

**U.S. Army Corps of Engineers Regulatory Program
&
U.S. Department of Agriculture Wetland Compliance Provisions**

A Side-by-Side Comparison of Both Programs

	 US Army Corps of Engineers	 United States Department of Agriculture
AUTHORITY	Derived from section 10 of the Rivers and Harbors Act of 1899 & the Clean Water Act (Section 404 specifically).	Derived from the Food Security Act of 1985, as amended.
SIGNIFICANT NEXUS	If wetlands are not connected/adjacent to stream/river they require the establishment or defining of "Significant Nexus" to stream or river for jurisdiction to apply.	Does not require significant nexus.
APPLIES TO	Regulatory action that is applicable to everyone and could result in civil action.	Program based on voluntary compliance with provisions by current or prospective USDA participants. Result of non-compliance is loss of eligibility for applicable USDA benefits.
MANUALS	Utilize 1987 Wetlands Delineation Manual and applicable Regional Supplements.	Utilize National Food Security Act Manual specifically Sec. 527 Appendix (Circular 6) as well as '87 Manual and applicable Regional Supplements.
PARAMETERS	Use Three Factor Approach (hydrology, hydric soil & hydrophytic vegetation).	Use Three Factor Approach (hydrology, hydric soil & hydrophytic vegetation).
VIOLATION or NON-COMPLIANCE	Violation = discharge of dredge or fill material (without a permit) within waters of the US, including wetlands.	Non-Compliance = producing, or making possible the production of, agricultural commodities on wetlands.
PERMITS and EXEMPTIONS	Includes 12 Regional and 50 Nationwide permits available for consideration.	Includes 10 exemptions defined in the National Food Security Act Manual.
MITIGATION	Compensatory mitigation may be required.	Mitigation is an available option to restore or maintain compliance.
RECIPROCITY	Corps determination does not meet the requirements of the Food Security Act.	USDA determination does not meet the requirements of the Clean Water Act.
APPROACH	Use field indicator approach when making determinations.	Use field indicator approach when making determinations.