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Public Notices

PUBLIC NOTICE: Clean Water Act Interpretive Rule For 404(f)(1)(A) Withdrawal

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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on March 25, 2014, by EPA, Army, and the U.S. Department of Agriculture, concerning the interpretive rule is also withdrawn.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. 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DATES: The interpretive rule is withdrawn as of January 29, 2015.

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