



Transmitted via Email

March 14, 2008

MINNESOTA BULLETIN NO. 180-8-4

SUBJECT- CPA – FSA WETLAND LAYER

Purpose. To provide staff information concerning the Farm Service Agency (FSA) plans for updating the wetland points layer.

Expiration Date. September 30, 2008.

Background. FSA is the USDA agency responsible to maintain the wetland points GIS layer based on information contained on NRCS issued CPA-026 forms.

Explanation. FSA recently issued Notice CP-624 instructing their offices to update the wetland points GIS layer. The notice advises the County Offices to enter wetland point data for all NRCS determinations supported by a CPA-026 or CPA-026E. From a USDA perspective, the CPA-026 and/or CPA-026E are the only landowner notifications of determinations. **USDA will support information provided on either the most current “certified” or “official” (FSA calls these inventoried) CPA-026s that were issued to producers.** Any wetlands currently shown on the FSA CLU layer that are not supported by a CPA-026 or CPA-026E will be removed.

NRCS District Conservationists have a vested interest in assisting FSA to create and maintain the most correct wetland layer possible. To achieve this goal each DC will meet with the CED to discuss the wetland layer update process and offer assistance if requested. **However, this assistance will not involve issuing or re-issuing CPA-026s.**

During your meeting with FSA DCs should consider discussing the following items:

1. In many cases NRCS has issued multiple CPA-026s on the same tract of land. In almost all situations the most recently issued CPA-026 contains the most current and correct wetland information and replaces any and all previously issued CPA-026 for the same tract of land.
2. Prior to 2007 wetland determinations were made for the entire tract. Beginning in 2007 NRCS allows a CPA-026 to be issued on a field basis instead of an entire tract basis. CPA-026s from 2007 forward can contain only partial information for a tract or can contain both certified and official (non-certified) determinations on the same tract.
3. NRCS wetland determinations are considered to be certified only if one of the following occurred:
 - the determination was made in response to a landowner that signed a CPA-038,



- the determination was done as a result of an AD-569 request,
- the determination has gone through the appeals process (reconsideration is not a formal appeal), or
- all new determinations issued after July 3, 1996.

If there is doubt as to whether the determination is “certified” FSA should indicate the determination is not certified, these are listed as “inventoried” in the CLU.

4. In 1991, Minnesota issued joint agency guidance covering FSA technical errors related to the improper granting of a prior commenced conversion exemption. Minnesota developed labels ECW, RECW and RCW to cover these situations. These are not nationally approved wetland labels and are not recognized in the FSA wetland layer. As part of this update, FSA will be re-labeling these sites to CWTE (error attributed to FSA) in the wetland layer. A future Amendment to the NFSMA Manual will direct NRCS staff that has these areas (ECW, RECW, PCW) are certified, revision of these labels will occur and be issued on a new CPA-026 replacing them with the correct current label (W, FW, FWP, PC.) **In the meantime Minnesota NRCS will not issue new CPA-026s, FSA will just "re-label" these as CWTEs in their layer.**

5. On October 17, 1995, Minnesota issued joint agency guidance to remove all wetlands in non-cropland areas and change the label to Not Inventoried (NI). There were two exceptions that were provided as follows:

- Small non-cropland areas within cropland fields (these were typically marked N/C and are small non-cropland inclusions within FSA delineated fields) would retain their wetland designation if one had been determined.
- Wetlands on non-cropland which had been field verified through the NRCS appeal process.

An important part of this process required notification to the producer and/or landowner via a letter with a copy of the revised wetland map; however, revised CPA-026s were NOT issued. If your county followed this guidance and issued producer notifications concerning these changes, USDA will consider those changes to be the same as a re-issued CPA-026. Counties need to have documentation to support that landowner notification of these label changes actually occurred. Without documentation USDA will not consider this action to be the same as a CPA-026.

FSA needs to understand that wetlands in non-cropland areas identified in NRCS issued CPA-026s dated after October 17, 1995 will be included in the FSA wetland points layer.

6. Most NRCS wetland determinations in Minnesota have not differentiated between the Prior Converted (PC) label and the Non-Wetland (NW) label. Instead, we have almost always used the PC\NW label. FSA will place a PC\NW label in all fields or areas where NRCS used that label on a CPA-026 or on the map attached to the CPA-026. In some counties NRCS did not use PC or PC/NW but it's use was related to producers through a stamp on the CPA-026 or written wording indicating that "all other areas in the field not labeled as wetlands of some type were PC or PC\NW." When NRCS stamped the CPA-026 or wrote in wording to that effect, FSA will ensure that a PC\NW point symbol is placed in all appropriate cropland fields.

7. In some cases CPA-026s are missing or have been lost. If neither agency has a CPA-026 to support the existing wetland points then FSA will remove the points from the CLU. NRCS will not re-issue a CPA-026. Subsequent to removing wetland points, if the landowner can produce a copy of the “lost” previously issued CPA-026, NRCS will determine the legitimacy of the producer supplied CPA-026. After verification by NRCS, FSA will enter the CPA-026 data into the CLU.

8. The updating of the FSA wetland layer should not result in a significant workload for NRCS. By policy, FSA should have previously received and retained in their files copies of all NRCS issued CPA-026s. As necessary FSA should be given access to NRCS files to retrieve CPA-026 information.

9. Producers with tracts where FSA has had to remove wetland points have never received an official or certified wetland determination. These producers can request a certified wetland determination by signing the CPA-038.

FSA has already conducted several training teleconferences for CEDs on this information during the week on February 25. FSA is trying to complete the CLU update by the end of May 2008, and most USDA participants will be receiving an updated FSA map with the new color coded symbols for the first time when they report their 2008 planted acreage. The FSA producer maps will contain the following disclaimer:

“Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and labels, or contact NRCS.”

If further information is needed on the contents of this bulletin, please contact Paul Flynn, State Resource Conservationist at (651) 602-7870.

/s/

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