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National Food Security Act Manual

Title 180
Second Edition

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United States
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P.O. Box 2890
Washington, D.C.
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August 10, 1988

NATIONAL FOOD SECURITY ACT MANUAL (NFSAM), Second Edition
180-V-NFSAM, Issue 1

SUBJECT: CPA - NATIONAL FOOD SECURITY ACT MANUAL (NFSAM)

Purpose. To transmit the second edition of the NFSAM.

Effective date. This edition is effective when received.

Explanation of changes. This edition provides some policy changes, corrects and clarifies several items in the NFSAM, and provides copies of the law and rules for Part 518 - Appendix. Vertical lines are used to show changes in all but Part 518.

A copy of this second edition is being mailed directly to each field, area, and other SCS office. State offices and NTC's will receive a small supply for their own use. Additional copies can be ordered from IRM Division, Records Management Branch, NHQ. NHQ will make direct distribution of the NFSAM to cooperating federal agencies.

Filing Instructions: Field and area offices may discard the March 1988 edition of the NFSAM. This second edition replaces the first edition and becomes effective on the date received. The state office will mark one copy as "out of date" and retain it for future reference. Decision and actions taken based on the March 1988 edition of this manual will remain in effect and need not be changed as a result of this manual.

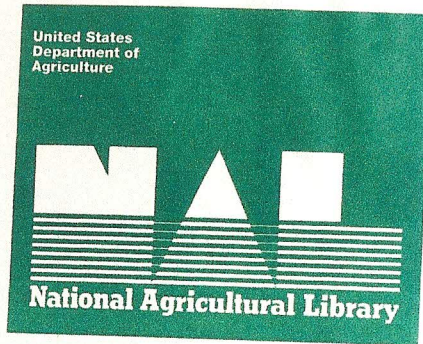
WILSON SCALING
Chief

DIST: NFSAM



The Soil Conservation Service
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Department of Agriculture

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PART 510 - GENERAL OPERATING PROCEDURES

Sec.

- \$510.43 Approval of conservation plans.
- \$510.44 Compliance checking.
- \$510.45 Certification of actively applying a conservation plan.
- \$510.46 Use of Form AD-1026.
- \$510.47 ASCS processing of the Form AD-1026.
- \$510.48 SCS servicing of requests for determinations.
- \$510.49 Form SCS-CPA-026.
- \$510.50 Instructions for completing Form SCS-CPA-026.
- \$510.51 Instructions for completing Form SCS-CPA-027.
- \$510.52 thru
- \$510.59 RESERVED.

Subpart F - Files, Records, and Reports

- \$510.60 Files.
- \$510.61 Case file documentation.
- \$510.62 Records.
- \$510.63 Reports.
- \$510.64 Incorrect information.
- \$510.65 Incorrect SCS determinations.
- \$510.66 Incorrect conservation plans.
- \$510.67 Prohibitions.
- \$510.68 thru
- \$510.69 RESERVED.

Subpart G - Quality Control

- \$510.70 Quality control and prevention of fraud, waste, and abuse.
- \$510.71 thru
- \$510.79 RESERVED.

Subpart H - Appeals

- \$510.80 Purpose.
- \$510.81 Determinations subject to reconsideration and appeal.
- \$510.82 Requirements for appeals.
- \$510.83 Role of line officers and staff in the appeals process.
- \$510.84 General procedures for appeals.
- \$510.85 Appeal process - Level I.
- \$510.86 Appeal process - Level II.
- \$510.87 Appeal process - Level III.
- \$510.88 Appeal process - Level IV.
- \$510.89 Processing appeals to the Chief or Deputy Chief for Programs.
- \$510.90 Administrative record.

510-ii

(180-V-NFSAM, Second Ed., August 1988)

Subpart A - Purpose and Content

PART 510 - GENERAL OPERATING PROCEDURES

SUBPART A - PURPOSE AND CONTENT

510.01(a)(5)

\$510.00 Purpose.

(a) The purpose of this manual is to set forth the basic operating policy and procedures used by the Soil Conservation Service (SCS), in working with other agencies and conservation districts involved in the implementation of the conservation provisions of the Food Security Act (FSA) of 1985, the related Department of Agriculture (USDA) rules and the Tax Reform Act of 1986.

(b) This manual is designed to serve as a ready reference and training aid for SCS and conservation district personnel who have specific responsibilities for the implementation of these provisions.

(c) While the manual focuses primarily on SCS responsibilities, it provides an overview of the role of other agencies so that SCS employees are aware of the coordination and cooperation required for practical implementation.

\$510.01 Content.

(a) The procedures contained herein relate to SCS implementation of:

- (1) Highly erodible land conservation provisions
- (2) Wetland conservation provisions
- (3) Conservation Reserve Program
- (4) Conservation easements relative to Farmers Home Administration (FmHA) inventory properties and certain FmHA borrowers
- (5) Tax Reform Act of 1986 provisions.

510-1

(180-V-NFSAM, Second Ed., August 1988)

PART 510 - GENERAL OPERATING PROCEDURES

Sec.

Subpart A - Purpose and Content

- §510.00 Purpose.
- §510.01 Content.

Subpart B - General Provisions

- §510.10 Authorities.
- §510.11 Applicability.
- §510.12 Food Security Act conservation provisions.
- §510.13 Summary of the requirements of the Food Security Act of 1985.
- §510.14 Denial of program benefits.
- §510.15 Conservation Reserve Program.
- §510.16 Conservation easements.
- §510.17 Tax Reform Act of 1986.
- §510.18 RESERVED.
- §510.19 RESERVED.

Subpart C - FSA Administration

- §510.20 Agricultural Stabilization and Conservation Service (ASCS).
- §510.21 Soil Conservation Service (SCS).
- §510.22 Farmers Home Administration (FmHA).
- §510.23 Federal Crop Insurance Corporation (FCIC).
- §510.24 Extension Service (ES).
- §510.25 thru
- §510.29 RESERVED.

Subpart D - SCS/FSA Responsibilities by Organizational Level

- §510.30 National office.
- §510.31 State office.
- §510.32 Area office.
- §510.33 Field office.
- §510.34 Conservation district.
- §510.35 Joint responsibilities.
- §510.36 thru
- §510.39 RESERVED.

Subpart E - Detailed Procedures for Highly Erodible Land
and Wetland Conservation Provisions

- §510.40 USDA program assistance.
- §510.41 Technical determination priority.
- §510.42 Technical assistance.

Title 180 - SCS National Food Security Act Manual

Contents

- PART 510 - GENERAL OPERATING PROCEDURES
- PART 511 - HIGHLY ERODIBLE LAND CONSERVATION
- PART 512 - WETLAND CONSERVATION
- PART 513 - CONSERVATION RESERVE PROGRAM
- PART 514 - CONSERVATION EASEMENTS
- PART 515 - (RESERVED)
- PART 516 - EXHIBITS
- PART 517 - GLOSSARY
- PART 518 - APPENDIX

PART 511 - HIGHLY ERODIBLE LAND CONSERVATION

Subpart E - Conservation Plans and Conservation Systems

- §511.40 Conservation plans.
- §511.41 Conservation systems.
- §511.42 Conservation plan and system requirements.
- §511.43 Acceptable conservation systems.
- §511.44 Conservation plan format and content.
- §511.45 Technical assistance.
- §511.46 Active application of a conservation plan.
- §511.47 Certification of existing conservation plans and conservation systems.
- §511.48 Crop acreage base (CAB) exchange.
- §511.49 Conservation plan revisions.
- §511.50 thru
- §511.59 Reserved.

Subpart F - Conservation District Approval of Conservation Plans And Systems

- §511.60 General.
- §511.61 SCS certification.
- §511.62 Conservation District action.
- §511.63 Default.
- §511.64 Conservation District disapproval.
- §511.65 thru
- §511.69 Reserved.

Subpart A - General Requirements

PART 511 - HIGHLY ERODIBLE LAND CONSERVATION

SUBPART A - GENERAL REQUIREMENTS

511.03

§511.00 General requirement for highly erodible land (HEL) conservation provisions.

Persons who plant an agricultural commodity in a field classified by SCS as highly erodible land are ineligible for the USDA benefits described in §510.14 unless an approved conservation system is applied on the field within certain time frames.

§511.01 Conservation compliance.

(a) Conservation compliance applies when a highly erodible field was used to produce an agricultural commodity or was set aside, diverted, or otherwise not cultivated under a program administered by the Secretary in any of the years 1981 through 1985.

(b) Conservation compliance timeframes are:

(1) by January 1, 1990, or not later than 2 years after a soil survey is available, the person must have developed and be actively applying a conservation plan approved by the conservation district; and

(2) by January 1, 1995, the person must have the conservation plan completely applied.

§511.02 Sodbusting.

Sodbusting occurs when a person plants an agricultural commodity on highly erodible land that was not used to produce an agricultural commodity during any of the 1981 to 1985 crop years. In these situations, an approved conservation system must be applied to the land as specified in §511.03, §511.04, or §511.05 as applicable.

§511.03 Sodbusting in the 1986 and 1987 crop years.

Persons who plant an agricultural commodity on highly erodible land (sodbusting) in the 1986 or 1987 crop years shall be considered to have an approved conservation system applied if (i) the conservation system is documented in an approved conservation plan; (ii) the planned management practices are applied the first year the agricultural commodity is planted; and (iii) all required (planned) structural or permanent conservation practices are applied and properly operated and maintained prior to the third crop year following sodbusting.

Part 510 - General Operating Procedures

510.90(f)(2)

(2) The hearing authority will determine the time and place of the hearing and provide adequate notice to the appellant. The hearing authority will normally be the SCS line officer to whom the appeal was made.

(3) The person or authorized representative shall be given an opportunity to present oral or written facts and relevant information.

(4) A meeting can be held at any level. The case file or administrative record shall be documented to reflect the meeting.

(g) Appeal decisions. The line officer at any appeal level may affirm, modify, or reverse a decision or may send the appeal back to a lower reviewing line officer for additional information or further consideration.

(1) The person will be notified in writing of the decision (See §516.08), and the basis for the decision and the right to appeal the case to the next higher level. On request, the person will be given copies of documents, information, and evidence used to make the decision.

(2) The AC or STC may reopen any appeal for any reason deemed appropriate, unless the matter has been appealed to a higher line officer.

(3) When a decision has been changed as a result of an appeal, the case file record will be revised and ASCS notified of the change(s).

510-44

(180-V-NFSAM, Second Ed., August 1988)

PART 511 - HIGHLY ERODIBLE LAND CONSERVATION

Sec.Subpart A - General Requirements

\$511.00	General requirements for highly erodible land (HEL) conservation provisions.
\$511.01	Conservation compliance.
\$511.02	Sodbusting.
\$511.03	Sodbusting in the 1986 and 1987 crop years.
\$511.04	Sodbusting in the 1988 or later crop years.
\$511.05	Sodbusting alfalfa used in a crop rotation in 1988 or later years.
\$511.06	Small area exception to sodbusting.
\$511.07	Interseeding exemption from sodbusting.
\$511.08	thru
\$511.09	Reserved.

Subpart B - Soil Survey Requirements

\$511.10	Completed soil survey.
\$511.11	Two year exception.
\$511.12	Refusal to permit entry.
\$511.13	thru
\$511.19	Reserved.

Subpart C - Criteria For Highly Erodible Land

\$511.20	Erodibility index.
\$511.21	Potential erodibility from sheet and rill erosion.
\$511.22	Potential erodibility from wind erosion.
\$511.23	Formulas.
\$511.24	References.
\$511.25	Changes in criteria.
\$511.26	Highly erodible soil map unit list.
\$511.27	Procedures with a complete soil survey.
\$511.27	Procedures without a complete soil survey.
\$511.29	Reserved.

Subpart D - Determination of Highly Erodible Land

\$511.30	Determination procedures.
\$511.31	Highly erodible map units.
\$511.32	Highly erodible inclusions.
\$511.33	Highly erodible field determinations.
\$511.34	Field redefinition.
\$511.35	thru
\$511.39	Reserved.

(180-V-NFSAM, Second Ed., August 1988)

511-i

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.

511-20

(180-V-NFSAM, Second Ed., August 1988)

PART 512 - WETLAND CONSERVATION

Subpart A - General

- §512.00 Requirements of the law.
- §512.01 Definitions.
- §512.02 thru
- §512.09 Reserved.

Subpart B - Wetland Criteria

- §512.10 Hydric soils.
- §512.11 Criteria for hydric soils (see SCS National Soils Handbook).
- §512.12 Elements of the hydric soil map unit list.
- §512.13 Prevalence of hydrophytic vegetation.
- §512.14 Criteria for identifying Converted Wetland (CW) after December 23, 1985.
- §512.15 Criteria for identifying Prior Converted Croplands (PC) before December 23, 1985.
- §512.16 Criteria for determination of abandonment.
- §512.17 thru
- §512.19 Reserved.

Subpart C - Wetland Exemptions

- §512.20 Wetland exemptions determined by SCS.
- §512.21 Minimal effect determination (MW).
- §512.22 Wetland exemptions determined by ASCS.
- §512.23 thru
- §512.29 Reserved.

Subpart D - Use, Maintenance, and Improvements

- §512.30 Maintenance and improvement of drainage.
- §512.31 Use of prior converted croplands (PC).
- §512.32 Use of converted wetlands (CW).
- §512.33 Use of converted wetland with minimal effect (MW).
- §512.34 Use of third party converted wetlands.
- §512.35 Use of other wetlands.
- §512.36 Summary of use, maintenance and improvement of various wetland conditions.
- §512.37 thru
- §512.39 Reserved.

(180-V-NFSAM, Second Ed., August 1988)

512-1

Part 513 - Reserved

513-2

(180-V-NFSAM, Second Ed., August 1988)

PART 514 - CONSERVATION EASEMENTS

Subpart A - Purpose and Authority

§514.00 Purpose.
§514.01 Authority.
§514.02 thru
§514.09 Reserved.

Subpart B - Inventory Farms - Easements

§514.20 Definition.
§514.21 Conservation easement requirements.
§514.22 thru
§514.29 Reserved.

Subpart C - Borrower Debt Forgiveness

§514.30 Definition.
§514.31 Conservation debt forgiveness requirements.
§514.32 thru
§514.39 Reserved.

Subpart D - SCS Responsibilities

§514.40 National office.
§514.41 State office.
§514.42 Field office.
§514.43 thru
§514.49 Reserved.

Subpart E - SCS Procedural Guidelines

§514.50 Inventory farms.
§514.51 Conservation easements on borrower's property.
§514.52 thru
§514.59 Reserved.

514-1

(180-V-NFSAM, Second Ed., August 1988)

Part 515 - Reserved

515-2

(180-V-NFSAM, Second Ed., August 1988)

PART 516 - EXHIBITS

- §516.01 Form AD-1026.
- §516.02(a) SCS FSA Tracking Register.
- §516.02(b) SCS FSA Tracking Register Instructions.
- §516.03(a) Form SCS-CPA-026 (1-88).
- §516.03(b) Form SCS-CPA-026a (1-88).
- §516.03(c) Appeals statement on Form SCS-CPA-026 (1-88).
- §516.04 Sample letter of transmittal of a completed Form SCS-CPA-026.
- §516.05 Form SCS-CPA-027 (11-87).
- §516.06 Sample letter to ASCS regarding incorrect information provided on Form AD-1026.
- §516.07(a) Sample letter to State Conservationist about compliance deficiencies.
- §516.07(b) Revised Form SCS-CPA-026 to accompany compliance deficiency letter.
- §516.08(a) Sample letter conveying a reconsideration decision.
- §516.08(b) Sample letter conveying an appeal decision.
- §516.09 Precedent diagram on use of wetlands.
- §516.10(a) Wetland delineated on a copy of an aerial photograph (potholes and playas).
- §516.10(b) Wetland delineated on a copy of an aerial photograph (seasonally ponded area).
- §516.10(c) Wetland delineated on a copy of an aerial photograph (cropped wetland in dry year).
- §516.11(a) Transect technique for determining prevalence of hydrophytic vegetation.
- §516.11(b) Prevalence Index Worksheet (blank)
- §516.11(c) Prevalence Index Worksheet (completed sample)
- §516.12 Minimal effect agreement.
- §516.13 Sample onsite evaluation for minimal effect.
- §516.14 thru
- §516.19 Reserved.

516-i

(180-V-NFSAM, Second Ed., August 1988)

Part 516 - Exhibits

516.13

§516.13 Sample onsite evaluation for minimal effect.

4. Is the scope of the action severe enough to alter not only a minute fraction of the wetland in question, but also have a measurable effect on the hydrological and biological values of the remaining wetland?

if no, a minimal effect determination is appropriate without further consideration
if yes, proceed to question 5

5. A minimal effect determination is not possible unless mitigation is installed to replace wetland values lost due to the conversion.

If there is a persuasive need demonstrated to the satisfaction of SCS and FWS that conversion is necessary to meet the producers objectives, other than increased production of an agricultural commodity, mitigation may be approved that would result in a determination of minimal effect.

Mitigation must replace all wetland values lost as a result of the conversion. Mitigation needs will be determined by SCS and FWS and will be concurred in by all parties (SCS, FWS, and producer) prior to installation. Mitigation must be documented in the minimal effect agreement to the satisfaction of SCS and FWS prior to a determination of minimal effect.

516-26

(180-V-NFSAM, Second Ed., August 1988)

PART 517 GLOSSARY

§517.00 Glossary of terms

Abandonment: The cessation of cropping, management or maintenance operations on a prior converted cropland or farmed wetland. Cropping means the use of the area for aquaculture, grasses, or legumes, or pasture production in a commonly used rotation related to the production of an agricultural commodity, or is in a USDA set-aside or similar program of conserving use or wetland restoration approved by FWS or State wildlife agency. Management or maintenance means carrying out those operations which support the cropping use such as tillage, planting, mowing, harvesting, repair of drainage system, etc.

Acceptable conservation system: Any conservation system for HEL documented in the SCS field office technical guide or a conservation system that is the equivalent of one contained in the FOTG.

Acreage conservation reserve (ACR): An annual set aside program of USDA.

Agricultural commodity: An annual crop planted by the tilling of the soil or sugarcane.

Alternative conservation system: A conservation system for HEL that is documented in the FOTG which achieves a substantial reduction in existing soil loss rates.

Artificial wetland (AW): An area that was formerly nonwetland or prior converted cropland, but now exhibits wetland characteristics because of human activities.

ASCS farm serial number (FSN): An identifying number assigned by ASCS to a farm.

Basic conservation system: A conservation system on HEL that reduces erosion to the soil loss tolerance value prescribed for the soil type, and treats concentrated flow erosion.

Commenced conversion: Wetlands or converted wetlands that have received a determination from ASCS, based on evidence that an alteration of the wetland was contracted for, started, or a financial obligation was incurred before December 23, 1985.

Conservation Plan: The document containing the decisions of a person with respect to the location, land use, tillage systems and conservation treatment measures and schedule which, if approved, must be or has been established on highly erodible cropland in order to control erosion on such land.

Conservation System: The part of a cropland resource management system applied to a field or group of fields that provides for cost effective and practical erosion reduction based upon the standards contained in the SCS field office technical guide. A conservation system may include a single practice or a combination of practices.

517-1

(180-V-NFSAM, Second Ed., August 1988)

Part 517- Glossary

Converted Wetland: A wetland that has been drained, dredged, filled, leveled, or otherwise manipulated, including any activity that results in impairing or reducing the flow, circulation, or reach of water, that makes possible the production of an agricultural commodity without further application of the manipulations described herein if: (1) such production would not have been possible but for such action, and (2) before such action such land was wetland and was neither highly erodible land nor highly erodible cropland.

Crop acreage base: The acreage of a commodity crop that a person is permitted to plant as a participant in the USDA commodity crop programs.

Cropping: The use of an area for aquaculture, grasses, or legumes, or pasture production in a commonly used rotation related to the production of an agricultural commodity.

Direct relative: Father, mother, husband, wife, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepsister, half brother, and half sister.

Diverted acres: Acres of cropland that are not planted to certain commodity crops to allow the person to remain eligible for certain USDA program benefits.

Extended period: A condition in which surface water is continually present for the lesser of 15 consecutive days or 10 percent or more of the growing season under average conditions (50 percent chance of occurrence). Growing season is defined in Hydric Soils of the United States.

Farmed Wetland: (FW): Wetlands that were manipulated and used to produce an agricultural commodity prior to December 23, 1985, but had not been completely converted prior to that date and, therefore, are not prior converted croplands. These areas still meet the wetland criteria and include potholes and playas that still meet the wetland criteria, or areas that are seasonally ponded or flooded for an extended period of time.

Field: A part of a farm which is separated from the balance of the farm by permanent boundaries such as fences, roads, permanent waterways, woodlands, croplines (in cases where farming practices make it probable that such cropline is not subject to change) or other similar features.

Flooded: A condition in which the soil surface is temporarily covered with flowing water from any source, such as streams overflowing their banks, runoff from adjacent or surrounding slopes, inflow from high tides, or any combination of sources.

Growing season: The portion of a year that has weather conditions favorable for plant growth. Generally, growing seasons are classified as:

Thermic: February-October;
Mesic: March-October;
Frigid: May-September

Highly erodible land: Land that has an erodibility index of 8 or more.

517-2

(180-V-NFSAM, Second Ed., August 1988)

Subpart 517 - Glossary

Hydric soil: Soils that, in an undrained condition, are saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation.

Hydrophytic vegetation: Plants growing in water or in a substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content.

Informal hearing: A meeting in the appeal process at the area or State level to exchange information and gain a clear understanding of the issues involved in the appeal.

Irrigation induced wetlands: (AW): A wetland area created by irrigation or seepage from an irrigation delivery system; but was nonwetland in its natural state.

Key erosion control crop: The crop (normally a small grain or sod) in a cropping rotation that offers the greatest conserving uses among the rotated plants.

Long duration: A duration class in which inundation for a single event ranges from 7 days to 1 month.

Minimal Effect: (MW): The production of an agricultural commodity on a converted wetland, in connection with all other similar actions in the area, would have minimal effect on the hydrological and biological functions of the wetland.

Mitigation: The process by which an environmental value may be replaced by the establishment or reestablishment of the value or equivalent values in another location.

Non-wetland: Areas that lack one or more of the wetland characteristic criteria of hydric soil, hydrophytic or development under natural conditions.

Operator: The person who is in general control of the farming operations on the farm during the crop year.

Owner: A person who is determined to have legal ownership of the land including a person who is purchasing farmland under contract.

Person having control: The person who has the authority to make the final land use and treatment decisions in the development of a conservation plan or selection of a conservation system.

Person: An individual, partnership, association, corporation, cooperative, estate, trust, joint venture, joint operation, or other business enterprise or other legal entity and, whenever applicable, a State, a political subdivision of a State, or any agency thereof and such person's affiliates as provided in §12.8 of the rule.

517-3

(180-V-NFSAM, Second Ed., August 1988)

Part 517 - Glossary

Playa: The usually dry and nearly level lake plain that occupies the lowest parts of closed depressions (basins). Temporary flooding occurs primarily in response to precipitation-runoff events. Playas may or may not be characterized by high water table and saline conditions. They occur in the western United States.

Pocosin: A wet area on nearly level interstream divides in the Atlantic coastal plain. Soils are generally organic but may include some areas of high organic mineral soils.

Ponded: A condition in which water stands in a closed depression. The water is removed only by percolation, evaporation, or transpiration.

Pothole region: That region of the country, primarily the Northern Great Plains, that has an abundance of potholes.

Pothole: A depression, generally circular, elliptical, or linear in shape, occurring in glacial outwash plains, moraines, till plains, and glacial lake plains.

Prior Converted Cropland (PC): Wetlands that before December 23, 1985 were drained, dredged, filled, leveled, or otherwise manipulated for the purpose, or to have the effect of, making the production of an agricultural commodity possible. This applies if (i) such production was not possible before the action, (ii) an agricultural commodity has been produced (planted) at least once, and (iii) the area has not been abandoned. Such areas, unless abandoned, will be labeled prior converted croplands (PC) and are not subject to FSA.

Quality assurance: The process used by the NTCs to insure that state conservationists have an adequate quality control process relative to the delivery of SCS technical assistance.

Quality review: An evaluation of FSA activities by the state conservationist to determine if the quality of assistance is consistent with established policies.

Rangeland: Land on which the native vegetation (climax or natural potential) is predominantly grasses, grass-like plants, forbs or shrubs suitable for grazing or browsing use. Includes lands revegetated naturally or artificially to provide a forage cover that is managed like native vegetation.

Ratio of crops: The percent or proportion of the total crop acreage devoted to a single crop species in a given year.

Reconsideration: The first level of the SCS FSA appeal process which is designed to review the original determination or decision by the district conservationist or conservation district.

Subpart - 517 Glossary

Resource management system: A combination of conservation practices and management identified by the primary use of land or water which will protect the resource base by meeting acceptable soil losses, maintaining acceptable water quality and maintaining acceptable ecological and management levels for the selected resource use.

Saturation: Soils in Aquic suborders, Aquic subgroups, Albolls suborder, Salorthids great group, or Pell great groups of Vertisols that are somewhat poorly drained and have a water table less than 0.5 feet from the surface for a significant period (usually a week or more) during the growing season, or are poorly drained or very poorly drained and have either:

(1) A water table at less than 1.0 feet from the surface for a significant period (usually a week or more) during the growing season if permeability is equal to or greater than 6.0 inches per hour in all layers within 20 inches, or

(2) A water table at less than 1.5 feet from the surface for a significant period (usually a week or more) during the growing season if permeability is less than 6.0 inches per hour in any layer within 20 inches.

Seasonally flooded or ponded: Surface water is present for extended periods, especially early in the growing season, but is absent by the end of the season in most years.

Set-aside: (Conserving uses) Acreage which is required to be taken out of production and devoted to conservation uses.

Soil map unit: An area of the landscape shown on a soil map which consists of one or more soils.

Subdivision of field: Division of a field into smaller units because different crops are produced, such as in a strip cropping situation.

Third party: Any person, organization, or unit of government other than the person applying for USDA benefits or the person's predecessors in interest.

Tract: A land unit under one ownership operated as a farm or part of a farm.

Wetland: An area that has a predominance of hydric soils and that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, except lands in Alaska identified as having a high potential for agricultural development and a predominance of permafrost soils.

Woodland: (Synonymous with Forest Land) Land at least 10 percent stocked by forest trees of any size, or formerly having had such tree cover, and not currently developed for nonforest use. The minimum area for classification of forest land is 1 acre and must be at least 100 feet wide. Where the land has been logged or otherwise cleared and is now being managed for use of the herbaceous and low shrubby vegetation that occurs and to keep the area from going back to trees, but no tillage has taken place, it is considered native vegetation and is to be handled as if it were woodland.

Subpart - 517 Glossary

PART 518 - APPENDIX

Sec.

- §518.01 Public Law 99-198, Title 12 (FOOD SECURITY ACT of 1985).
- §518.02 Interim Rule, conservation provisions of Food Security Act of 1985 (7 CFR Part 12).
- §518.03 Final Rule, conservation provisions of Food Security Act of 1985 (7 CFR Part 12).
- §518.04 thru
- §518.09 Reserved.

517-6

(180-V-NFSAM, Second Ed., August 1988)

(180-V-NFSAM, Second Ed., August 1988)

518-1