

## **MINNESOTA – WETLAND TALKING POINTS**

### **Why is USDA changing policy on wetland protection?**

The USDA wetland policy has not and is not changing. Farmers in USDA programs are required to protect wetland areas from additional drainage activity. What is changing is that NRCS will be providing a certified (final) wetland determination when farmers indicate their intention to install drainage improvements.

### **So - why am I hearing that USDA wetland policy is changing in MN?**

For the past 5 years, instead of completing and issuing a certified wetland determination when a farmer indicated their intention to perform a drainage improvement activity (on the AD-1026 form) MN also required farmers to submit a written request for a certified determination (on the CPA-038 form). MN NRCS will no longer require both a written request (CPA-038 form) and the farmer self certification (AD-1026 form) to trigger agency completion of a certified determination. **From the farmer's perspective nothing has changed – farmers are responsible to limit their drainage activities so that protected wetland areas are not adversely impacted and they are required to comply with wetland protection regardless of whether NRCS has provided any type of wetland determination.**

### **What is a certified (final) wetland determination?**

USDA has had wetland protection provisions since 1985. Initially, many NRCS offices provided farmers with wetland inventory maps indicating those wetland areas which required protection from new drainage activities. In the 1996 Farm Bill, Congress decided that the inventory maps, while providing good information, were not completely accurate and since then these inventory maps have been in the process of being replaced by certified wetland determinations.

### **Why is USDA involved in wetland protection?**

Since December of 1985 congressionally approved Farm Bill legislation has contained wording that restricts USDA program participants from adversely impacting protected wetland areas with new or additional drainage activities. These provisions acknowledge that participation in USDA programs are a publically funded benefit to farmers. In return for these program benefits farmers agree to protect wetland areas from additional drainage. Wetlands provide a wide range of public benefits including water quality protection by trapping sediment and nutrient runoff, potential flood reduction, carbon sequestration and wildlife habitat.

## **How does a farmer meet their wetland compliance responsibilities?**

Farmers that participate in USDA programs can achieve their wetland compliance responsibilities by taking these actions:

- Indicate your intention to perform any drainage activities that have not been previously evaluated by NRCS. This is done by completing the AD-1026 form.
- Self certify that you will comply with the USDA wetland protection requirements by not performing any additional drainage activity in protected wetland areas. This is done by signing the AD-1026 form.
- Limit all drainage activity so that protected wetland areas are not adversely impacted by additional drainage activities.

## **Is USDA approval required before drainage activities can be installed?**

No – the USDA wetland compliance provisions are not administered through an approval process. USDA does not issue drainage permits. Wetland compliance is administered through farmer self certification and does not require USDA prior approval of proposed drainage activity. By providing certified wetland determinations NRCS is proactively assisting farmers by indicating which specific areas are wetlands that are protected from new or additional drainage activity.

USDA has no authority to delay or shut down drainage activity. Participating farmers are responsible to limit their drainage activities to insure protected wetland areas are not adversely impacted.

## **How can a farmer find out which areas on their land USDA considers to be wetlands that need to be protected from additional drainage?**

USDA requires farmers to disclose their intention to conduct drainage improvements on the AD-1026 form. Farmers that indicate their proposed plans for new drainage will be receiving a certified wetland determination from NRCS. These certified determinations indicate the location of areas subject to protection through the USDA wetland compliance provisions. These determinations are issued to farmers via certified mail and contain a full explanation of the procedures for farmers to request agency reconsideration of any disputed wetland area.

## **Will NRCS complete certified wetland determinations on all my land?**

No – NRCS will limit the area of the certified determination to the cropland field boundaries where drainage improvements are proposed. When new drainage is proposed in non-cropland areas NRCS will issue a certified wetland determination for the area to be impacted.

**What drainage activities can I conduct in and around an area identified as a wetland?**

When wetlands are identified on your land you have these options:

- Request a drainage set-back distance from NRCS. Based on the soil type, and depth of the proposed drainage improvement work NRCS will provide you with a drainage set-back distance which defines the zone near identified wetlands where drainage improvement activity is restricted. Keep all drainage improvement activities outside of the set-back distance and there will be no adverse wetland impacts.
- Use non-perforated tile in areas within drainage set-back distances. When subsurface tile drainage is planned to go through wetland areas and their protected drainage set-back zone – non-perforated tile can be installed to allow drainage water to flow to an outlet
- Drain the wetland and **mitigate** the lost wetland values by replacing them by either restoring a previously converted wetland or with wetland credits purchased through the MN Wetland Mitigation Bank.