USDA Natural Resources Conservation Service
U.S. DEPARTMENT OF AGRICULTURE

National NRCS Wetland Minimal Effect Determination Process and Decision Matrix

North Dakota State Technical Committee Meeting

North Dakota Heritage Center and State Museum

June 26, 2025

FARM PRODUCTION AND CONSERVATION
FSA | NRCS | RMA | Business Center

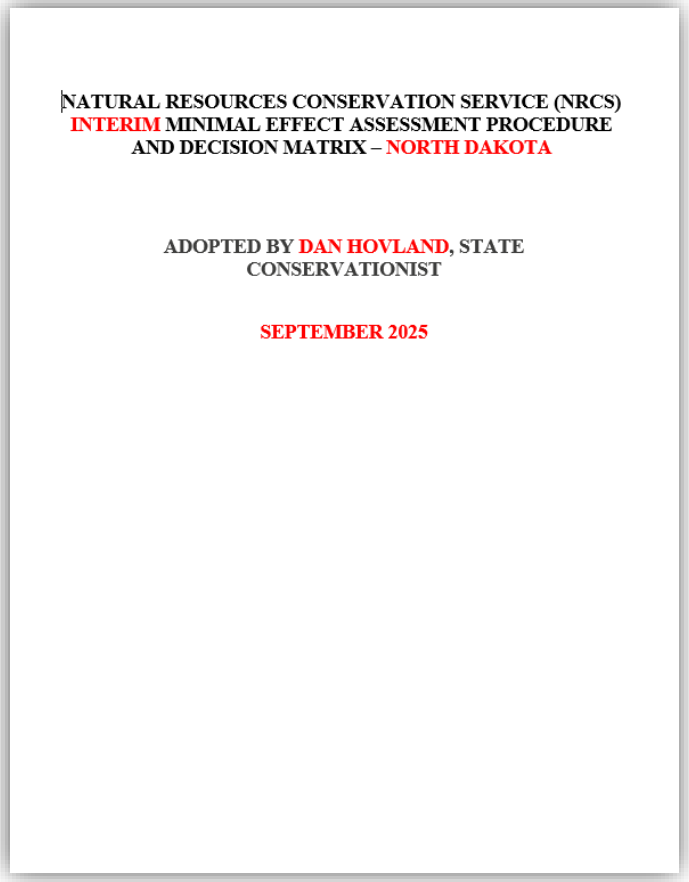
Minimal Effect Background

- Statutory authorities for the WC provisions of the Food Security Act (Act) of 1985 (Public Law 99-198), as amended (Farm Bill), are provided in the conservation title (Title XII) portion of the Act
- Minimal effect exemption was one of the original exemptions (1985) to the WC provisions
- Exemption was modified in 1990 and 1996
- 7 CFR 12.31(e)(1) of the 2018 regulations, the Secretary of Agriculture provides, “NRCS shall determine whether the effect of any action of a person associated with the conversion of a wetland, the conversion of wetland and the production of an agricultural commodity on converted wetland, or the combined effect of the production of an agricultural commodity on a wetland converted by someone else has a minimal effect on the functions and values of wetlands in the area. Such determination shall be based upon a functional assessment of functions and values of the subject wetland and other related wetlands in the area.”
- “Wetlands in the area”
- Michigan Lawsuit (2013), Maple Drive Farms, et all. v. Vilsack
- Minimal Effect Decision Matrix Development
- Testing and Calibration Team (Ft. Worth, TX; February 2020)
- North Dakota Interim Process (August 2023, September 2025)

Minimal Effect Discussion

- State Technical Committee Meeting (August 9, 2023)
- National NRCS Wetland Minimal Effect Determination Process and Decision Matrix
- Prairie Pothole Region Interim Process Update
- State Technical Committee Comments and Input

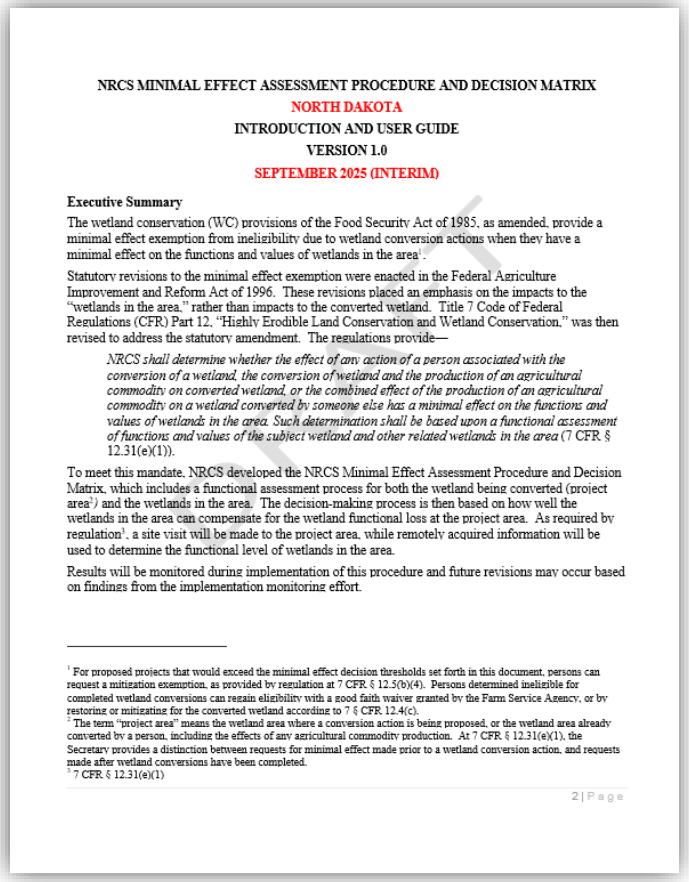
- National Template
- Interim Method
- North Dakota
- Prairie Pothole Region



NATURAL RESOURCES CONSERVATION SERVICE (NRCS)
INTERIM MINIMAL EFFECT ASSESSMENT PROCEDURE
AND DECISION MATRIX – NORTH DAKOTA

ADOPTED BY DAN HOVLAND, STATE CONSERVATIONIST

SEPTEMBER 2025



NRCS MINIMAL EFFECT ASSESSMENT PROCEDURE AND DECISION MATRIX
NORTH DAKOTA
INTRODUCTION AND USER GUIDE
VERSION 1.0
SEPTEMBER 2025 (INTERIM)

Executive Summary

The wetland conservation (WC) provisions of the Food Security Act of 1985, as amended, provide a minimal effect exemption from ineligibility due to wetland conversion actions when they have a minimal effect on the functions and values of wetlands in the area[1].

Statutory revisions to the minimal effect exemption were enacted in the Federal Agriculture Improvement and Reform Act of 1996. These revisions placed an emphasis on the impacts to the "wetlands in the area," rather than impacts to the converted wetland. Title 7 Code of Federal Regulations (CFR) Part 12, "Highly Erodible Land Conservation and Wetland Conservation," was then revised to address the statutory amendment. The regulations provide—

> *NRCS shall determine whether the effect of any action of a person associated with the conversion of a wetland, the conversion of wetland and the production of an agricultural commodity on converted wetland, or the combined effect of the production of an agricultural commodity on a wetland converted by someone else has a minimal effect on the functions and values of wetlands in the area. Such determination shall be based upon a functional assessment of functions and values of the subject wetland and other related wetlands in the area* (7 CFR § 12.31(e)(1)).

To meet this mandate, NRCS developed the NRCS Minimal Effect Assessment Procedure and Decision Matrix, which includes a functional assessment process for both the wetland being converted (project area[2]) and the wetlands in the area. The decision-making process is then based on how well the wetlands in the area can compensate for the wetland functional loss at the project area. As required by regulation[3], a site visit will be made to the project area, while remotely acquired information will be used to determine the functional level of wetlands in the area.

Results will be monitored during implementation of this procedure and future revisions may occur based on findings from the implementation monitoring effort.

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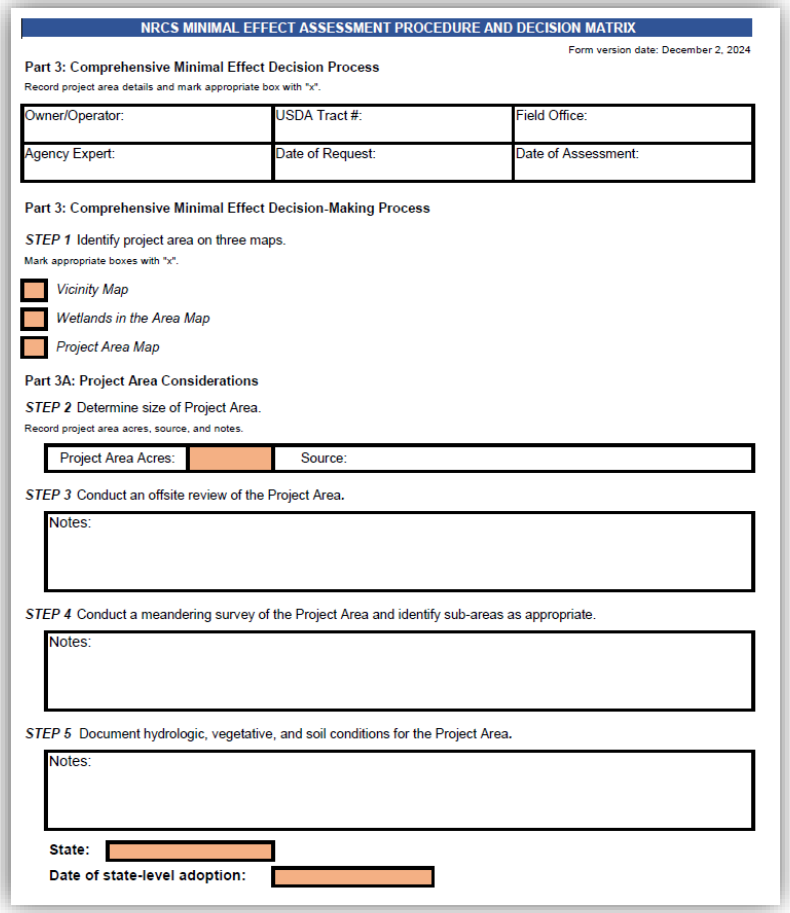
[1] For proposed projects that would exceed the minimal effect decision thresholds set forth in this document, persons can request a mitigation exemption, as provided by regulation at 7 CFR § 12.5(b)(4). Persons determined ineligible for completed wetland conversions can regain eligibility with a good faith waiver granted by the Farm Service Agency, or by restoring or mitigating for the converted wetland according to 7 § CFR 12.4(c).
[2] The term "project area" means the wetland area where a conversion action is being proposed, or the wetland area already converted by a person, including the effects of any agricultural commodity production. At 7 CFR § 12.31(e)(1), the Secretary provides a distinction between requests for minimal effect made prior to a wetland conversion action, and requests made after wetland conversions have been completed.
[3] 7 CFR § 12.31(e)(1)

2 | Page

Rating Form



NRCS MINIMAL EFFECT ASSESSMENT PROCEDURE AND DECISION MATRIX

Form version date: December 2, 2024

Part 3: Comprehensive Minimal Effect Decision Process

Record project area details and mark appropriate box with "x".

Owner/Operator:	USDA Tract #:	Field Office:
Agency Expert:	Date of Request:	Date of Assessment:

Part 3: Comprehensive Minimal Effect Decision-Making Process

STEP 1 Identify project area on three maps.

Mark appropriate boxes with "x".

- ☐ *Vicinity Map*
- ☐ *Wetlands in the Area Map*
- ☐ *Project Area Map*

Part 3A: Project Area Considerations

STEP 2 Determine size of Project Area.

Record project area acres, source, and notes.

Project Area Acres:		Source:

STEP 3 Conduct an offsite review of the Project Area.

Notes:

STEP 4 Conduct a meandering survey of the Project Area and identify sub-areas as appropriate.

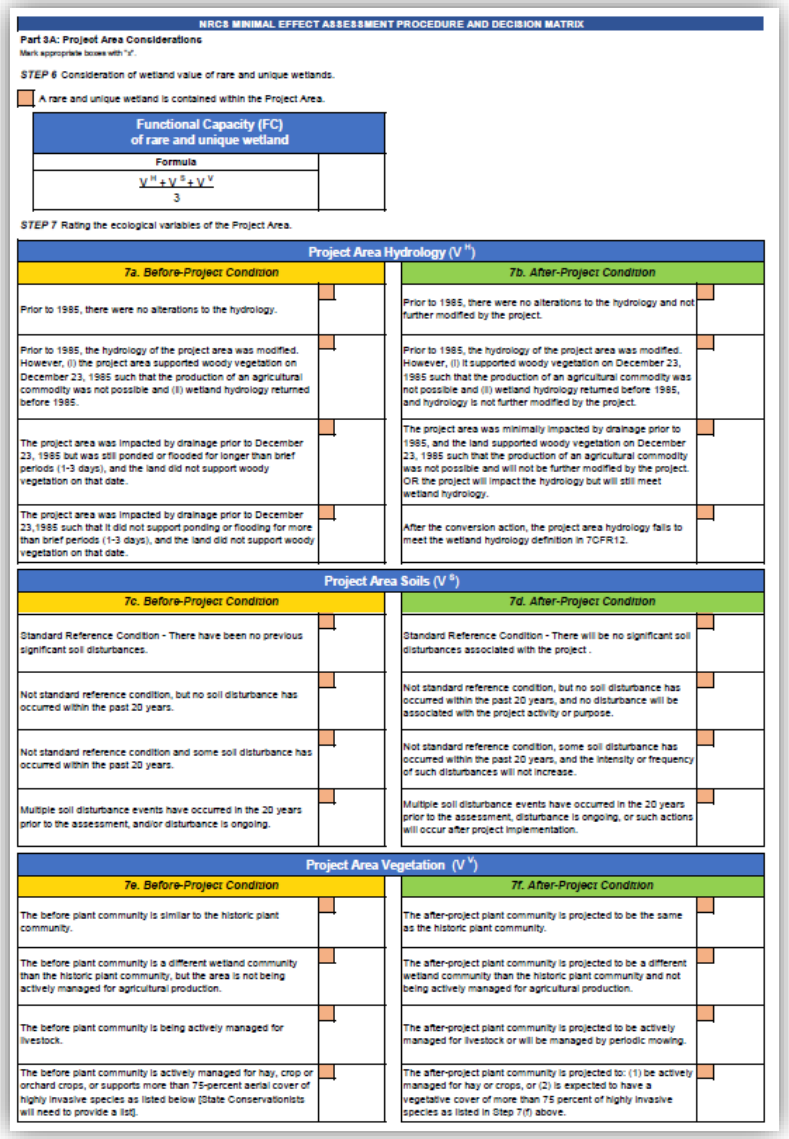
Notes:

STEP 5 Document hydrologic, vegetative, and soil conditions for the Project Area.

Notes:

State:

Date of state-level adoption:



NRCS MINIMAL EFFECT ASSESSMENT PROCEDURE AND DECISION MATRIX

Part 3A: Project Area Considerations

Mark appropriate boxes with "x".

STEP 6 Consideration of wetland value of rare and unique wetlands.

☐ A rare and unique wetland is contained within the Project Area.

Functional Capacity (FC) of rare and unique wetland	
Formula: $\frac{V^H + V^S + V^V}{3}$	

STEP 7 Rating the ecological variables of the Project Area.

Project Area Hydrology (V^H)

7a. Before-Project Condition		7b. After-Project Condition	
Prior to 1985, there were no alterations to the hydrology.	☐	Prior to 1985, there were no alterations to the hydrology and not further modified by the project.	☐
Prior to 1985, the hydrology of the project area was modified. However, (i) the project area supported woody vegetation on December 23, 1985 such that the production of an agricultural commodity was not possible and (ii) wetland hydrology returned before 1985.	☐	Prior to 1985, the hydrology of the project area was modified. However, (i) it supported woody vegetation on December 23, 1985 such that the production of an agricultural commodity was not possible and (ii) wetland hydrology returned before 1985, and hydrology is not further modified by the project.	☐
The project area was impacted by drainage prior to December 23, 1985 but was still ponded or flooded for longer than brief periods (1-3 days), and the land did not support woody vegetation on that date.	☐	The project area was minimally impacted by drainage prior to 1985, and the land supported woody vegetation on December 23, 1985 such that the production of an agricultural commodity was not possible and will not be further modified by the project. OR the project will impact the hydrology but will still meet wetland hydrology.	☐
The project area was impacted by drainage prior to December 23,1985 such that it did not support ponding or flooding for more than brief periods (1-3 days), and the land did not support woody vegetation on that date.	☐	After the conversion action, the project area hydrology fails to meet the wetland hydrology definition in 7CFR12.	☐

Project Area Soils (V^S)

7c. Before-Project Condition		7d. After-Project Condition	
Standard Reference Condition - There have been no previous significant soil disturbances.	☐	Standard Reference Condition - There will be no significant soil disturbances associated with the project .	☐
Not standard reference condition, but no soil disturbance has occurred within the past 20 years.	☐	Not standard reference condition, but no soil disturbance has occurred within the past 20 years, and no disturbance will be associated with the project activity or purpose.	☐
Not standard reference condition and some soil disturbance has occurred within the past 20 years.	☐	Not standard reference condition, some soil disturbance has occurred within the past 20 years, and the intensity or frequency of such disturbances will not increase.	☐
Multiple soil disturbance events have occurred in the 20 years prior to the assessment, and/or disturbance is ongoing.	☐	Multiple soil disturbance events have occurred in the 20 years prior to the assessment, disturbance is ongoing, or such actions will occur after project implementation.	☐

Project Area Vegetation (V^V)

7e. Before-Project Condition		7f. After-Project Condition	
The before plant community is similar to the historic plant community.	☐	The after-project plant community is projected to be the same as the historic plant community.	☐
The before plant community is a different wetland community than the historic plant community, but the area is not being actively managed for agricultural production.	☐	The after-project plant community is projected to be a different wetland community than the historic plant community and not being actively managed for agricultural production.	☐
The before plant community is being actively managed for livestock.	☐	The after-project plant community is projected to be actively managed for livestock or will be managed by periodic mowing.	☐
The before plant community is actively managed for hay, crop or orchard crops, or supports more than 75-percent aerial cover of highly invasive species as listed below [State Conservationists will need to provide a list].	☐	The after-project plant community is projected to: (1) be actively managed for hay or crops, or (2) is expected to have a vegetative cover of more than 75 percent of highly invasive species as listed in Step 7(f) above.	☐

Project Area

Rating Form: Project Area

Project Area Hydrology (V^H)

Before-Project Condition		After-Project Condition	
Prior to 1985, there were no alterations to the hydrology.	x 1.0	Prior to 1985, there were no alterations to the hydrology and not further modified by the project.	
Prior to 1985, the hydrology of the project area was modified. However, (i) the project area supported woody vegetation on December 23, 1985 such that the production of an agricultural commodity was not possible and (ii) wetland hydrology returned before 1985.			
The project area was impacted by drainage prior to December 23, 1985 but was still ponded or flooded for longer than brief periods (1-3 days), and the land did not support woody vegetation on that date.			
The project area was impacted by drainage prior to December 23,1985 such that it did not support ponding or flooding for more than brief periods (1-3 days), and the land did not support woody vegetation on that date.			

Project Area Soils (V^S)

Before-Project Condition		After-Project Condition	
Standard Reference Condition - There have been no previous significant soil disturbances.		Standard Reference Condition - There will be no significant soil disturbances associated with the project .	
Not standard reference condition, but no soil disturbance has occurred within the past 20 years.			
Not standard reference condition and some soil disturbance has occurred within the past 20 years.			
Multiple soil disturbance events have occurred in the 20 years prior to the assessment, and/or disturbance is ongoing.	x		

Project Area Vegetation (V^V)

Before-Project Condition		After-Project Condition	
The before plant community is similar to the historic plant community.		The after-project plant community is projected to be the same as the historic plant community.	
The before plant community is a different wetland community than the historic plant community, but the area is not being actively managed for agricultural production.		The after-project plant community is projected to be a different wetland community than the historic plant community and not being actively managed for agricultural production.	
The before plant community is being actively managed for livestock.		The after-project plant community is projected to be actively managed for livestock or will be managed by periodic mowing.	
The before plant community is actively managed for hay, crop or orchard crops, or supports more than 75-percent aerial cover of highly invasive species as listed below [State Conservationists will need to provide a list].	x 0.1	The after-project plant community is projected to: (1) be actively managed for hay or crops, or (2) is expected to have a vegetative cover of more than 75 percent of highly invasive species as listed in Step 7(f) above.	x 0

Rating Form: Project Area

NRCS MINIMAL EFFECT ASSESSMENT PROCEDURE AND DECISION MATRIX

Part 3A: Project Area Considerations

Record cumulative functional units loss for past projects. *See Step 12 in procedure document.

STEP 8 Determine impacts to wildlife habitat functional capacity for the Project Area.

Wildlife Habitat Assessment		
Formula	*Before-Project* [1]	*After-Project* [2]
Functional Capacity (FC) $\frac{V^H + V^S + V^V}{3}$	0.40	0.03
Functional Capacity Units (FCU) FC x Acres	0.13	0.01
Loss of Wildlife Habitat (ΔWH) FCU [1] - FCU [2]	*0.12*	

STEP 9 Determine impacts to water quality functional capacity for the Project Area.

Water Quality Assessment		
Formula	*Before-Project* [1]	*After-Project* [2]
Functional Capacity (FC) $\frac{2V^H + V^S}{3}$	0.70	0.03
Functional Capacity Units (FCU) FC x Acres	0.22	0.01
Loss of Water Quality (ΔWQ) FCU [1] - FCU [2]	*0.21*	

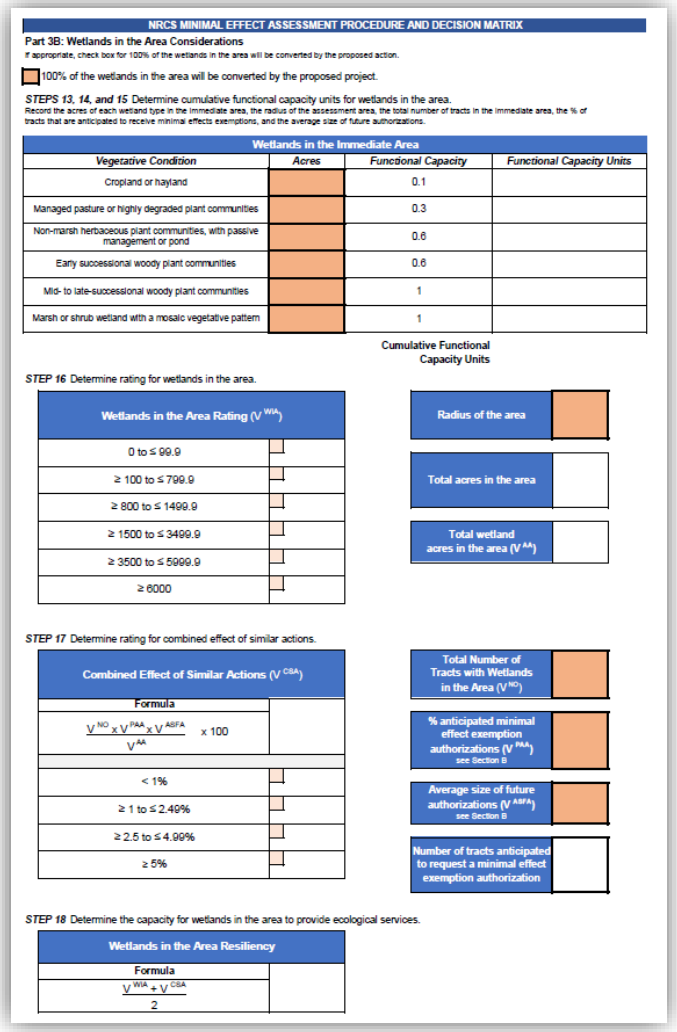
STEP 10 Determine impacts to floodwater storage functional capacity for the Project Area.

Floodwater Storage Assessment		
Formula	*Before-Project* [1]	*After-Project* [2]
Functional Capacity (FC) V^H	1.00	0.00
Functional Capacity Units (FCU) FC x Acres	0.32	0.00
Loss of Floodwater Storage (ΔFS) FCU [1] - FCU [2]	*0.32*	

STEPS 11 AND 12 Determine cumulative wetland functional capacity units loss for the Project Area.

Cumulative Wetland Functional Capacity Loss		
Formula	*Current Project* [1]	*Past Projects* [2]
Cumulative FCU Loss $\frac{3\,\Delta WH + 2\,\Delta WQ + \Delta FS}{6}$	0.18	0.00
Total Cumulative FCU Loss FCU Loss [1] + FCU Loss [2]	***0.18***	

Rating Form: Wetlands in the Area



NRCS MINIMAL EFFECT ASSESSMENT PROCEDURE AND DECISION MATRIX

Part 3B: Wetlands in the Area Considerations

If appropriate, check box for 100% of the wetlands in the area will be converted by the proposed action.

☐ 100% of the wetlands in the area will be converted by the proposed project.

STEPS 13, 14, and 15 Determine cumulative functional capacity units for wetlands in the area.

Record the acres of each wetland type in the immediate area, the radius of the assessment area, the total number of tracts in the immediate area, the % of tracts that are anticipated to receive minimal effects exemptions, and the average size of future authorizations.

Wetlands in the Immediate Area

Vegetative Condition	*Acres*	*Functional Capacity*	*Functional Capacity Units*
Cropland or hayland		0.1	
Managed pasture or highly degraded plant communities		0.3	
Non-marsh herbaceous plant communities, with passive management or pond		0.6	
Early successional woody plant communities		0.6	
Mid- to late-successional woody plant communities		1	
Marsh or shrub wetland with a mosaic vegetative pattern		1	

Cumulative Functional Capacity Units

STEP 16 Determine rating for wetlands in the area.

Wetlands in the Area Rating (V^{WIA})
0 to ≤ 99.9
≥ 100 to ≤ 799.9
≥ 800 to ≤ 1499.9
≥ 1500 to ≤ 3499.9
≥ 3500 to ≤ 5999.9
≥ 6000

Radius of the area	
Total acres in the area	
Total wetland acres in the area (V^{AA})	

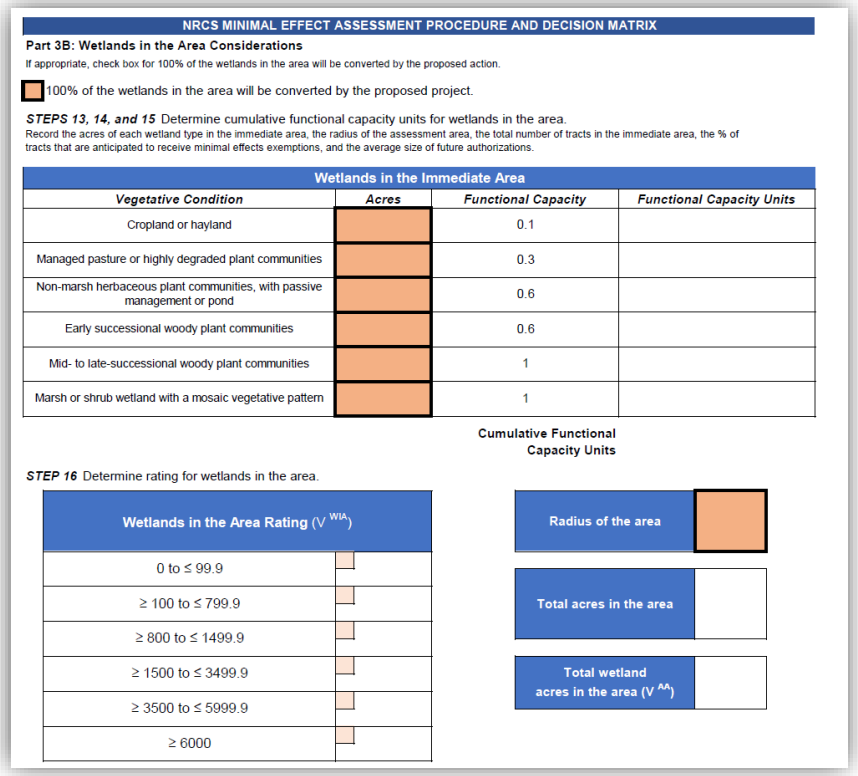
STEP 17 Determine rating for combined effect of similar actions.

Combined Effect of Similar Actions (V^{CSA})
Formula
$\frac{V^{NO} \times V^{PAA} \times V^{ASFA}}{V^{AA}} \times 100$
< 1%
≥ 1 to ≤ 2.49%
≥ 2.5 to ≤ 4.99%
≥ 5%

Total Number of Tracts with Wetlands in the Area (V^{NO})	
% anticipated minimal effect exemption authorizations (V^{PAA}) see Section B	
Average size of future authorizations (V^{ASFA}) see Section B	
Number of tracts anticipated to request a minimal effect exemption authorization	

STEP 18 Determine the capacity for wetlands in the area to provide ecological services.

Wetlands in the Area Resiliency
Formula
$\frac{V^{WIA} + V^{CSA}}{2}$



NRCS MINIMAL EFFECT ASSESSMENT PROCEDURE AND DECISION MATRIX

Part 3B: Wetlands in the Area Considerations

If appropriate, check box for 100% of the wetlands in the area will be converted by the proposed action.

☐ 100% of the wetlands in the area will be converted by the proposed project.

STEPS 13, 14, and 15 Determine cumulative functional capacity units for wetlands in the area.

Record the acres of each wetland type in the immediate area, the radius of the assessment area, the total number of tracts in the immediate area, the % of tracts that are anticipated to receive minimal effects exemptions, and the average size of future authorizations.

Wetlands in the Immediate Area

Vegetative Condition	*Acres*	*Functional Capacity*	*Functional Capacity Units*
Cropland or hayland		0.1	
Managed pasture or highly degraded plant communities		0.3	
Non-marsh herbaceous plant communities, with passive management or pond		0.6	
Early successional woody plant communities		0.6	
Mid- to late-successional woody plant communities		1	
Marsh or shrub wetland with a mosaic vegetative pattern		1	

Cumulative Functional Capacity Units

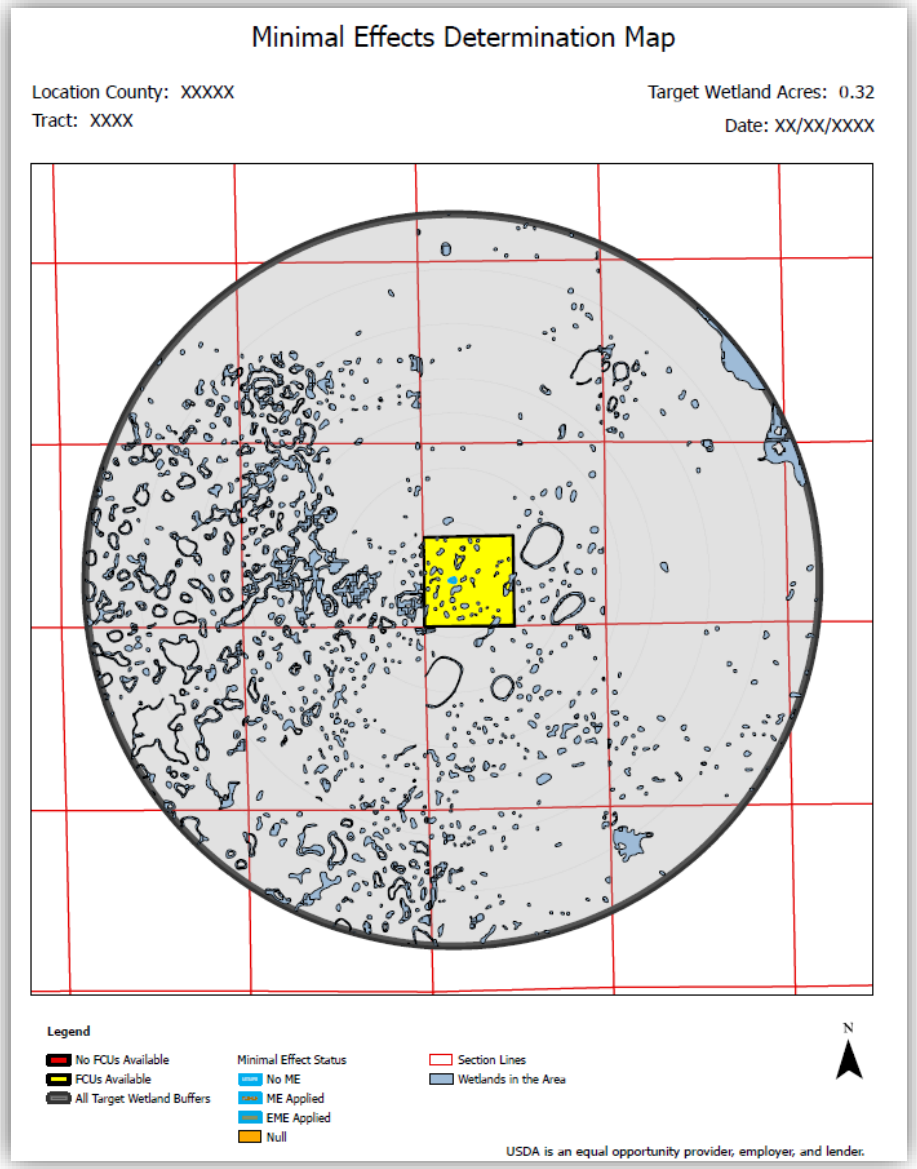
STEP 16 Determine rating for wetlands in the area.

Wetlands in the Area Rating (V^{WIA})
0 to ≤ 99.9
≥ 100 to ≤ 799.9
≥ 800 to ≤ 1499.9
≥ 1500 to ≤ 3499.9
≥ 3500 to ≤ 5999.9
≥ 6000

Radius of the area	
Total acres in the area	
Total wetland acres in the area (V^{AA})	

Wetlands in the Area

Wetland_Type	FREQUENCY	SUM_area_ac
Cropland or hayland	1575	381.995554
Marsh or shrub wetland with a mosaic vegetative pattern	468	256.058299
Mid-to-late-successional woody plant communities	48	6.243959
Non-marsh herbaceous plant communities, with passive management or pond	401	49.109073



Rating Form: Wetlands in the Area

Part 3B: Wetlands in the Area Considerations

If appropriate, check box for 100% of the wetlands in the area will be converted by the proposed action.

☐ 100% of the wetlands in the area will be converted by the proposed project.

STEPS 13, 14, and 15 Determine cumulative functional capacity units for wetlands in the area.

Record the acres of each wetland type in the immediate area, the radius of the assessment area, the total number of tracts in the immediate area, the % of tracts that are anticipated to receive minimal effects exemptions, and the average size of future authorizations.

Wetlands in the Immediate Area			
Vegetative Condition	*Acres*	*Functional Capacity*	*Functional Capacity Units*
Cropland or hayland	382.0	0.1	38.20
Managed pasture or highly degraded plant communities	0.0	0.3	0.00
Non-marsh herbaceous plant communities, with passive management or pond	49.1	0.6	29.46
Early successional woody plant communities	0.0	0.6	0.00
Mid- to late-successional woody plant communities	6.2	1	6.20
Marsh or shrub wetland with a mosaic vegetative pattern	256.1	1	256.10
		Cumulative Functional Capacity Units	329.96

STEP 16 Determine rating for wetlands in the area.

Wetlands in the Area Rating (V^{WIA})		
0 to ≤ 99.9	☐	
≥ 100 to ≤ 799.9	X	0.2
≥ 800 to ≤ 1499.9	☐	
≥ 1500 to ≤ 3499.9	☐	
≥ 3500 to ≤ 5999.9	☐	
≥ 6000	☐	

Radius of the area	2.00
Total acres in the area	8042
Total wetland acres in the area (V^{AA})	693

Wetland_Type	FREQUENCY	SUM_area_ac
Cropland or hayland	1575	381.995554
Marsh or shrub wetland with a mosaic vegetative pattern	468	256.058299
Mid-to-late-successional woody plant communities	48	6.243959
Non-marsh herbaceous plant communities, with passive management or pond	401	49.109073

Rating Form: Combined Effect of Similar Action in the Area

STEP 17 Determine rating for combined effect of similar actions.

Combined Effect of Similar Actions (V^{CSA})	
Formula	
$\frac{V^{NO} \times V^{PAA} \times V^{ASFA}}{V^{AA}} \times 100$	
< 1%	
≥ 1 to ≤ 2.49%	
≥ 2.5 to ≤ 4.99%	
≥ 5%	

Total Number of Tracts with Wetlands in the Area (V^{NO})	
% anticipated minimal effect exemption authorizations (V^{PAA}) see Section B	
Average size of future authorizations (V^{ASFA}) see Section B	
Number of tracts anticipated to request a minimal effect exemption authorization	

STEP 18 Determine the capacity for wetlands in the area to provide ecological services.

Wetlands in the Area Resiliency	
Formula	
$\frac{V^{WIA} + V^{CSA}}{2}$	

% Anticipated Minimal Effect Exemption Authorization

STEP 17 Determine rating for combined effect of similar actions.

Combined Effect of Similar Actions (V^{CSA})	
Formula	
$\frac{V^{NO} \times V^{PAA} \times V^{ASFA}}{V^{AA}} \times 100$	
< 1%	
≥ 1 to ≤ 2.49%	
≥ 2.5 to ≤ 4.99%	
≥ 5%	

Total Number of Tracts with Wetlands in the Area (V^{NO})	
% anticipated minimal effect exemption authorizations (V^{PAA}) see Section B	
Average size of future authorizations (V^{ASFA}) see Section B	
Number of tracts anticipated to request a minimal effect exemption authorization	

STEP 18 Determine the capacity for wetlands in the area to provide ecological services.

Wetlands in the Area Resiliency	
Formula	
$\frac{V^{WIA} + V^{CSA}}{2}$	

Rating Form: Combined Effect of Similar Action in the Area

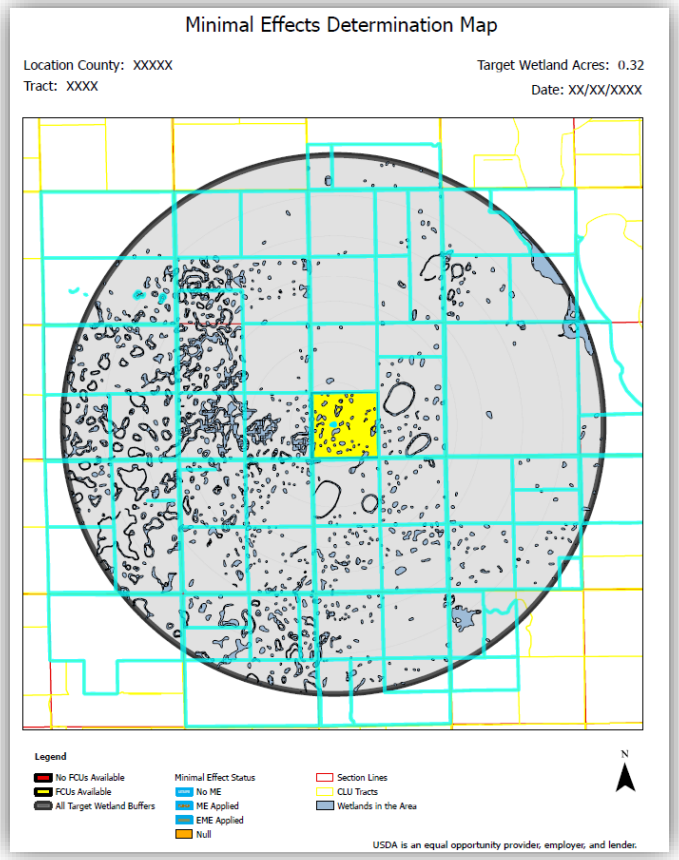
STEP 17 Determine rating for combined effect of similar actions.

Combined Effect of Similar Actions (V^{CSA})		
Formula		
$\frac{V^{NO} \times V^{PAA} \times V^{ASFA}}{V^{AA}}$ x 100		***4.38***
< 1%		
≥ 1 to ≤ 2.49%		
≥ 2.5 to ≤ 4.99%	x	0.3
≥ 5%		

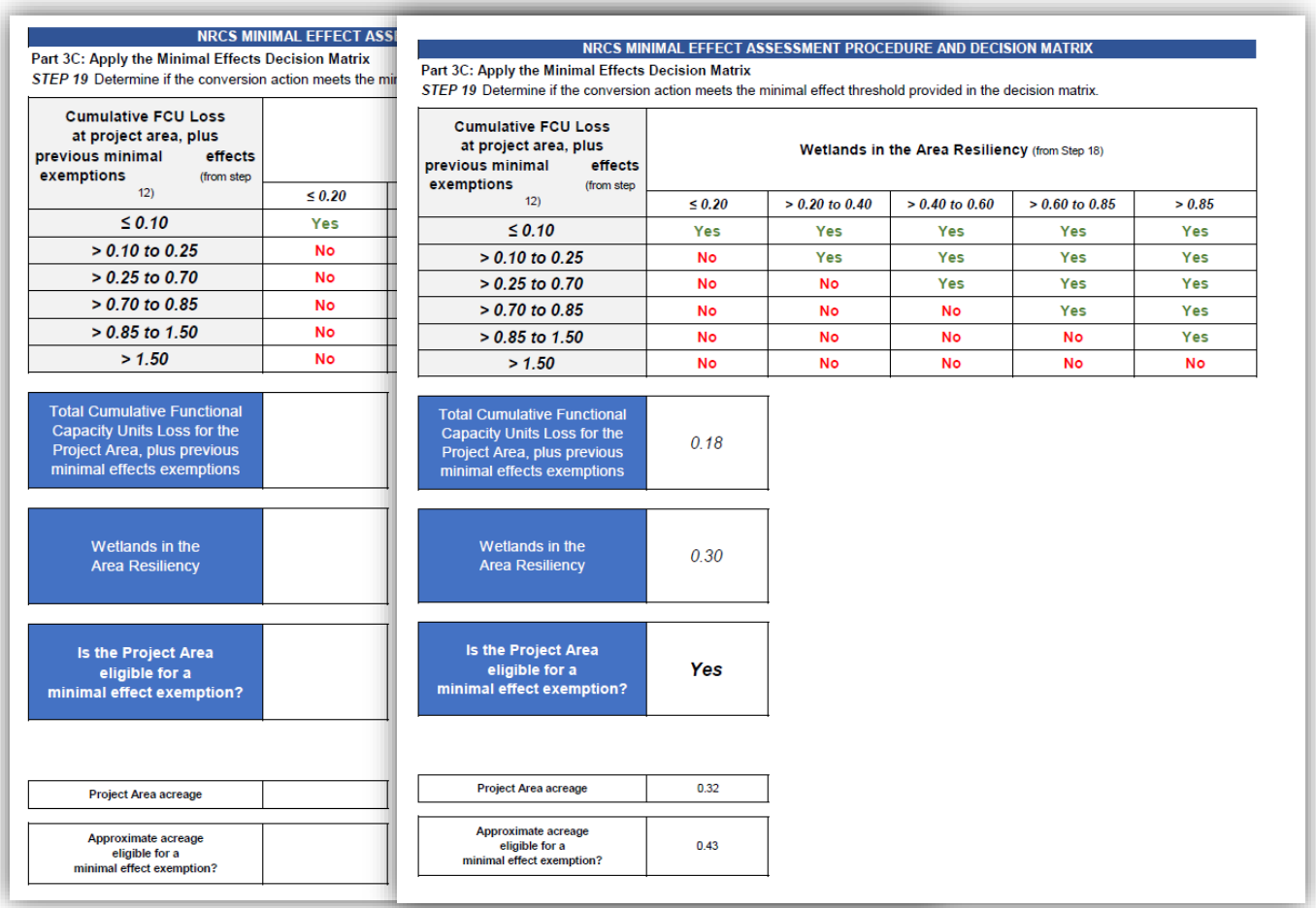
Total Number of Tracts with Wetlands in the Area (V^{NO})	62
% anticipated minimal effect exemption authorizations (V^{PAA}) see Section B	98%
Average size of future authorizations (V^{ASFA}) see Section B	0.50
Number of tracts anticipated to request a minimal effect exemption authorization	60.76

STEP 18 Determine the capacity for wetlands in the area to provide ecological services.

Wetlands in the Area Resiliency	
Formula	
$\frac{V^{WIA} + V^{CSA}}{2}$	***0.30***



Rating Form: Determine if Converted Wetland Action Meets Minimal Effect Threshold



NRCS MINIMAL EFFECT ASS

Part 3C: Apply the Minimal Effects Decision Matrix

STEP 19 Determine if the conversion action meets the mi

Cumulative FCU Loss at project area, plus previous minimal effects exemptions (from step 12)	≤ 0.20
≤ 0.10	Yes
> 0.10 to 0.25	No
> 0.25 to 0.70	No
> 0.70 to 0.85	No
> 0.85 to 1.50	No
> 1.50	No

Total Cumulative Functional Capacity Units Loss for the Project Area, plus previous minimal effects exemptions	
Wetlands in the Area Resiliency	
Is the Project Area eligible for a minimal effect exemption?	
Project Area acreage	
Approximate acreage eligible for a minimal effect exemption?	

NRCS MINIMAL EFFECT ASSESSMENT PROCEDURE AND DECISION MATRIX

Part 3C: Apply the Minimal Effects Decision Matrix

STEP 19 Determine if the conversion action meets the minimal effect threshold provided in the decision matrix.

Cumulative FCU Loss at project area, plus previous minimal effects exemptions (from step 12)	Wetlands in the Area Resiliency (from Step 18)				
	≤ 0.20	> 0.20 to 0.40	> 0.40 to 0.60	> 0.60 to 0.85	> 0.85
≤ 0.10	Yes	Yes	Yes	Yes	Yes
> 0.10 to 0.25	No	Yes	Yes	Yes	Yes
> 0.25 to 0.70	No	No	Yes	Yes	Yes
> 0.70 to 0.85	No	No	No	Yes	Yes
> 0.85 to 1.50	No	No	No	No	Yes
> 1.50	No	No	No	No	No

Total Cumulative Functional Capacity Units Loss for the Project Area, plus previous minimal effects exemptions	0.18
Wetlands in the Area Resiliency	0.30
Is the Project Area eligible for a minimal effect exemption?	***Yes***
Project Area acreage	0.32
Approximate acreage eligible for a minimal effect exemption?	0.43

Consideration of Past Projects

- The statute, regulations and agency policy require consideration of whether the project, “individually and in connection with all other similar actions authorized by NRCS in the area, would have only a minimal effect on the wetland functions and values of wetlands in the area.”
- NRCS will consider other (past) minimal effect exemptions granted in the area
- The assessment considers impacts of previously issued minimal effect exemptions in measuring functional loss
- Development of Geodatabase

Rare and Unique Wetlands

- No longer referred to as, “Red Flag Wetlands”
- Wetlands serving critical ecosystem functions or are rare enough to preclude issuance of minimal effect determinations regardless of size for functional condition
- Unique functions cannot be replaced by other “wetlands in the area” of a different type
- List of rare and unique wetlands is reviewed by the State Technical Committee and approved by the State Conservationist
- Current Interim Process North Dakota Minimal Effect Evaluation Procedure
  - Bog or Fen
  - Wetland Provides Endangered Species Habitat
  - Hazardous Waste Site

Expedited Minimal Effects

- "EME" in NRCS Minimal Effect Assessment and Procedure Decision Matrix
- Assures consistency, transparency, and fairness in the administration of the minimal effect exemption for commonly applied activities where the impacts of the conversion activity are categorically determined by NRCS to have a minimal effect on wetlands in the area.
- Two Categories
  - EME Requires Certified Wetland Determination
  - EME Does Not Require Certified Wetland Determination

Expedited Minimal Effects

NUMBER	NAME	PRIOR CWD	NEW CWD	ONSITE VISIT	LIMITS	TRACKING DATABASE	
						OCCURANCE	ACRES
EME-01	CONVERTING LESS THAN FIVE PERCENT OF A WETLAND	Y	Y	N	5% and ≤ 1-acre	Y	Y
EME-02	REMOVING INVASIVE WOODY VEGETATION FROM HISTORICALLY HERBACEOUS WETLANDS	Y	Y	N	None	Y	Y
EME-03	REMOVING NATIVE WOODY VEGETATION FROM HISTORICALLY HERBACEOUS WETLANDS	Y	Y	N	1-acre	Y	Y
EME-04	RESTORING NATURAL HYDROLOGY	N	N	Y	None	Y	N
EME-05	DECOMMISSIONING A POND	N	N	Y	None	Y	N
EME-06	INSTALLING AN ELEVATED TRAVELWAY	N	N	N	Min.12-inch culvert diameter	Y	N
EME-07	INSTALLING WILDLIFE OPENINGS	N	N	N	5% and 0.5 acre	Y	N
EME-08	INSTALLAING A GRASSED WATERWAY	N	N	N	None	Y	N
EME-09	REMOVING NARROW BANDS OF WOODY VEGETATION	N	N	N	30-feet (50-feet)	Y	N
EME-10	REMOVING SCATTERED WOODY VEGETATION	N	N	N	≤ 2% and 0.1-acre	Y	N
EME-11	REMOVING WOODY VEGETATION TO INSTALL OR MAINTAIN EXISTING LINEAR INFRASTRUCTURE	N	N	N	30-feet (50-feet)	Y	N

Seeking State Technical Committee Input and Comments

- Rare and Unique Wetlands
- Expedited Minimal Effects (Adoption and Limits)
- Percent Anticipated Minimal Effect Authorization
- Radius of Assessment Area

Please provide comments and input by July 31, 2025, to:

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NATURAL RESOURCES CONSERVATION SERVICE (NRCS) INTERIM MINIMAL EFFECT ASSESSMENT PROCEDURE AND DECISION MATRIX – NORTH DAKOTA

ADOPTED BY DAN HOVLAND, STATE CONSERVATIONIST

SEPTEMBER 2025

NRCS MINIMAL EFFECT ASSESSMENT PROCEDURE AND DECISION MATRIX

NORTH DAKOTA

INTRODUCTION AND USER GUIDE

VERSION 1.0

SEPTEMBER 2025 (INTERIM)

Executive Summary

The wetland conservation (WC) provisions of the Food Security Act of 1985, as amended, provide a minimal effect exemption from ineligibility due to wetland conversion actions when they have a minimal effect on the functions and values of wetlands in the area[1].

Statutory revisions to the minimal effect exemption were enacted in the Federal Agriculture Improvement and Reform Act of 1996. These revisions placed an emphasis on the impacts to the "wetlands in the area," rather than impacts to the converted wetland. Title 7 Code of Federal Regulations (CFR) Part 12, "Highly Erodible Land Conservation and Wetland Conservation," was then revised to address the statutory amendment. The regulations provide—

> *NRCS shall determine whether the effect of any action of a person associated with the conversion of a wetland, the conversion of wetland and the production of an agricultural commodity on converted wetland, or the combined effect of the production of an agricultural commodity on a wetland converted by someone else has a minimal effect on the functions and values of wetlands in the area. Such determination shall be based upon a functional assessment of functions and values of the subject wetland and other related wetlands in the area* (7 CFR § 12.31(e)(1)).

To meet this mandate, NRCS developed the NRCS Minimal Effect Assessment Procedure and Decision Matrix, which includes a functional assessment process for both the wetland being converted (project area[2]*)* and the wetlands in the area. The decision-making process is then based on how well the wetlands in the area can compensate for the wetland functional loss at the project area. As required by regulation[3], a site visit will be made to the project area, while remotely acquired information will be used to determine the functional level of wetlands in the area.

Results will be monitored during implementation of this procedure and future revisions may occur based on findings from the implementation monitoring effort.

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[1] For proposed projects that would exceed the minimal effect decision thresholds set forth in this document, persons can request a mitigation exemption, as provided by regulation at 7 CFR § 12.5(b)(4). Persons determined ineligible for completed wetland conversions can regain eligibility with a good faith waiver granted by the Farm Service Agency, or by restoring or mitigating for the converted wetland according to 7 § CFR 12.4(c).

[2] The term "project area" means the wetland area where a conversion action is being proposed, or the wetland area already converted by a person, including the effects of any agricultural commodity production. At 7 CFR § 12.31(e)(1), the Secretary provides a distinction between requests for minimal effect made prior to a wetland conversion action, and requests made after wetland conversions have been completed.

[3] 7 CFR § 12.31(e)(1)

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SECTION A: LEGAL AUTHORITIES AND RESPONSIBILITIES

This section provides the legal authorities and responsibilities of NRCS in the consideration of a minimal effect exemption to the WC provisions of the Food Security Act of 1985, as amended. Unique to this exemption is the requirement to consider if the action will have a minimal impact on the "wetlands in the area" and not whether the action's impacts are minimal to the wetland being converted.

As detailed below, NRCS is mandated by statute and regulation to determine if a proposed action will have a minimal effect on the capacity of wetlands in the area to provide valuable ecological services. The ecological target of determining the impact to wetlands in the area is unique to the WC provisions and adds complexity to the decision-making process.

Statute

The statutory authorities for the WC provisions of the Food Security Act of 1985, as amended, are provided within the conservation title (Title XII, Sections 1201 - 1224). The minimal effect exemption was one of the original exemptions to the WC provisions in 1985, providing in Section 1222(c) —

> *The Secretary may exempt a person from section 1221*[4] *for any action associated with the production of an agricultural commodity on converted wetland if the effect of such action, individually and in connection with all other similar actions authorized by the Secretary in the area, on the hydrological and biological aspect of wetland is minimal.*

The statute was strengthened in 1990 by changing the term "may" to "shall" and by requiring the consideration of waterfowl and wildlife in all minimal effect determinations.

More significant changes were amendments made in 1996, which altered the focus from the individual wetland being converted to the impacts of the conversion action on the wetlands in the area. The statute also requires consideration of "all other similar actions authorized by the Secretary in the area," mandating that the cumulative effects of granting minimal effect exemptions to the wetlands in the area be considered. From the time of the 1996 amendments, the statutory language has been maintained as (Section 1222(f)) —

> *The Secretary shall exempt a person…* (if) *[t]he action, individually and in connection with all other similar actions authorized by the Secretary in the area, will have a minimal effect on the functional hydrological and biological value of the wetlands in the area*, *including the value to waterfowl and wildlife*.

Regulations

The controlling regulations to the WC provisions are provided at 7 CFR § 12, "Highly Erodible Land Conservation and Wetland Conservation." The following regulatory language was modified in 1996 to correspond with the change in statutory language and has remained unchanged since at 7 CFR § 12.5(b)(1)(v). [A person shall not be determined ineligible if…] —

> *NRCS has determined that the actions of the person with respect to the conversion of the wetland or the combined effect of the production of an agricultural commodity on a wetland converted by*

[4] Section 1221 provides the program ineligibility provisions associated with the Wetland Conservation provisions. Until the Food, Agriculture, Conservation, and Trade Act of 1990, ineligibility only occurred if an agricultural commodity was planted on a converted wetland.

the person or by someone else, individually and in connection with all other similar actions authorized by NRCS in the area, would have only a minimal effect on the wetland functions and values of wetlands in the area.

Further, § 12.31(e)(1) contains additional requirements, including that the decision be based on a wetland functional assessment —

For the purposes of §12.5(b)(1)(v), NRCS shall determine whether the effect of any action of a person associated with the conversion of a wetland, the conversion of wetland and the production of an agricultural commodity on converted wetland, or the combined effect of the production of an agricultural commodity on a wetland converted by someone else has a minimal effect on the functions and values of wetlands in the area. Such determination shall be based upon a functional assessment of functions and values of the subject wetland and other related wetlands in the area. The assessment of functions and values of the subject wetland will be made through an on-site evaluation. Such an assessment of related wetlands in the area may be made based on a general knowledge of wetland conditions in the area. A request for such determination will be made prior to the beginning of activities that would convert the wetland. If a person has converted a wetland and then seeks a determination that the effect of such conversion on wetland was minimal, the burden will be upon the person to demonstrate to the satisfaction of NRCS that the effect was minimal.

Thus, by statute and regulation, a minimal effect exemption may be granted for wetland conversion actions, including any actions that make agricultural commodity (annually tilled) crop production possible and the action of planting agricultural commodities on a converted wetland, even if the effect is the loss of all wetland functions and values to the subject wetland. The condition of granting this exemption is if the impacts of the conversion action(s), in combination with other past and future minimal effect exemptions in the area, are minimal to the wetlands in the area. A wetland functional assessment shall be used to support each decision.

Internal Agency Policy

Internal NRCS policy on the WC provisions is contained in the National Food Security Act Manual (NFSAM). Within the NFSAM, the minimal effect policy[5] states —

The State Conservationist, with advice from the State Technical Committee, will develop and issue minimal effect procedures for assessing wetland functions, making minimal effect determinations, and approving exemptions.

Thus, by agency policy, upon consultation with the State Technical Committee, the State Conservationist is to develop and issue a minimal effect procedure. Policy also provides that the procedure shall include a functional assessment to be used in measuring functional loss at the project area, and decision thresholds. Decision thresholds are incorporated into an NRCS minimal effect decision matrix.

NFSAM policy repeats the regulation at 7 CFR § 12.31(e)(1) in stating that if a minimal effect exemption is requested after a person has converted a wetland, the burden will be upon the person to demonstrate to the satisfaction of NRCS the effect was minimal. To meet that burden, the person shall

[5] NFSAM, 5th edition, November 2010, Part 515.0(C).

provide information to NRCS regarding the characteristics of the converted wetland prior to the action. NRCS then verifies the information using remote data sources and best professional judgment.

SECTION B: BACKGROUND AND DISCUSSION

This section provides background information on the various considerations used to determine if the impacts of a conversion action are minimal to wetlands in the area.

To meet the minimal effect determination requirements, the previously discussed legal authorities require an assessment (measure) of functional losses at the project area for comparison to the capacity of wetlands in the area to continue to provide adequate societal ecological services (e.g., wildlife habitat, floodwater storage, water quality). Also required is the prediction of and accounting for future losses for similar actions authorized by NRCS (minimal effects for other conversion actions), and the independent consideration of lost wetland societal value. This NRCS Minimal Effect Assessment Procedure and Decision Matrix (Minimal Effect Procedure) meets all these requirements.

In 2006, the Association of State Wetland Managers published a document titled "Recommendations for Reconciling Wetland Assessment Techniques" (Kusler, 2006) discussing the challenges of assessing wetland functions and value. The report was funded by the U.S. Environmental Protection Agency, the U.S. Geological Survey (USGS) and NRCS. In this report, the author provided an array of recommendations, but three overarching suggestions were:

- Use existing methods, or at least portions of those methods,
- Use a rapid approach,
- Test the process and implement lessons learned by issuing revised versions.

This Minimal Effect Procedure follows these three recommendations. The foundation to the process is derived primarily from the hydrogeomorphic evaluation procedure (HGM) functional assessment approach. In addition, many of the ancillary concepts are based on rapid assessment approaches, as developed to meet the needs of other units of government (e.g., "Michigan Rapid Assessment Method for Wetlands", Michigan DNR (2010)). The comprehensive assessment method in Part 3 can be rapidly applied, requiring on average less than 4 hours of staff time. Application and outcomes will be tracked and reviewed annually to ensure this process continues to meet the agency's expectations.

Consideration of Wetland Functions and the Use of Functional Capacity Units

Wetland functions are defined as physical or ecological processes that occur within a wetland and are broadly grouped as wildlife habitat, hydrology, or water quality (Novitzki, Smith, & Fretwell, 1996). The science behind wetland functional assessments was derived from wildlife habitat models, such as the U.S. Fish and Wildlife Service's (USFWS) Wildlife Habitat Suitability Index models (USFWS, 1980). The habitat evaluation effort by USFWS was followed by similar efforts by others in the early 1980s to assess wetland functions. The U.S. Army Corps of Engineers needed a way to measure wetland functional gains and losses to meet their mitigation responsibilities under section 404 of the Clean Water Act. For this purpose, R. D. Smith developed a wetland functional evaluation process (Smith, 1993) that resulted in the HGM functional assessment approach.

The HGM approach to wetland assessment provides scores for each function (e.g., wildlife, water quality, floodwater storage), rather than a single functional score for the wetland. This approach is designed for and useful for wetland mitigation, as it accounts for each function that must be replaced at the mitigation site individually but is a poor fit for a minimal effect determination. The HGM approach

and many other national and/or regional wetland assessment methods are also constrained to their application to wetlands within similar wetland types or classes (USDA NRCS, 2008). Other methods (e.g., "rapid" wetland functional assessment approaches) provide a formula using all functions to acquire a single score for the entire wetland and are designed to apply to all wetland types. HGM and rapid approaches fail to fully meet the needs of NRCS in the administration of the minimal effect exemption however, each provide some processes and foundations utilized in the development of the NRCS Minimal Effect Procedures.

Functional Capacity**:** Functional capacity (FC) is the measured level of function for a wetland, and the first step in measuring the impacts of a conversion action is to determine how the FC will be affected. This is done by assessing physical characteristics of the wetland before and after the conversion action. The physical characteristics are assessed by measuring variables, which are rated based on how disturbance impacts a particular wetland function. Variables used in this Minimal Effect Procedure are hydrologic alteration, soil disturbance and vegetative alteration.

Each variable is rated on the condition resulting from the level of disturbance described. For example, if vegetation is significantly disturbed by cropping, the vegetative alteration would have the lowest rating. But if the vegetation remained relatively undisturbed and was similar to the historic plant community, the vegetation variable would receive the highest rating. Once each variable is scored, the FC for each function is determined by applying a formula. The hydrologic and soil alteration variables are used to assess multiple functions, while the vegetative alteration is used only to assess the capacity of a single function (wildlife).

The NRCS Minimal Effect Procedure calculates FCs for wildlife habitat, water quality, and floodwater storage. The statute requires the consideration of hydrological and biological values of wetlands and specifically cites "waterfowl and wildlife" as values that must be considered. Wetlands are generally considered to be a critical component of the lifecycle of many species. Wetlands also serve as transition zones between upland and deepwater habitats and streams, filtering excess nutrients and trapping sediments from upland runoff prior to entering lakes, rivers, and streams. They function as important floodwater retention areas, slowing the rate that water re-enters waterbodies, thereby reducing downstream flooding. Thus, water quality and floodwater storage were also selected by NRCS as two critical measures of the hydrological function and value of wetlands.

FC scores range between 0 and 1 and can be equated to functional level percent, where a wetland with a wildlife habitat FC of 0.56 is functioning at 56% of its capacity for wildlife habitat. A wetland may have substantially different FCs for different functions. For example, a seasonally ponded cropped wetland might score 1.0 for floodwater storage (fully functional), but that same wetland might score 0.2 for wildlife habitat (functioning at 20% of its capacity) because cropping significantly impacts habitat but not floodwater storage. For each function, the FC is determined based on conditions occurring on the subject wetland before the conversion action and then again after the conversion action.

Functional Capacity Units: Once the before and after FC is determined for each function, each FC score is multiplied by the size of the wetland to derive a functional capacity unit (FCU) for that function. For example, a 4-acre wetland functioning at 50 percent of its capacity (0.5) for wildlife habitat is providing 2 FCUs (4 acres x 0.5 FC = 2 FCU) for wildlife habitat. In general, this 4-acre wetland is providing

equivalent ecosystem services[6] for wildlife as would a 2-acre wetland functioning at 100 percent capacity. FCUs are the values used to calculate the effect of the conversion action on each function, with the difference between the before and after scores representing the loss of FCUs.

Site Visit

An onsite visit to the project area is mandated by regulation[7] for all minimal effect determinations. When possible, the site visit will occur during the growing season. As detailed below, the consideration of other wetlands in the area will be made with remote sensing.

Consideration of Wetland Values

In addition to consideration of wetland function, NRCS has a unique legal mandate to consider the value of wetlands in its minimal effect decision-making process. Value is determined independently from wetland function and is not a science-based consideration but rather evaluated based on the importance of wetlands to society. NRCS identifies wildlife habitat, water quality, and floodwater storage as the functions of wetlands in the agricultural landscape that provide the highest societal value.

Determining Cumulative Effects of the Conversion Action: Each FCU is weighted based on its ranking of societal value when determining the cumulative effects of the conversion action. Wildlife is a required statutory consideration to the minimal effects exemption and high-value habitat can be provided by wetlands in agricultural settings, including areas with small, isolated wetlands. Therefore, habitat is valued by NRCS as the most important function and is weighted by three when calculating the final cumulative FCU loss. NRCS identified water quality as the second most important value of wetlands associated with agricultural production, as wetlands can provide important water quality functions (sequestration of nutrients, pesticides, and sediments). Thus, the water quality function is weighted by two. Lastly, because minimal effect exemptions commonly impact small wetlands or small portions of larger wetlands, floodwater storage is identified as the lowest valued function and is weighted by one. A depiction of the formula applied in Step 11 of this procedure is provided below to demonstrate the value-based weighting used to determine the cumulative FCU loss from the conversion action.

$$\frac{3(\text{Wildlife FCU Loss}) + 2(\text{Water Quality FCU Loss}) + \text{Floodwater Storage FCU Loss}}{6}$$

Because there is no need to account for the replacement (or mitigation) of specific wetland functions, this single score approach is applied to all wetlands regardless of wetland type. This also assures a consistent, reasoned, and efficient wetland functional assessment approach.

Consideration of Rare and Unique Wetlands: An additional aspect of value is the consideration of wetlands identified as rare and unique. These wetland types have societal value significantly higher than other wetland types commonly occurring in agricultural landscape. As such they require special

[6] Ecosystem services are the benefits to humans derived from natural ecosystems for their physical, social, and economic well-being (Braat & De Groot, 2012); (Danley & Widmark, 2016); (Pashanejad, Kharrazi, Araujo-Gutierrez, Robinson, Faith, & Parrot., 2024).

[7] The regulations (7 CFR § 12.31(E)(1)), make clear that the field visit associated with a minimal effect determination is limited to the project area (site proposed for conversion), and not wetlands in the area.

consideration.

The occurrence of rare and unique wetlands is typically of such low abundance that there would be very few similar type wetlands in the area to compensate for the loss of their unique ecosystem services. Even more than common wetland types, the value provided by these wetlands is significantly affected by their functional level. For example, high-functioning fens support rare (and often declining) plant and animal specialist species dependent on the long-term saturation and calcareous soils characteristic of fens (Bart & Yantes, 2021). These specialist species and do not occur or thrive in other wetland types in the area. As disturbance increases these species decline abruptly. To account for the particular and important value of these rare and unique wetlands, a separate evaluation is used. When the evaluation finds an existing functional capacity that exceeds the identified threshold (i.e., a high-functioning rare and unique wetland), the project is not eligible for a minimal effect exemption and no further analysis is conducted.

The following are rare and unique wetlands in North Dakota: Bog or Fen; Wetland Providing Endangered Species Habitat; and Hazardous Waste Site.

Final Cumulative Wetland Functional Capacity Unit Loss

The minimal effect exemption decision requires consideration of the final cumulative wetland FCUs loss, which also accounts for the functional losses from any previously authorized minimal effect exemptions on the same USDA tract[8]. This approach will provide equitable access to minimal effect exemptions by eliminating the concern of potential "stacking" of multiple projects on the same USDA tract over many years. By tracking previous minimal effect exemptions and accounting for them in future decisions, it is assured that one person does not disproportionally utilize the exemption within any given area, when NRCS considers the effect of their action(s) "in connection with all other similar actions authorized by NRCS in the area" (7CFR § 12.5(b)(1)(v)).

NRCS will document minimal effects authorized in the state by tract. When a person requests a minimal effect, the minimal effect database will be used to determine if a minimal effect exemption was previously provided on that tract. If so, NRCS will combine the FCU lost from the past project with the FCU lost from the current project to make the current minimal effect decision. This final cumulative functional loss from minimal effect authorizations on the tract serves as the y-axis of the minimal effect decision matrix.

A tract-based allocation system effectively "distributes" the available minimal effect FCUs across each tract containing wetlands in the area. Thus, each tract is assured access regardless of when they request a minimal effect exemption. This approach provides all USDA program participants fair access to minimal effect exemptions and eliminates requests for minimal effect exemptions based solely on concerns that available minimal effect FCUs will be used by others in the area.

Wetlands in the Area Consideration

As previously explained, NRCS must determine if the conversion action will have a minimal effect on the functional hydrological and biological value of wetlands in the area. There are three considerations related to the ability of wetlands in the area to sustain their capacity to provide valuable ecosystem

[8] Tract means a unit of contiguous land under one ownership located in one physical location (county) which is operated as a farm, or part of a farm (7CFR § 718.2). Tract boundaries are identified by the USDA Farm Service Agency.

services: (1) wetland abundance in the area, (2) the functional level of those wetlands, and (3) the past and future wetland losses associated with NRCS granting minimal effect exemptions in the area.

Wetland abundance influences the ability of wetlands in the area to provide functional biological and hydrological values (e.g., wildlife habitat, water quality, and floodwater storage). Areas with high wetland abundance, are better able to withstand wetland losses. The health of the wetlands in the area (i.e., functional capacity) also influences the area's capacity to withstand wetland loss. Therefore, the FCUs of wetlands in the area is well suited to evaluate the area's ability to withstand wetland loss while continuing to provide adequate ecosystem services. Identical to the process used for the project area wetlands, existing FCUs in the area are determined by multiplying the acres of wetlands in the area by their level of function.

The scope (size) of the wetlands in the area evaluation is not provided by statute, regulations, or internal agency policy. Rather, that decision is made by each NRCS State Conservationist with consideration of the size, frequency and distribution of their wetland resources. If those vary greatly within a state, more than one region may need to be established with differing sizes of the evaluation area. Nationally, NRCS tested this procedure using different radiuses between 0.5 miles (502 acres) and 2 miles (8038 acres) and found a 2-mile radius provides more consistent results in many areas. However, when the distribution and size of wetlands do not vary greatly, a 1-mile radius provided similar results to a 2-mile radius while requiring less effort. In portions of the U.S. where wetland resources are scarcer and/or inconsistently distributed, the use of a larger radius may be warranted.

In North Dakota, NRCS determined the area within a 2-mile radius (8,042 acres) will be used to evaluate the conversion action's impacts on the wetlands in the area.

As discussed in Section A, NRCS must consider if the conversion action would have a minimal effect on the wetlands in the area combined with "all other similar actions authorized by NRCS in the area." All previous and anticipated future minimal effect exemptions authorized in the area are included in this consideration of "all other similar actions.".

To summarize the wetlands in the area consideration, NRCS determines the available wetland resources in the area (abundance and health) and then assess the effect past, current, and anticipated future NRCS minimal effect authorizations on the wetlands in the area. Ratings for the available wetland resources in the area and ratings for the losses from similar actions (past and anticipated future authorizations) are then used to determine the capacity of wetlands in the area to withstand wetland loss associated with the minimal effect request, while continuing to adequately provide valued wetland ecological services. This capacity is referred to as the "wetlands in the area resiliency."

Assessing Wetlands in the Area:

The objective of this task is to determine available wetland resources in the area so that a rating can be assigned for their ability to provide valuable ecosystem services. NRCS does not have the legal authority to access private lands to determine the location, size, and condition of wetlands in the area. Thus, NRCS inventories nationally available geospatial data to assess the amount and functional quality of wetlands in the area.

The U.S. Fish and Wildlife Service's National Wetland Inventory (NWI) provides a wetland boundary, predicted hydrology (e.g., seasonally flooded) and vegetation type (e.g., forested). The information from the NWI is augmented with the use of USGS land cover geospatial data. In some situations, NRCS may refine the NWI and USGS land cover data with NRCS hydric soils mapping and/or imagery review.

The initial result is the location and boundary of all wetlands in the area included in the analysis.

Next NRCS determines the size of each wetland occurring in the area and then uses the USGS land cover data and NWI vegetative data to place each wetland into the most appropriate category representing its FC. The six categories are: cropland or hayland; managed pasture or highly degraded plant communities; non-marsh herbaceous plant communities, with passive management, or a pond; early successional woody plant communities; mid- to late-successional woody plant communities; and marsh or shrub wetland with a mosaic vegetative pattern. Each category is assigned a FC rating ranging from a low of 0.1 for cropland or hayland to a high of 1.0 for high functioning wetlands (mid- to late-successional woody plant communities and marsh or shrub wetlands with a mosaic vegetative pattern). Larger wetlands may be subdivided into different categories.

The total acres of each wetland FC category are multiplied by the assigned FC score to obtain the total FCUs for each category within the area. The totals are then summed to provide the cumulative FCUs for the wetlands in the area.

Finally, the FCU total is used to determine a rating for the wetlands in the area to provide valuable ecosystem services. The ratings range from 0.1 for areas supporting very low FCUs to 1.0 for areas supporting exceptionally high FCUs.

Assessing Combined Effect of Similar Actions:

Now that the functional capacity of wetlands in the area is known, NRCS must consider how other minimal effect exemptions (i.e., all other similar actions authorized) will decrease the ability of these wetlands in the area to continue to provide valued wetland ecological services. A greater number of wetlands affected by other minimal effect exemptions will mean that each exemption, including the one under current consideration, will need to be smaller so that the combined effect on the wetlands in the area will be minimal. To do this, NRCS estimates the percentage of wetland acres potentially impacted in the area and uses that to assign a rating for the combined effect of similar actions. This rating for the combined effect of similar actions is later used when determining the final capacity of wetlands in the area to provide valued ecological services (wetlands in the area resiliency).

To determine the percentage of wetland acres potentially impacted in the area, NRCS first takes the number of tracts in the area with wetlands and then makes an adjustment based on the percent utilization of minimal effect exemptions and the average size of those exemptions. When estimating the percent utilization of minimal effect exemptions, NRCS must reasonably account for all (past and future) tracts that will be granted an exemption while recognizing that not all wetlands occurring on USDA tracts lend themselves to conversion that makes agricultural production possible. Many wetlands cross land ownership boundaries, making drainage impossible without approval from adjacent landowner(s). Some wetlands might be enrolled in a conservation easement prohibiting conversion. Some wetlands cannot be effectively drained (e.g., they may lack an adequate hydrologic outlet), while others support soil properties (e.g., shallow to bedrock, saline or sodic) not conducive to more intensive agricultural use. Lack of irrigation water or unfavorable climatic conditions may also serve as disincentives to agricultural wetland conversion. In summary, many factors may restrict lands to some uses (e.g., wildlife, timber production, native pasture, and recreational lands) that do not support undertaking a conversion action. These wetlands will not count as those that may reasonably be expected to utilize a minimal effect exemption, and areas where they occur will have a lower estimated percent utilization.

Using these considerations and best professional judgement, NRCS estimates that 98% of the USDA tracts with wetlands may eventually (in the foreseeable future) be subject to a minimal effect exemption

in any given area. This "percent anticipated authorization" is multiplied by the number of tracts with wetlands in the area to obtain the number of tracts that are reasonably expected to be granted a minimal effect exemption. This number is then multiplied by the average size of authorization to obtain the anticipated number of acres in the area that may reasonably be granted a minimal effect exemption. NRCS in North Dakota has applied the minimal effect procedures using various common scenarios and determined the estimated average size of a minimal effect exemption to be 0.5 acre. The anticipated number of acres granted a minimal effect exemption in the area (anticipated future authorizations) is divided by the total acres of wetlands in the area. This calculation provides the percentage of wetland acres in the area potentially impacted by minimal effect anticipated authorizations overtime. Finally, this percentage is used to assign a rating for the combined effect of similar actions[9]. This rating ranges from a low of 0.1 for areas with a 5 percent or greater anticipated loss to a high of 1.0 for areas with projected losses of less than 1 percent.

Wetlands in the Area Resiliency

The ratings for the functional capacity of wetlands in the area and for the combined effect of similar actions are used to calculate the capacity of wetlands in the area to provide valued ecological services. This value is labeled the "wetlands in the area resiliency" and serves as the x-axis of the minimal effect decision matrix.

Decision Making

The final decision on whether a minimal effect exemption is granted using the comprehensive process is based on the final cumulative wetland FCU loss (including any previous minimal effect exemptions granted on the tract) and the wetlands in the area resiliency. A minimal effect decision matrix, with a y-axis of the FCU loss and an x-axis of the wetlands in the area resiliency, is provided to make the decision. The smaller the FCU loss and the greater the wetlands in the area resiliency, the more likely a minimal effect exemption is granted. This analysis is used to ensure that minimal effect exemptions are meeting the statutory and regulatory mandate that the impacts of a conversion action, in combination with other past and future minimal effect exemptions in the area, are minimal to the wetlands in the area.

Assessment of Wetland Functional Capacity — A Dynamic Process

Geographic regions experiencing wetland gains (acres and/or function) can sustain wetland functional losses better than geographic areas with net losses in wetland functions or acres. For example, the capacity of wetlands in the area to provide ecological services may be maintained in an area, even with losses of individual wetlands if those losses are being replaced with wetland functional gains (increases in FCUs). Those gains can be from passive processes (abandonment of drainage systems) or active processes such as wetland restoration projects. Similarly, geographic regions experiencing wetland losses will experience declines in the ability to sustain further wetland functional losses associated with NRCS minimal effect authorizations.

The request for and issuance of NRCS minimal effect exemptions will be documented and monitored during implementation. The minimal effect (requests and authorizations) tracking process will assure

[9] The process of anticipating (predicting) future demand in any given area meets the statutory and regulatory mandate for NRCS to base decisions not exclusively on the impacts of the actin in question, but on the combined effect of similar actions (NRCS authorizations for minimal effect).

NRCS is monitoring the wetland FCUs lost through USDA minimal effect determinations and an annual report will be provided to the State Technical Committee. Future adjustments to the process (adaptive management) will be made if needed to properly address the dynamic nature of wetland gains and losses occurring not associated with NRCS authorizations, and to consider the cumulative effect of those gains and losses in association of NRCS minimal effect authorizations.

State Minimal Effect Tract Boundary Map

Allocation of minimal effect authorizations by tract requires a map delineating all USDA tracts in a state. Tract boundaries for this process will follow Farm Service Agency tract delineations at the time of state's adoption of the minimal effect procedure. Once populated, this map will remain "static" and will be used for all future minimal effect determinations, regardless of future tract boundary modifications (e.g., reconstitutions) by the Farm Service Agency. The use of a static map ensures past authorized exemptions for a tract remain linked to that tract, regardless of future reconstitutions. It also provides a reasonable prediction of future demand for minimal effect exemptions and eliminates the concern of potential "stacking" of multiple projects that could otherwise occur by subdividing the tract boundary.

Considerations Given to New Tracts and Legally Divided Tracts

Most agricultural areas are fully represented by established USDA tract boundaries. Land not represented by a tract is typically not well suited to agricultural production and demand for minimal effect exemptions. Thus, anticipated additions of new tracts are reasonably predicted to be inconsequential to future minimal effect decisions.

In uncommon situations, a minimal effect request may be received on land where a new tract has been established that supports wetlands. If a minimal effect exemption is granted in such a case, the functional losses associated with the authorized exemption will be added to the tracking database, but the tract boundary map will not be updated.

If a tract on the static map is later subdivided and a minimal effect exemption is requested, minimal effect authorizations will be attributed to each subdivision on a prorated basis by area. For example, if a tract is subdivided into 25% and 75% of the original tract, then the two tracts are eligible for 25% and 75%, respectively, of the FCUs which otherwise would have been granted for the original tract.

Similarly, if a subdivided tract was part of a tract that previously received an exemption, the previously granted FCUs not utilized will be attributed to each subdivided area on a prorated basis, regardless if a particular subdivision received an exemption. For example, if the new tract is 25% of the original tract, the new tract is attributed with 25% of the FCU previously granted, regardless of the location of the previous authorization.

Expedited Minimal Effects

In 7 CFR §12.31(f), each State Conservationist is directed to contribute to the development of a list of regional categorical minimal effect exempted activities.

> *The state conservationist, in consultation with the state technical committee established under 16 U.S.C. 3861, shall identify any categories of conversion activities and conditions which are routinely determined by NRCS to have minimal effect on wetland functions and values, as described in paragraph (d) of this section, and recommend to the Chief, NRCS, or a designee, inclusion on a list of categorical minimal effect exemptions.*

As an alternative to regional categorical minimal effects, NRCS utilizes state expedited minimal effects (EME). Similar to categorical minimal effects, EMEs are linked to a particular activity (e.g., installation of grassed waterways, removal of individual trees in a large open field, filling a small pit-style pond) and have stated "conditions." If implemented within the stated conditions, NRCS has categorically determined that the EME activity "*individually and in connection with all other similar actions authorized by NRCS in the area, would have only a minimal effect on the wetland functions and values of wetlands in the area"* (7 CFR § 12.5 (b)(1)(v)).

NRCS developed 11 national EME's for consideration for adoption (with or without modification) by each State Conservationist. EMEs are not categorical minimal effects because they are not regional (multistate) in scope but rather fall within the authority granted by regulation to each State Conservationist to administer the minimal effect exemption within their state. EMEs provide more refined and targeted application within a state than a nationally developed regional categorical minimal effect, while meeting the same objectives. For example, upon consultation with the State Technical Committee, each State Conservationist identifies which national (if any) EMEs have applicability in their state and decides upon acre limits and other conditions not listed on the national EME. A State Conservationist might decide to offer an EME in only one portion of the state, or the EME conditions might be more stringent in one portion of the state compared to other portions.

~~Another advantage to an EME when compared to categorical minimal effects is that each EME requires the person to self-certify they met all conditions of the exemption. This self-certification occurs by their signature on the appropriate state-level EME agreement sheet, which provides both the person and the Agency documentation for future reference. A map identifying the location of the project is attached to each agreement sheet for the record.~~

NRCS documents the receipt of all EME agreements in the state minimal effect tracking database. The tracking database, agreement, and map allow NRCS to rapidly respond to any future FSA-569, "NRCS Report of HELC or WC Compliance" (Form FSA-569) inquiries of the conversion action exempted by an EME. Lastly, tracking EMEs allows NRCS to monitor the use of each EME and share summaries with partners and the public.

SECTION C: MINIMAL EFFECT PROCEDURE

This section provides the process that will be utilized to consider if an action will (or did) have a minimal effect on the functional capacity of wetlands in the area. There are three parts to Section C:

Part 1: Consideration of Past Conversion Projects
Part 2: Expedited Minimal Effect
Part 3: Comprehensive Minimal Effect Process

PART 1: CONSIDERATION OF PAST PROJECTS

As discussed, the statute, regulations and agency policy require the consideration of whether the project, *individually and in connection with all other similar actions authorized by NRCS in the area, would have only a minimal effect on the wetland functions and values of wetlands in the area.* This consideration is discussed in more detail in Section C, Part 3: "Comprehensive Minimal Effect

Decision-Making Process" of this document. To protect against "stacking"[10] of multiple minimal effect exemptions on the same USDA tract over time, the assessment will consider the impacts of previously issued minimal effect exemptions in measuring functional loss. Prior to the consideration of either an expedited minimal effect request or a comprehensive minimal effect request, NRCS will:

1. Determine if the person, or the person's predecessor in interest[11] has been granted minimal effect exemptions in the past, within the tract boundaries as delineated on the Minimal Effect Tract Boundary Map.
2. If so, those impacts (cumulative impacts of past and proposed minimal effect) will be included in the minimal effect decision process[12], as provided in parts 2 and 3 of this section.

PART 2: EXPEDITED MINIMAL EFFECT

The use of EMEs assures consistency, transparency, and fairness in the administration of the minimal effect exemption for commonly applied activities where the impacts of the conversion activity are categorically determined by NRCS to have a minimal effect on wetlands in the area.

Administratively, there are two general categories of EMEs, each category with a different administrative process.

1. EMEs requiring an existing certified wetland determination.
    a. NRCS will provide the person the appropriate EME agreement sheet and a copy of the portion of the certified wetland determination map containing the proposed project area. The copy of the map will be at a scale sufficient for the purpose of the exemption.
    ~~b. The person will sign and date the EME agreement sheet, delineate the EME project area on the EME project map and return both to NRCS following completion of the project.~~
    c. If the person is pursuing an EME after a conversion action, they will provide NRCS written documentation of when the action occurred, the project map, and photos of the subject area in the post conversion condition.
    d. NRCS will verify receipt of the agreement and map, by signature and date.
    e. NRCS will issue a new preliminary technical determination (PTD) and label the project area as Minimal Effect (MW).
    f. The EME number (e.g., EME-03) and acres will be documented on the state minimal effect tracking database [13].

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[10] The term *stacking* in this document is the process of a person requesting, and being granted, multiple minimal effect exemptions on the same farm (USDA tract). Over time, the total wetland functional capacity loss of multiple projects on the same farm would exceed the capacity of *wetlands in the area* to maintain their functional capacity to provide valuable ecological services.

[11] *Predecessor in interest* concept is from the third-party exemption in the regulations (7 CFR § 12.5(b)), and would include a previous owner, operator, or person as defined in 7 CFR § 12.2, or the same person prior to administratively splitting of the tract via a reconstitution by the Farm Service Agency.

[12] The assessment is a consideration of, not only the current proposed conversion, but also past post-1985 conversions. Thus, the impacts of past conversion must be included and "added to" the consideration of a minimal effect request. The question that must be answered is if the impacts of the current project, cumulatively with any past projects where NRCS granted a minimal effect exemption, meet the minimal effect exemption threshold.

[13] A minimal effect tracking database is maintained to assure full transparency and proper consideration that minimal effects granted *individually and in connection with all other similar actions authorized by NRCS in the area, would have only a*

2. EMEs that do not require an existing certified wetland determination.
    a. NRCS will provide the person the appropriate EME agreement sheet and an EME agreement map document at a scale sufficient for the purpose of the exemption.
    b. The person will sign and date the EME agreement sheet, delineate the EME project area on the EME project map and return both to NRCS following completion of the project.
    c. NRCS will sign and date the EME agreement sheet to acknowledge it has been received. Note: Some EME require NRCS to verify by signature that EME conditions are met.
    d. A wetland determination will not be issued following project implementation.
    e. Expedited minimal effects completed in these categories will be tracked on the state minimal effect tracking database, but without populating the acres.

3. In situations where the Farm Service Agency issues Form FSA-569, and the site visit finds a converted wetland action that meets the conditions of an EME, NRCS will follow the following administrative process:
    a. Delineate the area on a project area map at a scale sufficient for the purpose of the exemption.
    b. Provide the applicable EME agreement for signature by the person.
    c. Sign and date the agreement sheet with a post-authorization note.
    d. If required by the applicable EME, NRCS will issue a new PTD and label the project area MW.
    e. Provide a copy of the signed agreement to the person and complete the FSA-569 accordingly.
    f. Document the EME on the state minimal effect tracking database.

Section C, Part 3, Subpart 3B - Project Area Considerations, Step 6, discusses Rare and Unique (R&U) Wetlands. Specifically, Step 6(c) provides a quality scoring methodology for R&U wetlands, while Step 6(d) provides a quality scoring threshold. If the R&U wetland scores more than the threshold, the project does not qualify for a minimal effect exemption. This process applies to EMEs as well as the use of the comprehensive method presented in Section C.

The following table provides the expedited minimal effects approved for use in North Dakota. An EME agreement sheet for each approved expedited minimal effect with conditions is provided in Appendix B.

Table 1. Summary of Expedited Minimal Effects and Tracking Requirements.

NUMBER	NAME	PRIOR CWD	NEW CWD	ONSITE VISIT	LIMITS	TRACKING DATABASE	
						OCCURANCE	**ACRES**
EME-01	**CONVERTING LESS THAN FIVE PERCENT OF A WETLAND**	**Y**	**Y**	**N**	**5% and ≤ 1-acre**	**Y**	**Y**

minimal effect on the wetland functions and values of wetlands in the area. The tracking database also maintains FCU authorized for a tract over time, to assure no tract is authorized more FCU's than what are provided for by the decision matrix.

NUMBER	NAME	PRIOR CWD	NEW CWD	ONSITE VISIT	LIMITS	TRACKING DATABASE	
						OCCURANCE	ACRES
EME-02	REMOVING INVASIVE WOODY VEGETATION FROM HISTORICALLY HERBACEOUS WETLANDS	Y	Y	N	None	Y	Y
EME-03	REMOVING NATIVE WOODY VEGETATION FROM HISTORICALLY HERBACEOUS WETLANDS	Y	Y	N	1-acre	Y	Y
EME-04	RESTORING NATURAL HYDROLOGY	N	N	Y	None	Y	N
EME-05	DECOMMISSIONING A POND	N	N	Y	None	Y	N
EME-06	INSTALLING AN ELEVATED TRAVELWAY	N	N	N	Min. 12-inch culvert diameter	Y	N
EME-07	INSTALLING WILDLIFE OPENINGS	N	N	N	5% and 0.5 acre	Y	N
EME-08	INSTALLAING A GRASSED WATERWAY	N	N	N	None	Y	N
EME-09	REMOVING NARROW BANDS OF WOODY VEGETATION	N	N	N	30-feet (50-feet)	Y	N
EME-10	REMOVING SCATTERED WOODY VEGETATION	N	N	N	≤ 2% and 0.1-acre	Y	N
EME-11	REMOVING WOODY VEGETATION TO INSTALL OR MAINTAIN EXISTING LINEAR INFRASTRUCTURE	N	N	N	30-feet (50-feet)	Y	N

North Dakota will need state-developed fact sheet. Fact sheet samples in Appendix B.

Subpart 2A: Expedited Minimal Effects Requiring a Certified Wetland Determination

The following expedited minimal effect exemptions require existing certified determinations. If determined to be a wetland, the project area will be delineated, sized, and labeled as MW. NRCS will track all exemptions issued using these expedited minimal effects on the state minimal effect tracking database.

To administer these minimal effects, follow the process detailed above in Part 2(1) - EMEs requiring an existing certified wetland determination, or Part 2(3) if EME is issued in response to Form FSA-569.

EME-01: CONVERTING LESS THAN FIVE PERCENT OF A WETLAND

Agricultural producers commonly manage pasture, hayland, and cropland located immediately adjacent to a wetland. Often the person is interested in conducting a conversion action, but only on a small portion of the larger wetland (e.g., straightening a wood line to eliminate point-rows, or filling a small portion of a larger wetland located adjacent to an agricultural field).

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is required for the project area.
2. Less than 5% of the wetland will be impacted by the conversion action.

3. The remaining portions of the wetland not impacted by the conversion action is controlled by the person (ownership or legal lease) or has a very low risk of conversion because it is being used as a conservation area controlled by a unit of government, conservation organization, under a conservation easement, or supports a water depth such that drainage is not practical, as determined by NRCS.
4. Regardless of the size of the wetland, only areas ≤ 1-acre will qualify for this expedited minimal effect.
    - Determine if past expedited minimal effect exemptions have been provided on other areas of the tract adjacent to the larger wetland. If so, consider impacted acres of previous expedited minimal effect decisions in the determination of both thresholds (5% and ≤ 1-acre).
5. The attached map shows the location and extent of the project area.

EME-02: REMOVING INVASIVE WOODY VEGETATION FROM HISTORICALLY HERBACEOUS WETLANDS

Agricultural producers often desire the removal of invasive woody vegetation from areas that were historically herbaceous wetlands. Invasive woody vegetation impairs a wetland's natural functional capacity to provide habitat for native wildlife adapted to life in herbaceous wetlands and for ground water recharge. Examples of invasive woody vegetation include, but are not limited to, Russian Olive (*Elaeagnus angustifolia*), Saltcedar (*Tamarix* spp.), and Siberian Elm (*Ulmus pumila*).

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is required for the project area.
2. As determined by NRCS, the project area was historically (pre-European settlement) an herbaceous wetland.
3. Woody vegetation removal will be limited to invasive species.
4. As determined by NRCS, an exception may be provided as an addendum to this document allowing for removal of native woody species that have invaded the project area as long as the native species represent less than 15% of the woody aerial cover of the wetland.
5. The removal activity will result in minimal soil movement.
6. ~~The project area will not be cropped, nor planted to a nonnative forage species.~~ [Depending on the state, the cropping prohibition might be removed.]
7. After removal of woody vegetation, the final elevation of the project area is not higher than the preconstruction elevation.
8. The hydrology of the project area wetland will not be altered.
9. A map is attached, showing the location and extent of the project area.

EME-03: REMOVING NATIVE WOODY VEGETATION FROM HISTORICALLY HERBACEOUS WETLANDS

Prairie potholes, playa lakes, and many other wetlands were historically herbaceous wetlands. Native woody vegetation, such as those native species suited to the Conservation Tree and Shrub (CTSG) Group Two in the North Dakota Field Office Technical Guide, can establish during dry periods in these wetlands, and with the absence of fire, they become ecologically problematic. These woody plants can result in a significant reduction in the natural functional capacity of these wetlands. Removing this woody vegetation can partially restore the historic functional capacity.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is required for the project area.
2. Only one EME-03 exemption will be provided per tract unless approved in writing by the State Conservationist.
3. As determined by NRCS, the project area was historically an herbaceous wetland.
4. Woody vegetation is removed from less than 1-acre unless approved in writing by the State Conservationist.
5. After removal of woody vegetation, the final elevation of the project area is not higher than the pre-project elevation.
6. The hydrology of the project area wetland will not be altered.
7. ~~The project area will not be cropped, or planted to a nonnative forage species, without a variance signed by the State Conservationist.~~ [Depending on the state, the cropping prohibition might be removed.]
8. A map is attached, showing the location and extent of the project area.

Subpart 2B: Expedited Minimal Effects Not Requiring a Certified Wetland Determination

The following expedited minimal effect exemptions do not require a certified determination prior to or after project implementation. However, NRCS will include the use of these expedited minimal effects on the state minimal effect tracking database as an occurrence but not record acres.

To administer these minimal effects, follow the process detailed in Part 2(2) - EMEs that do not require an existing certified wetland determination, or Part 2(3) if EME is issued in response to Form FSA-569.

EME-04: RESTORING NATURAL HYDROLOGY

Past construction of farm roads, ponds, borrow pits, and similar actions often increase the depth and duration of inundation of naturally occurring wetlands. In all cases, the natural functional capacity of the impacted wetland is significantly altered by these actions. Restoring the wetland hydrology to what existed prior to these actions allows the wetland to function hydrologically at a capacity similar to the historic conditions.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required for the project area.
2. As determined by NRCS, the elevation of any filled area under this expedited minimal effect is not greater than the original natural elevation; and the depth, duration, timing, and frequency of inundation and/or saturation of the filled area is similar to the historic natural condition.
3. No drainage will be installed to reduce the hydrology (depth, duration, timing, frequency of inundation or saturation) that existed prior to the initial activity that altered the hydrology.
4. A map is attached, showing the location and extent of the project area.

EME-05: DECOMMISSIONING A POND

A land use or other change in the person's agricultural operation may create the desire to remove an existing pond constructed on a hydric soil. For this exemption, a pond refers to any artificially enhanced water body including a livestock pond, irrigation reservoir, tailwater pit, or similar waterbody. Wetlands associated with such features are highly altered, so they are functioning at a very low capacity when compared to the site's natural wetland condition. Note: If the pond was constructed on nonhydric soil, the associated wetlands are artificial wetlands (AW) and are fully exempt from the Wetland Conservation (WC) provisions and therefore do not require a minimal effect exemption.

Filling and leveling of these features to mimic the original (natural) elevation restores the original wetland hydrology. This provides hydrologic conditions that are ecologically more similar to the conditions prior to the pond construction. Such actions can make production possible.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required for the project area (pond). However, NRCS will determine the pond is located on a hydric soil.
2. The pond is located within or immediately adjacent to open agricultural lands (rangeland, pasture, hay, cropland) or an orchard.
3. As determined and verified by NRCS, fill material will be placed no higher than the original elevation.
4. A map is attached, showing the location and extent of the pond.

EME-06: INSTALLING AN ELEVATED TRAVELWAY

Placement of fill into a wetland may be required to facilitate the movement of people, livestock, and equipment. Examples are farm roads, elevated livestock walkways, and elevated irrigation track/wheel berms. The fill used to elevate the travelway itself does not typically make agricultural production possible because of the narrowness and material used (e.g., geotextile and gravel) to construct the travelway. However, in some cases the travelway can block drainage, making production more possible on wetlands down gradient of the travelway.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required for the project area.
2. As determined by NRCS, the travelway will be no wider than necessary to meet the purpose.
3. The travelway will not be planted to an agricultural commodity, as defined in 7 CFR § 12.2.
4. A culvert(s) at least 12-inches in diameter will be installed at the lowest elevational point of the wetland immediately adjacent to, and down-gradient of, the travelway.
5. The culvert(s) will be installed and maintained to allow free movement of water, such that the water level equalizes on both sides of the berm shortly after storm events and runoff.
6. A map is attached, showing the location and extent of the project area and location of culvert(s).

EME-07: INSTALLING WILDLIFE OPENINGS

Within an existing larger wetland supporting woody vegetation, the creation of a small wildlife opening(s) by removal of woody debris and stumps can improve the habitat conditions for most wildlife, including waterfowl. Such wildlife openings are small compared to the surrounding forest, adding value to habitat conditions of the larger wetland. When large enough, these actions would make production of an agricultural commodity possible.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required for the project area.
2. The wildlife opening is created fully within an area supporting woody vegetation such that the opening is not located immediately adjacent to open land (e.g., rangeland, pasture, hay, cropland), or developed lands (e.g., public road, highline, cleared pipeline, urban land, or farmstead).
3. The size of any single wildlife opening will be no larger than 0.5 acre, and the cumulative acres of all such openings will not exceed 5% of the forested wetland area in which it is installed, unless an exception is provided by NRCS in an addendum to this document, signed by the State Conservationist.
4. As determined by NRCS, no new drainage will be installed that impacts the hydrology of any opening or associated forested wetland.
5. Soil disturbance during clearing will be minimized.
6. No fill will be placed in wetlands.
7. Debris piles will be located on the edge or outside of the forest opening.
8. Unless provided for by an addendum to this agreement, wetland portions of the cleared area will not be planted for harvest to an agricultural commodity as defined in 7 CFR § 12.2.
9. A map is attached, showing the location and extent of the project area. The map will identify the maximum acreage allowed under this exemption, based on the criteria identified in Condition 3 above.

EME-08: INSTALLING A GRASSED WATERWAY

Agricultural producers often need to shape a gully and install a grassed waterway to treat a gully formed by soil erosion. On occasion, the gully has accessed ground water, thereby forming a slope wetland. If the gully treatment is required in a Highly Erodible Land Conservation (HELC) plan or system, then the action of converting the slope wetland is exempt from the Wetland Conservation (WC) provisions, as provided by policy (National Food Security Act Manual 514.40(H)). If not required for compliance with the HELC provisions, actions that convert a slope wetland impacted by gully erosion, or at risk of gully erosion, are eligible for this expedited minimal effect exemption.

These slope wetlands are highly degraded, or at risk of being highly degraded. The flow transports excessive sediments and other pollutants into down-gradient wetlands and waterbodies. Installation of grassed waterways to address the gully erosion resource concern will increase the functional capacity of down-gradient wetlands and waterbodies.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required of the project area.
2. As determined by NRCS, the grassed waterway will be no wider than necessary to meet the purpose.
3. As determined by NRCS, the elevational grade of any fill will be no higher than the original grade (prior to gully formation).
4. As determined by NRCS, installation of tile drainage adjacent to the waterway is allowed when needed to assure stability of the waterway.
5. A map is attached, showing the location and extent of the project area.

EME-09: REMOVING NARROW BANDS OF WOODY VEGETATION

In open agricultural settings, it is common for old fence lines, property boundaries, and field boundaries to be invaded by woody plants. In some instances, hedgerows, wind breaks, or shelterbelts were installed as living fences or to serve other purposes (e.g., snow drift mitigation or access control). Over time, these narrow bands can revert to isolated, narrow, low-functioning wetlands. Because of their small size, proximity to agricultural land, and frequent disturbance by vehicles or pesticide drift, they contribute very little to the functions and values of wetlands in the area to provide ecological services related to wildlife, water quality, or flood-water retention. Due to source/sink dynamics, they can reduce the wildlife habitat functions of more intact wetlands in the area.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required for the project area.
2. The project area was used in the past as a fence row, turn row, farm road, property/field boundary, hedgerow, or similar artificial linear land use feature.

3. The linear feature is bordered on both sides by open agricultural land (e.g., rangeland, pasture, hay, cropland), managed orchard or vineyard, or highly altered non-forested lands (e.g., road, homes, industry, or farm headquarters).
4. The narrow band is less than 30-feet (50-feet) wide, at the widest point, unless an exception is provided by NRCS in an attached addendum to this document. Width is determined from the woody stems/trunks of the woody vegetation, not the canopy.
5. No new drainage will be installed.
6. Soil disturbance will be minimized.
7. No fill will be placed in wetlands.
8. Debris piles will be placed outside of the project area.
9. A map is attached, showing the location and extent of the project area.

EME-10: REMOVING SCATTERED WOODY VEGETATION

In open agricultural settings, particularly managed pastures and hay fields, individual trees or very small groupings of woody vegetation can occur. Isolated individual trees or very small groupings of trees contribute minimally to the functional capacity of wetlands in the area.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required for the project area.
2. The individual trees and/or isolated small groupings are fully contained within an open agricultural field (e.g., rangeland, pasture, hay, cropland).
3. Unless an exception is provided by NRCS in an attached addendum to this document, total canopy of individual trees and/or small groupings represent ≤ 2% of the acres within the field. If the individual tree(s) or small grouping(s) are delineated by Farm Service Agency as a field, sub-field, or similar delineation, then the adjacent open field(s) is used to determine if the ≤ 2% threshold is met.
4. No individual small grouping of woody vegetation will have a canopy size of larger than 0.1 acre.
5. Soil disturbance will be minimized.
6. No fill will be placed in the cleared areas.
7. No new drainage will be installed.
8. A map is attached, showing the location and extent of the project area.

EME-11: REMOVING WOODY VEGETATION TO INSTALL OR MAINTAIN EXISTING LINEAR INFRASTRUCTURE

Within an existing larger area supporting woody vegetation, persons often need to remove woody vegetation on a portion of the wooded wetland to install or maintain permanent narrow linear infrastructure features (e.g., firebreaks, access roads and fences, or the maintenance of existing ditches). Such activities can make production possible with small farming equipment, but production of an agricultural commodity is not the purpose. Rather, the purpose is to remove the woody vegetation to facilitate maintenance and management of the area or infrastructure. Specific to drainage features, such

maintenance is allowed under the wetland conservation compliance provisions as provided by regulation in 7 CFR § 12.33(d), but conditions regarding spreading of spoil are not provided.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required for the project area.
2. The portion of the linear feature impacting a wetland will be no wider than 30 feet (50-feet), on either side of the infrastructure feature.
3. Drainage maintenance will not exceed the original scope and effect (7CFR § 12.33(d)).
4. No new drainage will be installed.
5. Soil disturbance will be minimized.
6. No fill will be placed in wetlands.
7. Debris piles will be placed outside of the cleared area.
8. Unless an exception is provided by an addendum to this agreement, wetland portions of the cleared area will not be planted to an agricultural commodity as defined in 7 CFR § 12.2.
9. A map is attached, showing the location and extent of the project area.

PART 3: COMPREHENSIVE MINIMAL EFFECT DECISION-MAKING PROCESS

Minimal effect requests that fail to meet an expedited minimal effect exemption are assessed using a comprehensive evaluation process. The comprehensive minimal effect process requires a certified wetland determination of the project area. Additionally, 7 CFR § 12.31(e)(1) requires the application of a "functional assessment of functions and values of the subject wetland and other related wetlands in the area."

The functional assessment used in the comprehensive process meets this regulatory mandate as it is subdivided into a portion assessing the "subject wetland" and a portion related to "wetlands in the area." More specifically:

1. The first portion of the functional assessment (Subpart 3B; Steps 2-12) determines the cumulative wetland functional losses for wildlife habitat, floodwater storage, and water quality resulting from a wetland conversion action at the subject wetland. The cumulative functional loss from minimal effect exemptions (including any previous minimal effect exemptions) provided on the tract serves as the y-axis of the minimal effect decision matrix (Step 19).
2. The second portion of the functional assessment (Subpart 3C; Steps 13-18) determines the capacity of wetlands in the area to sustain losses yet continue to provide valued wetland ecological services. This capacity is referred to as the wetlands in the area resiliency (Step 18) and is used as the x-axis of the minimal effect decision matrix (Step 19).

The comprehensive process is subdivided into four subparts: Subpart 3A provides the project area map requirements; Subpart 3B includes the assessment of the subject wetland; Subpart 3C includes the assessment and considerations of the wetlands in the area; and Subpart 3D provides the decision matrix.

Subpart 3A: Project Area Map

Step 1: Identify the Project Area on Three Maps

a. Develop three maps and maintain in the administrative record.
   i. Vicinity Map — A vicinity map will be developed at a scale that allows for rapid understanding of the project's location in relationship to public roads, towns, and similar landmarks.
   ii. Project Area Map — The project area (referred to as the subject area in 7 CFR § 12.31(e)(1)) is the area under consideration of a minimal effect exemption. The project area will be located on imagery and will be printed at a scale that allows for identification of land use, vegetative patterns, presence of surface drainage, indications of wetland hydrology such as ponding, and other site characteristics. Project boundaries and acres will be clearly delineated and noted on the map, along with the WC label (e.g., prior converted cropland, farmed wetland, etc.)[14].

      Note: The project area map will not be used as the certified determination map to accompany the NRCS-CPA-026-WC for the MW exemption because it provides nonessential details (e.g., sub-areas, drainage, vegetative patterns) and the WC label prior to consideration of a minimal effect exemption.

   iii. Wetlands in the Area Map[15] — At a minimum, the scale of the map will be sufficient to document the presence of all wetlands in the area. General knowledge of the area, coupled with remote sensing, will be used to inventory wetlands in the area. The USFWS National Wetland Inventory (NWI) is a primary source of identification of wetlands in the area. In some situations, those data may be supplemented and/or modified by other resources such as hydric soils mapping and wetland signatures on aerial imagery. For privacy purposes, certified wetland determinations will not be on the wetlands in the area map, but NRCS may utilize existing certified determinations to calibrate or supplement the wetlands in the area data, provided that the location of certified wetland determinations in the area are not disclosed. The wetlands in the area map scale does not need to be sufficient to discern vegetative type or management details.

Subpart 3B: Project Area Considerations

Data Collection: Steps 2-5 of this subpart provide the process used by NRCS to collect and assemble data on the ecological conditions occurring at the project area prior to implementation of a conversion action.

Step 2: Determine Size of Project Area

a. Using the project area map, document the size of the proposed project area on the rating form in hundredths of an acre[16].

[14] The final project area map will be adjusted based on the location and acres authorized by NRCS.
[15] Further instructions are provided in Subpart 3C, Step 13(a) – (d).
[16] The size of the project area under consideration will eventually be adjusted to the size authorized, which is rounded to a tenth of an acre.

Note: The rating form is used to document data and calculations, and rapidly determine outcomes. Brevity is used in the language in the rating form to facilitate it's use. Accordingly, the language in the minimal effect procedure takes precedence to any language on the rating form.

Step 3: Conduct an Offsite Review

a. Review information from the certified wetland determination of the project area[17], taking note of any post-1985[18] conversion actions if present. If a wetland identification base map is associated with the certified wetland determination, review the sampling units, noting the number, location, and data associated with any representative observation points.
b. As appropriate, review multiple years of aerial imagery, NWI maps, NRCS soil maps, and other offsite data to identify past disturbances and gain information on the hydrology of the project area. This information (e.g., location of drainage features, depressional areas, past forest harvest, and historic land use patterns) can identify areas of interest when conducting the meandering survey (Step 4) and inform decisions on the most appropriate ratings in Step 7.
c. Document significant findings.

Step 4: Conduct A Meandering Survey and Identify Sub-Areas as Appropriate

a. Walk the proposed project area, noting homogeneity or heterogeneity of the hydrology, soils, and plant community.
b. Determine the presence, scope, and effect of pre-1985 and post-1985 drainage.
c. Determine if there have been any recent vegetative disturbances not apparent in the offsite review that may have degraded wetland functions. Examples are harvest of trees, land clearing, disking, and herbicide treatment of grasslands.
d. If the project area is only a portion of a larger wetland, extend the meandering survey into the adjacent wetland as needed to assess the influence of adjacent areas on the hydrology of the project area, but only if the adjacent wetland is part of the same USDA tract.
e. Document significant findings.
f. For project areas with distinct sub-areas of differing hydrology, soils, or plant communities, NRCS shall delineate the sub-areas and determine their size. This is similar to the sampling unit approach used in the wetland identification process, but includes additional considerations regarding alterations of vegetation, soil, and hydrology used in the application of the functional assessment.
g. Each sub-area will be assessed separately.

Step 5: Document Hydrologic, Vegetative, and Soil Conditions for the Project Area

a. Hydrology — Document the pre-project hydrologic conditions, including consideration of the best drained conditions of any pre-1985 drainage. Identify if hydrological alterations (e.g., surface drainage, filling, or installation of drainage tile) have occurred

[17] This review is limited to the project area.
[18] The use of 1985 throughout this document refers to December 23, 1985.

after December 23, 1985. If there is post-1985[19] drainage, document the conditions that existed before the post-1985 hydrologic alteration[20].

b. Vegetation and Soil — Document the pre-project vegetative and soil conditions.
   i. If the request is associated with a wetland converted after November 28, 1990 (CW+year) as described in 7 CFR § 12.4(a)(3) or a planting violation per 7 CFR § 12.4(a)(2), the site assessment will be based on conditions that existed 5-years prior to the beginning of the conversion or planting action. This is referred to as the "5-year rule." In such situations, NRCS shall use best professional judgment, coupled with remote sensing and information provided by the person (7 CFR § 12.5(b)(7)) to predict the previous vegetative and soil conditions.
   ii. If the request is not associated with a CW+year or CW, determine if significant alterations to the soil or plant community (e.g., timber harvest, clearing) occurred within the past 5 years. If significant alterations are confirmed, determine the conditions predicted to have occurred on the land according to the 5-year rule. If no significant alterations are found, evaluate the site in its current condition.

Step 6: Consideration of Rare and Unique Wetland Value

Wetland types identified as rare and unique are wetlands requiring special consideration in a minimal effect determination due to their exceptionally high societal value in providing ecosystem services and scarcity in the region. The occurrence of such wetlands is of such low frequency that there would be very few (if any) wetlands in the area that could provide similar ecosystem services. Depending on the conditions occurring at these wetlands, their rareness and uniqueness may be considered of too high value for issuance of a minimal effect determination.

a. Identify if a rare and unique wetland, as described below, is contained within the project area.
   - Bog or Fen
   - Wetland Providing Endangered Species Habitat
   - Hazardous Waste Site
b. If the project area is not identified as supporting a rare and unique wetland type, go to step 7.
c. If the project area is identified as supporting a rare and unique wetland, conduct the following assessment:
   i. Apply Step 7(a) Before Hydrology Alterations, 7(c) Before Soil Disturbance, and 7(e) Before Vegetation Alterations.
   ii. Apply these ratings to the following formula to determine the FC specific to rare and unique wetlands.

$$\frac{V^H + V^S + V^V}{3}$$

[19] Minimal effect exemptions are applicable to converted wetlands (CW or CW+year) as well as areas where the person has not yet implemented a conversion action (7 CFR § 12.31(e)(1)).

[20] NRCS shall use best professional judgment, coupled with remote sensing and onsite investigation to identify hydrologic conditions prior to any post-1985 alterations to the project area. If the conversion action occurred over many years, then approximate the conditions prior to the beginning of the multi-year conversion process, but do not extend this effort to impacts that occurred prior to December 23, 1985.

d. If the FC of the identified rare and unique wetland determined in Step 6(c)(ii) is ≥ [0.90], stop the assessment. The request for a minimal effect exemption will not be granted as the loss of societal value to such high functioning rare and unique wetlands in the area exceeds minimal. In such situations, expedited minimal effects are not allowed.
e. If the FC of the identified rare and unique wetland is < [0.90], continue to Step 7 and complete the comprehensive assessment.

Determine Impacts of the Conversion Action on Wildlife Habitat, Water Quality, and Floodwater Storage: Steps 7-10 detail how the data collected at the project area (in Steps 2-5) are used to determine impacts of the conversion action on wildlife, water quality and floodwater storage.

Step 7: Rating the Ecological Variables of the Project Area

In this step, NRCS documents the site conditions (Steps 3-5) that are/were occurring at the project area prior to the conversion action to obtain a "before rating." Similarly, the conditions that will occur at the project area after the conversion action are predicted to obtain an "after rating." The before and after ratings are applied for the three ecological variables of hydrology alterations (V^H), soil disturbance (V^S), and vegetative alterations (V^V).

Hydrology Alterations: Rating the before and after hydrology alteration variable (V^H) is accomplished using (a) and (b), as provided below.

a. Before Hydrology Alterations V^H — Using wetland hydrology indicators, landscape position and best professional judgement, assign a rating for the hydrologic alterations that currently occur or occurred on the project area before the conversion action.
   - Prior to 1985, there were insignificant or no alterations to the hydrology (1.0 rating).
   - The project area was impacted by drainage prior to 1985 and under normal circumstances is ponded or flooded for longer than two weeks (0.8 rating).
   - The project area was impacted by drainage prior to 1985 and under normal circumstances is ponded or flooded for less than 2 weeks but more than brief periods[21] (0.5 rating).
   - The project area was impacted by drainage prior to 1985 and under normal circumstances is not ponded or flooded for more than brief periods (0.3 rating).
b. After Hydrologic Alterations V^H — Assign a rating for hydrologic conditions after the conversion action.
   - Prior to 1985, there were no significant alterations to the hydrology and hydrology is not further modified by the conversion action (1.0 rating).
   - Prior to 1985, the hydrology of the project area was modified. However, (i) it supported woody vegetation on December 23, 1985, such that the production of an agricultural commodity was not possible, (ii) wetland hydrology[22] returned

[21] "Brief" as used here and in all other steps is from 1-3 days.
[22] "Wetland hydrology" in this step is as defined in the FSA Wetland Identification Procedures (NFSAM § 514.8).

before 1985, and (iii) hydrology is not further modified by the conversion action (0.8 rating)[23].

- The project area was impacted by drainage prior to 1985 such that it did not support ponding or flooding for more than brief periods, the land did not support woody vegetation on that date, and the project area will not be further modified by the conversion action[24]. Or the conversion action will impact the hydrology but will still meet wetland hydrology after the action (0.5 rating).
- After the conversion action, the project area fails to meet wetland hydrology (0.0 rating).

Soil Disturbance: Rating of before and after soil disturbance variable (V^S) is accomplished using (c) and (d), as provided below.

c. Before Soil Disturbance V^S — Assign a before-project score for the variable of soil disturbance.
   - Standard Reference Condition — There has been no previous significant soil disturbance[25] (1.0 rating).
   - Not standard reference condition, but no significant soil disturbance has occurred within the past 20 years (0.7 rating).
   - Not standard reference condition. Infrequent (< 3) significant soil disturbance events have occurred within the past 20 years (0.5 rating).
   - Multiple (≥ 3) significant soil disturbance events have occurred in the past 20 years (0.1 rating).

d. After Soil Disturbance V^S.—Assign an after-project score for the variable of soil disturbance.
   - Standard Reference Condition. No significant soil disturbance occurred during or after project implementation, or in the foreseeable future (1.0 rating).
   - Not standard reference condition. No significant soil disturbance will occur during or after project implementation in the foreseeable future (0.7 rating).
   - Not standard reference condition. Infrequent (< 3) significant soil disturbance events will occur after project implementation in the foreseeable future (0.5 rating).
   - Multiple (≥ 3) significant soil disturbance events will occur after project implementation in the foreseeable future (0.1 rating).

Vegetative Alteration: Rating of before and after vegetative alteration variable (V^V) is accomplished using (e) and (f), as provided below.

e. Before Vegetative Alteration V^V — Alterations in the plant community can have a significant impact on the capacity of a wetland to provide ecosystem services, particularly related to habitat and water quality functions. Some activities (e.g.,

[23] This occurs when the conversion action is limited to removal of woody vegetation.
[24] This occurs when the conversion action is limited to removal of woody vegetation.
[25] "Significant" soil disturbance includes actions which resulted in adding to, removing, or mixing of the soil occurs (e.g., tillage, smoothing, land clearing, adding fill or removal of soil material).

conversion to cropland) have a greater impact than other activities (e.g., forest harvest). Assign a before-project score for the variable vegetative alteration.

- The before plant community[26] is similar[27] to the historic plant community (1.0 rating).
- The before plant community is different than the historic plant community, but the area is not being actively managed for agricultural purposes[28] and does not support more than 75-percent aerial cover of highly invasive species of very low wildlife habitat value (0.7 rating). Species with low wildlife habitat value, including but not limited to, Reed Canary Grass (*Phalaris arundinacea*), Purple loosestrife (*Lythrum salicaria*), etc.
- The before plant community is being actively managed for livestock and does not support more than 75-percent aerial cover of highly invasive species of very low wildlife value (0.4 rating).
- The before plant community is actively managed for agricultural purposes or supports more than 75-percent aerial cover of highly invasive species of very low wildlife habitat value (0.1 rating).

f. After Vegetative Alteration V^V — Assign an after-project score for the variable vegetative alteration.

- The after-project plant community is projected to be similar to the historic plant community (1.0 rating).
- The after-project plant community is projected to be a different wetland community than the historic plant community, will not be actively managed for agricultural purposes, and is not anticipated to support more than 75-percent aerial cover of highly invasive species of very low wildlife value (0.7 rating).
- The after-project plant community is projected to be actively managed for livestock or will be managed by periodic mowing and is not anticipated to support more than 75-percent aerial cover of highly invasive species of very low wildlife value (0.4 rating).
- The after-project plant community is projected to be actively managed for hay or crops or is anticipated to have a vegetative cover of more than 75 percent of highly invasive species of very low wildlife value (0.0 rating).

Step 8: Determine Impacts to Wildlife Habitat FC for the Project Area

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[26] Additional guidance on wetland plant communities can be found in Circular 39, "Wetlands of the U.S." (Shaw & Fredine, 1956), which identifies 8 wetland types, based on hydrology and vegetation, and describes each in detail. This concise wetland classification system may be preferred over the Cowardin system (NWI). Ecological site descriptions, if available, also can be a valuable technical resource to determine the characteristics of historic plant communities.

[27] "Similar" as used for this variable are vegetative communities that resemble the historic community (pre-European settlement), within the context of post-European settlement and alterations. For example, if the project area was historically forested, and is currently forested (regardless of past forest harvest practices), the conditions meet the concept of resembling the historic community. If the project area was historically a marsh, and the current conditions support herbaceous emergent vegetation, then it resembles the historic community, regardless of the species composition unless the area supports more than 75-percent aerial cover of highly invasive species.

[28] Agricultural purposes in this step includes such things as crop, pasture, hayland, or orchards. Forest and old-field habitat are not considered actively managed agriculture for this variable.

a. Apply the following formula to determine the FC of the project area prior to the conversion action.

Before-project wildlife FC rating: $\frac{V^H + V^S + V^V}{3}$

b. Apply the following formula to determine the FC of the project area after the conversion action.

After-project wildlife FC rating: $\frac{V^H + V^S + V^V}{3}$

c. Determine wildlife habitat FCUs by weighting the FC by the project area size.
   - Before-project wildlife FCUs = (Before-Project Wildlife FC Rating) X (acres)
   - After-project wildlife FCUs = (After-Project FC Rating) X (acres)

d. Determine lost FCUs for wildlife habitat function.

(Before-project FCUs) – (After-project FCUs) = FCU loss of wildlife habitat function

Step 9: Determine Impacts to the Water Quality FC for the Project Area

a. Apply the following formula to determine the FC of the project area prior to the conversion action.

Before-project water quality FC rating: $\frac{2V^H + V^S}{3}$

b. Apply the following formula to determine the FC of the project area after the conversion action.

After-project water quality FC rating: $\frac{2V^H + V^S}{3}$

c. Determine water quality FCUs by weighting the FC by the project area size.
   - Before-project water quality FCUs = (Before-Project Water Quality FC Rating) X (acres)
   - After-project water quality FCUs = (After-Project Water Quality FC Rating) X (acres)

d. Determine lost FCUs for water quality function.

(Before-project FCUs) – (After-project FCUs) = FCU loss of water quality function

Step 10: Determine Impacts to the Floodwater Storage FC for the Project Area

a. The floodwater storage rating for the project area prior to and after the conversion action is exclusively based on the hydrology variable (V^H)

b. Determine floodwater storage FCUs by weighting the FC by the project area size.
   - Before-project floodwater storage FCUs = (Before -project floodwater storage FC rating) X (acres)
   - After-project floodwater storage FCUs = (After-project floodwater storage FC rating) X (acres)

c. Determine Lost FCUs for Water Quality Function.

(Before-project FCUs) – (After-project FCUs) = FCU loss of floodwater storage function

Determine the Cumulative Effects of Conversion Action(s): Steps 11 and 12 provide the process used to determine the cumulative effect of the conversion action on wetland functions.

Step 11: Determine Cumulative Wetland FCU Loss for Project Area

Apply the following weighted[29] formula to determine the cumulative FCU loss from conversion action:

$$\frac{3(\text{Wildlife FCU Loss}) + 2(\text{Water Quality FCU Loss}) + \text{Floodwater Storage FCU Loss}}{6}$$

Step 12: Determine the Final Cumulative Wetland FCU Loss for the Tract

a. Sum the cumulative FCU loss for the project area (Step 11) and any past FCU losses from minimal effect exemptions granted to the person or the person's predecessor in interest[30] for the tract.
b. If multiple sub-areas were identified and assessed, and if more than one qualifies for a minimal effect exemption, each planned or implemented conversion action on a sub-area is treated as a past exemption even if each occur in the same project area or if the conversion action occurred at the same time. This separate "accounting" for each sub-area is needed to gain a total FCU loss due to the conversion action(s) and any past conversion actions authorized by USDA for the tract.

Subpart 3C: Wetlands in the Area Consideration

Step 13: Identify Wetlands in the Area.

On the wetlands of the area map developed preliminarily in Subpart 3A, Step 1(a)(iii), complete Step 13(a) – (d) as described below. Determine acres per Step 13(e) and (f) or implement Step 13(g) if applicable.

a. Identify the approximate center of the project area.
b. Identify a 2-mile radius circle around the approximate center of the project area.
c. Identify each NWI wetland in the area (approximately 8042 acres).
d. In some situations, NRCS may refine NWI wetland locations with aerial imagery, soil maps, or other remote data. Add or subtract areas as appropriate.
e. Determine the approximate size of each wetland (or portion[31]) contained within the 2-mile radius. Identified wetlands are rounded to the tenth of an acre.
f. Tabulate the total acres of wetlands in the area (V^{AA}).

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[29] NRCS is required by statute and regulation to consider wetland value in minimal effect decisions. Value is not a science decision, but rather is a societal decision. Value is incorporated in this decision by identifying which wetland functions are providing the most valuable (weighted) ecosystem services.
[30] "Predecessor in interest" includes any person with a previous legal interest (previous landowner or lessee of the USDA tract).
[31] Only measure and consider the portion of the wetland contained within the 2-mile radius.

g. If applicable, implement the 100% Conversion Rule. This occurs in rare situations where the project area is the only wetland in the area. In such situations, stop the assessment and notify the person that the proposed project does not qualify for a minimal effect because the project will convert all the wetlands in the area, exceeding "minimal effect on the wetlands in the area."

Step 14: Determine the FC of Each Wetland in the Area.

a. Using NWI vegetative type and USGS land cover data, place each wetland in the area into one or more[32] of the following categories that best represent the vegetative conditions of the wetland (or sub-area) as a whole.
    - Cropland or hayland (0.1 FC).
    - Managed pasture[33] or highly degraded plant communities[34] (0.3 FC).
    - Non-marsh herbaceous plant communities, with passive management[35], or pond (0.6 FC).
    - Early successional woody plant communities (0.6 FC).
    - Mid- to late-successional woody plant communities (1.0 FC).
    - Marsh or shrub wetland with a mosaic vegetative pattern (1.0 FC).
b. Determine total acres of each category within the area.
c. Using the FC ratings for each vegetative condition category, determine the total FC and FCU ((FC) X (acres)) for each category.

Step 15: Determine the total FCUs of Wetlands in the Area

a. Determine total FCUs of the wetlands in the area.
    - Sum the total FCUs for each vegetative category from Step 14 (c) to determine the total FCUs in the area.
b. Document findings on the rating form.

Step 16: Determine Ratings for Wetlands in the Area (V^{WIA}):

a. Based on the total FCUs in the area (Step 15), determine the rating for the wetlands in the area to provide valuable ecosystem services (V^{WIA}).
    - Total FCUs ≤ 99.9 (0.1 rating)
    - Total FCUs 100 to 799.9 (0.2 rating)
    - Total FCUs 800 to 1499.9 (0.3 rating)
    - Total FCUs 1500 to 3499.9 (0.5 rating)
    - Total FCUs 3500 to 5999.9 (0.8 rating)
    - Total FCUs ≥ 6000 (1.0 rating)

[32] Some larger wetland polygons might warrant being subdivided into different plant communities. If USGS landcover data is used, GIS tools allow for estimates by cover type within a single polygon.
[33] These areas support primarily introduced or improved grasses (e.g., reed canary grass) and have low species richness. They are mowed and/or treated with herbicides regularly and lack woody species. This management results in a vegetative pattern with few observable vegetative patterns (mosaics) on imagery.
[34] Highly degraded plant communities are those, reasonably suspected by rapid remote sensing, dominated by an invasive plant community listed in Step 7(e).
[35] These areas support a moderately rich plant community, resulting in a mosaic vegetative pattern demonstrated on imagery.

Step 17: Determine Ratings for Combined Effect of Similar Actions (V^{CSA})

Determine the combined effect to wetlands in the area of similar actions (from all NRCS minimal effect exemptions being granted in the area over time) by applying Step 17(a) - (g). Apply Step 17(h) to determine the rating for combined effect of similar actions.

a. Review the wetlands in the area map and determine the number of tracts (V^{NO}) in the area with wetlands[36]. Document findings on data sheet.
b. Document the percent anticipated authorization for minimal effect exemptions (V^{PAA}) from Section B.
c. Determine the number of tracts in the area reasonably expected to request and be granted a minimal effect exemption by application of the following formula:

$$(V^{NO}) \text{ X } (V^{PAA})$$

d. Document the estimated average size of authorizations (V^{ASFA}), as determined in Section B.
e. Document the estimated total wetland acres in the area (V^{AA} from Step 13(f)).

f. Determine the percent of wetland acres in the area anticipated to be granted a minimal effect by applying the following formula:

$$\frac{(V^{NO}) \text{ X } (V^{PAA}) \text{ X } (V^{ASFA})}{V^{AA}} \text{ X } 100$$

g. Determine rating for combined effect of similar actions anticipated to occur over time by NRCS granting minimal effect in the area (V^{CSA})
   - Less than 1 percent of the wetlands in the area anticipated loss over time (1.0 rating)
   - Between 1 and 2.49 percent anticipated loss over time (0.7 rating)
   - Between 2.5 and 4.99 percent anticipated loss over time (0.3 rating)
   - Greater than or equal to 5 percent anticipated loss over time (0.1 rating)

Step 18: Determine the Resiliency of Wetlands in the Area to Sustain Ecological Services.

Apply the following formula to determine the resiliency of wetlands in the area to provide ecological services.

$$\text{Resiliency of wetlands in the area} = \frac{V^{WIA} + V^{CSA}}{2}$$

Subpart 3D: Apply Minimal Effect Decision Matrix

Step 19: Determine if the Project Meets the Minimal Effect Threshold

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[36] Tracts that cross the wetlands in the area boundary [2-mi radius] will be counted in this estimate.

a. Apply the following decision matrix to determine if the wetland conversion action meets the minimal effect threshold, that it — *individually and in connection with all other similar actions authorized by the Secretary in the area, will have a minimal effect on the functional hydrological and biological value of the wetlands in the area, including the value to waterfowl and wildlife.*

Figure 1. Minimal Effect Decision Matrix

Cumulative FCU Loss at project area, plus previous minimal effects exemptions (from step 12)	**Wetlands in the Area Resiliency** (from Step 18)				
	≤ 0.20	***> 0.20 to 0.40***	***> 0.40 to 0.60***	***> 0.60 to 0.85***	***> 0.85***
≤ 0.10	Yes	Yes	Yes	Yes	Yes
> 0.10 to 0.25	No	Yes	Yes	Yes	Yes
> 0.25 to 0.70	No	No	Yes	Yes	Yes
> 0.70 to 0.85	No	No	No	Yes	Yes
> 0.85 to 1.50	No	No	No	No	Yes
> 1.50	No	No	No	No	No

b. A "No" demonstrates that the conversion action does not qualify for a minimal effect exemption, while a "Yes" demonstrates that the action qualifies for a minimal effect exemption.
c. As needed, revise the data sheet and project area map to reflect the location and acres actually authorized by the comprehensive process and maintain in the case file.
d. Document the exemption and FCUs in the State Minimal Effect Database.
e. Provide the person a new NRCS-CPA-026-WC Certified Wetland Determination, designating the project area (as authorized) with a label of MW.

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APPENDIX A – RATING FORM [DRAFT]

Tab 1 of 5: Project Area Details, Steps 1 – 5.

NRCS MINIMAL EFFECT ASSESSMENT PROCEDURE AND DECISION MATRIX

Form version date: August 7, 2024

Part 3: Comprehensive Minimal Effect Decision Process

Record project area details and mark appropriate box with "x".

Clear form

Owner/Operator:	USDA Tract #:	Field Office:
Agency Expert:	Date of Request:	Date of Assessment:

Part 3: Comprehensive Minimal Effect Decision-Making Process

STEP 1 Identify project area on three maps.

Mark appropriate boxes with "x".

- ☐ *Vicinity Map*
- ☐ *Wetlands in the Area Map*
- ☐ *Project Area Map*

Part 3A: Project Area Considerations

STEP 2 Determine size of Project Area.

Record project area acres, source, and notes.

Project Area Acres:		Source:

STEP 3 Conduct an offsite review of the Project Area.

Notes:

STEP 4 Conduct a meandering survey of the Project Area and identify sub-areas as appropriate.

Notes:

STEP 5 Document hydrologic, vegetative, and soil conditions for the Project Area.

Notes:

State:

Date of state-level adoption:

Tab 2 of 5: Project Area Ratings, Steps 6 – 7.

☐ A rare and unique wetland is contained within the Project Area.

Functional Capacity (FC) of rare and unique wetland	
Formula	
$\frac{V^H + V^S + V^V}{3}$	

STEP 7 Rating the ecological variables of the Project Area.

Project Area Hydrology (V^H)			
7a. Before-Project Condition		***7b. After-Project Condition***	
Prior to 1985, there were no alterations to the hydrology.	☐	Prior to 1985, there were no alterations to the hydrology and not further modified by the project.	☐
Prior to 1985, the hydrology of the project area was modified. However, (i) the project area supported woody vegetation on December 23, 1985 such that the production of an agricultural commodity was not possible and (ii) wetland hydrology returned before 1985.	☐	Prior to 1985, the hydrology of the project area was modified. However, (i) it supported woody vegetation on December 23, 1985 such that the production of an agricultural commodity was not possible and (ii) wetland hydrology returned before 1985, and hydrology is not further modified by the project.	☐
The project area was impacted by drainage prior to December 23, 1985 but was still ponded or flooded for longer than brief periods (1-3 days), and the land did not support woody vegetation on that date.	☐	The project area was minimally impacted by drainage prior to 1985, and the land supported woody vegetation on December 23, 1985 such that the production of an agricultural commodity was not possible and will not be further modified by the project. OR the project will impact the hydrology but will still meet wetland hydrology	☐
The project area was impacted by drainage prior to December 23,1985 such that it did not support ponding or flooding for more than brief periods (1-3 days), and the land did not support woody vegetation on that date.	☐	After the conversion action, the project area hydrology fails to meet the wetland hydrology definition in 7CFR12.	☐

Project Area Soils (V^S)			
7c. Before-Project Condition		***7d. After-Project Condition***	
Standard Reference Condition - There have been no previous significant soil disturbances.	☐	Standard Reference Condition - There will be no significant soil disturbances associated with the project .	☐
Not standard reference condition, but no soil disturbance has occurred within the past 20 years.	☐	Not standard reference condition, but no soil disturbance has occurred within the past 20 years, and no disturbance will be associated with the project activity or purpose.	☐
Not standard reference condition and some soil disturbance has occurred within the past 20 years.	☐	Not standard reference condition, some soil disturbance has occurred within the past 20 years, and the intensity or frequency of such disturbances will not increase.	☐
Multiple soil disturbance events have occurred in the 20 years prior to the assessment, and/or disturbance is ongoing.	☐	Multiple soil disturbance events have occurred in the 20 years prior to the assessment, disturbance is ongoing, or such actions will occur after project implementation.	☐

Project Area Vegetation (V^V)			
7e. Before-Project Condition		***7f. After-Project Condition***	
The before plant community is similar to the historic plant community.	☐	The after-project plant community is projected to be the same as the historic plant community.	☐
The before plant community is a different wetland community than the historic plant community, but the area is not being actively managed for agricultural production.	☐	The after-project plant community is projected to be a different wetland community than the historic plant community and not being actively managed for agricultural production.	☐
The before plant community is being actively managed for livestock.	☐	The after-project plant community is projected to be actively managed for livestock or will be managed by periodic mowing.	☐
The before plant community is actively managed for hay, crop or orchard crops, or supports more than 75-percent aerial cover of highly invasive species as listed below [State Conservationists will need to provide a list]	☐	The after-project plant community is projected to: (1) be actively managed for hay or crops, or (2) is expected to have a vegetative cover of more than 75 percent of highly invasive species as listed in Step 7(f) above	☐

Tab 3 of 5: Project Area Assessments, Steps 8 - 12.

USDA-NRCS Minimal Effect Procedure and Decision Matrix

Part 3A: Project Area Considerations

Record cumulative functional units loss for past projects. *See Step 12 in procedure document.

STEP 8 Determine impacts to wildlife habitat functional capacity for the Project Area.

Wildlife Habitat Assessment		
Formula	***Before-Project*** [1]	***After-Project*** [2]
Functional Capacity (FC) $\frac{V^{H} + V^{S} + V^{V}}{3}$		
Functional Capacity Units (FCU) FC x Acres		
Loss of Wildlife Habitat (ΔWH) FCU [1] - FCU [2]		

STEP 9 Determine impacts to water quality functional capacity for the Project Area.

Water Quality Assessment		
Formula	***Before-Project*** [1]	***After-Project*** [2]
Functional Capacity (FC) $\frac{2V^{H} + V^{S}}{3}$		
Functional Capacity Units (FCU) FC x Acres		
Loss of Water Quality (ΔWQ) FCU [1] - FCU [2]		

STEP 10 Determine impacts to floodwater storage functional capacity for the Project Area.

Floodwater Storage Assessment		
Formula	***Before-Project*** [1]	***After-Project*** [2]
Functional Capacity (FC) V^{H}		
Functional Capacity Units (FCU) FC x Acres		
Loss of Floodwater Storage (ΔFS) FCU [1] - FCU [2]		

STEPS 11 AND 12 Determine cumulative wetland functional capacity units loss for the Project Area.

Cumulative Wetland Functional Capacity Loss		
Formula	***Current Project*** [1]	***Past Projects*** [2] *
Cumulative FCU Loss $\frac{3\,\Delta WH + 2\,\Delta WQ + \Delta FS}{6}$		
Total Cumulative FCU Loss FCU Loss [1] + FCU Loss [2]		

Tab 4 of 5: Area Wetlands Assessments, Steps 13 – 18.

NRCS MINIMAL EFFECT ASSESSMENT PROCEDURE AND DECISION MATRIX

Part 3B: Wetlands in the Area Considerations

If appropriate, check box for 100% of the wetlands in the area will be converted by the proposed action.

☐ 100% of the wetlands in the area will be converted by the proposed project.

STEPS 13, 14, and 15 Determine cumulative functional capacity units for wetlands in the area.

Record the acres of each wetland type in the immediate area, the radius of the assessment area, the total number of tracts in the immediate area, the X of tracts that are anticipated to receive minimal effects exemptions, and the average size of future authorizations.

Wetlands in the Immediate Area			
Vegetative Condition	***Acres***	***Functional Capacity***	***Functional Capacity Unit***
Cropland or hayland		0.1	
Managed pasture or highly degraded plant communities		0.3	
Non-marsh herbaceous plant communities, with passive management or pond		0.6	
Early successional woody plant communities		0.6	
Mid- to late-successional woody plant communities		1	
Marsh or shrub wetland with a mosaic vegetative pattern		1	

Cumulative Functional Capacity Units

STEP 16 Determine rating for wetlands in the area.

Wetlands in the Area Rating (V^{WIA})	
0 to ≤ 99.9	☐
≥ 100 to ≤ 799.9	☐
≥ 800 to ≤ 1499.9	☐
≥ 1500 to ≤ 3499.9	☐
≥ 3500 to ≤ 5999.9	☐
≥ 6000	☐

Radius of the area	
Total acres in the area	
Total wetland acres in the area (V^{AA})	

STEP 17 Determine rating for combined effect of similar actions.

Combined Effect of Similar Actions (V^{CSA})	
Formula	
$\frac{V^{NO} \times V^{PAA} \times V^{ASFA}}{V^{AA}} \times 100$	
< 1%	☐
≥ 1 to ≤ 2.49%	☐
≥ 2.5 to ≤ 4.99%	☐
≥ 5%	☐

Total Number of Tracts with Wetlands in the Area (V^{NO})	
# anticipated minimal effect exemption authorizations (V^{PAA})	
Average size of future authorizations (V^{ASFA})	
Number of tracts anticipated to request a minimal effect exemption	

STEP 18 Determine the capacity for wetlands in the area to provide ecological services.

Wetlands in the Area Resiliency	
Formula	
$\frac{V^{WIA} + V^{CSA}}{2}$	

Tab 5 of 5: Minimal Effects Assessments, Step 19.

USDA-NRCS Minimal Effect Procedure and Decision Matrix

Part 3C: Apply the Minimal Effects Decision Matrix

STEP 19 Determine if the conversion action meets the minimal effect threshold provided in the decision matrix.

Cumulative FCU Loss at project area, plus previous minimal effects exemptions (from step 12)	**Capacity of Wetlands in the Area to Provide Ecological Services** (from Step 18)				
	≤ 0.20	***> 0.20 to 0.40***	***> 0.40 to 0.60***	***> 0.60 to 0.85***	***> 0.85***
≤ 0.10	Yes	Yes	Yes	Yes	Yes
> 0.10 to 0.25	No	Yes	Yes	Yes	Yes
> 0.25 to 0.70	No	No	Yes	Yes	Yes
> 0.70 to 0.85	No	No	No	Yes	Yes
> 0.85 to 1.50	No	No	No	No	Yes
> 1.50	No	No	No	No	No

Total Cumulative Functional Capacity Units Loss for the Project Area, plus previous minimal effects exemptions	
Capacity of Wetlands in the Area to Provide Ecological Services	
Is the Project Area eligible for a minimal effect exemption?	

Project Area acreage	
Approximate acreage eligible for a minimal effect exemption?	

APPENDIX B – EXPEDITED MINIMAL EFFECT FACT SHEETS

EME-01: CONVERTING LESS THAN FIVE PERCENT OF A WETLAND

Agricultural producers commonly manage pasture, hayland, and cropland located immediately adjacent to a wetland. Often the person is interested in conducting a conversion action, but only on a small portion of the larger wetland (e.g., straightening a wood line to eliminate point-rows, or filling a small portion of a larger wetland located adjacent to an agricultural field).

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is required for the project area.
2. Less than 5% of the wetland will be impacted by the conversion action.
3. The remaining portions of the wetland not impacted by the conversion action is controlled by the person (ownership or legal lease) or has a very low risk of conversion because it is being used as a conservation area controlled by a unit of government, conservation organization, under a conservation easement, or supports a water depth such that drainage is not practical, as determined by NRCS.
4. Regardless of the size of the wetland, only areas [≤ 1-acre] will qualify for this expedited minimal effect.
    - Determine if past expedited minimal effect exemptions have been provided on other areas of the tract adjacent to the larger wetland. If so, consider impacted acres of previous expedited minimal effect decisions in the determination of both thresholds (5% and [≤ 1-acre]).
5. The attached map shows the location and extent of the project area.

Tract Number _____ Field Number(s) _____

County: _____

~~**Verification**~~

~~I verify the conditions of this expedited minimal effect are met and understand that failure to adhere to the conditions may result in a determination of ineligibility as provided in 7 CFR § 12.4.~~

~~USDA Program Participant:~~ _____ ~~Date:~~ _____

~~Received:~~

~~NRCS Representative~~: _____ ~~Date:~~ _____

EME-02: REMOVING INVASIVE WOODY VEGETATION FROM HISTORICALLY HERBACEOUS WETLANDS

Agricultural producers often desire the removal of invasive woody vegetation from areas that were historically herbaceous wetlands. Invasive woody vegetation impairs a wetland's natural functional capacity to provide habitat for native wildlife adapted to life in herbaceous wetlands and for ground water recharge. Examples of invasive woody vegetation include [Chinese tallow (*Sapium sebiferum*), Russian olive (*Elaeagnus angustifolia*), and saltcedar (*Tamarix* spp.). Use the problem species from your State].

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is required for the project area.
2. As determined by NRCS, the project area was historically (pre-European settlement) an herbaceous wetland.
3. Woody vegetation removal will be limited to invasive species.
4. As determined by NRCS, an exception may be provided as an addendum to this document allowing for removal of native woody species that have invaded the project area as long as the native species represent less than 15% of the woody aerial cover of the wetland.
5. The removal activity will result in minimal soil movement.
6. ~~The project area will not be cropped, nor planted to a nonnative forage species.~~ [Depending on the state, the cropping prohibition might be removed.]
7. After removal of woody vegetation, the final elevation of the project area is not higher than the preconstruction elevation.
8. The hydrology of the project area wetland will not be altered.
9. A map is attached, showing the location and extent of the project area.

Tract Number _____ Field Number(s) _____

County: _____

~~**Verification**~~

~~I verify the conditions of this expedited minimal effect are met and understand that failure to adhere to the conditions may result in a determination of ineligibility as provided in 7 CFR § 12.4.~~

~~USDA Program Participant:~~ _____ ~~Date:~~ _____

~~Received:~~

~~NRCS Representative:~~ _____ ~~Date:~~ _____

EME-03: REMOVING NATIVE WOODY VEGETATION FROM HISTORICALLY HERBACEOUS WETLANDS

Prairie potholes, playa lakes, and many other wetlands were historically herbaceous wetlands. Native woody vegetation, such as those native species suited to the Conservation Tree and Shrub (CTSG) Group Two in the North Dakota Field Office Technical Guide, can establish during dry periods in these wetlands, and with the absence of fire, they become ecologically problematic. These woody plants can result in a significant reduction in the natural functional capacity of these wetlands. Removing this woody vegetation can partially restore the historic functional capacity.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is required for the project area.
2. Only one EME-03 exemption will be provided per tract unless approved in writing by the State Conservationist.
3. As determined by NRCS, the project area was historically an herbaceous wetland.
4. Woody vegetation is removed from less than [1-acre] unless approved in writing by the State Conservationist.
5. After removal of woody vegetation, the final elevation of the project area is not higher than the pre-project elevation.
6. The hydrology of the project area wetland will not be altered.
7. ~~The project area will not be cropped, or planted to a nonnative forage species, without a variance signed by the State Conservationist.~~ [Depending on the state, the cropping prohibition might be removed.]
8. A map is attached, showing the location and extent of the project area.

Tract Number _____ Field Number(s) _____

County: _____

~~**Verification**~~

~~I verify the conditions of this expedited minimal effect are met and understand that failure to adhere to the conditions may result in a determination of ineligibility as provided in 7 CFR § 12.4.~~

~~USDA Program Participant:~~ _____ ~~Date:~~ _____

~~Received:~~

~~NRCS Representative:~~ _____ ~~Date:~~ _____

EME-04: RESTORING NATURAL HYDROLOGY

Past construction of farm roads, ponds, borrow pits, and similar actions often increase the depth and duration of inundation of naturally occurring wetlands. In all cases, the natural functional capacity of the impacted wetland is significantly altered by these actions. Restoring the wetland hydrology to what existed prior to these actions allows the wetland to function hydrologically at a capacity similar to the historic conditions.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required for the project area.
2. As determined by NRCS, the elevation of any filled area under this expedited minimal effect is not greater than the original natural elevation; and the depth, duration, timing, and frequency of inundation and/or saturation of the filled area is similar to the historic natural condition.
3. No drainage will be installed to reduce the hydrology (depth, duration, timing, frequency of inundation or saturation) that existed prior to the initial activity that altered the hydrology.
4. A map is attached, showing the location and extent of the project area.

Tract Number _____ Field Number(s) _____

County: _____

Verification

I verify the conditions of this expedited minimal effect are met and understand that failure to adhere to the conditions may result in a determination of ineligibility as provided in 7 CFR § 12.4.

USDA Program Participant: _____ Date: _____

Received:

NRCS Representative: _____ Date: _____

EME-05: DECOMMISSIONING A POND

A land use or other change in the person's agricultural operation may create the desire to remove an existing pond constructed on a hydric soil. For this exemption, a pond refers to any artificially enhanced water body including a livestock pond, irrigation reservoir, tailwater pit, or similar waterbody. Wetlands associated with such features are highly altered, so they are functioning at a very low capacity when compared to the site's natural wetland condition. Note: If the pond was constructed on nonhydric soil, the associated wetlands are artificial wetlands (AW) and are fully exempt from the Wetland Conservation (WC) provisions and therefore do not require a minimal effect exemption.

Filling and leveling of these features to mimic the original (natural) elevation restores the original wetland hydrology. This provides hydrologic conditions that are ecologically more similar to the conditions prior to the pond construction. Such actions can make production possible.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required for the project area (pond). However, NRCS will determine the pond is located on a hydric soil.
2. The pond is located within or immediately adjacent to open agricultural lands (rangeland, pasture, hay, cropland) or an orchard.
3. As determined and verified by NRCS, fill material will be placed no higher than the original elevation.
4. A map is attached, showing the location and extent of the pond.

Tract Number _____ Field Number(s) _____

County: _____

Verification

I verify the conditions of this expedited minimal effect are met and understand that failure to adhere to the conditions may result in a determination of ineligibility as provided in 7 CFR § 12.4.

USDA Program Participant: _____ Date: _____

Received:

NRCS Representative: _____ Date: _____

EME-06: INSTALLING AN ELEVATED TRAVELWAY

Placement of fill into a wetland may be required to facilitate the movement of people, livestock, and equipment. Examples are farm roads, elevated livestock walkways, and elevated irrigation track/wheel berms. The fill used to elevate the travelway itself does not typically make agricultural production possible because of the narrowness and material used (e.g., geotextile and gravel) to construct the travelway. However, in some cases the travelway can block drainage, making production more possible on wetlands down gradient of the travelway.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required for the project area.
2. As determined by NRCS, the travelway will be no wider than necessary to meet the purpose.
3. The travelway will not be planted to an agricultural commodity, as defined in 7 CFR § 12.2.
4. A culvert(s) at least [12-inches] in diameter will be installed at the lowest elevational point of the wetland immediately adjacent to, and down-gradient of, the travelway.
5. The culvert(s) will be installed and maintained to allow free movement of water, such that the water level equalizes on both sides of the berm shortly after storm events and runoff.
6. A map is attached, showing the location and extent of the project area and location of culvert(s).

Tract Number _____ Field Number(s) _____

County: _____

Verification

I verify the conditions of this expedited minimal effect are met and understand that failure to adhere to the conditions may result in a determination of ineligibility as provided in 7 CFR § 12.4.

USDA Program Participant: _____ Date: _____

Received:

NRCS Representative: _____ Date: _____

EME-07: INSTALLING WILDLIFE OPENINGS

Within an existing larger wetland supporting woody vegetation, the creation of a small wildlife opening(s) by removal of woody debris and stumps can improve the habitat conditions for most wildlife, including waterfowl. Such wildlife openings are small compared to the surrounding forest, adding value to habitat conditions of the larger wetland. When large enough, these actions would make production of an agricultural commodity possible.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required for the project area.
2. The wildlife opening is created fully within an area supporting woody vegetation such that the opening is not located immediately adjacent to open land (e.g., rangeland, pasture, hay, cropland), or developed lands (e.g., public road, highline, cleared pipeline, urban land, or farmstead).
3. The size of any single wildlife opening will be no larger than [0.5 acre], and the cumulative acres of all such openings will not exceed [5%] of the forested wetland area in which it is installed, unless an exception is provided by NRCS in an addendum to this document, signed by the State Conservationist.
4. As determined by NRCS, no new drainage will be installed that impacts the hydrology of any opening or associated forested wetland.
5. Soil disturbance during clearing will be minimized.
6. No fill will be placed in wetlands.
7. Debris piles will be located on the edge or outside of the forest opening.
8. Unless provided for by an addendum to this agreement, wetland portions of the cleared area will not be planted for harvest to an agricultural commodity as defined in 7 CFR § 12.2.
9. A map is attached, showing the location and extent of the project area. The map will identify the maximum acreage allowed under this exemption, based on the criteria identified in Condition 3 above.

Tract Number _____ Field Number(s) _____

County: _____

Verification

I verify the conditions of this expedited minimal effect are met and understand that failure to adhere to the conditions may result in a determination of ineligibility as provided in 7 CFR § 12.4.

USDA Program Participant: _____ Date: _____

Received:

NRCS Representative: _____ Date: _____

EME-08: INSTALLAING A GRASSED WATERWAY

Agricultural producers often need to shape a gully and install a grassed waterway to treat a gully formed by soil erosion. On occasion, the gully has accessed ground water, thereby forming a slope wetland. If the gully treatment is required in a Highly Erodible Land Conservation (HELC) plan or system, then the action of converting the slope wetland is exempt from the Wetland Conservation (WC) provisions, as provided by policy (National Food Security Act Manual 514.40(H)). If not required for compliance with the HELC provisions, actions that convert a slope wetland impacted by gully erosion, or at risk of gully erosion, are eligible for this expedited minimal effect exemption.

These slope wetlands are highly degraded, or at risk of being highly degraded. The flow transports excessive sediments and other pollutants into down-gradient wetlands and waterbodies. Installation of grassed waterways to address the gully erosion resource concern will increase the functional capacity of down-gradient wetlands and waterbodies.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required of the project area.
2. As determined by NRCS, the grassed waterway will be no wider than necessary to meet the purpose.
3. As determined by NRCS, the elevational grade of any fill will be no higher than the original grade (prior to gully formation).
4. As determined by NRCS, installation of tile drainage adjacent to the waterway is allowed when needed to assure stability of the waterway.
5. A map is attached, showing the location and extent of the project area.

Tract Number _____ Field Number(s) _____

County: _____

Verification

I verify the conditions of this expedited minimal effect are met and understand that failure to adhere to the conditions may result in a determination of ineligibility as provided in 7 CFR § 12.4.

USDA Program Participant: _____ Date: _____

Received:

NRCS Representative: _____ Date: _____

EME-09: REMOVING NARROW BANDS OF WOODY VEGETATION

In open agricultural settings, it is common for old fence lines, property boundaries, and field boundaries to be invaded by woody plants. In some instances, hedgerows, wind breaks, or shelterbelts were installed as living fences or to serve other purposes (e.g., snow drift mitigation or access control). Over time, these narrow bands can revert to isolated, narrow, low-functioning wetlands. Because of their small size, proximity to agricultural land, and frequent disturbance by vehicles or pesticide drift, they contribute very little to the functions and values of wetlands in the area to provide ecological services related to wildlife, water quality, or flood-water retention. Due to source/sink dynamics, they can reduce the wildlife habitat functions of more intact wetlands in the area.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required for the project area.
2. The project area was used in the past as a fence row, turn row, farm road, property/field boundary, hedgerow, or similar artificial linear land use feature.
3. The linear feature is bordered on both sides by open agricultural land (e.g., rangeland, pasture, hay, cropland), managed orchard or vineyard, or highly altered non-forested lands (e.g., road, homes, industry, or farm headquarters).
4. The narrow band is less than [30-feet] (50-feet) wide, at the widest point, unless an exception is provided by NRCS in an attached addendum to this document. Width is determined from the woody stems/trunks of the woody vegetation, not the canopy.
5. No new drainage will be installed.
6. Soil disturbance will be minimized.
7. No fill will be placed in wetlands.
8. Debris piles will be placed outside of the project area.
9. A map is attached, showing the location and extent of the project area.

Tract Number _____ Field Number(s) _____

County: _____

Verification

I verify the conditions of this expedited minimal effect are met and understand that failure to adhere to the conditions may result in a determination of ineligibility as provided in 7 CFR § 12.4.

USDA Program Participant: _____ Date: _____

Received:

NRCS Representative: _____ Date: _____

EME-10: REMOVING SCATTERED WOODY VEGETATION

In open agricultural settings, particularly managed pastures and hay fields, individual trees or very small groupings of woody vegetation can occur. Isolated individual trees or very small groupings of trees contribute minimally to the functional capacity of wetlands in the area.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required for the project area.
2. The individual trees and/or isolated small groupings are fully contained within an open agricultural field (e.g., rangeland, pasture, hay, cropland).
3. Unless an exception is provided by NRCS in an attached addendum to this document, total canopy of individual trees and/or small groupings represent [≤ 2%] of the acres within the field. If the individual tree(s) or small grouping(s) are delineated by Farm Service Agency as a field, sub-field, or similar delineation, then the adjacent open field(s) is used to determine if the [≤ 2%] threshold is met.
4. No individual small grouping of woody vegetation will have a canopy size of larger than [0.1 acre].
5. Soil disturbance will be minimized.
6. No fill will be placed in the cleared areas.
7. No new drainage will be installed.
8. A map is attached, showing the location and extent of the project area.

Tract Number _____ Field Number(s) _____

County: _____

Verification

I verify the conditions of this expedited minimal effect are met and understand that failure to adhere to the conditions may result in a determination of ineligibility as provided in 7 CFR § 12.4.

USDA Program Participant: _____ Date: _____

Received:

NRCS Representative: _____ Date: _____

EME-11: REMOVING WOODY VEGETATION TO INSTALL OR MAINTAIN EXISTING LINEAR INFRASTRUCTURE

Within an existing larger area supporting woody vegetation, persons often need to remove woody vegetation on a portion of the wooded wetland to install or maintain permanent narrow linear infrastructure features (e.g., firebreaks, access roads and fences, or the maintenance of existing ditches). Such activities can make production possible with small farming equipment, but production of an agricultural commodity is not the purpose. Rather, the purpose is to remove the woody vegetation to facilitate maintenance and management of the area or infrastructure. Specific to drainage features, such maintenance is allowed under the wetland conservation compliance provisions as provided by regulation in 7 CFR § 12.33(d), but conditions regarding spreading of spoil are not provided.

If all conditions listed in this expedited minimal effect are met, the impact to the functions and values of wetlands in the area is minimal.

Conditions:

1. A certified wetland determination (e.g., W, FW, FWP, or WX) is not required for the project area.
2. The portion of the linear feature impacting a wetland will be no wider than [30 feet] (50-feet), on either side of the infrastructure feature.
3. Drainage maintenance will not exceed the original scope and effect (7CFR § 12.33(d)).
4. No new drainage will be installed.
5. Soil disturbance will be minimized.
6. No fill will be placed in wetlands.
7. Debris piles will be placed outside of the cleared area.
8. Unless an exception is provided by an addendum to this agreement, wetland portions of the cleared area will not be planted to an agricultural commodity as defined in 7 CFR § 12.2.
9. A map is attached, showing the location and extent of the project area.

Tract Number _____ Field Number(s) _____

County: _____

Verification

I verify the conditions of this expedited minimal effect are met and understand that failure to adhere to the conditions may result in a determination of ineligibility as provided in 7 CFR § 12.4.

USDA Program Participant: _____ Date: _____

Received:

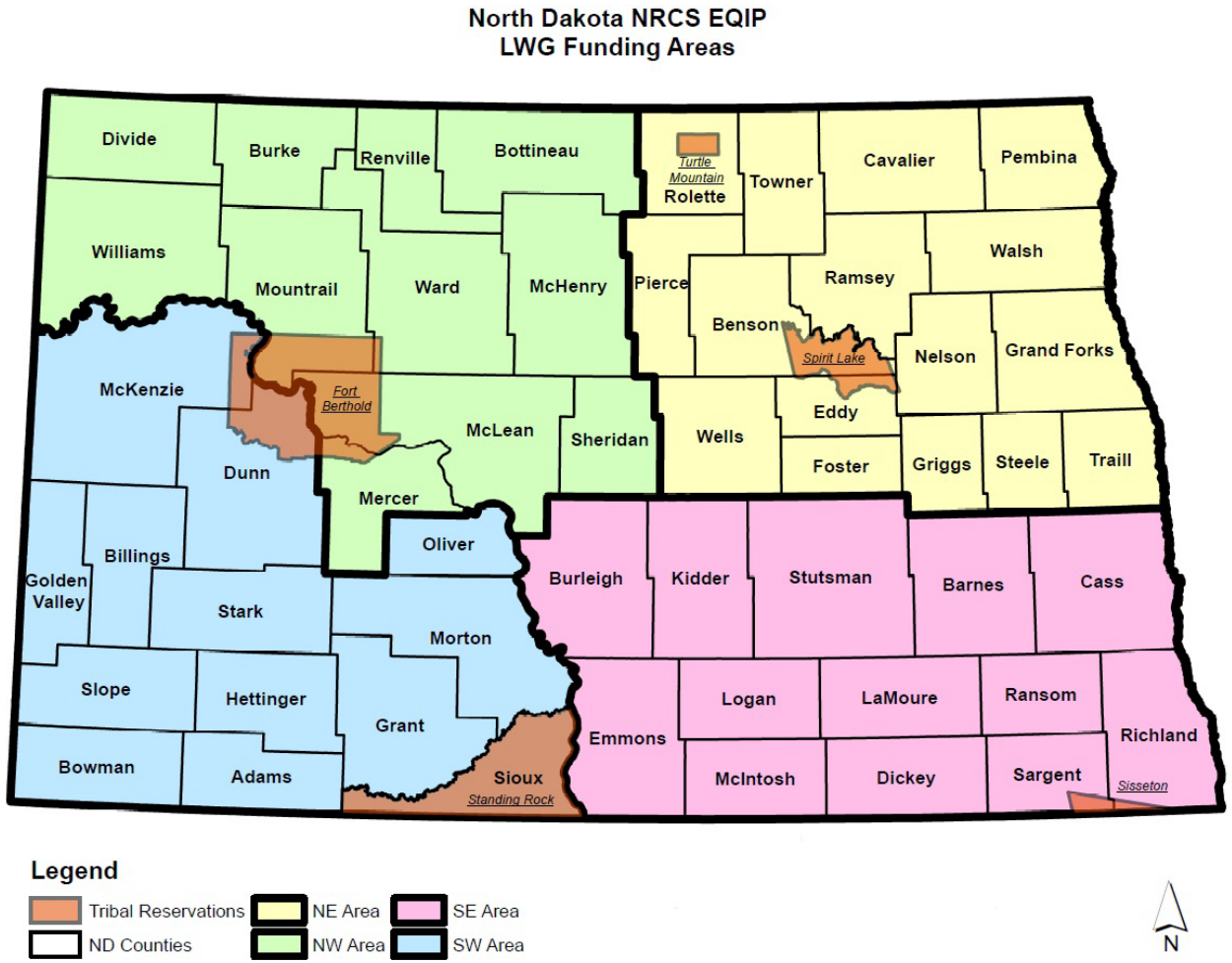
NRCS Representative: _____ Date: _____

Environmental Quality Incentives Program (EQIP)

FY 25 EQIP Review

Beginning Farmer	$15,940,278.75	NW Crop	$876,881.00
Socially Disadvantaged	$1,093,618.00	NW Grass	$961,795.00
Wildlife	$2,376,247.00	NE Crop	$1,175,279.00
Forestry	$887,995.00	NE Grass	$1,064,581.85
Irrigation	$566,161.00	SW Crop	$900,000.00
Animal Feeding Operations	$450,000.00	SW Grass	$859,884.00
High Tunnel/Small Farm	$541,491.00	SE Crop	$900,000.00
CPA, DIA, CEMA	$66,963.00	SE Grass	$730,035.00
Tribal	$1,503,066.00	Wildfire	$997,138.42
NWQI	$1,081,907.00	Wildfire-BF	$136,585.00
SGI	$282,629.00	Wildfire-SD	$0.00
JCLRP	$73,550.00	IRA	$0.00
MBRI	$2,763,616.00	IRA-BF	$0.00
Organic	$0.00	IRA-SD	$0.00
Energy	$0.00	IRA-AFO	$4,413,871.00
OTI	$412,697.00	IRA-CIC	$0.00
Conservation Incentive Contracts	$1,456,737.00		

ND Local Work Group Areas



FY 25 EQIP

- 1,353 Applications ranked
- 348 Applications contracted
- 1,107 Applications remain in the back log
- $37,722,394 invested into ND through EQIP
- Only IRA applications contracted prior to January 27th, 2025 were able to use that funding.

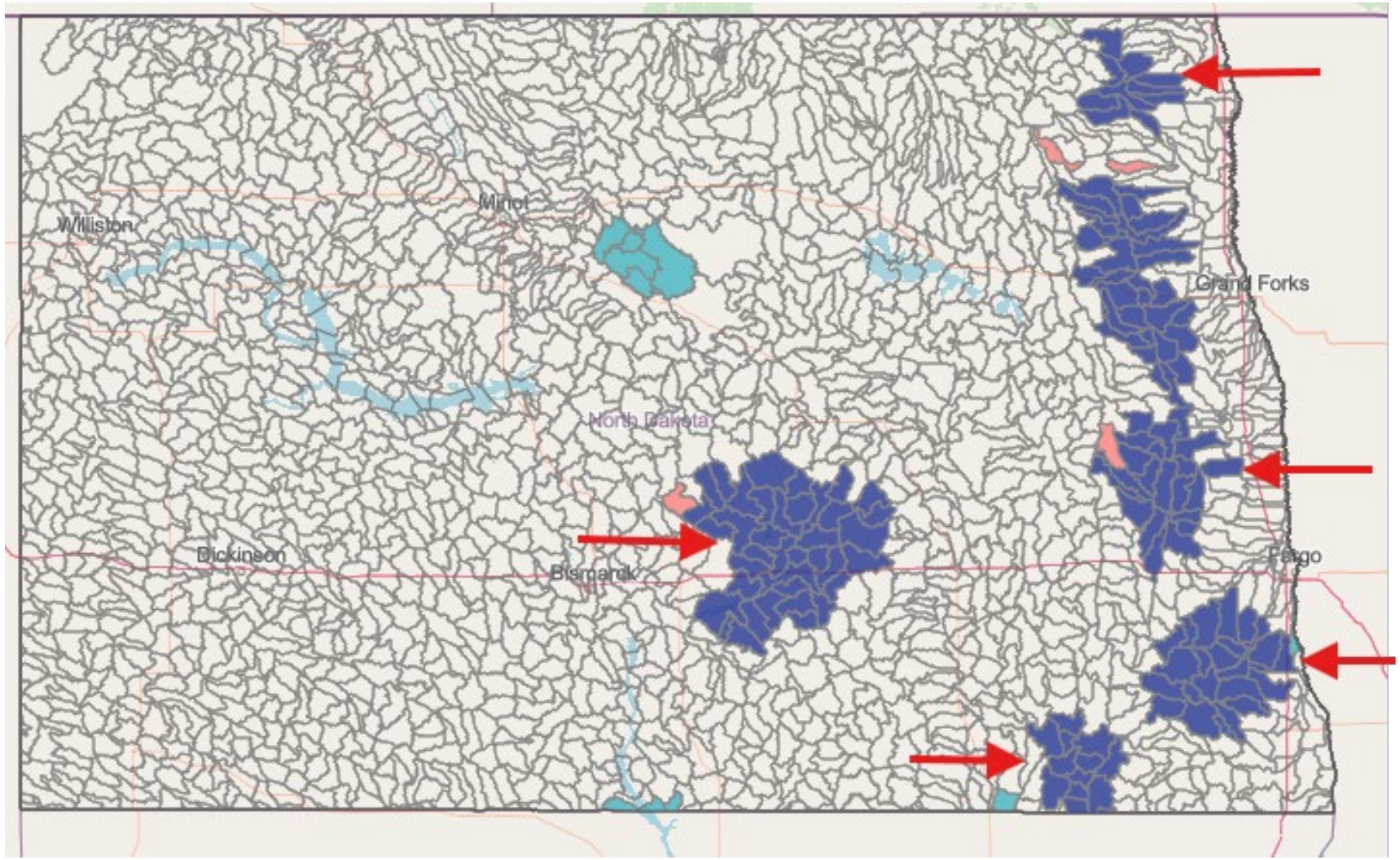
FY 26 EQIP Payment Practice Caps

- Due to the large backlog of EQIP applications we are looking at adding additional Payment Practice Caps.
- 325-High Tunnel Systems $20,000- aggregate – FY 25 $19,100
- 328- Conservation Crop Rotation $50,000/ yr
- 329- Residue and Tillage Mgt. No Till/Strip Till/Direct Seed $50,000/yr
- 340- Cover Crop $50,000/yr- FY 25 $46,090/yr
- 345- Residue and tillage Mgt. Reduced Till $50,000/yr
- 528- Prescribed Grazing $50,000/yr
- 590-Nutrient Mgt. $50,000/yr Crop- FY 25 $76,000/yr / AFO Nutrient Mgt. $15,000/yr- FY 25 $15,000/yr
- 595- Pest Mgt. $50,000/yr
- 810 – Annual Forages for Grazing Systems $50,000/yr

Priority Resource Concern Practice List (Pr)

Brush Management	314
Herbaceous Weed Treatment	315
Conservation Cover	327
Prescribed Burning	338
Cover Crop	340
Windbreak/Shelterbelt Establishment & Reno	380
Riparian Forest Buffer	391
Pasture and Hay Planting	512
Prescribed Grazing	528
Early Successional Habitat Dev & Management	647

Source Water Protection Area



EQIP Timeline Fiscal Year 2026

- Early Act Now is an opportunity for funding selection prior to the end of the calendar year in 2 fund pools.

FY2026 EQIP Early ACT NOW Timeline						
	Batch	**Rank**	**Preapproved**	**Intent to Proceed Letters Sent Out 530.141C**	**Submit for Admin and Tech Review**	**Obligate**
EQIP:						
State Initiative Pools:						
****Forestry****	September 19, 2025	November 14, 2025	November 17, 2025	November 21, 2025	December 5, 2025	December 31, 2025
****AFO****	September 19, 2025	November 14, 2025	November 17, 2025	November 21, 2025	December 5, 2025	December 31, 2025

EQIP Timeline Fiscal Year 2026

FY2026 EQIP Program Implementation Timeline						
	Batch	**Rank**	**Preapproved**	**Intent to Proceed Letters Sent Out 530.141C**	**Submit for Admin and Tech Review**	**Obligate**
EQIP:						
State Pools:						
LWG's & Tribal LWG	September 19, 2025	January 30, 2026	February 4, 2026	February 11, 2026	April 3, 2026	May 29, 2026
State Initiative Pools:						
Forestry	September 19, 2025	January 30, 2026	February 4, 2026	February 11, 2026	April 3, 2026	May 29, 2026
Irrigation	September 19, 2025	January 30, 2026	February 4, 2026	February 11, 2026	April 3, 2026	May 29, 2026
High Tunnel/Small Farm	September 19, 2025	January 30, 2026	February 4, 2026	February 11, 2026	April 3, 2026	May 29, 2026
AFO	September 19, 2025	January 30, 2026	February 4, 2026	February 11, 2026	April 3, 2026	May 29, 2026
National Required Initiative:						
Organic (NOI)	September 19, 2025	January 30, 2026	February 4, 2026	February 11, 2026	April 3, 2026	May 29, 2026
Organic Transition (OTI)						
Energy	September 19, 2025	January 30, 2026	February 4, 2026	February 11, 2026	April 3, 2026	May 29, 2026
CPA, DIA & CEMAs	September 19, 2025	January 30, 2026	February 4, 2026	February 11, 2026	April 3, 2026	May 29, 2026
National Designated Pools:						
NWQI						
MBRI						
Sage Grouse						
Joint Chiefs						
Program Required Pools:						
Beginning Farmer	September 19, 2025	January 30, 2026	February 4, 2026	February 11, 2026	April 3, 2026	May 29, 2026
Socially Disadvantaged	September 19, 2025	January 30, 2026	February 4, 2026	February 11, 2026	April 3, 2026	May 29, 2026
Wildlife	September 19, 2025	January 30, 2026	February 4, 2026	February 11, 2026	April 3, 2026	May 29, 2026
FY2026 EQIP-CIC Program Implementation Timeline						
EQIP-CIC:	September 19, 2025	January 30, 2026	February 4, 2026	February 11, 2026	April 3, 2026	May 29, 2026

Environmental Quality Incentives Program – Conservation Incentive Contract (EQIP-CIC)

FY 25 EQIP – CIC Program

Management Practices that could have received Annual Payments

216	Soil Health Testing
217	Soil and Source Testing for Nutrient Management
218	Carbon Sequestration and Greenhouse Gas Mitigation Assessment
338	Prescribed Burning
528	Prescribed Grazing
590	Nutrient Management
610	Saline and Sodic Soil Management
644	Wetland Wildlife Habitat Management
645	Upland Wildlife Habitat Management
647	Early Successional Habitat Development-Mgmt.

- We found that 590 cropland applications were floating to the top of the ranking pool using a majority of our EQIP CIC funding.
- Offered implementation of water developments on cropland with the incorporation of cover crops (340) OR annual forages (810) to provide soil health benefits.

FY 26 Draft EQIP – CIC Program

- Steppingstone to CSP
- 5-year contracts
- Has a separate payment limitation than general EQIP.
  - Contract payment limitation for CIC is $200,000
- Offers annual payment for select management practices.
  - FY 2026, 528- Prescribed Grazing will be the only management practice available.
- Allows water developments on cropland:
  - Achieves Soil Health benefits with the incorporation of livestock
  - Must include cover crops or grazable forages to support the grazing system and soil health
  - Can include fencing to support the grazing system

Conservation Stewardship Program (CSP)

FY 25 CSP

- 427 applications were ranked for the FY 25 classic signup.
- CSP Classic contracted 146 applications for $28,430,038.

FY 25 Renewal

- CSP 2025-1 Renewal Signup (**Farm Bill Funds**): 17 Applications were contracted for $3,269,700.24
- CSP 2025-1 Renewal Signup (**IRA-CSP Funds**): 12 Applications contracted for $2,412,582.57

FY 26 CSP Renewals

- Batching Date of June 20, 2025

Contract Cancellations & Terminations

- 31 Contracts Cancellations -Returned $2,527,307 in FA
- 14 Contracts Terminated- Returned $475,005 in FA
- Unable to secure additional finances to complete their project
- Lack of contractor availability
  - Well Drillers
  - Pipeline installers

FY 2025 North Dakota Eligible Practice List for EQIP Financial Assistance

Eligible Practice List

Contract holders certifying as Historically Underserved (HU) are eligible for a payment schedule which may be up to 25 percent higher.

- Certain practices may only be eligible under special initiatives.
- Practice payment caps also apply to practices in HU contracts.
- Practice Payment caps are for the practice, regardless of number of scenarios used.
- Structural and Vegetative conservation activities are those activities with a lifespan greater than one year. ALL STRUCTUAL AND VEGETATIVE PRACTICES PLANNED ON LAND NOT OWNED BY THE APPLICANT REQUIRES A NRCS-CPA-1257 COMPLETED.

Practice Code	Conservation Practice	Practice Payment Cap	1257 Required
List of available CPAs, DIAs and CEMAs			
Conservation Planning Activities (CPAs)			
102	Comprehensive Nutrient Management Plan (CNMP)	No Cap	No
106	Forest Management Plan	No Cap	No
110	Grazing Management Plan	No Cap	No
116	Soil Health Management Plan	No Cap	No
138	Conservation Plan Supporting Organic Transition	No Cap	No
199	Conservation Plan	No Cap	No
Design and Implementation Activities (DIAs)			
101	CNMP Design and Implementation	No Cap	No
120	Agricultural Energy Design	No Cap	No
140	Transition to Organic Design and Implementation	No Cap	No
144	Fish and Wildlife Habitat Design and Implementation	No Cap	No
148	Pollinator Habitat Design and Implementation	No Cap	No
157	Nutrient Management Design and Implementation	No Cap	No
158	Feed Management Design and Implementation	No Cap	No
159	Grazing Management Design and Implementation	No Cap	No
160	Prescribed Burning Design and Implementation	No Cap	No
161	Pest Management Conservation System Design and Implementation	No Cap	No
162	Soil Health Management Design and Implementation	No Cap	No
163	Irrigation Water Management Design	No Cap	No
164	Drainage Water Management Design	No Cap	No
165	Forest Management Design and Implementation	No Cap	No

FY 2025 North Dakota Eligible Practice List for EQIP Financial Assistance

Practice Code	Conservation Practice	Payment Practice Cap	1257 Required
Conservation and Evaluation Monitoring Activities (CEMAs)			
201	Edge-of-Field Water Quality Monitoring-Data Collection and Evaluation	No Cap	No
202	Edge-of-Field Water Quality Monitoring-System Installation	No Cap	No
204	Adaptive Management for Soil Health	No Cap	No
206	Feed and Forage Analysis	No Cap	No
207	Site Assessment and Soil Testing for Contaminants Activity	No Cap	No
209	PFAS Testing in Water or Soil	No Cap	No
216	Soil Health Testing	No Cap	No
217	Soil and Source Testing for Nutrient Management	No Cap	No
218	Carbon Sequestration and Greenhouse Gas Mitigation Assessment	No Cap	No
219	Prescribed Grazing Conservation Evaluation and MonitoringActivity	No Cap	No
221	Soil Organic Carbon Stock Measurement	No Cap	No
222	Indigenous Stewardship Methods Evaluation	No Cap	No
223	Forest Management Assessment	No Cap	No
224	Aquifer Flow Test	No Cap	No
226	Waste Facility Site Suitablity and Feasibility Assessment	No Cap	No
227	Evaluation of Existing Waste Storage Components	No Cap	No
228	Agricultural Energy Assessment	No Cap	No
297	Feral Swine Damage Assessment	No Cap	No
Conservation Practice List			
313	Waste Storage Facility	No Cap	Yes
314	Brush Management	No Cap	Yes
315	Herbaceous Weed Treatment	No Cap	Yes
316	Animal Mortality Facility	No Cap	Yes
317	Composting Facility	No Cap	Yes
320	Irrigation Canal or Lateral	No Cap	Yes
325	High Tunnel System	$19,100	Yes
327	Conservation Cover *	No Cap	Yes
328	Conservation Crop Rotation	No Cap	No
329	Residue and Tillage Management, No Till / Strip Till / Direct Seed	No Cap	No
338	Prescribed Burning	No Cap	No
340	Cover Crop	$46,090/yr.	No
342	Critical Area Planting	No Cap	Yes

FY 2025 North Dakota Eligible Practice List for EQIP Financial Assistance

Practice Code	Conservation Practice	Payment Practice Cap	1257 Required
345	Residue and Tillage Management, Reduced Till	No Cap	No
348	Dam Diversion	No Cap	Yes
350	Sediment Basin	No Cap	Yes
351	Well Decommissioning	No Cap	Yes
356	Dike (includes Ring Dike, Statewide)	No Cap	Yes
360	Waste Facility Closure	No Cap	Yes
362	Diversion	No Cap	Yes
366	Anaerobic Digester	No Cap	Yes
367	Roofs and Covers *	No Cap	Yes
368	Emergency Animal Mortality *	No Cap	No
371	Air Filtration and Scrubbing	No Cap	Yes
372	Combustion System Improvement	No Cap	Yes
374	Energy Efficient Agricultural Operation	No Cap	Yes
378	Pond	No Cap	Yes
380	Windbreak/Shelterbelt Establishment & Renovation	No Cap	Yes
382	Fence	No Cap	Yes
384	Woody Residue Treatment *	No Cap	Yes
386	Field Border	No Cap	Yes
388	Irrigation Field Ditch	No Cap	Yes
390	Riparian Herbaceous Cover	No Cap	Yes
391	Riparian Forest Buffer	No Cap	Yes
393	Filter Strip	No Cap	Yes
394	Fire Break	No Cap	Yes
395	Stream Habitat Improvement & Management	No Cap	Yes
402	Dam	No Cap	Yes
410	Grade Stabilization Structure	No Cap	Yes
412	Grassed Waterway	No Cap	Yes
428	Irrigation Ditch Lining	No Cap	Yes
430	Irrigation Pipeline	No Cap	Yes
436	Irrigation Reservoir	No Cap	Yes
441	Irrigation System, Micro irrigation	No Cap	Yes
442	Irrigation System, Sprinkler	No Cap	Yes
443	Irrigation System, Surface and Subsurface	No Cap	Yes
447	Irrigation Drainage Tailwater Recovery	No Cap	Yes
449	Irrigation Water Management	No Cap	No
460	Land Clearing	No Cap	Yes

FY 2025 North Dakota Eligible Practice List for EQIP Financial Assistance

Practice Code	Conservation Practice	Payment Practice Cap	1257 Required
462	Precision Land Forming	No Cap	Yes
464	Irrigation Land Leveling	No Cap	Yes
468	Lined Waterway or Outlet	No Cap	Yes
472	Access Control	No Cap	Yes
484	Mulching	No Cap	No
490	Tree/Shrub Site Preparation	No Cap	No
500	Obstruction Removal	No Cap	Yes
511	Forage Harvest Management	No Cap	No
512	Pasture and Hay Planting	No Cap	Yes
516	Livestock Pipeline	No Cap	Yes
520	Pond Sealing or Lining – Compacted Soil Treatment	No Cap	Yes
521	Pond Sealing or Lining – Geomembrane or Geosynthetic Clay Liner	No Cap	Yes
528	Prescribed Grazing	No Cap	No
533	Pumping Plant	No Cap	Yes
550	Range Planting	No Cap	Yes
554	Drainage Water Management	No Cap	No
558	Roof Runoff Structure	No Cap	Yes
560	Access Road	No Cap	Yes
561	Heavy Use Area Protection *	No Cap	Yes
570	Stormwater Runoff Control	No Cap	Yes
574	Spring Development	No Cap	Yes
575	Trails and Walkways	No Cap	Yes
576	Livestock Shelter Structure *	No Cap	Yes
578	Stream Crossing	No Cap	Yes
580	Streambank and Shoreline Protection	No Cap	Yes
582	Open Channel	No Cap	Yes
584	Channel Bed Stabilization	No Cap	Yes
587	Structure for Water Control	No Cap	Yes
590	Nutrient Management AFO Nutrient Management	$76,000/yr $15,000/yr	No
595	Pest Management Conservation System	No Cap	No
603	Herbaceous Wind Barriers	No Cap	Yes
604	Saturated Buffer	No Cap	Yes
605	Denitrifying Bioreactor	No Cap	Yes
606	Subsurface Drain	No Cap	Yes
610	Salinity and Sodic Soil Management	No Cap	No
612	Tree/Shrub Establishment	No Cap	Yes

FY 2025 North Dakota Eligible Practice List for EQIP Financial Assistance

Practice Code	Conservation Practice	Payment Practice Cap	1257 Required
614	Watering Facility (included wildlife watering facility)	No Cap	Yes
620	Underground Outlet	No Cap	Yes
632	Waste Separation Facility	No Cap	Yes
634	Waste Transfer	No Cap	Yes
635	Vegetative Treatment Area	No Cap	Yes
636	Water Harvesting Catchment	No Cap	Yes
638	Water and Sediment Control Basin	No Cap	Yes
640	Water spreading	No Cap	Yes
642	Water Well	No Cap	Yes
643	Restoration and Management of Rare and Declining Habitats	No Cap	No
644	Wetland Wildlife Habitat Management *	No Cap	No
645	Upland Wildlife Habitat Management	No Cap	No
647	Early Successional Habitat Development and Management	No Cap	No
649	Structures for Wildlife	No Cap	Yes
656	Constructed Wetland	No Cap	Yes
657	Wetland Restoration	No Cap	Yes
658	Wetland Creation	No Cap	Yes
660	Tree-Shrub Pruning	No Cap	Yes
666	Forest Stand Improvement *	No Cap	Yes
670	Energy Efficient Lighting System	No Cap	Yes
672	Energy Efficient Building Envelope	No Cap	Yes
810	Annual Forages for Grazing Systems	No Cap	No
812	Raised Beds	No Cap	Yes
821	Low Tunnel Systems	No Cap	Yes
823	Organic Management	No Cap	No
827	Strategic Harvested Forage Management	No Cap	No

* 327 Conservation Cover, scenario for Level 1 can be used for wetlands within any applicable pool
* 367 Roofs and Covers are limited to the General Guidance Instructions.
* 368 Emergency Animal Mortality, only available if EQIP Emergency pool is announced.
* 384 Woody Residue Treatment, only available when noted in bulletin for special projects.
* 561 Heavy Use Protection Area is limited to the General Guidance Instructions.
* 576 Livestock Shelter Structure, available only in Greater Sage Grouse Initiative and AFO Pool.
* 644 Wetland Wildlife Habitat Management, scenarios for Levels 1, 2 and 3 can be used for wetlands within any applicable pool .
* 666 Forest Stand Improvement, only available when noted in bulletin for special projects.

FY2026 EQIP-CIC Supporting Guidance

EQIP CIC is a steppingstone from EQIP to CSP. North Dakota NRCS is utilizing CIC to assist producers in the following way:

- Assist existing cropping systems to enhance soil health by maximizing biodiversity through the integration of livestock on cropland and further enhance plant condition through intensification of grazing systems on rangeland and pasture.

EQIP – CIC Primary Practices:

FY2026 EQIP-CIC Practice List

Code	Asset	Units	Lifespan
528	Prescribed Grazing	Ac	1

EQIP General Guidance will apply, with the following exceptions:

Number 5, 18, and 21 and under General Provisions:

5. *In order to address an identified resource concern, management practices will be scheduled a minimum of 3 consecutive years on the same land unit, not to exceed 5 years.* **EQIP-CIC will allow 528 to be applied to crop fields for less than three years, and/or non-consecutive years as consistent with the guidance in this document. Rangeland/Pasture must be included in the grazing rotation. 528 is required to be implemented on the range/pasture acres on a minimum of 3 consecutive years not to exceed 5 years.**
18. *Water developments on cropland are not eligible for financial assistance through EQIP.* **EQIP-CIC will allow water developments on crop fields with the incorporation of 340 and/or 810 to provide soil health benefits as consistent with the guidance in this document. (Water Developments will be planned as supporting practices to 528.)**
21. *Boundary Fence is allowed in limited cases: on land to facilitate a change in production systems; on land to protect, restore or enhance an environmentally sensitive area, such as a riparian area or wetland; on grassland not previously included in a grazing system; or adding expired or expiring CRP (see note above for eligible CRP acres) to a grazing system. Adding a boundary fence to land facilitating a change in production will require 528 to be contracted on those land units. Boundary fences will be reviewed and approved by a Resource Conservationist. Replacement fences are NOT eligible.* **EQIP-CIC will allow boundary fence on crop fields to facilitate the integration of livestock grazing 340 or 810 as consistent with the guidance in this document. (Fence on crop will be planned as a supporting practice to 528.) Replacement fences are not eligible.**

Requirements of crop fields with practices to improve soil health by facilitating livestock integration.

1. During the 5-year contract period, 528 must be implemented on the cropland field a minimum of twice. Practice 340 or 810 must be implemented and grazed on the entire cropland field at least once, during that 5-year period. The entire field does not need to be dedicated to 340 or 810 during the same growing season. The second year of 528 may be high residue crops or another instance of practice 340/810. The acreage implemented must be of sufficient size to provide at least 2 weeks of properly managed grazing per forage estimates from the ND NRCS Grass Bundle – CPA-1 Forage Balance Worksheet. Use the applicable 528 practice scenarios.
2. The 340 or 810 planned to satisfy the previous bullet **must** be designed to meet the requirements from the iCPS 810 Specification criteria for "Improve Soil Microbial Life and Soil Aggregate Stability" which states *"Plant at least five species from two functional groups for added diversity. Soil disturbance for the crop rotation must result in a Soil Tillage Intensity Rating (STIR) value which does not exceed 20."*
3. Species selected for 340 or 810 **must** have a rating of Fair or Good for both Increase Soil Organic Matter and Provide Supplemental Grazing as found on the Cover Crop Properties table of the ND NRCS Cover Crop Design workbook.
4. If more than 5 species are used, at least 5 species **must** meet the criteria above and **must** comprise at least 60% of the designed mix.
5. The 340 or 810 **must** be seeded by no later than July 1st as stated in the iCPS-810 specification.
6. For implementing 528 on cropland, see the FOTG guidance document *528 ND GD Prescribed Grazing: Cropland Grazing to Promote Soil Health 2022* (Enclosed). CPS 528 is **required** for payment on crop fields any year during which the full season 340 or 810 or high residue crop is grazed.
7. In order to achieve the Soil Health benefits of 528 on cropland fields, supporting practices 328, 329 and 590 must be part of the conservation plan and implemented on the cropland fields. If these practices are already being implemented, they must be included in CART as existing practices and marked as functional. If they are not being practiced, or if the producer is implementing an appropriate change as authorized by EQIP (see EQIP General Guidance), the practices must be planned and may be contracted.

Requirements for range or pasture fields enhancing plant condition by implementing intensified grazing management.

1. The intensified grazing system must meet one of the following criteria:
    a. Changing from a grazing rotation with an average grazing period of greater than or equal to 10 days, to a system with an average grazing period less than 10 days.
    b. Implementing patch-burn grazing. (CPS 338 must be contracted as a supporting practice to 528.)
    c. A change to multi-species grazing for the purpose of impacting undesirable species.
    d. Changing to employ targeted grazing strategies such as using poly-wire to achieve better control of the timing, intensity, degree of use, frequency, duration, and season of use. Such strategies could include changing the grazing pattern (using poly-wire to divide a paddock into North-South strips in year 1 and East-West strips in year 2) or changing stock density (using poly-wire to divide a paddock into 10-acre strips in year 1 and 20-acre strips in year 2). An average grazing period of 10 days or less per grazing event is required with the use of poly wire.
    e. Implementing cross fences to increase the number of grazing cells to meet or exceed the practice standard 528. Use the applicable 528 practice scenarios on the rangeland acres.
2. Any practices needed to support the intensified grazing system may be contracted as supporting practices to 528.

USDA United States Department of Agriculture

North Dakota CRP Cost Share Rates

Farm Service Agency

fsa.usda.gov

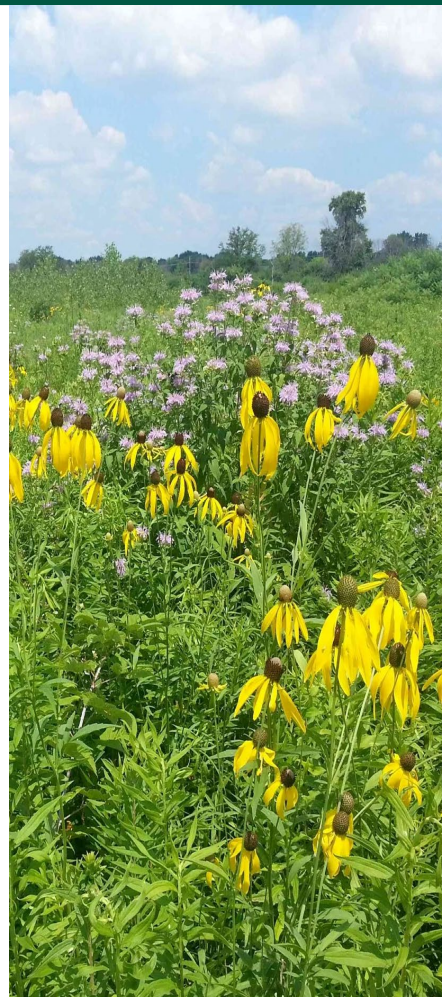
ND CRP Cost Share Rates

Background

- As outlined in 2-CRP (Rev. 6) Part 15, when a CRP-1 is approved, the practices scheduled on the approved conservation plan are automatically approved. By approving the CRP-1, the COC or CED is committing funds for the establishment of those practices.

- Cost Share (C/S) assistance must not exceed 50% of the eligible costs of establishing the approved practice.

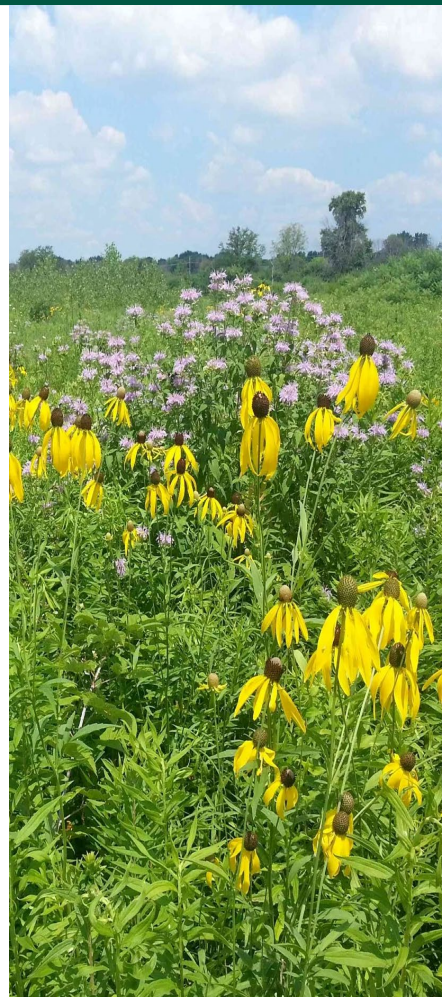
- To ensure FSA is reimbursing CRP participants at the 50% level, State Committee's (STCs) are authorized to develop and revise State C/S rates based on guidelines established within the 2-CRP (Rev. 6) handbook, in consultation with the State Technical Committee



ND CRP Cost Share Rates

Background (Continued)

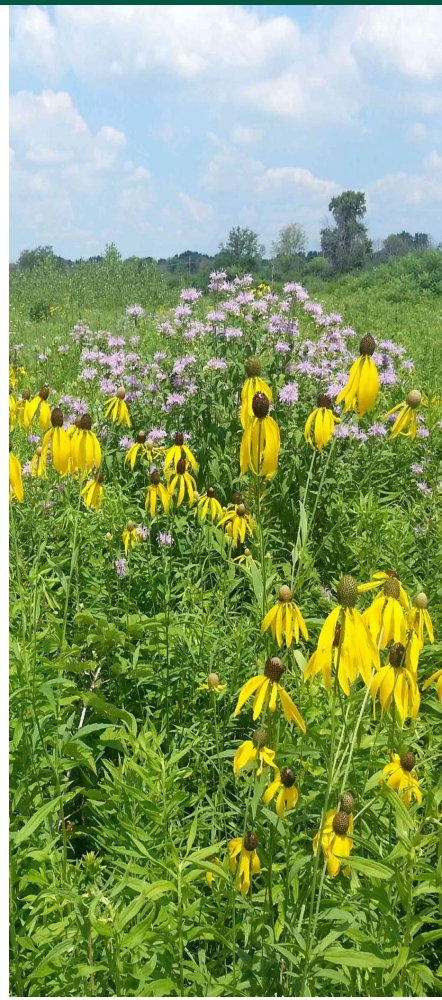
- The State Office (STO) is responsible for establishing and maintaining a list of standardized components applicable for each practice, that are reflective of actual producer costs incurred during the previous 12-month period. The State components must represent different items that are required as part of a practice.
    - Examples:
        - Materials
        - Machinery
        - Seed types and mixtures
        - Tree types
        - Labor
        - Etc.



County Office Data Collection

North Dakota State FSA Conservation Division collected actual producer input costs for cost share components from each of the County Offices.

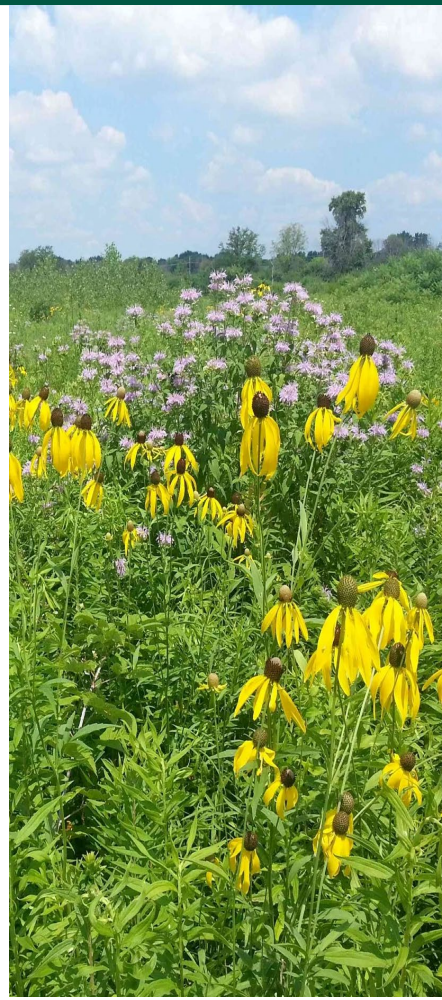
Data was compiled by County Offices and submitted to the State FSA Conservation Division.



Data Collection Results

Upon review of the data collected, it was found that certain cost share components would benefit from an increase in their respective rates.

This request to increase cost share rates is due to the increase in current producer input costs.



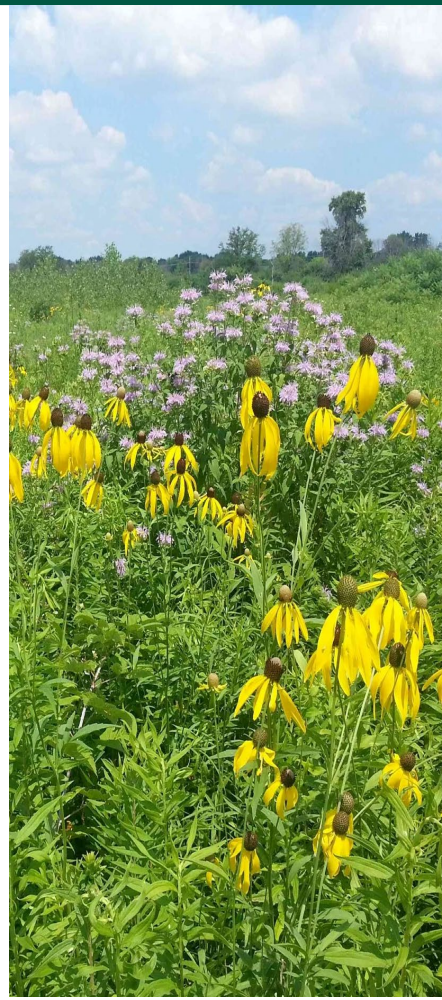
ND CRP Cost Share Rates

Review of proposed actual cost share rates.

Note:

- Regular CRP C/S rate is 50% of expected costs

- CLEAR30 C/S rate is 75% of expected costs



State Tech Comm. Role

State Tech Committee provides a formal recommendation to the FSA State Committee for updates to components and their rates.

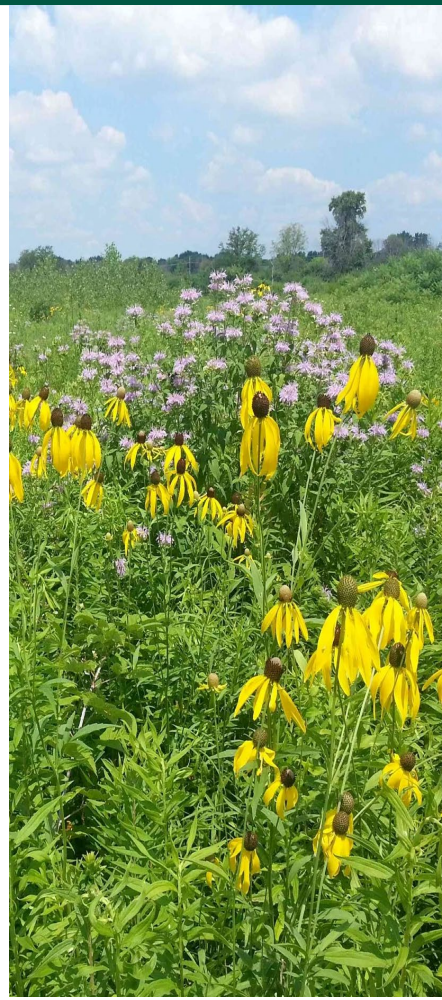
- STaC Chair to FSA State Committee

State FSA Committee will determine final rates, and FSA staff will publish directives for the field offices

ND CRP Cost Share Rates

Review/Discuss proposed actual cost share rates - handouts

Show me the numbers!



USDA United States Department of Agriculture

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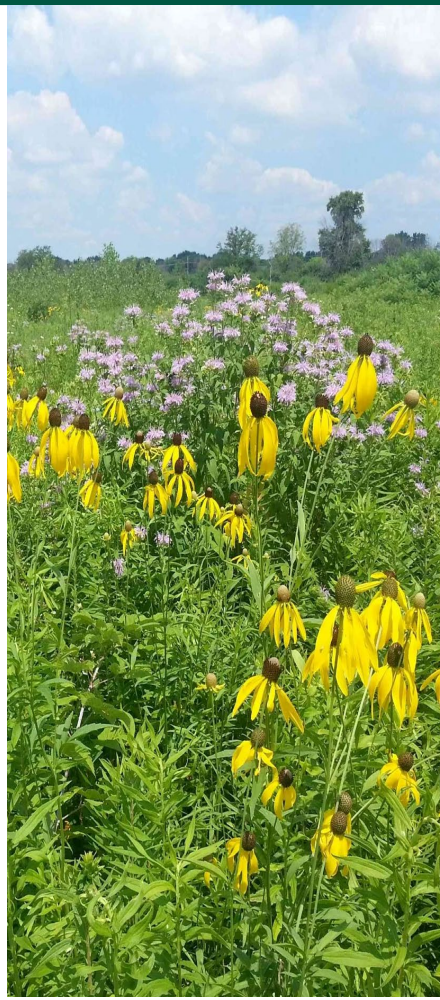

Farm Service Agency

fsa.usda.gov

United States Department of Agriculture

Farm
Service
Agency

North Dakota
Farm Service Agency
1025 28th St. South
Fargo, ND 58103

PH: (701) 239-5224
FAX: (855) 813-6644

DATE: June 26, 2025

TO: State Technical Committee

FROM: Brad Thykeson
State Executive Director

SUBJECT: Request for Increase to ND CRP Cost-Share (C/S) Rates

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The North Dakota State FSA Conservation Division collected actual producer input costs for cost share components from county offices. Upon completion of the cost share data collection, it was found that certain cost chare components would benefit from an increase in their respective rates. This request to increase cost share rates is due to the increase in current producer input costs.

Members of the State Technical Committee, please review the attached current and proposed cost share rates.

As outlined in 2-CRP (Rev. 6) Part 15, when a CRP-1 is approved, the practices scheduled on the approved conservation plan are automatically approved. By approving the CRP-1, the COC or CED is committing funds for the establishment of those practices.

C/S assistance must not exceed 50 percent of the eligible costs of establishing the approved practice. Participants may receive C/S assistance from non-Federal sources; however, under no circumstances may the total C/S amount received exceed 100 percent of the out-of-pocket expense to install the practice.

To ensure that FSA is reimbursing CRP participants at the 50 percent level, State Committee's (STC) are authorized to develop and revise State C/S rates based on guidelines established within the 2-CRP (Rev. 6) handbook, in consultation with the State Technical Committee.

The State Office is responsible for establishing and maintaining a list of standardized components applicable for each practice, that are reflective of actual producer's cost incurred during the previous 12-month period. The State components must represent different items that are required as part of a practice.

If you have any questions, please contact the FSA Conservation Division.

Attachments: Current and Proposed C/S Rates

2025 FSA Proposed Component Rate Changes for CRP

	Update to Existing Components		Current C/S Rate	Proposed Actual Cost Share Rate NTE
Code	Description	Units		
C65A	Water Pump, HP	EACH	$ 1,135.00	$ 1,798.00
D25B	Seeding Operation, Grain Drill or Grass Drill	ACRE	$ 14.00	$ 28.00
D41A	Fertilizer, Application	ACRE	$ 1.00	$ 7.65
D43A	Fertilizer, Nitrogen (N^2) Actual Pounds	Lbs	$ 0.12	$ 0.55
D45A	Fertilizer, Phosphate (P^2O5) Actual Lbs	Lbs	$ 0.13	$ 0.29
D47A	Fertilizer, Potash (K^2O)	Lbs	$ 0.05	$ 0.14
D61A	Temporary Cover - Seedbed Prep, Seed, & Seeding	ACRE	$ 19.00	$ 28.00
D77B	Mechanical Weed Control	ACRE	$ 7.00	$ 18.00
CRPSEEDE09	Pollinator Habitat Mix	ACRE	$ 150.00	$ 365.00
F06	Tree, Hand Planting	Tree	$ 0.75	$ 2.50
F31B	Trees, Land Preparation	ACRE	$ 12.50	$ 18.00
F45B	Fabric Weed Barrier 6 Feet Wide	LFT	$ 30.00	$ 33.00
K20	Interseeding Operation - Grass or Grain Drill	ACRE	$ 14.00	$ 18.00
C30-D25B	Seeding Operations - Grass/Grain Drill	ACRE	$ 21.00	$ 42.00
C30-D41A	Fertilizer Application	ACRE	$ 1.50	$ 11.48
C30-D43A	Fertilizer - Nitrogen (N^2), Actual Pounds	Lbs	$ 0.18	$ 0.78
C30-D45A	Fertilizer - Phosphate (P^2O5), Actual Pounds	Lbs	$ 0.19	$ 0.45
C30-D47A	Fertilizer - Potash, Actual Pounds	Lbs	$ 0.08	$ 0.21
C30-D61A	Temporary Cover - Seedbed Prep, Seed, & Seeding	ACRE	$ 28.50	$ 42.00
C30-D77B	Mechanical Weed Control	ACRE	$ 10.50	$ 27.00
C30-F06	CLEAR30 - Tree, Hand planting	Tree	$ 1.13	$ 1.50
C30-F31B	Trees - Land Preparation	ACRE	$ 18.75	$ 27.00
C30-K13	CRP CLEAR30 Management - Mowing and Litter Removal	ACRE	$ 18.75	$ 23.00
C30-K20	CRP CLEAR30 Management - Interseeding Operation - Grass or Grain Drill	ACRE	$ 21.00	$ 27.00
F57	Tree Shelter, 2 Foot	EACH	$ 1.70	$ 2.25
F59	Tree Shelter 3 FT	EACH	$ 2.15	$ 2.75
F61	Tree Shelter, 4 FT	EACH	$ 2.50	$ 3.00
F63	Tree Shelter, 5 FT	EACH	$ 3.50	$ 4.00
C30-F57	CRP CLEAR30 Tree Shelter - 2 Foot	EACH	$ 2.55	$ 3.38
C30-F59	CRP CLEAR30 Tree Shelter - 3 Foot	EACH	$ 3.23	$ 4.13
C30-F61	CRP CLEAR30 Tree Shelter - 4 Foot	EACH	$ 3.75	$ 4.50
C30-F63	CRP CLEAR30 Tree Shelter - 5 Foot	EACH	$ 5.25	$ 6.00
C30-K20	CRP CLEAR30 Management - Brush control	ACRE	$ 8.10	$ 15.00

2025 FSA Proposed Component Rate Changes for CRP

	NEW Components Needed		Current C/S Rate	Proposed Actual Cost Share Rate NTE
Code	Description	Units		
N/A	Brush Control	Acre	$ -	$ 10.00
N/A	CRP CLEAR30 Maintenance- Vertical Tillage	Acre	$ -	$ 16.00
N/A	Lime	Lbs	$ -	$ 0.25
N/A	Lime (CLEAR30)	Lbs	$ -	$ 0.37
N/A	Conservation Tree	Tree	$ -	$ 0.50
N/A	CLEAR30-Conservation Tree	Lbs	$ -	$ 0.75
N/A	CRP CLEAR30 Maintenance- Aerator	Acre	$ -	$ 14.50
N/A	CRP CLEAR30 Maintenance- Harrow	Acre	$ -	**$ 10.50**
N/A	CRP CLEAR30 Maintenance- Rotary mower	Acre	$ -	**$ 10.50**
N/A	Seedbed Preparation, 2 mech/chem	Acre	$ -	**$ 70.00**
N/A	Seedbed Preparation, 3 mech/chem	Acre	$ -	**$ 105.00**

ND FSA Code	2020 Cost Share Set	Units	Current C/S Rate	Current Cost
A02A	Excavation	CYD	$ 1.05	$ 2.10
A09A	Excavation For Small Conservation Structures	CYD	$ 2.85	$ 5.70
A11A	Borrow Development	CYD	$ 0.07	$ 0.14
A21A	Site Clearing or Obstruction Removal	ACRE	$ 540.00	$ 1,080.00
A31A	Earthfill, Hand Compaction (sm. Struc.)	CYD	$ 2.84	$ 5.67
A36A	Earthfill, Machine Compaction	CYD	$ 1.20	$ 2.40
A40A	Earthfill, Roller Compaction	CYD	$ 1.43	$ 2.85
A44	Wetland Restoration, Ditch Plug	STRUC	$ 170.00	$ 340.00
A46A	Water for Fill Moisture Control/1000 Gal	TGAL	$ 7.38	$ 14.75
A71A	Critical Area, Grade/Shape/Fill-Heavy	ACRE	$ 455.00	$ 910.00
A73A	Critical Area, Grade/Shape/Fill-Light	ACRE	$ 277.50	$ 455.00
A81A	W.Way =or<40 A Drain Area, =or<.6 A Total	PROJT	$ 250.00	$ 500.00
A83A	W.Way = or<40A Drain Area,>.6 A Total	ACRE	$ 400.00	$ 800.00
A92	Trenching, Shallow	LFT	$ 0.22	$ 0.43
A94A	Trenching, or Deep Plow Frost Protected	LFT	$ 0.91	$ 1.82
A97A	Trenching or Deep Plow and BackHoe	LFT	$ 1.20	$ 2.39
A100A	Backhoe	LFT	$ 1.48	$ 2.95
A103A	Excavation, Spring Boxes, and Collector Systems	CYD	$ 5.68	$ 11.35
B11B	Small Diameter Pipe, Including Assessories	LFT	$ 0.63	$ 1.25
B11C	Small Diameter Pipe - 1 inch or less (PVC)	LFT	$ 0.25	$ 0.49
B11D	Small Diameter Pipe - 1.25 inch to 2 inch (PVC)	LFT	$ 0.28	$ 0.55
B11E	Small Diameter Pipe - Over 2 inches (PVC)	LFT	$ 0.52	$ 1.04
B11F	Small Diameter Pipe - 1 inch or less (PE)	LFT	$ 0.37	$ 0.73
B11G	Small Diameter Pipe - 1.25 inch to 2 inch (PE)	LFT	$ 0.63	$ 1.25
B11H	Small Diameter Pipe - Over 2 inches (PE)	LFT	$ 1.70	$ 3.40
C31A	Gravel. Sand or Scoria Pit Run	CYD	$ 8.63	$ 17.25
C33A	Gravel, Washed, and Graded	CYD	$ 14.00	$ 28.00
C41A	Reservoir Sealing, Membrane, Bentonite or Salt In Place	TON	$ 142.00	$ 284.00
C51A	Well, Artesian, Drilling and Casing Less than 4 Inch	FT	$ 14.30	$ 28.60
C53A	Well, Artesian, Drilling and Casing 4 Inch and Over	FT	$ 15.93	$ 31.85
C55A	Wells, Drilling and Casing less than 4 Inch	FT	$ 12.16	$ 24.32
C57A	Well, Plastic, Drilling and Casing 4 inch and Over	FT	$ 17.00	$ 34.00
C61A	Well, Drill in Consol. Material No Casing	FT	$ 5.68	$ 11.35
C63A	Well, Bored or Dug and Cased 12 Inch or Larger	FT	$ 39.00	$ 78.00
C65A	Water Pump, HP	EACH	$ 1,135.00	$ 2,270.00
C67A	Frost Free Vault, Complete	EACH	$ 567.00	$ 1,134.00
C69A	Pitless Well Unit, DIA Inch	EACH	$ 62.00	$ 124.00
C71A	Well Screen, Statnless, Brass Installed	FT	$ 45.38	$ 90.75
C73A	Well Screen, Plastic, Galvanized Installed	FT	$ 14.00	$ 28.00
C81A	Well Seal - Diameter Less Than 4-Inches	LFT	$ 2.91	$ 5.81
C85A	Well Seal - Diameter - 4-Inches	LFT	$ 1.50	$ 3.00
C87A	Well Seal - Diameter - 5-Inches	LFT	$ 2.55	$ 5.10
C89A	Well Seal - Diameter - 6-Inches	LFT	$ 5.00	$ 10.00
C93A	Well Seal - Diameter - 30 inches or More	LFT	$ 13.75	$ 27.50

ND FSA Code	2020 Cost Share Set	Units	Current C/S Rate	Current Cost
C101A	Storage Tank, Complete Installation	GAL	$ 0.82	$ 1.64
C103A	Storage Tank, Frost Free, Complete Installation	GAL	$ 1.70	$ 3.40
C105A	Nose Pump	EACH	$ 270.50	$ 541.00
C107A	Water Fountain	EACH	$ 189.00	$ 378.00
C109A	Pressure Tank	GAL	$ 3.50	$ 7.00
D03B	Chemical Seedbed Preparation Without Tillage	ACRE	$ 17.50	$ 35.00
D09B	Seedbed Preparation, Mechanical - New Land	ACRE	$ 17.50	$ 35.00
D11	Seedbed Preparation, Cover Re-Establishment or Enhancement	ACRE	$ 57.50	$ 115.00
D23A	Broadcast Seeding	ACRE	$ 8.00	$ 16.00
D25B	Seeding Operation, Grain Drill or Grass Drill	ACRE	$ 14.00	$ 28.00
D27	Seeding Operation, Small area Grain or Grass Drill	ACRE	$ 25.00	$ 50.00
D31A	Critical Area Prep. Anchored Mulch W/Netting	SQYD	$ 0.55	$ 1.10
D33A	Critical Area Prep. Anchored Mulch W/Treader	SQYD	$ 0.08	$ 0.16
D35A	Critical Area Prep. Hydroseeder, Seeding/Mulch	SQYD	$ 0.11	$ 0.21
D36A	Mulch Blankets	SQYD	$ 0.83	$ 1.66
D37A	Critical Area Prep Sod In Place	SQYD	$ 0.55	$ 1.10
D40A	Turf Reinforcing Fabrics	SQYD	$ 1.95	$ 3.90
D41A	Fertilizer, Application	ACRE	$ 1.00	$ 2.00
D43A	Fertilizer, Nitrogen (N^2) Actual Pounds	Lbs	$ 0.12	$ 0.24
D45A	Fertilizer, Phosphate (P^2O5) Actual Lbs	Lbs	$ 0.13	$ 0.25
D47A	Fertilizer, Potash (K^2O)	Lbs	$ 0.05	$ 0.10
CRPSEEDD51	Critical Area Seeding	ACRE	$ 50.00	$ 100.00
D61A	Temporary Cover - Seedbed Prep, Seed, & Seeding	ACRE	$ 19.00	$ 38.00
D72B	Chemical For Weed/Pesticide Control	ACRE	$ 17.50	$ 35.00
D77B	Mechanial Weed Control	ACRE	$ 7.00	$ 14.00
CRPSEEDE01	Native Grass Seeding	ACRE	$ 70.00	$ 140.00
CRPSEEDE03	Introduced Grass Seeding	ACRE	$ 40.00	$ 80.00
CRPSEEDE05	Introduced & Native Mix	ACRE	$ 55.00	$ 110.00
CRPSEEDE07	CRP Grass Mixes With Shrub Seeds	ACRE	$ 60.00	$ 120.00
CRPSEEDE09	Pollinatior Habitat Mix	ACRE	$ 150.00	$ 300.00
F01	Trees or Shrubs, Bare Root Machine Plant	HLFT	$ 17.50	$ 35.00
F06	Trees or Shrubs, Bare Root or Container Hand Plant	TREE	$ 0.75	$ 1.50
F26	Trees or Shrubs, Unrooted Cuttings, Hand Plant	TREE	$ 0.20	$ 0.40
F31B	Trees, Land Preparation	ACRE	$ 12.50	$ 25.00
F33	Trees, Land Preparation Chemical and Application	ACRE	$ 17.50	$ 35.00
F37	Trees - Heavy Site Preparation	ACRE	$ 57.25	$ 114.50
F41A	Trees-Weed Control-Mechanical	HLFT	$ 4.00	$ 8.00
F43A	Trees-Weed Control-Chemical and Application	HLFT	$ 4.00	$ 8.00
F44	Grass Seeding Between The Rows	ACRE	$ 22.50	$ 45.00
F45B	Fabric Weed Barrier 6 Feet Wide	HLFT	$ 30.00	$ 60.00

ND FSA Code	2020 Cost Share Set	Units	Current C/S Rate	Current Cost
F49	Synthetic Weed Barrier Squares (4 x 4 minimum)	SQARE	$ 1.40	$ 2.80
F57	Tree Shelter, 2 Foot	EACH	$ 1.70	$ 3.40
F59	Tree Shelter 3 FT	EACH	$ 2.15	$ 4.30
F61	Tree Shelter, 4 FT	EACH	$ 2.50	$ 5.00
F63	Tree Shelter, 5 FT	EACH	$ 3.50	$ 7.00
H02	Brush Control, Chemical, and Application	ACRE	$ 8.85	$ 17.70
H03	Mechanical Brush Control	ACRE	$ 5.40	$ 10.80
H11A	Fence, Barbed or Smooth Wire	LFT	$ 0.90	$ 1.80
H21B	Fence, Permanent Electric 2 Wire or More	LFT	$ 0.92	$ 1.84
H23A	Fence, Permanent Electric 1 Wire	LFT	$ 0.26	$ 0.51
H24	Electric Fence Energizers	EACH	$ 200.00	$ 400.00
H25	Fence, Woven Wire	LFT	$ 0.73	$ 1.46
H29	Solar Panel and Energizer - Electric Fence	EACH	$ 247.50	$ 495.00
C30-A02A	Excavation	CYD	$ 1.58	$ 2.10
C30-A09A	Excavation For Small Conservation Structures	CYD	$ 4.28	$ 5.70
C30-A44	Wetland Restoration, Ditch Plug	STRUC	$ 255.00	$ 340.00
C30-A71A	Critical Area Grade, Shape, Fill - Heavy	ACRE	$ 682.50	$ 910.00
C30-A73A	Critical Area Grade, Shape, Fill - Light	ACRE	$ 341.25	$ 455.00
C30-A81A	Waterway, = or < 40 acre Drain Area, = or > .6 ac. Total	STRUC	$ 375.00	$ 500.00
C30-A83A	Waterway, = or < 40 acre Drain Area, = or > .6 ac. Total	ACRE	$ 600.00	$ 800.00
C30-D03B	Chemical Seedbeed Preparation Without Tillage	ACRE	$ 26.25	$ 35.00
C30-D09B	Seedbed Preparation – Mechanical – New Land	ACRE	$ 26.25	$ 35.00
C30-D11	Seedbed Preparation – Cover Re-establishment or Enhancement	ACRE	$ 86.25	$ 115.00
C30-D23A	Broadcast Seeding	ACRE	$ 12.00	$ 16.00
C30-D25B	Seeding Operations - Grass/Grain Drill	ACRE	$ 21.00	$ 28.00
C30-D27	Seeding Operations - Small Area, Grass/Grain Drill	ACRE	$ 37.50	$ 50.00
C30-D31A	Critical Area Preparation - Anchored Mulch w/Netting	SqYd	$ 0.83	$ 1.10
C30-D33A	Critical Area Preparation - Anchored Mulch w/Treader	SQYD	$ 0.12	$ 0.16
C30-D35A	Critical Area Preparation - Hydroseeder, Seeding, Mulch	SQYD	$ 0.16	$ 0.21
C30-D41A	Fertilizer Application	ACRE	$ 1.50	$ 2.00
C30-D43A	Fertilizer - Nitrogen (N^2), Actual Pounds	Lbs	$ 0.18	$ 0.24
C30-D45A	Fertilizer - Phosphate (P^2O5), Actual Pounds	Lbs	$ 0.19	$ 0.25

ND FSA Code	2020 Cost Share Set	Units	Current C/S Rate	Current Cost
C30-D47A	Fertilizer - Potash, Actual Pounds	Lbs	$ 0.08	$ 0.10
C30-SEEDD51	Critical Area Seeding	ACRE	$ 75.00	$ 100.00
C30-D61A	Temporary Cover - Seedbed Prep, Seed, & Seeding	ACRE	$ 28.50	$ 38.00
C30-D72B	Chemical For Weed/Pesticide Control	ACRE	$ 26.25	$ 35.00
C30-D77B	Mechanical Weed Control	ACRE	$ 10.50	$ 14.00
C30-SEEDE01	Native Grass Seeding	ACRE	$ 105.00	$ 140.00
C30-SEEDE03	Introduced Grass Seeding	ACRE	$ 60.00	$ 80.00
C30-SEEDE05	Introduced/Native Species Mix	ACRE	$ 82.50	$ 110.00
C30-SEEDE07	CRP Grass Mixes With Shrub Seeds	ACRE	$ 90.00	$ 120.00
C30-SEEDE09	Pollinatior Habitat Mix	ACRE	$ 225.00	$ 300.00
C30-F01	Trees or Shrubs, Machine Planting	HLFT	$ 26.25	$ 35.00
C30-F06	Trees or Shrubs, Bare Root or Container Hand Plant	EACH	$ 1.13	$ 1.50
C30-F26	Trees or Shrubs, Unrooted Cuttings, Hand Plant	EACH	$ 0.30	$ 0.40
C30-F31B	Trees - Land Preparation	ACRE	$ 18.75	$ 25.00
C30-F33	Trees - Chemical Site Preparation without Tillage. Includes Chemical and Application	ACRE	$ 26.25	$ 35.00
C30-F37	Trees - Heavy Site Preparation	ACRE	$ 85.88	$ 114.50
C30-F41A	Trees - Weed Control - Mechanical	HLFT	$ 6.00	$ 8.00
C30-F43A	Trees - Weed Control - Chemical and Application	HLFT	$ 6.00	$ 8.00
C30-F44	Grass Seeding Between The Rows	ACRE	$ 33.75	$ 45.00
C30-F45B	Fabric Weed Barrier	HLFT	$ 45.00	$ 60.00
C30-F49	Synthetic Weed Barrier Squares (4 x 4 minimum)	EACH	$ 2.10	$ 2.80
C30-F53	Thinning of Trees and/or Shrubs	HLFT	$ 5.63	$ 7.50
C30-F57	Tree Shelter - 2 Foot	EACH	$ 2.55	$ 3.40
C30-F59	Tree Shelter - 3 Foot	EACH	$ 3.23	$ 4.30
C30-F61	Tree Shelter - 4 Foot	EACH	$ 3.75	$ 5.00
C30-F63	Tree Shelter - 5 Foot	EACH	$ 5.25	$ 7.00
C30-H02	Brush Control, Chemical, and Application	ACRE	$ 13.28	$ 17.70
C30-H03	Mechanical Brush Control	ACRE	$ 8.10	$ 10.80
C30-H11A	Fence - Barbed/Smooth Wire	LFT	$ 1.35	$ 1.80
C30-H21B	Fence - Permanent Electric - 2-Wire or More	LFT	$ 1.38	$ 1.84
C30-H23A	Fence - Permanent Electric - 1-Wire	LFT	$ 0.38	$ 0.51
C30-H24	Electric Fence Energizers	EACH	$ 300.00	$ 400.00

ND FSA Code	2020 Cost Share Set	Units	Current C/S Rate	Current Cost
C30-H25	Fence - Woven Wire	LFT	$ 1.10	$ 1.46
C30-H29	Solar Panel and Energizer - Electric Fence	EACH	$ 371.25	$ 495.00
C30-K07	CRP CLEAR30 Management - Prescribed Burning	ACRE	$ 4.50	$ 6.00
C30-K13	CRP CLEAR30 Management - Mowing and Litter Removal	ACRE	$ 18.75	$ 25.00
C30-K20	CRP CLEAR30 Management - Interseeding Operation - Grass or Grain Drill	ACRE	$ 21.00	$ 28.00