

Proposed Definition of “waters of the United States” - 33 C.F.R. § 328.3

- a. The term “waters of the United States” includes ONLY
 1. Those interstate waters that are navigable-in-fact and currently used or susceptible to use in interstate or foreign commerce. These waters include the territorial seas.
 2. Permanent, standing or continuously flowing streams, rivers, and lakes directly connected to navigable-in-fact waters described in a.1. Continuously flowing means an uninterrupted flow except in extreme weather conditions such as drought. These waters do not include groundwater or channels through which waters flow intermittently or ephemerally, or channels that provide only periodic drainage, such as from rainfall.
 3. Those wetlands that directly abut and are indistinguishable from the waters described in a.1. and a.2. Wetlands are those areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, and bogs. Wetlands are indistinguishable from the waters described in a.1. and a.2. when the wetlands and waters have merged so there is no clear demarcation between the two.

by,

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