



Bogs in Disrepair

Alternate Title:

"Can I Bring Out My D8?"



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Bogs in Disrepair (neglected)

Is the bog abandoned **OR** in disrepair,
from a federal perspective?



Federal Clean Water Act, Section 404

- Administered by Army Corps of Engineers with advisory role by EPA
- Standard for determining whether a farming operation is established and ongoing (active) or abandoned (inactive)



Key Factors

- Is the bog's hydrologic regime intact?
 - Are modifications necessary?
- Has there been an intention to farm?
 - Water management system is intact & functional
 - Includes dikes, dams, ditches, flumes, bypass canals, irrigation and/or tailwater recovery ponds

Additional Considerations

- Approved USDA/NRCS Farm Plan
 - Practices scheduled within 5 years
- Current EQIP contract
- Active WMA registration/permit
 - Annual report forms filed
- Established & on-going operation
 - Documentation of normal maintenance & improvement practices



Additional Considerations

- Harvest History
 - Dates, total barrels, handler (or personal use)
- Aerial photography
 - Showing that it's still recognizable as a bog



NOT Determining Factors

- Cranberry vines
- Trees
- Last harvested crop

Remember, these are **Army Corps** concerns, not local or state!



Federal CWA Exemption

If Army Corps/EPA approves exemption from Clean Water Act = **Bog is Not Abandoned**

- USDA/NRCS Farm Plan needed or updated before renovations begin
- Bogs can not be converted to another use



Conclusion

Three Levels of Approval Needed to Avoid Compliance Issues

- Local: Conservation Commission
- State: Department of Environmental Protection
- Federal: Army Corps of Engineers

