

**U.S. Department of Agriculture
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 revision and extension of an information collection used in support of the USDA Conservation Compliance requirements. The information collected is used by both FSA and NRCS to determine program payment eligibility.

Term of Clearance:

In response to OMB's Term of Clearance, Notice of Office of management and Budget Action dated October 18, 2003, FSA has made the following changes to the Conservation Compliance information collection process:

1. The use of report AD-1026A is no longer a required attachment to the producer certification form AD-1026. The AD-1026A will continue to be made available to producers in the FSA County Office should the data be desired. However, a signed producer certification on the form AD-1026 will be considered valid without any attachments. The information included on the AD-1026A may be helpful to some producers when completing the form AD-1026, but is not a necessity in most cases. If a producer needs the AD-1026A information, it will be available through FSA by fax or mail. It will also be available through the local NRCS office. FSA intends to make the information available to individual producers on line as the Agency's WEB based record system is further developed (estimated 2007/2008).
2. Electronic filing of forms AD-1026B, AD-1026C, AD-1026D, AD-1068, AD-1069 and FSA-492 is now available to program participants. Forms CCC-21 is not a form that is completed by individual producers. It is currently available on line through FSA's internet WEB site as well as by facsimile or mail from the local FSA office. Form AD-1026 and instructions are also available to producers through FSA's forms WEB site.

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, shall 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 the conversion of highly erodible land occurs, thus contributing to the national erosion problem. 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 and 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 reconsideration 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 contact. 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. 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 form AD-1026 is available as an electronic form at <http://forms.sc.egov.usda.gov/eforms/mainservlet>. It must be printed and completed by the producer and returned to the USDA Service Center by fax, mail or in person.

Because the completion of form AD-1026 requires may require additional detailed farm records and producer specific information, FSA will not be able to provide electronic access to customer electronic filing until the related data is available through the internet. The process to make available specific HEL and Wetland determinations on a tract basis cannot be made available to producer until FSA fully implements a WEB based eligibility database. The projected date is during 2007/2008. At that time producers will have access to highly erodible land and wetland determinations for specific tracts on their farming operation. That data is currently only available at the local USDA service center.

The AD-1026B, C, D, AD-1068, AD-1096 and FSA-492 are also available at <http://forms.sc.egov.usda.gov/eforms/mainservlet> and are accepted electronically from the respondents with their access credentials only. The CCC-21 is only available as an electronic forms on the e-Forms site and complete by the warehouse operators only. The CCC-21 (Supplement to Commodity Credit Corporation CCC Storage Agreements) is not currently available for electronic filing. That form is not a form which is completed by individual agricultural producers. It is completed by Warehouse Operators 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).

The forms in this information collection are currently in compliance with GPEA, which requires Agencies provide the public the option of submitting information or transacting business electronically, except for AD-1026 and CCC-21. FSA has plans to include the AD-1026 as part of its e-file program when the eligibility file database is migrated to a WEB application as listed above.

4. Describe efforts to identify duplication.

The situation is unique for each producer, and for specific relief that is not otherwise duplicated or used. 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 or if relief is warranted.

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 – the purchase of additional cropland).

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 was published in the Federal Register at 71 FR 15158 on March 27, 2006.

One request for a copy of form AD-1026 was received. The latest version was provided to the requester.

One comment was received. The e-mail expressed concern over toxic chemicals applied to land which has adverse impact on wildlife. The e-mail voiced concerns over tax dollars used unwisely for conservation purposes. The comments were not related to, and did they specifically address the Conservation Compliance legislation, FSA administration of the federal regulations, the use of agency forms or the information collection process.

Another Notice with correct burden hours was published in the Federal Register at 71 FR 43433 on August 1, 2006. Only one comment was received. The single comment received voice disagreement with the use of tax dollars to subsidize farms. The comment did not address any issues associated with the Conservation Compliance information collection process.

Persons contacted outside the agency Beth Schuler, NRCS HEL specialist, 1004 Pebble Creek,

Nashville, TN 37221; Jennifer McCarthy, NRCS Wetland Specialist, Room 6009-S, USDA, 14th Street and Independence, Washington, D. C. 20250, Leonard Jordan, NRCS Conservation Compliance Specialist, Room 6017-S, USDA, 14th Street and Independence, Washington, D. C. 20250.

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 \$4,066, 363. (Total Burden Hours = 262,346 times \$15.50 per hour) The average hourly rate is \$15.50 for the respondents in this information collection.

13. Total annual cost burden to respondents or recordkeepers.

There are no capital/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 \$.15 = \$39,418. (amount arrived from average cost per form of 15 cents).

Work hours from County Employees : 15 minutes per response x 262,788 responses = 65,696 work hours x \$20.00 (including benefits) = \$1,313,940.

Total Cost to the Federal Government = \$1,313,940.

15. Reasons for changes in burden.

There is an adjustment increase by 11,193 in this information collection since the last OMB approval. The increased burden hours are a result of increased participation in USDA programs by agricultural producers. The primary programs which resulted in increased producer

participation are those which provide financial assistance and reimbursement for crop disasters.

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 and NRCS are exploring methods to improve sharing of this information under USDA's e-government initiative.

An interagency geographic information system (GIS) system, currently in place within each USDA service center, is being expanded to track and archive information which may be used by producers when certifying HELC/WC compliance.