



## Conservation Compliance Changes in the 2014 Farm Bill

-----SUBJECT TO REGULATION TO BE ISSUED BY USDA-----

### Who is impacted?

Any person who in any year produces an 'agricultural commodity'

- Agricultural commodity – any agricultural commodity planted and produced in a State by annual tilling of the soil, including tilling by one-trip planters; or sugarcane planted and produced in a State. (existing definition, unchanged in 2014 Farm Bill)

### What are the changes?

Highly Erodible Land (HEL) Conservation – Compliance provisions linked to production of an agricultural commodity and any portion of the premium paid by the Federal Crop Insurance Corporation for a policy or plan of insurance under the Federal Crop Insurance Act .

- Beginning with the first full reinsurance year after enactment, producers must provide certification of HEL compliance.
- If a person is subject to HEL compliance for the first time due to the provisions of the 2014 Farm Bill, then you have 5 years to develop and comply with a conservation plan.
- If you are in violation of HEL compliance and previously participated in programs requiring HEL compliance (such as direct payments), you have 2 reinsurance years after the date on which crop insurance payments are linked to develop and comply with an approved conservation plan.
- Violations only apply to reinsurance years after the date of final determination of the violation
- Violations do not apply to existing reinsurance years or any prior year.
- Secretary shall evaluate compliance in a timely manner and if the Secretary fails to evaluate the certification in a timely manner and the person is found in violation, ineligibility shall not apply to the person for that violation.
- Penalty– if a person fails to notify the Secretary of compliance and is subsequently found to be in violation, the Secretary shall determine the amount of the violation, but it shall not exceed the total of the portion of the premium paid by the Federal Crop Insurance Corporation for a policy or plan of insurance for all years the person is determined to have been in violation.

Wetlands Conservation - Production of an agricultural commodity on a converted wetland or conversion of a wetland to make production of an agricultural commodity possible is prohibited in order to receive any payment of any portion of premium paid by the Federal Crop Insurance Corporation for a plan or policy of insurance under the Federal Crop Insurance Act.

- Beginning with the first full reinsurance year after enactment, persons must provide certification of compliance with wetland conservation provisions
- Premiums become subject to wetland conservation provisions, except

- In the case of a wetland converted prior to February 7, 2014 ineligibility does not apply.
- If a wetland was converted after February 7, 2014, the person is ineligible to receive crop insurance premium subsidies in subsequent reinsurance years; however
  - If less than 5 acres of an entire farm, a penalty of 150 percent of the cost of mitigation can be paid into a wetland restoration fund
  - Certain exemptions apply (same as current law)
- If a person is found to be in violation, you have 1 reinsurance year to initiate a mitigation plan to remedy the violation before becoming ineligible to receive a payment or portion of the premium paid by the Federal Crop Insurance Corporation in the following reinsurance year.
- If a person is found to be in violation and acted in good faith without intent to commit a violation, the person shall have 2 reinsurance years to take such steps as the Secretary determines appropriate to remedy or mitigate the violation
- If a person is subject to this provision for the first time due the 2014 Farm Bill, the person has 2 reinsurance years after the reinsurance year in which a final determination is made to take such steps as the Secretary determines appropriate to remedy or mitigate the violation.
- If a person is subject to this section due to a new policy or plan of insurance becoming available, ineligibility shall only apply to conversions after the date on which the policy or plan first becomes available and the person shall take such steps as the Secretary determines appropriate to mitigate any prior conversion in a timely manner but not to exceed 2 reinsurance years.
- Tenant Relief – ineligibility may be limited only to the farm that is the basis for the ineligibility
- Secretary shall evaluate compliance in a timely manner and if the Secretary fails to evaluate the certification in a timely manner and the person is found in violation, ineligibility shall not apply to the person for that violation.
- Penalty – if a person fails to notify the Secretary of compliance and is subsequently found to be in violation, the Secretary shall determine the amount of the violation, but it shall not exceed the total of the portion of the premium paid by the Federal Crop Insurance Corporation for a policy or plan of insurance for all years the person is determined to have been in violation.

*The bill creates a Mitigation Banking Program to assist with complying with the wetland provisions.*

#### What stays the same?

The existing (pre 2014 Farm Bill) HEL and wetland conservation compliance provisions remain in effect for Title 1 - commodity programs, Title 2 - conservation programs, certain USDA loans, some disaster payments and the Watershed Protection & Flood Prevention Act (PL-566).

#### Who enforces?

HEL & Wetland compliance reviews (and appeals) should be the same process as currently exists between NRCS and FSA. USDA will determine if a producer is eligible to receive crop insurance subsidies and no agent or approved insurance provider will have the responsibility or liability for determining the eligibility of a producer.