

EPA WETLANDS FACT SHEET # 20

Clean Water Act § 404(f) Exemptions

Section 404 of the Clean Water Act (Act) requires permits for the discharge of dredged or fill material into waters of the United States, including wetlands.

Exemptions

Section 404(f) of the Act generally exempts discharges of dredged or fill material associated with normal farming, ranching, and forestry activities such as plowing, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products or upland soil and water conservation practices. This exemption pertains to normal farming and harvesting activities that are part of an established, ongoing farming or forestry operation.

Activities Not Exempt

If an activity involving a discharge of dredged or fill material represents a *new use* of the wetland, and the activity would result in a *reduction in reach or impairment of flow or circulation* of regulated waters, including wetlands, the activity is *not* exempt. Both conditions must be met in order for the activity to be considered non-exempt.

Examples

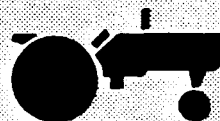
Activities that bring a wetland into farm production where that wetland has not previously been used for farming are not considered part of an established operation, and therefore are not exempt. In general, any discharge of dredged or fill material associated with an activity that converts a wetland to upland is not exempt, and requires a Section 404 permit.

However, introduction of a new cultivation technique such as discing between crop rows for weed control may be a new farming activity, but because the farm operation is ongoing, the activity is exempt from permit requirements under Section 404. Planting different crops as part of an established rotation, such as soybeans to rice, is exempt. Discharges associated with ongoing rotations of rice and crawfish

production are also exempt. To find out whether specific activities are exempt, contact the local Corps or EPA office.

Activities Exempt Under the Clean Water Act Section 404 (f)

- **Established (ongoing) normal farming, ranching, and forestry activities:**
 - plowing
 - seeding
 - cultivating
 - harvesting food, fiber, and forest products
 - minor drainage
 - upland soil and water conservation practices
- Maintenance (but not construction) of drainage ditches
- Construction and maintenance of irrigation ditches
- Construction and maintenance of farm or stock ponds
- Construction and maintenance of farm or forest roads, in accordance with best management practices
- Maintenance of structures, such as dams, dikes, and levees



The publication "Agriculture and Wetlands: A Compilation of Factsheets" can be requested free of charge from the EPA Wetlands Hotline.



For more information, contact the EPA Wetlands Hotline at 1-800-832-7828 *

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