

40 C.F.R. § 231.1

Purpose and scope.

(a) The Regulations of this part include the procedures to be followed by the Environmental Protection agency in prohibiting or withdrawing the specification, or denying, restricting, or withdrawing the use for specification, of any defined area as a disposal site for dredged or fill material pursuant to section 404(c) of the Clean Water Act (“CWA”), 33 U.S.C. 1344(c). The U.S. Army Corps of Engineers or a state with a 404 program which has been approved under section 404(h) may grant permits specifying disposal sites for dredged or fill material by determining that the section 404(b)(1) Guidelines (40 CFR Part 230) allow specification of a particular site to receive dredged or fill material. The Corps may also grant permits by determining that the discharge of dredged or fill material is necessary under the economic impact provision of section 404(b)(2). Under section 404(c), the Administrator may exercise a veto over the specification by the U.S. Army Corps of Engineers or by a state of a site for the discharge of dredged or fill material. The Administrator may also prohibit the specification of a site under section 404(c) with regard to any existing or potential disposal site before a permit application has been submitted to or approved by the Corps or a state. The Administrator is authorized to prohibit or otherwise restrict a site whenever he determines that the discharge of dredged or fill material is having or will have an “unacceptable adverse effect” on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. In making this determination, the Administrator will take into account all information available to him, including any written determination of compliance with the section 404(b)(1) Guidelines made in 40 CFR part 230, and will consult with the Chief of Engineers or with the state.

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