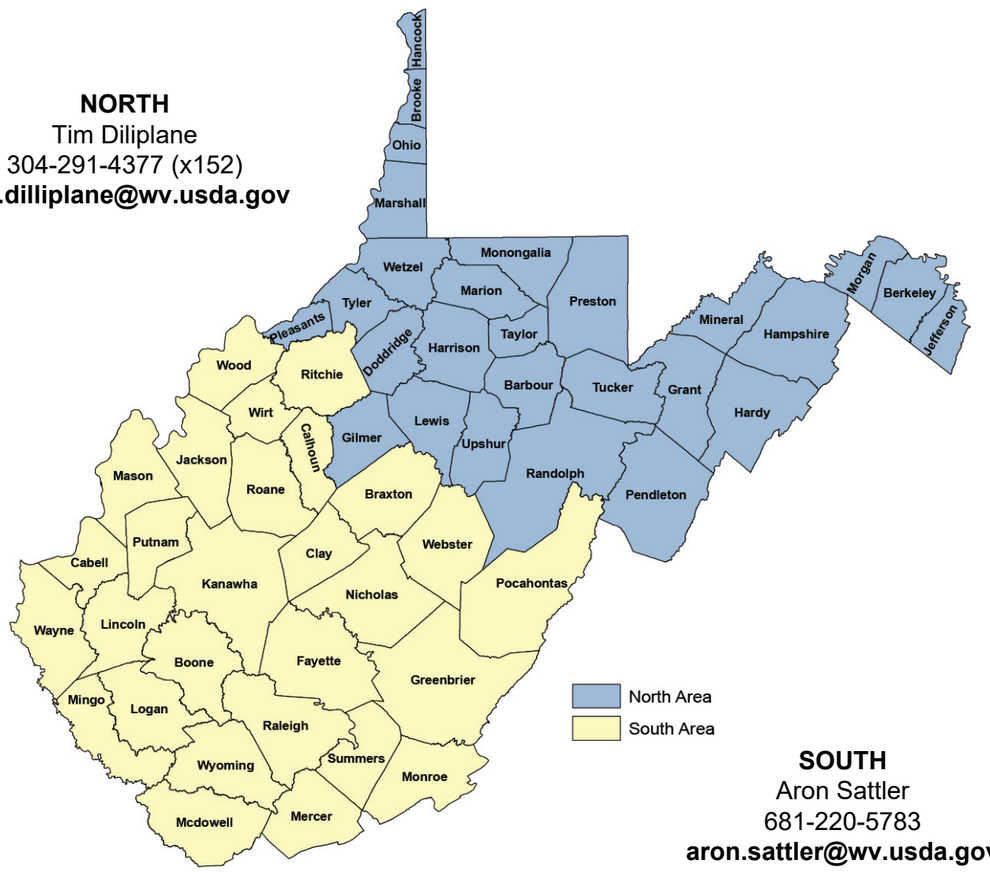
A USDA NRCS soil scientist assigned to your area will make the determination and answer specific questions about your land. Consult the map below to find your local contact.

To find the nearest West Virginia NRCS office visit our website at www.wv.nrcs.usda.gov

West Virginia Wetland Conservation Compliance Responsibility Areas



NORTH
Tim Diliplane
304-291-4377 (x152)
tim.dilliplane@wv.usda.gov

SOUTH
Aron Sattler
681-220-5783
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West Virginia
Natural Resources Conservation Service
nrcs.usda.gov/

West Virginia • December 2018

State Office Contacts:

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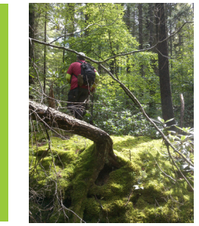
USDA United States Department of Agriculture

Wetlands and Conservation Compliance

What Every West Virginia Farmer Needs to Know



Note: *This document is intended to be a quick reference on USDA Natural Resources Conservation Service (NRCS) wetland determinations and does not cover all possible situations.*

Wasted Space or Critical Ecosystems?

Throughout our nation's history, landowners have perceived wetlands to be wasted space, and converted many high-quality acres to agricultural, urban, and industrial uses. West Virginia is thought to have lost 80-90 percent of its original wetland area since colonization by Europeans.

Although the term "wetland" brings to mind areas of shallow water, cattails, and landing ducks, many of our wetlands are open or forested, and seasonally saturated, and may only hold surface water temporarily.

Why Protect Wetlands?

Wetlands perform many beneficial functions, including:

- Improving water quality
- Flood and sediment control
- Nutrient cycling
- Providing critical wildlife habitat
- Groundwater recharging

High rates of wetland conversion and increased national awareness of their associated environmental benefits prompted Congress to enact the legislation to protect them.

Farm Bill Wetland Provisions (Wetland Conservation Compliance)

Wetland conservation has been an integral part of West Virginia agriculture since the passage of the Food Security Act of 1985. The Wetland Conservation Compliance provision introduced in the 1985 Farm Bill states that those who convert wetlands to agricultural uses will be ineligible for USDA benefits until the converted wetlands functions are mitigated or restored.

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

Wetland Conversion activities may include:

- Filling
- Draining through surface ditching or subsurface tiling
- Dredging
- Land leveling
- Clearing woody vegetation including stump removal
- Building a diversion to runoff water

Participants who plant crops on wetlands converted after December 23, 1985 will not be eligible for certain benefits in years the crop is planted. Similarly, participants who altered a wetland (i.e. removal of woody vegetation and stumps) to make crop production possible after November 28, 1990, will also be ineligible for benefits until the previous functions are restored or mitigated. **This ineligibility remains with the person who converted the wetland, even if the owner later sells the property in question.**

In most cases, drainage systems and other conversions in place prior to December 23, 1985 can be maintained to the extent they existed at that time.

REMEMBER:

All wetlands, including those converted for non-agricultural activities, fall under U.S. Army Corps of Engineers' (COE) jurisdiction per Section 404 of the Clean Water Act.

If you intend to discharge dredged or fill material into wetlands or other waters like lakes, streams or ponds, you must first request a jurisdictional determination from the U.S. Army Corps of Engineers.

Wetland Determinations

It is the landowner's or program participant's responsibility to comply with the wetland conservation provisions. NRCS can assist you by completing a certified wetland determination to determine if and where your property contains wetlands subject to the provisions of the Food Security Act of 1985, as amended.

NRCS employees have been trained to identify, delineate and certify wetlands.

West Virginia wet meadow wetland

Certified NRCS wetland determinations stay in effect as long as the land is used for agricultural purposes. If you disagree with a NRCS determination, you can request a reconsideration or appeal the determination before it becomes final.

Wetland Conservation Exemptions

Numerous variances and exemptions are included in the wetland conservation provisions. Those common to West Virginia include:

Prior Converted (PC):

Wetland converted to agricultural use prior to December 23, 1985, where an agricultural commodity was produced at least once prior to this date and, as of this date, did not support woody vegetation.

(After confirming the NRCS PC determination, land-owners can complete planned activities with no further delay, as long as adjacent wetlands are unaffected.)

Farmed Wetland Pasture (FWP):

A wetland used for pasture or haying that was manipulated before December 23, 1985, but still meets the inundation or saturation criteria. These areas may be farmed and maintained as documented before December 23, 1985, as long as they are not abandoned.

Manipulated Wetlands (WX):

Wetlands that have been manipulated but did not make production of an agricultural commodity possible.

Maintenance:

Drainage may be maintained to the extent as it was prior to December 23, 1985. No improvement to drainage systems in or near wetlands may be completed after this date.

Non-Agricultural Activities:

Wetland Conservation Compliance does not regulate non-agricultural activities such as road or home site construction.

Frequently Asked Questions

What constitutes a wetland?

To be considered a wetland, an area must exhibit the following:

1. Predominance of hydric soils (soils formed under wet conditions).
2. Prevalence of hydrophytic vegetation (vegetation adapted to wet soil conditions).
3. Surface or groundwater inundation or saturation for a sufficient duration to support hydrophytic vegetation.

Can I clear trees from a wetland area?

Wetland conservation provisions do not generally affect normal timber harvesting if the site remains in timber production and stumps remain above ground level. Land clearing involving stump grinding or stump removal which makes agricultural production possible is prohibited.

When purchasing or renting a farm, what questions should be asked about wetlands?

Have certified wetland determinations been completed? What types of wetlands are present and what restrictions are in place? Did any wetland conversions occur on the property after December 23, 1985? If so, what options are available to resolve the situation?

Can I install subsurface drain tile or surface drainage ditches on an existing crop field

In most cases, drainage systems that existed prior to December 23, 1985 can be maintained. Installing a drainage system in or adjacent to a wetland is restricted. Contact NRCS before you install or realign any drainage system.

Is there a minimum wetland size exemption?

No. If a site of any size meets wetland criteria, it is subject to wetland conservation provisions.

Who is responsible for completing a USDA NRCS wetland determination on my property?

Call or visit your local USDA Service Center to determine whether these or other exemptions apply to your farm. Then, work through your NRCS office to submit a request for a required wetland determination.

Most of West Virginia's wetlands are open or forested and only seasonally saturated.

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