

Conservation Compliance and the 2014 Farm Bill



Conservation compliance and the 2014 FB as it relates to the targeted audience of specialty crop producers, many of whom will be [new customers to FSA and NRCS, and](#) compliance will be a new concern with their operation

Today's Agenda

- Welcome and purpose.
- Background
- The New Farm Bill compliance requirements.
- Producer certification of compliance.
- Understanding conservation compliance and the 2014 Farm Bill.
- Key dates to remember.
- How to get more information and assistance.
- Questions and Answers.

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Purpose – This is a “train the trainer” session for both FSA and NRCS personnel and intended to refresh our knowledge of ~~on the~~ conservation compliance requirements and cover the additions specific to re-linking crop insurance in the 2014 Farm Bill.

Background

The Food Security Act was enacted on December 23, 1985. Title XII of this Act introduced 2 conservation provisions to address environmental concerns associated with soil erosion and wetland conversion:

- Highly Erodible Land (HEL) Conservation, or the “Sodbuster” provision
- Wetland Conservation, or “Swampbuster”

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These core provisions were not changed by the Agriculture Act of 2014.

Background continued

Purpose. The purpose of the provisions is to remove certain incentives for persons to produce agricultural commodities on highly erodible land or converted wetland and to thereby—

- (1) Reduce soil loss due to wind and water erosion;
- (2) Protect the Nation's long-term capability to produce food and fiber;
- (3) Reduce sedimentation and improve water quality; and
- (4) Assist in preserving the values, acreage, and functions of the Nation's wetlands.

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These purposes remain unchanged by the Act, but were expanded to agricultural operations participating in the crop insurance premium subsidies, that have not been covered since 1996.

Agricultural Act of 2014

Re-linked federally subsidized Crop Insurance with Conservation Compliance.



Linkage is to producer premium subsidy, not overall eligibility for crop insurance. An individual may still purchase crop insurance even if they are determined ineligible for the subsidy. The reality is in many situations, it may be cost prohibitive without the subsidy.

- 7) Why the unique provisions for crop insurance?
 - a. The Agriculture Act of 2014 shifted the focus of crop subsidies to risk based management tools.
 - b. Crop insurance is the primary driver of this new approach.
 - c. The crop insurance subsidy payment is transacted through third parties and the subsidy does not transact through the ~~farmers~~ producer's hands.
 - d. Many lending institutions require crop insurance coverage as security for the producer's operating loan. Any ambiguity regarding a producer's eligibility for the premium subsidy could jeopardize their ability to secure a loan and their entire farming operation. This is the primary reason for the forward looking aspect of penalties.
 - e. Application of the law provides for clarity (removes uncertainty regarding subsidy eligibility) within a crop reinsurance year regardless of sales closing date, allowing the producer to arrange their business plan and financing within the given reinsurance year.

Working Together

FSA, NRCS and RMA are working together to implement the provisions of the 2014 Farm Bill linking crop insurance premium subsidy to HELC/WC Compliance



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FSA is working closely with NRCS and RMA to implement the provisions of the 2014 Farm Bill linking the crop insurance premium subsidy to HELC/WC compliance.

Impact of 2014 Farm Bill

All persons seeking any premium subsidy, regardless of crops grown or insured, must certify compliance:

- Current FSA or NRCS program participants are subject to conservation compliance and not impacted by linking eligibility for premium subsidy to conservation compliance
- Persons new to compliance will be provided additional time to come into compliance
- Persons not in compliance can still buy crop insurance but will not be eligible for premium subsidy

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Emphasize there is the potential for a significant crop of new customers that have no personal connection, or experience with FSA, or NRCS.

New and Specific to Crop Insurance ONLY

- Administratively Final Determination (AFD)
- Reinsurance year (July 1-June 30)
- February 7, 2014 (Agriculture Act of 2014, signed)
- First-time filer
- Crop insurance premium assistance (subsidy)
- Timely evaluation
- Equitable contribution

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These are some of the terms within the Act that are specific only to crop insurance. Employees should keep these terms in mind and are also reminded that they do not extend to application of the compliance provisions beyond crop insurance only participants. Administratively Final Determination means an adverse determination that has made it completely through the appeals process including a NAD Director Review. A Crop Insurance year Begins on July 1 and ends on June 30th of the following year. A first time filer means a producer who has never participated in any USDA program (other than crop insurance) including Disaster Programs. Crop Insurance premium subsidies are the portion of a crop insurance premium that is paid by USDA through the Risk Management Agency. Timely Evaluation is a new component of the 2014 Farm Bill and in which a producer cannot lose eligibility for USDA program eligibility as a result of an HEL or WC violation if NRCS if not complete a compliance determination in a timely manner.

Certification of Compliance

- The AD-1026 is the form for producers to certify compliance
- To be eligible for the crop insurance premium subsidy for the next reinsurance year (beginning July 1, 2015) producers must have an AD-1026 on file certifying their HELC/WC compliance by

June 1, 2015



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It is important for specialty crop producers to realize that they are certifying compliance for their entire operation, not just “insured crops,” or “covered crops”. For example, regarding orchards and vegetable ground, even though a producer may not be getting crop insurance on the vegetable crops, only on the orchard crops, they still need to certify their compliance. They certify for the entire operation. Also, in the future, as new insurance products become available to customers for the first time, or individuals choose to access RMA programs as first-time participants, they will have to file their AD-1026 by June 1 to be eligible for the next reinsurance year. RMA will be mailing a letter in early December (Dec. 6) to all producers who have insurance policies in the previous year, but who could not be matched to a current AD-1026 record with FSA. Individuals currently participating in conservation and commodity programs, that have no changes requiring re-certification will not be required to file a new AD-1026.

Filing AD-1026

Who has to file?

- Anyone requesting benefits
- Affiliated persons with farming interests

When do they file?

- Before eligible for payment/benefit
- For premium subsidy, June 1 before the reinsurance year

Continuous certification



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The filing requirements for the AD-1026 are:

- 1) Anyone requesting benefits has to file an AD-1026
- 2) Affiliated persons WITH FARMING INTERESTS have to file an AD-1026. What is considered to be a “farming interest.” It’s this simple: are they an owner, operator or other producer on a farm? If yes, they have a farming interest for purposes. If no, they are not considered as having a farming interest.

When do they file? There is no one set filing date for FSA/NRCS purposes. However, the producer must file an AD-1026 before being eligible for payment or benefit. Again, once filed, the AD-1026 is a continuous certification and remains in effect until the producer files a new AD-1026 because of activities that need to be evaluated by NRCS or a violation is determined that invalidates the AD-1026 certification of compliance.

New Version of AD-1026 and AD-1026 Appendix

- Revised versions issued October 30, 2014
- Any previously filed version of AD-1026 remains valid **if** no changes to answers and no violation
- No requirement to provide producers new version of AD-1026 Appendix until new AD-1026 filed



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New versions of the AD-1026 and AD-1026 Appendix were issued on October 30, 2014. The AD-1026 certification process is a continuous certification and remains in effect until the answers to the questions change, or there is a compliance violation. There is no requirement to file a new AD-1026 just because a new version of the form has been issued, but the new version should be used for any new filings.

AD-1026 and AD-1026 Appendix (10-30-14)

Reasons for Changes:

- Accommodate needs of broader range of producers who are required to provide certification of compliance with HELC/WC provisions
- Provide additional clarity

Note: No substantive change for FSA and NRCS customers.

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The main reason the AD-1026 was revised on October 30 was to provide clarity to producers who do not need to answer the questions in Part B about HELC/WC compliance.

Wetland Conservation Compliance

For Wetland Conservation Compliance, a producer is certifying they will **NOT**:

(1) Convert a wetland by draining, dredging, filling, leveling, removing woody vegetation, or any other activity that results in impairing or reducing the flow and circulation of water in a way that would allow the planting of an agricultural commodity.

(2) **NOT** to use proceeds from any FSA farm loan, insured or guaranteed, or any USDA cost-share program, in such a way that might result in negative impacts to a wetland, except for those projects evaluated and approved by NRCS.

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When a producer certifies they are in compliance with the wetland conservation provisions, they are certifying they will not convert a wetland by draining, dredging, filling, leveling, removing woody vegetation, or any other activity that results in impairing or reducing the flow and circulation of water in a way that would allow the planting of an agricultural commodity.

Highly Erodible Land Conservation Compliance

For Highly Erodible Land Compliance a producer agrees that they will not plant or produce an agricultural commodity on highly erodible land unless it is farmed in accordance with a conservation plan approved by NRCS.

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When a producer certifies they are in compliance with the wetland conservation provisions, they are certifying they will not plant or produce an agricultural commodity on highly erodible land, unless it is farmed in accordance with a conservation plan approved by NRCS.

Reporting Activities on Form AD-1026

- Producers must notify FSA and update Form AD-1026 if conducting activities that may affect their certification.
- FSA will subsequently notify NRCS and NRCS will provide highly erodible land or wetland technical determinations or a conservation plan if needed.
 - FSA will delineate the specific field requiring a highly erodible land determination
 - FSA will mark the specific wetland areas for determination
- NRCS will use the appropriate methods to complete the determination referred by FSA.

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Producers must notify FSA if they plan to conduct activities that may affect their compliance. FSA, in turn, will notify NRCS and NRCS will make technical determinations and/or provide conservation plans.

Form AD-1026

- AD-1026 was modified to incorporate the new provisions relating to crop insurance. A checkbox was added for producers to indicate they are “new to compliance”.
- Producers new to compliance will need to have HEL determinations for their land if producing ag commodities for the year of certification.
- Wetland determinations may be needed if the producer indicates that modifying drainage systems is planned or if new drainage systems are planned to be installed.
- AD-1026 is a continuous certification and only needs to be updated or revised when the producer plans to take an action that will affect how the questions are answered.

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Important things to know about the form AD-1026:

1. Part A has been modified to incorporate the new provisions relating to crop insurance. It now has a check box for RMA customers who are “new to compliance.”
2. Producers new to compliance may need to have HEL or wetland determinations made
3. AD-1026 is a continuous form. A producer needs to complete it once and it carries over from year to year. However, the producer must update it when the producer takes action that affects how the questions are answered.

AD-1026, Part A

PART A – BASIC INFORMATION

1. Name of Producer	2. Tax Identification Number (Last 4 digits)	3. Crop Year
4. Names of affiliated persons with farming interests. Enter "None," if applicable.		
<i>Affiliated persons with farming interests must also file an AD-1026. See Item 7 in the Appendix for a definition of an affiliated person.</i>		
5. Check one of these boxes if the statement applies; otherwise continue to Part B.		
A. <input type="checkbox"/> The producer in Part A does not have interest in land devoted to agriculture. Examples include bee keepers who place their hives on another person's land, producers of crops grown in greenhouses, and producers of aquaculture AND these producers do not own/lease any agricultural land themselves. Note: Do not check this box if the producer shares in a crop.		
B. <input type="checkbox"/> The producer in Part A meets all three of the following: <ul style="list-style-type: none">• does not participate in any USDA program that is subject to HELC and WC compliance except Federal Crop Insurance.• only has interest in land devoted to agriculture which is exclusively used for perennial crops, except sugarcane, and• has not converted a wetland after February 7, 2014.		
Perennial crops include, but are not limited to, tree fruit, tree nuts, grapes, olives, native pasture and perennial forage. A producer that produces alfalfa should contact the Natural Resources Conservation Service at the nearest USDA Service Center to determine whether such production qualifies as production of a perennial crop.		
Note: If either box is checked, and the producer in Part A does not participate in Farm Service Agency (FSA) or Natural Resources Conservation Service (NRCS) programs, the full tax identification number of the producer must be provided, but establishment of detailed farm records with FSA is not required. Go to Part D and sign and date.		

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Box 5A has been re-phrased for clarity.

- Producers may check this if it is impossible for them to violate HEL/WC provisions because they don't have an interest in land devoted to agriculture (bee keepers, greenhouse growers, aquaculture producers. They are not planting any agricultural commodities.

Box 5B is for RMA customers only. Must meet following conditions:

- Only participates in crop insurance. Does not participate in FSA and NRCS programs. Only a crop insurance customer.
- Only plants perennial crops, except sugarcane
- Has not converted a wetland after Feb. 7, 2014, date of enactment of 2014 farm bill

Added definition of perennial crop.

If Box 5B is Checked

If producer checks box 5B and certifies compliance in Part D:

- FSA will:
 - establish eligibility record by loading basic producer information in SCIMS
 - record date of producer filing AD-1026
- FSA will NOT:
 - establish farm and tract records
 - refer AD-1026 to NRCS for technical determination

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If box 5B is checked, FSA does not need to establish detailed records for that farming operation.

Just need to load producer information in SCIMS (name, address, tax id)

Affiliated Persons

<i>IF the producer requesting benefits is a (an) . . .</i>	<i>THEN affiliated persons with farming interests who must be in compliance with HELC and WC provisions and file Form AD-1026 are. . .</i>
individual NOTE For a minor, parents or guardians shall be listed as affiliated persons .	spouses or minor children with separate farming interests, or who receive benefits under their individual ID number. estates, trusts, partnerships, and joint ventures in which the individual filing, or the individual's spouse or minor children have an interest. corporations in which the individual filing or the individual's spouse or minor children have more than 20% interest.
general partnership limited partnership limited liability company joint venture estate irrevocable or revocable trust Indian tribal venture or group	first level members of the entity.
corporation with stockholders	first level shareholders with more than 20% interest in the corporation. Note: First level shareholders of a corporation with 20% interest or less in the corporation are not considered affiliated persons of the corporation.

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An affiliated person is a business partner or family member who has a farming interest.

AD-1026, Part B

PART B - HELC/WC COMPLIANCE QUESTIONS

Indicate YES or NO to each question. <i>If you are unsure of whether a HEL determination, wetland determination, or NRCS evaluation has been completed, contact your local USDA Service Center.</i>		YES	NO
6. During the crop year entered in Part A or the term of a requested USDA loan, did or will the producer in Part A plant or produce an agricultural commodity (including sugarcane) on land for which an HEL determination has not been made?			
7. Has anyone performed (since December 23, 1985), or will anyone perform any activities to:			
A. Create new drainage systems, conduct land leveling, filling, dredging, land clearing, or excavation that has NOT been evaluated by NRCS? <i>If "YES", indicate the year(s):</i> _____			
B. Improve or modify an existing drainage system that has NOT been evaluated by NRCS? <i>If "YES", indicate the year(s):</i> _____			
C. Maintain an existing drainage system that has NOT been evaluated by NRCS? <i>If "YES", indicate the year(s):</i> _____ Note: Maintenance is the repair, rehabilitation, or replacement of the capacity of existing drainage systems to allow for the continued use of wetlands currently in agricultural production and the continued management of other areas as they were used before December 23, 1985. This allows a person to reconstruct or maintain the capacity of the original system or install a replacement system that is more durable or will realize lower maintenance or costs.			
Note: If "YES" is checked for Item 7A or 7B, then Part C must be completed to authorize NRCS to make an HELC/WC and/or certified wetland determination on the identified land. If "YES" is checked for Item 7C, NRCS does not have to conduct a certified wetland determination.			
8. Check one or both boxes, if applicable; otherwise, continue to Part C or D.			
A. <input type="checkbox"/> Check this box only if the producer in Part A has FCIC reinsured crop insurance and filing this form represents the <u>first time</u> the producer in Part A, including any affiliated person, has been subject to HELC and WC provisions.			
B. <input type="checkbox"/> Check this box if either of the following applies to the producer and crop year entered in Part A: <ul style="list-style-type: none"> • Is a tenant on a farm that is/will not be in compliance with HELC and WC provisions because the landlord refuses to allow compliance, but all other farms not associated with that landlord are in compliance. (AD-1026B, Tenant Exemption Request must be completed). • Is a landlord of a farm that is/will not be in compliance with HELC and WC provisions because of a violation by the tenant on that farm, but all other farms not associated with that tenant are in compliance. (AD-1026C, Landlord or Landowner Exemption Request must be completed). 			

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Questions 6 and 7 are unchanged from previous versions.

Box 8A is to be checked for the crop insurance customer who is subject to HELC/WC for the first time

AD-1026, Part C

PART C – ADDITIONAL INFORMATION

9. If "YES" was checked in Item 6 or 7, provide the following information for the land to which the answer applies.

- A. Farm and/or tract/field number: _____
If unknown, contact the Farm Service Agency at the nearest USDA Service Center.
- B. Activity: _____
- C. Current land use (*specify crops*): _____
- D. County: _____

This is to completed if item 6 or 7 was answered "yes" and will be referred to NRCS.

AD-1026, Part D

PART D – CERTIFICATION OF COMPLIANCE

I have received and read the AD-1026 Appendix and understand and agree to the terms and conditions therein on all land in which I (or the producer in Part A if different) and any affiliated person have or will have an interest. I understand that eligibility for certain USDA program benefits is contingent upon this certification of compliance with HELC and WC provisions and I am responsible for any non-compliance. I understand and agree that this certification of compliance is considered continuous and will remain in effect unless revoked or a violation is determined. I further understand and agree that:

- all applicable payments must be refunded if a determination of ineligibility is made for a violation of HELC or WC provisions
- NRCS may verify whether a HELC violation or WC has occurred.
- a revised Form AD-1026 must be filed if there are any operation changes or activities that may affect compliance with the HELC and WC provisions. I understand that failure to revise Form AD-1026 for such changes may result in ineligibility for certain USDA program benefits or other consequences
- affiliated persons are also subject to compliance with HELC and WC provisions and their failure to comply or file Form AD-1026 will result in loss of eligibility for applicable benefits to any individuals or entities with whom they are considered affiliated.

Producer's Certification:

I hereby certify that the information on this form is true and correct to the best of my knowledge.

10A. Producer's Signature (By)	10B. Title/Relationship (If Signing in Representative Capacity)	10C. Date (MM-DD-YYYY)
FOR FSA USE ONLY (for referral to NRCS) Sign and date if NRCS determination is needed.	11A. Signature of FSA Representative	11B. Date (MM-DD-YYYY)

Producer signs affirming that the questions were answered truthfully and will abide by terms and conditions of contract and the appendix.

Processing the AD-1026

Once completed by the producer the following actions may be taken depending on the producers certification.

- No determinations required (perennial crops and all “no” answers in part B) – FSA completes the administrative process with no referral to NRCS
- Determinations previously made – FSA notes producers who have previously received determinations and there are no HEL fields, or wetlands. FSA provides the information to the producer and there is no referral to NRCS.

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Upon completion of form by producer:

- All questions in Part B answered “No” or producer, producer is only growing perennial crops, or determinations have been previously made, then FSA completes/updates the producers records and no referral to NRCS is required.

Processing the AD-1026 (cont'd)

- Determinations needed because of “yes” answers in part B – FSA refers the AD-1026 with fields to be used for ag commodity production or wetland areas to NRCS – NRCS schedules and completes the determination.
- NRCS provides determinations and appeal rights to the producer.

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If any question in Part B is answered “yes”:
FSA sends the form to NRCS and NRCS provides determinations.

Conservation Compliance

Unless an exemption applies, a person will be ineligible for premium subsidy beginning the reinsurance year after the reinsurance year the person is determined in violation and all administrative appeals are exhausted (administratively final determination).



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- a. Ineligibility is applied forward, never in the current crop reinsurance year (July 1-June 30), and only retroactively under false certification.

Reinsurance year July 1 – June 30

Crop Insurance Participants Timing of Ineligibility

- Ineligibility for premium subsidy will only apply to reinsurance years after the date of a final determination of a violation, including all administrative appeals
- Ineligibility for premium subsidy will not apply to the existing reinsurance year or any reinsurance year prior to the date of final determination



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If a producer is determined to be in violation of HELC or WC provisions, the timing of ineligibility for the crop insurance premium is not the same as it is for FSA and NRCS purposes. Ineligibility for the premium subsidy will only apply to reinsurance years after the date of a final determination of a violation, including all administrative appeals. Ineligibility for premium subsidy will not apply to the existing reinsurance year or any reinsurance year prior to the date of final determination of a violation. For example, if NRCS determines that a wetland was converted in 2015 and that determination is final, including all appeal rights, on August 1, 2016 (and no exemption applies), FSA and NRCS would apply ineligibility beginning with 2015. For purposes of the crop insurance premium subsidy, ineligibility will apply beginning with the reinsurance subsequent to the final determination of ineligibility. In this example, the next reinsurance year would be the 2018 reinsurance year since the date of the final determination, including appeals, (August 1, 2016) would be in the 2017 reinsurance year.

All of these clocks – when do they start ticking?



- After all of the administrative appeals have been exhausted = an “administratively final determination”
- This includes after NAD decisions, but does not include any judicial review

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We are going to talk about a lot of new timelines in the next two slides, that apply to producers who only participate in crop insurance.

Additional Time for Producers new to Conservation Compliance

For eligibility for premium subsidy only:

- Producers who have never been subject to conservation compliance before have:
 - 2 reinsurance years to initiate a mitigation plan following a final Converted Wetland determination.
 - 5 reinsurance years to develop and implement a conservation plan for HEL

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New timelines exist for crop insurance purposes. Who has never been subject before?
– Those that have never participated in programs subject to compliance in the past (which is most programs).

These are also referred to as “First-time producers”

Producers “who know” about compliance get 1 year for wetlands. – past USDA participants (next slide)

“new to compliance” get 2/5 years

Other Timelines

For eligibility for premium subsidy only:

- For wetlands, persons have 1 reinsurance year to initiate a mitigation plan following a final Converted Wetland determination.
- For HEL, producers who have been subject to compliance in the past, stopped participating in programs subject to compliance, and currently are in violation, have 2 reinsurance years to comply with a conservation plan to maintain eligibility.

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For persons not “first time filers”

Wetland – persons have 1 reinsurance year to initiate a mitigation plan if they have been subject to compliance in the past.

HEL “2 year People” – they have been subject to compliance in the past, they “know about” compliance, but have had a violation and decided to not participate in programs.

Wetland Conversions When a Policy or Plan is Available for the First Time

- Ineligibility for that policy or plan only applies for wetland conversions that are completed after the policy or plan becomes available
- However, all converted wetlands must be mitigated in a timely manner, not to exceed 2 reinsurance years after the policy becomes available.

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Basically a person has 2 years to mitigate all converted wetlands in order to continue receiving subsidies for a new policy or plan of insurance. There may be insurance products becoming available to producers in the future, that are not available today. This is basically another “trigger date”

Good Faith for Wetland Conservation

- The Good Faith determination process has not changed as a result of the new Farm Bill.
- FSA may waive the ineligibility provisions for 2 reinsurance years to allow the person to remedy or mitigate the converted wetland, or the planting on a converted wetland.

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Remember, this only applies to wetlands converted after 2/7/14.

Good faith process works the same as before except for 2 year timeline – eligible reviewers, etc. are the same

Equitable Contribution

- Applies to crop insurance participants and wetland compliance provisions only.
- For producers who are found in violation, this monetary contribution applies when a producer has not certified or has falsely certified their compliance.
- These producers will be asked to pay an equitable contribution to NRCS for each year the person was in violation of the WC provisions. The amount will not exceed the total of the crop insurance premium subsidies paid during the years of violation.

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We are working out the details with FSA/RMA

This is for when a person is found to be in violation of the wetland provisions and is found to have incorrectly or not certified

Agricultural Commodities

- Conservation compliance prohibits or restricts certain activities that involve an “agricultural commodity”



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Agricultural Commodity

- An agricultural commodity is any crop planted and produced by annually tilling the soil, and sugarcane.
- Examples would include tomatoes, potatoes, onions, carrots, corn, soybeans, cotton, wheat, rice, barley, canola.
- A conservation compliance crop list has been provided at www.nrcs.usda.gov/compliance

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What is an agricultural commodity?

The conservation compliance crop list includes annuals, perennials, and “locally determined” There are plants listed as annual that have a natural life cycle as a perennial. The determination for compliance is based on how the plan is treated in a field based production system. Any perennial plan that is planted each year, and destroyed following harvest and re-planted in the following year, would be treated as an ag commodity for compliance purposes.

Not Agricultural Commodities

- Citrus crops
- Orchard crops
- Sugar Bush (maple syrup)
- Vineyards
- Blueberries
- Rangeland
- Pastureland



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What is not an agricultural commodity? – Perennial crops

Perennial Crops – Caution on Wetland Conversion

- Although conversion of wetlands to certain perennial crops is an exempted activity, it does place important restrictions on the future use of that land. If the orchard or vineyard is ever removed, commodity crop production is then made possible. It does not matter if a commodity crop is planted. Making “the production of a commodity crop possible,” is a compliance violation.

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What is not an agricultural commodity? – Perennial crops, Pasture. However, you should note that only for crop insurance there are implementation timeframes, that could allow for orchards and vineyards to be re-established without creating a loss of subsidy as long as they do not plant and ag commodity.

However,...

Perennial Crops – Renovation or Leaving Land Idle

- Leaving land idle with no agricultural commodity planted or produced on the land is not a violation of the provisions as long as a non-agricultural commodity is intended to be planted there in the future.
- Producers are encouraged to contact their local USDA Service Center to obtain information and assistance regarding their specific farming operation situation.

Annual Cover Crops on Converted Wetlands

Occasionally, annual tilled cover crops such as clover and rye grass are grown in orchards, vineyards, blueberries, and other perennial crop fields. If these lands are converted wetlands, this will not result in a violation unless the annual cover crop reaches maturity or is harvested. The use of nonagricultural commodity cover crops, such as clover or other biennials is compliant.



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However, cover crops can be used according to policy.

Cover Crops on HEL

- For HEL, planting a cover crop on a field that is designated as HEL must be done in accordance with an approved conservation plan if the field is planted to agricultural commodities.



Priority Technical Assistance

- The new Farm Bill requires NRCS to provide priority Technical Assistance to “first-time filers”
- Certifications will need to be evaluated “in a timely manner” or ineligibility for wetland conversions will not apply



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Timely evaluation applies only to wetland conservation violations.

Crop Insurance Producer Exemptions

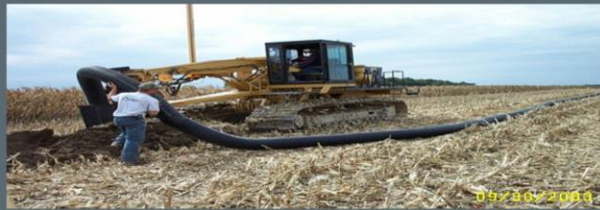
- Eligibility for Federal crop insurance premium subsidy is not affected by wetland conversions that were completed, as determined by NRCS, before February 7, 2014.



A couple of unique exemptions applicable to wetland conservation

Key trigger date

- Producers who convert a wetland after 2-7-14 could be found to be in violation and ineligible for crop insurance premium subsidy in the reinsurance year following the reinsurance year of the final determination, including all appeals.



Payment in Lieu for Wetland Mitigation

- This is a one time only option available for wetlands impacting less than 5 acres.
- A Crop-Insurance producer will be able to pay NRCS 150% of the cost of mitigating a wetland rather than creating a mitigation site.
- For crop insurance participation only.

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For crop insurance only producers and wetland conversions. If the producer later decides to participate in other programs, this exemption will not apply.

Compliance Determinations

- The re-linking did not change the wetland or HEL determination processes.
- Only the field used for agricultural commodity production in the year certified are referred to NRCS for HEL determinations, or specific fields where wetlands are marked as manipulated for wetland determinations.
- Determinations are only done for areas identified in response to producer certifications (Form AD-1026).

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A few general points about compliance.

Key Dates

- Spring of 2015 – updated compliance regulation (7CFR12) to be published
- June 1, 2015 – deadline for crop insurance producers to file Form AD-1026 for the 2016 reinsurance year (starting July1, 2015)

Looking Ahead

- State Executive Directors and State Conservationists are expected to work together in establishing orderly servicing processes and staffing to meet the workload created by the new customers.
- Materials have been sent out from the Regional Conservationists Office on November 10th, describing the need to complete a workload assessment no later than December 6th.

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RMA is sending “producer letter” out in early December reminding customers to certify by filing form AD-1026. This could cause an increase in AD-1026 filings.

Information and Assistance

- Additional information can be found online at www.fsa.usda.gov for FSA, www.nrcs.usda.gov for NRCS and www.rma.usda.gov for RMA.
- www.nrcs.usda.gov/compliance
- Your State/National Leadership



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Questions and Answers

