



HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION COMPLIANCE PROVISIONS

Background

The 1985 farm bill, as amended, contains conservation compliance requirements for farmers who utilize certain USDA benefits. Conservation compliance provisions for highly erodible land (HEL) are commonly referred to as Sodbuster, and wetland conservation (WC) compliance provisions are often called Swampbuster. While the legislation has been amended several times over two decades, the central premise of wetland and highly erodible land preservation remains in place.

The objectives of conservation compliance are to: (1) reduce soil erosion on the Nation's cropland; (2) protect the Nation's long-term capability to produce food and fiber; (3) reduce sedimentation and improve water quality; and (4) preserve and protect the Nation's wetlands.

To be eligible for a USDA program benefit when producing an annual agricultural commodity, USDA program participants must apply an approved conservation system that provides a substantial reduction in soil erosion or a substantial improvement in soil conditions on a field or fields that contain highly erodible land. To maintain program eligibility, in most cases participants must also certify that they have not produced crops on wetlands converted after December 23, 1985, and did not convert a wetland to agricultural production after November 28, 1990.

The following USDA benefits may be affected:

- (a) Direct payments
- (b) Farm storage facility loans (not subject to WC)
- (c) Disaster payments (not subject to WC)
- (d) Farm Operating Loans authorized under the Consolidated Farm and Rural Development Act
- (e) Conservation Security Program (CSP)
- (f) Conservation Reserve Program (CRP)
- (g) Environmental Quality Incentives Program (EQIP)
- (h) Farm and Ranch Land Protection Program (FRPP)
- (i) Grassland Reserve Program (GRP)
- (j) Wetlands Reserve Program (WRP)
- (k) Wildlife Habitat Incentives Program (WHIP)
- (l) Agricultural Credit Act of 1976 payments (not subject to WC)
- (m) Public Law 83-566, Small Watershed Program contracts

General Opinions Expressed

- Many commenters endorsed Sodbuster and Swampbuster programs, which have resulted in significantly improved water quality. However, several commenters opposed Sodbuster and Swampbuster requirements.
- Some commenters desired to expand compliance to include strict water and air regulations, and those not in compliance would receive reduced subsidies or none at all.
- Some commenters stated that the programs designed to assist farmers in compliance are too complicated for the average farmer to understand, install, and maintain. In several cases, they stated that even USDA employees did not fully understand the programs.
- Farmers were generally divided as to how they should be required or allowed to till their fields to come into compliance with HELC provisions.
- Some commenters requested assistance in reducing polluted runoff as required by the Clean Water Act.
- Some commenters expressed a need to increase the monitoring of the conservation compliance provisions within this farm bill and create stronger links between conservation compliance and eligibility for financial benefits under all farm bill programs. FSA must more rigorously uphold violations of noncompliance determinations.
- Several commenters want to stop funding programs which install drain tiles, but rather provide funding to remove those drains for wetland protection.

Detailed Suggestions Expressed

- Resources should be increased to monitor conservation compliance and NRCS should be required to return to the historical spot-check.
- Restore wetland compliance exemption for any State that has less than 1 percent of land in the State in wetlands on privately owned land. Alaska has 0.8 percent. This is something that was in effect in past years.
- Require NRCS to return to the historical spot check rate regarding conservation compliance and strengthen Sodbuster language to discourage conversion of grassland to row cropland using farm program subsidies and programs.

- Require careful administration of conservation compliance rules. As further documented by the 2003 GAO report—GAO-03-418:

“USDA’s Natural Resources Conservation Service has not consistently implemented the 1985 Food Security Act’s conservation provisions. Inconsistent implementation increases the possibility that some farmers receive federal farm payments although their soil erodes at higher rates than allowed or they convert wetlands to cropland... According to GAO’s nationwide survey, almost half of the Conservation Service’s field offices do not implement the conservation provisions as required because they lack staff, management does not emphasize these provisions, or they are uncomfortable with their enforcement role... Finally, the Farm Service Agency, the USDA agency responsible for withholding benefits for violations identified by the Conservation Service, often waives these noncompliance determinations without adequate justification. Without support from the Farm Service Agency, the Conservation Service’s field staff has less incentive to issue violations.”

—GAO-03-418, a report to Ranking Democratic Member, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate