

NRCS Wetland Conservation Provisions (Swampbuster) Fact Sheet

Introduction

Swampbuster has reduced the loss of wetlands due to agricultural activities to the lowest levels on record. Swampbuster helps preserve the environmental functions and values of wetlands, including flood control, sediment control, groundwater recharge, water quality, wildlife habitat, recreation, and esthetics.

Revisions

The 1996 Farm Bill changed Swampbuster to give USDA participants greater flexibility to comply with wetland conservation requirements and to make wetlands more valuable and functional. The new Farm Bill changed the following Swampbuster provisions:

Wetland Determinations

Upon request, the U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) will determine if a producer's land has areas subject to Swampbuster. The agency maintains a list of the plants and combinations of soils and plants found in wetlands and uses these technical tools, along with the hydrology of the area, to conduct determinations. These determinations stay in effect as long as the land is used for agricultural purposes (unless a violation occurs) or until the producer requests a review due to natural events. NRCS certifies previous wetland determinations upon request.

Mitigation

Landowners have more opportunities to work with USDA, conservation districts, or others to choose the best ways to mitigate wetlands.

There are more options for mitigation. These options include the kinds and locations of restoration, enhancement, or creation activities that maintain a wetland's functions and values. Landowners who want to convert or alter wetlands may enhance existing wetlands, restore former wetlands, or create new wetlands to offset functions and values that are lost from conversions or alterations.

Wetland conversions authorized by Section 404 of the Clean Water Act will be accepted if the conversion activities were properly mitigated.

"Minimal Effect" Determinations

Practices that alter wetlands can now be put on a "fast track" for approval if NRCS determines that a planned activity is on the list of "categorical minimal effects." Activities on this list have an insignificant impact on the functions and values of the landowner's wetland and other wetlands in the area.

Abandonment

The 1996 Farm Bill revised the concept of abandonment. Now, as long as land is used for agriculture and met prior converted cropland criteria on December 23, 1985, the designation remains in effect. When there is an approved plan, landowners with farmed wetlands and farmed wetland pasture may allow an area to revert to wetland status and convert it back to a farmed wetland or farmed wetland pasture for agricultural purposes without violating Swampbuster. In addition, areas that met prior converted cropland criteria on December 23, 1985, may be certified as prior converted cropland upon request by the landowner.

Authority of the Secretary of Agriculture

The Secretary of Agriculture now has the authority to waive ineligibility status, grant time to restore converted wetlands, and, for individual producers, identify which USDA programs are affected by Swampbuster violations and the amount of sanctions to be assessed.

Maintaining USDA Program Eligibility

To maintain eligibility, participants must certify that they have not produced crops on converted wetlands after December 23, 1985, and did not convert a wetland after November 28, 1990, to make agricultural production possible.

If Swampbuster is violated, USDA farm program benefits may be lost. If participants produce a crop on a converted wetland, they may lose benefits for that year. If participants convert a wetland after November 28, 1990, they risk loss of benefits for the year the conversion took place, and for the years that follow until the wetland's functions and values are restored.