

2015 Clean Water Rule Cheat Sheet

WATERS OF THE U.S.: The term “waters of the United States” means:

- (a)(1)** All waters which are currently used, 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;
- (a)(2)** All interstate waters, including interstate wetlands;
- (a)(3)** The territorial seas;
- (a)(4)** All impoundments of waters otherwise identified as waters of the United States under this section;
- (a)(5)** All tributaries, as defined in paragraph (c)(3) of this section, of waters identified in paragraphs (a)(1) through (3) of this section;
 - (c)(3)** Tributary and tributaries. The terms tributary and tributaries each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (a)(4) of this section), to a water identified in paragraphs (a)(1) through (3) of this section that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark.
- (a)(6)** All waters adjacent to a water identified in paragraphs (a)(1) through (5) of this section, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;
 - (c)(1)** Adjacent. The term adjacent means bordering, contiguous, or neighboring a water identified in paragraphs (a)(1) through (5) of this definition, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like.
 - (c)(2)** Neighboring. The term neighboring means:
 - (c)(2)(i)** All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (a)(1) through (5) of this section. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;
 - (c)(2)(ii)** All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1) through (5) of this section and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;
 - (c)(2)(iii)** All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (a)(1) or (a)(3) of this section, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.
- (a)(7)** All waters in paragraphs (a)(7)(i) through (v) of this section where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (a)(1) through (3) of this section.
 - (a)(7)(i)** Prairie potholes.
 - (a)(7)(ii)** Carolina bays and Delmarva bays.
 - (a)(7)(iii)** Pocosins.
 - (a)(7)(iv)** Western vernal pools.
 - (a)(7)(v)** Texas coastal prairie wetlands.
- (a)(8)** All waters located within the 100- year floodplain of a water identified in paragraphs (a)(1) through (3) of this section and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (a)(1) through (5) of this section where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (a)(1) through (3) of this section.

Not an official document; refer to 33CFR328.3 for official information.

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EXCLUSIONS: 33CFR328.3(b) The following are not “waters of the United States” even where they otherwise meet the terms of paragraphs (a)(4) through (8) of this section.

- (b)(1)** Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act.
- (b)(2)** 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.
- (b)(3)** The following ditches:
 - (b)(3)(i)** Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.
 - (b)(3)(ii)** Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.
 - (b)(3)(iii)** Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1) through (3) of this section.
- (b)(4)** The following features:
 - (b)(4)(i)** Artificially irrigated areas that would revert to dry land should application of water to that area cease;
 - (b)(4)(ii)** Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;
 - (b)(4)(iii)** Artificial reflecting pools or swimming pools created in dry land;
 - (b)(4)(iv)** Small ornamental waters created in dry land;
 - (b)(4)(v)** Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;
 - (b)(4)(vi)** Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and
 - (b)(4)(vii)** Puddles.
- (b)(5)** Groundwater, including groundwater drained through subsurface drainage systems.
- (b)(6)** Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.
- (b)(7)** Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.