Thank you for your interest in partnering with the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) or Farm Service Agency (FSA). One of the cornerstones of participating in our programs and receiving benefits from the USDA is compliance with Highly Erodible Land Compliance (HELC), and Wetland Conservation (WC) requirements.

What is Highly Erodible Land (HEL)?
HEL land is defined as land that is croppable or made croppable that has an erodibility index of 8 or more. Erodibility index takes into consideration rainfall factor, soil erosivity factor and length and steepness of slopes. A highly erodible field is a field where HEL is predominant. HEL fields are defined as:

- 33.33% or more of a total field acreage is identified as soil map units that are highly erodible, or
- 50 or more acres in the field are identified as soil map units that are highly erodible.

Overview of HELC Provisions
The 1985 Act, as amended, provides that persons who produce an agricultural commodity on an HEL field and that are not following an approved conservation system on that land shall be ineligible for benefits under programs administered by USDA if the operator, other tenant, OR the landowner:

- plant an agricultural commodity on wetland that was converted after December 23, 1985, or
- convert a wetland after November 28, 1990, by draining, dredging, filling, leveling, removing woody vegetation, or any other means having the effect of making the production of an agricultural commodity possible.

What is a Wetland?
According to the Food Security Act, a wetland is land that meets the following characteristics:
- predominance of hydric soils,
- has wetland hydrology (area is typically ponded, saturated or inundated once frost is out of the ground), and
- is inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions. Under normal circumstances, supports a prevalence of hydrophytic vegetation, typically adapted for life in saturated soil conditions.

Overview of WC Provisions
The 1985 Act, as amended, provides that, unless exempt, persons are ineligible for benefits under certain programs administered by USDA if the operator, other tenant, OR the landowner:

- plant an agricultural commodity on wetland that was converted after December 23, 1985, or
- convert a wetland after November 28, 1990, by draining, dredging, filling, leveling, removing woody vegetation, or any other means having the effect of making the production of an agricultural commodity possible.

USDA Program Participant Self Certification Provision
An applicant applying for benefits or receiving benefits must self-certify in writing on an AD-1026 form their compliance with the Highly Erodible Land and Wetland Compliance requirements to retain USDA program eligibility.
To document compliance for USDA programs, complete the AD-1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification. Below are terms you are agreeing to by self-certifying compliance.

1. Not to plant or produce an agricultural commodity on highly erodible fields unless actively applying an approved conservation plan or maintaining a fully applied conservation system.

2. Not to plant or produce an agricultural commodity on wetlands converted after December 23, 1985.

3. Not to convert wetlands by draining, dredging, filling leveling, removing woody vegetation or any other means that would allow the planting of any crop, pasture, agricultural commodity, or other such crops.

4. 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 wetlands, except for those projects evaluated and approved by NRCS or Army Corps of Engineers.

The signature on the form AD-1026 also gives representatives of USDA authorization to enter upon and inspect all farms in which you have an interest for the purpose of confirming the above statements.

What Does This Mean to You?

- If you review your maps and Producer Farm Data Report, and it states you have Highly Erodible Land (HEL), you need to ensure you are following a Conservation Plan or system. If you are uncertain if you have a Conservation Plan in place, please inquire with FSA or NRCS.

- If you are doing any type of work on the property such as cleaning out fence lines, clearing trees, adding tile, replacing tile, adding fill or working up pasture, ensure you have filled out an AD-1026 AHEAD OF TIME so you do not jeopardize USDA program eligibility (this may require NRCS to complete a certified HEL and/or wetland determination).

- As an owner and operator, you are responsible for maintaining compliance on all land you own. You are also responsible for overseeing compliance of land you own, that may be rented or operated by a separate party.

I’ve Proposed an Activity on the AD-1026, Now What?

NRCS will make all technical determinations by completing certified determinations. This means NRCS staff will determine whether a field is HEL or NHEL (Non-highly erodible land). NRCS will also determine location of wetlands, and assign labels to them if exemptions apply. This process can vary from a few weeks to over several months, depending on complexity.

NRCS will look at past aerial photos and a soil map of the site. Quite often, USDA may make the determination right in the office. NRCS must often make site visits to verify findings. Site visits will add time to the process as field determinations may only be made when conditions are favorable.

Once NRCS makes the determination, a letter and map will follow explaining the decision making process USDA followed. If the decision is adverse, and you disagree, (there is a wetland and you can’t tile, or a field is determined to be HEL), you will be given an opportunity to appeal, and to provide information that may not have been considered.

Please Note: Most determinations are completed by NRCS staff located in neighboring counties. Keep in mind that you may be contacted by an NRCS employee you may have not previously worked with.

Contact your local NRCS Service Center for more information. Contact the FSA office before manipulating drainage!