



**National Rural Electric  
Cooperative Association**  
A Endorsed Energy Cooperative

## *FAST* **FACTS**

### **Waters of the US (WOTUS)**

**Issue:** NRECA has significant concerns with the rule proposed by the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) to revise the definition of Waters of the United States under the federal Clean Water Act (CWA). The proposed rule would dramatically expand the Corps' and EPA's regulatory reach by including isolated ponds, puddles, ditches and other areas that only rarely have water, dramatically expanding the land subject to federal regulation.

Electric cooperatives own and maintain about 40 percent of the electric distribution lines in the nation, and serve an area covering nearly three quarters of the nation's landmass. Several activities associated with providing electric service require federal Clean Water Act permits. The proposed rule would necessitate permits for even more activities. Power lines require regular maintenance, including repair and replacement of poles and towers. In addition, all kinds of electric infrastructure require upgrades to make the system more resilient in the event of severe weather events. As our members increase generating capacity to meet the growing demands of our members and invest in generation from other fuels including renewables, electric cooperatives will need to build new transmission and distribution infrastructure.

The bottom line is that the WOTUS proposal will make electric transmission and distribution construction take longer and cost more.

**Status:** The WOTUS rule was proposed April 21, 2014 and will impose significant costs on small businesses, including electric cooperatives. The draft final rule was sent to the Office of Management and Budget by the EPA and Corps on April 6, 2015, and will now go through the interagency review process before being finalized.

All of NRECA's distribution cooperative members and all but three generation and transmission cooperatives, meet the Small Business Administration definition of a small business. The typical distribution co-op serves 13,000 consumers and, on average, seven customers per mile of electric distribution line –far fewer than the national average of 34 customers per mile of distribution line for investor owned utilities and 48 customers per mile for publicly owned utilities (municipals).

The Small Business Administration Office of Advocacy found that the EPA and the Army Corps of Engineers improperly certified the rule as not posing a significant economic impact on a substantial number of small entities. We also agree with the SBA that the agencies should have

prepared and made available in the rulemaking record an initial regulatory flexibility analysis describing the impact of the proposed rule on small entities. Furthermore, the EPA erred in not conducting a small business advocacy review (SBAR) panel in accordance with the requirements of the Small Business Regulatory Enforcement Fairness Act (SBREFA).

**NRECA Position:** Electric cooperative members value, and deserve, a healthy environment. Affordable and reliable electricity is also an interest of critical importance to our members and the nation. As electric cooperatives work to harmonize these interests on behalf of our members, maintaining the electric infrastructure on which our member owners rely, we cannot afford the delays and additional red tape this proposed rule would create. The increased costs and lengthy permitting for constructing and maintaining power lines imposed by the proposed rule would result in little – if any – enhanced protection for the nation’s waters. The proposed rule is not cost-effective and will impose significant economic impacts on a substantial number of small entities, including electric cooperatives.

**We call on EPA and the Corps to withdraw the proposal and engage in a meaningful dialogue with all stakeholders, including electric cooperatives and others that provide essential services to rural communities. EPA and the Corps should also take SBREFA seriously, and engage with small entities that will be significantly impacted by the WOTUS rule. We urge Members of Congress to support legislation scheduled to be reported by the House Transportation and Infrastructure Committee the week of April 13, 2015.**

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