



# WETLANDS FACT SHEET #19

## Agriculture and Wetlands:

### § 404 and Swampbuster

The two most important Federal wetlands programs that directly affect farmers are the Section 404 permitting program and the Swampbuster program. Section 404 of the Clean Water Act requires that individuals must obtain a U. S. Army Corps of Engineers (Corps) 404 permit before discharging dredged or fill material into waters of the United States, including most wetlands. The Swampbuster program of the Food Security Act, administered by the U. S. Department of Agriculture, is intended to discourage the alteration of wetlands by withholding certain Federal farm program benefits from farmers who convert or modify wetlands.

Section 404 permitting and Swampbuster provision requirements are complex and can be confusing. The Federal agencies involved are actively working together to improve program coordination, and to clarify the relationship between Section 404 and Swampbuster. For example, "prior converted croplands" have been excluded from regulation under Section 404 to be consistent with Swampbuster.

### Section 404 Provisions

Perhaps the most important information for farmers regarding Section 404 is that most routine, ongoing farming activities do not require individual Section 404 permits. 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 occur in areas that are not wetlands or waters of the U. S. or that do not involve discharges of dredged and fill material do not require Section 404 permits.

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, and do not require notification or submission of a permit application to the Corps. 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 agriculture production or converting an agricultural wetland to a non-wetland area.

### Swampbuster Provisions

The Swampbuster provision of the 1985 Food Security Act, as amended by the Food, Agriculture, Conservation, and Trade Act of 1990, withholds 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; or
- converts a wetland for the purpose of or to make agricultural commodity production possible after November 28, 1990.

Farmers are asked to report on whether they plan to or have altered any "wet area" when they apply for their farm benefits (Form AD 1026). The Soil Conservation Service assists farmers in making wetland determinations with regard to the Swampbuster Program.

To make sure farmers maintain their benefits under the USDA farm program, they should contact the Soil Conservation Service before clearing and stumping, draining, or manipulating any wet areas on their land.

They should also check with the local Corps district office if they are unsure whether ongoing or planned activities occurring in wetlands are regulated under Section 404.

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