

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 12

[Docket No. NRCS–2011–0010]

RIN 0578–AA58

#### Wetland Conservation

**AGENCY:** Office of the Secretary, United States Department of Agriculture (USDA).

**ACTION:** Final rule.

**SUMMARY:** The United States Department of Agriculture is removing obsolete provisions from the Code of Federal Regulations. This action removes provisions concerning the Natural Resources Conservation Service's (NRCS) coordination responsibilities.

**DATES:** *Effective Date:* The rule is effective April 25, 2011.

**FOR FURTHER INFORMATION CONTACT:** Terrell Erickson, Director, Ecological Sciences Division, U.S. Department of Agriculture, Natural Resources Conservation Service, Room 6819, South Building, P.O. Box 2890, Washington, DC 20013–2890; Phone: (202) 720–5992; Fax: (202) 720–2646; or E-mail: [Terrell.erickson1@wdc.usda.gov](mailto:Terrell.erickson1@wdc.usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Certifications

##### *Executive Orders*

This document does not meet the criteria for a significant regulatory action as specified by E.O. 12866. This action also has no federalism or tribal implications, and will not impose substantial unreimbursed compliance costs on States, local governments, or Indian tribal governments. Therefore, impact statements are not required under E.O. 13132 or 13175.

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act is not applicable to this rule because neither the Secretary of Agriculture nor NRCS is required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule.

##### *Environmental Evaluation*

This rule will have no significant effect on the human environment and is categorically exempt under 7 CFR 1b.3(a)(6); therefore, neither an environmental assessment nor an environmental impact statement is required.

##### *Paperwork Reduction Act*

This rule does not contain reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

##### Background

Existing wetland conservation provisions in 7 CFR part 12 require that NRCS' certification of a wetland determination be completed according to procedures agreed to by the Army Corps of Engineers (COE), the Environmental Protection Agency (EPA), and the U.S. Fish and Wildlife Service. In 1994, the Departments of Agriculture and the Interior, the Army, and the Environmental Protection Agency entered into a Memorandum of Agreement (MOA) concerning the delineation of wetlands for purposes of Section 404 of the Clean Water Act (CWA) and Title XII of the Food Security Act of 1985 (FSA). The MOA was developed to streamline the wetland delineation process on agricultural lands, to promote consistency between the CWA and the FSA, and to provide predictability and simplification for USDA program participants. However, subsequent amendments to FSA and court decisions made the MOA and parts of 7 CFR 12.30 no longer applicable, and USDA and COE withdrew from the MOA in January 2005.

1996 amendments to FSA eliminated the concept of "abandonment" for prior converted (PC) cropland. As a result, land may be considered non-wetland for FSA compliance purposes, but considered wetland for CWA purposes. 2002 amendments to FSA prohibit NRCS from sharing confidential producer information, including

geospatial information, to agencies outside USDA. This prohibits NRCS from providing wetland delineations and determinations to the COE and EPA for CWA permitting and enforcement. Finally, as a result of U.S. Supreme Court decisions, a wetland may be subject to FSA Compliance, but no longer regulated by the COE for CWA purposes. These inconsistencies in jurisdiction do not allow the two agencies to have consistent wetland determinations.

##### List of Subjects in 7 CFR Part 12

Administrative practices and procedures, Soil conservation, Wetlands.

For the reasons stated in the preamble, USDA amends part 12 of Title 7 of the Code of Federal Regulations as set forth below:

#### PART 12—HIGHLY ERODIBLE AND WETLAND CONSERVATION

- 1. The authority citation for part 12 continues to read as follows:

*Authority:* 16 U.S.C. 3801 *et seq.*

##### Subpart C—Wetland Conservation

##### § 12.30 [Amended]

- 2. In § 12.30, remove paragraph (a)(8) and remove the second sentence from paragraph (c)(1).

Signed in Washington, DC, on April 5, 2011.

**Thomas J. Vilsack,**  
*Secretary.*

[FR Doc. 2011–9870 Filed 4–22–11; 8:45 am]

**BILLING CODE 3410–16–P**

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Parts 210, 215, 220, 225, 226 and 245

[FNS–2008–0001]

RIN 0584–AD60

#### Direct Certification and Certification of Homeless, Migrant and Runaway Children for Free School Meals

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Interim rule with request for comments.