



United States
Department of
Agriculture

Wetlands and Conservation Compliance

WHAT EVERY IOWA FARMER NEEDS TO KNOW



Wetland Conservation has been an integral part of Iowa agriculture since the passage of the Food Security Act of 1985. High rates of wetland conversion and increased national awareness of environmental benefits associated with wetlands prompted congress to enact the legislation.

Historically, many acres of high quality wetlands have been perceived as wasted space and were converted to other uses considered to be more beneficial. It is estimated that by the early 1990s, only about 400,000 acres of Iowa's original 4 to 6 million acres of wetlands still existed. However, thanks to wetland-related programs, Iowa continues to make progress in restoring its wetlands. The state's landowners have added more than 100,00 acres of wetlands in the past 15 years.

This document is intended to cover United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) wetland determinations only. It is not intended to cover all possible situations, but can be used as a quick reference to familiarize yourself with USDA wetland compliance provisions.

Helping People Help the Land.

What Are Wetlands?

A wetland is an area of land that exhibits the following three criteria. All three criteria must be present for an area to be considered a wetland:

1. Predominance of hydric soils (soils formed under wet conditions).
2. Would support a prevalence of hydrophytic vegetation (vegetation adapted to wet soil conditions) under undisturbed conditions—lack of tillage or other ground disturbance.
3. Inundation or saturation by surface or groundwater (hydrology) long enough to support prevalence of hydrophytic vegetation.

Although the term “wetland” brings to mind areas of shallow water, cattails, and landing ducks, most of our wetlands are forested wetlands, cropped wetlands or wet meadows and prairies that only hold surface water temporarily, but are seasonally saturated, for a part of the growing season.

Why Protect Wetlands?

Concerns over wetland losses, and the resulting environmental health issues, prompted Congress to enact legislation to protect them and their associated functions that are beneficial to the environment and society. Wetland functions include:

- Improving water quality
- Flood control
- Sediment control
- Nutrient cycling
- Maintaining critical wildlife habitat
- Recharging groundwater

Farm Bill Wetland Provisions (Swampbuster)

Swampbuster is a conservation compliance provision that was introduced in the 1985 Farm Bill. A part of the Wetland Conservation Compliance Provisions, Swampbuster, is meant to discourage conversion of wetlands for the production of agricultural commodities. It states that people who convert wetlands after December 23, 1985 for the purpose of making production of agricultural commodities more possible will be ineligible for USDA benefits until the functions of the converted wetlands are mitigated or restored. Converted wetlands are those that have been drained, dredged, filled or leveled or where woody vegetation has been removed.

Maintaining USDA Program Eligibility

To maintain eligibility, participants must certify that they have not produced crops on wetlands converted after December 23, 1985, and that they did not convert a wetland to make agricultural production possible after November 28, 1990.

Any activity that alters natural wetlands, making the production of an agricultural commodity or forage crop more possible is prohibited. These conversion activities may include:

- Filling
- Draining (surface ditching or subsurface tiling)
- Land leveling
- Clearing woody vegetation where stumps are removed
- Diverting run-off water from a wetland (i.e. building a diversion)

In most cases, drainage systems and other conversions that existed prior to December 23, 1985, can be maintained to the extent they existed at that time. See your local NRCS office for details.

If Swampbuster is violated, USDA farm program benefits may be lost. Participants who plant a crop on wetlands that were converted between December 23, 1985, and November 28, 1990, will not be eligible for certain benefits any year a crop is planted. After November 28, 1990, participants who have altered the wetland to make crop production more possible will also not be eligible for benefits until the previous functions are restored or mitigated. Please note that ineligibility applies to all **current and future participants** associated with the wetland.

NRCS wetland determinations are conducted to implement the wetland conservation provisions of the Food Security Act of 1985. The determinations/delineations may not be valid for identifying the extent of the U.S. Army Corps of Engineers' (COE) Clean Water Act jurisdiction for the sites.

If you intend to conduct any activity that constitutes a discharge of dredged or fill material into wetlands or other waters, such as lakes, streams or ponds, you should request a jurisdictional determination from the Rock Island office of the COE prior to starting the work.

Variations And Exemptions To Swampbuster Provisions

Numerous variances and exemptions are included in the wetland conservation provisions. Work with your local NRCS office to determine if they apply to your farm.

Prior Converted (PC):

A wetland converted to a non-wetland state prior to December 23, 1985, on which an agricultural commodity was produced at least once prior to this date, and as of this date, did not support woody vegetation. No Farm Bill restrictions on use.

Artificial Wetlands (AW):

Wetland areas created due to the activities of man. No restrictions on use.

Farmed Wetlands (FW):

These cropland areas were manipulated and planted prior to December 23, 1985, but still meet Farm Bill wetland criteria. They can continue to be farmed as long as no additional manipulation is conducted, such as adding additional surface or subsurface drainage, and the area is not abandoned.

Minimal Effect:

May be granted when NRCS determines that the proposed wetland conversion activity or manipulation only minimally impacts wetland functions.

Mitigation (Offsetting Losses):

Compensation through wetland restoration, enhancement, or creation for wetland functions that are lost on a converted wetland. Mitigation areas are generally located on the same property as the converted wetland and may require a greater ratio of restored wetland to converted wetland acres. Plan must be implemented within 12 months of NRCS approval.

Maintenance:

Drainage may be maintained as it was prior to December 23, 1985. No improvement to drainage systems in or near wetlands or to the mains into which they outlet may be completed after this date.

Non-Agricultural Activities:

Swampbuster does not regulate non-agricultural activities, such as road or home site construction.

REMEMBER:

All wetlands, including AWs and wetlands converted for non-agricultural activities, may fall under U.S. Army Corps of Engineers' (COE) jurisdiction under Section 404 of the Clean Water Act. Contact the COE before conducting any planned activities in or around potential wetlands.

Wetland Determinations

It is the landowner's or program participant's responsibility to comply with the Swampbuster provisions. NRCS can assist you by completing a wetland determination for your farm. You can request a wetland determination at your local USDA service center.

NRCS will determine if a producer's land contains wetlands that are subject to the provisions. NRCS employees have been trained to identify, delineate and certify wetlands. These "certified" determinations stay in effect as long as the land is used for agricultural purposes or until the producer requests a review.

If you disagree with NRCS' determination, you will be provided the opportunity to appeal the determination before it becomes final.



Frequently Asked Questions

Is there a minimum wetland size exemption?

No. If a size meets wetland criteria, regardless of its size, it is subject to Swampbuster requirements.

Can I clear trees from a wetland area?

Normal timber harvesting practices are generally not affected by Swampbuster if the site remains in timber production and stumps remain above ground level. Land clearing on a wetland involving stump grinding or stump removal making agricultural production possible may result in ineligibility for USDA program benefits.

Can I install subsurface drain tile or surface drainage ditches on an existing crop field?

In most cases, drainage systems that existed prior to December 23, 1985, can be maintained. Before installing or maintaining any drainage system, you should contact NRCS. Installing any drainage system in or adjacent to a regulated wetland may result in ineligibility for USDA program benefits. *Note: Fields determined by NRCS to be PC cropland are exempt from wetland regulations. After confirming the PC determination, planned activities can be completed without further delay, as long as adjacent wetland areas are unaffected.*

Are old creek channels wetlands?

In most cases, yes. Old creek channels (oxbow sloughs) separated from the original stream usually meet wetland criteria and are subject to wetlands regulations. If you plan to manipulate any old channel, you should contact NRCS to request a certified wetland determination.

Can my planned flood protection levee be constructed across a wetland?

No. Placing fill material in a wetland may result in ineligibility for USDA program benefits. In certain cases, variances such as mitigating the converted wetland may be possible. Contact NRCS for the necessary determinations and mitigation plan development.

When purchasing or renting a farm, what questions should be asked about wetlands?

Have certified wetland determinations been completed? What types of wetlands are present and what are the restrictions? Are there any wetland conversions that occurred on the property after December 23, 1985? If there are converted wetlands, what options are available to resolve the situation?

What types of wetlands could be present on my property?

Wetlands occur in many different forms and on a wide range of land uses. They commonly occur in wooded areas, pastures, hayfields, cropland, and odd areas around the farm. An example of a cropland wetland type is Farmed Wetlands (FW). These cropland areas were manipulated and planted prior to December 23, 1985, but still meet wetland criteria of hydric soils, hydrology and ability to grow hydrophytic plants. They can continue to be farmed as long as no additional manipulation is conducted, such as adding additional surface or subsurface drainage, and the area is not abandoned. NRCS can assist you to determine what wetland determinations have been completed on your property and if a certified wetland determination might be needed.



United States Department of Agriculture
Natural Resources Conservation Service

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How to Contact NRCS

To get more information about wetlands, contact your local NRCS office. Look in the phone book under "U. S. Government, Department of Agriculture" or access the Iowa NRCS website at www.ia.nrcs.usda.gov and click on "Contact Us."

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