

and wetlands guidelines toward revision

have deviated from the original intent of lawmakers, which was "to preserve habitat that can survive in the wetlands, and areas that have poor drainage."

The Clean Water Act did not address wetlands. It dealt with navigable waters. This led to the 1989 delineation manual, which was not meant to be a regulatory document but rather a guide in deciding whether an area is a wetland, Shaw said.

Former Corps official Bernard Goode, who helped write the manual, told Civil Engineering News: "It's just a program that's out of control. Had I known then what I know now, I would have insisted there be

more surface water for there to be a wetland. Areas that no one in their right mind would call a swamp, bog or marsh are being called federal wetlands."

"What has started to happen," Shaw said, "is that the EPA or Corps — which the American public doesn't want making these decisions — are the decision-makers on national planning. They are setting people down and saying, 'We don't see the need for your project.' But since when did the government tell me whether I have a need for my project? They are to regulate, not decide need."

In a letter to his colleagues, Hayes said: "With the Clean Water Act in need of

reauthorization during the 102nd Congress, we not only have an opportunity to act, but we have a chance to regain the responsibility we have abdicated regarding wetlands law since the original act ... was passed...

"We in Congress have effectively transferred the power to decide what our national wetlands policy should be to federal agencies that are accountable to no one. Decision after decision has since been controlled by the opinions of a few bureaucrats, who have utilized their own science to forward their own ideas. Clearly, a minority has determined the rules of how the majority shall live."

Larry Hawkins, president of Geoscience

Inc. in Gainesville, Fla., said the 1989 manual has caused confusion and "quite a bit of consternation about how those jurisdictional calls have been made. It is not applied equally throughout the Corps' districts."

He said in Florida the Corps has been taking extensive farmland out of production by declaring areas as wetlands because they have hydric soils. "Hopefully, these two things (manual revision and Hayes bill) will clarify that issue because it really has been a problem," Hawkins said.

The revised EPA-Corps manual and the Hayes bill would substantially resolve problems with current law, say people in the golf industry.

... hearings will be conducted nationwide over revised manual

The revision of the federal wetlands delineation manual, used by the Army Corps of Engineers and Environmental Protection Agency since 1989, spells out several concerns with the guidelines and responses to those concerns.

Greatest among those matters are:

- That wetlands determinations are being based on less than all three of the basic parameters that decide if an area is a wetland — hydrology, soils and vegetation. In fact, in some cases, officials have declared an area a wetland if it meets only one parameter.

The proposed solution is that all three criteria must exist, and — with exceptions — a determination that one parameter exists can not be based on evidence of other parameters.

- That one week of wetness during the growing season was enough to create wetlands.

The response is to require that an area be "wet" for more than 14 days during the growing season before it can be declared a wetland.

- That areas that were dry at the surface (potentially all year round) were considered



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— Mike Kelly, environmental consultant

wetlands based on the presence of water as much as 18 inches below the surface. ("Our entire district is a wetland," Shaw said.)

The revision would require saturation to be at the surface for more than 14 days.

The Office of Management and Budget proposed mandating a 21-day period of water being at the surface, the same as the Hayes' bill proposes, said Rhod Shaw of Louisiana Rep. Jimmy Hayes' office.

- That hydrology could be considered demonstrated even without strong evidence of the presence of water.

The proposed solution is to require "strong evidence of the presence of water; where the indicators of hydrology being relied upon are not strong, supporting evidence is required," Shaw said.

- That actual conditions in the field were not accurately reflected by the method with which the growing season was defined.

The revision would regionalize the determination of the growing season.

- The 1989 manual was developed without public input.

EPA press officer Sean McElheny said a 60-day public comment period would follow release of the proposed revision. He said extensive field testing would be done by the EPA, Corps and Soil Conservation Service. And a blue ribbon panel of experts would study the guidelines.

The new manual, he said, should be in the field very late this year or in 1992.

The narrower definition of wetlands is "language I'd support," said Larry Hawkins,

president of Geoscience Inc. in Gainesville, Fla. "What's been flying in the face of even the 1989 manual is that they have not been applying all three criteria.

"In fact, a legitimate jurisdictional wetland does have water at the surface for a significant period of the wet season. Twenty-one days is reasonable. But water at the surface and all three indicators are very prudent."

Mike Kelly, vice president of Williamsburg Environmental Group, Inc. in Williamsburg, Va., said: "If it goes into effect as proposed, you'll see a lot of forested wetlands — 'wet woods' — drop out of jurisdiction. And it will open a lot of land for development."

The revision also tackles the obstacle of timeliness developers have faced.

An overview of key elements states: "EPA and Corps staff work together to resolve differences regarding individual permit applications early in the review process. Permit applicants are encouraged to initiate pre-application meetings with regional staff from the Corps, EPA and other commenting agencies to discuss concerns... In doing so, the actual permit review period may be significantly reduced."

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