



**US Army Corps
of Engineers**
Portland District

SPECIAL PUBLIC NOTICE

JULY 17, 2001

OPERATING PROCEDURES FOR COMPLETING WETLAND DELINEATIONS/DETERMINATIONS ON AGRICULTURAL LAND

Interested parties are notified of the Portland District Corps of Engineers Local Operating Procedures within the State of Oregon for Completing Wetland Delineations/Determinations on Agricultural Lands.

1. An operating procedure has been developed by personnel representing the Portland District, U.S. Army Corps of Engineers (Corps) and the Natural Resources Conservation Service. The operating procedure was formed to give guidance to the general public and consultant community on how determinations/delineations are to be completed on agricultural land in Oregon. The operating procedure was developed to address changes in the Federal Agriculture Improvement and Reform Act of 1996 (FAIRA) identified in the National Food Security Act Manual (NFSAM), Third Edition, Amendment 5, July 2000.
2. **These Operating Procedures become effective the issued date of this public notice.** All wetland determinations/delineations received after this date should be completed using the procedures attached.
3. Wetland determinations/delineations received prior to **July 17, 2001** will be reviewed under procedures in place prior to that date.
4. These operating procedures do not apply to administration of the State Removal-Fill Law by the Oregon Division of State Lands (DSL). DSL uses the 1987 Corps of Engineers Wetland Delineation Manual to make wetland determinations on any type of land.
5. Copies of this public notice are available from the Portland District office of the Corps located at the Robert Duncan Plaza (8th Floor) 333 SW 1st Avenue, Portland, Oregon or on the Internet at: <http://nwp.usace.army.mil/op/g/reggs/aglocal.pdf>.
6. Further Federal or State information can be acquired by contacting: The Portland District Corps of Engineers, ATTN: CENWP-OP-GA (Jim Goudzwaard), P.O. Box 2946, Portland, Oregon 97208-2946; 503-808-4376 *or* Natural Resources Conservation Service, ATTN: Roger Borine, Agriculture Service Center, 625 S.E. Salmon Ave. #4, Redmond, Oregon 97756; 541-923-4358 x 109; Oregon Division of State Lands, ATTN: Janet Morlan, 775 Summer Street, NE, Suite 100, Salem, Oregon 97301-1279; 503-378-3805 x 236.

TALKING POINTS REGARDING PROCEDURES FOR COMPLETING WETLAND
DETERMINATIONS/DELINEATIONS ON AGRICULTURAL LANDS WITHIN THE STATE OF
OREGON

1. NRCS will *only complete wetland determinations/delineations for program participants (Food Security Act) regardless whether agricultural or non-agricultural lands.*
2. On program participants' properties with "other waters" (OW - see Attachment B), the NRCS will identify those areas as NI (Not Inventoried). Corps of Engineers *may* assist NRCS in locating OW on program participants' properties as needed.
3. Manipulation (see Attachment B) of a site *must have occurred* in order for any of the following NFSAM labels to be used: FW, FWP or PC.
4. There is a difference between the terms *farmed wetlands* and *wetlands that are farmed*. *Farmed wetlands* (FW) are wetlands that have been hydrologically manipulated and meet the definitions for FW in the NFSAM. *Wetlands that are farmed*, have *not* been hydrologically manipulated *or* if they were manipulated before December 23, 1985, they were not cropped or used for pasture or hayland (these type wetlands continue to meet wetland criteria as determined by the 1987 Corps of Engineers Wetland Delineation Manual).
5. Definitions, and jurisdiction of, artificial wetlands, water bodies or waterways may differ between the NRCS, Corps of Engineers and Oregon Division of State Lands. Inquiries should be made of these agencies if you have questions about such areas.
6. NRCS will provide certified wetland determinations *only* when a Request for Certified Wetland Determination/Delineation form (NRCS-CPA-38) has been filled out. The results of that determination will be transmitted by a completed NRCS-CPA-026E *and* base map showing all wetland labels. The NRCS completes the determinations and the Farm Services Agency (FSA) maintains the official record.
7. NRCS fact sheets can be referenced by internet access at <http://or.nrcs.usda.gov/>
8. There are three ways to acquire the results of an NRCS wetland determination: a) request the information from the program participant who sought the determination, b) request a letter, signed by the program participant, authorizing release of the information from the Farm Services Agency, and c) acquire the information from the Farm Services Agency through a Freedom of Information Act request (See Section 514.41b of NFSAM, Third Ed., Amend 5, Sep 2000).

PORTLAND DISTRICT CORPS OF ENGINEERS
OPERATING PROCEDURES
WITHIN THE STATE OF OREGON
FOR COMPLETING WETLAND DETERMINATIONS/DELINEATIONS
ON AGRICULTURAL LANDS

1. For AG activities on lands owned or operated by USDA program participants
 - NRCS is the lead
 - NRCS may complete determinations/delineations for non-AG activities on lands owned or operated by USDA program participants, if requested
 - NFSAM is used on AG land (where vegetation is not a reliable indicator) and '87 manual on NON-AG land (or AG land where natural vegetation is not significantly modified)
 - Determination good for FAIRA
 - Determination good for CWA¹, except:
 - If determination expired (see 5 below), or;
 - If abandoned PC (see 6 below), or;
 - If pumping has ceased (see 7 below)
2. For Non-AG activities (for CWA use only)
 - COE is lead
 - Use '87 Manual with NFSAM hydrology criteria (see Attachment A) on AG land and '87 Manual only on Non-AG land (or AG land where natural vegetation is not significantly modified)
 - Only prior-converted (PC), upland (U), wetland (W), and other water (OW) labels will be applied by COE
3. Pre-AG MOA (prior to 8/94) determinations completed by NRCS
 - ***Are Not Valid for CWA or FAIRA Purposes***
4. Post-AG MOA ***Certified*** wetland determinations/delineations completed by NRCS shall include an aerial photograph with wetland labels and a CPA-026E (Highly Erodible Land and Wetland Conservation Determination)
 - For a determination to be valid for FAIRA ***and*** CWA complete documentation is required
 - If documentation is incomplete, procedures in #1 or #2 above must be followed
5. Within the State of Oregon, wetland determinations/delineations are only valid for 5 years under the CWA
6. Prior Converted Croplands (PC) are subject to COE jurisdiction where:
 - An area is not enrolled in a typical rotational, set-aside program or in another documented voluntary wetland restoration program (other than Wetland Reserve Program) ***and***
 - The area is abandoned² or a landowner provides written intent to abandon² the area (i.e., cease management) ***and***
 - Wetland criteria are met³
7. In areas where pumping has previously resulted in a lack of hydrology for an area and that pumping has ceased, the COE will reevaluate any previous wetland determination/delineation on the site (whether NRCS or COE).

¹ Occasionally, a more detailed determination/delineation may be required for CWA purposes

² Management (see Attachment B, Glossary) related to food or fiber production has ceased for 5 consecutive years and the parcel no longer remains in agricultural use (i.e., is considered abandoned)

³ As determined by the procedures in the 1987 Corps of Engineers Wetland Delineation Manual

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ATTACHMENT A

514.23

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Inundation and Saturation Criteria For PC, FW, and FWP

The following table provides hydrology criteria for PC, FW, and FWP.

If the area...	AND... The drainage system is Maintained to function as it did before 12/23/85 and the long term average conditions document that...	THEN... label the area
Is not a pothole, playa, or pocosin	Inundation is less than 15 consecutive days during the growing season or 10% of the growing season, whichever is less, most years (50% chance or more) and has a crop history before 12/23/85	PC
	Inundation is 15 consecutive days or more during the growing season or 10% of the growing season, whichever is less, most years (50% chance or more) and has a crop history before 12/23/85	FW
	is inundated for 7 consecutive or more days or saturated for 14 consecutive or more days during the growing season most years (50% chance or more) with no cropping history before 12/23/85, but managed for hay or pasture.	FWP
Is a pothole, playa or pocosin	Ponding is less than 7 consecutive days and saturation is less than 14 Consecutive days during the growing season most years (50% chance or more) and has a crop history before 12/23/85	PC
	ponds more than 7 consecutive days or is saturated 14 consecutive days or more during the growing season most years (50% chance or more)	FW or FWP

ATTACHMENT B

GLOSSARY

AG LAND: Lands that are intensively used and managed for food and fiber production (See Section 513.22a of NFSAM, Third Ed., Amend 5, Sep 2000 for examples).

AG MOA: The 1994 Interagency Memorandum of Agreement Concerning the Delineation of Wetlands (with Guidance).

AGRICULTURAL COMMODITY: Any crop planted and produced by annual tilling of the soil, including tilling by one-trip planters, or sugarcane (See Sections 514.20d and e of NFSAM, Third Ed., Amend 5, Sep 2000).

CROPPING: The use of an area for the production of agricultural commodity crops, including grasses, or legumes, in a commonly used rotation related to the production of agricultural commodity crop.

CWA: Clean Water Act.

DSL: Oregon Division of State Lands.

FAIRA: Federal Agriculture Improvement and Reform Act of 1996.

FOR THE PURPOSE OF: Actions completed that show an intent (not actually make) to make production possible (See Section 514.20e of NFSAM, Third Ed., Amend 5, Sep 2000).

MANAGEMENT: Those operations which support cropping or forage (grasses, legumes, or other forage on pasture and hayland) production such as tillage, grazing, planting, haying, burning, mowing, or harvesting (See Sections 514.25b and 525.0 of NFSAM, Third Ed., Amend 5, Sep 2000).

MAKING PRODUCTION POSSIBLE: Manipulation which allows production of an agricultural commodity where such production was not previously possible. Also includes making an area cropable more years than previously possible, or increasing crop yields (See Section 514.10b, 514.20b, and 514.20d of NFSAM, Third Ed., Amend 5, Sep 2000).

MANIPULATION: The alteration of the hydrology and/or removal of woody vegetation (including stems and stumps) on a wetland (See Section 514.20c of NFSAM, Third Ed., Amend 5, Sep 2000).

NFSAM: National Food Security Act Manual.

NON - AG LAND: Lands not considered AG Land (See Section 513.22a of NFSAM, Third Ed., Amend 5, Sep 2000 for examples).

NRCS: Natural Resources Conservation Service.

OW: Other water. Areas that are not wetlands (i.e., streams, lakes, etc.)

PC: Prior converted cropland.

RGL 94-1: U.S. Army, Corps of Engineers, regulatory guidance letter of 1994 (#1).

U: Upland (non-hydric soil areas)

USDA: U.S. Department of Agriculture.

W: Wetland (includes wetland, farmed wetlands (FW with hydrological manipulation), farmed wetland pasture (FWP with hydrological manipulation), and wetlands that are farmed (no hydrological manipulation)

Note: For a more complete list of definitions of all related terms, please see the 1987 COE Manual and NFSAM.