

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: February 18, 2020

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations
Committee

FROM: Sharon M. Tso  Council File No: 20-0002-S11
Chief Legislative Analyst Assignment No: 20-02-0137

SUBJECT: Resolution (Ryu - Koretz) to oppose the Navigable Water's Protection Rule

CLA RECOMMENDATION: Adopt the attached Resolution (Ryu - Koretz) to include in the City's 2019 - 2020 Federal Legislative Program OPPOSITION for the implementation of the Navigable Waters Protection Rule by the EPA.

SUMMARY

On June 14, 2019 a Resolution (Ryu - Koretz) was introduced to oppose the implementation of the Navigable Waters Protection Rule by the United States Environmental Protection Agency (EPA). The Resolution states that on January 23, 2020 the EPA announced a roll back of federal protections for streams and other smaller bodies of water. These bodies of water were being protected by the Waters of the United States Rule (WOTUS) under the Presidency of Barack Obama. This new rule under Trump's administration repeals the WOTUS rule.

The Resolution states that the Navigable Waters Protection Rule would lift federal protections for approximately half of the country's wetlands including two out of three freshwater streams, and roughly 81 percent of streams in the Southwest United States. The rule would leave these bodies of water under the environmental regulations of state and local authorities that are often poorly resourced. This could potentially cause an increase of pesticides and other chemicals flowing from smaller bodies of water into larger bodies above water as well as underground water sources. The Resolution, therefore, seeks an official position of the City of Los Angeles to oppose the implementation of the Navigable Waters Protection Rule proposed by the Environmental Protection Agency.

BACKGROUND

Under President Obama's administration, the United States Environmental Protection Agency (EPA) and United States Army Corps of Engineers (USACE) released a new proposed Waters of the United States rule (WOTUS) under the Clean Water Act (1972). The proposed Waters of the United States was established to clarify water resource management in the United States. According to the EPA, the Clean Water Act established a structured control of pollution and the standards of navigable waters to prevent hazardous spills in the water in order to protect the quality of water. The Waters of the United States Rule protected the nation's public health and aquatic resources by clarifying the definition of bodies of water in the United States that fall under federal jurisdiction.

In 2017, President Trump's administration announced Executive Order 13788, a two-step plan to replace the Waters of the United States Rule. Under Trump's Navigable Water's Protection Rule the scope of clean water is drastically decreased and the way waters are regulated would be immensely affected. On December 23, 2019, the first step to the rule repealing the Waters of the United States went into effect. On January 23, 2020, the agencies finalized the second of the two-step process with the Navigable Waters Protection Rule. The rule states four categories of water are to be federally regulated such as traditional navigable waters, perennial and intermittent tributaries that contribute surface flow to traditionally navigable waters, certain lakes, ponds and impoundments of jurisdictional waters, and wetlands that are adjacent to jurisdictional waters. Any other bodies of water that do not fall within those categories of water are excluded from the Navigable Water's Protection Rule, therefore do not fall under federal jurisdiction leaving the jurisdiction to state and local authorities. Local authorities may not have the resources to keep up with the level of quality of these waters.



Kimberly Tejada
Analyst

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Attachments: Resolution (Ryu - Koretz)

RESOLUTION

WHEREAS, any official position of the City of Los Angeles, with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state or a federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, on Thursday, January 23, 2020, the Environmental Protection Agency announced a major rollback of federal protections for streams and other smaller bodies of water that had been implemented under the now-repealed Waters of the United States rule (WOTUS), crafted under President Barack Obama; and

WHEREAS, under the Trump Administration's Navigable Waters Protection Rule, federal protections would be lifted for approximately half of the country's wetlands, two out of three freshwater streams, and roughly 81 percent of streams in the Southwest United States; and

WHEREAS, the new Rule, which will be implemented in the coming weeks, would leave much of the environmental regulation to often poorly resourced state and local authorities, potentially increasing the amount of pesticides and other industrial chemicals that flow from smaller bodies of water such as streams and wetlands, into larger above-ground and underground sources of water; and

WHEREAS, in a draft letter issued by the 41-member EPA Science Advisory Board, which is made up largely of Trump administration appointees, it was determined that the new Rule "decreases protection for our Nation's waters and does not support the objective of restoring and maintaining 'the chemical, physical and biological integrity' of these waters."; and

WHEREAS, the Trump Administration's Navigable Waters Protection Rule conflicts with the values, practices and efforts of the City of Los Angeles, non-governmental organizations and community members to protect and enhance the region's waterways and ocean, and meeting Federal Clean Water Act regulations.

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes into its 2019-2020 Federal Legislative Program OPPOSITION to the implementation of the Navigable Waters Protection Rule proposed by the Environmental Protection Agency.

PRESENTED BY: _____
DAVID E. RYU
Councilmember, 4th District

SECONDED BY: _____

JAN 24 2020