

## **SECTION 2.7**

### **REGULATIONS ADMINISTERED BY NRCS**

#### **2.71 Introduction**

The Natural Resources Conservation Service (NRCS, formerly Soil Conservation Service or SCS) is involved in the delineation of wetlands for farmers participating in certain U.S. Department of Agriculture (USDA) programs. Through an agreement with the Corps of Engineers (COE) and the Environmental Protection Agency (EPA), the wetland delineations by NRCS personnel are accepted for determining jurisdictional wetland boundaries. The following terms have been defined through various federal statutes and rules and are most often used and associated with NRCS programs:

**Prior Converted Cropland (PC):** wetlands that were drained, dredged, filled, leveled or otherwise manipulated before December 23, 1985 to make production of an agricultural commodity possible and that do not meet specific hydrological criteria, have had an agricultural commodity planted or produced at least once prior to December 23, 1985 and have not since been abandoned. Maintenance or improvement of drainage facilities are allowed with no conditions or permit requirements under the Clean Water Act.

**Third Party Conversion (TP):** wetlands that are converted after December 23, 1985 by actions of persons other than the person applying for USDA benefits. The 3rd Edition of the National Food Security Act Manual states that conversions determined to have been completed by a county, drainage district or similar entity will be attributed to the person assessed by the entity and are not TP's.

#### **2.72 Description**

The Food Security Act (FSA) of 1985, through the "Swampbuster" provision, prohibits farmers who participate in USDA programs from converting wetlands and then producing an agricultural commodity on the converted wetland. The Food, Agriculture, Conservation and Trade Act (FACTA) of 1990 extended this prohibition such that a violation occurs when a wetland is converted even if an agricultural commodity has not been actually produced. The Food Security Act and the Food, Agriculture, Conservation and Trade Act also state that Prior Converted Cropland areas will not be classified as wetlands for regulation under the Clean Water Act.

The Farm Services Agency is responsible for enforcing the provisions of the Food Security Act and the Food, Agriculture, Conservation and Trade Act. If a farmer converts a wetland to produce a commodity crop, the Farm Services Agency determines if USDA payments should be withheld from the farmer. A violation causes the farmer to lose all USDA benefits on all land the farmer controls.

#### **2.73 Application Procedure**

While the Food Security Act and the Food, Agriculture, Conservation and Trade Act do not contain specific application forms, process or approvals for drainage improvement projects, consultation with NRCS staff is encouraged before beginning a project. Impacting a wetland by a drainage improvement project, either a private project or a county-sponsored project, may imperil an individual's receipt of USDA benefits for all of that individual's land.

The 3rd Edition of the National Food Security Act Manual details the responsibilities of the NRCS with respect to wetland delineations and documenting the scope of activities which may qualify for Third Party Conversion exemptions.

#### **2.74 Procedures for Timely Access to NRCS Personnel**

Within the NRCS, staff are available for consultations before an activity is undertaken that may impact a wetland or the status of a Prior Converted Cropland. As mentioned before, NRCS wetland delineations are recognized by COE and EPA for determining jurisdictional boundaries. Headquartered in Indianapolis, NRCS staff are also located in most counties in Indiana sharing office space with other state or federal conservation agencies. Address, phone number, and fax number of NRCS headquarters in Indianapolis are included in Appendix "I".