

# Fact Sheet

## Certified Wetland Determinations

### Introduction

*Certified* wetland determinations offer landowners the assurance of a final wetland determination for areas they intend to manipulate on their land. A certified determination will not change as long as the site remains in agricultural use (provided no violations occur). The U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) makes certified wetland determinations and delineations when a producer submits a form AD-1026 that indicates that he or she has or intends to conduct an activity that may be subject to the wetland conservation provisions.

### Obtaining Wetland Determinations/Delineations

Prior to land manipulation or land clearing, USDA farm program participants need to complete a revised form AD-1026 at the local Farm Service Agency (FSA) office, which has the effect of requesting a certified wetland determination if one is needed to ensure compliance. Some States also use NRCS Form CPA-038 for participants to request a certified wetland determination. NRCS will provide a certified wetland determination and advice about planned activities. NRCS may also conduct wetland determinations if they are providing financial or technical assistance to the landowner for a project that may impact wetlands, or if needed for other USDA programs.

### Wetland Determinations for the Clean Water Act

NRCS and the Corps of Engineers promulgated joint guidance in February 2005 on conducting wetland determinations for the Food Security Act of 1985 and Section 404 of the Clean Water Act ([http://www.nrcs.usda.gov/programs/compliance/pdf\\_files/COE\\_NRCS\\_wetland.pdf](http://www.nrcs.usda.gov/programs/compliance/pdf_files/COE_NRCS_wetland.pdf)). Because of differences that now exist between the Food Security Act and the Clean Water Act on the jurisdictional status of some wetlands, it is frequently impossible for one agency to make a wetland determination that is valid for the administration of both laws. Therefore, NRCS will conduct certified wetland determinations for the purpose of administering the FSA, and the Corps will conduct jurisdictional determinations for administration of the CWA. Both agencies will inform landowners that they may need a determination from the other agency, and the agencies will work together as much as possible to provide consistent determinations where possible.

## **Prior Converted Cropland**

NRCS identifies prior converted cropland (PC) for the purpose of determining land that is exempt under the FSA. PC land was converted to agricultural use prior to December 23, 1985. While most PC areas have been extensively manipulated and drained, and are therefore no longer wetlands, a PC area may meet the Corps' wetland hydrology criterion. Production of an agricultural commodity or maintenance or improvement of drainage systems on the PC area is exempt from the swampbuster provisions. However, if the land changes to a non-agricultural use, or is abandoned, according to the criteria established by the Corps and EPA, it may be regulated under the CWA. Landowners who intend to develop their land or conduct an activity that precludes use of the land for continued agricultural production, should contact the Corps to determine if the land meets the criteria to be jurisdictional wetlands under the CWA.

## **Documentation**

All certified wetland determinations will be provided in writing on form NRCS-CPA-026. Landowners may appeal certified determinations.

## **For More Information**

[NRCS](#), [Farm Service Agency](#), [Cooperative Extension Service](#), or your local [conservation district](#) can provide more information. Your USDA Service Center is listed in the telephone book under U.S. Department of Agriculture. Information is also available here on [NRCS's World Wide Web site](#).