



**US Army Corps  
of Engineers** ®  
Fort Worth District

# Public Notice

Withdrawal of the Clean Water Act Interpretive Rule for  
Section 404 (f)(1)(A)

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The purpose of this public notice is to inform you of an action in which you might be interested.

## **Regulatory Program**

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

## **Section 10**

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

## **Section 404**

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

## PUBLIC NOTICE

### CLEAN WATER ACT INTERPRETIVE RULE FOR 404(f)(1)(A)

#### WITHDRAWAL

The U.S. Environmental Protection Agency (EPA) and the U.S. Department of the Army (Army) are announcing the withdrawal of an interpretive rule addressing the exemption from permitting provided under section 404(f)(1)(A) of the Clean Water Act (CWA). The agencies want to make clear that the statutory exemption of 404(f)(1)(A) still remains available for use when applicable for discharges of dredged and/or fill material associated with normal farming, silviculture, and ranching activities that are part of an established operation and that do not have as their purpose bringing an area of waters of the U.S. into a use to which it was not previously subject, where the flow or circulation of the waters of the U.S. may be impaired or the reach of such waters be reduced (see 33 CFR 323.4 for more information).

On March 25, 2014, the Agencies signed an interpretive rule, “Interpretive Rule Regarding Applicability of the Exemption from Permitting under Section 404(f)(1)(A) of the Clean Water Act to Certain Agricultural Conservation Practices,” that addressed applicability of the permitting exemption provided under section 404(f)(1)(A) of the CWA to discharges of dredged or fill material associated with certain agricultural conservation practices. Congress subsequently directed the agencies to withdraw this interpretive rule. See, *Consolidated and Further Continuing Appropriation Act, 2015*, Division D, section 112, Pub. L. No. 113-235.

On January 29, 2015, the agencies signed a memorandum withdrawing the interpretive rule and this action is effective immediately. The Memorandum of Understanding signed on March 25, 2014, by EPA, Army, and the U.S. Department of Agriculture, concerning the interpretive rule is also withdrawn. The signed memorandum withdrawing the interpretive rule is available at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx>. The Federal Register Notice announcing the withdrawal will be published at [www.federalregister.gov](http://www.federalregister.gov). Similar public notices are being published concurrently by other Corps district offices.

**DATES:** The interpretive rule is withdrawn as of January 29, 2015.

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