



## NATIONAL CONFERENCE of STATE LEGISLATURES

*The Forum for America's Ideas*

**Daniel T. Blue, JR**  
*Senate Democratic Leader  
North Carolina  
President, NCSL*

**Raúl E. Burciaga**  
*Director  
Legislative Council Service  
New Mexico  
Staff Chair, NCSL*

**William T. Pound**  
*Executive Director*

June 16, 2017

The Honorable Scott Pruitt  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave N.W.  
Washington, D.C. 20460

RE: Waters of the United States

Dear Administrator Pruitt:

The National Conference of State Legislatures (NCSL), the bi-partisan organization representing the legislatures of our nation's states, territories, and commonwealths, appreciates the opportunity to provide input on the upcoming modifications to the "waters of the United States" definition in the Clean Water Act (CWA), as the U.S. Environmental Protection Agency (EPA) takes steps to rescind the 2015 definition, and develop a new rule consistent with the President's Executive Order 13778. By EPA's own admission, state and local governments are valuable partners in ensuring clean water, and we look forward to working together with EPA to ensure that partnership remains strong.

In 2012, after numerous conversations with EPA as it developed guidance for identifying waters protected by the Clean Water Act, we wrote to then Office of Management and Budget Director Jeffrey Zients urging EPA to undertake a formal rulemaking process, inclusive of a federalism consultation process with state and local governments. Additionally, we requested a study of the full costs that any proposed policy would have on all CWA programs. As we did then, we make those same requests now.

Specifically, NCSL encourages the administration to undertake a formal rulemaking process, inclusive of the required federalism consultation process with state and local governments. Additionally, we urge the agency to facilitate both formal and informal meetings with state and local elected officials to ensure that the agency can assess, from numerous viewpoints, various potential impacts of redefining the "waters of the United States" rule and to ensure that the voices and many interests across the nation play a role in the process. As partners in protecting America's water resources, it is also essential that state governments have a clear understanding of the changes to the definition of "waters of the U.S." and their impact on all aspects of the CWA. NCSL believes that early and frequent consultation can lead to a more positive outcome with better results, while also strengthening the federal, state and local government partnership.

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NCSL is appreciative of EPA holding an initial federalism consultation on April 19, 2017 to layout the agency's initial schedule for making modifications to the current "waters of the United States" definition. We look forward to continuing this work with EPA as the regulatory process moves forward and further decisions are made regarding the scope of the forthcoming regulation. Please contact NCSL staff, Ben Husch ([ben.husch@ncsl.org](mailto:ben.husch@ncsl.org), 202-624-7779) and Kristen Hildreth ([kristen.hildreth@ncsl.org](mailto:kristen.hildreth@ncsl.org), 202-624-3597) with any additional questions.

Sincerely,

A handwritten signature in black ink that reads "William T. Pound". The signature is written in a cursive style with a large, stylized initial "W".

William T. Pound  
Executive Director  
National Conference of State Legislatures