1. Purpose. This guide is to assist producers with requesting written verification from the U.S Army Corps of Engineers that the construction and/or maintenance of a farm pond located in a stream, wetland, or other water of the United States (U.S.) is exempt from the permit requirements of Section 404 of the Clean Water Act (CWA).

2. Farm Pond Exemption Verification Request. A producer is not required to request verification from the Corps that the construction and/or maintenance of a farm pond is exempt from the permit requirements of Section 404. Requests voluntarily submitted to the Corps for verification that a proposed farm pond is exempt must include all information outlined in Appendix A. Incomplete requests for farm pond exemption verification submitted to the Corps will not be processed.

3. Farm Pond Size. A farm pond shall not be larger than required to provide the calculated volume of the water (water budget) needed by a producer for a farm or ranch operation involving agricultural or livestock production. See Appendix B for the approved method for calculating an annual water budget. See Appendix C for the approved method for calculating the annual volume of water (reliable yield) that a farm pond would provide.

4. Exempt and Non-Exempt Activities. The placement of fill material in streams, wetlands or other waters of the U.S. associated with the construction or maintenance of an exempt farm pond is limited to the area required for dam or berm construction. Mechanized land clearing (i.e., tree and stump removal) in streams, wetlands or other waters of the U.S. associated with the construction or maintenance of an exempt farm pond is limited to the area required for dam or berm construction, auxiliary spillway entry and exit sections, and the area of the normal pool of the farm pond. The placement of fill material into streams, wetlands or other waters that are located adjacent to a farm pond, for any purpose other than the construction or maintenance of a farm pond, is not considered exempt from the permit requirements of Section 404 of the CWA.

5. For the purposes of this guidance the following terms are defined:

- Farm Pond. A water source created by constructing a dam or excavating a pit in a stream, wetland or other water of the U.S., which is to be used by a producer for agricultural or livestock production.

- Producer. An individual or company that grows agricultural crops or breeds livestock for the purpose of selling food or fiber.
• Agricultural Production. A farm or ranch operation involving the production of crops including but not limited to: grains; row crops; vegetables; fruits; hay, forage, or pasture; field-grown ornamentals (not containerized); flowers; bulbs; naval stores; orchards; vineyards; seed crops; plant materials; tobacco; trees; and turf farms.

• Livestock Production: A farm or ranch operation involving the production, growing, raising, or reproducing of livestock or livestock products, including but not limited to: beef cattle; dairy cattle; buffalo; horses; ostriches; emu; poultry; turkeys; sheep; goats; and swine.

• Water Budget – The volume of water that a producer requires for agricultural or livestock production on a farm or ranch operation.

• Reliable Yield – The volume of water that a farm pond would provide for agricultural or livestock production on a farm or ranch operation.

• Recreational and Commercial Ponds – Ponds constructed in streams, wetlands, or other waters of the U.S., for purposes other than a water source for agricultural or livestock production. [NOTE: Information concerning pond permits (e.g., Regional Permit 90) is available on the Savannah District webpage at http://www.sas.usace.army.mil/Missions/Regulatory.aspx.

6. Frequently Asked Questions and Answers. For answers to frequently asked questions concerning exempt farm ponds, see Appendix D.

7. General Questions. For general question concerning farm pond exemptions in the State of Georgia, call 229-430-8567.

8. Submitting a Farm Pond Exemption Verification Request to the Corps. Digital submittals are preferred. Information on how to submit a digital submittal is available at https://www.sas.usace.army.mil/Missions/Regulatory.aspx. Requests for farm pond exemption verifications can also be mailed to the Corps’ office that services the county where the pond will be located. See Appendix E for a Georgia map, with the mailing address of the Corps office that services your county.
FARM POND EXEMPTION VERIFICATION REQUEST CHECKLIST

1. ___ A completed and signed Farm Pond Exemption Verification Request.

2. ___ Property owner’s full name, mailing address and daytime telephone number. Include the name of a contact person if the owner is a company or other organization.

3. ___ If the property owner is not the producer, the producer’s full name, mailing address, day time telephone number and relationship to the owner.

4. ___ The latitude/longitude coordinates for the pond location in decimal degrees.

5. ___ Vicinity and location maps showing the pond site and the property boundary where water from the pond will be used for agricultural or livestock production. Excerpts of U.S. Geological Survey topographical quadrangle maps, county road maps, or other similar maps may be used. Vicinity maps must be scaled appropriately to locate the site by nearby landmarks.

6. ___ For irrigation ponds, state the method of irrigation, and provide aerial photograph identifying areas that are currently in production, which are to be irrigated. For areas that are not currently in production, provide information concerning whether streams, wetlands, or other waters of the United States are present within areas to be put into production.

7. ___ For livestock water, state the number of and type of livestock, and provide an aerial photograph identifying areas where livestock will be located.

8. ___ A written statement documenting all other water sources and stating why those sources are inadequate.

9. ___ Competed Appendix B, with the calculated water budget for agriculture or livestock production area(s).

10. ___ Completed Appendix C, with the calculated reliable yield for the farm pond.

11. ___ The estimated date to begin pond construction and the date of completion.
US ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT
FARM POND EXEMPTION VERIFICATION REQUEST INFORMATION

PROCUCER INFORMATION:
Name: ______________________________________ Company: _______________________________
Phone Number ___________________________ E-Mail ______________________________________
Address_____________________________ City__________________ State_____ Zip Code_________

AGENT/CONSULTANT INFORMATION:
Name: ______________________________________ Company: _______________________________
Phone Number ___________________________ E-Mail ______________________________________
Address_____________________________ City__________________ State_____ Zip Code_________

FARM INFORMATION:
Address_____________________________ City__________________ State_____ Zip Code_________
County: ________________ Pond Latitude/Longitude (Degree) _________________________________
Description of Farming Operation (e.g., new or existing farm, etc.):
____________________________________________________________________________________

FARM POND INFORMATION:
Pond Size (acres at normal pool): ________ Dam Height: _________ Water Depth at Dam: ________
Corp Type(s): ______________________________ Acres: ______________________________________
Livestock Type(s) ___________________________ Herd Size: _______________________________
Calculated Appendix B Water Budget (acre feet): ____________________________________________
Calculated Appendix C Reliable Yield (acre feet): ____________________________________________

PRODUCER CERTIFICATION: I certify that the above information is accurate. I understand that this exemption does NOT free me from obtaining any other federal, state, or local permits for construction of the proposed pond. I understand that if any revisions are made to the project or its intended use, this exemption verification may be invalidated. Should it be determined that the pond has been converted to a non-agricultural use at any point, I may be required to obtain a Department of the Army (DOA) permit in order to maintain the pond. Any DOA permit application must include an alternatives analysis and mitigation, and should a permit not be issued, restoration of the site may be required.

Type or Print Name ___________________________ Signature ___________________________ Date _________________

APPENDIX A
## Estimated Water Budget or Need

### Crop or Use

<table>
<thead>
<tr>
<th>Crop or Use</th>
<th>Per Acre Annual Acre/Feet Water Need</th>
</tr>
</thead>
<tbody>
<tr>
<td>Row Crops</td>
<td>1.5</td>
</tr>
<tr>
<td>Tobacco</td>
<td>1.0</td>
</tr>
<tr>
<td>Hay, Forage, Pasture</td>
<td>1.25</td>
</tr>
<tr>
<td>Vegetables</td>
<td>1.25</td>
</tr>
<tr>
<td>Orchards</td>
<td>1.5</td>
</tr>
</tbody>
</table>

### Livestock Production

<table>
<thead>
<tr>
<th>Livestock Production</th>
<th>Water Needs Gallon/Head/Day</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dairy Cattle</td>
<td>25</td>
</tr>
<tr>
<td>Beef Cattle</td>
<td>12</td>
</tr>
<tr>
<td>Sheep and Goats</td>
<td>1</td>
</tr>
<tr>
<td>Horses</td>
<td>10</td>
</tr>
</tbody>
</table>

Appendix B
1. Excavated farm ponds are typically less than 3 acres in surface area. The acre feet of reliable irrigation water provided by an excavated pond can be calculated by simply multiplying surface area of the pond by average depth of the pond.

\[ \text{Pond Surface Area} \times \text{Average Pond Depth} = \text{Volume of Reliable Yield} \]

2. For farm ponds of less than 10 acres in surface area, with a dam constructed on an intermittent or perennial stream, the volume of reliable irrigation water is calculated by multiplying the surface area of the proposed pond by the depth of the pond at the dam. This volume is then multiplied by a factor of 0.4 to arrive at the approximate reliable yield of the pond.

\[ (\text{Pond Surface Area} \times \text{Maximum Depth of Pond at Dam}) \times 0.4 = \text{Reliable Yield} \]

3. For farm ponds greater than 10 acres in surface area, with the dam constructed on a perennial stream, the approximate volume of reliable irrigation water that the pond would provide must be calculated by a qualified hydrological professional. The approximate reliable yield will be calculated for periods of below, above and average rainfall, and will be based on the following: water depth at the dam; pond surface area; watershed size; 7q10 in-stream flow; evaporation; seepage; and other project-specific factors.
1. Can an exempt farm pond be constructed for the purpose of watering livestock (cows, horses, goats, etc.)?

Answer. Yes. However, 50 head of beef cattle would only need a ¾ acre pond for a reliable source of drinking water.

2. Can an exempt farm pond, either existing or proposed, be used for commercial fish production?

Answer. No. The purpose of a farm pond is to provide a reliable source of water to be used by a producer for agricultural or livestock production. Since fish production is not considered agricultural or livestock commodity crop, an exempt farm pond cannot be used for commercial fish production.

4. Can a farm pond be used for recreational fishing?

Answer. Yes. A farm pond can be used for recreational fishing, but neither recreational nor commercial fishing can be a purpose for the construction of an exempt farm pond.

5. For new farming operations, can a farm pond be built to provide irrigation water for land that has not yet been cleared of trees and other vegetation, but where agricultural or livestock production will occur in the future?

Answer. Yes. A farm pond can be built in advance of clearing land for agricultural or livestock production.

6. If a farm pond is constructed in advance of clearing farm land, is there a time-frame for when the land must be cleared and be available for agricultural or livestock production?

Answer. Yes. Within 18 months of completing construction of an exempt farm pond, the land must be cleared and available for agricultural or livestock production. The Corps routinely inspects exempted farm ponds. Inspections are performed to confirm that farm ponds are being used for irrigation or livestock water, which requires land to be cleared and available agricultural or livestock production. If an exempt farm pond is not being used for irrigation the Corps will open an investigation of unauthorized activity pursuant to the Clean Water Act (CWA). The Corps may require the farmer to remove the pond and restore aquatic areas to their original condition, or to submit an application for an after-the-fact permit. However, an after-the-fact permit application does not ensure that a CWA permit will be automatically issued if regulated activities in waters of the U.S. are determined to have caused significant degradation of on-site or downstream aquatic resources.
7. Once an exempt farm pond has been constructed for agricultural production, is there a time frame for when irrigation equipment must be on-site and available?

Answer. Yes. Within 18 months of completing construction of a farm pond, the irrigation equipment needed to apply water from the farm pond must be available for use. The Corps routinely inspects exempt farm ponds. Inspections are performed to confirm that exempt farm ponds are being used for irrigation, which requires the availability of irrigation equipment. If an exempt farm pond is not being used for irrigation the Corps will open an investigation of unauthorized activity pursuant to the CWA. The Corps may require the farmer to remove the pond and restore aquatic areas to their original condition, or to submit an application for an after-the-fact permit. However, an after-the-fact permit application does not ensure that a CWA permit will be automatically issued if regulated activities in waters of the U.S. are determined to have caused significant degradation of on-site or downstream aquatic resources.

8. Can two or more producers build a farm pond to provide irrigation water for crop lands located on adjoining or nearby farms?

Answer. Proposals for construction of multiple user farm ponds will be reviewed by the Corps on a case-by-case basis. For multi-farm pond proposals, all agricultural lands that would be irrigated from the pond must be identified. A proposal for a multi-farm pond must include information to document water needs (water budget), the volume of water that the proposed pond would provide (reliable yield), all other available water sources, and the availability of irrigation equipment that would be required to pump water from the pond to all identified fields.

9. Does the Natural Resources Conservation Service (NRCS) participate in the farm pond exemption verification process?

Answer. NRCS participation in the farm pond exemption process is limited to providing a copy of the Corps' Farm Pond Guide to producers who request assistance with farm ponds. Producers must contact the Corps for any further information or guidance.

10. Can houses be constructed in the vicinity of an exempt farm pond?

Answer. It depends. A farmer could build a house in the vicinity of a farm pond; however, if a farmer subdivides the property surrounding an exempt farm pond into residential lots, this would be considered a change in the use of the pond under the CWA. Therefore, the pond would no longer be exempt from CWA permit requirements and would be subject to the jurisdiction of the Corps. The Corps may require the farmer to remove the pond and restore aquatic areas to their original condition, or to submit an application for an after the fact permit, which could include a requirement to provide compensatory mitigation. However, an after the fact permit application does not ensure that a CWA permit would be issued if the discharges are determined to cause significant degradation of on-site or downstream aquatic resources. Farm ponds constructed prior to implementation of the CWA are grandfathered and authorized under the CWA.
11. What about a farm, with an existing farm pond, which is sold to a developer for the purpose of constructing a residential or commercial subdivision; would this be considered a change in use of the exempt farm pond?

Answer. Yes. The conversion of a farm to a residential or commercial subdivision would be a change in use. Any farm ponds constructed after implementation of the CWA are subject to Corps jurisdiction. The Corps may require the developer to remove the pond and restore aquatic areas to their original condition, or to submit an application for an after-the-fact permit. However, an after-the-fact permit application does not ensure that a CWA permit will be automatically issued if regulated activities in waters of the U.S. are determined to have caused significant degradation of on-site or downstream aquatic resources.