

**USDA/Farm Service Agency**

**OMB No.: 0560-0185**

**Highly Erodible Land and Wetland Conservation (7 CFR 12)**

**Purpose:** The purpose of this document is to request for an extension of a currently approved information collection request without revision to support the USDA Conservation Compliance requirements. Both FSA and NRCS are using the collected information to determine program payment eligibility.

**A. Justification**

**1. Explain the circumstances that make the collection of information necessary.**

The Food Security Act of 1985 (the 1985 Act) as amended by the Federal Agriculture Conservation and Trade Act of 1990 (the 1990 Act) and the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act), and the Agricultural Assistance Act of 2003 (the 2003 Act) provides that any person who produces an agricultural commodity on a field that is predominately highly erodible, converts a wetland, or plants an agricultural commodity on converted wetland after December 23, 1985, will be ineligible for certain program benefits. These regulations are published at 7 CFR Part 12. These provisions are an attempt to preserve the nation's wetlands and to reduce the rate at which soil is lost from highly erodible land. Form AD-1026 is the primary form used by participants of USDA programs to certify their compliance with the requirements of the Act. This form includes a continuous certification. Producers are only required to file an updated AD-1026 when there is a change in the farming operation. The Act also allows special exemptions in making eligibility determinations which are reviewed and documented by the Farm Service Agency County Committee.

**2. Indicate how, by whom, and for what purpose the information is to be used.**

**AD-1026.** The information is used by NRCS and FSA to determine the eligibility of a person or entity to receive certain benefits provided by the U. S. Department of Agriculture. The AD-1026 provides the opportunity for the producer to indicate whether a NRCS technical determination is needed. It is also used as a basis for FSA to determine whether intended activities will meet conservation requirements to maintain eligibility for program payments. An appendix that states the requirements of the statute is affixed to the AD-1026. It is provided to the producer at the time of completion of form AD-1026. AD-1026's are continuous and do not require re-certification by producers on an annual basis unless a change is made in the farming operation. AD-1026's are available on the internet which can be printed and completed by the producer and returned to the USDA Service Center by fax, mail or in person. The form is also available at the USDA Service Center and can be either picked up or mailed to the producer. It may be returned by fax, mail or in person to the local USDA Service Center.

**AD-1026B.** AD-1026B documents determinations for tenant exemptions on farms where the landlord refused to comply with HELC provisions. Provisions of the Act allow a tenant to make a request for a violation exemption by completing form AD-1026B. The form allows the producer to provide detailed information about their specific case which will assist the local FSA County Committee in making a determination. When requested by the tenant, AD-1026B is available at the USDA Service Center and can be either picked up or mailed to the tenant and then completed and returned to the Service Center by fax, mail or in person. It is also available through the FSA internet WEB site. Only part A is completed by the tenant.

**AD-1026C.** AD-1026C documents determinations by the FSA County Committee for landlord exemptions where the tenant refuses to comply with HELC provisions. A provision of the Act allows

the landlord to make a request for a violation exemption by completing AD-1026C. The landlord may include any details that may affect the determination of the FSA County Committee. When requested by the landlord, AD-1026C is available at a USDA Service Center and can be either picked up or mailed to the landlord. The form is also available through the FSA internet WEB site. After completion by the landlord, the form may be returned to the Service Center by fax, mail or in person. Only part A is completed by the landlord.

**AD-1068.** AD-1068 documents FSA County Committee decisions for good faith determinations resulting from highly erodible land (HEL) violations. The producer makes a request for reconsideration and documents any details that may affect the FSA County Committee decision. When requested by the producer, form AD-1068 is available at a USDA Service Center and can be either picked up or mailed to the producer. After completion by the producer it is returned to the Service Center by fax, mail or in person. The form is also available through the FSA internet WEB site. Only part A is completed by the producer.

**AD-1069.** AD-1069 documents FSA County Committee decisions for good faith determinations resulting from wetland violations. The producer makes a request for relief from lost program benefits and documents any details that may affect the FSA County Committee decision. When requested by the producer, form AD-1069 is available at a USDA Service Center and can be either picked up or mailed to the producer. After completion by the producer it is returned to the Service Center by fax, mail or in person. The form is also available through the FSA internet WEB site. Only part A is completed by the producer.

**CCC-21.** The information will be used by the contracting officer of the (Commodity Credit Corporation (CCC) to establish farming interests of the storage contractor. The purpose is to verify through the FSA county office that an AD-1026 was completed. The information is necessary in order for the Kansas City Commodity Office to determine eligibility prior to authorizing storage payments or the continuation of the storage contract. The form CCC-21 is available at a USDA Service Center or the FSA internet WEB site. This form is not used by the producer.

**FSA-492.** The information is provided by the producer and used by FSA to determine whether conversion of wetland was completed by a third party. A third party exemption allows a producer to retain eligibility for USDA program benefits that would otherwise be withheld. FSA-492 is available at a USDA Service Center and can be either picked up or mailed to the producer. After completion by the producer it is returned to the Service Center by fax, mail or in person. The form is also available through the FSA internet WEB site. Only part A is completed by the producer.

**AD-1026D.** Information is provided by the producer and NRCS regarding conservation practices, cost of installation, program benefits to be requested, and the producer's general economic situation. This information is used by County and State Committees to determine whether relief is warranted because application of the approved conservation practices causes the producer undue economic hardship. When requested by the producer, AD-1026D is available at a USDA Service Center and can be either picked up or mailed to the producer. After completion by the producer it is returned to the Service Center by fax, mail or in person. The form is also available through the FSA internet WEB site. Only parts A and B are completed by the producer.

Also, the total burden for traveling time is included in this information collection.

### **3. Use of information technology.**

The AD-1026, AD-1026B, AD-1026C, AD-1026D, AD-1068, AD-1069 and FSA-492 are available at <http://forms.sc.egov.usda.gov> and are accepted electronically from the respondents with their access credentials only.

The CCC-21 is only available as an electronic form on the e-Forms site (<http://forms.sc.egov.usda.gov>) and completed by the warehouse operators only. This is not a form that is completed by individual agricultural producers. Warehouse Operators complete it in connection with the receipt of USDA storage payments. Unlike the completion of the other Conservation Compliance Forms which may be filed in any USDA service center, the CCC-21 is filed in a single location (Kansas City Commodity Office, P.O. Box 419205, Kansas city, Mo 64141-6205).

FSA is implementing WEB based eligibility database. This implementation project is partially completed and will be fully completed by the end of 2011. The producers are accessing to highly erodible land and wetland determinations for specific tracts on their farming operation. The data is currently only available at the local USDA service center.

#### **4. Describe efforts to identify duplication.**

The circumstances for compliance and relief are unique for each producer and are not otherwise duplicated. The information collected on these forms is not available from any other source and must be obtained from the producer to determine whether compliance conditions are met. The forms are also use to determine if relief is warranted when a violation occurred.

#### **5. Methods to minimize burden on small businesses or other small entities.**

There are no additional reporting requirements created specifically for small businesses to meet the requirements.

#### **6. Consequence if information collection were less frequent.**

Information is collected only when a producer requests benefits subject to HELC/WC compliance or if a problem situation exists for which relief is requested. Certification of compliance by a producer is not required on an annual basis. An updated certification (AD-1026) is only required when there is a change in the farming operation (example – when new land is intended to be planted to an agricultural commodity).

#### **7. Special Circumstances.**

The information collected is consistent with guidelines in 5 CFR 1320.6

#### **8. Federal Register notice, summarization of comments and consultation with persons outside the agency.**

The notice and request for comments were published in the Federal Register (74 FR 35158) on Monday, July 20, 2009. No comments or requests for information were received.

Persons contacted outside the agency Beth Schuler, NRCS HEL specialist, 1004 Pebble Creek, Nashville, TN 37221; David Howard, NRCS Wetland Specialist, USDA, 14<sup>th</sup> Street and Independence, Washington, D. C. 20250 - 202-690-2825 , Andree DuVarney, NRCS Conservation Compliance Specialist, Room 6006-S, USDA, 14<sup>th</sup> Street and Independence, Washington, D. C. 20250 -(202) 690-4979 .

**9. Explain any decision to provide any payment or gift to respondents.**

The agency does not provide any payment or gift to respondents for the information request.

**10. Confidentiality provided to respondents.**

FSA uses handbooks to advise State and County Offices of their responsibility regarding the confidentiality of information provided by the applicants in accordance with the requirements of the Privacy Act, FOIA of 1974 and OMB Circular A-130, "Responsibilities for the Maintenance of Records about Individuals by Federal Agencies". All completed forms and accompanying documentation are kept in the county office file cabinets. Applicants are given copies of these documents.

**11. Questions of a sensitive nature.**

No information of a sensitive or personal nature is requested.

**12. Estimates of burden.**

See the attached FSA-85-1 for the overall of estimated burden hours in this information collection.

The estimated annual cost to the public is \$4,459,882. (Total Burden Hours = 262,346 times \$17.00 per hour). The average hourly rate is \$17.00 for the respondents in this information collection.

**13. Total annual cost burden to respondents or recordkeepers.**

There are no capital or start up costs associated with this information collection.

**14. Provide estimates of annualized cost to the Federal government.**

Total cost of forms development, printing and distribution = 262,788 x \$.20 = \$52,558. (Amount arrived from average cost per form of 20 cents). Work hours from County Employees: 15 minutes per response x 262,788 responses = 65,696 work hours x \$25.00 (including benefits) = \$1,642,400.

**Total Cost to the Federal Government = \$1,694,958.**

**15. Reasons for changes in burden.**

There are no changes to the burden hours in this information collection package since the last OMB approval.

**16. Tabulation, analysis, and publication plans.**

The information collected is not planned for publication. It is used solely to administer the program. The number of HELC and WC exemptions is provided on request to members of Congress.

**17. Reasons display of expiration date of OMB approval is inappropriate.**

Display of the OMB approval expiration date on the automated forms would require personnel and time

to reprogram forms each time the expiration date changes, when the forms would otherwise not need to be revised.

**18. Exceptions to 83-1 certification statement.**

There are no exceptions to this certification statement.

**19. How is this information collection related to the Customer Service Center?**

Information collected for Conservation Compliance is used by FSA and NRCS in USDA Service Centers. FSA uses the data to determine producer eligibility for USDA programs. At this time, all of the data entered in the FSA System 36 is readily available to NRCS personnel. The data (acreage, highly erodible land determinations, tract information, land use, producer planting history, and related information) is used to help develop the individual conservation plans prepared by NRCS for the producer. There is also an interagency geographic information system (GIS) system currently in place within each USDA service center. Individual producer land data may be combined with other NRCS data layers (i.e: soil types), to make the required conservation compliance highly erodible land determinations for the producer. The collected land data is available to individual land owners to review when completing revised AD-1026's.