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December 15, 1999

NATIONAL FOOD SECURITY ACT MANUAL, Third Edition, 1996
180-V NFSAM
Idaho Notice No. 4

Purpose: Distribution of National Food Security Act Manual Amendment 4

Attached is the Amendment 4 for the Third Edition of the National Food Security Act Manual.

Filing Instructions: Please file the attachment as instructed on the amendment.

A handwritten signature in cursive script that reads "Richard W. Sims".

RICHARD W. SIMS
State Conservationist

Attachment

**NATIONAL FOOD SECURITY ACT MANUAL, (NFSAM), Third Edition,
180-V-NFSAM Amendment 4**

SUBJECT: CPA – NATIONAL FOOD SECURITY ACT MANUAL, (NFSAM)

Purpose: To transmit the 180-V- NFSAM, Third Edition, Amendment 4. September 1999.

Effective Date: This amendment is effective upon receipt.

Explanation of Changes: Clarifies policy for the evidence (documentation) that is necessary to support claims of manipulation prior to December 23, 1985, for the purposes of documenting Prior-Converted Wetlands, Farmed Wetlands, and Farmed Wetland Pastures.

Revision to the Third Edition, Amendment 3 of the NFSAM made by Amendment 4, September 1999:

Section	Change
514.20f	Clarifies policy for the documentation necessary to support prior manipulation.
515.11h	Clarifies policy for the documentation necessary to support prior manipulation.

Vertical lines indicate changes.

Filing Instructions: Remove and insert pages as indicated below:

Remove Pages	Insert Pages
514-9 and 10	514-9 and 10
515-7 and 8	515-7 and 8

Contacts: If there are questions about this amendment, contact Victor Cole at (202) 690-3501.



THOMAS A. WEBER
Deputy Chief for Programs

DIST: NFSAM

Subpart B Identifying Wetlands Where the 1985 Restrictions Apply

514.20 Overview

a
Purpose

This subpart describes identification, labeling, and allowable uses of wetland where the 1985 Act wetland restrictions apply.

b
Explanation of Terms

The 1985 Act's wetland restrictions apply to lands which continue to provide important wetland functions and values. Restricted activities are generally associated with "manipulation" and "for the purpose of", or "making production possible." These terms are frequently used in this subpart and are important in identifying wetlands that are subject to the 1985 Act. Consequently, these terms are defined in paragraphs c, d, e, and f for clarification.

c
Explanation of "Manipulation"

Manipulation is the alteration of the hydrology and/or the removal of woody vegetation (including stems and stumps) on a wetland. Hydrologic alterations that are considered manipulation may result from:

- dams
- dikes
- ditches
- diversions
- subsurface drains
- pumps
- terraces
- dredge and fill

NOTE: These measures may alter hydrology even if installed offsite from the affected wetlands.

Continued on next page

514.20 Overview, Continued

d
Explanation of
“Making
Production
Possible”

Making production possible means manipulation:

- which allows or would allow production of an agricultural commodity where such production was not previously possible, or
 - making an area farmable more years than previously possible, or
 - which reduces crop stress and allows increased crop yields, or
 - after November 28, 1990 that allows forage production or pasture and hayland use. On sites with woody vegetation, trees and stumps must be removed to constitute “making production possible.”
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e
Explanation of
“For the
purpose of”

“For the purpose of” means:

Actions completed that show an intent to make production possible. Such actions need not actually make agricultural production possible. Actions discovered in progress which show an intent to, or if completed, would make possible the production of an agricultural commodity area also considered a conversion. Examples: Partial removal of woody vegetation (stems and stumps) from forested wetlands, partially draining herbaceous wetlands, or placing fill in a wetland.

f
Evidence of
Previous
Manipulation

To assess whether a site has been manipulated prior to December 25, 1985, NRCS will evaluate available evidence, including information furnished by the USDA participant, such as photographs, aerial slides, the physical presence of drainage tile, drainage ditches, “as-built” plans, etc. Copies of supporting data and other documentation shall be placed in the case file. (See 510.21(e))

A determination of prior manipulation can be made only if there is supportable documentation or evidence. Narrative evidence from the USDA program participant is not sufficient, by itself, to support a determination of prior manipulation.

515.11

g
Documenting
Seasonally
Flooded and
Ponded Areas

Document seasonally flooded and ponded areas by using information such as:

- aerial photographs and FSA slides;
- analytical processes to evaluate length of ponding or flooding from single event;
- interviews with the person and other knowledgeable residents of the area;
- field indicators of surface water such as water marks, drift lines, and drowned or stressed crops;
- stream gauge data; and
- any other available hydrological data

NOTE: Information on seasonal flooding and ponding is needed to document the hydrology requirements for FW and FWP.

h
Evidence of
Prior
Manipulation

In cases where the USDA participant furnishes unsupported information regarding previous manipulation, see NFSAM Part 514.20f.

515.12

Maintenance and Improvement of Existing Drainage Systems or Other Hydrologic Manipulations

**a
Wetlands with
No
Maintenance
Restrictions**

A person may maintain, improve, replace, or install new systems on the following wetland labels, provided the action does not convert other wetland or violate any existing easements.

- Prior Converted Cropland (PC);
 - Artificial Wetland (AW);
 - Commenced Conversions (CC), review on case by case basis; and
 - Minimal Effect Wetland (MW), if specified in the agreement.
-

**b
Manipulation
on Land
Considered
Abandoned**

Abandonment is the cessation of management of the land for 5 consecutive years and does not refer to the drainage system or other type of hydrologic manipulation.

Drainage systems may not be reinstalled or maintained if the land has been abandoned and wetland criteria are met. Such land will be identified as wetland (W). Any maintenance or manipulation of existing systems will result in a converted wetland determination (CW) or CW+year).

NOTE: Maintenance of drainage on upstream PC, FW, or FWP through the area considered abandoned is allowed.

**c
Determining
Capacity of
Proposed
Drainage
Manipulation**

On farmed wetland (FW) and farmed wetland pastures and hayland (FWP), modifications shall not exceed the scope and effect of the original manipulation. Within this limitation, a person may:

- Reconstruct or maintain the capacity of the original system; and
- Reinstall a more permanent or lower maintenance cost system.

The “original manipulation” (original scope and effect) is the best condition to which the land was ever manipulated prior to December 23, 1985, and for which “as built” information is available. If no “as built” information is available on the original system, the system as it existed on December 23, 1985, is considered the original scope and effect.
