


(Original Signature of Member)

110TH CONGRESS
1ST SESSION

H. R. 2421

To amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

IN THE HOUSE OF REPRESENTATIVES

Mr. OBERSTAR (for himself and [see ATTACHED LIST of cosponsors]) introduced the following bill; which was referred to the Committee on

A BILL

To amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress, assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Clean Water Restora-
5 tion Act of 2007".

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are as follows:

1 (1) To reaffirm the original intent of Congress
2 in enacting the Federal Water Pollution Control Act
3 Amendments of 1972 (86 Stat. 816) to restore and
4 maintain the chemical, physical, and biological integ-
5 rity of the waters of the United States.

6 (2) To clearly define the waters of the United
7 States that are subject to the Federal Water Pollu-
8 tion Control Act (33 U.S.C. 1251 et seq.).

9 (3) To provide protection to the waters of the
10 United States to the fullest extent of the legislative
11 authority of Congress under the Constitution.

12 **SEC. 3. FINDINGS.**

13 Congress finds the following:

14 (1) Water is a unique and precious resource
15 that is necessary to sustain human life and the life
16 of animals and plants.

17 (2) Water is used not only for human, animal,
18 and plant consumption, but is also important for ag-
19 riculture, transportation, flood control, energy pro-
20 duction, recreation, fishing and shellfishing, and mu-
21 nicipal and commercial uses.

22 (3) In enacting amendments to the Federal
23 Water Pollution Control Act in 1972 and through
24 subsequent amendment, including the Clean Water
25 Act of 1977 (91 Stat. 1566) and the Water Quality

1 Act of 1987 (101 Stat. 7), Congress established the
2 national objective of restoring and maintaining the
3 chemical, physical, and biological integrity of the wa-
4 ters of the United States and recognized that achiev-
5 ing this objective requires uniform, minimum na-
6 tional water quality and aquatic ecosystem protec-
7 tion standards to restore and maintain the natural
8 structures and functions of the aquatic ecosystems
9 of the United States. Since the 1970s, the definition
10 of ‘waters of the United States’ in the regulations of
11 the Environmental Protection Agency and the Army
12 Corps of Engineers have properly established the
13 scope of waters to be protected under the Federal
14 Water Pollution Control Act (33 U.S.C. 1251 et
15 seq.) in order to meet such national objective.

16 (4) Water is transported through inter-
17 connected hydrologic cycles, and the pollution, im-
18 pairment, or destruction of any part of an aquatic
19 system may affect the chemical, physical, and bio-
20 logical integrity of other parts of the aquatic system.

21 (5) Protection of intrastate waters, along with
22 other waters of the United States, is necessary to re-
23 store and maintain the chemical, physical, and bio-
24 logical integrity of all waters in the United States.

1 (6) The regulation of discharges of pollutants
2 into interstate and intrastate waters is an integral
3 part of the comprehensive clean water regulatory
4 program of the United States.

5 (7) Small and intermittent streams, including
6 ephemeral, and seasonal streams, and their start
7 reaches comprise the majority of all stream and river
8 miles in the conterminous United States. These wa-
9 ters reduce the introduction of pollutants to larger
10 rivers and streams, affect the life cycles of aquatic
11 organisms and wildlife, and impact the flow of high-
12 er order streams during floods.

13 (8) The pollution or other degradation of wa-
14 ters of the United States, individually and in the ag-
15 gregate, has a substantial relation to and effect on
16 interstate commerce.

17 (9) Protection of the waters of the United
18 States, including intrastate waters, is necessary to
19 prevent significant harm to interstate commerce and
20 sustain a robust system of interstate commerce in
21 the future.

22 (10) Waters, including wetlands, provide protec-
23 tion from flooding, and draining or filling wetlands
24 and channelizing or filling streams, including intra-
25 state wetlands and streams, can cause or exacerbate

1 flooding, placing a significant burden on interstate
2 commerce.

3 (11) Millions of people in the United States de-
4 pend on wetlands and other waters of the United
5 States to filter water and recharge surface and sub-
6 surface drinking water supplies, protect human
7 health, and create economic opportunity. Source
8 water protection areas containing one or more small
9 or intermittent streams provide water to public
10 drinking water supplies serving more than
11 110,000,000 Americans.

12 (12) Millions of people in the United States
13 enjoy recreational activities that depend on intra-
14 state waters, such as waterfowl hunting, bird watch-
15 ing, fishing, and photography, and those activities
16 and associated travel generate billions of dollars of
17 income each year for the travel, tourism, recreation,
18 and sporting sectors of the economy of the United
19 States.

20 (13) Activities that result in the discharge of
21 pollutants into waters of the United States are com-
22 mercial or economic in nature. More than 40 per-
23 cent, or 14,800, facilities with permits issued under
24 the Federal Water Pollution Control Act, including
25 industrial facilities and municipal sewage treatment

1 systems, discharge into small or intermittent
2 streams.

3 (14) States have the responsibility and right to
4 prevent, reduce, and eliminate pollution of waters,
5 and the Federal Water Pollution Control Act re-
6 spects the rights and responsibilities of States by
7 preserving for States the ability to manage permit-
8 ting, grant, and research programs to prevent, re-
9 duce, and eliminate pollution, and to establish stand-
10 ards and programs more protective of a State's wa-
11 ters than is provided under Federal standards and
12 programs.

13 (15) Protecting the quality of and regulating
14 activities affecting the waters of the United States
15 is a necessary and proper means of implementing
16 treaties to which the United States is a party, in-
17 cluding treaties protecting species of fish, birds, and
18 wildlife.

19 (16) Protecting the quality of and regulating
20 activities affecting the waters of the United States
21 is a necessary and proper means of protecting Fed-
22 eral land, including hundreds of millions of acres of
23 parkland, refuge land, and other land under Federal
24 ownership and the wide array of waters encompassed
25 by that land.

1 (17) Protecting the quality of and regulating
2 activities affecting the waters of the United States
3 is necessary to protect Federal land and waters from
4 discharges of pollutants and other forms of degrada-
5 tion.

6 **SEC. 4. DEFINITION OF WATERS OF THE UNITED STATES.**

7 Section 502 of the Federal Water Pollution Control
8 Act (33 U.S.C. 1362) is amended—

9 (1) by striking paragraph (7);

10 (2) by redesignating paragraphs (8) through
11 (24) as paragraphs (7) through (23), respectively;
12 and

13 (3) by adding at the end the following:

14 “(24) WATERS OF THE UNITED STATES.—The
15 term ‘waters of the United States’ means all waters
16 subject to the ebb and flow of the tide, the territorial
17 seas, and all interstate and intrastate waters and
18 their tributaries, including lakes, rivers, streams (in-
19 cluding intermittent streams), mudflats, sandflats,
20 wetlands, sloughs, prairie potholes, wet meadows,
21 playa lakes, natural ponds, and all impoundments of
22 the foregoing, to the fullest extent that these waters,
23 or activities affecting these waters, are subject to the
24 legislative power of Congress under the Constitu-
25 tion.”.

1 **SEC. 5. CONFORMING AMENDMENTS.**

2 The Federal Water Pollution Control Act (33 U.S.C.
3 1251 et seq.) is amended—

4 (1) by striking “navigable waters of the United
5 States” each place it appears and inserting “waters
6 of the United States”;

7 (2) in section 304(l)(1) by striking “NAVIGABLE
8 WATERS” in the heading and inserting “WATERS OF
9 THE UNITED STATES”; and

10 (3) by striking “navigable waters” each place it
11 appears and inserting “waters of the United
12 States”.

13 **SEC. 6. SAVINGS CLAUSE.**

14 Nothing in this Act (including any amendment made
15 by this Act) shall be construed as affecting the authority
16 of the Secretary of the Army or the Administrator of the
17 Environmental Protection Agency (as the case may be)
18 under the following provisions of the Federal Water Pollu-
19 tion Control Act (33 U.S.C. 1251 et seq.):

20 (1) Section 402(l)(1), relating to discharges
21 composed entirely of agricultural return flows.

22 (2) Section 402(l)(2), relating to discharges of
23 stormwater runoff from oil, gas, and mining oper-
24 ations.

1 (3) Section 404(f)(1)(A), relating to discharges
2 of dredged or fill materials from normal farming,
3 silviculture, and ranching activities.

4 (4) Section 404(f)(1)(B), relating to discharges
5 of dredged or fill materials for the purpose of main-
6 tenance of currently serviceable structures.

7 (5) Section 404(f)(1)(C), relating to discharges
8 of dredged or fill materials for the purpose of con-
9 struction or maintenance of farm or stock ponds or
10 irrigation ditches and maintenance of drainage
11 ditches.

12 (6) Section 404(f)(1)(D), relating to discharges
13 of dredged or fill materials for the purpose of con-
14 struction of temporary sedimentation basins on con-
15 struction sites.

16 (7) Section 404(f)(1)(E), relating to discharges
17 of dredged or fill materials for the purpose of con-
18 struction or maintenance of farm roads or forest
19 roads or temporary roads for moving mining equip-
20 ment.

21 (8) Section 404(f)(1)(F), relating to discharges
22 of dredged or fill materials resulting from activities
23 with respect to which a State has an approved pro-
24 gram under section 208(b)(4) of such Act.

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