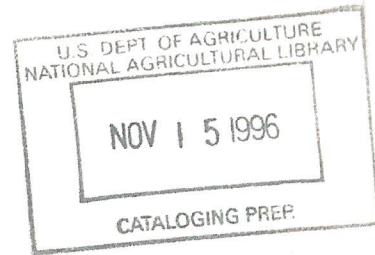


Reserve ^s of
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National Food Security Act Manual

Title 180
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Part 511 - Highly Erodible Land Conservation

511.63

§511.63 Default.

If the conservation district takes no action within 45 days of receipt of the plan, SCS will approve or disapprove the plan. See §510.34(b).

§511.64 Conservation District disapproval.

If the conservation district disapproves the conservation plan, the person has the option to prepare an amended plan and resubmit it to the conservation district for approval, or the person may appeal the disapproval to SCS. See §510.35.

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PART 512 - WETLAND CONSERVATION

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 §512.01 Definitions.
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Part 512 - Wetland Conservation

512.30(c)

(c) Maintenance only or reconstruction having the same scope and effect as original drainage activities is appropriate for third party drainage.

(d) A person may maintain, improve, replace, or install new drainage systems on prior converted croplands (PC) and artificial wetlands (AW), including irrigation induced, since prior converted or artificial wetlands are not subject to the wetland provisions of the FSA. Drainage facilities may be installed on commenced conversion (CC) or minimal effect (MW) areas as may be stipulated on a site specific basis.

(e) Abandonment applies to the land area involved and not to the drainage or other system that caused the prior conversion. Therefore, drainage systems can be reinstalled or maintained to the original extent and scope as installed prior to the FSA, providing the land area has not been abandoned.

§512.31 Use of prior converted croplands (PC).

Except for potholes, playas, and seasonally flooded or ponded areas that still meet the wetland criteria, wetlands that were converted prior to December 23, 1985 are not subject to the provisions of FSA. Therefore, drainage facilities installed on prior converted croplands may be improved or maintained as desired by the person provided no new wetland is converted or cropping or management of the prior conversion of land is not abandoned. See Exhibit §516.09 for a precedent diagram.

(a) Wetlands that have been given a commenced conversion determination are considered prior conversions when the commenced activities are completed and the area meets the criteria for prior converted croplands. Otherwise, the area will be mapped according to the conditions found. All commenced activities must be completed before January 1, 1995 to receive the (PC) determination.

(b) The person may not convert additional wetland acres beyond that which has been determined to be commenced.

§512.32 Use of converted wetlands (CW).

(a) Wetlands that were converted after December 23, 1985, and are not subject to one or more of the exemptions cannot be used to produce an agricultural commodity without causing the person to lose eligibility for USDA benefits. These areas may be used for production of non-agricultural commodities, such as pears, apples, or oranges. However, wetlands converted for production of crops that are not agricultural commodities that are later used for production of agricultural commodity crops will cause the producer to become ineligible.

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Subpart D - Use, Maintenance, and Improvements

512.34(d)

(b) Once a wetland has been converted and the person decides to abandon the production of an agricultural commodity, eligibility may be restored for any crop year that an agricultural commodity is not planted on a converted wetland.

§512.33 Use of converted wetland with minimal effect (MW).

(a) For areas where the conversion of wetland has been determined to have minimal effect, the person shall check with SCS prior to taking any additional action that will change the hydrological or biological characteristics of wetland. SCS will determine, in consultation with FWS, whether the effect continues to be minimal. The loss of a minimal effect determination will cause a person who produces an agricultural commodity on the converted wetland to be ineligible for USDA benefits. The person will sign the minimal effect agreement, and will agree with the stated stipulations. (See Exhibit §516.13).

(b) Restoration of converted wetlands through a minimal effect determination is permitted in order to bring a person into compliance who has inadvertently converted a wetland. The advantage of restoration through a minimal effect determination is that a person may be able to farm the restored wetland under natural conditions.

§512.34 Use of third party converted wetlands (TP).

A third party is any person, organization, or unit of government other than the person applying for USDA benefits or the person's predecessors in interest. Wetlands that are converted by actions of a third party (entities other than the person applying for USDA benefits or any of the person's predecessors in interest) may be used to produce an agricultural commodity on the land of the person without loss of USDA benefits.

(a) Further drainage improvement on such lands is not permitted by the person without loss of eligibility for USDA program benefits, unless SCS determines that further drainage activities applied to such lands would have minimal effect on any remaining wetland values.

(b) Converted wetlands are presumed to have been converted by the person applying for USDA program benefits unless the person can show that the conversion was caused by a third party with whom the person was not associated through a scheme or device.

(c) The person is responsible for providing support information on the extent to which a third party drained subject wetlands.

(d) The District Conservationist will document the scope and effect of third party conversions of wetland in the case file at the time the wetland determinations are made.

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