

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency  
Washington, DC 20250

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**Highly Erodible Land Conservation and  
Wetland Conservation Provisions  
6-CP (Revision 4)**

**Amendment 12**

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**Approved by:** Acting Deputy Administrator, Farm Programs



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**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraphs 202 D has been amended to update a handbook reference.

Subparagraph 202 E has been amended to clarify referral of AD-1026 to NRCS for field boundary redefinitions.

Subparagraphs 207 C, 207 E, 231 B, 232 D and 233 C have been amended to incorporate use of "Affiliate Violation for RMA".

Subparagraph 302 C has been amended to clarify USDA benefits subject to conservation compliance.

Subparagraph 357 B has been amended to update imagery requirements for AD-1026 referrals to NRCS.

Subparagraph 502 F has been amended to provide additional guidance on applicability of a planted commodity.

Subparagraphs 602 D and E have been amended to update a reference and clarify instruction for extent of ineligibility of affiliated persons.

Subparagraph 633 B has been amended to distinguish the difference between mitigation restoration requirements completed and those that were not completed within the statutorily mandated time period.

Subparagraph 641 A has been amended to reference Exhibit 5.

Subparagraph 641 D has been amended to inform that information collection for AD-1026 is exempt from the Paperwork Reduction Act.

Paragraphs 811 and 812 have been amended to provide additional information on right of appeal and equitable relief.

**Amendment Transmittal (Continued)**

**A Reasons for Amendment (Continued)**

Exhibit 5 has been added to provide information for identifying violations in farm records and subsidiary.

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
5	2-7, 2-8 2-21 through 2-30 2-73 through 2-78 3-7, 3-8 3-123, 3-124 5-9, 5-10 6-9, 6-10 6-101 through 6-110 6-121, 6-122 8-15	1, pages 1, 2 5, pages 1-8 (add)

**Table of Contents (Continued)**

**Page No.**

**Part 7        Reporting HELC and WC Violations**

**Section 1      Recording HELC and WC Violation Data**

700	HELC and WC Violation Documentation .....	7-1
701	Reporting Data on FSA-493 .....	7-3
702	Using FSA-493 .....	7-5
703	Revised FSA-493's .....	7-14
704-749	(Reserved)	

**Section 2      National HELC and WC Violation Database**

750	Entering Violation Data Into the National Database .....	7-121
751-799	(Reserved)	

**Part 8        Scheme or Device, Appeals, and Equitable Relief**

**Section 1      Scheme or Device**

800	Scheme or Device Violations.....	8-1
801-810	(Reserved)	

**Section 2      Appeals and Equitable Relief**

811	General Appeal Provisions .....	8-15
812	Equitable Relief .....	8-15

**Exhibits**

1	Reports, Forms, Abbreviations, and Redelegations of Authority	
2	Definitions of Terms Used in This Handbook	
3	Menu and Screen Index	
4	(Reserved)	
5	Violations Ineligibility for FSA, NRCS and RMA (Reinsured Crop Insurance Premium Subsidy)	



**202 Criteria Used to Redefine Fields (Continued)**

**D Referring Boundary Changes to NRCS**

Use the following for referrals to NRCS for changes in field boundaries or redefinition of fields.

Step	Action
1	*--Number fields according to 10-CM, subparagraph 29 F.--*
2	Determine official acreage of all redefined or changed fields.
3	Send copies of the following to NRCS: <ul style="list-style-type: none"> <li>• producer’s AD-1026 prepared according to subparagraphs E and F</li> <li>• identifying boundaries of the new fields</li> <li>• the area before the changes if it will assist NRCS in identifying the change.</li> </ul>

**E Preparing AD-1026 for NRCS**

\*--To request a determination, see the most current year AD-1026 filed by a producer to certify compliance on fields that require NRCS determinations according to subparagraph A or B.--\*  
 Take action according to subparagraph F.

**202 Criteria Used to Redefine Fields (Continued)****F Explanation on AD-1026**

A statement shall be entered in the bottom margin of AD-1026 that is sent to NRCS for a redetermination or redefinition that describes the:

- reason for the referral
- NRCS action needed as determined according to subparagraphs A and B.

**Example 1:** “HEL field boundaries were incorrectly delineated. NRCS redetermines whether the field is predominately highly erodible.”

**Example 2:** “HEL field combined with adjoining field.”

**Example 3:** “Producer requested redetermination. NRCS redefines to separate HEL from NHEL.”

**Example 4:** “Field boundary changes on NHEL field. NRCS redetermines whether the field is predominately highly erodible.”

**G Field Access Authority Is Needed**

If NRCS determines that access to a field is required to make a HEL redetermination, \*--AD-1026 on file provides that access; regardless of when AD-1026 was filed because of continuous rollover of certification.--\*

\* \* \*

## 207 Conservation Compliance HELC Exemptions – RMA-Crop Insurance Policies Reinsured by FCIC (Continued)

### C Conservation Compliance Eligibility for New to Conservation Compliance HELC Exemption

\*--Set to “certified” in subsidiary when producers (and affiliated persons) are solely seeking the benefit of the federal crop insurance subsidy benefit, and certify to compliance based on this exemption. This will communicate the producer’s eligibility to RMA. However, the applicable HEL/tract that does not have the conservation plan developed and implemented must be set to “HEL: conservation system is not being applied”, with the applicable farm/tract RMA producer exception of “New RMA Producer”, until a conservation plan has been developed and implemented. This will ensure the producer’s ineligibility of FSA and NRCS programs, subject to conservation compliance, until a plan has been implemented. Applicable affiliates are communicated NRCS and FSA ineligible with “Affiliate Violation” in AD-1026, section of subsidiary. They are communicated RMA eligible with “no” (ineligible with “yes”) in the Affiliate Violation for RMA portion of AD-1026 subsidiary, (“Is the Producer’s Affiliate Violation applicable to RMA?”).

If after the 5-reinsurance-year period the producer has not developed or implemented a conservation plan the system must be updated to show “not filed” for AD-1026 in--\* subsidiary. NRCS CPA-027, as discussed in paragraph 401, will be used by NRCS when plans have been developed and implemented under this exemption.

### D Previously in Compliance With HELC

Producers who were subject to HELC requirements in the past because they participated in USDA programs, stopped participating in those programs before February 7, 2014, but would have been in violation of the HEL requirements had they continued participation in such programs after February 7, 2014, have 2 reinsurance years to develop and comply with a conservation plan approved by NRCS before they become ineligible for federal crop insurance premium subsidies. The 2 reinsurance years begin the start of the reinsurance year, administrative certification date of June 1, following the date the person certifies to compliance with FSA to be eligible for USDA benefits subject to the conservation compliance provisions.

### E Conservation Compliance Eligibility for Previously in Compliance With HELC

\*--Producers previously in noncompliance with HELC were identified as “not filed” for AD-1026 in subsidiary. Change this to “certified” for those now filing for the reinsured crop insurance premium subsidy benefit 2-year HELC exemption for AD-1026 to communicate the producer’s eligibility to RMA. The producer’s tract data will remain flagged with “HEL: conservation system is not being applied”, with applicable farm/tract RMA producer exception of “2RY RMA Exemption”. Applicable affiliates are communicated NRCS and FSA ineligible with “Affiliate Violation” in AD-1026, section of subsidiary. They are communicated RMA eligible with “no” (ineligible with “yes”) in the Affiliate Violation for RMA portion of AD-1026 subsidiary, (“Is the Producer’s Affiliate Violation applicable to RMA?”).--\*

**207 Conservation Compliance HELC Exemptions – RMA-Crop Insurance Policies Reinsured by FCIC (Continued)**

**E Conservation Compliance Eligibility for Previously in Compliance With HELC (Continued)**

\*--Prepare FSA-569 for the current crop year when individuals and entities certify to this exemption. FSA-569 must be clearly marked “PARTICIPATING FCIC PRODUCER FILING AD-1026 FOR HELC EXEMPTION” before submitting to NRCS. A folder must be kept of FSA-569 according to subparagraph 504 A.

When FSA-569 is returned within the 2-reinsurance-year time period communicating “The field meets the requirements of the HELC provisions” HEL tract data will be updated for the current year to restore eligibility for FSA and NRCS.

If FSA-569 is returned at the end of the 2-reinsurance year time period and communicates “The field does “**Not**” meet requirements of the HELC provisions”, the subsidiary flag for AD-1026 must be changed to “not filed” for the current year to communicate ineligibility to RMA.

**Example:** Jane Farmer was found out of compliance for HELC provisions in 2012. Jane Farmer did not want to invest in structural practices or no-till equipment to meet the erosion reduction as required by the NRCS Conservation Plan. Jane Farmer decided to quit participating in FSA programs and had AD-1026 changed to “not filed”. Jane Farmer buys federally reinsured crop insurance administered through RMA and wants to restore eligibility for the reinsured crop insurance subsidy. Jane Farmer certifies to compliance on AD-1026 in May 2016 based on an exemption referred to in AD-1026 Appendix, item 6. Change AD-1026 to “Certified” in the web-based subsidiary eligibility to communicate Jane Farmer’s eligibility for the reinsured crop insurance subsidy for reinsurance year 2017 (July 1, 2016). Her tract data will remain set at “HEL: conservation system is not being applied” to communicate ineligibility for FSA and NRCS programs.--\* NRCS returns FSA-569 in May 2018 communicating “The field meets the requirements of the HELC provisions”. Jane Farmer’s tract data is updated to “HEL: conservation system is being actively applied”, restoring her eligibility to participate in any FSA and NRCS programs.

**208-209 (Reserved)**

**Subsection 4 Provisions Unique to Federally Reinsured Crop Insurance Subsidy****231 Wetland Conversions****A Converting a Wetland Through February 7, 2014**

No producer certifying to conservation compliance will be ineligible for federal crop insurance premium subsidies for a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501-1524) if they or their affiliates:

- converted a wetland, as determined by NRCS, through February 7, 2014
- plant or produce an agriculture commodity on a converted wetland converted through February 7, 2014.

**Note:** Wetlands determined as CW+14 are assumed to be after February 7, 2014, unless proven by the producer and concurred/determined by NRCS to have been converted January 1, 2014, through February 7, 2014.

**B Conservation Compliance Eligibility for Before CW+14 Wetland Violations**

\*--Set to “certified” in subsidiary those producers who have wetland violations through February 7, 2014, and certify to conservation compliance based on provisions in AD-1026 Appendix, item 6. This will communicate the producer’s eligibility to RMA. However, the producer’s tract record must remain set to the appropriate wetland violation to communicate the producer’s ineligibility to FSA and NRCS.

Also set to “certified” in subsidiary whenever a producer is in violation with a conversion that is not associated to them in any tract record (affiliate violation or past violation and they no longer have the land), and they certify to compliance for these provisions. However, in the compliance section of the web-based subsidiary set the farm/tract eligibility to “past violation”, with year, State, and county where the violation occurred to communicate the producer’s ineligibility for FSA and NRCS programs.

Applicable affiliates are communicated NRCS and FSA ineligible with “Affiliate Violation” in AD-1026, section of subsidiary. They are communicated RMA eligible with “no” (ineligible with “yes”) in the Affiliate Violation for RMA portion of AD-1026 subsidiary, (“Is the Producer’s Affiliate Violation applicable to RMA?”).

**Example:** Joe Farmer converted a wetland in 2012. Joe Farmer did not restore or mitigate the wetland, but rather chose to drop participation in FSA programs. Joe Farmer’s tract file indicates “wetland converted after November 28, 1990, and before February 8, 2014”. Joe Farmer’s AD-1026 eligibility was changed to “not filed” according to paragraph 305. Joe Farmer buys federally reinsured crop insurance administered through RMA. Joe Farmer certifies to compliance based on AD-1026 Appendix, item 6 to retain eligibility for the reinsured crop insurance premium subsidy. Change Joe Farmer to “certified” in the web-based eligibility, and select “wetland converted after November 28, 1990, and before February 8, 2014” in the tract data. Joe Farmer is compliant for--\* FCIC, but noncompliant for FSA and NRCS.

**232 Additional Time Before Ineligibility****A One Reinsurance Year Exemption**

\*--Unless another exemption applies, a producer that was subject to conservation compliance--\* in the past, and determined by NRCS to be in violation because of wetland conversion occurring after February 7, 2014, will have 1 reinsurance year after the final determination of violation, including all administrative appeals, to initiate a mitigation or restoration plan before becoming ineligible for the reinsured crop insurance premium subsidy. All practices within the mitigation or restoration plan must be implemented within 2 reinsurance years (eligibility/ineligibility determinations are made for RMA on June 1 before the reinsurance year that begins July 1).

**Example:** If in May 2017, after NRCS has determined that an individual is in violation for converting a wetland and the individual has exhausted all administrative appeals, the person will have until June 1, 2018, to initiate a mitigation or restoration plan to remedy the violation before becoming ineligible for the federal crop insurance premium subsidies starting with the 2019 reinsurance year (July 1, 2018). All practices within the plan must be implemented by June 1, 2019.

**B Two Reinsurance Year Exemption**

\*--A producer subject to wetland compliance provisions for the first time, solely because--\* of benefit of the reinsured crop insurance subsidy, and determined to be in violation (as determined by NRCS) because of wetland conversion occurring after February 7, 2014, will have 2 reinsurance years after the final determination of violation, including all administrative appeals, to be implementing all practices in a mitigation or restoration plan before becoming ineligible for the reinsured crop insurance premium subsidy.

**C New Insurance Policy Exemption**

When a policy or plan of insurance that provides coverage for an agricultural commodity is \*--available to a producer, including those who are a substantial beneficial interest holder, for--\* the first time after February 7, 2014, as determined by RMA, an exemption applies. The ineligibility of premium subsidies for this policy or plan of insurance because of a wetland conversion will only apply to wetland conversions that are completed, as determined by NRCS, after the date the policy or plan of insurance first becomes available to the individual or entity.

**232 Additional Time Before Ineligibility (Continued)****C New Insurance Policy Exemption (Continued)**

The exemption:

- \*--applies only to the policy or plan of insurance that becomes available to a producer for the first time after February 7, 2014, as determined by RMA
- does not exempt or otherwise negate the producer's ineligibility for federal crop insurance premium subsidies on any other policy or plan of insurance
- applies only if the producer takes the steps necessary, as determined by NRCS, to--\* mitigate all wetlands converted after February 7, 2014, in a timely manner, as determined by NRCS but not to exceed 2 reinsurance years.

**D Conservation Compliance Eligibility**

Those certifying to conservation compliance for the reinsured crop insurance premium subsidy benefit for either exemption in subparagraph A or B shall be changed to "certified", \*--for AD-1026, with applicable farm/tract RMA producer exception of "1RY Exemption" or "2RY Exemption" to communicate their eligibility to RMA. Their tract data shall be flagged with the appropriate wetland violation ("wetland converted after February 7, 2014") to--\* communicate ineligibility for FSA and NRCS programs.

FSA shall prepare FSA-569 for the current crop year when these individuals and entities certify to these exemptions. FSA-569 should be clearly marked "PARTICIPATING FCIC PRODUCER FILING FOR AD-1026 FOR WC EXEMPTION" before submitting to NRCS. A folder shall be kept of FSA-569 according to subparagraph 504 A.

When FSA-569 is returned within the 2-reinsurance-year time period communicating the restoration or mitigation is completed "the area is identified is "NOT" CW" wetland violation tract data will be removed to restore eligibility for FSA and NRCS.

**232 Additional Time Before Ineligibility (Continued)****D Conservation Compliance Eligibility (Continued)**

If the restoration or mitigation is not completed within the required 1- or 2-reinsurance-year time period data NRCS will communicate this with FSA-569. Wetland tract data will not be updated and the individual or entity certifying to compliance for these exemptions will be changed to “not filed” for AD-1026, with applicable farm/tract producer exception removed, to communicate ineligibility to RMA.

\*--Update the system to have a producer’s farm/tract eligibility in the conservation compliance section of the web-based subsidiary set to “past violation” with year, State, and county where the violation occurred if the producer is no longer associated with the farm/tract of the violation requesting exemption.

Applicable affiliates are communicated NRCS and FSA ineligible with “Affiliate Violation” in AD-1026, section of subsidiary. They are communicated RMA eligible with “no” (ineligible with “yes”) in the Affiliate Violation for RMA portion of AD-1026 subsidiary, (“Is the Producer’s Affiliate Violation applicable to RMA?”).--\*

**Note:** It is an RMA determination if the exemption in subparagraph C (new insurance policy exemption) is applicable. A producer may be eligible for the premium subsidy if it is new but may not be on other policies or plans of insurance. Therefore, those individuals and entities will be “not filed” for AD-1026 if either exemption in subparagraph A or B is not met.

**233 Wetland Determinations Applicable to FCIC Only****A Converted Wetland Payment in Lieu**

There is an exemption for wetland conversion for FCIC participants only that impacts less than 5 acres. In lieu of ineligibility for federal crop insurance premium subsidies for a policy or plan of insurance because a wetland conversion violation or concurrent with a planned wetland conversion occurring after February 7, 2014, a person may, if approved by NRCS, pay a contribution to NRCS in an amount equal to 150 percent of the cost of mitigating the converted wetland, as determined by NRCS. A person is limited to only one exemption, as determined by NRCS per farm. Wetlands granted this exemption are identified as “CWIL” (converted wetland payment in lieu) on NRCS-CPA-026e.

## 233 Wetland Determinations Applicable to FCIC Only (Continued)

**B Timely Assistance**

If a producer files AD-1026 with FSA certifying compliance that requires an evaluation by NRCS for a certified wetland determination, and NRCS fails to complete the evaluation in a timely manner, they may be exempted from the ineligibility of the reinsured crop insurance subsidy. The exemption:

- applies only to violations that occurred before or during the time NRCS is completing the evaluation
- does not apply to any violations that occur subsequent to NRCS completing the evaluation
- does not apply if FSA or NRCS determines the person employed, adopted, or participated in employing or adopting a scheme or device to evade the provisions of wetland conservation compliance
- does not apply if the required evaluation is delayed because of unfavorable site conditions for the evaluation site conditions for the evaluation of soils, hydrology, or vegetation.

Wetlands granted this exemption by NRCS are identified as CWTA (converted wetland technical assistance) on NRCS-CPA-026e.

**C Conservation Compliance Eligibility**

\*--Set to “certified” in the web-based subsidiary those producers who are determined to have wetlands CWIL or CWTA and certify to conservation compliance, for FCIC. This will communicate the producer’s eligibility to RMA. However, set the appropriate wetland violations tract data to “wetland converted after February 7, 2014” to communicate the producer’s ineligibility for FSA and NRCS, with RMA producer exception of “CWIL/CWTA” to communicate RMA eligibility.

If the producer is not associated with the farm/tract (no longer associated with the land) to which these wetland determinations apply, and they are certifying to compliance for FCIC, set to “past violation”, in the conservation compliance section of the web based subsidiary, with year, State, and county where the violation occurred to communicate ineligibility for FSA and NRCS.

Applicable affiliates are communicated NRCS and FSA ineligible with “Affiliate Violation” in AD-1026, section of subsidiary. They are communicated RMA eligible with “no” (ineligible with “yes”) in the Affiliate Violation for RMA portion of AD-1026 subsidiary, (“Is the Producer’s Affiliate Violation applicable to RMA?”).--\*

**Note:** Planting of CWIL/CWTA is a planting violation to FSA and NRCS, but not to RMA. This is communicated with “an agriculture commodity has been planted on a wetland converted after February 7, 2014”, and RMA producer exception of “CWIL/CWTA”.

**\*--234 Equitable Contribution for False Certification****A Equitable Contribution**

Equitable Contribution is a provision of the Agricultural Act of 2014 that establishes a penalty, when participants of Federal Crop Insurance fail to accurately certify their compliance with the WC provisions, and either convert a wetland, or plant on a converted wetland, determined  $CW \geq 14$ , after June 1, 2015. This provision applies only to producers who are participants in the Federal Crop Insurance program.

Equitable Contribution:

- will **not** apply to any WC violations that receive a good faith exemption
- is based only on Federal Crop Insurance premium subsidies
- only applies to converted wetlands or planted converted wetland violations for which appeal rights have been exhausted
- does **not** provide relief from wetland mitigation or restoration requirements for restoration of eligibility
- only applies to planting violations on  $CW \geq 14$  when no AD-1026 was filed (this will be rare).

**B Failure to Certify**

All participants requesting benefits subject to conservation compliance are required to self-certify their compliance. This includes reporting intended actions to FSA on question 7 of AD-1026. Failure to certify occurs when a participant is found to be in violation of the WC provisions and they did not correctly complete AD-1026 before performing wetland manipulations that resulted in a conversion. A check indicating “YES” on line 7 of AD-1026 is sufficient minimum documentation to consider a person properly certified.

In addition, failure to correctly certify occurs when no AD-1026 is filed and a wetland violation occurs. This is the only time an incorrect certification is considered applicable to a planted converted wetland determined  $CW \geq 14$ .--\*

## 302 Affiliated Persons – Determination and AD-1026 Requirement (Continued)

### C AD-1026 Filing Requirement for Affiliated Persons

All affiliated persons with farming interests must file AD-1026 before the producer requesting benefits is considered eligible.

**Note:** Affiliated persons are considered as having farming interests if the affiliated person is listed as owner, operator, tenant, or sharecropper on any farm or undeveloped land.

**Exception:** A spouse or minor child of the person requesting benefits is **not** required to file AD-1026, if both of the following apply for the spouse or minor child:

- does **not** have a farming interest as an individual or member of a joint operation separate from the person requesting benefits
- does **not** receive USDA benefits subject to conservation compliance under his or her individual ID number.

**Note:** RMA has a husband/wife exemption. Either spouse may insure all interest in the crop under 1 policy. A husband and wife have an interest in each other; therefore, a spouse can insure all of the land interests of the other spouse, unless proven to be legally separated. Spouses insuring with this RMA exemption are receiving a program benefit under their individual ID number and are required to file AD-1026.

**Example:** The husband files AD-1026. The wife's only farming interest separate from the husband is as a beneficiary of a trust. The trust files AD-1026. The wife is **not** required to be listed on the husband's AD-1026, Part A, item 4 and is **not** required to file AD-1026 as an individual, if she does **not** receive benefits under her individual ID number.

### D Affiliated Persons of Multi-County Producers

Affiliated persons of a multi-county producer must file AD-1026 in the FSA recording County Office designated for the affiliated person. Only the affiliated persons with farming interests are required to complete AD-1026.

**302 Affiliated Persons – Determination and AD-1026 Requirement (Continued)****\*--E SBI and Affiliated Persons**

A substantial benefit interest is an interest held by any person of at least 10 percent in the insured person.

**Example:** Two partnerships that each have a 50 percent interest in the insured person and each partnership is made up of 2 individuals, each with a 50 percent share in the partnership. Each individual would be considered to have a 25 percent interest in the insured person, and both the partnerships and the individuals would have SBI in the insured person.

There is not an AD-1026 certification to compliance filing requirement for SBI of an insured. However, if SBI has their own farming interest, of which they insure, they are required to file AD-1026 to remain eligible for their premium subsidy.

The rules for determining if a person has SBI in an insured and the rules for determining if a person is an affiliated person are different. A person can have SBI in an insured but not be an affiliate person to the insured. This paragraph and AD-1026 Appendix, item 7 shall be used to determine affiliated persons that are required to file an AD-1026 for conservation compliance.--\*

357 Preparation for Referral to NRCS (Continued)

**B County Office Referrals to NRCS**

\*--County Offices will prepare the necessary documents for referral to NRCS for HEL or--\* wetland determinations for land located in their counties according to the following table.

Task	Action
*--CLU Delineation	Boundaries for new breakings must be drawn out in CLU before submitting AD-1026 to NRCS. The proposed new boundaries must be delineated using existing imagery, producer provided information, or measurement service. At the time the producer notifies FSA that they are proposing to break out new ground, or remove trees, and FSA delineates that proposed boundary, it must not be coded as cropland with a 3-CM cropland indicator of "Yes" until it is known that the producer brought the land into production. Once it has been determined that the land has been brought into production, either when the producer reports the acreage to a crop, verified through new imagery, or verified through a field visit, the 3-CM indicator must be set to "Yes". All CLU's delineated for NRCS determination must be reviewed when new imagery is received to verify the accuracy of the delineations and can also tell that the land was brought into production.
Prepare copies of aerial imagery	<p>Prepare the following for required determinations.</p> <ul style="list-style-type: none"> <li>• List the tract number or numbers with the owner's name on the reverse side of the copy or attach a copy of the Farm Producer Data Report and circle applicable tract numbers.</li> <li>• On a tract map, identify fields requiring determinations - fields for which a "Yes" answer on AD-1026, Part B, item 6 or 7 (trees removal) applies.</li> <li>• If native vegetation conversion applies, according to subparagraph 17 A, identify acreage with "X".</li> <li>• Identify any drainage activity (item 7 tiling, ditching, etc.) completed or proposed by paper copy (no CLU) delineation)--*</li> </ul> <p><b>Note:</b> Determinations are needed for:</p> <ul style="list-style-type: none"> <li>• fields that either have been or will be planted to agricultural commodities</li> <li>• drainage activities that have <b>not</b> been previously evaluated by NRCS.</li> </ul>
Complete AD-1026, Part D, item 11	<p>On AD-1026, Part D, item 11:</p> <ul style="list-style-type: none"> <li>• enter the date AD-1026 is referred to NRCS</li> </ul> <p>•*--County Office employee responsible for the referral to NRCS will sign and date.</p>
Send to NRCS	Attach the prepared map to copies of AD-1026 and send to NRCS.--*

357 Preparation for Referral to NRCS (Continued)

C Example of AD-1026 Referral for Multi-County Producer

The following table provides an example of referring AD-1026 to NRCS for a multi-county producer.

**Situation:** Producer X has farming interests in Counties A, B, and C. County C is the recording County Office. The question in AD-1026, Part B, item 7A is answered “Yes”. County A, farm 200, tract 1025, field 1, is indicated on AD-1026, Part C.

Step	Action
1	County C makes a copy of AD-1026 and forwards to County A.
2	County A receives AD-1026 for Producer X from recording County C. County A shall: <ul style="list-style-type: none"> <li>• complete a farm photocopy for the field that needs a determination as listed in *--AD-1026, Part D--*</li> <li>• contact the producer, if additional information is needed</li> <li>• attach a farm photocopy to a copy of AD-1026, and send to NRCS.</li> </ul>
3	When NRCS determination is received, County A shall: <ul style="list-style-type: none"> <li>• *--record determination for the tract according to 3-CM or 10 CM--*</li> <li>• record NRCS determination in the Service Center GIS system</li> <li>• forward copies of NRCS-CPA-026e to recording County C.</li> </ul>

358-399 (Reserved)

502 Completing FSA-569 (Continued)

E NRCS Action on Referred FSA-569's

NRCS shall complete FSA-569, Part C according to the following table for determinations checked in FSA-569, Part B.

Step	Instructions for NRCS	
1	<b>IF...</b> access to the land was denied	<b>THEN...</b> NRCS employee shall: <ul style="list-style-type: none"> <li>• check (✓) the block in Part C to indicate that NRCS was refused access to the land to verify compliance</li> <li>• complete step 5 and immediately refer FSA-569 to FSA.</li> </ul>
	NRCS is allowed to complete determinations checked in Part B	go to step 2.
2	Check the final NRCS determination in Part C, item 1.	
3	Enter the field numbers for which the determination applies in Part C, item 2.	
4	Enter the acres for which the determination applies in Part C, item 3.	
5	NRCS employee shall: <ul style="list-style-type: none"> <li>• refer FSA-569 to FSA according to paragraph 501</li> <li>• sign and enter the referral date in Part C, item 4 before referring to FSA.</li> </ul>	

502 Completing FSA-569 (Continued)

F NRCS Determinations for FSA-569 Requests

Take action according to the following table for determinations made by NRCS for FSA-569 requests.

\*--Reconsideration, appeal, and mediation procedures for adverse determinations are in--\* 1-APP.

IF NRCS determines...	AND...	THEN...
HELCS compliance is met		update automated tract record according to 3-CM or 10-CM.
the area identified for verification of whether an agricultural commodity was planted on CW is determined <b>not</b> to be CW		
the area is <b>not</b> a wetland that was converted after November 28, 1990		
HELCS compliance is <b>not</b> met	the field is <b>not</b> planted to an agricultural commodity	refer FSA-569 back to NRCS to change their determination because HEL fields that are <b>not</b> planted to agricultural commodities do <b>not</b> require compliance with a conservation plan or system.  *-- <b>Note:</b> This does not apply if NRCS informs FSA the field is used to produce agricultural commodities and is required to have perennials within the conservation cropping sequence to meet a conservation system.
	the field is planted to an agricultural commodity  <b>Note:</b> This includes the fallow year for fields in a fallow rotation.	<ul style="list-style-type: none"> <li>NRCS will issue a preliminary technical determination to producers, and submit a copy to FSA</li> <li>FSA will determine producers--* who will be ineligible and to what extent according to Part 6</li> </ul>
the area identified for verification of whether an agricultural commodity was planted on CW is determined to be CW	the NRCS technical determination is final	<ul style="list-style-type: none"> <li>NRCS will hold FSA-569 until the NRCS technical determination becomes final. On the date the determination is final, NRCS will enter the date in item 10 and sign and date FSA-569, Part C, item 4 and refer to FSA for denial of benefits</li> </ul>
the area is a wetland that was converted after November 28, 1990		<ul style="list-style-type: none"> <li>FSA will immediately begin withholding benefits when NRCS reports the technical determination is final.</li> </ul>
access to the land was denied for making a compliance determination		take action according to paragraph 503.

**602 Determining Producers Who Are Ineligible (Continued)****D Group Wetland Projects**

The activities of a Water Resource District Board or similar entity will be attributed to the persons in the district who are assessed for the activities of the Water Resource Board or similar entity.

**Example:** If a Water Resource District Board constructs a drainage ditch, and a person's wetland is therefore converted, the person is considered to have caused or permitted the drainage. See subparagraph 218 B for producer eligibility requirements on land converted by a drainage district or similar entity.

**E Extent of Ineligibility of Affiliated Persons**

The extent of ineligibility determined according to this paragraph for the producer who violated is the same for the affiliated persons determined according to paragraph 302.

**Exception:** Business enterprises with members or shareholders who violate the benefits of the affiliated business enterprise must be reduced in proportion to the interest held in the business enterprise by the violating member or shareholder.

**Example:** Member A, who owns 25 percent of the shares in Corporation A, violates on his or her individual operation. Member A is ineligible for benefits. Benefits to affiliated person Corporation A must be reduced by 25 percent.

Currently there is not an automated process to make a percentage of an entity ineligible for those situations when a member of an entity violated HELC/WC provisions. Therefore, County Offices must multiply the percentage of the violating member's share of the entity by the amount of the payment. The nonautomated program code of XXAPPR (affiliated person payment reduction) must be used to reduce or collect back the payment.--\*

RMA SBI file has any member listed that has more than a 10 percent interest in the primary insured, but it does not have specific members' shares when an entity is the primary insured. In addition, CCC-901 may not be on file for these entities if they are only seeking RMA benefit. If a member of an entity is determined in violation, resulting in an affiliate violation to the insured entity, CCC-901 must be filed for a determination on this extent of ineligibility to be made for the reinsured crop insurance premium subsidy. If it is not filed, extent of ineligibility results in 100 percent ineligibility.

**F Updating Eligibility Record for Affiliated Persons**

If a producer is determined to be ineligible for program benefits because he or she is an affiliated person of a producer who has violated the HELC/WC program provisions, update the web-based subsidiary to "past violation" with year, State, and county where the violation occurred. Once appeal rights are exhausted according to subparagraph 601 B, the AD-1026 must be changed to "affiliate violation".

## 603 Landlord Exemption – HELC or WC Planting Violation

### A Landlord Exemption Rule

Ineligibility of a tenant or sharecropper for benefits shall **not** cause a landlord to be ineligible for program benefits on land other than land in which the violating tenant or sharecropper has an interest.

The landlord exemption shall **not** apply if the production of an agricultural commodity on \*--HEL or converted wetland is required under the terms and conditions of an agreement between the landlord and tenant or sharecropper.

Following are landlord exemption provisions for Federal Crop Insurance participants.

- The premium subsidy shall be reduced rather than a loss of all premium subsidy.
- The percentage reduction will be determined by comparing the total number of cropland acres on the farm where the violation occurred to the total number of cropland acres on all farms in which the landlord (as owner or operator) has an interest.
- The percentage reduction will be applied to all policies and plans of insurance of the landlord in the reinsurance year subsequent to the reinsurance year in which the tenant or sharecropper is determined ineligible.
- If the landlord and tenant or sharecropper are insured under the same policy (as determined by RMA), the landlord will be ineligible for premium subsidy on that policy in lieu of a percentage reduction on that policy.
- Is only applicable to planting violations on converted wetlands determined CW  $\geq$  2014.--\*

**Note:** All references to landlord exemptions in this handbook shall also include landowners.

### B When Landlord Exemption Applies

The landlord exemption shall be applied according to AD-1026C, page 2. See subparagraph G.

**Note:** A landlord who converts a wetland on or after November 28, 1990, does **not** qualify for a landlord exemption, but may still maintain eligibility for federal crop insurance premium subsidies if converted through February 7, 2014.

### C Updating Eligibility Record

If a producer is granted an exemption under the landlord exemption rule, update the “HEL  
\*--Producer Exception” field for the farm or tract, as applicable, according to 3-CM or 10-CM by selecting “Landlord/Tenant” from the drop-down box.--\*

## 633 Mitigation Activities for Good Faith Approvals

### A Monitoring Mitigation Plan Activities

NRCS is responsible for conducting follow-up inspections and monitoring progress toward completing activities required in a wetland mitigation plan required for reinstatement of eligibility under the good faith provision.

### B Mitigation Plan Requirements Not Met

If terms of the restoration or mitigation plan/agreement are violated, then NRCS will request FSA-569 from FSA. The good faith waiver will be invalidated and the converted wetland for which it applied will be relabeled CW+year (the year of the original conversion).

\*-- The wetland determination remains as CW or CW + year until NRCS determines that wetland has been restored or mitigated (farm/tract producer exceptions of “good faith” restores a producer’s eligibility during this time period). After the wetland has been restored or mitigated NRCS issues applicable wetland determination (MIW, RVW, or RVW + year).

If NRCS determines that the producer is **not** fully applying the required plan, after restored or mitigated, or if conditions that must be met after the first year are **not** met, such as hardwood survival or control of woody or exotic vegetation, NRCS will use FSA-569 to indicate that the producer is **not** in compliance with the provisions of his or her good faith waiver. The waiver will be invalidated and the converted wetland for which it was applied will revert to the previous CW+year label.

If NRCS determines that the wetland was not restored within the statutorily required 1-year time period, a new FSA-569 does not need to be issued. There is an existing FSA-569 that already determines the acreage as CW or CW + year.

If NRCS determines that the mitigation plan requirements are **not** met because of violation of the restoration or mitigation, or not meeting the 1 year restoration requirement:

- notify producers, who were approved for good faith subject to the mitigation plan, that the determination is rescinded because mitigation plan requirements were **not** met
- request a refund of benefits that were reinstated for the applicable crop year
- apply ineligibility determination that existed before the good faith approval.

**Note:** The producer has 2 years from the first June 1 after the restoration/mitigation is signed (indicated in AD-1069, item 23B) for CW+2014 or later before being determined ineligible for RMA. This is communicated by setting the RMA farm/tract producer exception to “Good Faith RMA” if the 1-year restoration/mitigation requirement is not met for FSA and NRCS.--\*

**633 Mitigation Activities for Good Faith Approvals (Continued)**

**C Conversion After Wetland Is Restored**

If a producer converts a wetland that has been restored according to a good faith mitigation plan after NRCS determines that all required restoration activities are completed:

- \*--the good faith approval will **not** be rescinded--\*
- NRCS will report the noncompliance on FSA-569 as a new CW+year determination
- make ineligibility determinations according to this part.

**634-636 (Reserved)**

### Section 3 Updating Producer Eligibility Record

#### 641 Producer Eligibility File

##### A Accessing Producer's Eligibility Record

\*--County Offices must follow the procedure in:

- 3-CM or 10-CM to update farm/tract data
- 3-PL (Rev. 2) to access and update producer eligibility records.

Producer eligibility is based upon the following:

- certification of compliance on AD-1026
- summarization of HELC, converted wetland, and planted converted wetland exemptions in farm records.

See Exhibit 5 for additional information on recording applicable subsidiary, farm records, and farm records producer exemptions.--\*

##### B Producer AD-1026 Certification

To be eligible for certain USDA program benefits, a producer must certify compliance on AD-1026. Record the producer's certification in the eligibility file according to 3-PL (Rev. 2).

##### C Tract Data

Producer eligibility for conservation compliance purposes is also based upon the data recorded within the web-based system for all tracts associated with the producer. NRCS HELC/WC tract determinations are recorded according to 3-CM or 10-CM

The eligibility record for an individual producer reflects the overall status for HELC and WC compliance.

**Example:** The eligibility record for a producer will be automatically updated as "Not Compliant" if the producer is associated with at least one HEL tract that is in violation of the conservation compliance provisions. The producer will be ineligible for USDA program payments even though other tracts associated with the producer are in compliance.

**641 Producer Eligibility File (Continued)****D Establishing Farm Records and Producer Information in Business Partner**

Producers that are not currently in farm records, and check either box A or B on AD-1026, item 5, do not need to have farm records established. Load these producers in Business Partner. An eligibility record is automatically created when the producer is loaded in Business Partner. Update the eligibility record to show AD-1026 has been filed. If these producers subsequently apply to participate in FSA or NRCS programs, farm records would need to be established at that time.

**Note:** Use AD-2047 according to 1-CM, paragraph 198 to collect producer information for \*--producers who need a record established in Business Partner to capture recording of AD-1026 (information collection for AD-1026 is exempt from the Paperwork Reduction Act).--\*

All other producers must have farm records established to which their certification of conservation compliance applies. This applies regardless if the producer is not an FSA farm program participant and certifying to conservation compliance for NRCS, RMA, or FSA farm loans benefits. A certification by a producer without farm records could allow a circumvention of conservation compliance provisions. AD-1026 certification of compliance is not complete until the farm records are established and will not be recorded in subsidiary with a certification date until acceptable documentation is provided by the producer.

The only exceptions to this are the RMA husband/wife and revocable trust exemptions discussed in subparagraph 336 A, the RMA sole proprietorship exemption discussed in paragraph 337, and the sugar beet cooperative entities formed for RMA purposes discussed in paragraph 338. Affiliation (AD-1026, item 4) ties those producers to a certification of compliance with established farm records.

**642-699 (Reserved)**

## Section 2 Appeals and Equitable Relief

### 811 General Appeal Provisions

#### A Right of Appeal

\*--Any person who receives an adverse determination from a USDA Agency has the opportunity to appeal the determination according to 1-APP. The following language must be incorporated into all conservation compliance adverse determinations:

Equitable relief does not apply to highly erodible land conservation (HELIC) and wetlands conservation (WC) provisions because they are not a covered program falling under equitable relief consideration. Statutory provisions provide NAD with authority to grant equitable relief in cases involving covered programs administered by the Secretary of Agriculture in the same manner and to the same extent as provided by the Secretary. *See 7 U.S.C. §§6998(d) and 7996(b)*. Equitable relief may be appropriate if a participant, despite failing to comply fully with the requirements of a covered program, made a good faith effort to comply fully with the requirements of the program. *See 7 U.S.C. §7996(b)(2)*. Highly erodible land and wetland conservation requirements under subtitle B or C of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) are not a covered program for equitable relief purposes. *See 7 U.S.C. §7996(a)(2)(A)(ii)*.

### 812 Equitable Relief

#### A Misaction/Misinformation by FSA

Equitable relief, for failure to fully comply, does not apply to highly erodible land conservation (HELIC) and wetlands conservation (WC) provisions because they are not a covered program falling under equitable relief consideration. If it is determined misaction/misinformation by FSA, caused ineligibility by such person in good-faith reliance on the erroneous advice, information, or action, FSA may make such benefits available to the extent of similar relief allowed under 7 CFR part 718.

#### B Misaction/Misinformation by NRCS

If it is determined by the NRCS State Conservationist that the action or advice of an NRCS employee caused a producer to be considered in violation of HELIC or WC provisions, then the resulting outcome is reflected in the technical determination by NRCS.--\*



## Reports, Forms, Abbreviations, and Redelegations of Authority

### Reports

None

### Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification	306	Text, Ex. 5
AD-1026 Appendix	Appendix to Form AD-1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification	328	303, 304, 306
AD-1026B	Highly Erodible Land Conservation Exemption Request	604	306, 703
AD-1026C	Landlord or Landowner Exemption Request	603	306, 602
AD-1026D	Relief for Undue Economic Hardship Request Highly Erodible Land Conservation	204	
AD-1026E	Tenant/Sharecropper Exemption for Wetland Planting Violation on CW $\geq$ 2014	611	611
AD-1068	Request for Good Faith Relief – Highly Erodible Land Conservation (HELC) Violation	622	616, 621, 623, 702, 703
AD-1068A	Distribution of Graduated Payment Reduction (GPR) (Supplemental to AD-1068)	623	616
AD-1069	Request for Good Faith Relief – Wetland Conservation (WC) Violation	632	616, 631, 703
CCC-901	Members Information Agricultural Act of 2014		339, 602
CCC-902	Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years		339
FSA-156EZ	Abbreviated 156 Farm Record and Tract Listing		439
FSA-321	Finality Rule and Equitable Relief		340
FSA-492	Data Needed for Third-Party Determinations	220	219, 221
FSA-493	Highly Erodible Land Conservation/Wetland Conservation Violation Data	702	700, 701, 703, 750
FSA-569	NRCS Report of HELC and WC Compliance	502	Text
FSA-577	Report of Supervisory Check		17
NRCS-CPA-026	Highly Erodible Land and Wetland Conservation Determination		400, 402, 422
NRCS-CPA-026e	Highly Erodible Land and Wetland Conservation Determination	400	Text
NRCS-CPA-027	Certification of Highly Erodible Land Conservation Plan(s) and System(s)		400-402

## Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

## Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

<b>Approved Abbreviation</b>	<b>Term</b>	<b>Reference</b>
1985 Act	Food Security Act of 1985	1, 2, 200, 210, 300, 604
AIP	approved insurance provider	301, 336, 341
AW	artificial wetland	212, 226, 421, 422, Ex. 2
CD	Conservation District	19, 200, 203, Ex. 2
CIMS	Comprehensive Information Management System	336, 621
CW	converted wetland (converted after December 23, 1985)	210, 218, 421, 502, 633, 701, 702, Ex. 2
FW	farmed wetland	210, 226, 227, 421, 422, Ex. 2
FWP	farmed wetland pasture	226, 227, 421, Ex. 2
GPR	graduated payment reduction	616, 621-623, 702
MW	minimal effect wetland	212, 213, 218, 421, Ex. 2
NHEL	not highly erodible land	201, 202, 400, 421
NW	nonwetland	212, 421
OO	owner and operator	702
OP	operator	702
OT	tenant or sharecropper	702
OW	owner	702
PC	prior converted wetland (converted before December 23, 1985)	210, 226, 421, 422, Ex. 2
SBI	substantial benefit interest	302, 340, 341
SWCD	Soil and Water Conservation District	204, 622, 631, 632
W	wetland	Text, Ex. 2

## Delegations of Authority

None

**\*--Violations Ineligibility for FSA, NRCS and RMA (Reinsured Crop Insurance Premium Subsidy)**

**A Information for Identifying Violations**

Following is information for identifying violations in farm records and subsidiary.

**Note:** See Subparagraph 17 D for Farm Loans ineligibility.

	<b>Converted Wetland – CW + Year (CW ineligible any year planted to an agricultural commodity)</b>	<b>Planting on Converted Wetland (CW or CW + Year)</b>	<b>HELCS</b>
FSA and NRCS Programs	<p>Producer(s) on the tract, in the year of the conversion, ineligible after NRCS returns FSA-569 with final technical determination, also each subsequent year until restored or mitigated (<b>must</b> be restored or mitigated by Jan. 1 of the current crop year to be eligible for that crop year).</p> <p>Ineligibility determined from the tract level WL violations, as applicable, for each applicable year (tract level WL violations of “Wetland converted between December 23, 1985, and November 28, 1990 does not trigger ineligibility).</p> <ul style="list-style-type: none"> <li>Wetland converted after November 28, 1990, and before February 8, 2014.</li> <li>Wetland converted after February 7, 2014.</li> </ul>	<p>Producer(s) determined to share in the crop, according to subparagraph 602 A, are determined ineligible, after NRCS returns FSA-569, for the year(s) the commodity crop (crops requiring annual tillage, including one pass planting operations and sugar cane) was planted on the acreage determined CW or CW + year.</p> <p>Ineligibility determined from the tract level CW violations, as applicable, for each applicable year.</p> <ul style="list-style-type: none"> <li>An agricultural commodity has been planted on a wetland converted before February 8, 2014.</li> <li>An agricultural commodity has been planted on a wetland converted after February 7, 2014.</li> </ul>	<p>Producer(s) determined to share in the crop, according to subparagraph 602 A, are determined ineligible, after NRCS determined by FSA-569, “the field does <b>not</b> meet the requirements of HELC provision” for the applicable year.</p> <p>Ineligibility determined from the tract level HEL determinations “HEL: conservation system is not applied” (these violations are year to year but continue to roll as a producer determined out of compliance remains so until NRCS field review proves the producer is back into compliance).</p> <p>Any producer in affiliate violation is not on the tract record and is determined as ineligible with “affiliate violation” (AD-1026, Section of Subsidiary) for the applicable year.</p>

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**\*--Violations Ineligibility for FSA, NRCS and RMA (Reinsured Crop Insurance Premium Subsidy) (Continued)**

**A Information for Identifying Violations (Continued)**

	<b>Converted Wetland - CW + Year (CW ineligible any year planted to an agricultural commodity)</b>	<b>Planting on Converted Wetland (CW or CW + Year)</b>	<b>HELC</b>
	<p>For any year a producer is ineligible, and they are no longer on the tract record, because of a subsequent year reconstitution, ineligibility is determined from the conservation compliance section of subsidiary; Farm/Tract Eligibility “Past Violation”, indicating year of violation and state and county where violation occurred.</p> <p>Any producer in affiliate violation is not on the tract record and is determined as ineligible with “affiliate violation” (AD-1026 Section of Subsidiary) for each applicable year.</p> <p>All other producers, that have AD-1026 on file, with CW or CW + 2013 or earlier, are to remain “certified” in the AD-1026 Section of Subsidiary to communicate RMA eligibility (number 6 of the appendix of AD-1026). See paragraph 231.</p> <p>Producers with CW + 2014 or later need to be changed to “Not Filed” for AD-1026 after their RMA ineligibility kicks in.</p>	<p>Any producer in affiliate violation is not on the tract record and is determined as ineligible with “affiliate violation” (AD-1026, Section of Subsidiary) for each applicable year.</p> <p>All other producers with AD-1026 on file (planting violations on CW or CW + 2013 or earlier (not applicable to RMA) or CW + 2014 or later (not applicable to RMA until the reinsurance year after appeal rights are exhausted)) remain “certified” in the AD-1026, Section of Subsidiary to communicate RMA eligibility (number 6 of the appendix of AD-1026). See paragraph 231.</p>	<p>All other producers with AD-1026 on file remain “certified” in the AD-1026 section of subsidiary to communicate RMA eligibility (AD-1026, number 6 of the appendix). See subparagraph 601 B.</p>

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**\*--Violations Ineligibility for FSA, NRCS and RMA (Reinsured Crop Insurance Premium Subsidy) (Continued)**

**A Information for Identifying Violations (Continued)**

	<b>Converted Wetland - CW + Year (CW ineligible any year planted to an agricultural commodity)</b>	<b>Planting on Converted Wetland (CW or CW + Year)</b>	<b>HELC</b>
RMA	<p>Producer(s) on the tract, in the year of conversion for CW + 2014 or later, ineligible the reinsurance year after the appeal rights are exhausted (June 1 the administrative determination date to the reinsurance year that begins on July 1) to the technical determination. Ineligibility continues for each subsequent reinsurance year until the wetland is restored or mitigated by June 1 before the eligible reinsurance year.</p> <p>Ineligibility determined from the tract level CW violations (years 2014 and subsequent).</p> <ul style="list-style-type: none"> <li>Wetland converted after February 7, 2014.</li> </ul> <p>With applicable producer exception of “appeal rights exhausted”, with applicable date (such as on or before June 1, 2020 for reinsurance year 2021 that begins July 1, 2020).</p>	<p>Producer(s) determined to share in the crop, according to subparagraph 602 A, are determined ineligible the reinsurance year after the appeal rights are exhausted (June 1 the administrative determination date to the reinsurance year that begins on July 1) to a determination a commodity crop (crops requiring annual tillage, including one pass planting operations and sugar cane) was planted on the acreage determined CW + 2014 or later.</p> <p>Ineligibility determined from the tract level CW violations (years 2014 and subsequent).</p> <ul style="list-style-type: none"> <li>An agricultural commodity has been planted on a wetland converted after February 7, 2014.</li> </ul>	<p>Producer(s) determined to share in the crop, according to subparagraph 602 A, are determined ineligible, the reinsurance year after the appeal rights are exhausted (June 1 the administrative determination date to the reinsurance year that begins on July 1) to a determination “the field does <b>not</b> meet the requirements of HELC provision”.</p> <p>Ineligibility determined from the tract level HEL determinations “HEL: conservation system is not applied.” (such as in the 2018 – 2020 records for reinsurance year 2021 that begins July 1, 2020).</p> <p>With applicable producer exception of “appeal rights exhausted” with applicable date (such as June 2, 2019 through June 1, 2020, for reinsurance year 2021 that begins July 1, 2020).</p>

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**\*--Violations Ineligibility for FSA, NRCS and RMA (Reinsured Crop Insurance Premium Subsidy) (Continued)**

**A Information for Identifying Violations (Continued)**

	<b>Converted Wetland - CW + Year (CW ineligible any year planted to an agricultural commodity)</b>	<b>Planting on Converted Wetland (CW or CW + Year)</b>	<b>HELC</b>
RMA	<p>For any year a producer is ineligible, and they are not on the tract record, because of subsequent year reconstitution, ineligibility is communicated in the conservation compliance section of subsidiary; Farm/Tract Eligibility “Past Violation”, indicating year of violation (only applicable to RMA if 2014 or later) and State and county where violation occurred.</p> <p>Any producer in affiliate violation is not on the tract record and is determined as ineligible with “affiliate violation” (AD-1026 Section of Subsidiary) and a “yes” that the affiliate violation is applicable to RMA, in the Affiliate Violation for RMA portion of AD-1026 subsidiary, for each applicable year (“yes” is not to be set on CW + 2013 or earlier or until the reinsurance year after the appeal rights have been exhausted for CW + 2014 or later) See paragraph 231.</p>	<p>with applicable producer exception of “appeal rights exhausted” with applicable date (such as June 2, 2019 through June 1, 2020, for reinsurance year 2021 that begins July 1, 2020).</p> <p>Any producer in affiliate violation is not on the tract record and is determined as ineligible with “affiliate violation” (AD-1026 Section of Subsidiary) and a “yes” that the affiliate violation is applicable to RMA, in the Affiliate Violation for RMA portion of AD-1026 subsidiary, for each applicable year (“yes” is not to be set on CW + 2013 or earlier planting violations, or until the reinsurance year after the appeal rights have been exhausted for CW + 2014 or later) See paragraph 231.</p>	<p>Any producer in affiliate violation is not on the tract record and is determined as ineligible with “affiliate violation” (AD-1026, Section of Subsidiary) and a “yes” that the affiliate violation is applicable to RMA, in the Affiliate Violation for RMA portion of AD-1026 subsidiary, for the applicable year (“yes” is not to be set until the reinsurance year after the appeal rights have been exhausted). See subparagraph 601 B.</p>

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**\*--Violations Ineligibility for FSA, NRCS and RMA (Reinsured Crop Insurance Premium Subsidy) (Continued)**

**B Applicable Producer Exceptions That Override a Producer’s Ineligibility**

Applicable producer exceptions that override a producer’s ineligibility (farm producer exceptions operators, tract producer exceptions, owners and other producers). Affiliates are not on the applicable farm records, so their eligibility needs to be determined through applicable subsidiary designations.

	<b>Converted Wetland - CW + Year</b>	<b>Planting on Converted Wetland (CW or CW + Year)</b>	<b>HELIC</b>
FSA, NRCS, and RMA	<p>Good faith – designated for each applicable year a good faith determination applies according to paragraphs 631 and 632. The year subsequent restoration or mitigation is determined completed WL tract level violation designation should be removed.</p> <p>New Producer after CW - designated for the year an owner or operator is associated to tract with violation prior to the year they became associated to it (tract level wetland violation remains set).</p> <p>No Association to the violation – designated for operators that are granted relief according to subparagraph 602 C.</p>	<p>Good faith – designated for each applicable year a good faith determination applies according to paragraphs 631 and 632.</p>	<p>Landlord/Tenant – designated when partial compliance is determined applicable according to paragraphs 603-605.</p> <p><b>Note:</b> Only communicates partial compliance.</p> <p>Good faith – designated when good faith relief is applicable according to paragraphs 621-623.</p> <p>Economic Hardship – designated when economic hardship according to paragraph 204 applies.</p> <p>No Association to violation – designated when it is determined a producer is not associated to the HEL violation according to subparagraph 602 A.</p>

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**\*--Violations Ineligibility for FSA, NRCS and RMA (Reinsured Crop Insurance Premium Subsidy) (Continued)**

**B Applicable Producer Exceptions That Override a Producer's Ineligibility (Continued)**

	<b>Converted Wetland – CW + Year</b>	<b>Planting on Converted Wetland (CW or CW + Year)</b>	<b>HELIC</b>
	<p>Wetland Restored – designated the first year a wetland in violation comes back into compliance, with NRCS determined applied restoration or mitigation plan, applicable when good faith was not determined. The year subsequent the WL tract level violation designation should be removed.</p> <p><b>Note:</b> Third Party exemptions according to paragraphs 218-221 are not to be designated with a producer exception. Resulting NRCS determination of TP is not a wetland violation that should be recorded the WL tract level designation.</p>		

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**\*--Violations Ineligibility for FSA, NRCS and RMA (Reinsured Crop Insurance Premium Subsidy) (Continued)**

**B Applicable Producer Exceptions That Override a Producer’s Ineligibility (Continued)**

	<b>Converted Wetland – CW + Year</b>	<b>Planting on Converted Wetland (CW or CW + Year)</b>	<b>HELIC</b>
RMA Only	<p>Has Appeal Rights – designated when the final technical determination is still in appeal.</p> <p>Appeal Rights Exhausted – designated when the appeal rights to the technical determination are exhausted. Determines a producer ineligible unless one of the following producer exceptions are designated as applicable.</p> <ul style="list-style-type: none"> <li>• 1 RY Exemption – all producers have 1 reinsurance year to request a restoration or mitigation plan before being determined RMA ineligible (subparagraph 232 A).</li> <li>• 2 RY Exemption – producer new to conservation compliance because of the reinsured crop insurance premium subsidy has 2 reinsurance years to request a restoration or mitigation plan (subparagraph 232 B).</li> </ul>	<p>Has Appeal Rights – designated when the final technical determination is still in appeal.</p> <p>Appeal Rights Exhausted – designated when the appeal rights to the technical determination are exhausted. Determines a producer ineligible unless one of the following producer exceptions are designated as applicable.</p> <ul style="list-style-type: none"> <li>• CWIL/CWTA – producers associated to a tract with planting on a converted wetland payment in lieu (CWIL) or converted wetland technical assistance (CWTA) (paragraph 233).</li> <li>• Good Faith RMA – producers that did not meet the 1-year restoration or mitigation plan statutorily required for FSA and NRCS good faith eligibility (statutorily designated 2 reinsurance years for RMA).</li> </ul>	<p>Has Appeal Rights – designated when the final technical determination is still in appeal.</p> <p>Appeal Rights Exhausted – designated when the appeal rights to the technical determination are exhausted. Determines a producer ineligible unless one of the following producer exceptions are designated as applicable.</p> <ul style="list-style-type: none"> <li>• New RMA Producer – producers that qualify for the 5-reinsurance year exemption (subparagraph 207 B).</li> <li>• 2 RY Exemption – producers that qualify for the 2-reinsurance year exemption (subparagraph 207 D).</li> </ul>

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**\*--Violations Ineligibility for FSA, NRCS and RMA (Reinsured Crop Insurance Premium Subsidy) (Continued)**

**B Applicable Producer Exceptions That Override a Producer’s Ineligibility (Continued)**

	<b>Converted Wetland - CW + Year</b>	<b>Planting on Converted Wetland (CW or CW + Year)</b>	<b>HELC</b>
	<ul style="list-style-type: none"> <li>• CWIL/CWTA – producers associated to a tract with a converted wetland payment in lieu (CWIL) or converted wetland technical (CWTA) assistance (paragraph 233).</li> <li>• Good Faith RMA – producers that did not meet the 1-year restoration or mitigation plan statutorily required for FSA and NRCS good faith eligibility (statutorily designated 2 reinsurance years for RMA).</li> </ul>		

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