



CONSERVATION

FACT SHEET

April 2015

Conservation Compliance for Highly Erodible Land and Wetlands - Affiliated Persons

OVERVIEW

Highly Erodible Land Conservation (HELCS) and Wetland Conservation (WC) provisions aim to reduce soil loss on erosion-prone lands and protect wetlands for the multiple benefits they provide. HELCS and WC provisions apply to all land that is considered highly erodible and wetlands that are owned or farmed by persons voluntarily participating in U.S. Department of Agriculture (USDA) programs, unless USDA determines an exemption applies.

Producers and any affiliated individuals or entities who participate in most programs administered by the Farm Service Agency (FSA), the Natural Resources Conservation Service (NRCS), and the Risk Management Agency (RMA) are required to comply with these provisions. Non-compliance may affect the following types of USDA program benefits:

- FSA loans and disaster assistance payments;
- NRCS and FSA conservation program benefits;
- Federal crop insurance premium subsidies.

For general information about HELCS and WC provisions, view the fact sheet titled **“Conservation Compliance and Crop Insurance.”**

COMPLIANCE WITH HELCS AND WC PROVISIONS

To comply with the HELCS and WC provisions, producers and affiliated persons must fill out and sign form AD-1026 certifying they will not:

- Plant or produce an agricultural commodity on highly erodible land without following an NRCS approved conservation plan or system;
- Plant or produce an agricultural commodity on a converted wetland or;
- Convert a wetland that makes the production of an agricultural commodity possible.

In addition, producers planning to conduct activities that may affect their HELCS or WC compliance, for example removing fence rows, conducting drainage activities or combining fields, must notify FSA by filing form AD-1026. FSA will notify NRCS and NRCS will then provide highly erodible land or wetland technical evaluations and issue determinations if needed.

A copy of form AD-1026 can be found at <http://forms.sc.egov.usda.gov/efcommon/eFile-Services/eForms/AD1026.PDF>

EXPLANATION OF AFFILIATED PERSONS WHO NEED TO FILE AN AD-1026 FOR HELCS AND WC COMPLIANCE PURPOSES

An “affiliated person” is an individual or entity who has a specific connection to the individual or entity completing the AD-1026. Affiliated persons could be family members or business partners. The following table describes who or what are considered affiliated persons.

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IF the producer is	THEN the affiliated persons who need to file an AD-1026 are
An individual	<p>The individual’s spouse or minor children, if they have a farming interest.</p> <p>For all entity types (except for a corporation (see rule for corporations below) in which the individual has any interest at the first level if they have a farming interest.</p>
An entity other than a corporation	<p>All members/interest holders at the first level in the entity if they have a farming interest.</p> <p>Scenario: WXYZ General Partnership has the following interest holders and indicated interest as follows: Individual W..... 25 percent - X LLC 25 percent - Y Inc. 25 percent - Individual Z..... 25 percent</p> <p><u>Analysis:</u> The affiliated persons of WXYZ General Partnership would be <u>Individual W</u>; <u>X LLC</u>; <u>Y Inc.</u>; and <u>Individual Z</u> because they are members of the general partnership at the first level. The interest holders in X LLC and Y Inc. would not be affiliated persons of WXYZ Partnership because they are not interest holders in WXYZ General Partnership at the first level.</p>
A corporation	<p>Interest holders at the first level in the corporation with more than 20 percent interest if they have a farming interest</p> <p>Scenario: ABC Inc. has the following interest holders and indicated interest as follows: Individual A – 15 percent Corporation C – 85 percent Corporation C is 100 percent owned by Individual B</p> <p><u>Analysis:</u> Only <u>Corporation C</u> is considered an affiliated person to ABC Inc. Individual A does not have more than a 20 percent interest in ABC Inc. and Individual B only holds an indirect interest in ABC Inc. through Corporation C and, therefore is not an interest holder at the first level.</p>

AD-1026 FILING REQUIREMENT FOR AFFILIATED PERSONS

Although an individual or entity may be considered an affiliated person to a producer requesting benefits, an affiliated person who does not have a farming interest does not need to file an AD-1026. A “farming interest” for this purpose is an owner, operator or other producer on any farm. An example of an affiliated person who does not need to file an AD-1026 is a minor child that does not have a farming interest.

ADDITIONAL INFORMATION

To get additional information on affiliated persons, contact the FSA office at a local USDA Service Center. More information on general conservation compliance can be found at www.fsa.usda.gov/programs-and-services/payment-eligibility/conservation_compliance/index.

Additional information about programs offered by FSA, NRCS and RMA can be found online at: www.fsa.usda.gov for FSA; www.nrcs.usda.gov for NRCS; and www.rma.usda.gov for RMA.

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