers are concerned that these new provisions will increase the use of variances to avoid taking actions that are reasonably available to address water quality impairments. The CWA provides extensive mechanisms for the state to utilize in addressing impaired waters, and these provisions, when fully implemented, actually move states forward in addressing waterbodies that are not meeting water quality standards. Variances, on the other hand, simply reduce water quality protection for a set time period, and do not assist states in meeting water quality standards. The use of variances by states will tend to delay actions necessary to clean up waterbodies, such as Total Maximum Daily Load (“TMDL”) development and implementation. Development and implementation of TMDLs is already delayed across the country, and EPA should not adopt any regulation that will interfere with efforts to address impaired waters. The TMDL and permitting process are the proper methods for dealing with waters that are not meeting water quality standards. Permittees that cannot comply with these requirements may obtain compliance schedules that include reasonable timelines and an enforceable sequence of actions that will bring them into compliance as described below. Given this approach to addressing impaired waters, which was developed and approved by Congress in the CWA, it is unclear why variances are necessary at all.

If EPA intends to adopt this proposal, it should provide justification for why variances are necessary in light of the CWA requirements, and should include provisions that prevent use of variances to delay implementation of water quality standards due to political concerns or an unwillingness to enforce the standards. The justification provided in the rulemaking notice, that variances are necessary to “provide states and tribes time to make progress towards attaining a designated use and criteria” or to “help improve water quality by allowing states and tribes time

to work with stakeholders”, or to “provide[] states and tribes with time to implement adaptive management approaches” are simply not persuasive. *See* 78 Federal Register 54,531-32. EPA’s additional justification that “WQS variances are consistent with the ‘restore’ aspect of the goal since variances are intended to allow incremental environmental progress in achieving designated uses” is unfounded. 78 Federal Register 54,532. There is no support for the proposition that the adoption of less protective water quality standards assists states in restoring the chemical, physical and biological integrity of the Nation’s waters.

EPA should specifically identify how variances improve water quality and why the CWA approaches are not adequate to allow states to work with stakeholders or apply adaptive management approaches. EPA provides instruction to states on how to apply adaptive management approaches in implementing the CWA as part of its Watershed Academy program.¹¹ Variances to water quality standards are not mentioned as one of the tools to be used in adaptive management and thus, it is unclear how this Proposed Rule is even related to adaptive management approaches.

We believe EPA should prohibit the use of variances or, at least, take action to further limit their availability. Additionally, we submit the following comments on the proposal in the event EPA decides to adopt it as proposed or in a similar form.

A. *Scope of Variances (78 Fed.Reg.54,532)*

According to the Proposed Rule preamble, “EPA is proposing a new regulatory definition for WQS variance at § 131.14. A water quality standards variance (WQS variance) is a time-limited use and criterion for a specified pollutant(s), permittee(s), and/or water body or waterbody segment(s) that reflect the highest attainable condition during the specified time period.” 78 Federal Register 54,532. This definition expands the scope of variances beyond what has previously authorized and found to be consistent with the CWA by the Office of General Counsel, which included only “the practice of temporarily downgrading the WQS as it applies to a specific discharger rather than permanently downgrading an entire water body or waterbody segment(s).” *See* 78 Federal Register 54,531. This definition appears to allow downgrading of water quality standards for pollutants, specific permittees, multiple permittees, waterbodies, and waterbody segments. Further, the definition no longer requires that the “variance is adopted consistent with the substantive and procedural requirements for permanently downgrading a designated use” which was a key condition in the Office of General Counsel’s conclusion that variances of this nature were consistent with the CWA. *Id.* The preamble does not include any

¹¹ http://water.epa.gov/learn/training/wacademy/upload/2005_02_18_watershed_wacademy_wam2003_2f-adapmanage.pdf

legal analysis that would support a position that variances for pollutants, multiple permittees, waterbodies, or waterbody segments are consistent with the provisions of the CWA.

We believe that this new definition is directly in conflict with the requirements of CWA Sections 101 and 303. Under Section 303(c), water quality standards “shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this chapter. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation.” The proposed definition would allow for a downgrading of water quality standards for all permittees, for an entire waterbody or for specific pollutants without regard to the impact public health or designated uses. Under the new section (a)(2)(ii), for the purposes of CWA Sections 401 certifications and 402 permitting “the interim requirements will be the standards applicable for purposes of the CWA under 40 C.F.R. 131.21(c)-(e).” *See* 78 Federal Register 54,545. These provisions are contrary to the basic requirements of the CWA, and could have substantial adverse impacts on public health and water quality.

We strongly object to this new regulatory definition in the Proposed Rule. If EPA proceeds with the Proposed Rule, in addition to the other long-standing variance requirements, EPA should limit the scope of variances to “the practice of temporarily downgrading the WQS as it applies to a specific discharger rather than permanently downgrading an entire water body or waterbody segment(s)” and it must require that the variance be adopted consistent with the substantive and procedural requirements for permanently downgrading a designated use,” i.e. based on the factors in 40 C.F.R. §131.10(g).

B. Variances – Expiration Date – Proposed Section 131.14(b)(1)(iii)

The Proposed Rule would provide that “States must include an expiration date for all WQS variances, consistent with paragraph (b)(2) of this section. WQS variances must be as short as possible but expire no later than 10 years after state adoption.” 78 Federal Register 54,545. This provision is unreasonable. States should review any variance at least every three years as mandated by Section 303(c) for all water quality standards. This is also consistent with the long-standing EPA requirement that “the variance is granted for a specific period of time and must be rejustified upon expiration but at least every 3 years (Note: the 3-year limit is derived from the triennial review requirements of section 303(c) of the Act.)”¹²

¹² <http://water.epa.gov/scitech/swguidance/standards/handbook/chapter05.cfm#section3>

C. Variances – Demonstrating Need – Proposed Section 131.12(b)(2)

Under the Proposed Rule, only Section 101(a)(2) uses would require a demonstration that attaining the designated use and criterion is not feasible during the term of the water quality standard variance because one of the factors listed in Section 131.10(g) applies. EPA's longstanding interpretation is that variances should only be allowed if they are "adopted consistent with the substantive and procedural requirements for permanently downgrading a designated use," i.e. based on the factors in 40 C.F.R. §131.10(g). 78 Federal Register 54,531. This interpretation is repeated in the Water Quality Standards Handbook which states that variances will only be allowed if "the State demonstrates that meeting the standard is unattainable based on one or more of the grounds outlined in 40 CFR 131.10(g) for removing a designated use."¹³ No standard for demonstrating need is established for issuing variances for uses not listed in CWA Section 101(a)(2) in the Proposed Rule. This is unreasonable and contrary to CWA Section 303(c) as it would appear to authorize states to grant variance under any circumstances it so desires. EPA should modify the Proposed Rule to require a state to demonstrate that meeting the standard is unattainable based on one or more of the grounds outlined in 40 C.F.R. 131.10(g) for removing *any* designated use. The term "feasible" should not be included in the Proposed Rule. Establishing a feasibility requirement is contrary to CWA Section 301(b)(1)(C), which requires that water quality standards be met without regard to cost or feasibility when applying water quality based effluent limitations ("WQBELs"). *See, e.g., Upper Blackstone Water Pollution Abatement Dist. v. EPA*, 690 F.3d 9, 33 (1st Cir. 2012).

D. Other Provisions that Must be Included.

If EPA proceeds with formalizing a variance rule, it should amend the Proposed Rule to make it consistent with its long-standing practice for issuing variances by including the following:

- Each individual variance is included as part of the water quality standard;
- The justification submitted by the State includes documentation that treatment more advanced than that required by sections 303(c)(2)(A) and (B) has been carefully considered, and that alternative effluent control strategies have been evaluated;
- The more stringent State criterion is maintained and is binding upon all other dischargers on the stream or stream segment;
- The discharger who is given a variance for one particular constituent is required to meet the applicable criteria for other constituents;
- The discharger either must meet the standard upon the expiration of this time period or must make a new demonstration of "unattainability";

¹³ <http://water.epa.gov/scitech/swguidance/standards/handbook/chapter05.cfm#section3>

- Reasonable progress is being made toward meeting the standards; and
- The variance was subjected to public notice, opportunity for comment, and public hearing. (See section 303(c)(1) and 40 CFR 131.20.) The public notice should contain a clear description of the impact of the variance upon achieving water quality standards in the affected stream segment.

VI. Authorizing Compliance Schedules (78 Fed. Reg. 54,536-7)

Waterkeepers generally support EPA's proposal for compliance schedules, but urge EPA to limit the length of compliance schedules to no longer than a permit term: 5 years. This is consistent with the CWA and regulatory requirements for permit renewals. Additionally, the Proposed Rule should specifically reference, and be made consistent with, the requirements for permit compliance schedules in CWA Sections 502(17) and 301(b), as well as 40 C.F.R. §§122.2, 122.44, 122.47.¹⁴ We further urge EPA to incorporate standards which limit the availability of compliance schedules to situations where the permittee has a legitimate need for more time to comply with new, more stringent WQBELs, compliance is required "as soon as possible," and specific actions are required to come into compliance within the schedule. Any compliance schedule contained in an NPDES permit must be an "enforceable sequence of actions or operations leading to compliance with a [water quality-based] effluent limitation" as required by the definition of "schedule of compliance" in section 502(17) of the CWA and 40 C.F.R. §122.2.

Compliance schedules should be expressly prohibited for new and increased discharges of pollutants. We are also concerned that, without standards limiting the availability of compliance schedules, the proposed language may allow states and dischargers to avoid or indefinitely delay compliance with water quality standards. This concern is heightened by the fact that a compliance schedule is a permitting matter that does not require EPA approval.

Thank you for the opportunity to comment on the Proposed Rule. Please do not hesitate to contact Kelly Foster at kfoster@waterkeeper.org should you have questions about these comments.

¹⁴ The requirements for compliance schedules for WQBELS in NPDES permits are discussed in a May 10, 2007 Memorandum from James Hanlon, Director of the EPA Office of Wastewater Management, which can be located at <http://water.epa.gov/lawsregs/guidance/wetlands/upload/signed-hanlon-memo.pdf>. Although we generally support EPA's proposal to incorporate provisions for compliance schedules into the water quality standards regulations, we do not concede that the decision in *Star-Kist Caribe Inc.*, 3 E.A.D. 172 (1990) was correctly decided in all respects as it may allow for issuance of compliance schedules in instances that are not permitted under the CWA.

Kelly Foster
Senior Attorney
WATERKEEPER® Alliance
17 Battery Place, Suite 1329
New York, NY 10004

Phillip Musegaas, Esq.
Hudson River Program Director
RIVERKEEPER®, Inc.
20 Secor Road
Ossining, NY 10562

Chris Wilke
Puget Soundkeeper and Executive Director
Puget SOUNDKEEPER® Alliance
5305 Shilshole Ave NW Suite 150
Seattle WA, 98107

Michael William Mullen
Choctawhatchee RIVERKEEPER®
P.O. Box 6734
Banks, AL 36005

Dean Naujoks
Riverkeeper and Executive Directory
Yadkin RIVERKEEPER®
308 Patterson Ave.
Winston Salem, NC 27101

Ian Wren
Staff Scientist
San Francisco BAYKEEPER®
785 Market St., Suite 850
San Francisco, CA 94103

Lisa Rinaman
St. Johns RIVERKEEPER®
2800 University Blvd. N.
Jacksonville, FL 32211

Kemp Burdette
Cape Fear RIVERKEEPER®
Cape Fear River Watch
617 Surry Street
Wilmington, NC 28401

Guy Alsentzer, Esq.
Upper Missouri Waterkeeper and Executive
Director
Upper Missouri WATERKEEPER®, Inc.
P.O. Box 128, Bozeman, Montana 59771

Elizabeth Nicholas
Executive Director
WATERKEEPERS® Chesapeake
1625 Primrose Road NW
Washington, DC 20012

Heather Ward, PhD
Executive Director
Waterkeepers® Carolina
Capitol Station, PO Box 28555
Raleigh, NC 27611

Jeff Kelble
Shenandoah RIVERKEEPER®
P.O. Box 405
Boyce, VA 22620

Deborah A. Mans,
Baykeeper & Executive Director
NY/NJ BAYKEEPER®
52 W. Front Street
Keyport, NJ 0773

Michael R Helfrich
Lower Susquehanna RIVERKEEPER®
Stewards of the Lower Susquehanna, Inc.
2098 Long Level Rd
Wrightsville, PA 17368

Bill Schultz
Raritan RIVERKEEPER®
P.O. Box 244
Keasbey, NJ 08832

Sandy Bihn
Executive Director
Lake Erie WATERKEEPER®, Inc.
3900 N. Summit, Bldg. 2
Toledo, Ohio 43611

Barbara Miller
Director
Silver Valley WATERKEEPER®
121 Cameron Avenue, Suite # 7
Kellogg, Idaho 83837

Matthew Starr
Upper Neuse Riverkeeper
Neuse RIVERKEEPER® Foundation
19 West Hargett Street, Suite 208
Raleigh, NC 27601

Robert Gallagher
Chairman
West/Rhode RIVERKEEPER®, Inc.
4800 Atwell Road, Suite 6
Shady Side, MD 20764

Art Norris
Quad Cities WATERKEEPER®
736 Federal St., Suite 2426
Davenport, IA 52803

Jerry O'Connell
Executive Director
Big Blackfoot RIVERKEEPER®, Inc.
Greenough, MT 59823

Earl Hatley
Grand RIVERKEEPER®
LEAD Agency, Inc.
19257 South 4403 Drive
Vinita, OK 74301

Kathy Phillips,
Executive Director and Coastkeeper
Assateague Coastal Trust/Assateague
COASTKEEPER®
9931 Old Ocean City Blvd.
Berlin, MD 21811

Forrest English
Program Director
Rogue RIVERKEEPER®
PO Box 102
Ashland, OR 97520

Brian Wegener, RIVERKEEPER®
Advocacy & Communications Manager
Tualatin Riverkeepers
11675 SW Hazelbrook Rd.
Tualatin, OR 97062

Theaux M. Le Gardeur
Exec. Director and Riverkeeper
Gunpowder RIVERKEEPER®
P.O. Box 156
Monkton, MD 21111

Lee Willbanks
Upper St. Lawrence RIVERKEEPER®
Executive Director, Save The River
409 Riverside Drive
Clayton, New York 13624

Robert Burns
Detroit RIVERKEEPER®
20600 Eureka Rd., Suite 313
Taylor, MI 48180

Justin Bloom
Suncoast WATERKEEPER®
P.O. Box 1028
Sarasota, FL 34230

Lauren Wargo
Lower Neuse Riverkeeper
Neuse RIVERKEEPER® Foundation
2207 Trent Blvd.
New Bern, NC 28562

Paul Orr
Lower Mississippi RIVERKEEPER®
c/o The Louisiana Environmental Action
Network
P.O. Box 66323
Baton Rouge, LA 70896

Dan Tonsmeire
Apalachicola RIVERKEEPER®
Box 8
232B Water Street
Apalachicola, Florida 32320

Christine Ellis
Waccamaw RIVERKEEPER®
A Program of Winyah Rivers Foundation
c/o Coastal Carolina University
Center for Marine and Wetland Studies
P.O. Box 261954
Conway, SC 29528-6054

Don McEnhill
Executive Director
Russian RIVERKEEPER®
PO Box 1335
Healdsburg, CA 95448