



SD-FS-62
April 2012

Wetland Conservation Compliance Maintenance Exemption

Maintenance Fact Sheet

When you check "Yes" to question 10c on the AD-1026 form you are indicating that your drainage activity is maintenance. Maintaining or cleaning out drainage ditches or tile systems that existed prior to December 23, 1985, is exempt from the NRCS evaluation under the USDA wetland compliance provisions, provided the work meets requirements defined as maintenance. If your intended drainage activities are related only to maintaining drainage systems that were in place as of December 23, 1985, that have NOT been previously evaluated by the NRCS you can self identify that the proposed actions meet the requirements defined as maintenance and will not result in a potential compliance violation.

Self-Identification Requirements for Drainage Maintenance

1. Maintaining the drainage system in place as of December 23, 1985, means that the scope and effect of the maintenance activity will not result in an improved drainage condition to that which functioned prior to December 23, 1985. These actions could include;
 - existing drainage ditches can be cleaned out but not deepened or widened beyond the original constructed dimensions and;
 - existing tile systems can be repaired and fixed (fixing existing tile systems can include repair, rehabilitation and replacement) as long as the depth, size, and grade of the tile are not deepened or increased.
2. Drainage maintenance may be restricted, in drainage systems that have insufficient management or on lands that have not been used to produce an agricultural commodity, for any five-year period. These lands could be considered abandoned which would result in a loss of drainage maintenance provisions.
3. Drainage maintenance should be documented. The USDA has "Drainage Maintenance Worksheets" available for you to record and retain with your drainage history records.

If you check "Yes" on question 10c you are identifying that the ditching, dredging, tiling, and/or other activities being done on your land is for the purpose of maintaining existing drainage improvements that were in place prior to December 23, 1985, and that the result of the maintenance activity will not improve the effect of that existing drainage. You also understand that for the area where maintenance will occur records will be retained to document the completed maintenance activities. You need to further understand that the area where maintenance activities will occur does not include any non-cropland areas or land that meets the "abandonment" criteria.

If you are uncertain if your drainage activity meets the requirements defined as maintenance, please address your questions to your local NRCS staff. If your planned activity is not maintenance please consider checking "Yes" to either questions 10(A) or (B) and a certified wetland determination will be provided.

This information applies to the 1985 Food Security Act (FSA) as amended. Other federal, state or local permits or restrictions may apply to activities impacting wetlands. It is the responsibility of the participant to obtain other necessary permits. Please contact the U.S. Army Corps of Engineers for Clean Water Act permits or the applicable local or state government unit for water and/or drainage permits prior to initiating drainage activities in wetlands.

If this land has a "wetland easement" from the US Fish and Wildlife Service (USFWS), drainage maintenance may not be permitted without concurrence from the local USFWS office."