Wetland Conservation Compliance (WCC) Provision Action Plan

The following is a revision to the 2012 Washington's Wetland Conservation Compliance Provision Action Plan as requested in the memo from the Regional Conservationists dated February 24, 2012 titled "LTP - Wetlands Conservation Compliance (WCC) Provision of the Food Security Act of 1985, as Amended".

This plan was developed to achieve the following 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.

The Washington Wetland Conservation Compliance (WCC) Provision Action Plan encompasses five distinct functions:

1. Conducting Certified Wetland Determinations and related technical decisions,
2. Addressing appeals of technical determinations and decisions,
3. Conducting Conservation Compliance Status Reviews, and
4. Assisting USDA participants in regaining eligibility for program benefits following a determination of non-compliance
5. Job Approval Authority to establish and maintain qualifications as a wetland specialist.

1. Conducting Certified Wetland Technical Determinations and Related Technical Decisions

All technical determinations and decisions (including all spring developments) will be made by staff listed in the Washington Job Approval Authorization (JAA) Matrix for Soil and Wetland Certification, filed in Section III of the Field Office Technical Guide, under "Legislated Programs, Job Approval Authority." The matrix includes the technical tasks of conducting wetland determinations/delineations, scope and effect and minimal effects evaluations.

In order to ensure separation of duties, improve efficiency and maintain high-valued relationships between NRCS field staff and customers, the following process will be used:
(see Appendix 1 and 2 of this WCC Action Plan)

A) When a request for a Wetland Compliance (WC) technical determination or decision is received by the NRCS field office (FO) it will be date stamped. Field offices will complete required items identified on the Wetland Identification Checklist (Appendix 2) prior to onsite determination/delineation. Materials will then be forwarded, along with required ancillary information (AD-1026, FSA-569, CPA-038, map indicating area of activity, SCIMS Producer Subsidiary Print, participant contact information, historical determinations, historical aerial photographs, etc.) to the appropriate Washington WCC Primary Point of Contact (POC).

B) All requests forwarded to the POC shall be logged in a county tracking ledger. (NRCS responsibilities are outlined in National Food Security Act Manual, Part 510.12.)

C) If “informational only” copies of AD-1026’s indicating that the participant is performing maintenance of drainage systems are received from FSA, and FO staff have concerns that the identified activities may **not** qualify as maintenance, they will forward a copy of the AD-1026 to the POC for resolution. Participants will only be notified if a determination will take place in response to routine “informational only” AD-1026 submittals indicating the performance of maintenance activities.

D) The POC will make an assignment of task, with assistance from the State Soil Scientist, ensuring separation of duties. **In no case will a technical determination or decision be made by FO staff within their servicing area.** The determination/delineation may be conducted by an individual with appropriate JAA or by a team with appropriate JAA. In all cases, a JAA 3 wetland specialist will have signatory authority and is considered the “Designated Conservationist”.

E) The Designated Conservationist will sign all required forms and transmittal documents. Upon completion, the designated conservationist will transmit the certified determination or decision directly to the POC with a copy to the District Conservationist.

2) Addressing Appeals of Technical Determinations and Decisions

To ensure separation of duties, improve efficiency and maintain high-valued relationships between NRCS field staff and customers, the following process will be used:

A) When a producer request for an appeal of a technical determination or decision is received, it will be addressed by the Designated Conservationist, ensuring separation of duties. Technical tasks will be performed by approved staff listed on the JAA Matrix. A request for assistance from an out- of-State NRCS wetland specialist may be requested, if needed. In no case will appeals functions be handled by FO staff within their servicing area.

B) If additional non-technical staff assistance is required (assisting with landowner contact, accompaniment on field visits or reviews, etc.), the appropriate Washington Area Conservationist (AC) will make staff assignments in their area, ensuring separation of duties. In no case will these functions be handled by FO staff within their servicing area.

C) Upon completion of the appeals process, if the decision to the participant remains adverse, the participant will be notified of a Final Technical Determination by the State Conservationist with a copy to the District Conservationist. If the decision is no longer adverse, the designated conservationist will notify the participant of the Final Technical Determination with a copy to the District Conservationist.

3) Conducting Conservation Compliance Status Reviews

To ensure separation of duties, improve efficiency and maintain high-valued relationships between NRCS field staff and customers, the following process will be used:

The National Food Security Act Manual (NFSAM), Part 518.0 provides policy on the NFSAM compliance review process for HELC and WC provisions.

The Washington wetland conservation compliance review process will follow the same procedure as identified in the Highly Erodible Land Conservation (HELC) Provision Action Plan, Washington (June 2011):

> "Washington State NRCS uses a team approach to HELC/ WC compliance by establishing teams at the area level to conduct determinations, status reviews, requests for reconsideration, and potential violations. Teams in each area are determined by the workload. Team members are trained and will be certified to conduct determinations and status reviews. Team members will be designated as the Designated Conservationist to complete determinations, compliance reviews, or to respond to AD-569 whistleblower complaints."

Separation of Duties
The Area Conservationist will ensure that service center staff will not assist or be involved with the WC compliance review process within their servicing area.

Quality Assurance/Control Reviews
The designated WCC contact for quality review in Washington will be the State Resource Conservationist; responsible for ensuring that compliance review procedures are carried out consistent with NFSAM Part 518 and Part 519, and the Quality Control Manual.

4) Assisting USDA Participants in Regaining Eligibility for Program Benefits following a Determination of Non-compliance

Program participants can regain their eligibility for USDA benefits by mitigating for lost wetland functions and values. Since this process is followed in order to assist the participant in regaining eligibility, separation of duties is not required for all tasks.

In order to maintain high-valued relationships between NRCS field staff and customers and improve efficiencies, the following process will be used:

A) If a request for mitigation assistance is received by the FO, it will be forwarded to the POC for assignment of task. All technical and administrative tasks associated with eligibility decisions will be performed by assigned staff, ensuring separation of duties. Technical tasks will be performed by approved staff listed on the JAA Matrix. These tasks include developing/approving mitigation plans, determining success criteria, addressing appeals of mitigation ratios greater than 1:1, and determining violations of mitigation plan or agreement requirements.

B) If other non-technical staff assistance is required, the appropriate AC will make staff assignments in their area. Other non-technical assistance may include such tasks as coordinating meetings with the participant, assisting with functional assessments, assisting with mitigation site selection, conducting follow-up visits and monitoring, and approving mitigation agreements if applicable.

C) Final decision on the restoration of eligibility will be made by the POC or assigned staff, including notifying the participant and signing all applicable documents, ensuring separation of duties.

5) Job Approval Authority

The following criteria will be used in Washington to establish and maintain qualification as a wetland specialist.

I. Training. NRCS employees may work with their supervisors to include appropriate WCC training on their Individual Development Plan.

   A current list of approved WCC training courses follows (WCC Job-Approval Authority; Knowledge and Skills Level).

II. Job-Approval Authority (JAA) is provided at three knowledge and skills levels, based on the criteria identified in the NFSAM. Due to the complexity of the WCC provisions, JAA Levels 1 - 3 will be established for each of the seven "WCC skills".

   Washington's WCC specialists are identified on the "Job Approval Matrix for Soil and Wetland Investigations".

WCC Job-Approval Authority Knowledge and Skills Level

Level 1: Successfully attended basic training[1] but lacks the experience to conduct the WCC skill without direct oversight. Level 1 is considered a training phase to obtaining a JAA 2 and 3. Work requires onsite supervision by a JAA 2 or 3 wetland specialist. When supervised by a JAA 2 specialist, documentation will be reviewed by a JAA 3 specialist.

Training:

AgLearn:

- Wetland Identification for Food Security Act Purposes – Phase 1: Basic Concepts (NEDC-000268)
- Wetland Delineation: National Food Security Act Purposes – Phase 2: Application (NEDC-000254) (5-day field/classroom)

OJT with Wetland Specialist (who has obtained a JAA 3) on six to ten wetland delineation /determinations field visits. Demonstrated proficiency be determined by a JAA 3 specialist after employee has independently conducted a minimum of 2 wetland determinations.

Level 2: Successfully completed all required level 1 training[1] and has demonstrated proficiency in applying the task with limited oversight. Task completion requires review and signatory authority of a JAA 3 wetland specialist.

Prerequisites: NEDC 000268 and NEDC 000254 with OJT as required above.
Training:

- Hydric Soils for Wetland Delineation (NEDC-000022) or equivalent.
- Wetland Plant ID (NEDC- 000035) or equivalent
- Hydrology Tools for Wetland Restoration & Wetland Determination (NEDC - 000025) or state equivalent.

OJT with Wetland Specialist JAA 3 on six to ten wetland delineation /determinations. Proficiency will be determined by a JAA 3 Specialist after employee has independently conducted a minimum of 3 wetland determinations.

Level 3: Successfully completed all required training.[1] Complete two wetland determinations annually to maintain proficiency in independently applying the WCC task. JAA 3 will have signatory authority as the Designated Conservationist and will be expected to assist in providing training opportunities to staff at JAA Levels 1 and 2.

Training:

- Advanced Wetland Policy Workshop and NAD Appeals Training (Recommended)

[1] *Required training for each level will be identified in the state roster.*

All WCC requests will require JAA3 skill levels/signature authority proficiency in each of the soil, vegetation and hydrology categories. An interdisciplinary team effort may be utilized to accomplish task.

III. 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 oversight from a JAA 3 wetland specialist, on at least six technical determinations. Level 3 JAA proficiency will be demonstrated by independent completion of at least three technical determinations that are reviewed and signed by a JAA 3 wetland specialist.

Certification as a wetland specialist, or revision in the level of job-approval authority, may be granted upon successful completion of the above mentioned criteria and by recommendation of the supervisor. The final determination will be made by the State Conservationist. Current WCC specialists are recorded in the "Wetland Compliance Job Approval Authorization (JAA) Matrix for Soil and Wetland Certification" located in "Resource Planning Criteria Legislated Programs" folder in Section III of the WA FOTG.

Only JAA 3 wetland specialists are authorized to independently carry-out the identified wetland compliance skills, and have signatory authority as the Designated Conservationist.

Separation of Duties

Wetland specialists, who are field conservationists in service centers, will ensure complete separation of duties by not conducting any wetland conservation compliance activities within their primary duty service area. Additionally, service center staff will not assist or be involved with the WC compliance process within their servicing area. They may gather preliminary data (making maps etc.), but not schedule with the USDA participant for the WCC team field visits, nor complete or sign the CPA-026 or cover letters.

Quality Assurance/Control Reviews

The State Conservationists will carry out appropriate quality assurance and quality control reviews to ensure that NRCS properly carries out its responsibilities for WCC provisions, as identified in NFSAM Part 519, Subpart A.

An interdisciplinary review team will be assigned by the State Conservationist to complete the review requirements as identified in NFSAM Part 519, Subpart A.

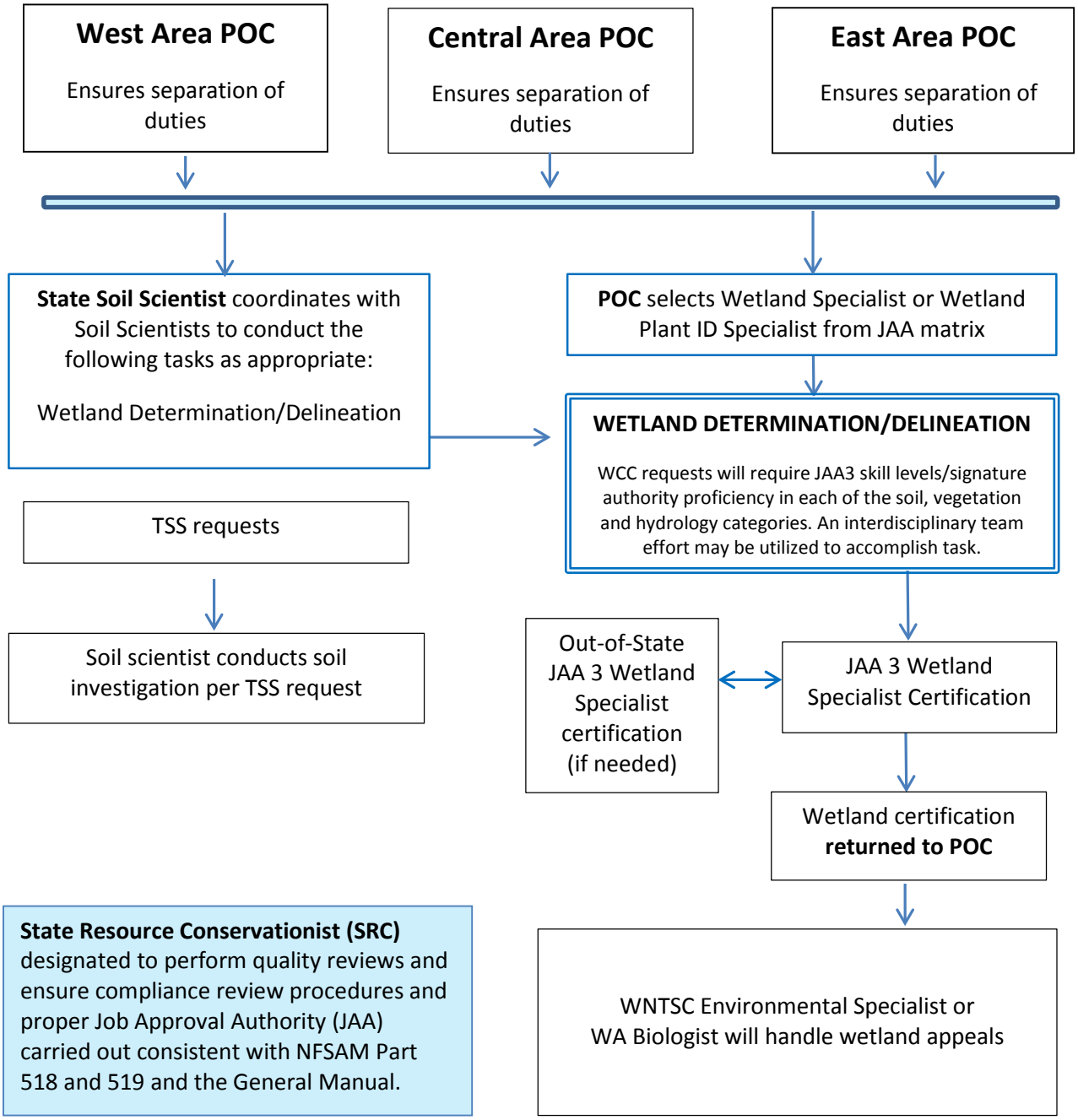
CONTACT:

Questions concerning the Washington Wetland Conservation Provision Action Plan should be directed to the State Resource Conservationist.

WA Soil and Wetland Investigation Flow Chart

Field Offices are to forward all technical soil services (TSS), wetland requests, and wetland-related questions to respective Area Point of Contact (POC).

Wetland investigations require field offices to complete items identified on Wetland Investigation Checklist prior to on-site review.



State Resource Conservationist (SRC) designated to perform quality reviews and ensure compliance review procedures and proper Job Approval Authority (JAA) carried out consistent with NFSAM Part 518 and 519 and the General Manual.

WA Wetland Investigation Checklist

Washington **June 2015**

Request from _____Field Office Area Point of Contact: _____

Site Location/Description:
Farm # _____

Tract _____ **Field #** _____

Operator / Farm Name:

Certified By: _____
Wetland Specialist JAA level 3

Date: _____

Requested ☐ AD-1026 ☐ FSA-569 ☐ CPA-038 Request Date:

Field Office collects materials identified in left column prior to On-Site Review

Field Office Resources to be collected)	**On-Site Review**
☐ Historic aerial images: CPA-32 with map	☐ Map designating location of field observations (GPS)
☐ National Wetland Inventory (NWI) Map	☐ Photos with descriptions
☐ USGS topo / LiDAR	☐ Climate Data: Recent precipitation information and possible effects
☐ Hydric Soils list(s) / designation	☐ Reports to file: • Discussions with participant • On-site observations of drainage / irrigation structures • Consideration towards collected data • Label selection
☐ Soil Water Features (flooding, ponding, depth to water table)	
☐ Soil Map and Map Unit Descriptions	
☐ Historic drainage / irrigation information	
☐ Other Pertinent Documents (List below)	☐ USACOE Regional Delineation form: ☐ Arid West or ☐ Western mountains,Valleys and Coast

	On – Site Determination Team Specialist	**JAA**
☐ Vegetation		
☐ Hydrology		
☐ Soils		