

Conservation Compliance

What You Need to Know



One of the cornerstones of participating in USDA conservation programs is compliance with **Highly Erodible Land Compliance (HEL), 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 soils predominate. A field that is classified as an HEL field has:

- **33.33% or more of the total acreage identified as soil map units that are highly erodible; or**
- **50 or more acres identified as soil map units that are highly erodible.**

HEL Compliance Provisions

The 1985 Act, as amended, provides that persons who produce an agricultural commodity, or make the production of an agricultural commodity possible, 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. Additionally, there are stricter erosion protection requirements for fields that do not have a cropping history prior to 1985. The HEL land that grows commodity crops must follow an approved conservation plan or system.

Wetland Compliance 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.



What is a Wetland?

According to the Farm Bill, a wetland is land that meets the following characteristics

- Predominance of hydric soils;
- Has wetland hydrology (area is typically ponded, saturated or inundated for at least two weeks during the growing season 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.

USDA Self Certification Provision

To remain eligible for USDA programs, applicants must self-certify their compliance with Highly Erodible Land and Wetland Compliance provisions on form AD-1026 when applying for benefits.

To document compliance for USDA programs, complete the AD-1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification. Below are the terms you are agreeing to by self-certifying compliance:

1. Not to plant or produce an agricultural 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.

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.

ALASKA
Natural
Resources
Conservation
Service

ak.nrcs.usda.gov/

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.

I've proposed an activity on the AD-1026, Now What?

After you complete form AD-1026, NRCS will make a technical determination whether 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 be issued explaining the decision making process USDA followed. If the decision is adverse, and you disagree, you will have an opportunity to appeal and provide information that may not have been considered.

USDA is an equal opportunity provider, employer, and lender.

ALASKA • November 2020

