

United States Department of Agriculture



Natural Resources Conservation Service  
P.O. Box 2890  
Washington, D.C. 20013

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SUBJECT: LTP – Wetlands Conservation  
Compliance (WCC) Provision of the  
Food Security Act of 1985, as Amended

Date: February 24, 2012

TO: State Conservationists  
Directors of the Caribbean and Pacific  
Island Areas

File Code: 300-15

In the fall of 2010, a national ad hoc team was established under the leadership of State Conservationist Richard Sims for developing alternatives to improving NRCS effectiveness and efficiency in carrying out the Conservation Compliance Provisions of the 1985 Food Security Act. Based on this team's proposed alternatives, and a subsequent decision by Chief Dave White, NRCS State Conservationists implemented HELC improvement changes on, or before, October 1, 2011. Chief Dave White had made the decision to implement similar procedures in carrying out certified wetland determinations, and this was reflected in your Fiscal Year (FY) 2012 performance standards.

State Conservationists will develop a **WCC Provision Improvement Action Plan** by **March 30, 2012**, and submit the Plan to their respective Regional Conservationist for approval. The Plan should achieve four overarching objectives:

1. Ensure separation between field conservationists and USDA program participants within their servicing unit in conducting determinations, reviews, and addressing appeals,
2. Maintain a high-valued relationship between NRCS field staff and customers,
3. Improve efficiencies in determinations and reviews, and
4. Effect positive changes in NRCS WCC processes and procedures.

When developing this Plan, State Conservationists shall ensure separation of duties and implement the Plan starting no later than **October 1, 2012**.

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Attention should be given to NFSAM Section 514.1B; which sets for policy regarding who may complete certified wetland determinations based on job approval authority:

*Requirements for Job-Approval Authority*

*(1) Certified wetland determinations must be completed by a qualified NRCS employee, as determined by the State Conservationist. Qualified employees (i.e., agency experts) must meet all of the following criteria:*

*(i) Have completed all the required training, including update courses.*

*(ii) Have the appropriate job-approval authority.*

*(iii) Have demonstrated proficiency in making certified wetland determinations.*

*(2) State Conservationists are responsible for maintaining a roster of agency experts, by training and experience, who have demonstrated the knowledge and skills necessary to conduct wetland determinations and delineations, scope and effect evaluations, functional assessments, minimal effects evaluations, mitigation planning, and mitigation easements. The roster will be filed in Section III of the FOTG, "Legislated Programs, Job Approval Authority." (Example shown in Exhibits)*

*(3) In accordance with Part 518 of this manual, State Conservationists will carry out appropriate quality control reviews of certified wetland determinations.*

NRCS field staff will no longer deal directly with USDA participants within their servicing area during the WCC certified wetland determination process, including appeals. Implementing this new process will ensure impartiality, and create a separation between local field conservationists and the voluntary assistance they provide at their duty location.

These instructions will be added to NFSAM Part 514 through an amendment.

Questions regarding this action may be directed to your respective Regional Conservationist.

Sincerely,

/s/

Leonard Jordan  
Regional Conservationist  
East Region

/s/

Thomas W. Christensen  
Regional Conservationist  
Central Region

/s/

Astor Boozer  
Regional Conservationist  
West Region

cc: Dave White, Chief, NRCS, Washington, DC  
Homer Wilkes, Associate Chief, NRCS, Washington, DC  
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SUBJECT: LTP - Highly Erodible Land Conservation  
Provision of the Food Security Act of 1985

JUN 13 2014

TO: State Conservationists

File Code: 300-15

In 2010 a memo was sent to all State Conservationists providing directions to establish separation of duties for Highly Erodible Land Conservation and Wetland Conservation (HEL/C/WC) compliance provisions of the Food Security Act of 1985. It also provided four options to perform Highly Erodible Land Conservation (HEL/C) determinations and status reviews to evaluate producer's compliance with the HEL/C provisions. All State Conservationists were directed to provide at least one option identifying or a combination of the four options for performing HEL/C preliminary determinations and status reviews. The plans were reviewed and approved by the regional conservationist.

The states have been very successful with meeting the goal of creating separation of duties for the domicile office and USDA program participants for HEL/C/WC provisions.

A request was made through the Chiefs Advisory Committee on an approach to increase time efficiency in the preliminary Highly Erodible Land (HEL) determination process triggered through producer completion of AD—1026 indicating the need for a HEL technical determination.

Currently the field offices complete the HEL determination process with a person from another field, area or state office. The normal process is for the domicile office to receive the determination request (1026) from FSA, and then log the 1026 as a pending action for the assigned conservationist. The 1026 is filed, awaiting the arrival of the assigned conservationist to do photo review, soil map generation and calculation of highly erodible land percentage to apply the 33% or 50 acre rule to the field(s) in question. Where Potentially Highly Erodible (PHEL) map units are present, a field visit may be required to ascertain slope and slope length. Once all needed maps and measurements are made, the assigned conservationist completes the CPA-026e with supporting documentation and mails a letter to the producer.

The recommended change is for the domicile office to perform these functions of completing the HEL technical determination, which does not have a direct immediate effect on producer eligibility. USDA program participants have the right to request reconsideration. All requests for reconsiderations will be completed by a person from another service area. This memo does not change the approach being used for HEL whistle blower investigations, the yearly status review process or wetland conservation compliance. This will continue to ensure separation of duties on all decisions directly affecting producer eligibility.

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