

# **Reference: RGL 82-14**

## **Subject: JURISDICTION-SECTION 10**

### **Title: SECTION 10 JURISDICTIONAL LIMITS IN NON-TIDAL RIVERS AND LAKES**

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**Originator: DAEN-CWO-N**

**Description: DEFINED THE SCOPE OF SEC 10 AUTHORITY IN NAVIGABLE WATER BODIES.**

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1. The purpose of this letter is to provide clarification of our existing implementation policy regarding Section 10 jurisdiction in non-tidal waters.
2. The plaintiffs in a recent litigation case argued that the dissimilar wording of 33 CFR 329.11(a) and 33 CFR 329.12(b), regarding water bodies that are extremely shallow or obstructed by barriers, implies that Section 10 authority does not extend across shallows or marshes in non-tidal water bodies. This is obviously not the intent of 33 CFR 329.12(b).
3. To remove this ambiguity 33 CFR 329.11(a) will be modified in the final regulations to add the following statement: "Jurisdiction thus extends to the edge (as determined above) of all such water bodies, even though portions of the water body may be extremely shallow, or obstructed by shoals, vegetation or other barriers. Marshlands and similar areas are thus considered navigable in law, but only so far as the area is subject to inundation by the ordinary high waters."

FOR THE COMMANDER: