

# **Regulatory Guidance Letter 88-14**

## **SUBJECT: Applicability of Section 404 to Piles**

DATE: November 7, 1988

EXPIRES: December 31, 1990

The Corps of Engineers has a longstanding policy that piles do not constitute fill material and that placing piles does not constitute a discharge of fill material. This policy is consistent with the definitions of "fill material" and "discharge of fill" material in our regulations at 33 CFR Part 323.2(e) and 33 CRF Part 323.2(f), respectively.

As a result of this longstanding policy, many structures, such as piers, bridges, homes, walkways, etc., have been constructed in Section 404 waters without the need for a Corps permit. However, in the situation where piles are used in a manner essentially equivalent to fill in effect, purpose, and function they should be treated as "fill material" under the 404 program. In other words, if piles are placed so close together that they effectively replace an aquatic area and create a fill for the primary purpose of converting the aquatic area to dry land, then the activity should be regulated under Section 404.

As with all activity determinations (i.e. whether an activity requires a 404 permit), the Corps is solely responsible for the decision.

This guidance expires 31 December 1990 unless sooner revised or rescinded.