

[Law Week](#) (subscription only) reports that:

Rep. James Oberstar (D-Minn.) introduced legislation April 21 that would amend the Clean Water Act to clarify and “reaffirm” U.S. jurisdiction over waters of the United States, including wetlands.

The America’s Commitment to Clean Water Act (H.R. 5088) would remove the term “navigable waters of the United States” from the Clean Water Act and replace it with the phrase “waters of the United States.”

Specifically, it would ensure that the Clean Water Act can cover the same waters it did prior to two U.S. Supreme Court rulings in 2001 and 2006, Oberstar said.

During a news conference, Oberstar said the court decisions “threw the nation’s clean water programs into turmoil, creating confusion and uncertainty for communities, developers, and agricultural interests. “The result has been increased processing times and backlogs [for permits] as the agencies struggle to interpret the court decisions.”

“The bill is not an expansion of the Clean Water Act and will not require permits for every wet area,” he said. “Simply put, if it was not regulated before 2001, it will not be regulated with enactment of this legislation.”

Clarification is all the more warranted because the second of the Supreme Court opinions ([Rapanos](#)) had no majority opinion and has caused great confusion in the lower courts. The earlier opinion, [SWANCC](#), is based in part on concern about a possible constitutional issue, but the constitutional issue has itself been eliminated by a [later ruling](#).