



Wetland Determination Rulemaking



Overview

The U.S. Department of Agriculture (USDA) is putting farmers first and supporting government accountability by providing clear guidance around wetland determinations, which helps inform agricultural producers' decisions for their operations. USDA's Natural Resources Conservation Service (NRCS) published an interim final rule that ensures most determinations made since 1990 are considered certified, and producers can rely on the determinations to work farmland.

Through this interim final rule, NRCS addressed inconsistencies in how wetland determinations have been certified and issued in the past. It aligns USDA policy with statutory requirements, protects producer reliance interests, and reduces unnecessary administrative burden by preventing the reinterpretation or replacement of previously certified determinations unless the producer asks for a review.

Specifically, the interim final rule ensures all wetland determinations issued after Nov. 28, 1990, are certified if:

1. the producer was notified of the determination; and
2. the producer was given appeal rights at the time.

Background

Producers depend on certified wetland determinations when making decisions about their agricultural operations, which impacts USDA program eligibility such as farm loans, conservation assistance, crop insurance and commodity programs.

The change restores clarity and consistency for determinations made between 1990 and 1996, which had been treated inconsistently for years.

Producers can rely on the decision to install drainage, clear land, and conduct other land alterations without risking USDA program eligibility so long as the determination shows the area is not a wetland in accordance with the Wetland Conservation provisions of the Food Security Act of 1985.

Through this interim final rule, NRCS is working to empower farmers to do what they do best – farm the land. Farmers' direct relationship with the land makes them uniquely qualified to guide its stewardship, and the agency has taken action to provide regulatory certainty in order to make operational decisions.

Keeping Working Lands In Working Hands

Farmers are deeply connected to the land, working to ensure long-term productivity while protecting natural resources to ensure operational resiliency. This makes them uniquely qualified to guide the land's stewardship.

NRCS has taken action to provide regulatory certainty to empower farmers as they make operational decisions.

The rule provides a reasoned, transparent explanation of USDA's policy and reduces administrative burden for both USDA and farmers - allowing farmers to focus on agricultural operations and land stewardship.

USDA is an equal opportunity provider, employer, and lender.