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Environment



Bush Administration Blocks Dredging Discharges into Wetlands

WASHINGTON, DC, April 16, 2001 (ENS) - The Bush administration has let stand a move made by the Clinton administration to close a loophole in the Clean Water Act that allows discharges of soil into American wetlands.

Environmental Protection Agency (EPA) Administrator Christie Whitman announced today that the agency and the U.S. Army Corps of Engineers are moving forward jointly with a rule to ensure greater protection of wetlands.

Wetland, Maine (Photo courtesy [U.S. Fish & Wildlife Service \(USFWS\)](#))

To protect wetlands, EPA and the Corps first clarified in August 1993 that Clean Water Act permits were required for any redeposits of dredged material associated with activities in wetlands.

Referred to as the Tulloch Rule, that definition was challenged by the National Association of Homebuilders and other trade associations and overturned in January 1997 by the U.S. District Court for the District of Columbia. The court ruled that this extension of the regulatory authority of the Army Corps of Engineers was illegal under the Clean Water Act.

That court decision was affirmed in June 1998 by the U.S. Court of Appeals.

The courts determined that environmentally destructive activities such as diking and dredging do not require permits if they are conducted so as to result in only "incidental fallback," described by the court as material that falls back to about the same place as the initial removal. These activities can include mechanized land clearing, ditching, and channelization under certain circumstances.



The court rulings resulted in a loophole in the wetlands regulatory program that allowed developers to excavate, ditch or drain wetland areas as long as they did not dump soil on the site.

Today's action protects wetlands by moving forward with a rule clarifying what discharges are subject to environmental review the Clean Water Act.

The White House issued a statement late today saying that President George W. Bush "applauds EPA Administrator Whitman's decision to move forward with pending regulations to protect our wetlands." Congress passed the Clean Water Act "with broad bipartisan support to protect our nation's wetlands, streams and waterways," Bush said.



American wetlands are losing ground.
(Photo courtesy USFWS)

This new rule will close the loophole, Bush said, "protecting an estimated 20,000 acres of wetlands and 150 miles of streams in the U.S."

Since the 1997 district court decision, the EPA and the Corps estimate that more than 20,000 acres of wetlands have been destroyed and more than 150 miles of streams channeled without environmental review or mitigation.

Since the late 1700s, more than half the nation's wetlands have been lost to development and other activities. Seven states have lost more than 80 percent of their original wetlands. Between 1986 and 1997, a net of 644,000 acres of wetlands was lost, the U.S. Fish and Wildlife Service reported to Congress in 1997.

The President said today's move would provide "much needed regulatory certainty" by clarifying the kinds of activities that the EPA and the Army Corps of Engineers believe may result in harmful discharges into wetlands.

"The Bush administration is committed to keeping our waterways clean and safe," said Whitman. "The protection of America's vanishing wetlands is a vital step toward ensuring cleaner water for everyone. In addition to serving as habitat for wildlife, wetlands help filter and protect our country's water supply. Today's action will help preserve our wetlands for ourselves and for future generations," she said.

Snow geese in the wetlands at the



Bombay Hook

National Wildlife Refuge, Delaware. In summer, these geese nest in the eastern Arctic and fly south to the U.S. for winter.
(Photo by Stephan Dobert courtesy FWS)

Wetlands are a collective term for marshes, swamps, bogs and similar areas. They filter and cleanse waters, help to retain flood waters and provide spawning areas for fish. They are natural filters for toxins, heavy metals, nutrients, and other pollutants because the vegetation and wet soil trap toxins and sediments. They also provide habitat for numerous types of wildlife.

The new regulation will likely face opposition from development groups. In August, 2000, when the Clinton administration proposed to revise the Tulloch Rule, Robert Mitchell, president of the National Association of Home Builders, said the decision was "fundamentally flawed."

"If the agencies believe that the Clean Water Act inadequately protects wetlands, they should turn to Congress, not illegally tinker with the law," he said.

More information on the new rule is at the EPA's Office of Water home page: <http://www.epa.gov/ow>

National Wetlands Status Reports are online at the U.S. Fish & Wildlife Service [website at:](http://wetlands.fws.gov/bha/SandT/index.html)
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