

The term **waters of the United States** means:

1986 Regulation	Proposed 2022 Regulation
1. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;	(1) All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters including interstate wetlands;	(2) All interstate waters including interstate wetlands;
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters: <ul style="list-style-type: none"> a. Which are or could be used by interstate or foreign travelers for recreational or other purposes; or b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or c. Which are used or could be used for industrial purposes by industries in interstate commerce; 	(3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds: <ul style="list-style-type: none"> (i) That are relatively permanent, standing or continuously flowing bodies of water with a continuous surface connection to the waters identified in paragraph (a)(1), (a)(2), (a)(5)(i), or (a)(6) of this section; or (ii) That either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of waters identified in paragraph (a)(1), (2), or (6) of this section;
4. All impoundments of waters otherwise defined as waters of the United States under this definition;	(4) All impoundments of waters otherwise defined as waters of the United States under the definition, other than impoundments of waters identified under paragraph (a)(3) of this section;
5. Tributaries of waters identified in paragraphs (s)(1) through (4) of this section;	(5) Tributaries of waters identified in paragraph (a)(1), (2), (4), or (6) of this section: <ul style="list-style-type: none"> (i) That are relatively permanent, standing or

	<p>continuously flowing bodies of water; or</p> <p>(ii) That either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of waters identified in paragraph (a)(1), (2), or (6) of this section;</p>
6. The territorial seas;	(6) The territorial seas;
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (s)(1) through (6) of this section;	<p>(7) Wetlands adjacent to the following waters (other than waters that are themselves wetlands):</p> <p>(i) Waters identified in paragraph (a)(1), (2), or (6) of this section; or</p> <p>(ii) Relatively permanent, standing or continuously flowing bodies of water identified in paragraph (a)(4) or (a)(5)(i) of this section and with a continuous surface connection to such waters; or</p> <p>(iii) Waters identified in paragraph (a)(4) or (a)(5)(ii) of this section when the wetlands either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of waters identified in paragraph (a)(1), (2), or (6) of this section;</p>
waste treatment systems, including treatment ponds or lagoons 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) are not waters of the United States.	(8) Waste treatment systems, including treatment ponds or lagoons, designed to meet the requirements of the Clean Water Act are not waters of the United States; and

Waters of the United States do not include prior converted cropland. 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.	(9) Waters of the United States do not include prior converted cropland. 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.
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Major Changes Underway in Clean Water Act "Navigable Waters" Regulations, With Supreme Court Review of Wetlands in the Works <https://briscoelaw.net>