



19 Wetlands on Agricultural Lands: Section 404 and Swampbuster

Farmers who own or manage wetlands are directly affected by two important Federal programs:

(1) Section 404 of the Clean Water Act, which requires individuals to obtain a permit before discharging dredged or fill material into waters of the United States, including most wetlands, and (2) the Swampbuster provisions of the Food Security Act, which withholds certain Federal farm program benefits from farmers who convert or modify wetlands. Together, these two programs have helped to reduce the rate at which wetlands are converted to agriculture and other uses.

The Federal agencies involved (EPA, the U.S. Army Corps of Engineers, the U.S. Department of Agriculture, and the U.S. Fish and Wildlife Service) are actively seeking to coordinate their activities and to clarify the relationship between the programs. For example, "prior converted croplands" have been excluded from regulation under Section 404 to be consistent with Swampbuster—and one wetland identification can be used for both the Section 404 program and the Swampbuster program.

Section 404 Provisions

Most routine ongoing farming activities do not require Section 404 permits. This is perhaps the most important information for farmers regarding the Section 404 program. Section 404 permitting requirements apply only to discharges of dredged or fill materials in wetlands, streams, rivers, and "other waters of the United States." In general, farming activities that do not occur in wetlands or other waters of the United States or do not involve dredged or fill material do not require Section 404 permits.

In addition, many normal farming, silviculture, and ranching activities that involve discharges of dredged or fill materials into waters of the United States are exempted from Section 404; that is, they do not require a permit. In order to be exempt, the farming activity must be part of an ongoing farming operation and cannot be associated with bringing a wetland

into agricultural production or converting an agricultural wetland to a non-wetland area (see Fact Sheet #20).

Swampbuster Provisions

Similar to the Section 404 program, the Swampbuster program generally allows the continuation of most farming practices so long as wetlands are not converted or wetland drainage increased. However, certain activities such as clearing, draining, or otherwise converting a wetland are activities addressed by the Swampbuster program. The program discourages farmers from altering wetlands by withholding Federal farm program benefits from any person who—

- plants an agricultural commodity on a converted wetland that was converted by drainage, dredging, leveling, or any other means (after December 23, 1985)
- converts a wetland for the purpose of or to make agricultural commodity production possible (after November 28, 1990).

Check with your local Corps district office if you are unsure whether your ongoing or planned activities occurring in wetlands are regulated under the Section 404 program.

Check with the Natural Resources Conservation Service (formerly the Soil Conservation Service) before clearing, draining, or manipulating any wet areas on your land to make sure you maintain your farm program benefits.

For more information, contact the EPA Wetlands Information Hotline at 1-800-832-7828 (contractor operated).



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