

**Wetland Conservation Compliance Provision  
Action Plan for New Mexico  
March 2012**

The Wetland Conservation Compliance (WCC) Provision Action Plan for New Mexico will be implemented, in its entirety, beginning October 1, 2012 (FY 2013).

***The action plan consists of two sections:***

- I. Compliance Reviews and Quality Assurance Reviews
- II. Job Approval Authority (Establishing WCC Agency Experts)

**I. COMPLIANCE REVIEWS and QUALITY ASSURANCE**

The National Food Security Act Manual (NFSAM), fifth edition, Part 518 and Part 519 provide policy on the compliance review and quality assurance review for HELC and WC provisions.

In New Mexico, the WC compliance reviews and WC quality assurance reviews will follow the same procedures as identified in the New Mexico Highly Erodible Land Conservation (HELC) Provision Action Plan, dated June 2011, with some exception:

- The Area Conservationist will designate a WCC agency expert who has job-approval authority in WC compliance reviews to conduct the WC compliance portion of the review.
  - NFSAM does not authorize Technical Service Providers (TSP) to complete the wetland compliance or quality assurance review. When using a TSP approach for the HELC compliance review, the Area Conservationist will still designate a WCC agency expert.
  - The HELC and the WC compliance reviews should be scheduled at the same time.
  - WC compliance deficiencies found through the review process will be reported to the State Biologist for correction and follow-up.
- WC quality assurance reviews will be conducted annually by the State Resource Conservationist or as delegated, and will consist of at least a five percent (5%) spot check.

To maintain consistency, the review process will include those items identified on the HELC/WC Compliance Review Form (Appendix 3), and Quality Review Form (Appendix 4).

**Separation of Duties**

WCC agency experts, who are field conservationists in service centers, will ensure complete separation of duties by not conducting any wetland conservation compliance activities within their primary duty service area.

The Area Conservationist will ensure that service center staff will not assist or be involved with any aspect of the WC compliance review process within their servicing area.

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## II. WCC AGENCY EXPERTS

The National Food Security Act Manual (NFSAM), Part 514, Subpart A, Section 514.1 (B) requires that certified wetland determinations be completed by a qualified NRCS employee, as determined by the State Conservationist. Qualified employees (i.e., agency experts) must meet all of the following criteria:

- Have the appropriate job-approval authority.
- Have completed all the required training, including update courses.
- Have demonstrated proficiency in making certified wetland determinations.

The State Conservationist is responsible for maintaining a roster of agency experts, by training and experience, who have demonstrated the knowledge and skills necessary to conduct certified wetland determinations, including: reconsiderations, appeals, violations and mitigation. The roster will be filed in Section III of the FOTG, "Legislated Programs, Job Approval Authority." A blank version for reference is provided as Appendix 1.

### Procedure

The following criteria will be used in New Mexico to establish and maintain qualification as a wetland conservation compliance agency expert (WCC Agency Expert).

(i) Job-Approval Authority (JAA) is provided at three knowledge and skills levels, based on the criteria identified in the NFSAM. Due to the complexity of the WCC provisions, JAA Levels 1-3 will be established for each "WCC task" as identified in the state roster.

#### WCC Job-Approval Authority Knowledge and Skills Level

**Level 1:** Has successfully attended basic training but has not completed all required courses<sup>1]</sup>, or lacks the experience to conduct the WCC task without direct oversight. Level 1 is considered a training phase to obtaining a Level 2/3.

**Level 2:** Has successfully completed all required training<sup>1]</sup>, and has demonstrated proficiency in applying the task with limited oversight. Task completion requires review and signatory authority of a Level 3 agency expert.

**Level 3 – WCC Agency Expert.** Has successfully completed all required training<sup>1]</sup> including updated courses, and has demonstrated proficiency in independently applying the WCC task. WCC Agency Experts will have signatory authority as the Designated Conservationist and will be expected to assist in providing training opportunities to staff at Levels 1-2.

<sup>1]</sup> *Required training for each level will be identified in the state WCC roster. See Appendix 2.*

It is not required that an agency expert has Level 3 JAA in all tasks; it is anticipated that an interdisciplinary team will conduct the wetland conservation compliance provisions.

(ii) Training. NRCS employees may work with their supervisors to include appropriate WCC training on their Individual Development Plan. A current list of approved WCC training courses will be maintained within the state roster.

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(iii) Demonstrated Proficiency is required for job-approval authority Levels 2 and 3. Level 2 JAA proficiency will be demonstrated by completion of the task with limited oversight from a Level 3 agency expert, on at least two technical determinations. Level 3 JAA proficiency will be demonstrated by independent completion of at least two technical determinations that are reviewed and signed by a Level 3 agency expert.

Certification as a WCC Agency Expert, or revision in the level of job-approval authority, may be granted upon successful completion of the above mentioned criteria and by recommendation of the supervisor. The final determination will be made by the State Conservationist and recorded in the roster (Section III of the FOTG).

Only certified WCC agency experts are authorized to independently carry-out the identified compliance task, and have signatory authority as the Designated Conservationist.

### **Separation of Duties**

WCC agency experts or those at Level 1-2, who are field conservationists in service centers, will ensure complete separation of duties by not conducting any wetland conservation compliance activities within their primary duty service area. As conflicts arise, other team members will complete the WC compliance duties. Additionally, service center staff will not assist or be involved with the WC compliance process within their servicing area, including but not limited to: preliminary data gathering (making maps etc.), scheduling with the USDA participant, field visits with the WCC team, or completing or signing the CPA-026 or cover letters.

### **Contacts:**

Questions on the content of this action plan should be directed to Chanda Pettie, State Biologist at 505-761-4432 or George Chavez, State Resource Conservationist at 505-761-4421.



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State Conservationist

### **Appendixes:**

- 1] New Mexico Roster of WCC Agency Experts *blank version*
- 2] New Mexico JAA Required Training
- 3] HELC/WC Conservation Compliance Review Form
- 4] HELC/WC Conservation Quality Review Form