



# Senate, House Interior spending bills block WOTUS rule, fully fund PILT

By [JULIE UFNER](#), [CHRIS MARKLUND](#) Jun. 27, 2016

## Both House and Senate Interior bills prohibit EPA's WOTUS rule

Both the House and the Senate appropriations committees have passed their versions of the FY17 Interior, Environment and Related Agencies appropriations bill, often referred to as the Interior bill.

Key provisions of interest to counties within the bills include:

**“Waters of the U.S.” (WOTUS):** Last year, the U.S. Army Corps of Engineers and the EPA finalized controversial new definitions for “waters of the U.S.” within the Clean Water Act. NACo has expressed multiple concerns over the rule’s impact on county-owned and maintained roadside ditches, bridges, flood control channels, drainage conveyances, and wastewater and stormwater systems and has called for the final rule to be withdrawn until further analysis and more in-depth consultation with state and local officials can be completed.

Both the House and Senate bills contain provisions to prohibit EPA from acting on its WOTUS rule. The provisions would prevent the EPA from moving forward to “implement, administer or enforce” the rule even if the federal court system were to lift its stay on the rule.

The House Energy and Water Appropriations bill, which funds U.S. Army Corps of Engineers (Corps) and Department of Energy programs, has a similar provision preventing the Corps from enforcing the WOTUS rule.

The FY17 Interior bill is one of the 12 annual spending bills that must be passed each year by Congress to fund federal government operations. The bill gives money to federal land managers under the U.S. Department of the Interior and the U.S. Forest Service as well as U.S. Environmental Protection Agency and many other agencies.





## June 2015

### Final WOTUS Rule Comes Up Short

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NACo Associate Legislative Director

The Environmental Protection Agency (EPA) and the Army Corps of Engineers (Corps) announced their final Clean Water Rule: Definition of Waters of the United States (WOTUS) rule, which would increase the number of streams and wetlands that are protected under the Clean Water Act (CWA). The rule, announced May 27, will take effect in 60 days after its publication in the Federal Register.

NACo Executive Director Matt Chase said the rule falls short of adding clarity to protecting the nation's waters and adds costs with few benefits. "While we appreciate the agencies' recent efforts, the flawed consultation process has resulted in a final rule that does not move us closer to achieving clean water goals and creates more confusion than clarity. Counties support common-sense environmental protection, but the final rule expands federal oversight and will create costly delays in critical work without any proven environmental benefit." NACo is undertaking an extensive analysis of the rule's impact on counties.

Following are initial highlights.

There are eight categories of waters that fall under federal jurisdiction — traditional navigable waters, interstate waters, territorial seas, impoundments (i.e. dams), tributaries, adjacent waters and specific regional features/100-year floodplain/4,000 feet from WOTUS with a significant nexus.

- The first four categories are essentially unchanged from current rule — traditional navigable, interstate, territorial seas and impoundments.
- Ditches and channels are classified as tributaries. However, the final rule contains exemptions for certain types of ditches. NACo is assessing whether the language is helpful for counties.
- Prairie potholes, Carolina bays and Delmarva bays, pocosins, western vernal pools and Texas coastal prairie wetlands may be jurisdictional.
- All waters located within a 100-year floodplain and all waters within 4,000 feet of the high-tide line or ordinary high water mark may trigger the significant nexus determination and be subject to WOTUS regulation.
- Storm water systems and wastewater recycling structures are exempt if they are built on "dry land." However, it's less certain whether storm water systems that have a portion of the system built in floodplains or adjacent to a WOTUS, are exempt.

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