

Farm Management

Evaluate farm's compliance status

FARMERS are acutely aware that they are continuously being subjected to more and more governmental regulations. These regulations come from the alphabet soup of EPA, DOT, FSA, ODA, USDA, ODNR, PUCO and NRCS, just to name a few. It is nearly impossible to keep up with all the regulations, and violations can be costly.

A common question is what the difference is between a regulation and a

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law. Laws are made by either the state Legislature or Congress. They establish broad policy mandates without much detail. Agencies under the direction of the state or federal executive branch are

then tasked with the responsibility of establishing the details as to how to actually implement the law.

For example, as part of the last farm bill, Congress provided for direct payments where grain farmers receive government payments for producing certain crops. The farm bill established the payment rate, when payments should be made to the producer, and a general definition of a

producer. USDA's Farm Service Agency was then directed to take these basic guidelines and develop more detailed regulations so Congress' intent could be implemented.

From these basic guidelines, FSA developed regulations that provide more precise definitions of when a farmer is eligible for payments, how payments are calculated and how the law applies to farms organized as partnerships or business entities.

Comments and hearings

The agency creating the regulations does not create them in a vacuum. All regulations proposed by an agency must go through a notice and comment period or formal hearings. This process requires an agency to publish its proposed regulations and allow the public, businesses and affected parties an opportunity to comment.

At the federal level, proposed regulations are published in the Federal Register. It provides the text of the rule, which existing regulations it will affect, as well as the schedule and manner in which the public may comment. For example, FSA may propose a regulation that corn producers feel is unfair or detrimental to them. Corn producers, either individually or through their commodity organization, can comment to FSA or testify at a hearing explaining their problems with the proposed regulation. FSA is not required to change a regulation due to negative comments but must at least consider the comments.

After the notice and comment period, the proposed regulation becomes official by being published in the Code of Federal Regulations or a state's index of regulations. Upon official publication, the regulation has the effect of law.

In compliance?

A proactive self-audit is an excellent way to find any compliance problems with the hundreds of state and federal regulations farms are subject to. The audit should include a review of relevant regulations and a determination of compliance, and might include a single item such as an inspection of a fertilizer containment system or a whole-farm audit that includes everything. A complete, whole-farm audit will be comprehensive, covering everything from fuel and fertilizer containment to wetland compliance to proper licensing and markings on grain trucks.

Just like consultants can assist with soil fertility, animal nutrition and seed variety selection, consultants are also available to help farmers stay in compliance with governmental regulations. These consultants monitor changes proposed by governmental agencies and understand the implications of regulations on farms.

Land Stewards LLC specializes in environmental regulation consultation. Its president is Mark Wilson. Call 740-751-4703, email mwilson@landstewards.com, or visit www.landstewards.com.



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