

**For:** State and County Offices

**Revised AD-1026, Highly Erodible Land Conservation (HELIC)  
and Wetland Conservation (WC) Certification**

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



**1 Overview**

**A Background**

The Agricultural Act of 2014 (2014 Farm Bill) links eligibility for any premium subsidy paid by the Federal Crop Insurance Corporation (FCIC) on a policy or plan of federally reinsured crop insurance to compliance with HELC and WC provisions. Although this linkage is not in effect for the current reinsurance year, AD-1026 and AD-1026 Appendix have been revised to reflect this change, make improvements to the form, and provide additional information in the appendix.

**B Purpose**

This notice explains:

- the changes that have been made to AD-1026 (Exhibit 1) and AD-1026 Appendix (Exhibit 2)
- when County Offices should start using the revised AD-1026
- FSA’s conservation compliance responsibilities for producers with FCIC reinsured crop insurance.

<b>Disposal Date</b>	<b>Distribution</b>
January 1, 2015	State Offices; State Office relay to County Offices

## Notice CP-701

### 2 Explanation of Changes to AD-1026 and AD-1026 Appendix

#### A General Changes to AD-1026

Following is an explanation of general changes that have been made to AD-1026.

- The form has been broken down into parts.
- The number of questions requiring a “yes” or “no” answer by the producer has been reduced by 50 percent. Checkboxes are used instead of questions for provisions that do not apply to most producers. Questions are limited to ones that require referral to NRCS if answered “yes.”
- The question that was item 5 on the previous version of AD-1026 is not included on the revised AD-1026. It was not a conservation compliance question and only pertained to FLP applicants. That information will now be collected as part of the loan application process.

#### B Changes to AD-1026 Relating to FCIC Reinsured Crop Insurance

The checkbox in Part B, item 3A shall be checked **only** if the producer has FCIC reinsured crop insurance and has never been subject to HELC and WC provisions. This will be used to identify “first time compliers” and enable NRCS and RMA to apply the special compliance provisions that pertain to these producers.

The checkbox in Part B, item 3B shall be checked **only** if the producer is requesting either the landlord exemption or the tenant exemption. The 2014 Farm Bill contains a provision that authorizes tenant relief for certain WC violations; this provision only pertains to the premium subsidy and is not applicable for other benefits subject to HELC and WC provisions.

#### C Changes to AD-1026 Appendix

The AD-1026 Appendix has been significantly expanded to give producers more information about HELC and WC provisions and the certifications they are making by signing AD-1026. The appendix now includes definitions applicable to conservation compliance and the consequences of noncompliance with HELC and WC provisions for FSA and NRCS programs, and for FCIC subsidies for reinsured crop insurance.

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### 3 Using the Revised AD-1026

#### A AD-1026 Filing Requirements

AD-1026 and AD-1026 Appendix, dated June 30, 2014, replace the previous versions of the form and appendix and shall be used for any producer needing to file an AD-1026. However, there is no requirement for all producers to file the revised form. An existing AD-1026 on file for a producer remains valid as long as the answers to the questions on the AD-1026 do not change and the producer does not violate HELC or WC provisions.

#### B FSA Responsibilities

FSA's responsibilities in administering HELC and WC provisions for producers with FCIC reinsured crop insurance are, for the most part, the same as for participants in FSA and NRCS programs. However, there are special provisions provided by the 2014 Farm Bill for producers who are subject to HELC and WC provisions for the first time solely because of the 2014 Farm Bill and other provisions that pertain only to FCIC reinsured crop insurance customers. Additional information and guidance will be provided at a later date.

Example of AD-1026

Following is an example of the revised AD-1026 (06-30-14).

This form is available electronically. <b>AD-1026</b> (06-30-14)		(See Page 2 for Privacy Act and Paperwork Reduction Act Statements)		
		U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency		
<b>HIGHLY ERODIBLE LAND CONSERVATION (HELIC)                  AND WETLAND CONSERVATION (WC)                  CERTIFICATION</b>				
<b>PART A – BASIC INFORMATION</b>				
1. Name of Producer		2. Tax Identification Number (Last 4 digits)	3. Crop Year	
4. Names of affiliated persons with farming interests (Use Part D if additional space is needed. Enter "None," if applicable). Note: See the AD-1026 Appendix for an explanation of affiliated persons.				
5. Check this box if the statement applies; otherwise continue to Part B.				
<input type="checkbox"/> Neither the producer in Part A, nor any affiliated person, has an interest in land that produces or could produce an agricultural commodity. Note: If this box is checked, go to Part C and sign and date.				
<b>PART B - HELC/WC COMPLIANCE QUESTIONS</b>				
Note: A "YES" answer authorizes FSA to refer this AD-1026 to NRCS. Producer must provide additional information in Part D. If "YES" is checked to Item 2C, NRCS does not have to conduct a certified wetland determination.			<b>YES</b>	<b>NO</b>
1. During the crop year entered in Part A, or the term of a requested USDA loan, did or will the producer in Part A plant or produce an agricultural commodity on land for which an HELC determination has not been made?				
2. Has anyone performed (since December 23, 1985), or will anyone perform any activities to:				
A. Create new drainage systems, or conduct land leveling, filing, dredging, land clearing, excavation, or stump removal that has NOT been evaluated by NRCS? If "YES", indicate the year(s): _____				
B. Improve or modify an existing drainage system that has NOT been evaluated by NRCS? If "YES", indicate the year(s): _____				
C. Maintain an existing drainage system that has NOT been evaluated by NRCS? If "YES", indicate the year(s): _____				
Note: Maintenance is the repair, rehabilitation, or replacement of the capacity of existing drainage systems to allow for the continued use of wetlands currently in agricultural production and the continued management of other areas as they were used before December 23, 1985. This allows a person to reconstruct or maintain the capacity of the original system or install a replacement system that is more durable or will realize lower maintenance or costs.				
3. Check one or both boxes, if applicable; otherwise, continue to Part C.				
A. <input type="checkbox"/> Check this box only if the producer in Part A has FCIC reinsured crop insurance and filing this form represents the <u>first time</u> the producer in Part A, including any affiliated person, has been subject to HELC and WC provisions.				
B. <input type="checkbox"/> Check this box if either of the following applies to the producer and crop year entered in Part A:				
<ul style="list-style-type: none"> <li>• Is a tenant on a farm that is/will not be in compliance with HELC and WC provisions because the landlord refuses to allow compliance, but all other farms not associated with that landlord are in compliance. (AD-1026B, Tenant Exemption Request, must be completed).</li> <li>• Is a landlord of a farm that is/will not be in compliance with HELC and WC provisions because of a violation by the tenant on that farm, but all other farms not associated with that tenant are in compliance. (AD-1026C, Landlord or Landowner Exemption Request, must be completed).</li> </ul>				
<b>PART C – CERTIFICATION OF COMPLIANCE</b>				
I have read the AD-1026 Appendix and understand and agree to the terms and conditions therein on all land in which I (or the producer in Part A if different) and any affiliated person have or will have an interest. I understand that eligibility for certain USDA program benefits is contingent upon this certification of compliance with HELC and WC provisions and I am responsible for any non-compliance. I understand and agree that this certification of compliance is considered continuous and will remain in effect unless revoked or a violation is determined. I further understand and agree that:				
<ul style="list-style-type: none"> <li>• all applicable payments must be refunded if a determination of ineligibility is made for a violation of HELC or WC provisions.</li> <li>• a revised Form AD-1026 must be filed if there are any operation changes or activities that may affect compliance with the HELC and WC provisions. I understand that failure to revise Form AD-1026 for such changes may result in ineligibility for certain USDA program benefits or other consequences.</li> <li>• affiliated persons are also subject to compliance with HELC and WC provisions and their failure to comply or file Form AD-1026 will result in loss of eligibility for applicable benefits to any individuals or entities with whom they are considered affiliated.</li> </ul>				
<b>Producer's Certification:</b> I hereby certify that the information on this form is true and correct to the best of my knowledge, and I authorize NRCS to make an HELC/WC and/or certified wetland determination on the field, tract, or farm numbers listed in Part D.				
1A. Producer's Signature (By)		1B. Title/Relationship (If Signing in Representative Capacity)	1C. Date (MM-DD-YYYY)	
FOR FSA USE ONLY (for referral to NRCS) Sign and date if NRCS determination is needed.		2A. Signature of FSA Representative	2B. Date (MM-DD-YYYY)	

Example of AD-1026 (Continued)

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**PART D - ADDITIONAL INFORMATION**

1. If "YES" was checked in Items 1 or 2 of Part B, provide the following information for the land to which the answer applies:

- A. Farm and/or tract/field number: \_\_\_\_\_
- B. Activity: \_\_\_\_\_
- C. Current land use (specify crops): \_\_\_\_\_
- D. County: \_\_\_\_\_

2. Use the space below to provide any other additional information.

**IMPORTANT:** If you are unsure about the applicability of HELC and WC provisions to your land, contact your local USDA Service Center for details concerning the location of any highly erodible land or wetland and any restrictions applying to your land according to NRCS determinations before planting an agricultural commodity or performing any drainage or manipulation. Failure to certify and properly revise your compliance certification when applicable may: (1) affect your eligibility for USDA program benefits, including whether you qualify for reinstatement of benefits through the Good Faith process; and (2) result in other consequences.

**NOTE:** The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended) and Section 1619 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246; 7 USC 8791). The authority for requesting the information identified on this form is 7 CFR Part 12, and the Food Security Act of 1985 (Pub. L. 99-198, 16 USC 3801 et seq.), as amended. The information will be used to determine eligibility to receive USDA loans or other program benefits that are subject to highly erodible land and wetland conservation provisions. The information collected on this form may only be disclosed in accordance with applicable law. Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility to receive USDA loans or other program benefits that are subject to highly erodible land and wetland conservation provisions.

This information collection is exempted from the Paperwork Reduction Act (Section 2608 of Pub. L. 113-79; 16 USC 3846). The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided.  
**RETURN THIS COMPLETED FORM AD-1026 TO YOUR COUNTY FARM SERVICE AGENCY (FSA) OFFICE.**

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited basis will apply to all programs and/or employment activities.) Persons with disabilities, who wish to file a program complaint, write to the address below or if you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter by mail to U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov). USDA is an equal opportunity provider and employer.

Example of AD-1026 Appendix

Following is an example of the revised AD-1026 Appendix (06-30-14).

<p>This form is available electronically.  <b>AD-1026 Appendix</b>                  (06-30-14)</p>	<p>U.S. DEPARTMENT OF AGRICULTURE                  Farm Service Agency</p>
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**APPENDIX TO FORM AD-1026  
 HIGHLY ERODIBLE LAND CONSERVATION (HELIC) AND  
 WETLAND CONSERVATION (WC) CERTIFICATION**

**1. Overview**

The following conditions of eligibility are required for a producer to receive any U.S. Department of Agriculture (USDA) loans or other program benefits that are subject to highly erodible land conservation (HELIC) and wetland conservation (WC) provisions. By signing Form AD-1026, the producer certifies receipt of this appendix, and unless an exemption has been granted by USDA, agrees to all of the following on all farms in which the producer, and any affiliated person to the producer (as specified in 7 CFR Part 12), has an interest:

- NOT to plant or produce an agricultural commodity on highly erodible land or fields unless being farmed in accordance with a conservation plan or system approved by NRCS.
- NOT to plant or produce an agricultural commodity on a converted wetland.
- NOT to convert a wetland by draining, dredging, filling, leveling, removing woody vegetation, or any other activity that results in impairing or reducing the flow and circulation of water in a way that would allow the planting of an agricultural commodity.
- NOT to use proceeds from any FSA farm loan, insured or guaranteed, or any USDA cost-share program, in such a way that might result in negative impacts to a wetland, except for those projects evaluated and approved by NRCS.

**2. Statutory and Regulatory Authority**

The Food Security Act of 1985, as amended, requires producers participating in most programs administered by the Farm Service Agency (FSA), Natural Resources Conservation Service (NRCS), and the Risk Management Agency (RMA) to comply with HELIC and WC provisions on all land owned or farmed that is considered highly erodible or a wetland unless USDA determines an exemption applies. Producers participating in these programs, and any individual or entity considered to be an affiliated person of a participating producer, are subject to these provisions. The regulations covering these provisions are set forth in the Code of Federal Regulations at 7 CFR Part 12; all such provisions, whether or not explicitly stated herein, shall apply.

**3. Explanation of Terms**

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

Highly erodible land is any land that has an erodibility index of 8 or more.

Highly erodible fields are fields where either:

- 33.33 percent or more of the total field acreage is identified as soil map units that are highly erodible; or
- 50 or more acres in such field are identified as soil map units that are highly erodible.

Wetland is an area that:

- has a predominance of hydric soils (wet soils);
- is inundated or saturated by surface or groundwater (hydrology) at a frequency and duration sufficient to support a prevalence of hydrophytic (water tolerant) vegetation typically adapted for life in saturated soil conditions; and
- under normal circumstances supports a prevalence of such vegetation, except that this term does not include lands in Alaska identified as having a high potential for agricultural development and a predominance of permafrost soils.

## Example of AD-1026 Appendix (Continued)

AD-1026 Appendix (06-30-14)

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**4. NRCS and FSA Determinations**

When making HELC and WC compliance determinations:

- NRCS makes technical determinations; these include:
  - For HELC compliance:
    - whether land is considered highly erodible;
    - establishing conservation plans or systems; and
    - whether highly erodible fields are being farmed in accordance with a conservation plan or system approved by NRCS.
  - For WC compliance:
    - whether land is a wetland and if certain technical exemptions apply, such as prior converted; and
    - whether a wetland conversion has occurred.
- FSA makes eligibility determinations, such as who is ineligible based upon NRCS technical determinations of non-compliance. FSA also acts on requests for application of certain eligibility exemptions, such as the good faith relief exemption.

FSA maintains the official USDA records of highly erodible land and wetland determinations. The determinations are recorded both within the geographic information system and the automated farm and tract records maintained by FSA; however, it is important to know that determinations may not include all of a producer's land. If a producer is uncertain of the highly erodible land and wetland determinations applicable to their land, the producer should contact the appropriate USDA Service Center for assistance.

**5. HELC and WC Non-Compliance - FSA and NRCS Programs**

Producers who are not in compliance with HELC and WC provisions are not eligible to receive benefits for most programs administered by FSA and NRCS and if a producer received program benefits and is later found to be non-compliant, the producer may be required to refund all benefits received and/or may be assessed a penalty.

In particular, unless exemptions apply, a producer participating in FSA and NRCS programs must: for all highly erodible fields, be in compliance with a conservation plan or system approved by NRCS; not have planted or produced an agricultural commodity on a wetland converted after December 23, 1985; and, after November 28, 1990, must not have converted a wetland for the purpose, or to have the effect, of making the production of an agricultural commodity possible on such converted wetland.

A producer who violates HELC or WC provisions is ineligible for applicable FSA and NRCS benefits for the year(s) in violation. A planting violation, whether on highly erodible land or a converted wetland, results in ineligibility for benefits for the year(s) when the planting occurred. A wetland conversion violation results in ineligibility beginning with the year in which the conversion occurred and continuing for subsequent years, unless the converted wetland is restored or mitigated before January 1<sup>st</sup> of the subsequent year.

**6. HELC and WC Non-Compliance - Risk Management Agency - Crop Insurance Policies Reinsured by the Federal Crop Insurance Corporation**

Producers obtaining federally reinsured crop insurance will not be eligible for any premium subsidy paid by the Federal Crop Insurance Corporation (FCIC) for any policy or plan of insurance if the producer:

- has not filed a completed Form AD-1026 with FSA certifying compliance with HELC and WC provisions; or
- is not in compliance with HELC and WC provisions.

Unless an exemption applies, a producer must:

- for all highly erodible fields, be in compliance with a conservation plan approved by NRCS;
- not plant or produce an agricultural commodity on a wetland converted after February 7, 2014; and
- not have converted a wetland for the purpose, or to have the effect, of making the production of an agricultural commodity possible on such converted wetland after February 7, 2014.

Example of AD-1026 Appendix (Continued)

AD-1026 Appendix (06-30-14)

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A producer is ineligible for any premium subsidy paid by FCIC on all policies and plans of insurance for the reinsurance year (July 1 – June 30) following the reinsurance year of a final determination of a violation of HELC or WC provisions, including all administrative appeals, unless specific exemptions apply. Further, a producer will be ineligible for any premium subsidy paid by FCIC on all policies and plans of insurance for the reinsurance year if they do not have a completed Form AD-1026 on file with FSA certifying compliance on or before the June 1 prior to the beginning of the subsequent reinsurance year (July 1), unless otherwise exempted. RMA will contact FSA to determine compliance with HELC and WC provisions and the filing of Form AD-1026 prior to the June 30 end of the reinsurance year. If the producer is not in compliance and is not exempt, the producer will be ineligible for premium subsidy for all crops with a sales closing date between July 1 through the next June 30.

7. Affiliated Persons

Any affiliated person of a producer requesting benefits subject to HELC and WC provisions must also be in compliance with those provisions. Ineligibility of a producer will also apply to affiliated persons of that producer. If an affiliated person has a farming interest (listed as owner, operator, or other producer on any farm), the affiliated person must also file Form AD-1026 certifying compliance with HELC and WC provisions in order for the producer requesting benefits to be eligible.

Use this table to determine affiliated persons who must be in compliance with HELC and WC provisions and file Form AD-1026.

<i>IF the producer requesting benefits is a (an) . . .</i>	<i>THEN affiliated persons with farming interests who must be in compliance with HELC and WC provisions and file Form AD-1026 are. . .</i>
individual	spouse or minor children with separate farming interests, or who receives benefits under their individual ID number.
NOTE: If the individual filing is a minor child, the parents shall be listed as affiliated persons.	estates, trusts, partnerships, and joint ventures in which the individual filing, or the individual's spouse or minor children have an interest.
	corporations in which the individual filing or the individual's spouse or minor children have more than 20% interest.
	general partnership
limited partnership	
limited liability company	
joint venture	
estate	
irrevocable or revocable trust	
Indian tribal venture or group	
corporation with stockholders	first level shareholders with more than 20% interest in the corporation.

**IMPORTANT NOTICE:**

Signature on Form AD-1026 gives representatives of USDA authorization to enter upon and inspect all farms in which the producer in Part A of Form AD-1026 has an interest for the purpose of confirming HELC and WC compliance.

**NOTE:** *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended) and Section 1619 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246; 7 USC 8791). The authority for requesting the information identified on Form AD-1026 is 7 CFR Part 12, and the Food Security Act of 1985 (Pub. L. 99-198, 16 USC 3801 et seq.), as amended. The information will be used to determine eligibility to receive USDA loans or other program benefits that are subject to highly erodible land and wetland conservation provisions. The information collected on Form AD-1026 may only be disclosed in accordance with applicable law. Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility to receive USDA loans or other program benefits that are subject to highly erodible land and wetland conservation provisions.*

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