

SIDE-BY-SIDE COMPARISON

DEFINITION OF “WATERS OF THE UNITED STATES”
H.R. 2421 versus CWA REGULATIONS

<u>H. R. 2421</u>	<u>The Corps/EPA CWA Regulations</u>
<p data-bbox="105 369 625 436"><u>DEFINITION OF WATERS OF THE UNITED STATES.</u></p> <p data-bbox="105 478 698 947">The term ‘waters of the United States’ means all waters subject to the ebb and flow of the tide, the territorial seas, and <u>all interstate and intrastate waters and their tributaries</u>, including lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, and all impoundments of the foregoing, <u>to the fullest extent that these waters, or activities affecting these waters, are subject to the legislative power of Congress under the Constitution.</u></p> <p data-bbox="105 1062 581 1094"><u>CONFORMING AMENDMENTS.</u></p> <p data-bbox="105 1136 630 1241">(1) by <u>striking ‘navigable waters of the United States’</u> each place it appears and inserting ‘waters of the United States’;</p> <p data-bbox="105 1283 706 1419">(2) in section 304(l)(1) by <u>striking ‘NAVIGABLE WATERS’</u> in the heading and inserting ‘WATERS OF THE UNITED STATES’; and</p> <p data-bbox="105 1461 698 1566">(3) by <u>striking ‘navigable waters’</u> each place it appears and inserting ‘waters of the United States’</p> <p data-bbox="105 1902 305 1934"><i>(Emphasis added.)</i></p>	<p data-bbox="743 369 959 401"><u>DEFINITIONS.</u></p> <p data-bbox="743 443 1333 474">The term “waters of the United States” means:</p> <p data-bbox="743 495 1511 632">(1) All waters which are currently used, or were used in the past, or may be susceptible to use in <i>interstate or foreign commerce</i>, including <u>all waters</u> which are <u>subject to the ebb and flow of the tide</u>;</p> <p data-bbox="743 653 1430 684">(2) <u>All interstate waters</u> including interstate wetlands;</p> <p data-bbox="743 705 1503 905">(3) <u>All other waters</u> such as <u>intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds</u>, <u>the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:</u></p> <p data-bbox="792 926 1495 989">(i) Which are or could be used by <i>interstate or foreign</i> travelers for recreational or other purposes; or</p> <p data-bbox="792 1010 1479 1073">(ii) From which fish or shellfish are or could be taken and sold in <i>interstate or foreign commerce</i>; or</p> <p data-bbox="792 1094 1446 1157">(iii) Which are used or could be used for industrial purposes by industries in <i>interstate commerce</i>;</p> <p data-bbox="743 1178 1430 1241">(4) <u>All impoundments of waters otherwise defined as waters of the United States under the definition</u>;</p> <p data-bbox="743 1262 1503 1325">(5) <u>Tributaries</u> of waters identified in paragraphs (a)(1)-(4) of this section;</p> <p data-bbox="743 1346 1040 1377">(6) <u>The territorial seas</u>;</p> <p data-bbox="743 1398 1495 1493">(7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a)(1)-(6) of this section.”</p> <p data-bbox="743 1514 1487 1902">(8) Waters of the United States <u>DO NOT</u> include <u>PRIOR CONVERTED CROPLAND</u>. Notwithstanding the determination of an area’s status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA. <u>WASTE TREATMENT SYSTEMS, including treatment ponds or lagoons</u> designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) <u>ARE NOT</u> waters of the United States.</p> <p data-bbox="743 1923 943 1955"><i>(Emphasis added.)</i></p>