



Farm Bill 2002

Key Points

October 2002

Highly Erodible Land & Wetland Conservation Compliance

Compliance Provisions Explained:

The Highly Erodible Land and Wetland Conservation Compliance Provisions were established by Congress in the 1985 Farm Bill, with amendments in 1990, 1996, and 2002.

The purpose of these provisions is to remove certain incentives to produce agricultural commodities on converted wetlands or highly erodible land, unless the highly erodible land is protected from excessive soil erosion.

Provision Objectives:

The objectives of these provisions are to:

- ♦ Reduce soil loss due to wind and water erosion.
- ♦ Protect the Nation's long-term capability to produce food and fiber.
- ♦ Reduce sedimentation and improve water quality.
- ♦ Assist in preserving the functions and values of the Nation's wetlands.

▪ **Definitions:**

Agricultural Commodity:

For conservation compliance purposes, agricultural commodities are defined as any commodity planted and produced by annual tilling of the soil, including tilling by one-trip planters.

Highly Erodible Land (HEL):

For land to be considered highly erodible, potential erosion must be equal to or greater than eight times the rate at which the soil can sustain productivity. Potential erosion is defined based on certain soil loss factors. A field will be considered highly erodible if either one-third or more of the field is highly erodible, or if the highly erodible land in the field totals 50 acres or more.

Wetlands:

For land to be defined as wetlands they must have a predominance of hydric soils and be inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstance do support, a prevalence of hydrophytic vegetation. All three criteria, hydric soils, hydrophytic vegetation, and wetland hydrology must be met for an area to be identified as wetland.

Minimal Effect:

An exemption from wetland conservation provisions that may be granted when the wetland conversion activity will only minimally impact wetland functions.

Prior Converted Cropland:

A wetland converted prior to December 23, 1985, on which an agricultural commodity was produced at least once before December 23, 1985, and as of December 23, 1985, the converted wetland did not support woody vegetation.

The Natural Resources Conservation Service provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resources and environment.

An Equal Opportunity Provider and Employer

Farmed Wetland

Wetlands that were manipulated before December 23, 1985, for the purpose of making the production of an agricultural commodity possible, and continue to meet wetland hydrology criteria.

HEL Requirements:

To maintain certain USDA benefit and program eligibility, fields designated as highly erodible (HEL) must be protected from excessive soil erosion when used to produce agricultural commodities, by applying an approved conservation system.

Wetland Conservation (WC) Requirements:

To maintain eligibility for certain USDA program benefits, participants must certify that they have not produced crops on converted wetlands after December 23, 1985, and did not convert a wetland after November 28, 1990, to make agricultural production possible. Benefits will be reinstated when the converted wetland has been restored.

USDA Benefits Affected:

The loss of certain USDA benefits as a result of non-compliance with the HELC/WC provisions applies to all farms in which the participant has an interest (Cross-Compliance). Benefits subject to compliance provisions include but are not limited to, the following:

Commodity Programs

- *Direct and Counter Cyclical Program*
- *Deficiency Payments*
- *Consolidated Farm and Rural Development Act farm operating loans*
- *Dairy Marketing Assistance Program*
- *Non-insured Assisted Program (fruit and vegetable producers)*
- *Emergency Feed Program*
- *Wool and Mohair Programs*

- *Farm Storage Loans (HEL only)*
- *Crop Disaster Program*

Conservation Programs

- *Conservation Reserve Program*
- *Conservation Security Program*
- *Environmental Quality Incentives Program*
- *Watershed Protection and Flood Prevention Act payments or loan assistance*
- *Farmland Protection Program*
- *Grassland Reserve Program*
- *Wetlands Reserve Program*
- *Wildlife Habitat Incentives Program*

Variations and Exemptions to the Provisions:

Wetland Conservation:

- Good Faith
- Prior Conversion (converted and cropped prior to December 23, 1985)
- Minimal Effect
- Mitigation
- Non-agricultural activities
- Scope and Effect

Highly Erodible Land:

- Good Faith
- Economic Hardship
- Expedited Variations for weather, pests, and disease related incidents
- Exemptions provided when violations are found during the regular provision of USDA technical assistance

Additional HELC Guidance

USDA participants may request using experimental cropping systems, conservation systems, or component practices on a field trial basis.

■ Appeals

Any adverse decisions or technical determinations related to the HEL or WC provisions may ultimately be appealed to the National Appeals Division.