



Natural Resources Conservation Service  
760 South Broadway  
Salina, Kansas 67401-4604

Phone: 785-823-4500  
FAX: 785-823-4540  
www.ks.nrcs.usda.gov

August 1, 2012

**KANSAS BULLETIN NO. KS180-12-1**

**SUBJECT: CPA—Farm Service Agency Wetland Determination Assistance**

**Purpose.** To provide guidance on wetland determinations provided by the Natural Resources Conservation Service (NRCS) to the Farm Service Agency (FSA)

**Expiration Date.** September 30, 2013

Current policy provides that certified wetland determinations are completed in response to Forms AD-1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification; NRCS-CPA-038, Request for Certified Wetland Determination or Delineation; or FSA-569, NRCS Report of HELC and WC Compliance. Most of our requests come from the FSA on Form AD-1026 (see Items 10A and 10B on the attached Form AD-1026). Certification means that the determination is of sufficient quality to make a decision of ineligibility for U.S. Department of Agriculture (USDA) program benefits or loans. If the wetland determination was performed by an NRCS wetland expert and appeal rights were provided to the landowner/participant in the notification letter (preliminary wetland determination letter), then the determination is certified. Some of the old determinations that were performed did not provide appeal rights and are not certified determinations.

Sometimes NRCS is not to provide a certified wetland determination in response to Form AD-1026. Items 5 and 10 raise the wetland red flag.

**6-CP**

**Paragraph 356 When to Refer AD-1026 to NRCS  
C Farm Loan Applicants**

If "Yes" is answered on Item 5 on Form AD-1026, FSA shall **not** refer Form AD-1026 to NRCS unless answers to other questions on Form AD-1026 require a technical determination. Item 5 on Form AD-1026 relates to farm loan applicants' compliance with the Clean Water Act (CWA). NRCS does **not** have responsibility for making wetland determinations associated with CWA. Producers should be advised to consult with their FSA loan officer to determine whether a wetland determination is required to comply with the provisions of CWA. All determinations for CWA are under the jurisdiction of the U.S. Army Corps of Engineers (USACE). NRCS will make wetland determinations (including those for farm loan applicants) for proposed activity involving draining, dredging, filling, leveling, or otherwise manipulating the land for the purpose of or to have the effect of making possible the production of an agricultural commodity according to Item 10 on Form AD-1026.

(more)

DIST: A, F, S

When NRCS receives Form AD-1026, the following should be done:

- Check the NRCS compliance file for previous determinations.
- Check what the producer is doing:
  - If “Yes” is answered to Item 5, and the producer is putting up a building, grain bin, or other structure and does not intend to produce an agricultural commodity on the land in question, return Form AD-1026 to FSA and let them know that the producer needs to contact the USACE.
  - If “Yes” is answered to Item 10A or 10B to create a ditch or for activities such as land leveling, filling, dredging, land clearing, excavation, and stump removal when the intent is to prepare or improve the land to produce a crop, then a wetland determination from NRCS is needed. Double check that these activities are not just for putting up a building, grain bin, or other structure that needs the attention of the USACE.
  - If “Yes” is answered to Item 10C, then NRCS will provide assistance and document in the compliance file that maintenance has occurred.

If questioned by FSA about wetland determinations, refer to the compliance files. If a wetland determination has been completed, a copy of the preliminary wetland determination letter (with appeal language); determination map; Form AD-1026; Form NRCS-CPA-026e, Highly Erodible Land and Wetland Conservation Determination; and materials used for making the determinations should be in the compliance files.

Wetland identification procedures follow Part 527 of the National Food Security Act Manual, the Corps of Engineers Wetlands Delineation Manual (January 1987), and the Great Plains or Midwest Regional Supplements to the Corps of Engineers Wetlands Delineation Manual. If a wetland determination is needed, the wetland expert/resource soil scientist (RSS) does not always have to visit the site. When the field or area in question is an obvious upland area, field staff may provide documentation (soils information, site photos, and/or a description of dominant plants) to the agency expert to assist in the determination. The RSS may then decide whether to make an off-site or on-site determination.

**Contact:** Please forward your feedback and questions through established channels to Andrew Burr, State Biologist, at 785-823-4593, or [andy.burr@ks.usda.gov](mailto:andy.burr@ks.usda.gov).

*(signed)*

ERIC B. BANKS  
State Conservationist

Attachment