

Cautionary Icon to Alert USDA Program Participants of “Potential Jurisdictional Waters”

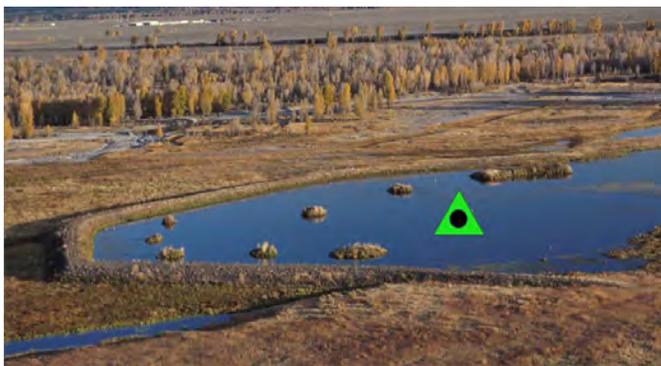


The new “Waters of the United States” (WOTUS) definition does not impact NRCS wetland determinations, but NRCS will use a new icon to aid producers.

New regulatory language that defines the types of waters and wetlands that are federally regulated under the Clean Water Act (CWA) does not impact wetland determinations conducted by the U.S. Department of Agriculture’s (USDA’s) Natural Resources Conservation Service (NRCS), but USDA program participants may notice a new icon on their Certified Wetland Determination Maps.

On June 22, 2020, the Navigable Waters Protection Rule (NWPR) became effective as the means for the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) to define WOTUS and the scope of CWA jurisdiction. This definition is not connected to the wetland conservation provisions of the Food Security Act of 1985, as amended.

With the finalization of the NWPR, the Corps, the EPA, and NRCS set out to minimize uncertainty for agricultural producers while recognizing the inherent differences in the purpose and language of the two laws. To accomplish this goal, NRCS will be providing a cautionary icon for USDA program participants whenever a water feature (such as a stream) is located on their certified wetland determination map(s). Water features such as streams are not wetlands under the Food Security Act, and may be unlabeled on NRCS maps.



The cautionary icon will be a green triangle with a dot in the center (▲), and will indicate water features that are not subject to the wetland conservation provisions of the Food Security Act but are potentially subject to the CWA. By providing this caution, USDA participants will better understand that such water features may be under jurisdiction of the CWA.

The cautionary icon will be defined in the map legend as “Potential Jurisdictional Waters” or “PJW”. The following note will also be included with the NRCS determination to help explain the icon: ***Areas identified as Potential Jurisdictional Waters (PJW) are not subject to the Food Security Act but are potentially subject to the Clean Water Act. You should contact the U.S. Army Corps of Engineers local district office prior to performing work in areas which may be subject to the Clean Water Act. Areas identified as PJW are for informational purposes only and are not appealable to USDA. Additional areas, not identified by NRCS, might also be subject to the Clean Water Act.***

Wetlands that **do meet Food Security Act wetland criteria** may also be subject to CWA requirements, but as they are identified as wetlands subject to USDA requirements under the Food Security Act, they **will not receive an icon.**

NRCS will continue to inform farmers and landowners that wetland determinations (performed by NRCS) may not be valid for CWA requirements, by including in communications advisement to consult with the Corps, EPA, or state/local agencies for CWA or other jurisdictional determinations related to their activities.

For more information on NRCS wetland determinations, please contact your local USDA Service Center.

