

AMERICA'S COMMITMENT TO CLEAN WATER ACT

WHAT THE BILL ACTUALLY DOES AND DOES NOT

PURPOSES:

- Restores the jurisdictional application of the Clean Water Act to that which existed prior to the Supreme Court decisions in *Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers* (2001), and the consolidated cases of *Rapanos v. United States* and *Carabell v. United States Army Corps of Engineers* (2006).
- Reaffirms the original objective of Congress in enacting the Federal Water Pollution Control Act Amendments of 1972 to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.

WHAT THE BILL DOES:

- Deletes the term “navigable waters” and replaces it with its statutory definition “waters of the United States.” The Supreme Court unanimously agreed that “navigable” never required navigation-in-fact, but created great confusion when no majority of the Court could agree what “navigable” means.
- Adds a statutory definition of “waters of the United States” based upon the regulatory definition established in 1986 during the Reagan administration.
- Codifies a regulatory exemption for “prior converted croplands”.
- Codifies a regulatory exemption for “waste treatment systems”.

LIMITATION OF THE BILL:

- Limits the authorities of the Environmental Protection Agency and the Corps of Engineers to those that existed on January 8, 2001 – the day prior to the Supreme Court decision in *SWANCC*.

(OVER)

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(CONTINUED)

WHAT THE BILL DOES NOT:

- Does not create any Federal jurisdiction over groundwater.
- Does not diminish States' rights over water quality or quantity.
- Does not affect existing permitting exemptions for—
 1. Normal farming, silviculture, and ranching activities.
 2. Maintaining and emergency repairs to dikes, dams, levees, groins, riprap, breakwaters, causeways, and transportation structures.
 3. Farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches.
 4. Construction of temporary sedimentation basins on a construction site.
 5. Farm or forest roads, and temporary roads for moving mining equipment.
 6. Agricultural stormwater discharges and return flows from irrigated agriculture.
 7. Discharges from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities.
- Does not affect long-standing policies to not regulate—
 1. Non-tidal drainage and irrigation ditches excavated on dry land.
 2. Artificially irrigated areas which would revert to upland if the irrigation ceased.
 3. Artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water that are used for purposes such as stock watering, irrigation, settling basins, or rice growing.
 4. Reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 5. Water filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel.