

## **Exemptions to Permit Requirements**

In general, Section 404 of the Clean Water Act requires permits for the discharge of dredged or fill material into waters of the United States, including wetlands. However, certain activities, detailed below, are exempt from permit requirements under Section 404(f).

### **Activities Exempt under the Clean Water Act, Section 404(f)**

- Established (ongoing) farming, ranching, and forestry activities:
  - plowing
  - seeding
  - cultivating
  - harvesting food, fiber, and forest products
  - minor drainage
  - upland soil and water conservation practices.
- Maintenance (but not construction) of drainage ditches
- Construction and maintenance of irrigation ditches
- Construction and maintenance of farm or stock ponds
- Construction and maintenance of farm and forest roads, in accordance with best management practices
- Maintenance of structures, such as dams, dikes, and levees

## **Exemptions**

You do *not* generally need a permit under Section 404 if your discharges of dredged or fill material are associated with normal farming, ranching, and forestry activities such as plowing, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products or upland soil and water conservation practices. This exemption pertains to normal farming and harvesting activities that are part of an established, ongoing farming or forestry operations.

## **Activities Not Exempt**

If an activity involving a discharge of dredged or fill material represents a *new use* of the wetland, and the activity would result in a *reduction in reach or impairment of flow or circulation* of regulated waters, including wetlands, the activity is *not* exempt. Both conditions must be met in order for the activity to be considered non-exempt. In general, any discharge of dredged or fill material associated with an activity that converts a wetland to upland is not exempt, and requires a Section 404 permit.

### ***Examples***

- Activities that bring a wetland into farm production where the wetland has not previously been used for farming are not considered part of an established operation, and therefore *require a permit* .
- Introduction of a new cultivation technique such as discing between crop rows for weed control may be a new farming activity, but because the farm operation is ongoing, the activity is *exempt* from permit requirements under Section 404.
- Planting different crops as part of an established rotation, such as soybeans to rice, is *exempt*.
- Discharges associated with ongoing rotations of rice and crawfish production are also *exempt*.

*To find out whether specific activities are exempt, contact your local Corps or EPA office.*