

ACTION REQUIRED BY: October 1, 2012

The following is New Hampshire's Wetland Conservation (WC) Provision Action Plan as requested in the memo from the Regional Conservationists dated February 24, 2012 titled "LTP - Wetlands Conservation Compliance Provision of the Food Security Act of 1985, as Amended". This Action Plan addresses only activities related to the administration of the WC provisions of the 1985 Food Security Act, as amended. These provisions are specified in 7CFR12.6 and 12.31 of the HELC and WC rule (7CFR12; 1996).

This plan achieves the following objectives:

1. To ensure separation between field conservationists and USDA program participants within their servicing unit in conducting determinations, reviews, and addressing appeals,
2. To maintain a high-valued relationship between NRCS field staff and customers,
3. To improve efficiencies in determinations and reviews, and
4. To effect positive changes in NRCS WC processes and procedures.

NRCS service center staff must have an understanding of the WC provisions, program eligibility, permit, and regulatory issues impacting agricultural producers. Providing information and guidance on eligibility, permit and regulatory requirements associated with wetlands and other environmental concerns is an integral part of conservation planning. This policy does not change the role and responsibilities of service center staff to provide quality conservation planning. It is limited to the official NRCS response to the receipt of an AD-1026 and FSA-569.

This New Hampshire Wetland Conservation (WC) Provision Action Plan encompasses 4 distinct functions:

1. Conducting Certified Wetland Technical Determinations and providing technical decisions related to WC provisions.
2. Responding to appeals of adverse technical determinations and decisions.
3. Conducting WC Status Reviews, and
4. Assisting USDA participants in regaining eligibility for program benefits following a determination of non-compliance.

1) Conducting certified wetland technical determinations and providing technical decisions relating to WC provisions and (2) responding to appeals of adverse technical determinations and decisions.

All technical determinations and decisions will be made by the experienced staff listed in Table A below. Technical tasks of conducting wetland determinations/delineations, scope and effect evaluations, functional assessments; minimal effects evaluations, and mitigation activities will be completed by this team.

Table A

	HEL Determinations	Certified Wetland Tech. Determinations	Conservation Compliance Status Reviews	Appeals
Work Flow Coordinator-Mike Lynch	X		X	
Soils Technical Specialist North-Joe Homer	X	X		South
Soils Technical Specialist South-Karen Dudley	X	X		North
Vegetation Specialist North-Deborah Eddison		X		South
Vegetation Specialist South-Wendy Ward		X		North

In order to ensure separation of duties, maintain high-valued relationships between NRCS field staff and customers, and meet NRCS responsibilities provided for by the Secretary in 7CFR12 - the following process will be used:

Step 1: Receipt of Request

- When a request for a WC technical determination or decision is received by the NRCS field office (FO), it will be forwarded, along with any 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 responsible WC Workflow Coordinator (Table A) for their service center. Service Center staff will have complete separation from the project activities once the request is forwarded to the WC Workflow Coordinator. This referral of the WC request ends the service center staff involvement in the request/project.

Step 2: Assignment of Agency Expert

- The WC Workflow Coordinator (WC Coordinator) will log the request in the New Hampshire Tracking Spreadsheet and assign the project to staff with the appropriate job approval authority. When assigning staff, it is the responsibility of the WC Coordinator to ensure complete separation of duties.

Step 3: Preliminary Determination

- The agency expert assigned to the project to complete a particular task (e.g. wetland ID, scope and effect, minimal effect, mitigation) will contact the client to schedule field visits, if needed, and will initiate and maintain direct contact with the client.
- In keeping with the intent of this action plan, Service Center staff within the service area will not be involved in scheduling of assistance or any other activity related to this project.
- Upon completion of the preliminary determination, the decision maker (agency expert) will transmit the preliminary determination or decision via certified mail directly to the participant. Appeal rights will be provided with the preliminary determination. The agency expert assigned to the task will sign the letter of transmittal and CPA-026.
- The agency expert assigned to the project will sign all required forms and transmittal documents, schedule field visits, and work directly with the USDA program participants.
- If reconsideration is requested, the agency expert shall schedule the field visit and represent NRCS at the required field visit to review the preliminary determination.
 - Modification, if needed, of the decision will be made based on the field visit.
 - If the decision remains adverse, then the agency expert transmits the preliminary decision and administrative record to the State Conservationist. A copy of the letter of transmittal will be provided to the program participant so they are aware that the decision remained adverse and that the preliminary decision has been elevated for review and independent consideration by the State Conservationist.
- If reconsideration is not requested within 30 days, the agency expert provides the final agency decision to the participant, the District Conservationist, and Farm Service Agency.
- If the client chooses to elevate concerns directly to National Appeals Division, the agency expert will work with the ASTC for Operations to comply with the NAD officer's requests.

Step 4: Rendering of Final Agency or Department Decision

- The final agency decision or Department decision (NAD) is provided to the client from the Agency Expert or if appealed, from the State Conservationist.
- The administrative record is provided to the District Conservationist for filing.

3) Conducting Conservation Compliance Status Reviews

In order to ensure separation of duties, improve efficiency and maintain valued relationships between NRCS field staff and customers, the following process will be used:

New Hampshire's Highly Erodible Land Compliance Provision Action Plan, established separation of duties for conducting Conservation Compliance Status Reviews. In order to ensure separation of duties for WC, this plan will continue to be followed.

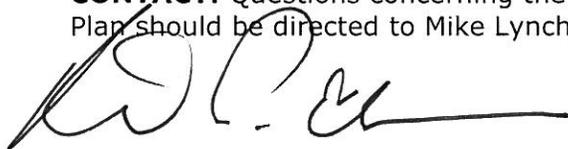
4) Assisting USDA participants in regaining eligibility for program benefits following a determination of non-compliance

Program participants can regain their eligibility for USDA benefits by mitigating for lost wetland functions, values and acres.

Step 1: Request to Regain Eligibility

- When a request to regain eligibility is received by the FO, it will be forwarded to the WC Coordinator for assignment of task, ensuring separation of duties for all eligibility decisions. Technical tasks will be performed by approved staff listed in Table A. Technical and administrative tasks associated with eligibility decisions will be performed by assigned staff, ensuring separation of duties. These tasks include developing/approving mitigation plans, determining success criteria, addressing appeals of more than a 1:1 mitigation ratio, and making a determination of violation of mitigation plan or agreement requirements.
- If other non-technical staff assistance is required, the appropriate WC Coordinator will assign those tasks to staff outside of the service area with expertise in that area... Other non-technical assistance may include 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.
- Final decision that the requirements to restoration of eligibility have been met will be made by the assigned agency expert
- This final agency or Department decision will be provide from the agency expert or State Conservationist.
- The administrative record will be provided to the Service Center for proper filing.

CONTACT: Questions concerning the New Hampshire Wetland Conservation Provision Action Plan should be directed to Mike Lynch, 603-223-6018; Michael.lynch@nh.usda.gov.



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