

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency

Washington, DC 20250

**Highly Erodible Land Conservation and
Wetland Conservation Provisions
6-CP (Revision 3)**

Amendment 2

Approved by: Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 3 A has been amended to reflect programs exempt from HELC/WC.

Subparagraph 18 B has been amended to correct acronyms.

Subparagraph 401:

- A has been amended delete dealing with joint ventures because it is not necessary
- D has been added to provide information about joint ventures without employer ID numbers
- E has been added to provide information about revocable trusts without ID numbers.

Subparagraph 402 D has been deleted to reflect the discontinued required use of AD-1026A.

Subparagraph 403 D has been deleted because it was a duplicate of subparagraph 470 A.

Subparagraph 429 C has been amended to clarify instructions for AD-1026, item 8.

Subparagraph 430 C has been added to reflect NRCS's ability to access and print AD-1026A.

Subparagraph 457 A has been amended to remove the requirement of sending a hard copy of AD-1026A since each office has the ability to print current AD-1026's.

Subparagraph 457 B has been amended to remove the following:

- reference to 1981 through 1985 cropping history since the related exemption is no longer applicable
- requirement of forwarding copies of AD-1026A to NRCS

Amendment Transmittal (Continued)

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3 Applicability

A Program Applicability

The provisions of the handbook apply to all payments, loans, or other benefits under * * *
*--programs administered by FSA and NRCS with the following exceptions:

- FSA exempt programs:
 - loans for storage facilities (HELC compliance provisions only)
 - storage payments for agricultural commodities by CCC (HELC compliance provisions only)
- NRCS exempt programs:
 - Agriculture Management Assistance Program
 - Emergency Watershed Protection Program
 - Healthy Forests Restoration Program.

Federal Crop Insurance programs administered by RMA are also exempt for the HELC/WC provisions.--*

B Person Applicability

The provisions of this handbook apply to any individual, legal entity, business enterprise, State, political subdivision, or agency which requests payments, loans, or other benefits subject to the provisions of this handbook and the affiliates of such persons as defined in this handbook.

3 Applicability (Continued)

C Land Applicability

If a person request any payments, loans, or other benefits subject to the provisions of this handbook, the provisions of this handbook apply to all land owned by the person or the person's affiliate or affiliates and all land on which the person or person's affiliate is a producer. This includes land located anywhere in the United States and is without regard to whether payments, loans, or other benefits are actually received for such land. It also includes land located in the following:

- American Samoa
- Commonwealth of Northern Marianna Islands
- Commonwealth of Puerto Rico
- District of Columbia
- Federated States of Micronesia
- Guam
- Republic of the Marshall Islands
- Republic of Palau
- Virgin Islands of the United States.

4-16 (Reserved)

17 FSA Responsibilities (Continued)**E Documenting County Office Actions**

If actions or facts are developed that should be made part of the written record, then the County Office shall record the facts in either of the following ways:

- on the document involved
- by attaching a statement to the document.

Note: The County Office employee who takes the actions or records the facts, etc., shall sign and date the document.

F Documenting COC Determinations

Any of the following is acceptable documentation of COC action about HELC and WC determinations:

- notation on the front or back of the document describing COC's decision signed by a COC member
- a statement signed by the COC member and attached to the document
- a statement in the COC minutes cross-referencing the document.

G DD Responsibilities

Each year DD's shall:

- review FSA-577 and employee spot checks on compliance activities to ensure that each employee responsible for conservation compliance receives additional training if the employee spot check indicates that the quality of work is unacceptable
- report action taken to correct deficiencies that are found to the State Office.

H Signature Authority

Follow 1-CM, Part 25 for signature and authorization provisions.

18 NRCS Responsibilities

A Determinations

NRCS will:

- administer the technical aspects of HELC and WC provisions through the State Conservationist and representatives
- determine whether the land is predominantly HEL on a particular field
- determine whether the land is wetland and if the production of an agricultural commodity is possible:
 - as a result of a natural condition
 - without producer action that destroys a natural wetland characteristic.

--B HELC Provisions--

NRCS will:

- determine whether a producer is doing either of the following:
 - actively applying a conservation system that is based on the local NRCS technical guide, as approved
 - using a conservation system determined to be adequate for producing an * * * agricultural commodity on HEL
- ensure that a conservation plan is developed by NRCS and signed by the party receiving a good faith exemption before any benefits being restored and/or paid.

Part 4 AD-1026, AD-1026 Appendix, and AD-1026A**Section 1 AD-1026 Requirements****400 Overview****A Introduction**

The 1985 Act, as amended, requires that producers who request certain USDA program benefits (see subparagraph 3 A) comply with HELC and WC provisions to be eligible for such benefits. Certification of compliance is required on AD-1026 for programs subject to these provisions to:

- inform the producer of the requirements to comply with HELC and WC provisions
- keep track of affiliated persons who are required to comply with the conservation compliance provisions by listing them on AD-1026
- serve as a means to determine whether the producer is in compliance and eligible for benefits
- obtain a signed certification that HELC and WC provisions will not be violated
- provide a means for making referrals to NRCS for determinations.

B Importance of Accurate AD-1026 Certification

Before producers are allowed to certify on AD-1026's, County Offices shall make every effort to ensure that producers understand:

- HELC and WC requirements
- that an incorrect certification can result in loss of all USDA benefits earned by the producer and the producer's affiliated persons.

401 AD-1026 Filing Requirements

A Who Must File AD-1026

AD-1026 certification is required for each producer who requests benefits under a program covered by HELC and WC provisions and their affiliates with farming interests.

Use the following to determine who shall sign AD-1026 certification.

* * *

Refer to 1-CM for procedure on authorized signatures.

IF the producer filing AD-1026 is...	THEN AD-1026 certification shall be signed by...
an individual	either of the following: <ul style="list-style-type: none"> • individual • authorized representative.
a partnership (all types)	authorized representative of the partnership.
a joint venture, including Indian tribal ventures	either of the following: <ul style="list-style-type: none"> • authorized representative of the joint venture • responsible official of the Indian tribal council. <p>Note: If a responsible official of the Indian tribal council signs AD-1026, each member of the tribal venture will not be required to file AD-1026.</p>
an Indian with a temporary ID number and business type of “Indians Represented by BIA”	responsible official of BIA. <p>Note: If a responsible official of BIA signs AD-1026, each member of the tribal group will not be required to file AD-1026.</p>
government entity	authorized representative of the entity.
a corporation or LLC	authorized representative of the corporation or LLC.
an estate	authorized representative of the estate.
a trust (all types)	authorized representative of the trust.

401 AD-1026 Filing Requirements (Continued)**B Affiliated Persons**

Affiliated persons of the producer who requests benefits must file AD-1026 according to AD-1026, page 3 and subparagraph 402 B.

C Updating AD-1026 Field in Eligibility File

County Offices shall update the AD-1026 field in the web-based eligibility system according to 3-PL.

***--D Joint Ventures Without ID Numbers**

For joint ventures requesting program benefits that do not have an IRS employer ID number, the members of the joint venture shall be considered the producers requesting benefits.

AD-1026 must be filed by each member of the joint venture that has a farming interest. Affiliates of the members with farming interests must also file AD-1026. Since the AD-1026 member certification statement “includes all land in which [the member has] or will have an interest”, there is no need to obtain a separate AD-1026 from the joint venture.

E Revocable Trusts Without Employer ID Numbers

For revocable trusts requesting program benefits that do not have an IRS employer ID number, the following shall be required to file AD-1026:

- the grantor of the trust
- all beneficiaries of the trust.

Affiliates of the beneficiaries and grantors with farming interests must also file AD-1026.

Since the AD-1026 certification statement by the grantor and beneficiaries “includes all land in which [the grantor or beneficiary has] or will have an interest”, there is no need to obtain a separate AD-1026 from the trust.--*

402 Affiliated Persons

A Overview

The ineligibility for benefits of a producer under the provisions of this handbook shall also resulting in the ineligibility of the producer’s “affiliated person”.

B Determining Affiliated Persons

Determine affiliated persons when producers request benefits for programs that require compliance with HELC and WC provisions according to the following.

IF the producer requesting benefits is...	THEN the affiliated persons are...
individual	<ul style="list-style-type: none"> • spouse • minor children • estates, trusts, partnerships, and joint ventures, except Indian tribal ventures, in which the individual filing or the individual’s spouse or minor children have an interest • corporations that the individual filing or the individual’s spouse or minor children have more than 20 percent interest. <p>Note: If the individual filing is a minor child, affiliates also include the father and mother or the guardian of the child.</p>

402 Affiliated Persons (Continued)

B Determining Affiliated Persons (Continued)

IF the producer requesting benefits is...	THEN the affiliated persons are...
<ul style="list-style-type: none"> • general partnership • joint venture • limited partnership • limited liability companies • estate • revocable trust • irrevocable trust 	<p>first level members of the entity.</p> <p>Example: The members of Trust A are Partnership A and Estate A. The affiliates of Trust A are:</p> <ul style="list-style-type: none"> • Partnership A • Estate A. <p>Note: The members of Partnership A and heirs of Estate A are not affiliates of Trust A.</p>
<p>corporation</p>	<p>first level members with more than 20 percent interest in the corporation.</p>
<ul style="list-style-type: none"> • Indian tribal venture • State • charitable organizations and churches • county • city • public school 	<p>none.</p> <p>These entities are separate from each other for eligibility purposes if they have a separate tax ID number.</p> <p>Example: If a State Department of Natural Resources has its own tax ID number, other Departments within that State government are not considered affiliates.</p>

Note: Affiliated person determinations shall be made to reflect the status as of April 1 of the applicable year. If the status changes after April 1, a less restrictive affiliated person determination shall not apply until the next year.

402 Affiliated Persons (Continued)**C AD-1026 Filing Requirement for Affiliated Persons**

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

Note: Affiliates are considered as having farming interests if the affiliate's ID number 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 shall not be 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 program benefits under his or her individual ID number.

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 shall file AD-1026. The wife is not required to be listed on the husband's AD-1026, item 8 and shall **not** be required to file AD-1026 as an individual, if she does not receive benefits under her individual ID number.

* * *

D Affiliates of Multi-County Producers

Affiliates of a multi-county producer shall file AD-1026 in the FSA recording County Office designated for the affiliate. Only the affiliates as determined on AD-1026, page 3, with farming interests are required to complete AD-1026.

403 Filing AD-1026

A Overview

Multi-county producers are required to file a single AD-1026 covering all of their farming interests within the United States and covered territories. AD-1026 shall be filed in the producer's designated recording County Office as determined by 3-PL. The recording County Office will update the producer's eligibility files including a record of filing the AD-026 certification.

Tract records, including the recording of NRCS HEL and wetland determinations must be updated in the producer's administrative County Office as determined by 3-CM.

For multi-county producers, the administrative County Office for a particular tract may be different then the producer's recording County Office.

B Where to File AD-1026

Producers shall file a single AD-1026 covering all of their farming interests within the United States and covered territories. AD-1026 shall be filed in the producer's designated recording County Office as determined by 3-PL. The recording County Office will update the producer's eligibility files including a record of filing the AD-1026 certification.

C Responsibility of Producer Requesting Benefits

The producer requesting benefits is responsible for providing the County Office, in which AD-1026 is filed, a copy of AD-1026 by their affiliates in their respective County Offices. County Offices may be able to assist the producer with that requirement by requesting a mailed or FAXed copy from the affiliates recording County Offices.

* * *

404 AD-1026 Filing and Certification Dates**A Filing Deadline**

There is no specific deadline for filing AD-1026 unless otherwise provided in specific program procedure. However, before a producer can be considered eligible for benefits subject to the provisions of this handbook, the producer and producer's affiliates, if applicable, must have filed and certified compliance with HELC/WC provisions. AD-1026 is considered filed and certified when AD-1026, item 12 is signed.

B AD-1026 Certifications for Programs Covering Past Years

In certain cases, a producer may apply for program benefits which are applicable to previous calendar years.

As an example, producers were eligible to file Crop Disaster Program applications during calendar year 2005 for crop losses experienced during 2003 or 2004. If a previous AD-1026 was not on file for the year of eligibility, the certification of compliance must be completed before the issuance of program payments. The County Office shall instruct the producer to complete an AD-1026 for the year of eligibility by:

- entering the applicable calendar year in item 3

Example: If a producer is completing an application in 2006 for program benefits associated with 2003, "2003" shall be entered in item 3.

- instructing the producer that the answers to the questions on AD-1026 about the year indicated in item 3.

405-427 (Reserved)

429 Using AD-1026 (Continued)

C AD-1026 Instructions

Producers shall complete AD-1026 according to the following.

Item	Instruction
1	Enter producer's full name or the name of the business entity applying for USDA program benefits.
2	Enter producer's last 4-digits of SSN or the last 4-digits of the entity tax identification number.
3	Enter crop year for which benefits are being requested. In most cases it will be the current crop year. However, if applying for program benefits for a past year, enter the specific year applicable to the application.
4	<p>ENTER "X" in either the "YES" or "NO" box.</p> <p>If:</p> <ul style="list-style-type: none"> • "YES", then continue to item 5 • "NO", and: <ul style="list-style-type: none"> • not a farm loan applicant, proceed to item 12 for certification signature and date • a farm loan applicant, proceed to item 5.
5	<p>ENTER "X" in either the "YES" or "NO" box.</p> <p>This question includes fish production, trees, vineyards, shrubs, building construction, or other activities.</p> <p>Item 5 may be left blank for if not a farm loan applicant.</p>
6	<p>ENTER "X" in either the "YES" or "NO" box.</p> <p>Mark "YES" in this block if an agricultural commodity is being produced on either:</p> <ul style="list-style-type: none"> • highly erodible fields without applying an approved conservation system or plan • wetlands converted after December 23, 1985. <p>Also mark "YES" if wetlands have been converted after November 28, 1990.</p>
7	<p>ENTER "X" in either the "YES" or "NO" box.</p> <p>ENTER "YES" if a landlord refuses to apply a required conservation system or plan on a highly erodible field on a farm on which the producer is a tenant.</p>
8	<p>*--List all affiliated persons with farming interests. Only affiliates of the producer requesting program benefits with farming interests are required to complete AD-1026. See AD-1026, page 3 to determine affiliates.</p> <p>If there are no affiliated persons with farming interests, then ENTER "None".--*</p>

429 Using AD-1026 (Continued)

C AD-1026 Instructions (Continued)

Item	Instruction
9	<p>ENTER "X" in either the "YES" or "NO" box.</p> <p>Mark "YES" if there are any fields in which an agricultural commodity will be or has been planted which has not received a highly erodible land determination from NRCS.</p> <p>If "YES" is checked, FSA will request a HEL determination from NRCS for the specific field(s).</p>
10	<p>ENTER "X" in either the "YES" or "NO" box for each of the items A, B, and C.</p> <p>These questions refer to drainage activity. If "YES" is marked in item 10A or 10B, FSA will request a wetland evaluation from NRCS for the specific area listed in item 11.</p> <p>A "YES" response to item 10C (maintenance) does not require a certified wetland determination. NRCS will be notified of the intention to maintain an existing drainage system.</p>
11	<p>This item must be completed only if a "YES" was marked in item 5 * * * or 10. List the farm number, tract number, and field number. Briefly describe the activity and current land use. List the location county.</p>
12	<p>The producer shall read the Continuous AD-1026 Certification statement and sign and date the certification.</p> <p>The producer should not sign AD-1026 if the producer's farming operation is not in compliance with all highly erodible land conservation and wetland conservation provisions.</p>
13	<p>This item is for FSA use only.</p>

429 Using AD-1026 (Continued)**D Obtaining AD-1026 by Mail or Internet**

If requested by the producer, the County Office may mail a copy of AD-1026 Appendix and AD-1026 along with the instructions.

Producers may also obtain a copy of AD-1026 along with the instructions on the FSA Internet Home Page at <http://www.fsa.usda.gov>. Under the heading of “Resources”, click on the “e-forms” link. On the Form Search page use the drop-down list options to choose:

- “Farm Service Agency” for the agency name
- “Conservation Compliance” for the program name
- “AD-1026” for the form number
- leave the subject or topic blank.

AD-1026:

- may be completed online and submitted to the recording County Office
- instructions may also be downloaded from the web site for future use.

430 Printing and Using AD-1026A**A Printing AD-1026A**

A single AD-1026A covering all of the producer's farming interests in the country may be printed from any FSA County Office according to 3-CM.

B Using AD-1026A's

AD-1026A:

- lists all of a producer's farming interests by county, farm, and tract numbers
- documents whether the tract includes any fields with HEL or wetlands.

This information may be useful to a producer when completing the questions on AD-1026.

“County Offices are encouraged to provide the producer with a copy of their AD-1026A at the time the producer completes AD-1026. However, using AD-1026A is not a requirement for producer certification on AD-1026. It is the producer's responsibility to correctly complete the questions and certification on AD-1026. If additional information is needed by the producer to complete AD-1026, FSA shall refer the producer to NRCS for assistance.”

***--C Printing AD-1026A's by NRCS**

NRCS has access to a producer's AD-1026A through the Service Center computer system and may print copies whenever needed. It is not necessary for FSA to provide a hard copy of AD-1026A to NRCS with referrals, or for other informational purposes.--*

Section 3 Referrals to NRCS**456 When to Refer AD-1026 to NRCS****A Background**

AD-1026 documents the producer's cropping, drainage, and land manipulation intentions for determining whether a referral to NRCS for HEL or wetland determinations is necessary.

If referrals to NRCS are necessary, then AD-1026 serves as the transmittal document.

B Reviewing AD-1026

The County Offices shall review AD-1026 completed by the producer and refer AD-1026 to NRCS when either of the following applies:

- "Yes" is answered in item 9, 10A, 10B, or 10C
- there is reason to believe the questions were not answered correctly and an NRCS determination is necessary before FSA can determine if the producer is out of compliance.

C Farm Loan Applicants

If "Yes" is checked on AD-1026, item 5, FSA shall no longer refer AD-1026 to NRCS unless answers to other questions on AD-1026 require a technical determination. AD-1026, item 5 relates to farm loan applicants compliance with CWA. NRCS no longer has responsibility for making wetland determinations associated with CWA. Producers should be advised to consult with their FSA loan officer to determine if a wetland determination is required to comply with the provisions of CWA. All determinations for CWA are now under the jurisdiction of the Army Corp of Engineers.

NRCS will continue to make wetland determinations, including those for farm loan applicants, for proposed activity involving draining, dredging, filling, leveling, or otherwise manipulating the land for the purpose of, or to have the effect of making possible the production of an agricultural commodity according to AD-1026, item 10.

456 When to Refer AD-1026 to NRCS (Continued)

D Referral to NRCS Because of Maintenance

When producers check “yes” on AD-1026, item 10C, they are certifying that they intend to perform maintenance on a drainage system or other manipulation of a wetland that took place before December 23, 1985. AD-1026, item 13 instructs FSA to refer a copy of AD-1026 when items 5, 9, 10A, 10B, or 10C are checked “yes”.

NRCS assistance is no longer required for normal maintenance of existing drainage systems. Therefore, NRCS-CPA-026 will not be issued by NRCS in response to receiving AD-1026 on which only item 10C is checked “yes”. However, NRCS will maintain a record of such AD-1026’s as a record of maintenance that has been performed.

FSA County Offices shall provide NRCS with an “Informational Copy” of AD-1026 when the only reason for the referral is a “Yes” designation in item 10C.

Since NRCS-CPA-026 will not be provided to FSA in these cases, the FSA County Office shall not indicate a referral to NRCS is “pending” in the producer’s subsidiary file according to 3-PL, paragraph 29 C.

457 Preparation for Referral to NRCS

A Referrals to NRCS

When a referral to NRCS is necessary according to paragraph 456, use the following to initiate the referral.

IF NRCS determination...	THEN the County Office shall...
is not required in another county	complete the steps in subparagraph B for their County Office.
is required in another county	provide a copy of AD-1026 * * * to the applicable County Office.

457 Preparation for Referral to NRCS (Continued)

B County Office Referrals to NRCS

County Offices shall prepare the necessary documents for referral to NRCS for HEL or wetland determinations for land located in their counties according to the following.

Task	Action
Prepare copies of aerial imagery	Prepare 3 complete sets of copies which require determinations as follows. <ul style="list-style-type: none"> • List the tract number or numbers with the owner’s name and address on the reverse side of the copy. • Delineate fields or subdivisions of fields for which a “yes” answer on AD-1026, item 5, 9, or 10 applies and determinations are needed. * * * <ul style="list-style-type: none"> • Identify any drainage activity completed or proposed. Note: Determinations are needed for: <ul style="list-style-type: none"> • fields that either have been or will be planted to agricultural commodities • drainage activities that have not been previously evaluated by NRCS.
Complete AD-1026, item 13	On AD-1026, item 13: <ul style="list-style-type: none"> • enter the date AD-1026 is referred to NRCS • County Office employee responsible for the referral to NRCS shall sign and date.
Send to NRCS	Attach the prepared imagery to copies of AD-1026, * * * and send to NRCS.

457 Preparation for Referral to NRCS (Continued)

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

The following 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. Question 10(a) is answered “yes”. County A, farm 200, tract 1025, field 1, is indicated on AD-1026, item 11.

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"> • complete a farm photocopy for the field that needs a determination as listed on AD-1026, item 11 • contact the producer, if additional information is needed • attach farm photocopy to copy of AD-1026, and send to NRCS.
3	When NRCS determination is received, County A shall: <ul style="list-style-type: none"> • record determination for the tract according to 3-CM • record NRCS determination in the Service Center GIS system * * * •*--forward copies of NRCS-CPA-026 to recording County C.--* * * *

458-465 (Reserved)

Section 4 AD-1026, Producer Certification

466 Producer's Signature on AD-1026, Item 12

A When Producer May Sign

The producer may sign AD-1026, item 12 after:

- all questions on AD-1026 have been answered

Note: Multi-county producers shall complete AD-1026 in the recording County Office.

- AD-1026 Appendix has been given to the producer to read.

Exception: If a producer is declared ineligible for benefits because of a COC or NRCS determination, then follow instructions in Part 7.

B Update AD-1026 Field in the Eligibility File

Follow instructions in 3-PL to update the AD-1026 determinations and producer certifications.

467 Continuous Certification on AD-1026

A Continuous AD-1026 Certification

Certification on AD-1026 is a continuous certification that will be effective for the current year entered in item 3 and subsequent years for which benefits subject to HELC and WC compliance are requested, unless either of the following occur:

- there are changes or activities which affect compliance with HELC or WC provisions
- the producer submits a written request that AD-1026 be withdrawn.

If the farming operation changes, then a revised AD-1026 must be filed to include the *--changes. See subparagraph 470 A for situations that require a revised AD-1026.--*

B Effective Date of Continuous Certification

The continuous certification on AD-1026 shall apply to those forms signed by the producer on or after April 17, 1996.

702 Determining Producers Who Are Ineligible (Continued)**F Extent of Ineligibility of Affiliated Persons**

The extent of ineligibility determined according to this paragraph for the producer who violated shall be the same for the affiliated persons determined according to paragraph 402.

Exception: For business enterprises with members or shareholders who violate the benefits of the affiliated business enterprise shall 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 and benefits to affiliated Corporation A shall be reduced by 25 percent.

G Updating Eligibility Record for Affiliated Persons

If a producer is determined to be ineligible for program benefits because he or she is an affiliate of a person who has violated the HELC/WC program provisions update the *-affiliate's AD-1026 certification according to 3-PL. This will ensure that benefits will not-* be issued to the ineligible affiliated person.

703 Landlord Exemption**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 is required under the terms and conditions of an agreement between the landlord and tenant or sharecropper.

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 the reverse side of AD-1026C. See subparagraph H.

A landlord who converts a wetland on or after November 28, 1990, does not qualify for a landlord exemption.

C Updating Eligibility Record

If a producer is granted an exemption under the landlord exemption rule, then update the HELC flag in the eligibility record with "B" according to paragraph 741.

D Purpose of AD-1026C

AD-1026C shall be used for documenting all landlord or landowner exemption:

- certification of eligibility by producer
- determinations by COC.

704 Other Producer Exemption (Continued)**L Notifying Producers of HELC Exemption Determinations**

The County Office where AD-1026B is filed shall notify the producer of the COC determination. The notification shall include the following:

- the precise practices that will be considered exempt
- a statement that all other practices not specifically exempted must be applied as required by the plan
- the reasons why practices that were requested for exemption were not approved, if any
- appeal rights.

M Reporting Requirement

The 1985 Act, as amended, requires providing an annual report to Congress on HELC exemptions that have been approved. To fulfill this requirement, when final determinations are made and the producer is notified:

- County Offices shall mail a copy of AD-1026B to State Offices
- *--on January 10 of each year, State Offices shall mail a copy of AD-1026B's which is Report PA-124R, received from County Offices to PECD for the prior crop year.--*
Negative reports are required.

Note: State Offices shall maintain a file with a copy of all AD-1026B's sent to PECD.

704 Other Producer Exemption (Continued)

N AD-1026B Process

This table shows the process for filing and notifications for AD-1026B.

IF...	AND...	THEN the State or County Office receiving AD-1026B shall...
a producer requests HELC exemption	AD-1026B, Part A is completed	<ul style="list-style-type: none"> • file a copy in a pending file • provide original AD-1026B to NRCS.
NRCS returns AD-1026B	AD-1026B, Part B is completed by NRCS	<ul style="list-style-type: none"> • destroy copy in the pending file • have COC review the request.
COC documents determination on AD-1026B, Part C	STC determination is not required	<ul style="list-style-type: none"> • notify producer of the determination • provide copy of completed AD-1026B to State Office • provide copy of AD-1026B to recording County Office for multi-county producers • attach original AD-1026B to NRCS-CPA-026 • attach copy of AD-1026B to AD-1026. <p>Note: If the County Office receiving AD-1026B is the recording County Office, verify the answer in AD-1026, item 6.</p>
	STC determination is required	<ul style="list-style-type: none"> • file a copy in a pending file • mail original AD-1026B to State Office.

704 Other Producer Exemption (Continued)

N AD-1026B Process (Continued)

IF...	AND...	THEN the State or County Office receiving AD-1026B shall...
County Office receives AD-1026B from State Office	AD-1026B, Part D is completed	<ul style="list-style-type: none"> • destroy copy in the pending file • notify producer of the determination • provide copy of completed AD-1026B to State Office • provide copy of AD-1026B to recording County Office for multi-county producers • attach original AD-1026B to NRCS-CPA-026.
State Office receives copy of AD-1026B	STC determination is required on AD-1026B, Part D	<ul style="list-style-type: none"> • document STC determination on the bottom of AD-1026 • file a copy in a pending file • mail original to County Office.
	<ul style="list-style-type: none"> • determination is final • producer has been notified 	<ul style="list-style-type: none"> • destroy pending copy, if previous STC determination was made • copy completed AD-1026B which is *--Report PA-124R, and file--* • mail copy to PECD on January 10.
recording County Office receives copy of AD-1026B	producer has not filed AD-1026	place AD-1026B in the producer's file to be attached to AD-1026 when it is filed.
	producer has filed AD-1026	attach AD-1026B to AD-1026, and verify the answer in AD-1026, item 6.

O Updating Eligibility Record

If a producer is granted an exemption on AD-1026B, then update the HELC eligibility record.

705 Applying Exemption Rules for Benefits Not Farm or Crop Specific**A Background**

Certain benefits covered by HELC and WC provisions are not farm or crop specific, such as the honey loan program.

For nonfarm or crop specific benefits, it will be more difficult to determine for what portion of benefits a producer is ineligible, when the landlord or other producer exemptions apply according to paragraphs 702 and 703. The ineligibility in these cases is limited to specific farms in which the producer is in violation.

B When to Apply Nonfarm or Crop Specific Rules

The rules in this paragraph shall be applied only to producers who meet **all** of the following conditions:

- are requesting benefits for any nonfarm or crop specific program
- violated the HELC or WC provisions
- have been exempted from ineligibility on farms not in violation of HELC or WC because the landlord or other producer exemption applies according to paragraphs 702 and 703.

Note: Producers will not be subject to ineligibility for placing beehives or grazing livestock on farms with a HELC or WC violation, if the producer is not determined ineligible according to paragraph 705.

Example: Producer B places beehives on the neighbor's farm 100. A violation of HELC provisions occurred on farm 100. Producer B is eligible for honey benefits produced from beehives on farm 100 because he or she:

- does not have an interest in the farm
- was not determined an ineligible producer according to paragraph 705.

Reports, Forms, Abbreviations, and Delegations of Authority

Reports

This table lists the required reports in this handbook.

Report Control Number	Title	Reporting Period	Submission Date	Negative Report	Reference
PA-124R (AD-1026B)	Highly Erodible Land Exemption Request	Prior Crop Year	January 10	Yes	704 M

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	429	Text, Ex. 2
AD-1026 Appendix	Appendix to Form AD-1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification	428	Part 4
AD-1026A	Supplemental to AD-1026 (Continuation)		Text
AD-1026B	Highly Erodible Land Conservation Exemption Request	704	803
AD-1026C	Landlord or Landowner Exemption Request	702	705
AD-1026D	Relief for Undue Economic Hardship Request Highly Erodible Land Conservation	504	
AD-1068	Good Faith Determination - Highly Erodible Land Activity	723	716, 721, 723, 802, 803
AD-1068A	Distribution of Graduated Payment Reduction (Supplemental to AD-1068 for Sodbuster Violations)	724	
AD-1069	Good Faith Determination - Wetland Activity	732	716, 731, 802
FSA-156EZ	Abbreviated 156 Farm Record and Tract Listing		239, 802
FSA-492	Data Needed for Third-Party Determinations	520	519
FSA-493	Highly Erodible Land Conservation/Wetland Conservation Violation Data	802, 803	Part 8
FSA-569	NRCS Report of HELC and WC Compliance	602	Text
FSA-577	Report of Supervisory Check		17
NRCS-CPA-026E	Highly Erodible Land and Wetland Conservation Determination	200	202
NRCS-CPA-026	Highly Erodible Land and Wetland Conservation Determination		Text
NRCS-CPA-027	Certification of Highly Erodible Land Conservation Plan(s) and System(s)		200, 202

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
AW	artificial wetland	221,512, 526, Ex. 2
CD	Conservation District	500, 503, Ex. 2
CLU	common land unit	221
COE	Corps of Engineers	221
CW	converted wetland (converted after December 23, 1985)	221, 510, 518, 602, 801, 802
CWA	Clean Water Act	457
FIPS	Federal Information Processing System	602
FW	farmed wetland	221, 222, 510, 526, 527, Ex. 2
FWP	farmed wetland pasture	221, 526, 527, Ex. 2
FWS	farmed wetlands	19, 513
GIS	Geographic Information System	221, 458, 501, 502
GPR	graduated payment reduction	722, 723, 724
HEL	highly erodible land	Text, Ex. 2
LLC	limited liability company	401
ME	minimal effect	221, 512
MW	minimal effect wetland	513, 518, Ex. 2
NHEL	not highly erodible land	200, 221, 501, 502
NW	nonwetland	221, 512, Ex. 2
OO	owner and operator	802
OP	operator	802
OT	tenant or sharecropper	802
OW	owner	802
PC	prior converted wetland (converted before December 23, 1985)	221, 510, 526, Ex. 2
SWCD	Soil and Water Conservation District	504, 723, 731, 732
W	wetland	510
WC	wetland conservation	Text

Definitions of Terms Used in This Handbook

Abandonment

Abandonment is the cessation for 5 consecutive years of management or maintenance operations related to the use of farmed wetland (FW) or a farmed wetland pasture (FWP).

Actively Pursued

Actively pursued means that efforts toward the completion of the wetland conversion activity have continued on a regular basis (some conversion activity each year), since initiation of the conversion, except for delays because of circumstances beyond the person's control.

Administrative County Office

Administrative County Office is the FSA County Office that maintains the records for the farm in violation.

Agricultural Commodity

An agricultural commodity is any crop planted and produced by annual tilling of the soil, including by 1-trip planters or sugarcane.

Example 1: Producer plants a wildlife food plot to wheat.

Example 2: Annual rye grass.

Example 3: Producer plants wheat as cover crop on a field that includes converted wetland.

Nonexample 1: Alfalfa.

Nonexample 2: Perennial grasses.

***--Note:** Certain crops, such as strawberries, may or may not meet the definition of an agricultural commodity based upon the producer's planting practice.--*

Definitions of Terms Used in This Handbook (Continued)**Artificial Wetland (AW)**

AW is an area that was formerly nonwetland, but now meets wetland criteria because of human activities such as:

- an artificial lake or pond created by excavating or diking land that is not a wetland to collect and retain water that is used primarily for livestock, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, rice production, or as a settling pond
- a wetland that is temporarily or incidentally created as a result of adjacent development activity.

Commenced Conversion

Commenced conversion means that if the conversion of a wetland began before December 23, 1985, a person, including drainage districts or other Government entities may apply for a determination that would enable that person to complete the conversion and produce an agricultural commodity on converted wetland without losing USDA benefits.

Conservation District (CD)

CD is a subdivision of a State or local government organized according to the applicable law to develop and implement soil and water conservation activities or programs.

Conservation Plan

Conservation plan means the document that:

- applies to highly erodible cropland
- describes the:
 - conservation system applicable to the highly erodible cropland
 - decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedules
- is approved by the local soil and conservation district in consultation with the local committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) and NRCS.