

## **Eliminate the WOTUS Rider in the Senate and House 2018 Appropriations Bills**

The Clean Water Act prohibits discharges of pollutants – including industrial chemicals, sanitary sewage and material used to fill waters – to the “Waters of the United States” (WOTUS). The definition of the term WOTUS has consequences and federal regulations have always contained a definition of WOTUS that includes rivers, streams and wetlands. In 2015, EPA clarified the definition of WOTUS based on a lengthy open public process and scientific studies.

Section 431 of the 2018 House appropriations bill and Section 434 of the Senate bill each contain a rider that would allow EPA to withdraw the current rule defining WOTUS without notice and comment. These riders are deeply troubling because:

- EPA has already proposed withdrawal of the rule and sought and obtained public comment – making the rider unnecessary and, apparently, allowing the agency to avoid responding to the comments.
- Public participation through notice and comment rulemaking is central to democratic, representative government. Congress should not establish a precedent of restricting, much less gutting, the opportunity for the public to provide its views and relevant information on an important element of the Clean Water Act.

Cutting off the public’s right to participate in rulemaking is a very bad precedent for any federal program. For a regulation as critical as the WOTUS definition, robust public involvement from all stakeholders – states, tribes, local governments, individuals and industry – is essential.

Changes to Clean Water Act jurisdiction – its reach over often toxic industrial chemicals, sewage and dirt or other material – have public health, environmental and economic consequences. Water and pollutants flow downstream. Whether and where pollutants can be safely disposed of in water systems affects families and communities. Pollution entering waterways contaminates drinking water and leads to fish kills and beach closures. When wetlands, which are nature’s way of filtering pollutants and ameliorating flooding from extreme weather events, are filled in or natural streams are artificially modified, we run the risk of increased flooding. Their removal or modification is felt each time a hurricane makes landfall or the floodwaters of the Mississippi River crest, because wetlands and natural streams are not there to moderate the ensuing damage. The definition of WOTUS also impacts environmental and economic interests such as hunting and fishing, recreation, agriculture and land development.

These examples strongly demonstrate why a public process that examines all parts of this complex problem is essential. Notice and comment rulemaking requires federal agencies to conduct their rulemaking activities in the open, to tell the public what is planned and obtain public comment on those proposals. Significant risks to public health, the environment and the economy make an open, public and transparent process for the WOTUS rulemaking critical.

### **For Further information**

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