



United States Department of Agriculture

# Conservation Compliance and the 2014 Farm Bill



# Today's Agenda

- Welcome and Purpose
- Agricultural Act of 2014 Compliance Requirements
- Understanding Conservation Compliance
- Assisting New Participants in Meeting Requirements
- Key Dates
- How to Get more Information and Assistance
- Questions and Answers

## Background

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

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

The 1985 Act has been amended by subsequent Acts, including the Agricultural Act of 2014

## Background (continued)

The purpose of the provisions are to:

- 1) Reduce soil loss due to erosion;
- 2) Protect the Nation's long-term ability 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.

# Agricultural Act of 2014

Re-linked federally subsidized Crop Insurance with Conservation Compliance.



## Impact of 2014 Farm Bill

Producers who are:

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

# Certification of 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**





# Overview of AD-1026

This form is available electronically.  
**AD-1026**  
(05-30-14)

(See Page 2 for Privacy Act and Paperwork Reduction Act Statements)  
U.S. DEPARTMENT OF AGRICULTURE  
Farm Service Agency

## HIGHLY ERODIBLE LAND CONSERVATION (HEL) AND WETLAND CONSERVATION (WC) CERTIFICATION

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. (Use Part D if additional space is needed. Enter "None," if applicable). Note: See the AD-1026 Appendix for an explanation of affiliated persons.		
5. Check this box if the statement applies; otherwise continue to Part B. <input type="checkbox"/> Neither the producer in Part A, nor any affiliated person, has an interest in land that produces or could produce an agricultural commodity. Note: If this box is checked, go to Part C and sign and date.		
PART B – HEL/WC COMPLIANCE QUESTIONS		
Note: A "YES" answer authorizes FSA to refer this AD-1026 to NRCS. Producer must provide additional information in Part D. If "YES" is checked to Item 2C, NRCS does not have to conduct a certified wetland determination.		
	YES	NO
1. 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 on land for which an HEL determination has not been made?		
2. Has anyone performed (since December 23, 1985), or will anyone perform any activities to:		
A. Create new drainage systems, or conduct land leveling, filing, dredging, land clearing, excavation, or stump removal that has NOT been evaluated by NRCS? If "YES", indicate the year(s): _____		
B. Improve or modify an existing drainage system that has NOT been evaluated by NRCS? If "YES", indicate the year(s): _____		
C. Maintain an existing drainage system that has NOT been evaluated by NRCS? If "YES", indicate the year(s): _____		
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.		
3. Check one or both boxes, if applicable; otherwise, continue to Part C.		
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"> <li>is a tenant on a farm that 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).</li> <li>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).</li> </ul>		
PART C – CERTIFICATION OF COMPLIANCE		
I have 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: <ul style="list-style-type: none"> <li>all applicable payments must be refunded if a determination of ineligibility is made for a violation of HELC or WC provisions.</li> <li>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.</li> <li>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.</li> </ul>		
Producer's Certification: I hereby certify that the information on this form is true and correct to the best of my knowledge, and I authorize NRCS to make an HELC/WC and/or certified wetland determination on the field, tract, or farm numbers listed in Part D.		
1A. Producer's Signature (By)	1B. Title/Relationship (If Signing in Representative Capacity)	1C. Date (MM-DD-YYYY)
FOR FSA USE ONLY (for referral to NRCS) Sign and date if NRCS determination is needed.		2B. Date (MM-DD-YYYY)
2A. Signature of FSA Representative		



## Overview of AD-1026

- AD-1026 is used to:
  - report activities that may require a technical determination by NRCS
  - certify HELC/WC compliance
- AD-1026 and AD-1026 Appendix incorporate 2014 Farm Bill provisions relating to crop insurance.  
Example: A “new to compliance” checkbox was added
- Once filed, AD-1026 remains in effect unless there is a violation or producer plans action that changes answers.

## Wetland Conservation (WC) Compliance

For WC compliance, a producer must certify and agree they will **NOT**:

- 1) Convert a wetland that would allow the planting of an agricultural commodity.
- 2) Plant or produce an agricultural commodity on wetlands converted after December 23, 1985 (February 7, 2014 for premium subsidy only)
- 3) Use proceeds from any USDA farm loan or cost-share program, in such a way that might result in negative impacts to a wetland.

# Highly Erodible Land Conservation (HELC) Compliance

For HELC compliance a producer must certify and agree they will not plant or produce an agricultural commodity on highly erodible land unless farmed in accordance with a conservation plan approved by NRCS.

## AD-1026 – Reporting Activities

- Producers should report planned activities that may affect conservation compliance by filing an AD-1026 and providing a description of the activities and the location
- These activities include: planting an agricultural commodity on land for which an HEL determination has not been made; creating or improving drainage systems
- FSA will refer the AD-1026 to NRCS and NRCS will provide highly erodible land or wetland technical determinations or a conservation plan if needed

## Producers New to Compliance

Producers new to HELC/WC compliance need:

- HEL determinations if producing agricultural commodities
- Wetland determinations if new or modified drainage systems are planned



# Completing AD-1026 Basic Information

PART A – BASIC INFORMATION		
1. Name of Producer	2. Tax Identification Number ( <i>Last 4 digits</i> )	3. Crop Year
4. Names of affiliated persons with farming interests ( <i>Use Part D if additional space is needed. Enter "None," if applicable.</i> ) <b>Note:</b> See the AD-1026 Appendix for an explanation of affiliated persons.		
5. Check this box if the statement applies; otherwise continue to Part B. <input type="checkbox"/> Neither the producer in Part A, nor any affiliated person, has an interest in land that produces or could produce an agricultural commodity. <b>Note:</b> If this box is checked, go to Part C and sign and date.		



# 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	spouse or minor children with separate farming interests, or who receives benefits under their individual ID number.
<b>NOTE:</b> If the individual filing is a minor child, the parents shall be listed as affiliated persons.	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	first level members of the entity.
limited partnership	
limited liability company	
joint venture	
estate	
irrevocable or revocable trust	
Indian tribal venture or group	
corporation with stockholders	first level shareholders with more than 20% interest in the corporation.



# Completing AD-1026 Compliance Questions

## PART B - HELC/WC COMPLIANCE QUESTIONS

<p><b>Note:</b> A "YES" answer authorizes FSA to refer this AD-1026 to NRCS. Producer must provide additional information in Part D. If "YES" is checked to Item 2C, NRCS does not have to conduct a certified wetland determination.</p>	YES	NO
<p>1. 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 on land for which an HEL determination has not been made?</p>		
<p>2. Has anyone performed (since December 23, 1985), or will anyone perform any activities to:</p> <p>A. Create new drainage systems, or conduct land leveling, filing, dredging, land clearing, excavation, or stump removal that has <b>NOT</b> been evaluated by NRCS? <i>If "YES", indicate the year(s):</i> _____</p>		
<p>B. Improve or modify an existing drainage system that has <b>NOT</b> been evaluated by NRCS? <i>If "YES", indicate the year(s):</i> _____</p>		
<p>C. Maintain an existing drainage system that has <b>NOT</b> been evaluated by NRCS? <i>If "YES", indicate the year(s):</i> _____</p> <p><b>Note:</b> 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.</p>		
<p>3. Check one or both boxes, if applicable; otherwise, continue to Part C.</p> <p>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.</p> <p>B. <input type="checkbox"/> Check this box if either of the following applies to the producer and crop year entered in Part A:</p> <ul style="list-style-type: none"> <li>• 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).</li> <li>• 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).</li> </ul>		





# Completing AD-1026 Certification of Compliance

## PART C – CERTIFICATION OF COMPLIANCE

I have 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.
- 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, and I authorize NRCS to make an HELC/WC and/or certified wetland determination on the field, tract, or farm numbers listed in Part D.*

1A. Producer's Signature (By)	1B. Title/Relationship (If Signing in Representative Capacity)	1C. Date (MM-DD-YYYY)
<b>FOR FSA USE ONLY</b> (for referral to NRCS) Sign and date if NRCS determination is needed.	2A. Signature of FSA Representative	2B. Date (MM-DD-YYYY)

# 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.



# 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

## Other Timelines

### For eligibility for premium subsidy only:

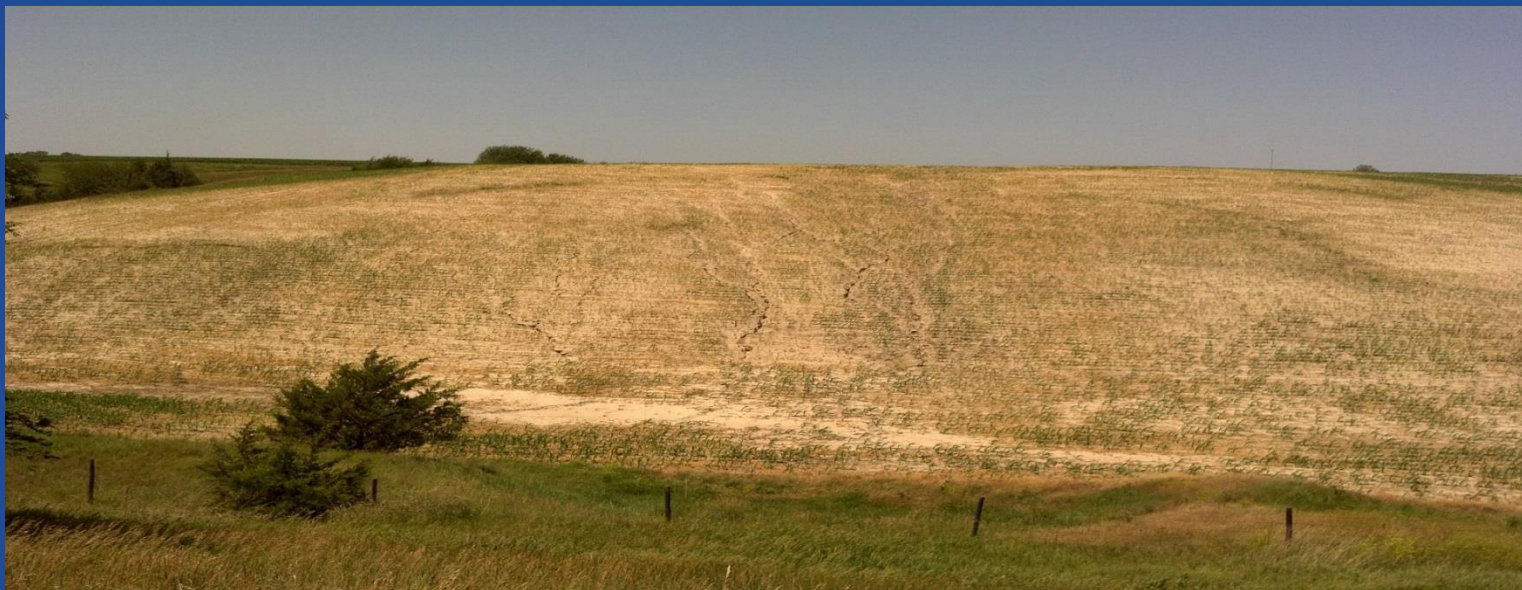
- Persons have 1 reinsurance year to mitigate a violation following a final Converted Wetland determination.
- Producers who have been subject to compliance in the past, stopped participating in programs subject to compliance, and currently are in violation, have 2 reinsurance years to comply with a conservation plan to maintain eligibility.

## Equitable Contribution

- Applies to crop insurance participants found in violation of wetlands compliance (WC), either by not certifying or falsely certified compliance.
- Producers may pay an equitable contribution for each year of the violation of the WC provisions.
- The amount will not exceed the total of the crop insurance premium subsidies paid during the years of violation.

# Agricultural Commodities

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



## Agricultural Commodity

- For conservation compliance purposes, 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.

# Not Agricultural Commodities

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





## Perennial Crops – Caution on Wetland Conversion

- Conversion of wetlands to certain perennial crops places important restrictions on the future use of that land.
- If the perennial crop is ever removed, commodity crop production is made possible. It does not matter if a commodity crop is planted.
- Making “the production of a commodity crop possible,” is a compliance violation.

# Annual Cover Crops

Annual tilled cover crops such as clover are grown in orchards, vineyards, blueberries, and other perennial crop fields.



# Priority Technical Assistance

The new Farm Bill requires NRCS to provide priority Technical Assistance to “producers new to compliance”



# Crop Insurance – 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.



## Key Trigger Date

- Producers who convert a wetland after February 7, 2014 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

- For wetlands conversion impacting less than 5 acres of the farming operation.
- A crop insurance participant will be able to pay 150 percent of the cost of mitigating a wetland rather than creating a mitigation site.
- This is a one-time-only option available

## Key Dates

- Fall of 2014 – update compliance regulation (7 CFR Part 12) to be published
- June 1, 2015 – deadline for crop insurance participants to file Form AD-1026 to remain eligible for the premium subsidy



## Information and Assistance

- Your local USDA Service Center
- Additional information can be found online at
  - [www.fsa.usda.gov](http://www.fsa.usda.gov) for FSA ,
  - [www.nrcs.usda.gov](http://www.nrcs.usda.gov) for NRCS,
  - and [www.rma.usda.gov](http://www.rma.usda.gov) for RMA.



# Questions and Answers





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