

Congress Attempts to Wade into Waters of the U.S.

Congress hasn't been able to make any traction to legislatively define "navigable waters" in recent years, but lawmakers attempted to insert a provision in this year's Farm Bill that would have very narrowly defined the scope of the Clean Water Act. Representative Jaime Herrera Beutler (R-Wash.) put forth an amendment that would have limited the scope of the Clean Water Act to include only "relatively permanent, standing or continuously flowing bodies of water" and "wetlands that have a continuous surface water connection" to navigable waters. The amendment failed to make it out of the House rules committee and will not be debated on the House floor. However, a troubling amendment to repeal the 2015 Clean Water Rule or WOTUS rule, sponsored by Rep. Jim Banks (R-Ind.), was cleared for debate and a vote on the House Floor.

The FY2019 Energy and Water Development and Related Agencies Appropriations bill also contains a policy rider that would repeal the WOTUS rule. Previous policy riders in Fiscal Year 2018 appropriations bills that sought to exempt the repeal of the rule from the Administrative Procedures Act failed earlier this year.

Efforts to administratively repeal and replace the 2015 WOTUS rule continue. According to a document released last week, the EPA and the Army Corps of Engineers will not finalize its planned repeal of the rule until November and they are expected to release a "supplemental" proposal for the repeal this month. In the meantime, the agencies will be working to release a new, narrower definition of "waters of the U.S." this August, with a final rule expected more than a year later, in September 2019.

The Freshwater Mollusk Conservation Society, along with other groups with CASS, supports the protections for headwater streams and wetlands enshrined in the 2015 Waters of the U.S. rule. The rule was supported by millions of Americans and is backed by sound science. Please consider calling your member of Congress to express your support for protecting our nation's critical headwater streams and wetlands in order to shield communities from flooding, safeguard drinking water, and defend critical fish and wildlife habitat that supports an \$887 billion outdoor recreation economy.