

## Food Security Act Wetland Conservation Compliance Provision Improvement Action Plan

Purpose: To improve effectiveness and efficiency in carrying out the Wetland Conservation Compliance (WCC) provisions of the Food Security Act of 1985, as amended.

Background: In 2012, The Chief directed the States to develop a “Wetland Conservation Compliance Provision Improvement Action Plan” to improve NRCS effectiveness and efficiency in carrying out Food Security Act wetland provisions. The action plan would include the following overarching objectives:

- Ensure separation between service center staff and USDA program participants within their servicing area in conducting wetland determinations, reviews, and addressing appeals,
- Maintain a high-valued relationship between NRCS field staff and customers,
- Improve efficiencies in wetland determinations and reviews,
- Effect positive changes in the wetland conservation compliance processes and procedures.

To address this national mandate, Colorado has established the following State policy and procedures.

### **Wetland Conservation Compliance (WCC) Provision Improvement Action Plan**

Colorado’s plan consists of three actions that will ensure that the national objectives are met: the establishment of WCC separation of duties; revision of WCC job approval authorities; and development of WCC guidance and streamlining tools.

#### **I. WCC SEPERATION OF DUTIES**

The State Conservationist has overall responsibility for WCC implementation within the State, including delegation of certain responsibilities to State, area or field office staff (NFSAM Part 510, 510.21(B)). The 2012 memorandum directed that those delegations needed to be revised to ensure a separation between NRCS service center staff and USDA program participants when dealing with the wetland conservation compliance provisions. This was intended to ensure impartiality and to allow a higher-valued relationship between NRCS field staff and our customers.

#### **WCC Separation of Duties**

NRCS service center staff will not deal directly with USDA participants within their servicing area during the Wetland Conservation Compliance (WCC) process, specifically including:

- Wetland determinations or delineations, participant notifications, and the WCC appeals.
- WCC compliance reviews or quality assurance reviews.
- Assisting a USDA participant with reinstating eligibility; the Good Faith or mitigation process.
- Investigating potential wetland compliance violations.

*When a NRCS employee finds, or is made aware of, a potential violation or receives a whistleblower complaint they will submit Form FSA-569 to FSA with a copy to the WCC Agency Expert (Section II). This fulfills the service center’s obligations under (NFSAM Part 510, 510.21).*

Note:

- The above actions will be completed by WCC Agency Experts (see Section II).
- Separation of duties does not limit any NRCS employee’s responsibilities to having an understanding of wetland conservation compliance provisions.
- NRCS employees not considered to be service center staff (area office staff or multi county specialists) are not affected by WCC separation of duties.

## II. JOB APPROVAL AUTHORITY (WCC AGENCY EXPERTS)

The National Food Security Act Manual (Part 514) requires that certified wetland determinations be completed by a qualified NRCS employee (i.e., agency experts) as determined by the State Conservationist. NFSAM states that qualified employees must meet all of the following criteria:

- Have the appropriate job-approval authority.
- Have completed all the required training, including update courses.
- Have demonstrated proficiency in making certified wetland determinations.

In Colorado, the State Conservationist has determined that qualification will include job-approval authority at three knowledge and skills levels (JAA Levels 1-3). Due to the complexity of the WCC provisions, knowledge and skills levels will be established for each WCC task.

### WCC Job-Approval Authority Knowledge and Skills Levels

**Level 1:** Has successfully attended basic training but has not completed all required training <sup>(i)</sup>, or lacks the experience to conduct the WCC task without direct oversight <sup>(ii)</sup>. Level 1 is a training phase to obtaining a Level 2/3. They may assist a Level 2/3 to obtain experience, but they have no authorization to complete the tasks without direct oversight.

**Level 2:** Has successfully completed all required training including updated courses <sup>(i)</sup>, and has demonstrated proficiency in applying the task with limited oversight <sup>(ii)</sup>. Task completion requires review and signatory authority of a Level 3 agency expert.

**Level 3 – WCC Agency Expert.** Has successfully completed all required training including updated courses <sup>(i)</sup>, and has demonstrated proficiency in independently applying the WCC task <sup>(ii)</sup>. WCC Agency Experts will have signatory authority as the Designated Conservationist and will be expected to assist in providing training opportunities to those at Levels 1-2.

Only WCC Agency Experts are authorized to independently carry-out wetland conservation compliance tasks and have signatory authority as the Designated Conservationist

#### Note:

- Only NRCS employees are authorized to obtain WCC JAA (NFSAM Part 514, 514.1(B)).
- It is not required that a NRCS employee has Level 3 JAA in all tasks; it is anticipated that an interdisciplinary team will conduct the wetland conservation compliance provisions.

<sup>(i)</sup> Required Training. A current list of approved training courses will be maintained on the FOTG, Section III, under Legislated Programs, Wetland Conservation Compliance. A state office notice will be provided when course updates are needed to obtain or maintain JAA. NRCS employees may work with their supervisor to include appropriate WCC training on their Individual Development Plan (IDP). A training record will be maintained by the employee (a training record is provided with the course list).

<sup>(ii)</sup> Demonstrated Proficiency is required for job-approval authority Levels 2 and 3. Level 2 JAA proficiency will be demonstrated by completion of the task *with limited oversight* from a WCC Agency Expert, on at least two wetland determinations. Level 3 JAA proficiency will be demonstrated by independent completion of the task, on at least two wetland determinations (these determinations will still require that they are reviewed and signed by a WCC Agency Expert).

## II. JOB APPROVAL AUTHORITY (WCC AGENCY EXPERTS) - *Continued*

Job approval authority may be granted upon successful completion of the above mentioned criteria, and by recommendation of the supervisor, by submitting the training record and any applicable certificates to the NRCS State Biologist. The final determination will be made by the NRCS State Conservationist.

**WCC Job Approval Authority Roster** will provide a current list of qualified NRCS employees (WCC agency experts) who have demonstrated the knowledge and skills necessary to conduct the various tasks of wetland conservation compliance. The roster will be filed and maintained in the FOTG, Section III, under Legislated Programs, WCC Job Approval Authority (NFSAM Part 514, 514.1 (B)(2)).

**Separation of Duties.** NRCS employees with WCC job approval authorities who are service center staff, will ensure complete separation of duties by not conducting any WCC activities within their primary servicing area. As conflicts arise, other qualified team members will complete the WCC tasks. These 'area exclusions' to the JAA will be identified on WCC JAA roster. It will be the employee's responsibility to ensure the exclusion areas are updated as their primary job duties/location change.

Additionally, NRCS employees with WCC job approval authorities will ensure that service center staff (NRCS or partner positions) will not assist or be involved with the WCC process within their servicing area. This includes ensuring that service center staff do not schedule WCC related site visits with the participants, attend meetings with the participants, sign WCC forms, or investigate potential violations.

## III. WCC GUIDANCE AND STREAMLINING

Guidance documents are provided to clarify and streamline the actions necessary for NRCS to assist USDA participants with USDA program eligibility and with NRCS NFSAM responsibilities. Several guidance documents are identified below:

- [Request for a Wetland Determination](#) (FOTG, Section III, Legislated Programs)
- [Regaining USDA Program Eligibility](#) (CO SharePoint, ECS, NFSAM, WCC Agency Experts)

Questions on the content of this action plan should be directed to Chanda Pettie, State Biologist at 720-544-2804 or Eugene Backhaus, State Resource Conservationist, at 720-544-2868.

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