



KENNEDY AND COE, LLC

# The Agriculture Act of 2014

Farm Program Services

Kennedy and Coe, LLC





# Disclaimer

This Power Point presentation was developed from language in the Agricultural Act of 2014 (Act) and should be used only for informational purposes. USDA/FSA will issue rules and regulations that will be the final authority in making conservation compliance decisions under Titles II and XI of the Act. Your actions required under the Act should be determined from final rules and regulations issued by USDA/FSA/FCIC.





KENNEDY AND COE, LLC

Farm Program Services offered

by

Kennedy and Coe, LLC



# Title II – HEL & WL Conservation for Crop Insurance

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- Producers must comply with HEL & WL conservation provisions to qualify for the Federal Crop Insurance Premium Assistance.
- Should a non compliance determination occur, ineligibility shall apply to reinsurance years subsequent to the final determination, including all administrative appeals and shall not apply to the existing reinsurance year or any reinsurance year prior to the date of the final determination.

# Title II – HEL & WL Conservation for Federal Crop Insurance

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- Exemptions

A) Operations new to compliance – A person that is subject to WL and HEL for the 1<sup>st</sup> time shall have five reinsurance years from February 7, 2014 to develop and comply with an approved conservation plan to maintain eligibility for the Federal Crop Insurance Premium Assistance.

B) In the case of a person that would have been in violation had the person continued to participate in programs requiring compliance

# Title II – HEL & WL Conservation for Federal Crop Insurance

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- Exemptions

B) Continued – at any time after February 7, 2014, and is currently in violation of Section 211 the person shall have two reinsurance years after the date on which payments became subject to HEL & WL regulations to develop and comply with an approved conservation plan.

- Any wetland conversion that occurred before February 7, 2014 shall not cause ineligibility for the Federal Crop Insurance Premium Assistance

# Title II – HEL & WL Conservation for Federal Crop Insurance

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- Any wetland conversion that occurred after February 7, 2014 the person shall become ineligible for the Federal Crop Insurance Premium Assistance unless:
  - An exemption applies, or
  - The Secretary determines the violation impacts less than 5 acres of an entire farm, the person may pay 150% of the cost of mitigation into a special mitigation fund.

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- In the case of an agricultural commodity for which insurance is available for the 1<sup>st</sup> time to the person after February 7, 2014:
  - Ineligibility shall apply to a conversion after the date on which the policy or plan of insurance first became available to the person.
  - The person shall take steps to mitigate any prior year conversion in a timely manner but not to exceed two reinsurance years.
  - Producers have one year after a final determination of a WL violation to mitigate the conversion before becoming ineligible for the Federal crop Insurance Premium Assistance.
  - Good Faith Effort – If a person is determined to have acted in good faith without intent to commit a violation, the person shall have two reinsurance years to remedy or mitigate the violation.



# Title II – HEL & WL Conservation for Federal Crop Insurance

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- Tenant Relief – If a tenant is determined to be ineligible for payments and other benefits however, the Secretary may limit the ineligibility determination to the farm in violation if the tenant establishes to USDA that:
  - The tenant made a good faith effort to meet the requirements including enlisting the assistance of USDA to obtain a reasonable plan for restoration or mitigation for the farm, the landlord on the farm refuses to comply with the plan on the farm, and
  - The Secretary determines the lack of compliance is not a part of a scheme or device to avoid the compliance.

# Title II – HEL & WL Conservation for Federal Crop Insurance

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- Certificate of Compliance – Beginning with the first full reinsurance year immediately following the date of enactment , all persons seeking eligibility for the payment portion of the premium paid by FCIC for a policy or plan of insurance shall provide certification of compliance with HEL and WL (AD-1026) provisions as determined by the Secretary.
  - Should USDA fail to evaluate the certificate in a timely manner and the person is subsequently found to be in violation, ineligibility shall not apply to the person for that violation.
  - Equitable Contribution – If a person fails to notify the Secretary as required and is subsequently found to be in violation, the Secretary shall determine an amount off equitable contribution to conservation by the person in violation and deposit the funds in an account as prescribed by the Secretary.

# Title II – HEL & WL Conservation for Federal Crop Insurance

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- Certificate of Compliance Continued
  - In no case shall the contribution exceed the portion of the premium paid by FCIC for all years of the violation.