

Fact Sheet

Nationwide Permit for Agricultural Activity

Introduction

On June 7, 2000, the U.S. Army Corps of Engineers' (Corps) new and revised nationwide permits became effective, including nationwide permit 40 for agricultural activities. The nationwide permit establishes which agency--the Natural Resources Conservation Service (NRCS) or the Corps--has the lead for reviewing farmers' and ranchers' wetland conversion activities. This approach eliminates review by both agencies, which could result in different decisions for the same project.

NRCS and the Corps want landowners to know which agency has the lead for conducting wetland conservation evaluations with the other agency accepting the decisions. NRCS developed guidance to help farmers, ranchers, and NRCS staffs understand which agency has the lead for a particular project.

Amendment 5 of the National Food Security Act Manual

New guidance is necessary due to the lower acreage thresholds and pre-construction notifications established by the Corps. NRCS will continue to conduct certified wetland determinations in accordance with the wetland conservation provisions of the Food Security Act of 1985, as amended, for USDA program participants. The new guidance reduces duplication and confusion when both section 404 of the Clean Water Act and the wetland conservation provisions of the 1985 Farm Bill apply and explains which agency is responsible for making the wetland impact decision.

Currently, farmers and ranchers may obtain a USDA wetland conservation exemption first, only to find that the Corps may disagree with or modify the NRCS decision.

Guidelines

Farmers and ranchers are required to contact the Corps when using nationwide permit 40 for agricultural conversions involving an area that is **greater than one-half acre or located within the 100 year floodplain**. Landowners also must contact the Corps when using any other nationwide permit that requires a pre-construction notification to the Corps. For other projects where NRCS is the lead Federal agency, the Corps will accept NRCS' wetland decision.

Farmers and ranchers should give NRCS a copy of the Corps permit in order to be granted a USDA-Corps permit exemption.

As resources allow, NRCS will continue to help farmers and ranchers develop mitigation and restoration plans upon request, including projects where the Corps is the lead Federal agency.