

FSA

HANDBOOK

Highly Erodible Land Conservation and Wetland Conservation Provisions

To access the transmittal page click on the short reference.

For State and County Offices

SHORT REFERENCE

6-CP
(Revision 3)

UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
P.O. Box 2415
Washington, DC 20013-2415

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 3

Approved by: Acting Deputy Administrator, Farm Programs



Amendment Transmittal

A Reason for Amendment

Subparagraph 602 A has been amended to update the example of FSA-569.

Page Control Chart		
TC	Text	Exhibit
	6-5, 6-6	

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Part 1 General Information**1 Objectives and Overviews of HELC and WC Provisions****A Objectives**

The objectives of HELC and WC are to:

- reduce soil loss because of wind and water erosion
- protect the nation's long-term capability to produce food and fiber
- reduce sedimentation and improve water quality
- help preserve the nation's wetlands
- remove incentives for persons to produce agricultural commodities on HEL or converted wetland.

B Overview of HELC Provisions

The 1985 Act, as amended, provides that, unless exempt, persons who produce an agricultural commodity on a field on which HEL is predominate, or designate land on which HEL is predominate to be set aside, diverted, devoted to conservation uses, or otherwise not cultivated under a program administered by the Secretary to reduce production of an agricultural commodity, shall be ineligible for benefits under certain programs administered by USDA.

C Overview of WC Provisions

The 1985 Act, as amended, provides that, unless exempt, persons are ineligible for benefits under certain programs administered by USDA if they:

- plant an agricultural commodity on wetland that was converted after December 23, 1985
- convert a wetland after November 28, 1990, by draining, dredging, filling, leveling, or any other means for the purpose, or to have the effect, of making the production of an agricultural commodity possible.

2 Source of Authority and Related References

A Legislative History

The source of authority for Conservation Compliance is the Food Security Act of 1985 (1985 Act) (Pub. L. 99-198) as amended by:

- Pub. L. 101-28
- Food, Agriculture, Conservation, and Trade Act of 1990 (1990 Act) (Pub. L. 101-624)
- Federal Agriculture Improvement and Reform Act of 1996 (1996 Act) (Pub. L. 104-127)
- Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171).

B Federal Regulations

Regulations governing the administration of HELC and WC provisions are provided in 7 CFR Part 12.

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**A HELC and WC Determinations**

FSA has primary responsibility for making producer eligibility determinations about compliance with HELC and WC provisions. In addition to establishing field boundaries, FSA shall determine whether:

- an individual, joint venture, or entity is a producer on a HEL field or converted wetland
- the land was converted from native vegetation, such as grassland, rangeland, or woodland, to agricultural production after December 23, 1985
- a tenant or sharecropper is required to produce an agricultural commodity on HEL under the terms and conditions of an agreement between the landlord and the tenant or sharecropper
- the conversion of a wetland was caused by a third party.

B STC Action

STC shall direct the development and administration of HELC and WC provisions within the authorities and limitations of this handbook.

17 FSA Responsibilities (Continued)**C COC Action**

COC shall:

- provide general supervision for day-to-day HELC and WC operations
- obtain producer certification on AD-1026 of intentions to comply with HELC and WC requirements
- refer cases requiring a technical determination to NRCS
- determine the accuracy of AD-1026 certification according to the spot-check procedure in 2-CP
- make determinations of ineligibility for certain program benefits, as violations are discovered
- consult with Conservation District and NRCS about the adequacy of conservation systems, as needed
- consult with NRCS about determinations of third-party conversion
- notify landowners and operators requesting program benefits of any prior determinations made by NRCS on the land
- provide producers with appeal rights and mediation
- determine whether a producer violated the HELC or WC provisions
- when requested by the producer, in consultation with NRCS, determine whether the producer acted in good faith.

D Farm Loan Personnel Action

FSA farm loan personnel will determine whether proceeds of any loan made or guaranteed will be used for a purpose that will contribute to either of the following:

- excessive erosion
- draining, dredging, filling, leveling, manipulating, or converting a wetland.

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.

18 NRCS Responsibilities (Continued)

C WC Provisions

NRCS will:

- provide certified wetland determinations when needed to determine compliance with WC provisions

Note: Existing wetland determinations that are not certified will still be maintained by FSA. However, NRCS will make a certified wetland determination before a WC violation is finalized.

- document certified wetland determinations on official USDA aerial photography including digital imagery
- review and provide written notice that wetland documentation is accurate before the new photography is used by FSA
- determine if the land is a converted wetland
- determine if the actions of a producer of an agricultural commodity on converted wetland would have only a minimal effect on wetland functions and values from hydrological and biological aspects of the wetland.

19 CD, CSREES, and FWS Responsibilities**A CD Responsibilities**

CD's will review conservation plans and systems evaluated by NRCS in consultation with COC.

Note: 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.

B CSREES Responsibilities

CSREES will coordinate related information and educational programs for USDA about implementing HELC and WC provisions. CSREES contact information is located at <http://www.csrees.usda.gov>.

C FWS Responsibilities

NRCS may consult with FWS on wetland determinations, and COC's may consult for technical assistance on requests for third-party exemption. FWS offices and contact information is located at www.fws.gov.

20 Responsibilities for Multi-County Producers**A Recording County Office Responsibility**

The producer's recording County Office is responsible for making all FSA administrative decisions about conservation compliance. These include, but are not limited to, the following:

- eligibility determinations
- violation determinations
- good faith determinations
- acting upon requests for exemptions
- limited resource determinations
- appeals.

The recording County Office is also the location where the producer files the AD-1026 certification. It is the recording County Office's responsibility to update the producer's eligibility determinations within the subsidiary files.

B Administrative County Office Responsibility

Each administrative County Office is responsible for the following:

- updating the NRCS HEL and wetland determinations within the tract records according to 3-CM
- forwarding AD-1026 referrals to the NRCS office responsible for the producer's farming interests located in the administrative County Office after receipt from the producer's recording County Office.

Note: There is no need for the administrative County Office to send a notification to the recording County Office listing the NRCS AD-1026 referral determinations. The recording County Office has access to the tract determinations for other counties through the web-based producer record system.

21-199 (Reserved)

Part 2 Recording and Filing NRCS Determinations

Section 1 Getting Information From NRCS

200 Information Received From NRCS on NRCS-CPA-026 or Wetland Certification Letter

A NRCS Forms Included in This Section

The following provides forms that NRCS uses to notify FSA of HELC and WC determinations.

Form	Title
NRCS-CPA-026	Highly Erodible Land and Wetland Conservation Determination
NRCS-CPA-026E	Highly Erodible Land and Wetland Conservation Determination (Continuation)
NRCS-CPA-027	Certification of Highly Erodible Land Conservation Plans(s) and System(s)

B Using NRCS-CPA-026

NRCS uses NRCS-CPA-026 to:

- record results of land determinations requested on AD-1026
- notify other USDA agencies and the producer of the results of the determinations.

C NRCS Determination Data

NRCS will return a copy of NRCS-CPA-026 to the FSA office in response to an AD-1026 determination request, with the following information for:

- HEL determinations:
 - field number
 - HEL or NHEL determination
 - sodbuster determination
 - acres
 - date of determination
- certified wetland determinations:
 - field number
 - NRCS wetland label
 - year of conversion
 - acres
 - certification date.

200 Information Received From NRCS on NRCS-CPA-026 or Wetland Certification Letter (Continued)

D Example of NRCS-CPA-026E

The following is an example of NRCS-CPA-026E.

	United States Department of Agriculture	Natural Resources Conservation Service	NRCS-CPA-026E 9/2000
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HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION

Name Address:		Request Date:	County:
Agency or Person Requesting Determination:		Tract No:	FSA Farm No.:

Section I - Highly Erodible Land

Is a soil survey now available for making a highly erodible land determination?	-
Are there highly erodible soil map units on this farm?	-

Fields in this section have undergone a determination of whether they are highly erodible land (HEL) or not; fields for which an HEL Determination has not been completed are not listed. In order to be eligible for USDA benefits, a person must be using an approved conservation system on all HEL.

Field(s)	HEL(Y/N)	Sodbust(Y/N)	Acres	Determination Date
-	-	-		
-	-	-		
-	-	-		
-	-	-		
-	-	-		

The Highly Erodible Land determination was completed in the - .

Section II - Wetlands

Are there hydric soils on this farm?	-
--------------------------------------	---

Fields in this section have had wetland determinations completed. See the Definition of Wetland Label Codes for additional information regarding allowable activities under the wetland conservation provisions of the Food Security Act and/or when wetland determinations are necessary to determine USDA program eligibility.

Field(s)	Wetland Label*	Occurrence Year (CW)**	Acres	Determination Date	Certification Date
-					
-					
-					
-					
-					

The wetland determination was completed in the - . It was - . to the person on .

Remarks:

I certify that the above determinations are correct and were conducted in accordance with policies and procedures contained in the National Food Security Act Manual.

Signature Designated Conservationist	Date

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

200 Information Received From NRCS on NRCS-CPA-026 or Wetland Certification Letter (Continued)

D Example of NRCS-CPA-026E (Continued)

*DEFINITIONS OF WETLAND LABEL CODES

AW	Artificial Wetland. An area that is artificial or irrigation induced wetland. These wetlands are not subject to the wetland conservation provision.
AW/FW	An area that contains both AW and FW.
AW/W	An area that contains both AW and W.
CC	Commenced Conversion exemption.
CPD	Corps Permit Decision. Corps of Engineers permit decisions regarding section 404 of the Clean Water Act will be relied upon to satisfy the wetland conservation provisions of the Food Security Act of 1985, as amended.
CMW	An area that receives a Categorical Minimal Effect determination.
CW	Converted Wetlands. An area converted between December 23, 1985 and November 28, 1990. IN any year that an agricultural commodity is planted on these converted wetlands, you will be ineligible for USDA benefits.
**CW+year	An area converted after November 28, 1990. You will be ineligible for USDA program benefits until this wetland is restored.
CWNA	Converted Wetland Non-Agricultural use. A wetland area converted to other than agricultural commodity production.
CWTE	Converted Wetland Technical Error. An area converted or commenced based on an incorrect NRCS determination or misinformation from a NRCS or FSA employee.
FW	Farmed Wetland. An area that is farmed wetland; was manipulated and planted before December 23, 1985, but still meets wetland criteria. These may be farmed and maintained in the same manner as long as they are not abandoned.
FWP	Farmed Wetlands Pasture. An area that is pasture or hayland, manipulated before December 23, 1985 but still meets wetland criteria. These may be farmed and maintained in the same manner as long as they are not abandoned.
MIW	Mitigation Wetlands. Wetlands on which a person is actively mitigating a frequently cropped area or a wetland converted between December 23, 1985 and November 28, 1990. A converted wetland, farmed wetland, or farmed wetland pasture on which functions and values were lost are compensated for through wetland restoration, enhancement or creation.
MW	Minimal effect Wetland. An area determined to be minimal effect. These wetlands are to be farmed according to the minimal-effect agreement signed at the time the minimal-effect determination was made.
MWM	An area determined to be minimal effect with mitigation.
NI	Not Inventoried – No wetland determination has been completed.
NW	Non-Wetland. An area that does not contain a wetland.
NW/NAD	An area determined to be a non-wetland resulting from a decision from the National Appeals Division.
OW	Other Waters of the U.S. Area that fall under the jurisdiction of the Clean Water Act.
PC	Prior Converted cropland, which was drained filled, or manipulated before December 23, 1985; was cropped prior to December 23, 1985; was not abandoned; and does not meet FW criteria. These are not subject to the wetland conservation provision unless the area reverts to wetland as a result of abandonment.
PC/NW	An area that contains both PC and NW.
TP	Third Party Exemption.
W	Wetlands. An area meeting wetland criteria, including wetland farmed under natural conditions. If you plan to clear, drain, fill, level or manipulate these areas, contact NRCS and the Army Corp of Engineers prior to any such activity.
WX	A wetland area that has been manipulated after December 23, 1985, but was not, for the purpose of making production possible and production was not made possible. These include wetlands manipulated by drainage maintenance agreements.

200 Information Received From NRCS on NRCS-CPA-026 or Wetland Certification Letter (Continued)**E Using NRCS-CPA-026E**

NRCS-CPA-026E is a continuation form for NRCS-CPA-026.

F Notification of Certified Wetlands by Letter Instead of NRCS-CPA-026

NRCS will provide producers official “certified” wetland determinations upon receiving a written request from the producer. Areas with previous wetland determinations that are **not** changed from an earlier NRCS-CPA-026 will be certified as accurate by a letter to the producer. A copy of the producer’s letter will be forwarded by NRCS to FSA when this occurs. County Offices shall:

- attach the letter to the original NRCS-CPA-026 for the tract
- coordinate documenting certified wetland on official aerial photography according to 2-CP, paragraph 495
- update the wetland certification for the tract file according to 3-CM.

G Providing NRCS With Names and Addresses

NRCS has adopted a policy to officially notify **all** producers on tracts about technical determinations completed by NRCS.

FSA employees shall provide NRCS with the current names and addresses of the operator, owners, and other producers for each tract for which NRCS requests this information. Ensure that the latest available information is provided to NRCS.

Note: This process is in place for determinations requested on FSA-569. FSA is required to list the names and addresses for all producers on FSA-569. NRCS uses this information for notifying affected producers.

201 Information Received From NRCS on NRCS-CPA-027**A Using NRCS-CPA-027**

NRCS uses NRCS-CPA-027 to inform FSA of approved conservation plans.

Normally a producer is not required to have a written conservation plan to be in compliance with the HEL provisions. The producer must still be actively applying an NRCS-approved conservation system to HEL to retain eligibility for USDA program benefits.

Exception: A written conservation plan (documented with NRCS-CPA-027) is required in the following cases:

- reinstatement of eligibility following a “not actively applying” determination
- as a condition of either a:
 - “good faith” waiver
 - NRCS technical assistance variance.

202 Maintaining Manual Records of NRCS Determinations**A Background**

A uniform system is needed for filing HELC and WC determinations received from NRCS. Because HELC and WC determinations are effective indefinitely, the records containing NRCS determinations shall be kept indefinitely.

B Establishing HELC and WC File

Establish and maintain a permanent HELC and WC file for each farm.

C HELC and WC Record Retention

Maintain NRCS HELC and WC determinations in the permanent HELC and WC farm folder according to the following.

IF record is...	THEN keep this record...
NRCS-CPA-026	as long as any part of the determination is effective.
NRCS-CPA-026E	
a letter documenting certification of wetlands	
a farm copy with HELC and WC codes	until a replacement record is received.
NRCS-CPA-027	
FSA-569	indefinitely.

Note: HELC farm folders can be filed by either tract or farm number at the County Office discretion, as long as this method is consistent for all forms filed within their Service Center for this HELC/WC record areas.

D Reconstituted Farms

If a farm is reconstituted, then the NRCS HELC and WC records shall be brought forward and referenced in the HELC and WC file with the new farm and tract numbers.

203-213 (Reserved)

Section 2 (Reserved)

214-220 (Reserved)

Section 3 Updating NRCS Data in FSA Files**221 Updating Aerial Imagery****A Maintaining Official Records**

FSA shall maintain official USDA records of HEL and wetland determinations by farm, tract, and field number. These determinations shall be recorded and maintained within the Service Center's GIS.

B HEL Labels

NRCS will identify HEL determinations on fields as follows:

- "HEL" for a field predominately highly erodible
- "NHEL" for fields not predominately highly erodible.

FSA shall transfer NRCS labels to GIS by designating the HEL determination as an attribute of CLU.

Follow the procedure in 8-CM, paragraph 162 and Exhibit 17 to attribute CLU with the HEL determinations. The following codes shall be used as HEL attributes:

- "H" -Highly Erodible Land
- "N" - Non Highly Erodible Land
- "E" - Exempted Highly Erodible Land
- "U" - Undetermined.

Note: "U" indicates that an HEL determination has not yet been completed for CLU.

C Documenting Wetland in GIS

Wetland shall be documented within the Service Center's GIS as a wetland point layer.

The wetland layer shall be maintained according to 8-CM, paragraph 194.

The following attributes may be recorded for each wetland point:

- NRCS wetland label
- acreage of the wetland if known
- whether the wetland is certified or inventoried
- date certified.

221 Updating Aerial Imagery (Continued)

E NRCS Food Security Act Wetland Labels

The following provides wetland labels that are used by NRCS for certified wetlands.

Wetland Code	Description
AW	Artificial or irrigation induced wetland.
AW/FW	Artificial or irrigation induced wetland and farmed wetland.
AW/W	Artificial or irrigation induced wetland and wetland.
CC	Commenced conversion exemption.
CMW	Categorical minimal effect.
CW	Wetland converted between December 23, 1985, and November 28, 1990.
CW+Year	Wetland converted after November 28, 1990.
CWNA	Wetland converted to other than agricultural commodity production.
CWTE	Wetland converted or commenced based on an incorrect NRCS determination.
Easement	A wetland easement exists on the land.
FW	A farmed wetland that was manipulated and planted before December 23, 1985, but still meets wetland criteria.
FWP	Pasture or hayland converted before December 23, 1985, that still meets wetland criteria and is not abandoned.
MIW	A frequently cropped wetland area that is converted under an agreement that another wetland, that was converted before December 23, 1985, is restored to replace it. The restored area may be protected by an easement.
MW	Conversion activity was determined to have a minimal effect.
MWM	Minimal effect mitigation.
NI	Area that is not inventoried by NRCS.
NW	The field does not contain wetland.
NW/NAD	Non wetland per national appeals decision.
OW	Other waters of the United States.
PC	Land converted before December 23, 1985, to make agricultural production possible.
PC/NW	Prior converted and non wetland.
TP	Wetland converted by a third-party.
W	Wetland or wetland farmed under natural conditions and no drainage has occurred.
WX	Wetland manipulated after December 23, 1985, but agricultural production was not made possible.
GFW	CW that has been restored under the good faith provision.
GFW+Year	CW + YR that has been restored after 1990 under the good faith provision
RPW	A not frequently cropped wetland area that is converted to improve efficiency under an agreement that another wetland, that was converted before December 23, 1985, is restored to replace it.
RSW	A wetland area that was not converted between December 23, 1985, and November 28, 1990, that is restored to pre-conversion conditions. No violation by planting on the converted wetland has occurred.
RVW+Year	A wetland converted after December 23, 1985, on which NRCS determined a violation occurred and restoration to reconversion conditions has been completed.

222 Updating Tract Records

A Overview

Based upon the finalized NRCS determinations documented on NRCS-CPA-026 and aerial imagery, the County Office shall update the tract file according to 3-CM. Conservation compliance tract files reflect:

- NRCS HEL determinations
- NRCS wetland determinations
- producer exemptions, such as good faith or landlord/tenant.

Although NRCS determinations are made at the field level, FSA maintains summarized data at the tract level.

Example: If at least 1 field within a tract has been determined to be HEL, the FSA tract file will indicate HEL for the tract.

B Tract HEL Selections

Tract records shall be updated according to 3-CM using the following selections to record NRCS HEL determinations.

IF...	AND the producer certifies on AD-1026...	THEN select...
no HEL determinations have been completed on the tract		HEL determinations not complete.
at least 1 field on the tract has been determined non-HEL but not all determinations have been completed		HEL determinations not complete.
at least 1 field on the tract has been determined HEL, but all determinations have not been completed	compliance with HELC and WC provisions	HEL, conservation system is being actively applied.
	noncompliance with HELC and WC provisions	HEL, conservation system is not being applied.
all HEL determinations are complete and the tract contains no HEL fields		classified as not HEL.
all HEL determinations are complete and the tract contains at least 1 HEL field	compliance with HELC and WC provisions	HEL, conservation system is being actively applied.
	noncompliance with HELC and WC provisions	HEL, conservation system is not being applied.
HEL determinations may be either complete or incomplete for the tract	compliance with HELC and WC provisions	HEL, conservation system is not required, no agricultural commodity.
Note: An agricultural commodity is not being producer on the tract.		

222 Updating Tract Records (Continued)

B Tract HEL Selections (Continued)

IF...	AND the producer certifies on AD-1026...	THEN select...
producer has received a NRCS variance on former CRP land	compliance with HELC and WC provisions	HEL, producer has been granted 2 years to implement an approved conservation system on former CRP land.

C Recording HEL Field Determinations

Field determinations shall be recorded as an attribute of the CLU layer within GIS.

D Tract File Wetland Selections

Tract records shall be updated according to 3-CM using the following selections to record NRCS wetland determinations.

IF...	THEN select...
wetland determinations have been completed for the entire tract and there are no wetlands (W) or farmed wetlands (FW) on the tract	tract does not contain a wetland.
wetland determinations have not been completed for the entire tract and there are no wetlands (W) or farmed wetlands (FW) on the portion of the tract with NRCS determinations	wetland determinations not complete.
at least a portion of the tract has received an NRCS determination of wetland (W) or farmed wetland (FW)	tract contains a wetland or farmed wetland.

E Other Wetland Determinations

The tract file records the existence of wetlands that have a direct impact upon producer eligibility. The types of wetland designations recorded in the tract file are wetlands (W) and farmed wetlands (FW).

Other NRCS wetland determinations shall be documented in the county GIS. CLU's within GIS include wetland attributes determined by NRCS.

Example: Prior converted (PC), artificial wetland (AW), etc.

223-238 (Reserved)

Section 4 Providing Producer Record Changes to NRCS

239 NRCS Requested Information

A Providing NRCS Requested Information

County Office personnel shall provide NRCS a copy of FSA-156EZ and, when applicable, a copy of the appropriate reconstitution report for a farm when changes in 1 or more of the following records are made:

- owner
- operator
- tract division
- farm division
- farm combination.

Note: Only provide NRCS with FSA-156EZ printed for changes listed in this paragraph.

B Referring Tract Changes to NRCS

Use the following as a guide to refer tract data changes to NRCS.

Step	Action
1	Print FSA-156EZ file according to 3-CM.
2	Make a copy of the prior FSA-156EZ on file.
3	Highlight the following old and new changes on FSA-156EZ: • name and address of the operator of the farm • last 4 digits of the operator ID number • tract number or numbers for the farm • owner of the tract or tracts. Note: Manually enter the type of change and the date record was updated.

239 NRCS Requested Information (Continued)

B Referring Tract Changes to NRCS (Continued)

Step	Action	
4	IF a change in producer records...	THEN...
	does not involve a reconstitution	forward FSA-156EZ's to NRCS.
	involves a reconstitution	• access the Reconstitution Reports Menu according to 2-CM • select the appropriate reconstitution report • highlight the following applicable changes: • type of reconstitutions • parent farm number • parent tract number • resulting tract numbers • attach to corresponding FSA-156EZ.

Note: It is important that County Office personnel explain the changes reflected on these reports to NRCS.

240-299 (Reserved)

Part 3 (Reserved)

300-399 (Reserved)

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: • individual • authorized representative.
a partnership (all types)	authorized representative of the partnership.
a joint venture, including Indian tribal ventures	either of the following: • authorized representative of the joint venture • responsible official of the Indian tribal council. 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.
an Indian with a temporary ID number and business type of “Indians Represented by BIA”	responsible official of BIA. Note: If a responsible official of BIA signs AD-1026, each member of the tribal group will not be required to file AD-1026.
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	• 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. Note: If the individual filing is a minor child, affiliates also include the father and mother or the guardian of the child.

402 Affiliated Persons (Continued)

B Determining Affiliated Persons (Continued)

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

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)

Section 2 AD-1026 Appendix and AD-1026

428 AD-1026 Appendix

A Example of AD-1026 Appendix

The following is an example of AD-1026 Appendix.

This form is available electronically. AD-1026 Appendix (04-20-06)	U.S. DEPARTMENT OF AGRICULTURE	Form Approved - OMB No. 0560-0185
Appendix to Form AD-1026 Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification		
The following conditions of eligibility are required for persons to receive any USDA loans or other program benefits that are subject to highly erodible land and wetland conservation provisions, unless an exemption has been granted by USDA. By signing Form AD-1026, Item 12, the producer certifies receipt of this form, and unless an exemption has been granted by USDA, agrees to the following on any farms in which such person has an interest:		
A	NOT to plant or produce an agricultural commodity on highly erodible fields unless actively applying an approved conservation plan or maintaining a fully applied conservation system.	
B	NOT to plant or produce an agricultural commodity on wetlands converted after December 23, 1985.	
C	NOT to convert wetlands by draining, dredging, filling, leveling, landclearing or any other means that would allow the planting of any crop, pasture, agricultural commodity, or other such crops.	
D	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 wetlands, except for those projects evaluated and approved by NRCS.	
NOTE: Signature on Form AD-1026 gives representatives of USDA authorization to enter upon and inspect all farms in which the producer has an interest for the purpose of confirming the above statements. Any questions concerning the requirements of the Food Security Act of 1985, as amended, shall be directed to your County FSA Office personnel before signing AD-1026 in Item 12.		
NOTE: The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information to be supplied on this form is the Food Security Act of 1985, Pub. L. 99-198, and regulations promulgated under the Act (7 CFR Part 12). The information will be used to determine eligibility for program benefits and other financial assistance administered by USDA agencies. The information may be furnished to other USDA agencies, IRS, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court magistrate or administrative tribunal. Furnishing the Social Security Number is voluntary. Furnishing the other requested information is voluntary; however, failure to furnish to correct, complete information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA agencies. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided by the producer on this form. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0185. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM AD-1026 TO YOUR COUNTY FARM SERVICE AGENCY (FSA) OFFICE (address printed in Item 6 of AD-1026A).		
The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.		

428 AD-1026 Appendix (Continued)**B Purpose of AD-1026 Appendix**

AD-1026 Appendix is attached to the front of AD-1026, and contains the eligibility conditions for HELC and WC compliance.

C Explaining AD-1026 Appendix to Producers

AD-1026 Appendix shall be provided to the producer before the producer completes AD-1026 and certifies compliance in item 12. Before AD-1026 is completed, the County Office shall:

- have the producer read AD-1026 Appendix
- answer any questions the producer may have
- explain that by signing AD-1026, item 12, the producer is certifying compliance with the provisions on AD-1026 Appendix.

D Distributing AD-1026 Appendix

County Offices shall provide a copy of both AD-1026 Appendix and AD-1026 to the producer upon completing the certification statement on AD-1026, item 12.

429 Using AD-1026

A Example of AD-1026, Page 2

The following is an example of AD-1026, page 2.

AD-1026 (Page 2) (04-20-06)		U.S. DEPARTMENT OF AGRICULTURE		Form Approved - OMB No. 0560-0185	
HIGHLY ERODIBLE LAND CONSERVATION (HEL) AND WETLAND CONSERVATION (WC) CERTIFICATION					
(See Page 3 for Nondiscrimination, Public Burden and Privacy Act Statements).					
1. Name of Producer		2. I.D. Number (Last 4 digits only)		3. Crop Year	
4. Do you have any interest in land that produces or could produce an agricultural commodity? <i>If "YES", or, if you are a Farm Loan Applicant continue with Item 5. If "NO", and you are not a farm loan applicant, go to Item 12 and sign and date.</i>				YES	NO
5. <i>For farm loan applicants only:</i> Will you conduct any activities for fish production, trees, vineyards, shrubs, building construction, or other non-agricultural purposes on lands for which a wetland determination has not been completed by NRCS?					
6. Are you a landlord or tenant on any farm that will not be in compliance with HELC and WC provisions? <i>If "YES", enter the farm number or contact your County FSA Office before completing this form. Farm Number: _____</i> <i>(Contact your county FSA office if you are unsure of the HEL or wetland determinations applicable to your farming interests.)</i>					
7. Do any of your landlords refuse to comply with HELC requirements on any farms? <i>If "YES", enter the farm number or contact your County FSA Office before completing this form. Farm Number: _____</i>					
8. List affiliated persons with farming interests. <i>See Page 3 for an explanation. Enter "NONE", if applicable.</i>					
9. During the crop year entered in Item 3 above, or the term of a requested USDA loan, did you or will you plant and produce an agricultural commodity on land for which a highly erodible determination has not been made?				YES	NO
10. Since December 23, 1985, or during the current crop year, or during the term of a requested USDA loan, has anyone performed, or will anyone perform any activities to:					
A. Create new drainage systems, or conduct land leveling, filling, dredging, land clearing, excavation, or stump removal, that has NOT been evaluated by NRCS? <i>If "YES", indicate year(s): _____</i>					
B. Improve or modify an existing drainage system that has NOT been evaluated by NRCS? <i>If "YES", indicate year(s): _____</i>					
C. Maintain an existing drainage system that has NOT been evaluated by NRCS? <i>If "YES", indicate the year(s): _____</i> 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.					
11. If "YES" to Items 5, 10A and/or 10B or 10C enter the following for the land the answer applies to:					
A. Farm and/or tract/field number: _____					
B. Activity: _____					
C. Current land use (specify crops): _____					
D. County: _____					
A "YES" answer in Items 5, 9 or 10 authorizes FSA to refer this AD-1026 to NRCS. If you check "YES" to Item 10C, NRCS does not have to conduct a certified wetland determination. <i>(Contact your County FSA Office if you are unsure about the answers to Items 5, 9 and 10.)</i> Continuous AD-1026 Certification: I have read the AD-1026 Appendix and understand and agree that my eligibility for certain USDA program benefits is contingent upon this certification of compliance with highly erodible land and wetland conservation provisions of the Food Security Act of 1985 as amended, and if a determination is made that results in a violation and ineligibility, I agree to refund all applicable payments. - I agree to the terms and conditions stated on AD-1026 Appendix on all land in which I have or will have an interest and understand that I am responsible for any non-compliance with these provisions. - I agree that I will file a revised AD-1026 if there are any changes in my operation or activities that may affect compliance with these provisions. - I understand that affiliated persons are also subject to compliance with these provisions and their failure to comply or file AD-1026 will result in loss of eligibility to persons or enterprises with whom they are affiliated. <i>(See Page 3 of this form for affiliated persons.)</i>					
12. Signature of Producer ▶ <i>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 a HEL and/or certified wetland determination on the tract or farm numbers listed above.</i> _____ Producer's Signature _____ Date (MM-DD-YYYY)					
13. Referral to NRCS <i>(Completed by FSA)</i> <i>Sign and date if a NRCS determination is needed for any reason including a "YES" answer in Items 5, 9, 10A, 10B, or 10C.</i>		13A. Signature of FSA Representative		13B. Date (MM-DD-YYYY)	
ORIGINAL - FSA COPY ☐		NRCS COPY ☐		PRODUCER'S COPY ☐	

429 Using AD-1026 (Continued)

B Example of AD-1026, Page 3

The following is an example of AD-1026, page 3.

AD-1026 (Page 3) (04-20-06)	
INSTRUCTIONS FOR ITEM 8 OF AD-1026	
The producer requesting benefits on AD-1026 shall attach a list of the applicable affiliated persons with farming interests who are required to file AD-1026. Follow the rules in this table to determine affiliated persons.	
IF producer, requesting benefits is a (an) . . .	THEN affiliated persons who must file AD-1026 if they have farming interests are . . .
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 father and mother shall be listed as affiliates	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	first level members of the entity.
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
State	none
Church or other charitable organization	
county	
city	
public schools	
corporation with no stockholders	

KEY TO NRCS DETERMINATIONS IN ITEMS 8 THROUGH 11 LISTED ON AD-1026A

8. HEL = Highly Erodible Land:	9. 027 = Approved Conservation Plan (CPA-027):
"Y" = NRCS determined highly erodible land.	"Y" = Tract has an approved conservation plan.
"N" = NRCS determined no highly erodible land.	"N" = Tract does not have an approved conservation plan.
" " = NRCS has not made a determination.	HEL flag is "Y". Producer has a 2-year grace period after soil survey is available to obtain an approved conservation plan.
10. A027 = Applying Conservation Plan:	11. W = Wetlands:
"Y" = Producer is actively applying an approved conservation plan or system.	"Y" = NRCS determined wetlands on this tract. (* See footnote.)
"N" = Producer is NOT actively applying an approved conservation plan or system.	"N" = NRCS determined no wetlands on this tract.
	" " = NRCS has not made wetland determinations on entire tract.

* NRCS has determined a wetland does exist on this tract. Contact your local NRCS office or FSA office for details concerning the location of the wetland and restrictions applying to the land according to NRCS determination before planting an agricultural commodity or performing any drainage or manipulation on this tract.

NOTE: The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information to be supplied on this form is the Food Security Act of 1985, Pub. L. 99-198, and regulations promulgated under the Act (7 CFR Part 12). The information will be used to determine eligibility for program benefits and other financial assistance administered by USDA agencies. The information may be furnished to other USDA agencies, IRS, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court magistrate or administrative tribunal. Furnishing the Social Security Number is voluntary. Furnishing the other requested information is voluntary; however, failure to furnish correct, complete information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA agencies. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided by the producer on this form.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0185. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM AD-1026 TO YOUR COUNTY FARM SERVICE AGENCY (FSA) OFFICE (address printed in item 6 of AD-1026A).

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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	ENTER "X" in either the "YES" or "NO" box. If: • "YES", then continue to item 5 • "NO", and: • not a farm loan applicant, proceed to item 12 for certification signature and date • a farm loan applicant, proceed to item 5.
5	ENTER "X" in either the "YES" or "NO" box. This question includes fish production, trees, vineyards, shrubs, building construction, or other activities. Item 5 may be left blank for if not a farm loan applicant.
6	ENTER "X" in either the "YES" or "NO" box. Mark "YES" in this block if an agricultural commodity is being produced on either: • highly erodible fields without applying an approved conservation system or plan • wetlands converted after December 23, 1985. Also mark "YES" if wetlands have been converted after November 28, 1990.
7	ENTER "X" in either the "YES" or "NO" box. 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.
8	*--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. If there are no affiliated persons with farming interests, then ENTER "None".--*

429 Using AD-1026 (Continued)

C AD-1026 Instructions (Continued)

Item	Instruction
9	ENTER "X" in either the "YES" or "NO" box. 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. If "YES" is checked, FSA will request a HEL determination from NRCS for the specific field(s).
10	ENTER "X" in either the "YES" or "NO" box for each of the items A, B, and C. 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. 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.
11	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.
12	The producer shall read the Continuous AD-1026 Certification statement and sign and date the certification. 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.
13	This item is for FSA use only.

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.--*

430 Printing and Using AD-1026A (Continued)**C NRCS Determinations on AD-1026A**

AD-1026A HEL and wetland designations are on a tract basis.

Example: Tract 100 consists of 8 fields. AD-1026A will indicate tract 100 has HEL in each of the following situations.

- NRCS has determined 7 fields are NHEL and 1 field is HEL.
- NRCS has determined 1 field to be HEL and has not completed determinations for the remaining fields.
- NRCS has determined 3 fields are HEL, 3 fields are NHEL, and no determinations have been made for the remaining 2 fields

If a tract is listed as HEL on AD-1026A, at least 1 field or portion of a field in the tract has been determined by NRCS to meet HEL criteria.

D Corrections to the AD-1026A

In certain cases a producer will report to the recording County Office that the information on AD-1026A is in need of an update. The producer may make manual changes to AD-1026A and complete the AD-1026 certification. The information contained on AD-1026A is intended to assist the producer to properly complete the AD-1026 certification. However it is **not** a required attachment to AD-1026.

The recording County Office shall forward an informational copy of AD-1026A, including the hand written producer updates, to the applicable administrative County Office.

431-455 (Reserved)

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. - 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. * * * - Identify any drainage activity completed or proposed. Note: Determinations are needed for: - 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: - 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: • 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: • 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.

468 Distributing Copies of AD-1026**A Producer Copies**

Provide the producer with a copy of AD-1026 after AD-1026, item 12 has been signed.

Attach AD-1026 Appendix and copies of AD-1026A's, if applicable, to the producer's AD-1026.

Note: Do not provide copies of AD-1026's signed by affiliated persons to the producer, unless the producer requests them.

B Review Affiliated Persons' Copies

Ensure that all AD-1026's for the affiliates of the person requesting benefits include either of the following:

- producer's signature on AD-1026, item 12
- statement of ineligibility on AD-1026.

469 Issuing Program Payments**A Program Payment Eligibility**

Producers may certify compliance with the HELC/WC provisions by signing AD-1026, item 12, after answering all applicable questions. County Offices may issue program payments to the producer based upon their certification of compliance, before all NRCS determinations have been completed, provided all other eligibility requirements are met.

B Withholding Program Payments

Some producers may be uncertain as to their compliance with HELC and WC provisions. In such cases, the producer may request in writing that the County Office not issue program payments pending necessary NRCS determinations.

The County Office shall not otherwise delay issuing program payments without an FSA determination of ineligibility based upon an NRCS completed FSA-569.

470 When a Revised AD-1026 Is Required

A Requirements for Revised AD-1026

The producer shall file a revised AD-1026 to replace a previously filed AD-1026 when any of the following changes are made to the producer's records after AD-1026 was signed:

- a "yes" answer applies for question 5, 9, or 10 for activities not previously reported on AD-1026 and technical determinations for these activities were not completed by NRCS
- noncropland is broken out on farms or tracts associated with the producer.

B Updating the Web-Based Eligibility System

When a producer is required to file a revised AD-1026, County Offices shall update the web-based eligibility system according to 3-PL.

471-499 (Reserved)

Part 5 HELC and WC Compliance Provisions

Section 1 HELC Compliance

500 Overview

A Background

The 1985 Act, as amended, provides that, unless exempt, persons who produce an agricultural commodity on a field on which HEL is predominate, or designate land on which HEL is predominate to be set aside, diverted, devoted to conservation uses, or otherwise not cultivated under a program administered by the Secretary to reduce production of an agricultural commodity, shall be ineligible for benefits under certain programs administered by USDA.

This section covers:

- making HEL determinations
- exemptions that apply so producers with highly erodible fields may remain eligible for covered benefits.

B Definitions of Key Terms

Key terms and definitions, according to 7 CFR Part 12, are listed in the following.

Note: These terms are used in this section relative to conservation plans and systems on fields that are HEL.

Term	Definition
Agricultural commodity	An <u>agricultural commodity</u> is any crop planted and produced by annual tilling of the soil, including by 1-trip planters, or sugarcane.
Highly erodible field	A <u>highly erodible field</u> is a field where HEL is predominant. HEL shall be considered to be predominant if either: • 33.33 percent or more of the total field acreage is identified as soil map units which are highly erodible • 50 or more acres in such field are identified as soil map units which are highly erodible.
HEL	<u>HEL</u> is land that has an erodibility index of 8 or more. Note: NRCS will make all HEL and highly erodible field determinations.

500 Overview (Continued)

B Definitions of Key Terms (Continued)

Term	Definition
Conservation plan	<u>Conservation plan</u> 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.
Conservation system	<u>Conservation system</u> means a combination of 1 or more conservation measures or management practices that are: • based on local resource conditions, available conservation technology, and standards and guidelines in NRCS Field Office Technical Guides • designed to achieve, in a cost-effective and technically practicable manner, a substantial reduction in soil erosion or a substantial improvement in soil conditions on a field or group of fields containing highly erodible cropland when compared to the level of erosion or soil conditions that existed before the application of the conservation measures and management practices.
Conservation District	<u>CD</u> 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.

501 Redefining Fields With Previous NRCS HEL Determinations

A Fields Requiring an NRCS Redetermination

Changes to the field after NRCS has made previous HEL/NHEL determinations shall be forwarded to NRCS for a redetermination using AD-1026 when **all** of the following apply.

- The producer has indicated on AD-1026 that an agricultural commodity as defined in subparagraph 500 B was or will be planted on the field for the year of requested program benefits.
- The field boundary has physically changed.

Examples:

- Clearing of surrounding land to increase the field size (not simply the removal of a fence or tree line or any affects of better measurements due to the use of digital photography).
- Reduction in a field size because of land taken out of agricultural production.
- Combination/divisions of previously delineated fields.
- Either a field:
 - with a NHEL designation is combined with any other field or area
 - with an HEL designation is combined with an area without an NRCS determination
 - is reduced in size (field division or land taken out of agricultural production).

B Fields Not Requiring an NRCS Redetermination

Changes in field boundaries that do **not** meet the criteria in subparagraph A for an NRCS redetermination shall either:

- be labeled “HEL” when multiple fields are combined and all of the fields were previously determined to be HEL. (Fields that were previously determined to be HEL remain HEL when combined with another field)
- be labeled “no determination”.

Note: Areas labeled as “no determination” in the automated tract file will require a new NRCS determination if the producer intends to plant a commodity crop on the field. A referral to NRCS will be triggered with a “Yes” response on AD-1026, item 9.

501 Redefining Fields With Previous NRCS HEL Determinations (Continued)**C Other Changes That Do Not Require a HEL Redetermination**

HEL redeterminations by NRCS are **not** required when any of the following apply.

- The FSA acreage measurement is corrected and there has been no change to the physical boundaries of the field, such as a change in acreage from planimeter to GIS measurement. The original NRCS determination shall be retained.
- Changes to a farming operation resulting in a reconstitution that has no impact on previous HEL/NHEL determinations or producer eligibility.

Examples:

- Reconstitutions resulting from the sale or loss of a rented tract.
- Reconstitutions involving the purchase or additional rental of tracts with previous HEL/NHEL determinations.

D Producer Requests for Redeterminations

The producer may make a request directly to NRCS to do either of the following:

- validate an existing HEL determination of the field if there is reason to believe the designation resulting from a field combination or division is not correct
- redefine a field to delineate that portion which is substantially NHEL, from that field for different management uses.

E Using Automated HEL Determinations

HEL determinations are the responsibility of NRCS. Automated HEL measurement/determination computer programs shall not be used. All HEL determinations must be completed using the specific technical criteria set forth in the regulation at 7 CFR Part 610.14. Because FSA may not have the correct factor values and technical criteria available to make these determinations, FSA shall not use any computer program to provide the producer an estimate or advance HEL determination.

502 Criteria Used to Redefine Fields

A Redefinition of HEL Fields

The following:

- provides rules NRCS will use for redetermining HEL on fields for which boundaries are changed after the field was determined predominately HEL by NRCS
- is for information only. FSA shall not make HEL determinations and shall refer all redefinitions to NRCS for a determination.

Note: The same rules apply to land that is redefined for an expired CRP contract.

IF a predominately highly erodible field is...	AND NRCS determines HEL...	THEN NRCS will...
combined with adjoining land	in the resulting field is either of the following: • 33.33 percent or more • 50 acres or more	consider the resulting field as HEL.
	in the resulting field is less than both of the following: • 33.33 percent • 50 acres	consider the area: • previously determined HEL as HEL • not previously determined HEL as NHEL. Note: See 8-CM for recording the determination within the Service Center GIS.

502 Criteria Used to Redefine Fields (Continued)

A Redefinition of HEL Fields (Continued)

IF a predominately highly erodible field is...	AND NRCS determines HEL...	THEN NRCS will...
divided into 2 or more fields incorrectly delineated as the result of a County Office error when NRCS made the initial HEL determination		make HEL determination by using the criteria for highly erodible fields in subparagraph 500 C.
requested by the producer to be divided by permanent boundaries that meet the requirements for field delineations in 2-CP to separate HEL and NHEL	can be delineated separately from NHEL in the field	identify the fields as separate HEL and NHEL fields.

B Field Determined NHEL

If field boundary changes are made on fields that were determined NHEL by NRCS, then the HEL status for the resulting field or fields shall be determined using the criteria for highly erodible fields.

C Redefinitions for Land Entering Into CRP Contracts

If an area is redefined for CRP eligibility purposes, NRCS will make a new HEL determination on the remaining land in the field that is not under CRP contract using the criteria for highly erodible fields.

502 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 2-CP, paragraph 494.
2	Determine official acreage of all redefined or changed fields.
3	Send copies of the following to NRCS: • producer's AD-1026 prepared according to subparagraphs E and F • identifying boundaries of the new fields • the area before the changes if it will assist NRCS in identifying the change.

E Preparing AD-1026 for NRCS

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, shall be referred to NRCS to request a determination.

If AD-1026 referred to NRCS does **not** cover the current year, then NRCS does not make a field visit to the land. However, a field visit is often not necessary for NRCS to make a HEL redetermination. Take action according to subparagraph F in cases where NRCS must make a field visit to make the redetermination and AD-1026 that covers the current year is not available.

502 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 on land for which a current year AD-1026 was not provided:

- NRCS will notify FSA that access to the land is required to make the HEL redetermination
- FSA shall notify the operator of the farm that:
 - updated HEL determinations by NRCS are being delayed because access by NRCS to the land is required to provide an updated HEL determination
 - if current HEL determinations are desired, either file AD-1026 or contact NRCS to grant permission for entry on the land
 - the field will be considered HEL if no action is taken within 30 calendar days. Notify the producer in writing of the determination after 30 calendar days have expired.

Note: Requests may be accepted for a redetermination of the field according to subparagraph B or D if received at a later date.

502 Criteria Used to Redefine Fields (Continued)**H NRCS Action**

NRCS shall:

- update NRCS records for fields:
 - that were previously determined HEL
 - required to be HEL, and not subject to redetermination by NRCS
- make new HEL determinations, if applicable
- send producers a revised NRCS-CPA-026 that reflects the new field boundaries and HEL determinations
- notify FSA of new HEL determinations.

FSA shall send producers an updated copy according to 2-CP, paragraph 499.

503 Conservation Plans and Systems**A Conservation Plan or System Requirement**

Regulations provide that no person shall be ineligible for covered benefits as the result of production of an agricultural commodity on HEL if such production is in compliance with an approved conservation plan or system.

NRCS works in coordination with CD to develop and approve conservation plans and systems in conformity with technical standards set forth in the NRCS Field Office Technical Guide for the district.

B Documentation of Conservation Requirements

An acceptable conservation system may or may not be documented in a written conservation plan. Whenever NRCS makes a determination about a conservation system, it is automatically documented in a conservation plan.

Conservation plans are used by NRCS to document the schedule of practices to be used when providing assistance to producers for meeting HEL requirements. A signed conservation plan is a requirement only when the producer has been approved for gradual implementation of a conservation system on HEL.

Conservation plans are also required:

- when a producer requests reinstatement from a violation
- as a condition of restoration of benefits following approval of a good faith exemption
- following receipt of an NRCS technical assistance variance.

503 Conservation Plans and Systems (Continued)**C Considerations for Conservation Plans and Systems**

The following provides certain factors that NRCS must take into consideration when developing a conservation plan or system.

Note: The following has general applicability and may not be all inclusive of considerations that are made on a local or regional basis.

Factor	Conservation systems shall be...
Achieve substantial erosion	designed to achieve substantial reductions in soil erosion according to the NRCS Field Office Technical Guide.
Technically and economically feasible	technically and economically feasible, based on local resource conditions and available conservation technology.
Cost-effective	cost-effective.
Undue economic hardship	developed so it will not cause undue economic hardship on the person applying the conservation system.

504 Relief for Undue Economic Hardship**A Determination of Undue Economic Hardship**

If NRCS is unable to develop a conservation plan within their technical guidelines to the satisfaction of the producer because the producer asserts that application of a conservation system according to NRCS requirements would impose an undue economic hardship on the producer, then NRCS will refer the producer to FSA to make a request for relief to COC.

AD-1026D shall be completed according to this paragraph for all requests for relief to avoid undue economic hardship. Based on information available, including information provided by the producer and NRCS:

- COC shall make a recommendation to STC
- STC shall consider the recommendation by COC and any other information deemed appropriate, and render a final determination.

504 Relief for Undue Economic Hardship (Continued)

B Example of AD-1026D

The following is an example of AD-1026D.

This form is available electronically.		Form Approved - OMB No. 0560-0185	
AD-1026D UNITED STATES DEPARTMENT OF AGRICULTURE Farm Service Agency (05-15-02)		1A. STATE NAME	1B. COUNTY NAME
RELIEF FOR UNDUE ECONOMIC HARDSHIP REQUEST HIGHLY ERODIBLE LAND CONSERVATION			
NOTE: The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information to be supplied on this form is the Food Security Act of 1985, Pub. L. 99-198, and regulations promulgated under the Act (7 CFR Part 12). The information will be used to determine whether application of a conservation will cause undue economic hardship. Furnishing the requested information is voluntary, however, failure to furnish the correct, complete information may result in denial of relief requested due to undue economic hardship. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0185. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.			
PART A - PRODUCER INFORMATION			
2. NAME AND ADDRESS OF LANDLORD OR LANDOWNER (Including Zip Code):		3. IDENTIFICATION NUMBER	4. FARM NUMBER
		5A. TRACT NUMBER	5B. FIELD NUMBER
		6. CROP YEAR	
Telephone No. (Including Area Code):			
PART B - PRODUCER REQUEST FOR UNDUE ECONOMIC HARDSHIP DETERMINATION			
7. State the reasons that application of a conservation system according to the specifications determined by NRCS would impose an undue economic hardship. Include all pertinent information to be considered, such as the cost of installation of the required conservation practices, efforts to obtain cost-share, benefits to be earned through programs subject to compliance, and general economic situation. The request must be in writing and signed and dated by the affected producer. The request may be made on a separate sheet, signed and dated, and attached to this application. Include copies of any documents that would support a finding that application of the conservation requirements would impose an undue economic hardship and relief requested to avoid the hardship.			
Note: The relief determination shall apply only for the crop year and fields identified in Part A. Application for relief shall be requested annually.			
8A. SIGNATURE OF PRODUCER		8B. DATE (MM-DD-YYYY)	9. DATE REFERRED TO NRCS (MM-DD-YYYY)
PART C - TO BE COMPLETED BY NRCS			
10. Describe in detail the practices required, estimated cost, suggested alternatives, cost share assistance available for the practices, and any other information that NRCS or the Conservation District may have to assist the Committee in making a recommendation or determination. The information may be provided on a separate sheet, signed and dated, and attached to this application.			
11A. SIGNATURE OF NRCS REPRESENTATIVE		11B. DATE (MM-DD-YYYY)	12. DATE REFERRED TO FSA (MM-DD-YYYY)

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PART D - TO BE COMPLETED BY THE COUNTY COMMITTEE		
13. Estimated cost of the practices that the producer affirms would cause undue economic hardship. ① \$ _____	14. Approximate amount of USDA benefits the producer expects to earn if compliance ① \$ _____ requirements are met.	
15. Based on information provided by the producer, information provided by NRCS, and the County Committee's knowledge of the producer's operation, describe in detail the County Committee's recommendation and extent of relief to avoid the hardship, if any, and reasons for the recommendation to the State Committee.		
16A. SIGNATURE OF COUNTY COMMITTEE REPRESENTATIVE	16B. DATE (MM-DD-YYYY)	17. DATE REFERRED TO STATE COMMITTEE (MM-DD-YYYY)
PART E - TO BE COMPLETED BY STATE COMMITTEE		
18. Based on information provided, and any other information deemed necessary to make a determination, describe in detail the State Committee's determination, extent of relief, if any, and the reasons for the determination.		
19A. SIGNATURE OF STATE COMMITTEE REPRESENTATIVE	19B. DATE (MM-DD-YYYY)	
20. DATE PRODUCER WAS NOTIFIED (MM-DD-YYYY)	21. DATE REFERRED TO COUNTY COMMITTEE (MM-DD-YYYY)	
PART F - TO BE COMPLETED BY FSA COUNTY OFFICE		
22. Date NRCS was provided a copy of AD-1026D and related documents: (MM-DD-YYYY)		
The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.		

504 Relief for Undue Economic Hardship (Continued)**C AD-1026D, Items 1 Through 7**

Complete AD-1026D, items 1 through 6 according to the following for all producers who request a determination for relief from applying practices specified by NRCS to apply a conservation system because it would cause undue economic hardship.

Item	Instructions For AD-1026D
1	Enter the State where HEL applicable to this request is located.
1B	Enter the county where HEL applicable to this request is located.
2	Enter the landlord or landowner's name and address, including ZIP code and telephone number.
3	Enter the tax ID number for the landlord or landowner listed in item 2
4	Enter the FSA farm serial number of the farm for which this exemption request is being made.
5A	Enter the FSA tract number on which HEL is located.
5B	Enter the FSA field number on which HEL is located.
6	Enter the crop year for which this exemption request is being made.

504 Relief for Undue Economic Hardship (Continued)**D AD-1026D, Items 7 and 8**

AD-1026D, item 7 provides the producer with general guidelines and information needed for making a determination. The following is pertinent information that the producer should be encouraged to include:

- producer's estimate of the cost of installing the conservation practices
- USDA program benefits the producer expects to request if compliance requirements are met
- producer's general economic situation
- type of relief requested to avoid the hardship
- any other information that may assist in making a determination.

The producer shall be advised that the determination shall apply for 1 crop year only, and application for relief shall be requested annually.

Note: The producer's request may either be entered on AD-1026D or a separate sheet that is signed and dated. Attach any documentation to AD-1026D and reference each document and description of the document in item 7.

AD-1026D, item 8 shall be signed and dated by the producer, or referenced if the producer signed and dated a request on a separate sheet.

E AD-1026D, Item 9

Upon receipt of a producer's request for relief, FSA shall immediately refer AD-1026D and attachments to NRCS for completion of Part C. Enter the date referred to NRCS on AD-1026D, item 9.

Maintain a temporary file with copies of AD-1026D and all related information.

504 Relief for Undue Economic Hardship (Continued)**F AD-1026D, Part C**

NRCS shall provide information requested in AD-1026D, item 10. This will include any comments from SWCD that may assist in making a recommendation or determination. Information from NRCS may include the following:

- practices required and estimated cost
- suggested alternatives they would advise
- cost-share assistance available to establish required practices
- any other information or recommendations NRCS has that may assist in making a determination.

The information may be provided on AD-1026D and signed and dated in item 11, or on a separate sheet, signed and dated, and attached to the original AD-1026D. FSA shall reference any attachments and signatures on AD-1026D, as applicable.

NRCS shall:

- keep a copy of AD-1026D and attached information, and return the original and all attachments to FSA
- enter the date the information is referred to FSA in AD-1026D, item 12.

504 Relief for Undue Economic Hardship (Continued)**G AD-1026D, Part D**

COC shall complete AD-1026D, item 16 to document their recommendation to STC regarding the relief request and the reasons for the recommendation. The following are relevant factors that shall be considered in making the recommendation:

- cost of installing the practices the producer asserts would cause undue economic hardship

Note: Enter COC's estimated cost of installing the practices on AD-1026D, item 13.

- benefits that the producer expects to receive if compliance requirements are met for the crop year

Note: Enter the approximate amount on AD-1026D, item 14.

- producer's general economic situation
- information provided by the producer and NRCS, and COC's knowledge of the producer's situation.

COC representative shall sign AD-1026D, item 16 or attached document.

A copy of AD-1026D and related documents will be kept in the County Office, and the original AD-1026D and all attached documentation shall be referred to STC with COC's recommendation. Enter the date the information is referred to STC for a determination on AD-1026D, item 17.

H COC Recommendation and Documentation

COC's relief recommendation to STC may be:

- denial of relief
- waiver of the practice or practices for 1 year
- less costly solutions to be applied for 1 year
- other relief deemed appropriate for the situation.

The relief recommendation shall be limited to 1 year and documented in detail with specific reasons for the recommendation and evidence that supports the recommendation.

504 Relief for Undue Economic Hardship (Continued)**I AD-1026D, Items 18 and 19**

Upon consideration of all information available, including COC's recommendation and any additional information deemed necessary, STC shall make a determination.

The relief determination:

- shall be for 1 year
- may include the items in subparagraph H
- is not limited to COC's recommendation.

All discussions and considerations in making the determination shall be:

- documented in detail on AD-1026D, item 18 or attachment
- signed and dated by an STC representative on AD-1026D, item 19 or attachment.

J AD-1026D, Item 20

STC shall notify the producer about the determination and reasons for the decision. Provide the producer with appeal rights according to 1-APP. A copy of the producer's notification shall be:

- attached to AD-1026D
- mailed to the County Office where the request originated.

The State Office shall enter the date the producer was notified on AD-1026D, item 20.

K AD-1026D, Item 21

After the producer's appeal rights for STC's determination have expired, the State Office shall refer a copy of AD-1026D and all related information to the County Office.

The State Office shall enter the date the information was mailed on AD-1026D, item 21.

L AD-1026D, Item 22

Upon receipt of AD-1026D, a copy and all documentation shall be:

- copied and provided to NRCS
- filed in the permanent file established according to paragraph 202.

505 Notifying New Owners and Operators of Conservation Compliance Provisions**A Informing New Producers of HELC and WC Provisions**

When changes that result in new producers on a farm are reported to County Offices, the new producers involved shall be advised of HELC and WC requirements.

B Providing Information to New Producers

County Offices shall inform new producers:

- of NRCS HEL and wetland determinations
- of areas granted a commenced or third party wetland conversion determination

Note: County Offices shall provide a farm photocopy showing HEL and wetland determinations to new producers according to 2-CP.

- whether NRCS has completed HEL and wetland determinations
- whether County Office records indicate that there is an approved conservation plan for the farm and tract
- to contact NRCS for development or revision of a conservation plan on HEL.

506 Conservation Compliance Exemptions by NRCS

A Exemptions NRCS May Apply

The following provides exemptions and exceptions according to the regulations that NRCS may apply for determining whether a person is using an acceptable conservation plan or system.

Note: See Part 7 for producer exemptions that may be applied by FSA.

Exemptions	No person shall be determined to be ineligible...
Reliance on NRCS determination for HEL	as the result of the production of an agricultural commodity on HEL in reliance on a determination by NRCS that such land was not HEL. Exception: This exemption shall not apply if the planting of an agricultural commodity was done after NRCS determined the land to be HEL and the person was notified of the determination.
Areas of 2 acres or less	for noncommercial production of agricultural commodities on HEL on an area of 2 acres or less if it is determined by COC that such production is not intended to circumvent the conservation requirements. Production is considered to be commercial if it is fed to commercial livestock, sold, or used for other commercial purposes. Examples: Home gardens of 2 acres or less are exempt. Two acres of corn that is fed to cattle are not exempt. The request shall be made by the producer in writing, and the determination documented in the COC minutes.
Technical and minor violations	if NRCS determines that failure to actively apply a conservation plan or system is technical and minor in nature, and such violation has little effect on the erosion control purposes of the conservation plan applicable to the land on which the violation has occurred.
Beyond the producer's control	if failure to comply is beyond the control of the person.

506 Conservation Compliance Exemptions by NRCS (Continued)**A Exemptions NRCS May Apply (Continued)**

Exemptions	No person shall be determined to be ineligible...
Temporary variance	if NRCS grants a temporary variance from practices specified in the plan for the purpose of handling a specific problem, including weather, pest, and disease problems, which NRCS determines cannot be reasonably addressed except through such variance.
Small areas of noncropland	if small areas of noncropland within or adjacent to the boundaries of existing HEL fields, such as abandoned farmsteads, areas around filled or capped wells, rock piles, trees, or brush which are converted to cropland, if they are included in an approved conservation plan for the entire highly erodible field.

B Determinations for Sugarcane

If the initial planting of sugarcane causes a HELC noncompliance, then the producer shall be ineligible:

- the year the crop is planted
- for succeeding crop years during the life of the sugarcane if:
 - a conservation plan is not being actively applied on the land the year following the initial noncompliance determination
 - application of the conservation plan begins later than the beginning of the crop year following the initial noncompliance determination.

Note: Failure to actively apply the conservation plan during any crop year on the land where the sugarcane is planted may result in a noncompliance determination.

507-509 (Reserved)

Section 2 WC Compliance**Subsection 1 Wetland Conservation****510 Wetland Conservation Provisions****A Background**

The 1985 Act, as amended, provides that, unless exempt, persons are ineligible for benefits under certain programs administered by USDA if they:

- plant an agricultural commodity on wetland that was converted after December 23, 1985
- convert a wetland after November 28, 1990, by draining, dredging, filling, leveling, or any other means for the purpose, or to have the effect, of making the production of an agricultural commodity possible.

This section covers:

- wetland types determined by NRCS
- certain exemptions that may apply to remain eligible for covered USDA benefits.

Section 363 of the Consolidated Farm and Rural Development Act places additional requirements on FLP loans and loan guarantees. FSA may not approve any loan or loan guarantee to drain, dredge, fill, level or otherwise manipulate a wetland, or to engage in any activity that results in impairing or reducing the flow, circulation or reach of water except in the case of activity related to the maintenance of previously converted wetlands.

510 Wetland Conservation Provisions (Continued)

B Permitted Uses and Restrictions of Wetlands

The following provides permitted uses and restrictions of certain wetlands for compliance with WC provisions.

Type of Wetland	Permitted Use and Restrictions
W	Wetlands can be farmed under natural conditions. Wetlands cannot be converted.
CW Before November 28, 1990	Wetlands converted before November 28, 1990, cannot be planted to an agricultural commodity and retain eligibility for benefits under programs listed in paragraph 402.
CW After November 28, 1990	Wetlands converted after November 28, 1990, must be either of the following: • restored to wetland status • mitigated to regain eligibility for benefits under programs listed in subparagraph 3 A. Persons who plant agricultural commodities shall be ineligible for benefits listed in subparagraph 3 A.
FW	Wetlands farmed can continue to be farmed. Wetland status cannot be altered. Note: Wetlands that can be farmed under natural conditions cannot be manipulated in any way, unless NRCS determines the work would have minimal effect on wetland values.
PC	Wetlands converted before December 23, 1985, can be farmed and maintained. Note: Wetlands granted a commenced conversion exemption determination can be maintained to the extent that existed on January 1, 1995.

511 Notifying New Owners and Operators of WC Provisions**A Notification of Previous Determinations**

To assist producers with their conservation compliance obligation, the County Office should notify new farm owners and operators of previous wetland determinations when 1 of the following applies:

- a farm reconstitution is approved
- tract ownership changes
- farm operator changes.

B What to Provide New Owners and Operators

Provide new tract owners and farm operators with:

- a copy of the current farm photocopy with previous wetland determinations recorded by field
- an explanation of WC provisions.

C Responsibility For Compliance

The purpose of the notification to new owners and operators is to provide an added reminder to potential program participants of their conservation compliance responsibilities. It remains the responsibility of the producer to ensure compliance with the HELC/WC provisions on all newly acquired land. The County Office is **not** required to become aware of all land transfers (sales or rentals) by every producer. Failure to notify producers according to subparagraph A will not eliminate any loss of program benefits because of noncompliance.

512 Types of WC Exemptions

A Introduction

WC regulations provide certain exemptions to allow a person to remain eligible for program benefits when an agricultural commodity is produced on converted wetland or a wetland is converted.

B Types of Exemptions

The following provides types of wetland exemptions.

IF...	THEN an exemption applies on...
NRCS has determined that the conversion of the wetland and the production of an agricultural commodity would have a minimal impact on wetland functions and values in the area	ME.
NRCS determines AW is the result of excavating or diking NW to collect and retain water for: • livestock • fish production • irrigation • rice production • flood control	AW.

512 Types of WC Exemptions (Continued)

B Types of Exemptions (Continued)

IF...	THEN an exemption applies on...
NRCS determines the wet area is created by a water delivery system, irrigation, irrigation system, application of water for irrigation, a nontidal drainage, or irrigation ditch excavated in nonwetland	a wet area, such as AW.
NRCS determines this production is possible because of a natural condition Example: Drought.	wetland.
COC determines that the conversion was caused by a third party with whom the person requesting benefits was not associated through a scheme or device to circumvent the WC provision Note: See Subsection 2 for requirements for granting a third party conversion exemption.	wetlands converted by a third party.
NRCS determines the land is identified as having both of the following: • high potential for agricultural development • a predominance of permafrost soils	land in Alaska.

513 Planting Sugarcane on Converted Wetland**A Background**

Sugarcane is harvested for several years from an initial planting. If the sugarcane is planted on converted wetland, then an eligibility determination is required for each year the crop is harvested.

B Determining Eligibility

If sugarcane is planted on converted wetland, then a sugarcane producer shall be determined:

- ineligible the year the crop is planted
- eligible for program benefits in succeeding crop years, if the farm is otherwise in compliance and either of the following apply:
 - the producer requests and is granted MW determination by NRCS in consultation with FWS
 - the crop is abandoned or destroyed.

Note: Producers who convert wetland after November 28, 1990, will be ineligible for USDA benefits until the wetland is restored according to an agreement with NRCS.

514-517 (Reserved)

Subsection 2 Third Party Exemption

518 Conversion by a Third Party

A Definition of Third Party Exemption

Third party exemption means a person shall not be determined to be ineligible for program benefits as a result of the production of an agricultural commodity on wetlands converted after December 23, 1985, or the conversion of wetland by actions of persons other than either of the following:

- the person applying for USDA benefits
- any of the predecessors in interest on the converted wetland.

Note: The conversion cannot be the result of a scheme or device to avoid compliance with WC provisions. See Part 9 for additional information on scheme or device.

Exception: See subparagraph C for an exception for drainage districts or similar entities.

B Conditions for Third Party Exemption

The following lists conditions for third party exemption on wetland conversion.

IF...	AND...	THEN...
the conversion of the wetland was caused by persons other than either of the following: • the producer requesting benefits • any of the predecessors in interest on the converted wetland	the conversion was not the result of a scheme or device to avoid compliance with WC provisions	COC can grant a third party conversion exemption, unless subparagraph C applies.

Note: Further drainage improvement is not permitted without loss of eligibility for USDA benefits, unless NRCS determines further drainage would have MW on any remaining wetland values.

518 Conversion by a Third Party (Continued)

C Conversion by Drainage Districts

The following shows:

- the effect of wetland conversion by drainage districts or similar entities
- third party exemption determinations.

IF...	AND...	THEN...
the converted wetland is within the boundaries of a drainage district or similar entity	the conversion of the wetland was caused by the actions of the drainage district or similar entity	• the activities of the drainage district or similar entity will be attributed to all persons within the boundaries of the district or similar entity, who are assessed for the activities of the district or entity • persons assessed by the drainage district or entity are ineligible for third party exemptions • the land converted by the drainage district or similar entity will be classified as: • CW if converted before November 28, 1990 • CWXX if converted on or after November 28, 1990.

D Eligibility Requirements for Land Converted by Drainage Districts

Use the following to determine the eligibility requirements for land that was converted by drainage districts or similar entities according to subparagraph C.

IF the conversion of the wetland by the drainage district or similar entity was completed...	THEN producers will be determined ineligible in any year that...
before November 28, 1990	they plant or produce an agricultural commodity on CW.
on or after November 28, 1990	either of the following occurs: • they plant or produce an agricultural commodity on CWXX • they harvest a forage crop by mechanical means on CWXX. Note: The act of conversion will not be a violation. Only the planting and harvesting restrictions apply for wetlands converted by a drainage district or similar entity.

519 Request for Third Party Exemption**A Who Must File**

Persons whose property is affected by third party drainage activities are required to file the third party exemption request on FSA-492.

B Why File Third Party Request

To maintain eligibility for USDA benefits listed in paragraph 402, persons whose property is affected by third party conversion activity must file FSA-492 and provide COC with the required information.

C When to File FSA-492

FSA-492 should be filed before planting an agricultural commodity on the wetland converted by a third party.

D Documentation To Be Provided

The person applying for benefits must provide written evidence that the conversion of wetlands was:

- caused by actions of other persons who have no interest in the land that was converted

Example: A neighbor does drainage activities which convert adjoining land in which he has no interest. Producers on the adjoining land can request a third party exemption.

- **not** caused by predecessors in interest on the land which was converted

Example: If a former owner of the land converted the wetland, then a third party exemption cannot be approved. The former owner is considered a predecessor in interest.

- **not** the result of scheme or device to avoid compliance with WC provisions.

Reference: See Part 9 for additional information on scheme or device.

519 Request for Third Party Exemption (Continued)

E Examples of Third Party Requests

The following provides examples of third party conversion requests and determinations.

Example	Situation	Determination
1	A drainage district developed a set of plans to drain approximately 200 wetlands. The majority of the producers within the district voted to approve the plans. Mr. Brown was opposed to the drainage plan because it would drain several pastures on his land. The drainage plan was approved and Mr. Brown is being assessed for the cost of drainage on his farm. Mr. Brown files FSA-492 requesting third party exemption on his pastureland drained by the project. Mr. Brown plans to plant the pasture so he can earn money to pay for the drainage district's assessment.	COC shall deny Mr. Brown's request for a third party exemption because Mr. Brown: • was assessed for the drainage activity • is considered to have caused or permitted the drainage.
2	Because a well-traveled road had washed out many times, the County Highway Department has installed a 20-foot culvert in the road bed adjoining field number 1 of Mrs. Jones' farm. The culvert will allow water to flow from a small wetland in field number 1 through an open ditch newly constructed by the highway department. The culvert and new open ditch will drain the small wetland in field number 1. Mrs. Jones used a scrapper to dig a shallow drain through field number 1 so that another wetland on the other side of the field may also drain through the culvert. Mrs. Jones files FSA-492 requesting a third party exemption on the 2 fields.	COC shall disapprove Mrs. Jones' request for third party exemption because Mrs. Jones did further drainage work on the wetlands.
3	The Army Corp of Engineers developed a major drainage project. The project will control drainage along 100 miles of a major waterway. The principal purpose of the drainage project is flood control, with a secondary purpose of drainage of agricultural lands according to the plans. The wetlands on Mr. Smith's farm will be drained by the actions of the Army Corp of Engineers. Mr. Smith files FSA-492 requesting third party exemption.	The conversion of wetlands by actions of the Army Corp of Engineers is considered eligible for a third party exemption, even though the project listed drainage of agricultural lands as a secondary purpose

520 Filing FSA-492 for Wetland Third Party Conversion Exemption

A Introduction

Each person filing a request for wetland third party conversion exemption shall complete FSA-492 and provide COC with the required information.

B Example of FSA-492

The following is an example of FSA-492.

This form is available electronically.		Form Approved - OMB NO. 0560-0185	
FSA-492 (11-07-03)		U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency	
DATA NEEDED FOR THIRD-PARTY DETERMINATIONS		1. STATE NAME	2. COUNTY NAME
		3. FARM NUMBER	
NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is the Food Security Act of 1985, P.L. 99-198, and regulations promulgated under the Act (7 CFR Part 12). The information will be used to determine if your third party request can be granted in accordance with the swampbuster provisions of the Act. Furnishing the requested information is voluntary; however without it your eligibility to receive program payments can not be determined. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0185. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.			
4. NAME AND ADDRESS OF PRODUCER		5. TELEPHONE NO. OF PRODUCER (Area Code)	
		6. GIVE LEGAL DESCRIPTION OF AREA (Attach a photo copy and identify areas)	
7. Has a wetland determination been completed by NRCS? (If "NO", a wetland determination is needed to consider a third party request.)		YES	NO
8. If a wetland determination has been completed, are the areas in question determined to be wetlands?			
PART A - PRODUCER'S REQUEST			
9. Enter a description of actions that resulted in the drainage of the wetland by persons who have no current or former interest in the converted wetland for which the third-party exemption is requested. Provide full details of why and how you were not involved, in any way, with the drainage of the wetland.			
10. Has a crop been planted in the wetland in the current year?		If "YES", enter date planted: (MM-DD-YYYY)	
YES ☐	NO ☐		
11. Is the request within the boundary of a drainage district?			
YES ☐	NO ☐		
12 A. SIGNATURE OF PRODUCER		12 B. DATE (MM-DD-YYYY)	
The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.			

520 Filing FSA-492 for Wetland Third Party Conversion Exemption (Continued)

B Example of FSA-492 (Continued)

FSA-492 (11-07-03)		
PART B - COC THIRD PARTY DETERMINATION		
12. COC Determination: Third Party Exemption		Approved ☐ Disapproved ☐
13. Reasons for COC Determination: Document in detail the COC determination and facts to support the determination.		
14 A. Signature of COC member	14 B. Date (MM-DD-YYYY)	15. Date producer was notified (MM-DD-YYYY)

520 Filing FSA-492 for Wetland Third Party Conversion Exemption (Continued)

D Completing FSA-492

Complete FSA-592 according to the following.

Item	Required Entries	By Whom
1	Enter State name.	County Office
2	Enter county name.	
3	Enter farm number for which a third party request is made.	
4	Enter name and address of the producer who requests a third party determination.	
5	Enter producer's telephone number.	
6	Enter a legal description of the area for which the request is made.	
7	Check (✓) whether NRCS completed a wetland determination on the area and indicate whether the area is a wetland. Refer all third party requests to NRCS according to paragraph 521.	
8	If a determination has already been completed by NRCS for the area, indicate if the area was determined to be a wetland.	
Part A - Producer's Request		
9	The producer shall: - enter a description of the drainage activity, providing details of their involvement - indicate whether an agricultural commodity was planted on the converted area along with the date of planting.	Producer
10	Check (✓) whether the area is within the boundary of a drainage district. If "Yes", enter date planted.	
11	Check (✓) whether the request is within the boundary of a drainage district.	
12 A and 12 B	Producer shall sign and date.	
Part B - COC Third Party Determination		
13	Indicate whether the third party exemption is approved.	COC
14	Document in detail the COC determination and facts to support the determination.	
15 A and 15 B	COC member shall sign and date.	
16	Enter date the producer is notified of the COC determinations.	County Office

520 Filing FSA-492 for Wetland Third Party Conversion Exemption (Continued)

E Filing Deadline

Request for exemption on wetland drained by the actions of a third party should be filed before an agricultural commodity is planted on the land.

521 NRCS Determination of Scope and Effect

A Request NRCS to Make Determination

For each request for a third party conversion determination, COC shall request NRCS to:

- make a wetland determination for the area
- determine whether wetlands are present and to make an assessment of the extent of the drainage activity and what activities caused the conversion.

522-525 (Reserved)

Subsection 3 Maintenance and Abandonment**526 Maintenance of Existing Drainage Systems****A Maintaining Existing Drainage Systems**

Persons may maintain drainage systems on wet areas in the same manner as they did before December 23, 1985, without loss of USDA benefits, provided that these actions do not make possible the production of an agricultural commodity on additional wetlands.

B Determining Scope and Effect of Existing Systems

When maintenance of existing drainage is requested, NRCS must determine the scope and effect of the original system. To accomplish this:

- the person who plans the maintenance action shall provide data to NRCS to support the existence and extent of the prior drainage system
- NRCS will consider the following facts for documenting prior drainage facilities:
 - notes in case files
 - field borings to define original construction limits
 - aerial photographs to verify location and effectiveness
 - data provided by landowners and contractors
- NRCS will document:
 - the prior extent of drainage when wetland determinations are made
 - the original scope and effect of the drainage system, unless the area has been abandoned.

526 Maintenance of Existing Drainage Systems (Continued)

C NRCS Maintenance Determinations

All maintenance determinations shall be referred to NRCS. The following provides examples of maintenance allowances that may be made by NRCS.

Current Determination	Maintenance Allowances
PC or AW	Maintaining, improving, replacing, or installing new drainage is allowed. Note: This includes irrigation-induced systems.
Third party drainage	Maintenance or reconstruction by the third party, having the same scope and effect. Such maintenance is limited to the activity performed by the third party.
Drainage areas previously installed and abandoned	Drainage may be maintained to the extent that the producer provides documentation of site conditions on December 23, 1985. If the area affected is FW or FWP and has been abandoned, then the participant cannot reconvert the area that is now wetlands by re-establishing drainage that existed on December 23, 1985.

527 Abandonment Provisions

A Definition of Abandonment

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

Abandonment will cause the area to revert back to a wetland status.

B Conditions Used to Determine Abandonment

NRCS shall make all determinations of abandonment according to the criteria outlined in the National Food Security Act Manual.

528-599 (Reserved)

Part 6 Compliance Checks and FSA-569**600 Compliance Checks of AD-1026 Certifications****A NRCS Compliance Checks**

NRCS completes a status review on a representative sample of approved conservation plans each calendar year to determine whether the producer is actively applying the approved conservation plan or system.

B Required NRCS Compliance Checks

CED, SED, COC and STC members, and their spouses and minor children shall be subject to status reviews of conservation plans or systems by NRCS at least once every 3 years.

C Send List to NRCS

County Offices shall submit a list of all persons recorded as owners, operators, or other producers and their associated tract numbers, that are subject to the status reviews according to subparagraph B, to the NRCS County Office on January 30 of each year. Updated reports shall be provided whenever requested by NRCS.

Note: NRCS will:

- not check producers for whom AD-1026 is not filed

Note: Provide copies upon request.

- determine which tracts will be checked. FSA will provide the list according to this subparagraph.

D FSA Checks

FSA is responsible for identifying potential noncompliance of HELC and WC provisions while conducting normal business activities, including compliance spot checks.

601 Request for NRCS Compliance Check Using FSA-569**A When to Use FSA-569**

FSA County Offices shall prepare FSA-569 when FSA or NRCS has reason to believe, or whistleblower reports, that a noncompliance of HELC or WC provisions has occurred.

B FSA-569 Requirement for Ineligibility Determinations

Under no circumstances shall FSA deny benefits to a producer for HELC or WC noncompliance in a crop year for which AD-1026 is filed, unless FSA-569 is received from NRCS to confirm the NRCS final technical determination of noncompliance for the applicable crop year.

C HELC Tract Records Show Noncompliance

FSA tract records for HEL may indicate noncompliance if NRCS determined the conservation plan or approved conservation system was not actively applied in a prior year. In those circumstances, FSA-569 may not be on file with the noncompliance determination from NRCS for the current year.

If a producer who is not exempt according to this handbook files an AD-1026 certification for a tract that shows noncompliance, but FSA-569 is not on file for the crop year entered on AD-1026:

- send FSA-569 to NRCS to make a compliance determination on the tract for the crop year for which AD-1026 is filed
- notify the producer that:
 - HELC compliance requirements were not met on HEL on the tract according to records received from NRCS
 - eligibility for program benefits that are subject to HELC provisions will be denied unless NRCS changes their determination.

Note: In most cases, the producer will either resolve prior year HELC noncompliance determinations with NRCS **before** signing AD-1026 or decide not to sign AD-1026. Take no action if AD-1026 is not signed.

601 Request for NRCS Compliance Check Using FSA-569 (Continued)

D FSA-569 for HELC Spot Checks

Prepare FSA-569 to check for potential noncompliance if any producer on the farm filed AD-1026 for the crop year and planted agricultural commodities on:

- land for which a HEL determination has not been made
- HEL without applying practices required by an approved conservation plan.

Reference: See 2-CP, paragraph 331.

Note: FSA-569 shall be prepared according to subparagraph F if NRCS requests FSA-569.

E FSA-569 for WC Spot Checks

Prepare FSA-569 if a suspected WC noncompliance has occurred according to the following.

Note: If NRCS requests FSA-569:

- the following does **not** apply
- FSA-569 shall be prepared according to subparagraph F.

IF the suspected WC noncompliance is...	AND an effective AD-1026 is...	THEN...
planting an agricultural commodity on a converted wetland	on file for any producer on the farm for the crop year	prepare FSA-569 for referral to NRCS.
	not on file for any producer on the farm for the crop year	FSA-569 shall not be prepared.
converting a wetland after November 28, 1990	on file for any producer on the farm for the crop year	prepare FSA-569 for referral to NRCS.
	not on file for any producer on the farm for the crop year	FSA-569 shall be: • clearly marked “NONPARTICIPATING PRODUCER” at the top of the form • prepared for referral to NRCS.

601 Request for NRCS Compliance Check Using FSA-569 (Continued)**F FSA-569's Requested by NRCS**

To ensure an organized and uniform method of recording HELC and WC noncompliance between FSA and NRCS, NRCS will use FSA-569 to notify FSA of HELC or WC noncompliance discovered by NRCS.

FSA-569 shall be prepared according to the following **if** NRCS requests FSA-569.

Step	Agency	Action
1	NRCS	Request FSA to prepare FSA-569 for farms for which noncompliance is discovered by NRCS.
2	FSA	Complete FSA-569, Part A for the crop year requested by NRCS according to subparagraph 602 B.
3	FSA	Mark the area for which the determination is made on two FSA aerial copies, and attach to FSA-569 according to subparagraph 602 D.
4	NRCS	Record the NRCS determination on FSA-569, Part C, and return to FSA after the NRCS technical determination is final according to subparagraph 602 E.

602 Completing FSA-569

A Example of FSA-569

The following is an example of FSA-569.

*--

FSA-569 (08-07-96)		U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency		1. Control Number 1	
NRCS REPORT OF HELC AND WC COMPLIANCE				2. Was This Determination Requested by NRCS? YES ☒ NO ☐	
PART A - TO BE COMPLETED BY FSA					
TO: NRCS FROM 3. (County FSA Office Name and Address) Lake County FSA Office P.O. Box 415 Andrews, IA 21901-0000				4. FSA Administrative County: A. State Name & Code Iowa - 19	
				B. County Name & Code Andrews - 071	
				5. NRCS FIPS State and County Code 19071	
				6. Farm Number 1010	
				7. Crop Year 2006	
				8. Tract Number 2100	
9. Producer Information					
PRODUCER		A. NAME AND ADDRESS		B. ID NUMBER	
Operator of Farm entered in Item 6.		Jim Smith Worthing, IA 21003-0000		XXX-XX-XXXX 7-10-2006	
Owner(s) of tract entered in Item 8.		Jane Johnson Gaines, OH 92163-0000		XXX-XX-XXXX 7-10-2006	
Tenant(s) or Sharecropper(s) on farm entered in Item 6 Note: Enter "NONE" if applicable.					
Instructions for NRCS: The above farm has been identified as having a potential noncompliance of the highly erodible land and wetland conservation provisions of the Food Security Act of 1985, as amended, for the crop year indicated above. Applicable field(s) or area(s) are marked with a red "X" on the attached photocopies. a.) Please make applicable review(s) for the determination checked in Part B. b.) Complete Item 10 above when the NRCS technical determination becomes final and Part C below and return it to the FSA County Office immediately so that the producer's eligibility for program benefits can be determined.					
11. FSA County Office Representative (Complete Part B) /s/ Tom Williams				12. Date Referred to NRCS (MM-DD-YYYY) 05-30-2006	
PART B - TYPE OF DETERMINATION		PART C - TO BE COMPLETED BY NRCS (Check this block if NRCS was refused access to the land to verify compliance).			
FSA Enter a "check" for the type of determination requested		1. Check If Reviewed		2. Field Nos.	
1. X HELC Compliance Determination		X The field does NOT meet requirements of the HELC provisions.		2	
		The field meets the requirements of the HELC provisions.			
2. Verify wetland classification on land that was planted to an agricultural commodity		The area identified is a CW.			
		The area identified is NOT a CW.			
3. Determine whether an area is a wetland that was converted after 11/28/90.		The area identified is a wetland that was converted after 11/28/90.			
		The area identified is NOT a wetland that was converted after 11/28/90.			
		NRCS Certification: NRCS reviewed the field(s) or area(s) requested for the subject farm that are entered in Part C, Items 2 and 3.			
		4. Signature, NRCS Representative /s/ Mary Jackson		Date (MM-DD-YYYY) 07-12-2006	

--*

602 Completing FSA-569 (Continued)

B Completing FSA-569, Part A

FSA-569, Part A shall be completed according to the following to prepare for referral to NRCS.

Step	Instructions	Agency
1	FSA shall assign a control number to all FSA-569's. Note: Control numbers shall be assigned consecutively, by the FSA County Office, beginning with "1" for each crop year.	FSA
2	Check (✓) to indicate whether the FSA-569 request was initiated by NRCS.	
3	Enter the name and address of the County Office with the administrative responsibilities for the farm on which the compliance check will be completed.	
4A and B	Enter the State and county name and code for the County Office entered in item 3.	
5	NRCS will enter the FIPS code used for the tract that is being checked. Note: FSA's administrative County Office for the farm and county in which the tract is physically located may differ. This field was added because NRCS records are maintained by physical location of the tract (FIPS code). This will be used for linking FSA and NRCS data. Return FSA-569 to NRCS if this entry is not completed.	NRCS
6	Enter the farm number assigned to the tract that is being checked.	FSA
7	The Agency that initiates the FSA-569 request shall enter the crop year for which a determination is needed. Note: NRCS will be responsible for determining the crop year of noncompliance in all cases except when FSA determines that an agricultural commodity was planted on CW. NRCS will verify the CW classification on land that FSA determines is in noncompliance for planting on CW.	NRCS or FSA
8	Enter the FSA tract number for the tract that is being checked. Note: A separate FSA-569 shall be completed for each tract that is to be checked.	FSA

602 Completing FSA-569 (Continued)

B Completing FSA-569, Part A (Continued)

Item	Instructions	Agency
9	Enter the names, addresses, and IRS identification numbers for the: • operator and tenants or sharecroppers recorded for the farm number entered in item 6 • owners recorded for the tract number entered in item 8. Note: Ensure that all entries are complete according to FSA records. NRCS will use this information to notify producers of appeal rights when noncompliance is discovered.	FSA
10	NRCS will enter the date that the NRCS technical determination is final when Part C indicates that noncompliance has occurred. This item will be blank when FSA-569 is initially referred to NRCS. Note: Item 10 is completed only when NRCS has determined noncompliance. If Part C indicates noncompliance, do not accept FSA-569 from NRCS until item 10 indicates that the NRCS technical determination is final for all producers.	NRCS
11	FSA County Office representative who prepares FSA-569 shall sign after Part B is completed.	FSA
12	Enter the date FSA-569 is referred to NRCS for a determination.	

602 Completing FSA-569 (Continued)

C Completing FSA-569, Part B

FSA shall complete FSA-569, Part B according to the following for referral to NRCS.

IF the suspected noncompliance is...	THEN check (✓) block number...
planting an agricultural commodity on: • HEL where producer is not using an approved conservation system • land for which a HEL determination has not been made • HEL without applying the practices required by an approved conservation plan	1.
planting an agricultural commodity on a wetland that was CW Note: NRCS shall verify that planted areas indicated on aerial photography are CW. NRCS shall provide the producer with appeal rights if the CW determination was not previously appealed with a final decision rendered. Do not make producer ineligibility determinations until FSA-569 is returned by NRCS, and the NRCS technical determination is final.	2.
converting a wetland after November 28, 1990 Note: If no producer on the farm filed AD-1026 for the crop year, clearly write "NONPARTICIPATING PRODUCER" at the top of FSA-569.	3.

D Preparing Aerial Photocopies for Referral to NRCS

Mark the fields and area or areas to be checked with a red "X" on 2 aerial photocopies, and attach to FSA-569 for referral to NRCS.

602 Completing FSA-569 (Continued)**E NRCS Action on Referred FSA-569's**

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

Step	Instructions for NRCS	
1	IF...	THEN...
	access to the land was denied	NRCS employee shall: • check (✓) the block in Part C to indicate that NRCS was refused access to the land to verify compliance • complete step 5 and immediately refer FSA-569 to FSA.
	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:	
	• refer FSA-569 to FSA according to paragraph 601 • sign and enter the referral date in Part C, item 4 before referring to FSA.	

602 Completing FSA-569 (Continued)

F NRCS Determinations for FSA-569 Requests

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

Reconsideration, appeal, and mediation procedures for adverse determinations shall be followed according to 1-APP.

IF NRCS determines...	AND...	THEN...
HELCS compliance is met		update automated tract record according to 3-CM.
the area identified for verification of whether an agricultural commodity was planted on CW is determined not to be CW		
the area is not a wetland that was converted after November 28, 1990		

602 Completing FSA-569 (Continued)

F NRCS Determinations for FSA-569 Requests (Continued)

IF NRCS determines...	AND...	THEN...
HELCS compliance is not met	the field is not planted to an agricultural commodity	refer FSA-569 back to NRCS to change their determination because HEL fields that are not planted to agricultural commodities do not require compliance with a conservation plan or system.
	the field is planted to an agricultural commodity	- NRCS will issue a preliminary technical determination to the producers, and submit a copy to FSA - FSA shall determine producers who will be ineligible and to what extent according to Part 7
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	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
the area is a wetland that was converted after November 28, 1990		FSA will immediately begin withholding benefits when NRCS reports the technical determination is final.
access to the land was denied for making a compliance determination		take action according to paragraph 603.

603 NRCS Denied Access to Determine Compliance**A Access Requirement**

7 CFR Section 12.7 states the following, *“In order for a person to be determined to be eligible for any of the benefits specified in Sec. 12.4: . . .(5) The person applying for the benefits must authorize and provide representatives of USDA access to all land in which such person has an interest for the purpose of verifying any such certification . . .”*

The statement, “Signature on Form AD-1026 gives representatives of USDA authorization to enter upon and inspect all farms in which the producer has an interest for the purpose of confirming the above statements”, is provided on AD-1026. Therefore, by signing AD-1026, the producer authorizes the required access.

B Determining Producers Ineligible

If NRCS reports on FSA-569 that NRCS was refused access to the land to determine compliance:

- all producers who must meet HELC and WC compliance requirements on the land for which access is denied and their affiliates shall be determined ineligible for benefits
- notify all affected producers of their ineligibility because of refusal of access to their land by NRCS, and provide appeal rights.

604 Pending FSA-569 Determinations**A Maintaining Folder of Pending FSA-569 Determinations**

FSA personnel shall maintain a folder with copies of pending FSA-569's that have been referred to NRCS for determinations. To avoid unnecessary delays and maintain communication between FSA and NRCS about compliance determinations to be made, on the first week of each month:

- submit to NRCS a list of farm and tract numbers with outstanding FSA-569's that were referred to NRCS, for which FSA has not received a final NRCS technical determination
- request that NRCS respond with the current status of the pending determinations.

Examples of the NRCS status that may apply:

- Field visit scheduled with producer's representative to review preliminary technical determination issued on (enter date).
- Preliminary technical determination not completed. Scheduled for (enter date).
- Preliminary technical determination completed on (enter date) will complete FSA-569 when the determination becomes final.

B Reports to Ensure Joint Agency Coordination

County Offices shall report to the State Office any FSA-569's for which NRCS has not made the preliminary technical determination within 60 calendar days after FSA-569 was referred to NRCS.

Note: Cases with preliminary technical determinations that are waiting to become final shall not be referred to the State Office according to this paragraph. Only report cases when the preliminary technical determination is not made.

State Offices shall:

- attempt to resolve with NRCS at the State level any reported delays in making preliminary technical determinations
- report to DAFP if unreasonable delays for making a preliminary technical determination for FSA-569's that were referred cannot be resolved with NRCS.

605 Possible HELC Compliance Deficiencies Discovered Through Technical Assistance**A Potential Violations and Technical Assistance**

As provided in the regulation set forth at 7 CFR Section 12.5, if NRCS observes a possible compliance deficiency while providing on-site technical assistance:

- the responsible persons shall be provided information about actions needed to comply with the conservation plan and HELC provisions within 45 calendar days after the possible violation is observed in lieu of being reported as a compliance violation
- the responsible persons shall attempt to correct the deficiencies as soon as practicable after receiving the violation
- corrective action must be fully implemented not later than 1 year after the responsible person receives the information.

NRCS will consider the land in compliance and not report the potential deficiency to FSA if the producer signs a conservation plan to correct the problem.

Subparagraph B provides the circumstances that are:

- considered discoveries while providing technical assistance
- subject to the provision in this paragraph.

Note: This paragraph does **not** apply for WC determinations.

605 Possible HELC Compliance Deficiencies Discovered Through Technical Assistance (Continued)

B Situations Considered Technical Assistance

Possible HELC compliance deficiencies are:

- considered discoveries while providing technical assistance
- subject to the provision in subparagraph A, except for discoveries made under any of the following circumstances:
 - NRCS status reviews
 - whistleblowers to NRCS or FSA
 - requests by FSA for determinations by NRCS because the producer certified compliance on AD-1026 and FSA has reason to believe the person did not meet HELC or WC requirements
 - requests for compliance checks from other Federal agencies.

C Referrals to NRCS for Technical Assistance

If a possible HELC compliance deficiency is observed while providing technical assistance:

- a good faith determination is not required
- the deficiency observed is not reported to FSA as a compliance violation if the responsible persons meet the requirements according to subparagraph A
- FSA-569 will not be prepared except according to the following.

605 Possible HELC Compliance Deficiencies Discovered Through Technical Assistance (Continued)

C Referrals to NRCS for Technical Assistance (Continued)

The following provides some situations and the procedure to be used by NRCS and FSA for HELC observations considered technical assistance.

Technical Assistance Determinations	FSA Action	NRCS Action
Determination needed for the current year by FSA on FSA-569 because the records show that a producer who wants to participate in the current year is ineligible because a prior year HELC violation determination was not resolved. Note: If the producer insists on signing AD-1026 to certify compliance in item 13, do not consider it technical assistance according to this paragraph. Prepare FSA-569 according to paragraph 602 and do not identify it as technical assistance.	Prepare FSA-569 according to paragraph 602. Enter at the top of FSA-569, “Referred for Technical Assistance”	NRCS will process according to subparagraph A. NRCS will complete FSA-569 to show HELC compliance for the crop year entered on FSA-569 if subparagraph A requirements are met. Note: FSA-569’s that are not identified by FSA as technical assistance will: • not be processed according to this paragraph • require a good faith determination according to Part 2 if an exemption is requested.

605 Possible HELC Compliance Deficiencies Discovered Through Technical Assistance (Continued)

C Referrals to NRCS for Technical Assistance (Continued)

Technical Assistance Determinations	FSA Action	NRCS Action
The producer reports a HELC problem situation that he or she needs to resolve.	Refer the producer to NRCS for technical assistance. Upon request by NRCS, provide a list of names and addresses of: • operator of the farm • owner of the tract • tenants and sharecroppers on the farm.	NRCS will request a complete list of names and addresses of persons associated with the farm with the potential deficiency. NRCS will process according to subparagraph A.
NRCS observes a potential compliance deficiency while providing technical assistance.	Upon request by NRCS, provide a complete list of the names and addresses of: • operator of the farm • owner of the tract • tenants and sharecroppers on the farm.	

606-699 (Reserved)

Part 7 Producer Eligibility and Relief Provisions

Section 1 Ineligible Producer Determinations

700 Overview

A Activities Covered for HELC or WC Noncompliance

This section provides the procedures for:

- determining producers who are ineligible as a result of noncompliance with HELC or WC provisions
- notifying producers and County Offices of ineligibility determinations.

701 Effective Year to Deny Program Benefits**A Ineligibility Determinations**

Producer ineligibility determinations shall be made by FSA, if any of the following have been determined:

- HELC violation
- WC violation
- NRCS reports on FSA-569 that NRCS was refused access to the land to verify compliance. Take action according to paragraph 603.

Note: See Part 6 for NRCS violation determinations.

B Effective Year for Which Benefits Shall Be Denied

Determine the year for which program benefits shall be denied according to the following.

IF the action that caused the violation was...	THEN deny benefits for the crop or program year...	Example
planting an agricultural commodity on a converted wetland	in which the crop would be considered planted for FSA purposes.	Winter wheat is planted on converted wetland in September 2005. Benefits shall be withheld for crop or program year 2006.
converting a wetland	that equals the calendar year in which the wetland conversion activity took place, and all subsequent years until the wetland is restored or mitigated before January 1 of the subsequent crop year.	A wetland is converted in December 2004 and restored in August 2006. Benefits shall be withheld for crop or program years 2004, 2005, and 2006. Eligibility is regained for crop or program year 2007 because the wetland was restored before January 1, 2007.

701 Effective Year to Deny Program Benefits (Continued)

B Effective Year for Which Benefits Shall Be Denied (Continued)

IF the action that caused the violation was...	THEN deny benefits for the crop or program year...	Example
planting an agricultural commodity on HEL without applying an approved conservation plan or system as determined by NRCS Note: HEL that is not planted to an agricultural commodity does not require compliance with a conservation plan or system.	for which NRCS determines there was a violation of the conservation plan or system.	
refusal to allow NRCS access to the land to verify compliance	that NRCS reports on FSA-569, item 7 that NRCS has checked the block in Part C that indicates NRCS was refused access to the land. Note: See paragraph 603 for notification instructions.	

701 Effective Year to Deny Program Benefits (Continued)

C Ineligibility for Loans

For producers who do not comply with HELC or WC provisions, County Offices shall:

- **not** disburse loans and loan deficiency payments for any crop for the crop year in which noncompliance occurs
- for current crop year loans that were disbursed before noncompliance was determined for the current crop year, call the loans according to applicable LP handbooks.

701 Effective Year to Deny Program Benefits (Continued)

D Multiple Year Planting Violations

The following provides the rules for denying benefits for producers for which planting violations are discovered that would result in ineligibility for benefits for multiple years.

IF a planting violation...	AND COC determines that...	THEN the producer shall be ineligible for benefits subject to HELC and WC provisions for...
occurred on the same converted wetland, which would make a producer ineligible for benefits for more than 1 year	both of the following apply: - the producer was unaware that the activities would be considered a violation, based on the information available to the producer - the act was not a scheme or device to circumvent the provisions of the program	the most current crop year in which both of the following apply: - the producer requested benefits - the violation occurred on the same land.
	either of the following applies: - the producer could reasonably have known that the activities would be considered a violation - the act was a scheme or device to circumvent the provisions of the program	each year that the violation occurred on the same land.
occurred on separate parcels of converted wetland, which would make a producer ineligible for benefits for more than 1 year		each year that a WC violation occurred.
occurs on HEL		each crop year for which NRCS reports a violation on FSA-569.

701 Effective Year to Deny Program Benefits (Continued)**E Wetland Conversion Violations**

Unless an exemption applies, producers who are determined responsible for conversion of wetlands after November 28, 1990, shall be ineligible for benefits, subject to HELC and WC provisions, for:

- the crop or program year benefits that are equal to the calendar year that NRCS determined the conversion occurred
- each subsequent crop or program year after the conversion occurred, unless the wetland is restored before January 1 of the subsequent crop or program year.

Notes: This provision applies regardless of when the conversion violation is discovered.

See example in subparagraph B.

702 Determining Producers Who Are Ineligible

A Determining Producer's Status in Violation

When a HELC or WC violation is determined, COC in the recording County Office shall determine affected producers according to this paragraph.

Note: No producer shall be denied benefits until FSA-569 indicating the NRCS technical determination is final is received from NRCS.

B Determining Ineligibility for HELC or WC Planting Violations

COC shall determine the extent of the ineligibility of producers on a farm with a HELC or WC planting violation based on:

- the producer's status on the farm
- whether the producer shares in the crop planted on the land with the violation.

Use the following to determine which producers are ineligible and where they are ineligible.

IF the producer's status on the farm is...	AND if the crop planted on the land with the violation is...	THEN the producer shall be...
operator	shared by the operator	ineligible for all USDA benefits. Exception: If a producer exemption has been approved according to paragraph 703, the producer shall be ineligible only on the farm for which an exemption was approved.
	not shared by the operator	
landlord and also operator	shared by the landlord and operator	ineligible for all USDA benefits.
	cash rented and not shared by the landlord and operator	ineligible for USDA benefits on: • the farm where the violation occurred • any other land and warehouses where the landlord is involved with: • the violating tenant or sharecropper • affiliates of the violating tenant or sharecropper. Note: AD-1026C shall be filed according to paragraph 703 if the landlord or operator requests benefits on other farms.

702 Determining Producers Who Are Ineligible (Continued)

B Determining Ineligibility for HELC or WC Planting Violations (Continued)

IF the producer's status on the farm is...	AND if the crop planted on the land with the violation is...	THEN the producer shall be...
landlord, who is not the operator	shared by the landlord	• ineligible for USDA benefits on: • all lands on the farm where the violation occurred that the violating operator, tenant or sharecropper, or their affiliates are involved • any other land and warehouses where the landlord and violating operator, tenant or sharecropper, or their affiliates are involved • eligible on lands approved under the landlord exemption rule according to paragraph 703. AD-1026C shall be used to document exemption. Exception: The share rent landlord shall be ineligible on all lands, if it is determined that the tenant or sharecropper is required to produce an agricultural commodity on predominately HEL or converted wetland, under the terms and conditions of an agreement between the landlord and the tenant or sharecropper.

702 Determining Producers Who Are Ineligible (Continued)

B Determining Ineligibility for HELC or WC Planting Violations (Continued)

IF the producer's status on the farm is...	AND if the crop planted on the land with the violation is...	THEN the producer shall be...
landlord, who is not the operator	cash rented and not shared by the landlord	ineligible for USDA benefits on lands and warehouses where the landlord and violating operator, tenant or sharecropper, or their affiliates are involved. Note: The landlord could be eligible for USDA benefits on the farm where the violation occurred, if the landlord is share renting a part of the farm with another tenant or sharecropper, provided a landlord exemption is approved on AD-1026C according to paragraph 703.
either of the following: • tenant • sharecropper	shared by either of the following: • tenant • sharecropper	ineligible for USDA benefits on: • all lands • any warehouse in which the tenant or sharecropper has an interest. Note: This includes cases where it is determined that the tenant or sharecropper planted an agricultural commodity on predominately HEL or converted wetland, or converts a wetland under the terms and conditions of an agreement between the landlord and the tenant or sharecropper. Exception: If a producer exemption has been approved according to paragraph 704, the producer shall be ineligible only on the farm for which an exemption was approved.
	not shared by either of the following: • tenant • sharecropper	able to remain eligible for USDA benefits on: • all lands • any warehouse in which the tenant or sharecropper has an interest.

702 Determining Producers Who Are Ineligible (Continued)

C Determining Ineligibility for WC Conversion Violations

Any person who is determined responsible for converting a wetland for the purpose, or which has the effect, of making the production of an agricultural commodity possible, shall be ineligible for all USDA benefits.

Note: The operator of a farm is in control of the farming operations of the farm and therefore, shall also be included as a person determined responsible for converting a wetland unless relief is approved by DAFP according to subparagraph D.

D Requesting Relief for Operators

Follow this table for requesting relief for operators determined ineligible on farms where conversion of a wetland occurred on or after November 28, 1990.

IF...	THEN...
COC determines that the operator of the farm: • was in no way responsible for the conversion • had no control over the conversion activities	COC shall forward a recommendation for relief to STC.
STC concurs with COC recommendation	forward the case file to DAFP for a decision.
STC does not concur with COC recommendation	the operator shall be ineligible for benefits.

E 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 Board constructs a drainage ditch, and a person's wetland is therefore converted, the person shall be considered to have caused or permitted the drainage. See subparagraph 518 D for producer eligibility requirements on land converted by a drainage district or similar entity.

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.

703 Landlord Exemption (Continued)**E Farms With Multiple Ownership Tracts**

If a HELC or WC noncompliance occurs on farms with multiple ownership tracts, then the landlord or landowner on:

- the noncomplying tract is ineligible for benefits unless the landlord exemption applies according to this paragraph
- multiple ownership farms:
 - will not be affected by other noncomplying tracts on the farm if the landlord or landowners have complied on their tracts
 - is ineligible to receive benefits from the noncomplying tracts.

F Where to File AD-1026C

AD-1026C shall be filed by the landlord in the administrative County Office for the farm on which the violation occurs.

The administrative County Office for the farm where the violation occurred may not be the recording County Office for the producer; however, COC in the administrative County Office would be in the best position to make the determination, based on the circumstances surrounding the particular farm.

703 Landlord Exemption (Continued)

G Example of AD-1026C

The following is an example of AD-1026C.

This form is available electronically.		Form Approved - OMB No. 0560-0185	
AD-1026C (05-15-02) LANDLORD OR LANDOWNER EXEMPTION REQUEST		1A. STATE NAME	1B. COUNTY NAME
UNITED STATES DEPARTMENT OF AGRICULTURE Farm Service Agency			
NOTE: The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a). The authority for requesting the information to be supplied on this form is the Food, Agriculture, Conservation, and Trade Act of 1990 and regulations promulgated under the Act (7 CFR PART 12). The information will be used to determine eligibility for program benefits and other financial assistance administered by USDA agencies. The information may be furnished to other USDA agencies, IRS, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court magistrate or administrative tribunal. Furnishing the Social Security Number is voluntary. Furnishing the other requested information is voluntary; however, failure to furnish the correct, complete information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA agencies. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to information provided by the producer on this form. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0185. The time required to complete this information collection is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.			
PART A - PRODUCER'S INFORMATION			
2. NAME AND ADDRESS OF LANDLORD OR LANDOWNER (Including Zip Code):		3. TELEPHONE NO. (Area Code):	4. IDENTIFICATION NUMBER
		5A. FARM NUMBER	5B. TRACT NUMBER
		6. CROP YEAR	7. CROPLAND ACRES
PART B - LANDLORD OR LANDOWNER CERTIFICATION			
8. I hereby certify that the following information is correct for the farm and tract (s) listed in items 5A and 5B for the crop year entered in item 6:			
(1) Production of an agricultural commodity on highly erodible land or on converted wetland in violation of the highly erodible land and wetland conservation provisions of the Food Security Act of 1985 as amended is NOT required under the terms of an agreement between myself and the tenant or sharecropper.			
(2) I did not consent to any activities by the tenant or sharecropper to violate the highly erodible land and wetland conservation provisions of the Food Security Act of 1985 as amended.			
9A. SIGNATURE OF LANDLORD		9B. DATE (MM-DD-YYYY)	
PART C - TO BE COMPLETED BY COC			
10. Based on the producer certification and available information, the COC determined that:			
☐ A. The landlord exemption shall NOT apply. ☐ B. The landlord exemption shall apply. (List all land on which the producer will be ineligible for benefits. Determine according to the table in Part D.)			
11. Describe the reasons for the COC determination. (Attach another sheet, if necessary.)			
12A. SIGNATURE OF COC		12B. DATE (MM-DD-YYYY)	

703 Landlord Exemption (Continued)

G Example of AD-1026C (Continued)

AD-1026C (05-15-02) Page 2

PART D - RULES FOR APPLYING LANDLORD INELIGIBILITY

11. If item 9B is checked, use this table to determine land on which the landlord will be ineligible for benefits.

IF the producer's status on the violating farm is ...	AND if the crop planted on the land with the violation ...	THEN the landlord or landowner shall be ...
landlord, who is not the operator	is cash rented, and not shared by the landlord	ineligible for USDA benefits on lands and warehouses where the landlord and violating operator, tenant or sharecropper, or the affiliates are involved. NOTE: The landlord could be eligible for USDA benefits on the farm where the violation occurred, if the landlord is share renting a part of the farm with another tenant or sharecropper.
	is shared by the landlord	ineligible for USDA benefits on any land and warehouses where the landlord and violating operator, tenant or sharecropper, or their affiliates are involved. eligible for USDA benefits on other land or warehouses where the violating operator, tenant or sharecropper, or their affiliates are not involved.
landlord and also operator	is shared by the landlord and operator	ineligible for all USDA benefits.
	is cash rented, and not shared by the landlord and operator	ineligible for USDA benefits on: • the farm where the violation occurred • any other land and warehouses where the landlord involved with: • the violating tenant or sharecropper • affiliates of the violating tenant or sharecropper.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

703 Landlord Exemption (Continued)

H Entries Required on AD-1026C

Complete AD-1026C according to the following.

Item	Required Entry	Who Completes Item
1A	Enter State name and code.	County Office
1B	Enter county name and code.	
Part A - Producer's Information		
2	Enter producer's name and address.	
3	Enter producer's telephone number.	
4	Enter producer's tax ID number.	
5A	Enter farm number on which the tenant or sharecropper has violated or will violate.	
5B	Enter tract number on which the tenant or sharecropper has violated or will violate.	
6	Enter crop year of the violation.	
7	Enter cropland acres on the farm listed in item 5A.	
Part B - Landlord or Landowner Certification		
9A and 9B	Landlord or landowner who is requesting an exemption shall sign and date.	Landlord or landowner
Part C - To Be Completed by COC		
10A	Check (✓) if COC has determined that the producer certification is not valid.	COC
10B	Check (✓) if COC has no reason to believe that the producer certification is not valid. List all farms which are ineligible for benefits. Note: See Part D.	
11	Enter reason the request was approved or disapproved.	
12A and 12B	COC shall sign and date.	

704 Other Producer Exemption**A Other Producer Exemption for HELC Violation**

Ineligibility of an operator, tenant, or sharecropper may be limited only to the farm on which the violation occurred, if the producer has established to COC's satisfaction that:

- a reasonable conservation plan was obtained for the farm
- the landlord refuses to allow the operator, tenant, or renter to comply with the conservation plan
- the producer made a good faith effort to meet HELC requirements
- lack of compliance is not part of a scheme or device to avoid compliance
- the producer is not in control of application of the measures necessary to meet compliance.

Note: The exempted producer cannot receive any benefits that are subject to HELC provisions from the violating farm for which a HELC exemption is approved.

B When to Request HELC Exemption

Producers shall request HELC exemption when filing AD-1026, if it is known at the time of filing AD-1026 that the landlord will not allow compliance with the conservation plan. Exemptions must be applied for yearly on AD-1026B.

COC may accept HELC exemption requests after the producer filed AD-1026, if the producer could not reasonably have been expected to know that the landlord would not allow compliance with the conservation plan at the time AD-1026 was filed.

Record the COC determination in the COC minutes.

Note: If a HELC exemption is requested, then AD-1026, item 7 shall be answered "yes",

704 Other Producer Exemption (Continued)

C Where to Request a HELC Exemption

HELC exemption requests shall be made in the administrative County Office for the farm on which the HELC exemption is requested.

The administrative County Office for the farm where the violation occurred may not be the recording County Office for the producer; however, COC in the administrative County Office would be in the best position to make the determination, based on the circumstances surrounding the particular farm.

D Authority for Approval of a HELC Exemption

The following provides the level of authority authorized to approve HELC exemptions.

IF the landlord refuses to allow application of...	THEN approval for HELC exemption is authorized for...
structural practices	COC in the administrative County Office for the farm on which the request is made.
planting practices	STC upon recommendation by COC.

E Purpose of AD-1026B

AD-1026B has been developed for documenting data required for making HELC exemption determinations.

704 Other Producer Exemption (Continued)

F Example of AD-1026B

The following is an example of AD-1026B.

This form is available electronically.		Form Approved - OMB No. 0560-0185					
AD-1026B (05-15-02)		UNITED STATES DEPARTMENT OF AGRICULTURE Farm Service Agency					
HIGHLY ERODIBLE LAND CONSERVATION EXEMPTION REQUEST		1A. STATE NAME	1B. COUNTY NAME				
NOTE: The following statements are made in accordance with the Privacy Act of 1974 (5 USC 552a). The authority for requesting the information to be supplied on this form is the Food, Agriculture, Conservation, and Trade Act of 1990 and regulations promulgated under the Act (7 CFR Part 12). The information will be used to determine eligibility for program benefits and other financial assistance administered by USDA agencies. The information may be furnished to other USDA agencies, IRS, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court magistrate or administrative tribunal. Furnishing the Social Security Number is voluntary. Furnishing the other requested information is voluntary; however, failure to furnish the correct, complete information will result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA agencies. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to information provided by the producer on this form. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0185. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.							
PART A - PRODUCER'S REQUEST							
2. NAME AND ADDRESS OF PRODUCER (Including Zip Code):		3. IDENTIFICATION NUMBER	4. FARM NUMBER				
TELEPHONE NO. (Including Area Code):		5. CROP YEAR	6. CROPLAND ACRES				
7. Reason for HELC exemption request: (Describe in detail the conservation measures required that will not be applied and the reasons they will not be applied.)							
8A. SIGNATURE OF PRODUCER	8B. DATE (MM-DD-YYYY)	9A. SIGNATURE OF LANDLORD	9B. DATE (MM-DD-YYYY)				
		10. REFERRED TO NRCS DATE (MM-DD-YYYY)					
PART B - TO BE COMPLETED BY NRCS							
11. Was a conservation plan timely obtained by the producer?			<table border="1"> <tr> <td>YES</td> <td>NO</td> </tr> <tr> <td></td> <td></td> </tr> </table>	YES	NO		
YES	NO						
12. Describe structural measures required that have not been applied according to the plan:							
13. Describe planting practices that are required according to the plan:							
14A. SIGNATURE OF NRCS EMPLOYEE		14B. DATE (MM-DD-YYYY)					

704 Other Producer Exemption (Continued)

F Example of AD-1026B (Continued)

AD-1026B (05-15-02) Page 2			
PART C - TO BE COMPLETED BY THE COUNTY COMMITTEE			
15. Exemption is granted for application of the following structural measures required by the conservation plan that the landlord refuses to allow that were specifically stated in the producer's request: <i>(Describe precisely the structural measures required by the plan that will be exempt from the requirement for the producer's eligibility on other farms and the reasons why.)</i>			
16. Exemption request is not granted by the County Committee for the following structural or planting practices required by the plan that were specifically stated in the producer's request. <i>(Describe the reasons why.)</i>			
17. Exemption is recommended for State Committee approval for landlord refusal to allow application of the following planting practices required by the conservation plan that were specifically stated in the producer's request. <i>(Describe the reasons why.)</i>			
18A. SIGNATURE OF COUNTY COMMITTEE REPRESENTATIVE	18B. DATE (MM-DD-YYYY)	19A. Referred to STO <i>(Refer if practices are entered in item 17)</i>	19B. DATE (MM-DD-YYYY)
PART D - TO BE COMPLETED BY STATE COMMITTEE			
20. The STC concurs with the exemption recommendation by the COC for application of the following planting practices that the landlord refuses to allow: <i>(Describe the reasons why.)</i>			
21. The STC does not concur with the exemption recommendation by the COC for the following measures, and therefore an exemption is not granted for the following planting practices: <i>(Describe the reasons why.)</i>			
22A. SIGNATURE OF STATE COMMITTEE REPRESENTATIVE	22B. DATE (MM-DD-YYYY)	23. DATE RETURNED TO COF (MM-DD-YYYY)	
24. DATE PRODUCER NOTIFIED (MM-DD-YYYY)	25. DATE FINAL TO STO (MM-DD-YYYY)	26. DATE COPY TO AREA OFFICE (MM-DD-YYYY)	27. RESERVED
The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.			

704 Other Producer Exemption (Continued)

G Entries Required on AD-1026B

Complete AD-1026B according to the following.

Note: Attach additional sheets with the item numbers identified, if more space is needed for any of these items.

Item	Required Entry	Who Completes Items	
1A	Enter State name for administrative County Office location.	FSA County Office	
1B	Enter name of administrative County Office.		
Part A - Producer's Request			
2	Enter producer's name and address, including telephone number.		
3	Enter producer's tax ID number.		
4	Enter farm number for which exemption is requested.		
5	Enter crop year for which exemption is requested.		
6	Enter cropland acres on the farm for which exemption is requested.		
7	Enter detailed description of the practices that the landlord refuses to allow according to the plan, and the reasons why they will not be applied.		
8A and 8B	Producer requesting exemption shall sign and date.	Producer	
9A and 9B	Landlord who refuses to allow the required practices according to the conservation plan shall sign and date. Note: COC may accept the exemption request without the landlord's signature, if a reasonable attempt was made by the producer requesting the exemption to obtain the signature.	Landlord who refuses to apply the conservation plan.	
10	Enter date AD-1026B is referred to NRCS.	FSA County Office	
Part B - To Be Completed By NRCS			
11	Check (✓) NRCS determination of whether the producer obtained a farm plan in a timely manner.	NRCS representative	
12	Enter description of structural measures that are required by the plan that have not been applied.		
13	Enter description of planting practices that are required by the plan.		
14	NRCS employee shall sign and date.		

704 Other Producer Exemption (Continued)

G Entries Required on AD-1026B (Continued)

Item	Required Entry	Who Completes Items
Part C - To Be Completed By the County Committee		
15	Enter a description of the practices that will be considered exempt, and the reasons why.	COC
16	Enter the measures that were requested for an exemption, and will not be granted, and the reasons why.	
17	Enter a description of the practices recommended for an exemption, and the reasons why. Note: Send AD-1026B and any other pertinent documentation to STC for review.	
18A and 18B	COC shall sign and date.	
19B	Enter date referred to State Office for STC determination, if practices have been entered in item 17.	
Part D - To Be Completed By State Committee		
20	Enter description of the practices recommended for exemption by COC that STC concurs with, and describe the reasons why.	STC
21	Enter description of the practices recommended for exemption by COC that STC does not concur with, and describe the reasons why.	
22A and 22B	STC shall sign and date. Note: Return AD-1026B to County Office, after STC signature is obtained.	
23	Enter date AD-1026B is returned to the County Office.	State Office

704 Other Producer Exemption (Continued)

G Entries Required on AD-1026B (Continued)

Item	Required Entry	Who Completes Items
24	Enter date the producer was notified of the determination. Note: Item 24 shall be completed, before the final copy is mailed to the State Office.	County Office
25	Enter date the final copy was mailed to the State Office.	
26	Enter date the State Office mailed a copy to PECD.	State Office

H Completing AD-1026B, Part A

Assist the producer in completing AD-1026B, Part A. Mail AD-1026B, if necessary.

If the producer signed and dated an exemption request on another sheet of paper, attach to AD-1026B, and ENTER “See Attached” on AD-1026B, item 7.

The request must describe the specific measures that were not or will not be applied, and the reasons why.

The producer requesting the exemption shall make an attempt to obtain the landlord’s signature. Document any knowledge of the landlord’s refusal to sign on AD-1026B, item 9.

704 Other Producer Exemption (Continued)**I Completing AD-1026B, Part B**

Keep a copy of AD-1026B in a temporary file, and send the original to NRCS for completion of AD-1026B, Part B. Enter the date referred to NRCS in AD-1026B, item 10.

J Completing AD-1026B, Part C

COC shall determine good faith according to the requirements in subparagraph A, and the evidence provided by the producer and NRCS.

Enter the exemption determinations for the specific practices for which an exemption request is made. Practices that are not specified must be applied according to the conservation plan.

K Completing AD-1026B, Part D

If COC enters practices in AD-1026B, item 17, for which STC approval for nonstructural practices is recommended, then make a copy of AD-1026B, and mail original to State Office. Enter the date referred to the State Office in AD-1026B, item 19.

STC shall make a determination, considering the facts in the case. No practices for which the producer has control of shall be approved for exemption.

State Office shall enter the date returned to the County Office in AD-1026B, item 23.

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	- 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	- destroy copy in the pending file - have COC review the request.
COC documents determination on AD-1026B, Part C	STC determination is not required	- 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. Note: If the County Office receiving AD-1026B is the recording County Office, verify the answer in AD-1026, item 6.
	STC determination is required	- 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	- 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	- document STC determination on the bottom of AD-1026 - file a copy in a pending file - mail original to County Office.
	- determination is final - producer has been notified	- 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.

705 Applying Exemption Rules for Benefits Not Farm or Crop Specific (Continued)**C Benefits for Which Producer Is Ineligible**

Producers granted a landlord or other producer exemption shall be ineligible for any benefits associated with livestock or beehives located on the ineligible farm at any time during the calendar year for which benefits are earned

D Honey Example

Producer A owns farm 200 and rents farm 100. Producer A violated HELC on farm 100, but was approved on AD-1026B for another producer exemption so benefits could be earned on farm 200.

Producer B does not have an interest in farm 100, but places beehives on farm 100.

- Producer A, in subparagraph E, is eligible for benefits on farm 200. Producer A is ineligible for honey benefits produced from beehives located on farm 100 anytime during the calendar year.
- Since Producer B does not have an interest in farm 100 and was not determined ineligible according to paragraph 705, the ineligibility of Producer A will not affect Producer B, and Producer B will be eligible for honey benefits if all other provisions are met.

E Reducing Payments for Ineligibility

When calculating benefits to be paid to a producer who was granted a landlord or other producer exemption, County Offices shall:

- exclude program benefits if associated with the ineligible farms:
- reduce benefits by the percentage of livestock maintained on the ineligible farm.

Example: Producer A owns farm 200 and rents farm 100. Producer A violated HELC on farm 100, but was approved on AD-1026B for another producer exemption so benefits could be earned on farm 200.

If Producer A located beehives on farm 100, the honey produced from the beehives would be ineligible for benefits.

706 Notifying Producers of Ineligibility Determinations**A When to Notify Producers**

Producers shall be notified of the ineligibility determination, and benefits shall be denied, when FSA-569 is returned from NRCS to verify that the NRCS technical determination is final.

B Who Notifies Ineligible Producers

The County Office with administrative responsibility for the land in violation where the violation occurred shall notify and provide appeal rights to the following:

- each ineligible producer on the farm determined according to paragraph 702
- each affiliated person who is determined ineligible according to paragraph 702.

C Information for Notifying Participating Producers

The notification of ineligibility to participating producers shall include:

- an explanation of the violation determination, including:
 - statement of the program rules that apply
 - the facts in the case that resulted in violation of these rules
- affiliated persons who are affected by the violation
- whether the ineligibility applies to all lands, or only land where the violating tenant, sharecropper, or operator is involved
- appeal rights to the administrative COC for the land in noncompliance where the violation occurred according to 1-APP
- the good faith relief provisions for inadvertent HELC and WC violations.

706 Notifying Producers of Ineligibility Determinations (Continued)**D Information for Notifying Nonparticipating Producers for Conversion Noncompliance**

Nonparticipating producers who convert wetlands shall be sent a notification that includes:

- an explanation of the conversion determination by NRCS, including:
 - statement of the program rules that apply in this case
 - the facts in this case that resulted in conversion of wetland
- a statement that the conversion will result in future ineligibility for USDA benefits covered by the HELC and WC provisions
- affiliated persons who are affected by the conversion activity
- appeal rights according to 1-APP.

E Warehouse Operators

If a producer who receives CCC benefits under UGSA is determined ineligible because of a HELC violation:

- the County Office shall notify the State Office
- the State Office shall notify DAFP through DAFO
- KCCO will subsequently be notified.

Note: WC compliance requirements do not apply to warehouse operations.

706 Notifying Producers of Ineligibility Determinations (Continued)**F Difference in Notification of Nonparticipating Producers**

The reason that the notification process for nonparticipating producers for wetland conversions differ from HELC or WC planting violations is:

- conversion of wetland after November 28, 1990, results in ineligibility until the wetland is restored

Note: The wetland must be restored by January 1 to be eligible for benefits for the applicable year.

- planting violations are determined annually, and results in ineligibility only for the crop year for which the violation determination is made.

G Nonparticipating Producers With HELC Noncompliance

A producer shall **not** be notified by FSA of a HELC violation determination until AD-1026 is filed. When the producer has filed AD-1026 to request USDA benefits, the administrative County Office:

- for the land in violation shall follow subparagraph C
- where the producer has requested benefits shall follow paragraph 708.

707 Notifying Other County Offices and NRCS of Ineligibility Determinations

A Notifying Other County Offices

For each producer and affiliate that the County Office notifies that an ineligible determination has been made:

- review AD-1026A to determine County Offices associated with the producer
- send a copy of the ineligibility notification to each County Office listed on the producer's AD-1026A.

B Notifying NRCS

Each County Office that receives a copy of a letter stating that a producer has been determined ineligible, shall notify the local NRCS office within 15 calendar days after receiving the letter, in writing, that the producer has been determined ineligible for program benefits because of HELC or WC violations.

708 County Offices Receiving Copies of Producer Ineligibility Notifications**A Administrative County Office Receives Copy**

Each County Office with administrative responsibilities for a farm in which an ineligible producer has an interest will receive a copy of the producer's letter of ineligibility.

B Administrative County Office Action

The administrative County Office for an ineligible producer shall:

- determine specific program benefits requested or received that shall be denied
- notify the producer of the determination
- request refunds according to 58-FI
- ensure that benefits are not issued to producers who violated in another county.

C Producer Appeals

Producers must file their appeal in the County Office that maintains the farm records for the farm on which the violation occurred. COC that made the producer's ineligibility determination shall be responsible for making a determination regarding the producer's appeal. Appeal procedures shall be followed according to 1-APP.

Note: After producer appeal rights have been exhausted or a final determination is made, update the eligibility file according to 3-PL and farm records according to 3-CM.

709-715 (Reserved)

Section 2 Good Faith Relief Provisions**716 General Provisions for Good Faith Relief****A Violations Subject to Good Faith Determinations**

Except for HELC deficiencies observed while providing technical assistance according to paragraph 605, persons determined ineligible as the result of a HELC or WC violation must meet good faith requirements according to this paragraph for reinstatement of eligibility. The situations that require a good faith determination for reinstatement of eligibility according to this paragraph are:

- all WC violations
- HELC violations discovered by:
 - status reviews
 - whistleblowers to NRCS or FSA
 - requests by FSA for determinations because the producer certified compliance on AD-1026 and FSA has reason to believe the person did not meet HELC or WC requirements.

Note: HELC violations or potential deficiencies not included in the situations in this subparagraph shall be considered technical assistance according to paragraph 605.

B Good Faith Relief for HELC Violations on Land Not Sodbusted

The 1985 Act was amended by the 1996 Act to provide that persons who violate HELC requirements on land that was in production before December 23, 1985, shall not be ineligible, and a payment reduction will not apply if failure to apply the conservation plan was in good faith and without intent to violate.

A person who is determined to have acted in good faith shall be required in a reasonable period of time, not to exceed 1 year, to implement the measures and practices necessary to be considered to be actively applying the person's conservation plan to qualify for reinstatement of eligibility.

716 General Provisions for Good Faith Relief (Continued)**C Good Faith Relief on “Sodbusted” Land**

The 1985 Act was amended by the 1996 Act to provide that persons who violate HELC requirements on land that was **not** in production before December 23, 1985, shall, in lieu of being ineligible for benefits, receive a payment reduction of not less than \$500 nor more than \$5,000, depending on the seriousness of the violation.

A person who is determined to have acted in good faith shall be required in a reasonable period of time, not to exceed 1 year, to implement the measures and practices necessary to be considered to be actively applying the person’s conservation plan to qualify for reinstatement of eligibility.

D Definition of Sodbusted

For purposes of applying the provision in subparagraphs B and C, land that was converted from native vegetation, such as rangeland or woodland, to crop production after December 23, 1985, will be referred to as sodbusted.

FSA shall provide the cropping history for making sodbusted determinations if requested by NRCS.

E Good Faith Relief for WC Violations

The 1985 Act was amended by the 1996 Act to provide that persons who violate WC requirements shall not be ineligible and a payment reduction will not apply if conversion of wetland or planting an agricultural commodity on a converted wetland was in good faith and without intent to violate.

A person who is determined to have acted in good faith shall be required in a reasonable period of time, not to exceed 1 year, to implement the measures and practices necessary to be considered to be actively restoring the wetland to qualify for reinstatement of eligibility.

Restoration, enhancement, or creation of wetland values in the same general area of the watershed as the converted wetland will be considered for restoration requirements.

716 General Provisions for Good Faith Relief (Continued)

F Summary of Good Faith Requirements

The following table provides the violation situations and payment reduction requirements if the action occurred in good faith and without an intent to violate, and the producer established practices necessary to comply in a reasonable period of time, not to exceed 1 year, as determined by NRCS.

Notes: NRCS will require the person to sign a plan that documents the actions required and time period for completion of practices to correct the compliance deficiency.

If the agreements under the good faith conditions are not met, NRCS will report the failure to comply on FSA-569 for denial of benefits.

Situation	Payment Reduction
HELC violation on land that was sodbusted.	Minimum \$500 Maximum \$5,000
HELC violation on land that was not sodbusted.	None
WC violation for planting on a converted wetland.	
WC violation for conversion of wetland after November 28, 1990.	

Note: Potential HELC compliance deficiencies observed while providing technical assistance are not reported as a violation and do not require a good faith determination. Refer to paragraph 605 for details.

716 General Provisions for Good Faith Relief (Continued)**G Requests for Good Faith Determination**

Producers with a potential violation situation may request that COC make a good faith determination as soon as NRCS issues a preliminary technical determination. COC shall:

- act upon each case as soon as a request is received
- render their decision that will apply if an adverse technical determination becomes final.

A request for a good faith determination does not preclude the producer's opportunity to pursue all appeal rights with regard to notice given for the technical determination.

H Who Makes Good Faith Request

Each producer, including affiliates, who is determined ineligible as the result of HELC or WC violation determination, must file AD-1068 or AD-1069 according to this section to qualify for consideration for reinstatement of eligibility.

I Late Payment Interest

Late payment interest for withheld benefits that are reinstated because of a good faith determination shall begin 30 calendar days after the date that NRCS returns AD-1068 or AD-1069 which indicates in Part E that a conservation or mitigation plan has been signed.

717-720 (Reserved)

Subsection 1 Good Faith Relief for HELC Violations**721 Good Faith HELC Requests****A Good Faith HELC Provision**

7 CFR Part 12 provides that a person who is determined ineligible for failure to comply with HELC provisions may regain eligibility for benefits if:

- FSA determines that the person acted in good faith and without intent to violate the HELC provisions
- the person agrees to implement the practices according to a conservation plan within an agreed period, not to exceed 1 year.

If good faith requirements are met, and the violating land is:

- not sobdusted, no payment reduction shall apply
- sobdusted from native vegetation, such as rangeland or woodland, a payment reduction of not less than \$500 nor more than \$5,000, depending on the seriousness of the violation, shall be applied.

Note: Good faith determinations are **not** required for HELC deficiencies observed while providing technical assistance according to paragraph 605.

B HELC Good Faith Requirements Not Met

Ineligible producers who do not meet HELC good faith requirements shall be denied benefits subject to HELC compliance.

C Requests for Good Faith

Requests for a good faith determination for HELC violations shall be made, in writing, by each producer who wants to regain eligibility for benefits that were or may be denied as the result of HELC violation or potential violation. The request shall include:

- the circumstances surrounding the violation or potential violation
- any evidence indicating the activity was in good faith, and not as a scheme or device to avoid compliance.

Note: Either attach the producer's signed and dated request to AD-1068 for processing, or have the producer write the request on AD-1068.

721 Good Faith HELC Requests (Continued)**D Where to Make a Good Faith Request**

Producers shall file good faith requests with COC for the County in which the farm is located for program administration purposes.

E Information Required From NRCS for Determining Good Faith

NRCS shall provide the following information to COC on AD-1068 for making a determination:

- any facts about the case that may affect the COC determination
- copies of documents containing pertinent information about the case that provide facts and details that may affect COC's good faith decision, such as NRCS' notification to the producer regarding their determination
- whether the producer has obtained or has attempted to obtain a conservation plan for the farm in a timely manner
- whether there was any face-to-face discussion with the producer concerning the HELC violation
- whether the landlord attempted to work with NRCS in developing a conservation plan that could be actively applied by the producer
- information about the fields in violation and the erodibility index of each sodbusted field in violation
- characteristics of the field, whether the producer have known that the field was HEL and/or was subject to gully erosion
- whether the participant had been provided a previous determination and/or conservation plan, and did the producer make a good faith effort to comply
- whether the participant had any HEL violations within the past 5 crop years
- whether there is evidence of intent to violate the provisions.

721 Good Faith HELC Requests (Continued)**F Making Good Faith Determinations**

COC shall determine whether the producer acted in good faith and without intent to violate, based on information:

- provided by the producer
- provided by NRCS on AD-1068
- COC may have concerning the circumstances in the case.

G Documentation and Notifications for Good Faith Determinations

The facts about the request for good faith and all pertinent details that led to COC's conclusion when making the determination shall be:

- documented on AD-1068, item 18
- included in a notification to the producer about the decision.

Approvals must be supported by conclusive evidence to indicate that the producer intended to comply without intent to violate and the action was not a scheme or device to avoid compliance.

Disapprovals must have documentation to support a conclusion that there is not sufficient evidence that the producer intended to comply.

H Yearly Report to NRCS

COC will provide NRCS annually, not later than November 30th, a report of all tracts issued good faith exemptions from the HELC/WC provisions.

722 Payment Reduction Amounts for HELC Sodbuster Violations**A Background**

The 1996 Act provides that benefits reduced for persons under the good faith provision for HELC sodbuster violations shall not be less than \$500 or more than \$5,000, depending on the seriousness of the violation.

The information documented according to this paragraph will be the basis for determining the:

- seriousness of the violation
- payment reduction amount for producers who violated on sodbusted land and request reinstatement of benefits denied.

Note: Sodbuster violations are HELC violations on land that was converted from native vegetation, such as rangeland or woodland, to crop production after December 23, 1985.

B Factors That Determine the Seriousness of the Violation

The factors to be used to determine the seriousness of the violation and payment reduction amounts for sodbuster violations determined to be in good faith are all of the following:

- the number of acres that were in violation of HELC
- the erodibility index of the land in violation
- the number of violations within the past 5 years.

C Determining Acres in Violation

The acres in violation shall be the total sodbusted acreage in the HEL field on which the conservation system was **not** applied, unless both of the following apply:

- the producer provides information to COC that shows that the entire field was not in violation
- NRCS can delineate the area of the field on which the sodbuster violation occurred.

722 Payment Reduction Amounts for HELC Sodbuster Violations (Continued)**D Reduction Amount**

AD-1068, item 17 provides the GPR amount that will be applied for the sodbusted acres determined in violation.

Note: When multiple persons are affected by a sodbuster violation, prorate GPR's according to paragraph 724.

E Application of GPR's

The GPR amounts determined according to this subsection shall:

- apply only for violations on sodbusted land
- be applied in addition to any other program payment reductions that are applicable
- be applied to **all** USDA benefits earned for the crop year of the violation determination that are subject to the HELC and WC provisions
- **not** be applied to USDA benefits earned for crop years before or later than the crop year of the violation determination.

Example: Producer A fails to comply with HELC provisions on sodbusted land for the 2006 crop year. A GPR of \$5,000 is determined for the producer according to this section. If the total 1996 crop year earnings for the producer is \$3,000:

- the producer would not receive 2006 benefits
- the \$2,000 difference in the amount of GPR and benefits earned for the 2006 crop year cannot be deducted from benefits earned for crop years that are before or later than the 2006 crop year.

723 Using AD-1068**A Purpose of AD-1068**

AD-1068 shall be used to document the information necessary for making good faith determinations and GPR amounts for HELC sodbuster violations. Attach any additional documents or information used for making the determinations to AD-1068.

723 Using AD-1068 (Continued)

B Example of AD-1068

The following is an example of AD-1068.

This form is available electronically.		Form Approved - OMB No. 0560-0004		
AD-1068 (08-07-96)		UNITED STATES DEPARTMENT OF AGRICULTURE Farm Service Agency		1A. STATE NAME
				1B. COUNTY NAME
GOOD FAITH DETERMINATION - HIGHLY ERODIBLE LAND ACTIVITY				
NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is the Food Security Act of 1985 as amended and regulations promulgated under the Act (7 CFR Part 12). The information will be used to determine eligibility for program benefits and other financial assistance administered by USDA agencies. Furnishing the requested information is voluntary. However, failure to furnish the correct, complete information may result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA agencies. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0004. The time required to complete this information collection is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.				
PART A - PRODUCER'S REQUEST				
2. NAME AND ADDRESS OF PRODUCER (Including Zip Code):		3. TELEPHONE NO. (Including Area Code):		4. IDENTIFICATION NO.
		5. FARM NO. WITH HELC DETERMINATION		6. CROP YEAR OF DETERMINATION
				7. DATE REFERRED TO NRCS (MM-DD-YYYY)
8. Request for a good faith determination. (State the circumstances surrounding the activities on HEL. Include any evidence that the activities were performed in good faith and without intent to violate the highly erodible land (HEL) conservation requirements and not as a scheme or device to avoid compliance.)				
9A. PRODUCER'S SIGNATURE				9B. DATE (MM-DD-YYYY)
Note to producer: If a good faith request is approved by the county committee, eligibility will not be restored if the land is determined to be in violation of the highly erodible land conservation provisions unless an agreement is signed and performed to apply practices according to NRCS requirements. Application for a good faith determination does not preclude the opportunity to exercise appeal rights according to notice given with regard to the HEL determination.				
PART B - NRCS INFORMATION				
10. Describe any pertinent facts relating to the case that NRCS or the Soil and Water Conservation District has that may affect the COC determination				
11A. SIGNATURE OF NRCS EMPLOYEE				11B. DATE (MM-DD-YYYY)
PART C - PAYMENT REDUCTION INFORMATION FOR SODBUSTER VIOLATIONS (NRCS AND FSA) (Land that was converted from native vegetation i.e., rangeland or woodland, to crop production after December 23, 1985 (Sodbusted))				
Information necessary for determining payment reduction for Sodbusted land				
NRCS Data		FSA Data		
12. FIELD NUMBER	13. NRCS ERODIBILITY INDEX	14. SODBUSTED ACRES IN VIOLATION	15. WEIGHED AVERAGE (Item 13 x Item 14)	16. AVERAGE ERODIBILITY (Item 15 divided by Item 14)
TOTALS				

723 Using AD-1068 (Continued)

B Example of AD-1068 (Continued)

AD-1068 (Page 2) (08-07-96)

PART C - CONTINUED

17. Circle the Payment Reduction amount, based on information in items 12 through 16.

NOTE: The prorated payment reduction amount for producers who meet good faith requirements shall not be less than \$500 per producer in accordance with the Federal Agriculture Improvement and Reform Act of 1996.

GRADUATED PAYMENT REDUCTION TABLE FOR HEIL SODBUSTER VIOLATIONS

SODBUSTER ACRES IN VIOLATION	NRCS ERODIBILITY INDEX		
	8.0-8.9	9.0-14.9	15.0 and over
.1 - 5.0	\$500		
5.1 - 10.0	800	\$800	\$950
10.1 - 15.0	950	1100	1400
15.1 - 20.0	1100	1400	1850
20.1 - 25.0	1250	1700	2300
25.1 - 30.0	1400	2000	2750
30.1 - 35.0	1550	2300	3200
35.1 - 40.0	1700	2600	3650
40.1 - 45.0	1850	3200	4100
45.1 - 50.0	2000	3500	4550
50.1 - 55.0	2150	3800	
55.1 - 60.0	2300	4100	
60.1 - 65.0	2450	4400	
65.1 - 70.0	2600	4700	
70.1 - 75.0	2750		
80.1 - 85.0	2900		
85.1 - 90.0	3050		
90.1 - 95.0	3200		
95.1 - 100.0	3350		
100.1 - 105.0	3500		
105.1 - 110.0	3650		
110.1 - 115.0	3800		
115.1 - 120.0	3950		
120.1 - 125.0	4100		
125.1 - 130.0	4250		
130.1 - 135.0	4400		
135.1 - 140.0	4550		
140.1 - 145.0	4700		
145.1 - 150.0	4850		
150.1 - AND OVER	5000		

PART - D COC DETERMINATION

18. Based on information available, the COC determined that a good faith effort to comply and without intent to violate: a. Was made by the producer. ☐ b. Was NOT made by the producer. ☐

19. Reasons for the COC determination (Attach an additional sheet, if necessary.)

20A. SIGNATURE OF COC _____ 20B. DATE (MM-DD-YYYY) _____

PART E - CONSERVATION PLAN

21. Referred to NRCS because the COC determined good faith. DATE (MM-DD-YYYY): _____ 22. A conservation plan was agreed upon by the producer and signed on. DATE (MM-DD-YYYY): _____

23A. SIGNATURE OF NRCS EMPLOYEE _____ 23B. DATE (MM-DD-YYYY) _____ 24. DATE RETURNED TO FSA (MM-DD-YYYY) _____

PART F - MULTI COUNTY INFORMATION

25. AMOUNT WITHHELD FROM EARNED BENEFITS FOR SODBUSTER VIOLATIONS \$ _____ 26. CONTROL COF: STATE _____ COUNTY _____ 27. DATE MAILED TO CONTROL COF (MM-DD-YYYY) _____

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

723 Using AD-1068 (Continued)

C Completing AD-1068

AD-1068 shall be completed according to the following.

Item	Action	Who Completes Item
Part A - Producer's Request		
1	Enter the FSA Administrative State and county name.	FSA
2	Enter name and address, including ZIP code.	Producer
3	Enter telephone number.	
4	Enter tax ID number.	
5	Enter farm number or numbers on which the noncompliance occurred from FSA-569.	
6	Enter crop year for which the good faith determination applies.	
7	Enter date AD-1068 was referred to NRCS. Note: Keep a copy of AD-1068 in a pending file.	FSA
8	Enter request for a good faith determination.	Producer
9A and 9B	Producer requesting relief shall sign and date. Note: FSA shall attach the producer's signed and dated request to AD-1068, if the request is made on another sheet. Make a notation in the signature block.	
Part B - NRCS Information		
10	Enter description of any pertinent facts about the case that either NRCS or SWCD may have that may affect the COC determination.	NRCS
11A and 11B	NRCS employee shall sign and date.	

723 Using AD-1068 (Continued)

C Completing AD-1068 (Continued)

Item	Action	Who Completes Item	
Part C - Payment Reduction Information for Sodbuster Violations (NRCS and FSA)			
Note: Part C shall be completed for sodbusted land only.			
12	Enter field numbers of the sodbusted land with the determination.	NRCS	
13	Enter erodibility index of the sodbusted fields with the determination.		
14	Enter sodbusted acres with the determination, determined according to subparagraph 722 C.	FSA	
15	Enter the weighted average for each field.		
16	Enter the average erodibility for each field.		
TOTALS	Enter the total of: • acres in column 14 • weighted average in column 15 • average erodibility in column 16.		
17	Circle the reduction amount based on the information provided in items 12 through 16. Note: Prorate this amount among producers who file AD-1068 according to paragraph 724.	COC	
Part D - COC Determination			
18	Check (✓) either of the following items: • a, if good faith effort was made by the producer • b, if good faith effort was not made by the producer.	COC	
19	Enter reasons for the COC determination		
20A and 20B	COC shall sign and date.		
Part E - Conservation Plan			
Note: Part E shall be completed if a good faith approval is made by COC.			
21	Enter date AD-1068 was referred to NRCS.	County Office	
22	Enter date the producer signed a conservation plan with NRCS.	NRCS	
23	NRCS employee shall sign and date.		
24	Enter date AD-1068 is returned to FSA.		

723 Using AD-1068 (Continued)

C Completing AD-1068 (Continued)

Item	Action	Who Completes Item
Part F - Multi County Information		
Note: Part F shall be completed for multi-county producers who are approved for good faith.		
25	Enter amount withheld from earned benefits for sodbuster violations in the County Office where the good faith determination was made. Note: The County Office making the good faith determination shall withhold the payment reduction amount up to the producer's earnings in that county.	FSA
26	Enter recording County Office's State and county.	
27	Enter date AD-1068 was mailed to recording County Office.	

D Multiple Producers Affected by Single Sodbuster Violation

When multiple producers file AD-1068 to regain eligibility for benefits denied as a result of a single sodbuster violation, determine GPR liabilities for producers affected according to paragraph 724.

Note: Producers who do not earn benefits that will be reinstated shall not be counted as a producer in the calculation for determining the amounts for which affected producers are jointly and severally liable for sodbuster violations.

724 Determining GPR for Multiple Producers on Sodbusted Land

A Using AD-1068A

AD-1068A shall be used for documenting GPR's when multiple producers who are affected by a single violation request reinstatement of benefits under the good faith provision.

B Completing AD-1068A

Complete AD-1068A according to instructions provided on the form.

Note: AD-1068A must be attached to each AD-1068 for which the GPR amount calculated on AD-1068 is divided among more than 1 producer.

724 Determining GPR for Multiple Producers on Sodbusted Land (Continued)

C Example of AD-1068A

The following is an example of AD-1068A.

REPRODUCE LOCALLY. Include form number and date on reproductions.				
AD-1068A (07-24-96)		U.S. DEPARTMENT OF AGRICULTURE		1. State and County Name
DISTRIBUTION OF GRADUATED PAYMENT REDUCTION (Supplemental to AD-1068 for Sodbuster Violations)				2. Farm No. (AD-1068, Item 5)
				3. Crop Year (AD-1068, Item 6)
PART A - PRODUCERS WHO EARNED BENEFITS AND FILED AD-1068 FOR REINSTATEMENT				
4. Name			5. IRS Identification Number	
PART B - PRODUCER GPR CALCULATION				
6. Minimum GPR (\$500)	7. Number of Producers	8. Item 6 X Item 7	9. GPR (AD-1068, Item 15)	10.* Amount Jointly and Severally Liable (Amount Item 9 exceeds Item 8. Enter "zero" if Item 8 is greater than Item 9.)
\$		\$	\$	\$
Instructions for completing Part A and Part B.				
Item	Action			
1, 2, and 3	Enter information as requested.			
Part A	Enter the names and IRS identifying numbers for all producers who earn benefits and file AD-1068 for a single HELC Sodbuster Violation. Do not use AD-1068A if only one producer who earns benefits files AD-1068. IMPORTANT: Do not include producers who do not earn benefits.			
Part B				
Item 6	Enter \$500.			
Item 7	Enter the total number of producers listed in Part A.			
Item 8	Enter product of Item 6 x Item 7.			
Item 9	Enter GPR calculated on AD-1068, Item 16.			
Item 10	Enter the result of subtracting Item 8 entry from Item 9 entry. Enter zero if Item 8 exceeds Item 9.			
*No producer will be held liable for an amount greater than benefits earned by such producer.				

724 **Determining GPR for Multiple Producers on Sodbusted Land (Continued)****D Collection of GPR Amounts for Which Producers Are Jointly and Severally Liable**

If benefits covered by HELC and WC provisions have been paid to producers who are jointly and severally liable for outstanding GPR amounts for sodbuster violations, the producers shall be considered joint debtors according to 58-FI.

Note: No producer who is jointly and severally liable for an outstanding GPR shall be:

- issued additional payments unless GPR amounts are satisfied according to subparagraph E
- liable for a total GPR amount that is greater than earned benefits subject to HELC and WC provisions for the applicable program year.

E Payment Reductions for GPR Amounts for Which Producers Are Jointly and Severally Liable

No additional benefits shall be issued for the applicable program year to any producer for which a GPR determination is made, according to this paragraph, until either of the following:

- the following amounts are satisfied through withholding:
 - the producer's minimum payment reduction for the violation
 - the GPR amount for which affected producers are jointly and severally liable, calculated on AD-1068A, item 10

Note: This amount must be collected or withheld before additional benefits are issued.

- payments are made by producers to cover the outstanding GPR for which the producer is liable.

Note: Producers are not held jointly and severally liable for the minimum payment reduction amounts for other producers who were affected by the single sodbuster violation.

724 Determining GPR for Multiple Producers on Sodbusted Land (Continued)**E Payment Reductions for GPR Amounts for Which Producers Are Jointly and Severally Liable (Continued)**

Example: The GPR calculation for sodbusted land on AD-1068 is \$5,000. Producers A, B, and C were each assessed the minimum \$500. Producers A, B, and C are jointly and severally liable for \$3,500 (\$5,000 minus \$1,500).

Producer A may be issued payments or other benefits covered under HELC and WC provisions under the following circumstances:

- the minimum assessment of \$500 was withheld from Producer A's earned benefits
- Producer B paid \$4,000 to satisfy Producer B's minimum assessment of \$500 and \$3,500 for which Producers A, B, and C were jointly and severally liable
- Producer C has not refunded \$500 that was issued before discovery of the violation.

725-730 (Reserved)

Subsection 2 Good Faith Relief for WC Violations**731 Good Faith WC Requests****A Good Faith WC Provision**

7 CFR Part 12 provides that a person who is determined ineligible for failure to comply with WC provisions may regain eligibility for benefits if:

- FSA determines that the person acted in good faith without intent to violate the wetland provisions
- the person agrees to implement practices according to a wetland mitigation plan within an agreed period, not to exceed 1 year.

No payment reduction shall apply for persons who meet the good faith requirements.

Note: See paragraph 737 for payment ineligibility for persons who violate WC provisions and do not meet good faith requirements.

B Requests for Good Faith

Requests for good faith relief for WC violations shall be made, in writing, by the producer. The request shall include the following:

- the circumstances surrounding the violation
- any evidence indicating that the violation was in good faith and without intent to violate WC provisions, and not as a scheme or device to avoid compliance.

Note: Either attach the producer's request to AD-1069 for processing, or have the producer write the request on AD-1069.

C Where to Make a Good Faith Request

Producers shall file good faith requests with COC for the county in which the farm is located for program administration purposes.

731 Good Faith WC Requests (Continued)**D Information Required From NRCS and SWCD for Determining Good Faith**

NRCS shall provide the following information to COC on AD-1069 for making a determination:

- any facts about the case that NRCS or SWCD has that may affect COC's determination
- copies of documents containing pertinent information about the case that provide facts and details that may affect COC's good faith decision, such as NRCS' notification to the producer regarding their determination
- whether the producer was officially informed of the wetland determination made by NRCS
- whether there was any face-to-face discussion with the producer about the wetland, before the violation occurred
- whether NRCS has knowledge that the producer was involved in a previous swampbuster violation issue
- characteristics of the site before the conversion occurred.

E Making Good Faith Determinations

COC shall determine whether the producer acted in good faith and without intent to violate and collect USDA benefits subject to WC compliance, based on information:

- provided by the producer
- provided by NRCS on AD-1069
- COC may have concerning the circumstances in the case.

732 Using AD-1069

A Purpose of AD-1069

AD-1069 shall be used to document the information necessary for making good faith determinations and reinstatement of benefits for wetland violations. Attach any additional documents or information used for making the determinations.

B Example of AD-1069

The following is an example of AD-1069.

This form is available electronically.		Form Approved - OMB No. 0560-0185					
AD-1069 (05-15-02)		UNITED STATES DEPARTMENT OF AGRICULTURE Farm Service Agency GOOD FAITH DETERMINATION - WETLAND ACTIVITY					
1A. STATE NAME		1B. COUNTY NAME					
NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is the Food Security Act of 1985 as amended and regulations promulgated under the Act (7 CFR Part 12). The information will be used to determine eligibility for program benefits and other financial assistance administered by USDA agencies. Furnishing the requested information is voluntary. However, failure to furnish the correct, complete information may result in a determination of ineligibility for certain program benefits and other financial assistance administered by USDA agencies. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0185. The time required to complete this information collection is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.							
PART A - PRODUCER'S REQUEST							
2. NAME AND ADDRESS OF PRODUCER (Including Zip Code):		3. IDENTIFICATION NO.	4. FARM NO. WITH WETLAND ACTIVITY				
		5. CROP YEAR OF DETERMINATION	6. DATE REFERRED TO NRCS (MM-DD-YYYY)				
Telephone No. (Including Area Code):							
7. Request for a good faith determination. (State the circumstances surrounding the wetland activity for which a determination is requested. Include any evidence that the activities were performed in good faith and without intent to violate the Wetland Conservation Provisions.)							
Note to producer: If a good faith request is approved by the County Committee, eligibility will not be restored if the land is determined to be in violation of the Wetland Conservation provisions unless an agreement is signed and performed to mitigate wetland values according to NRCS requirements. Application for a good faith determination does not preclude the opportunity to exercise appeal rights according to notice given with regard to the Wetland determination.							
8A. SIGNATURE OF PRODUCER		8B. DATE (MM-DD-YYYY)					
PART B - NRCS INFORMATION							
9. Describe any pertinent facts relating to the case that NRCS or the Soil and Water Conservation District has that may affect the COC determination.							
10. Was the producer informed of the wetland determination made by NRCS through personal contact?			<table border="1"> <tr> <th>YES</th> <th>NO</th> </tr> <tr> <td></td> <td></td> </tr> </table>	YES	NO		
YES	NO						
11. Does NRCS have knowledge that the producer was involved in a previous National, State, or local wetland violation issue?							
12. Did NRCS have a discussion at any time with the producer concerning the wetland before the activity occurred? If "YES", describe the situation.							
13A. SIGNATURE OF NRCS EMPLOYEE		13B. DATE (MM-DD-YYYY)	14. DATE RETURNED TO FSA (MM-DD-YYYY)				
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732 Using AD-1069 (Continued)

B Example of AD-1069 (Continued)

AD-1069 (05-15-02) Page 2		
PART C - GOOD FAITH DETERMINATION		
	YES	NO
15. Does FSA have knowledge that the producer was involved in a previous National, State, or local wetland violation?		
16. The COC determined that the producer acted in good faith without intent to violate?		
17. Reasons for COC determination:		
18A. SIGNATURE OF COC		18B. DATE (MM-DD-YYYY)
19. Date Producer was notified (MM-DD-YYYY)		
PART D - MITIGATION PLAN		
20. Date Referred to NRCS because the COC determined good faith. (MM-DD-YYYY)	21. Date A mitigation plan was agreed upon by the producer and signed on. (MM-DD-YYYY)	
22A. Signature of NRCS Employee	22B. DATE (MM-DD-YYYY)	23. DATE RETURNED TO FSA (MM-DD-YYYY)
PART E - MULTI-COUNTY INFORMATION		
24. CONTROL COF: STATE	COUNTY	25. DATE MAILED TO CONTROL COUNTY (MM-DD-YYYY)

732 Using AD-1069 (Continued)

C Completing AD-1069

The following shows the entries required on AD-1069 and who must complete the items.

Note: Attach an additional sheet with the item numbers identified, if more space is needed to record any of these items.

Item	Required Entry	Who Complete Items
1	Enter the FSA recording State and county name.	FSA
Part A - Producer's Request		
2	Enter producer's name and address, including ZIP code, and telephone number.	
3	Enter producer's tax ID number.	
4	Enter farm number with the wetland activity.	
5	Enter crop year of the determination.	
6	Enter date AD-1069 is referred to NRCS. Note: Keep a copy of AD-1069 in a pending file.	County Office
7	Producer requesting relief shall write the circumstances surrounding the request for a good faith determination.	Producer
8A and 8B	Producer requesting good faith determination shall sign and date.	
Part B - NRCS Information		
9	Enter pertinent information about the case that NRCS or SWCD may have that may affect the COC determination.	NRCS
10	Check (✓) whether the producer was informed of the wetland determination made by NRCS.	
11	Check (✓) whether NRCS has knowledge that the producer was involved in a previous swampbuster violation issue.	
12	Check (✓) whether NRCS had discussion at any time concerning the wetland, before the violation occurred.	
13A and 13B	NRCS employee shall sign and date.	
14	Enter date AD-1069 is referred to FSA.	

732 Using AD-1069 (Continued)

C Entries Required on AD-1069 (Continued)

Item	Required Entry	Who Complete Items
Part C - Good Faith Determination		
15	Check (✓) whether FSA has knowledge that the producer was involved in a previous National, State, or local wetland violation issue.	COC
16	Check (✓) COC’s determination.	
17	Enter reasons for COC determination.	
18	COC or authorized representative shall sign and date.	
19	Enter date producer was notified of the good faith determination. Note: Do not reinstate eligibility until NRCS completes Part E.	County Office
Part D - Mitigation Plan		
20	Enter date approved AD-1069 is referred to NRCS for completing a mitigation plan.	County Office
21	Enter date producer signed a mitigation plan with NRCS.	NRCS
22	NRCS employee shall sign and date.	
23	Enter date NRCS returned AD-1069 to FSA.	
Part E - Multi-County Information		
24	Enter State and county name of the recording County Office. Note: Leave blank if producer is not a multi-county producer.	FSA
25	Enter date copy of AD-1069 is mailed to the recording County Office. Note: Leave blank, if not applicable.	

D Recording County Office Responsibility

Recording County Offices shall contact other County Offices and agencies to instruct them to reinstate benefits earned to the producer if a good faith determination is approved and NRCS reports that a mitigation plan was signed.

733 Mitigation Activities for Good Faith Approvals**A Monitoring Mitigation Plan Activities**

NRCS is responsible for conducting followup 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).

If NRCS determines that the producer is not fully applying the required plan, or if conditions that must be met after the first year are not met, e.g., 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 mitigation plan requirements are not met:

- 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: COC may submit a recommendation for relief for producers who do not meet good faith requirements according to paragraph 737.

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

734-736 (Reserved)

Subsection 3 Relief From WC Ineligibility**737 Relief for WC Violation if Good Faith Requirements Are Not Met****A WC Ineligibility and Relief**

Persons who are determined ineligible for a WC violation and do not meet good faith relief provisions shall be denied benefits.

7 CFR Part 12 provides that ineligibility may be reduced instead of loss of all benefits for the crop year, based on the seriousness of the violation as determined by DAFP or designee upon recommendation by COC.

B Factors for Relief Consideration

Factors, such as the following, shall be considered in providing relief for WC violations:

- the affected person acted without the intent to violate WC provisions
- information that was available to the affected person before the violation
- previous land use patterns
- the existence of previous WC violations or other local, State, or Federal wetland violations
- the wetland functions and values affected
- recovery time for full mitigation of the wetland functions and values
- the impact that a reduction in payments would have on the person's ability to repay a USDA farm loan
- whether there had been any previous wetland violations within the previous 5 years.

Any other relevant factors may be considered in making a determination.

737 Relief for WC Violation if Good Faith Requirements Are Not Met (Continued)**C Meritorious Relief**

Meritorious relief under the provision in this subsection will only be approved by DAFP if:

- the producer is unable to remedy the problem under the good faith provision by mitigating the converted wetland
- other circumstances prevent fair application of sanctions for violations that do not meet good faith requirements
- taking away certain benefits would defeat the purposes of encouraging good conservation of soil and water resources.

D Requests Relief From WC Ineligibility

Persons whose appeal rights for a WC determination of ineligibility are expired with regard to the producer ineligibility determination and good faith request, if applicable, may request a payment reduction instead of the loss of all benefits subject to WC compliance.

The person shall have been provided with all opportunities available for appeal of the producer ineligibility determination and good faith consideration before a request for reduction in benefits in lieu of loss of all benefits is considered by COC.

COC may consider a request for relief from WC ineligibility from persons who do not exercise appeal rights or request good faith after the deadline for filing an appeal of the ineligibility determination is expired and the decision is final.

738-740 (Reserved)

Section 3 Updating Producer Eligibility Record**741 Producer Eligibility File****A Accessing Producer's Eligibility Record**

County Offices shall follow the procedure in:

- 3-CM to update tract data
- 3-PL to access and update producer eligibility records

Producer eligibility is based upon the following:

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

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.

C Using 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.

The eligibility record for an individual producer reflects the overall status for HEL 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.

742-799 (Reserved)

Part 8 Reporting HELC and WC Violations

Section 1 Recording HELC Violation Data

800 HELC and WC Violation Documentation

A Violation Reporting System

HELC/WC violations are recorded on a:

- FSA-569 to document the violation
- FSA-493 to collect violation data for entry into the web-based national HELC/WC violation database.

B Stages for HELC and WC Reporting System

The following provides the steps for entering the HELC and WC violations into the reporting system.

Stage	Process
1	FSA prepares FSA-569 for a potential HELC or WC violations and submits to NRCS for determinations.
2	FSA assigns a control number to FSA-569 when making an initial compliance determination on the tract.
3	NRCS prepares FSA-569 with a compliance determination and returns it to the FSA County Office with administrative responsibilities for the violating farm.
4	Administrative County Office: • completes FSA-493: • Parts A, B, and C for the administrative County Office • Parts A and B for other County Offices • sends the FSA-493's to other County Offices to complete Part C if needed.
5	Other County Offices who receive FSA-493 from the administrative County Office shall: • complete FSA-493, Part C • return the completed FSA-493's to the administrative County Office.

800 HELC and WC Violation Documentation (Continued)**C Stages for HELC and WC Reporting System (Continued)**

Stage	Process
6	Administrative County Office submits all completed FSA-493's that are prepared for the violation to the State Office.
7	State Office records information from FSA-493's into the web-based national violation database as soon as it is received from the County Office National, State, and county violation data may be viewed by all users with access to the FSA Intranet. County Offices shall review data for their county within the HELC/WC database for completeness. Prepare FSA-493 for missing data and submit to the State Office.

801 Reporting Data On FSA-493**A FSA-493 Report**

FSA-493:

- is used to report data about producers and farms that are affected by a noncompliance determination on FSA-569
- serves as the source document for information entered into the web-based national HELC/WC violation database
- must have a corresponding FSA-569 which is the basis for the producer report
- prepared for all violations including those where the violator receives a COC “good faith” determination.

B Conditions That Require Preparing FSA-493’s

FSA-493’s shall be prepared according to this section when FSA-569 is returned from NRCS, and any of the following conditions apply:

- either of the following statements are checked on FSA-569, Part C:
 - the field does **not** meet requirements of HELC provisions
 - the area identified is a wetland that was converted after November 28, 1990
- FSA has determined that CW is planted to an agricultural commodity, and NRCS has checked the statement, “The area identified is a CW”, on FSA-569, Part C to confirm that the CW determination is final.

C Control Number Assignment on FSA-569 and FSA-493

FSA will assign a control number to each FSA-569 that is prepared when NRCS makes an initial determination of HELC or WC noncompliance on a tract. FSA will use the control number listed on FSA-569 when completing the associated FSA-493 whenever FSA-569 is returned from NRCS indicating that the producer’s appeal rights are exhausted and noncompliance determinations are final. This includes the following:

- HELC violations
- wetland conversions after November 28, 1990
- FSA determinations that a converted wetland is planted to an agricultural commodity.

801 Reporting Data On FSA-493 (Continued)**D Control Number Sequence**

The source document for the control number entered on FSA-493 is the associated FSA-569. Each FSA office will sequentially number all FSA-569's, beginning with "1" for each crop year, with noncompliance determinations that the NRCS office processes. A separate FSA-569 shall be prepared for each tract.

Control numbers recorded on FSA-493's will not necessarily be sequential for FSA County Offices because control numbers for FSA-569's prepared for initial noncompliance determinations that are later determined to be in compliance will not be reported on FSA-493's by FSA

Note: If NRCS initially reports on FSA-569 that a violation determination is final, and later rescinds the determination, then FSA-493's shall be prepared using reason code "5" from Part D.

E FSA-493 Coordination

The administrative County Office for a tract determined to be in noncompliance:

- shall prepare FSA-493's according to this section for all FSA-569's that show noncompliance, whether or not producers will be denied benefits as the result of the violation
- may delay preparing FSA-493's up to 60 calendar days after receiving FSA-569 until the producers' appeals or requests for relief are resolved to avoid numerous revisions
- shall communicate with other counties for multi-county producers to ensure that initial FSA-493's and revisions are coordinated and reported accurately by all counties
- shall report to the State Office any FSA-569 determinations that cannot be resolved and reported on FSA-493's for all counties with producers affected by the violation within 60 calendar days after FSA-569 is received from NRCS.

Note: State Offices can then monitor where assistance is needed to avoid unnecessary delays.

F Schedule for Sending FSA-493's to State Office

A completed FSA-493 shall be forwarded to the State Office immediately upon completion. Completing FSA-493 is based upon the return of FSA-569 from NRCS documenting a violation.

NRCS will only return FSA-569 when the technical determinations is finalized.

802 Using FSA-493**A Administrative County Office Responsibilities**

The County Office that maintains the farm and tract records for the land on which a violation has occurred, referred to as an administrative County Office, is responsible for:

- initiating FSA-493's
- coordinating with other counties for completing FSA-493's
- ensuring that FSA-493's are reported to cover all land for each producer and affiliate who is associated with the violating farm.

B Other County Office Responsibility

An other County Office is a county that maintains farm and tract records for a producer who is associated with a violating farm that is administered by another County Office.

Other County Offices shall complete FSA-493, Part C for FSA-493's that are referred from the administrative County Office, according to this paragraph.

C Administrative County Office Action

The administrative County Office receiving FSA-569 shall determine the total number of FSA-493's that are required for the administrative County Office and other counties according to the following.

Step	Action
1	FSA-569 is received from NRCS which indicates that: • a violation has occurred or confirms that an area is CW that was planted to an agricultural commodity • NRCS determinations are final technical determinations according to 7 CFR Part 614.
2	Determine the following producers associated with the farm reported on FSA-569: • operator, tenants, and sharecroppers on the farm • owner of the tract. All of the producers recorded on FSA-569 shall be reported on FSA-493's, whether or not the producers will be affected by the violation. This includes both participating and nonparticipating producers.

802 Using FSA-493 (Continued)

C Administrative County Office Action (Continued)

Step	Action
3	Determine whether producers derived from step 2 filed AD-1026 for the crop year entered on FSA-569, item 10.
4	Determine affiliated persons from AD-1026, item 8 for persons determined to have filed AD-1026 according to step 3.
5	Print AD-1026A's for producers and affiliates who are recorded in the county's name and address record. This includes producers determined in steps 2 and 4, except for affiliates that are not located in the violating county.
6	If affiliated persons determined in step 4 are not recorded in the county's name and address record, then copy the affiliate's AD-1026A that is attached to AD-1026 filed by the producer who requested benefits. If AD-1026A is not available, then obtain from the recording County Office. Note: Only affiliates of producers who filed AD-1026's will be reported.
7	Determine other counties in which producers for whom AD-1026A's are obtained in steps 5 and 6 have an interest. This information is provided on AD-1026A, item 13.
8	Complete a separate FSA-493: • Parts A and B for each county in which producers on the violating farm and their affiliates have other county interests determined in step 7 • Parts A, B, and C for producers on the violating farm reported on FSA-569 and affiliates who are recorded in the administrative County Office's name and address record. FSA-493, item 1 shall be checked either: • "no" for first time reports for the producer • "yes" if reporting revisions from a prior report.

D Example of FSA-493

FSA-493's shall be completed for each producer who is associated with a farm that is reported in violation on FSA-569. The following is an example of FSA-493.

[illegible]

802 Using FSA-493 (Continued)

E Completing FSA-493, Part A

Information on FSA-569 for the violating farm shall be transferred to FSA-493, Part A according to the following.

Notes: The administrative County Office shall complete FSA-493, Parts A and B for the administrative County Office and other counties for each producer associated with the violating farm.

A separate FSA-493 shall be completed for each of the following:

- “OP”, “OO”, “OT” on the violating farm
- “OW” on the violating tract
- affiliated person.

FSA-569		Corresponding FSA-493, Part A	
Part	Item	Item	Description
	1	2	Control number.
A	4A	4A	FSA administrative State name and code.
	4B	4B	FSA administrative County Office name and code.
	5	5	NRCS FIPS State and county code.
	6	6	Farm number.
	7	3	Crop Year.
	8	7	Tract number.
C	1	9	Type of violation. Note: See subparagraph F.
	3	8	Acres.

802 Using FSA-493 (Continued)

F Completing FSA-493, Part A, Item 9

Entries recorded on FSA-569, Part C, item 1, shall be used to determine the block that shall be checked on FSA-493, Part A, item 9, according to the following.

Statement Checked on FSA-569, Part C, Item 1	Item to Check on FSA-493, Part A	
	Item	Violation
The field does not meet requirements of the HELC provisions.	9 A	HELC.
The area identified is a CW.	9 B	Planting on CW. Note: FSA-493's shall not be prepared for producers on the farm unless FSA determined that CW was planted to an agricultural commodity.
The area identified is a wetland that was converted after 11/28/90.	9 C	Conversion after November 28, 1990.

G Completing FSA-493, Part B

FSA-493, Part B shall be completed by the administrative County Office according to the following.

Item	Instructions
10 through 12	Enter the producer's name, ID, and ID type recorded on AD-1026A.
13	Check whether the producer on FSA-493, item 10 certified for the crop year entered on AD-1026, item 3.
14	Approved GPR amount from AD-1068 or AD-1069 shall be entered on: - one FSA-493 only by the administrative County Office for the producer - FSA-493 that is prepared by the administrative County Office for the producer. Items 15 and 16 will be the same as item 4 for the producer. Note: Item 14 shall be left blank for FSA-493's prepared for other counties.
15, 16	Enter the State and county name and code.

802 Using FSA-493 (Continued)**H Preparing, Filing, and Sending FSA-493's to Other Counties**

The administrative County Office shall:

- maintain a folder of pending FSA-493's
- send other counties FSA-493's according to the following.

Step	Action
1	Prepare a folder for each tract for which a violation determination requires preparing FSA-493's according to this paragraph.
2	Place the following FSA-493's in the FSA-493 file: • original FSA-493's prepared for administrative County Office • a copy of FSA-493's prepared for other counties.
3	Mail original FSA-493's to the applicable other county listed on FSA-493, Part B.

I Other Counties Preparing FSA-493's

Other counties that receive FSA-493's, with Parts A and B completed, shall do the following.

Step	Action
1	Print AD-1026A for producer recorded on FSA-493, Part B.
2	Complete FSA-493, Part C according to subparagraphs J through L.
3	Maintain a file with copies of FSA-493's that are prepared according to step 2.
4	Mail original completed FSA-493 to the County Office recorded on FSA-493, Part A.

J Information Needed to Complete FSA-493, Part C

The following information will be required for producers recorded on FSA-493, Part B, to complete Part C:

- AD-1026A printed for the producer by the County Office listed on FSA-493, item 16
- the amount of USDA benefits requested by the producer for all programs that are covered by HELC and WC provisions for the crop year entered on FSA-493, item 3.

Note: **All** farms in which the producer has an interest and **all** benefits requested must be recorded for every producer for whom FSA-493 is required.

802 Using FSA-493 (Continued)

K Obtaining Amount of Benefits Requested by the Producer

Information needed to report benefits requested by the producer that is required on FSA-493, Part C shall be obtained by researching records and contacting other agencies to determine all applicable programs for which benefits are requested and amounts the producer would earn.

L Completing FSA-493, Part C

After obtaining the information in subparagraphs H and I, FSA-493, Part C shall be completed by the administrative County Office and other counties for each producer who is associated with a farm on which a violation occurred according to the following.

Item	Instruction
17	Enter farm numbers from AD-1026A printed for the producer in the County Office in item 16. Notes: All farms on AD-1026A, items 7 and 12 shall be listed. The farm number may need to be repeated if farm specific benefits were requested for more than 1 program listed in Part E. Only complete items 18 and 19 the first time the farm number is entered in item 17.
18	Enter the total cropland acres on the farm. Do not use the cropland that is listed on AD-1026A because AD-1026A lists the cropland by tract, which may not be the total cropland for the entire farm. The cropland for the farm is displayed either of the following ways: • on FSA-156EZ • by accessing farm data in automated system.
19	Enter the status of the producer on the farm as 1 of the following: • “OO” for owner and operator • “OP” for operator • “OW” for owner • “OT” for tenant or sharecropper. Note: This information is printed on AD-1026A, items 7 and 12.
20A	Note: The program codes for which benefits are not issued by farm number are listed in item 20A. Requested benefits for programs with codes that are preprinted in item 20A shall represent total amounts the producer requested for the program, and are not reported by farm number. However, all of the producer’s farms shall be reported in items 17 through 19.

802 Using FSA-493 (Continued)

L Completing FSA-493, Part C (Continued)

Item	Instruction
20B	Use the farm specific program codes listed in Part E to identify the programs for which benefits were requested on the corresponding farm number in item 17. Make entries according to this table. If the producer in item 10 did not request program benefits that would be attributed to a farm on AD-1026A, then items 17 through 19 shall be completed for the farm, items 20B through 24 shall be left blank for the farm.
21	Enter the dollar amount of program benefits that were requested by the producer for the crop year in item 3. Note: It is important that all program benefits that were requested by the producer for the crop year in item 3 be reported. That should include benefits that will be paid because exemptions apply or a COC “good faith” determination was provided.
22	Enter the dollar amount of program benefits that were reinstated for the producer for the crop year in item 3. Note: All benefits for a program in item 21 that will be paid to the producer shall: • be reinstated in item 22 • have items 23 and 24 completed for the program to provide the reason for the reinstatement.
23	If reinstated benefits are recorded for the program, enter, in item 23: • the reason code listed in Part D that is the basis for the reinstatement • an explanation of the reason for the reinstatement on the reverse side of FSA-493 if reason code “8” is used. Example: If a tenant or sharecropper on the farm does not have an interest in any crops raised on HEL on the tract where a HELC violation occurred, then: • reason code “8” shall be used • enter an explanation on the reverse side of FSA-493.
24	If a reason code was entered in item 23, enter the: • level of authority that approved the determination, using the codes in Part F • date the determination was final. Example: C - 7/6/99

802 Using FSA-493 (Continued)

M Completing FSA-493, Part C From Source Documents

The following lists information that is transferred to FSA-493 from the producer's source documents.

Item	Instructions
17	Enter farm numbers from AD-1026A.
18	Enter cropland acres from FSA-156EZ. Note: Do not use cropland on AD-1026A. The cropland on AD-1026A is recorded by tract and may not reflect total cropland on the farm.
20B	Enter producer's status (OO, OP, OW, or OT) from AD-1026A.
21 Requested Benefits (\$)	Enter requested benefit amount for Emergency or Livestock Feed programs.
21 <u>1/</u>	Enter: • projected or actual benefits for price support programs • requested benefits for conservation programs • dollar value of the tobacco program benefits

N Administrative County Office Action When All FSA-493's Are Completed for a Violating Farm

Administrative County Offices shall do the following when FSA-493's, that are required according to this paragraph, are received from other counties.

Step	Action
1	Remove and destroy the pending copies that were prepared for other counties according to subparagraph H, and replace with completed FSA-493's as they are received from other counties.
2	When all FSA-493's are completed that are required for the FSA-569 determination: • copy the entire set of FSA-493's • attach the copies of FSA-493's to FSA-569 and maintain in the HELC and WC file prepared according to paragraph 202.
3	Submit the entire set of original completed FSA-493's that are required for the FSA-569 determination to the State Office.

803 Revised FSA-493's

A Revising Other County FSA-493's Because of Exemptions or Relief

Corrections or revisions to FSA-493's for other counties because of exemptions or relief granted in the administrative County Office for producers on the violating farm shall be made according to the following.

Step	Action
1	The administrative County Office shall send a notification to other counties who reported FSA-493's for producers who are affected by an exemption or relief determination that will change information reported on FSA-493. The notification shall include the following: • the reason for exemption or relief • the name and ID number of the producer who was granted the exemption or relief • what level of authority made the exemption or relief determination • a request for a revised FSA-493 that reflects the change. Examples: Some examples of relief or exemption determinations made and FSA approving authority for the determinations are: • AD-1026B approved by COC for tenant exemption • COC determination of "good faith".
2	Other counties that will reinstate benefits because of an exemption or relief action shall: • on the copy of FSA-493 that is maintained in the pending FSA-493 file according to this paragraph: • complete FSA-493, Part C according to this paragraph • highlight all new or revised entries made since the original FSA-493 was forwarded to the administrative County Office • check (✓) "Yes" on FSA-493, item 1 to indicate that a prior report was prepared • copy the revised FSA-493 and place in the pending file of FSA-493's • mail the original revised FSA-493 to the administrative County Office listed on FSA-493, Part A.

B Errors Discovered on FSA-493

If errors are discovered on FSA-493's that have been forwarded to the administrative County Office, then the county that prepared FSA-493, Part C shall:

- add new items or line through and correct items on the County Office copy of FSA-493
- follow subparagraph A.

C Example of Revised FSA-493 and Source Document

The following is an example of a revised FSA-493 because of the following:

- addition of price support benefits
- reinstatement of benefits minus GPR approved on AD-1068.

Notes: Asterisks indicate corrections or additions that have been made since the original FSA-493 was reported. Asterisked areas shall be highlighted by the County Office to identify the items that have been changed.

The \$500 LAP and \$2,100 CRP benefits were not reinstated to satisfy the \$2,600 GPR.

[illegible]

803 Revised FSA-493's (Continued)

D Administrative County Office Action for Reporting Revisions or Corrections to FSA-493's

The administrative County Office shall:

- coordinate the completion of necessary revisions or corrections of FSA-493's with other counties who prepared FSA-493, Part C
- make revisions or corrections on FSA-493's for which Part C was completed by the administrative County Office
- replace existing FSA-493's that are attached to FSA-569 with a copy of the revised FSA-493's
- ensure that all corrections, additions, and revisions are highlighted on FSA-493's that are to be mailed to the State Office
- forward FSA-493's with revisions highlighted to the State Office.

804-849 (Reserved)

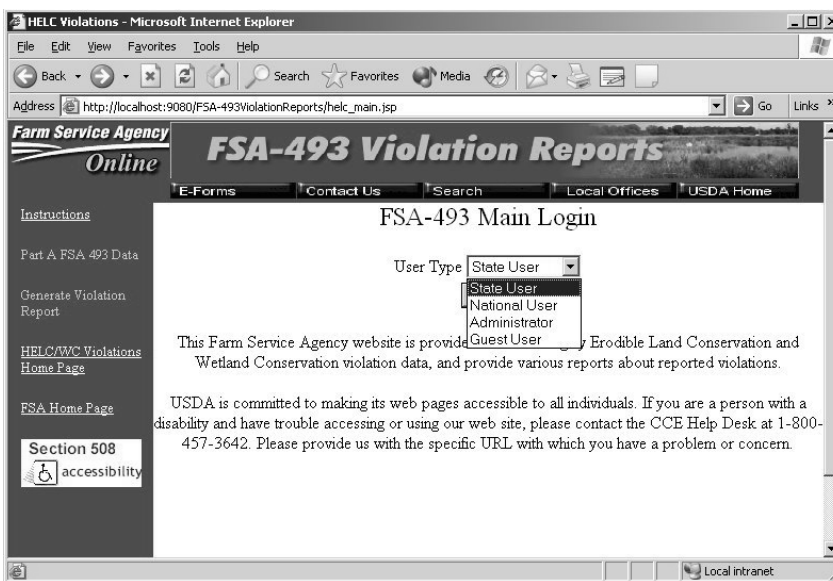
Section 2 National HELC and WC Violation Database

850 Entering Violation Data Into the National Database

A Entering FSA-493 Information Into the National Database

Users shall enter FSA-493 information into the national database according to the following.

Step	Action
1	Access the FSA Intranet Home Page at http://intranet.fsa.usda.gov/fsa/ .
2	Under “Links”, CLICK “FSA Applications”.
3	Under “Conservation”, CLICK “HELC/Wetlands Program”.
4	On FSA-493 Main Login Screen: - select 1 of the following from the “User Type” drop-down box “State User” for the FSA State Office designated HELC/WC specialist using WebCAFF user name and password “National User” for designated FSA and NRCS headquarters users “Administrator” for system administrators only “Guest User” for all users with FSA Intranet access Notes: All USDA employees with access to the FSA Intranet may log in as a “Guest User” to view violation data and generate reports. Designated State and headquarter users and administrators may enter or correct FSA-493 data for violation data with the required password. - CLICK “Login”.



850 Entering Violation Data Into the National Database (Continued)

A Accessing and Entering FSA-493 Information Into the National Database (Continued)

Step	Action
5	On FSA-493 Guest Login Screen, select the desired State from the drop-down box. Guest users may violation data only. State users may enter or correct FSA-493 data. 

850 Entering Violation Data Into the National Database (Continued)

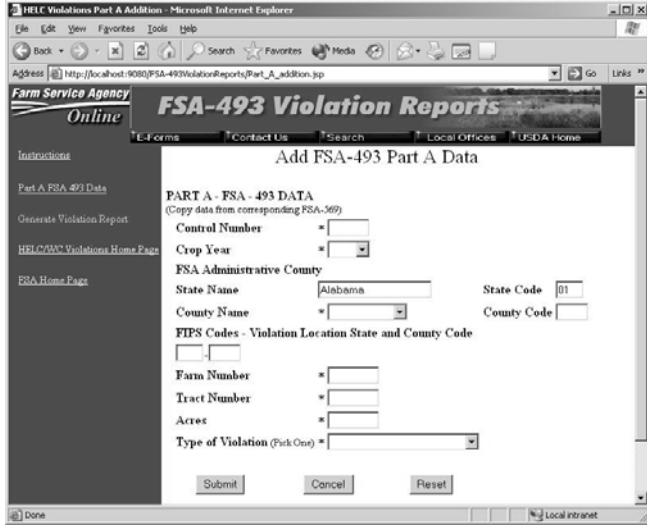
A Accessing and Entering FSA-493 Information Into the National Database (Continued)

Step	Action
6	On FSA-493 Data Screen, the user may: • scroll through existing FSA-493's by clicking: • "First Record" • "Previous Record" • "Next Record" • "Last Record" • search for individual FSA-493's by clicking "Search for Record" and entering the control number and year • edit existing FSA-493's by clicking "Edit Current Record" • view additional FSA-493 data by clicking "Part B - Producer Data" • add new FSA-493's by clicking "New Record".

The screenshot shows a web browser window titled "HRLC Violations Part A: Microsoft Internet Explorer". The address bar shows "http://localhost:9080/FSA-493ViolationReports/Part_A.jsp". The page header includes "Farm Service Agency Online" and "FSA-493 Violation Reports". The main content area is titled "FSA-493 Data" and contains a form for "PART A - FSA - 493 DATA". The form includes fields for Control Number (1), Crop Year (2000), FSA Administrative County (Alabama), State Name (Alabama), State Code (01), County Name (Autauga), County Code (001), NRCS FIPS State and County Code (01, 001), Farm Number (428), Tract Number (612), Acres (301.00), and Type of Violation (Conversion After 11/28/1990). Below the form are buttons for "First Record", "Previous Record", "Search for Record", "Next Record", "Last Record", "New Record", and "Edit Current Record". A "PART B - PRODUCER DATA" button is also visible at the bottom.

850 Entering Violation Data Into the National Database (Continued)

A Accessing and Entering FSA-493 Information Into the National Database (Continued)

Step	Action
7	On Add FSA-493 Part A Data Screen: • enter data from FSA-493, items 2 through 9 • CLICK “Submit”. Note: Each FSA-493 is a separate database record.  FSA-493 Data Screen will be displayed.

850 Entering Violation Data Into the National Database (Continued)

A Accessing and Entering FSA-493 Information Into the National Database (Continued)

Step	Action
8	On Producer Data FSA-493 Part B Screen, “Part B - FSA - 493 Data - Producer Data” will be blank if being accessed for the first time during the record entry process. To initially enter producer data, CLICK “Add Another Producer”. Go to step 9. “Part A - FSA - 493 Data” and “Part B - FSA - 493 Data - Producer Data” will be pre-filled with previously entered data. Go to step 10.

The screenshot displays the 'FSA-493 Violation Reports' web application in a Microsoft Internet Explorer browser window. The page title is 'Producer Data FSA-493 Part B'. The form is divided into two main sections: 'PART A - FSA - 493 DATA' and 'PART B - FSA - 493 DATA - PRODUCER DATA'.
 In the 'PART A' section, there are input fields for 'Control Number', 'State Code' (pre-filled with '01'), 'Crop Year' (pre-filled with '2000'), 'Country Code' (pre-filled with '001'), and 'NRCSPS State and County Code' (pre-filled with '01' and '001').
 In the 'PART B' section, there are input fields for 'Producer's Name', 'ID Number' (pre-filled with '424205304'), 'ID Type' (pre-filled with 'Social Security Number'), 'AD-1026 Filed?' (pre-filled with 'Yes'), 'GPR', 'Reporting State Name & Code' (pre-filled with 'Alabama' and '01'), 'Reporting County Name & Code' (pre-filled with 'Autauga' and '001'), and 'Current Record' (pre-filled with '1' of '1').
 At the bottom of the form, there are buttons for 'Previous Record', 'Next Record', 'Add Another Producer', and 'Edit Current Producer'. Below these buttons are links for 'FARM SPECIFIC DATA - Part C' and 'NONFARM SPECIFIC DATA - Part C'. A 'Delete Producer' button is also visible on the left side of the form.

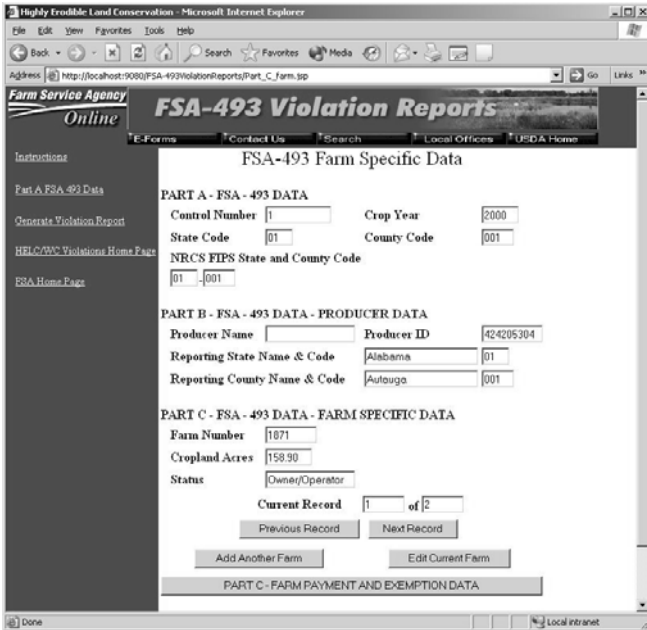
850 Entering Violation Data Into the National Database (Continued)

A Accessing and Entering FSA-493 Information Into the National Database (Continued)

Step	Action
9	On Add FSA-493 Producer Data Screen: - enter data from FSA-493, items 10 through 16 - CLICK “Submit”. 
10	On Producer Data FSA-493 Part B Screen: “Part A - FSA - 493 Data” and “Part B - FSA - 493 Data - Producer Data” will be pre-filled with previously entered data - if there is more than 1 producer associated with this violation, CLICK “Add Another Producer” and enter producer’s information - CLICK “Previous Record” or “Next Record” to view other producers associated with this control number - CLICK “PART C - FARM PAYMENT AND EXCEPTION DATA” to add farm specific data from FSA-493 for this producer. 

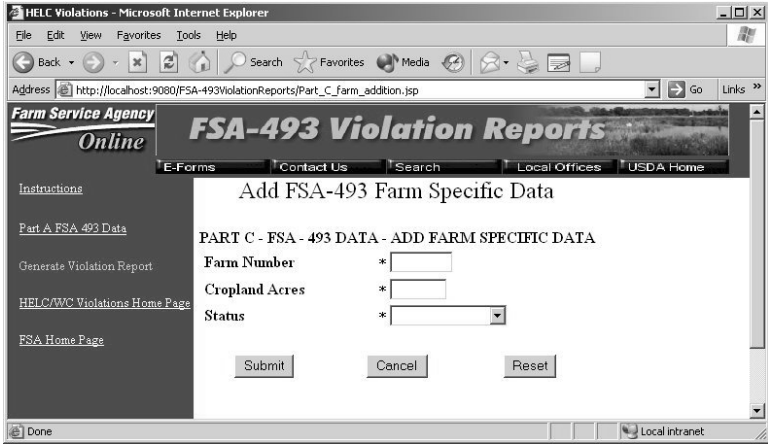
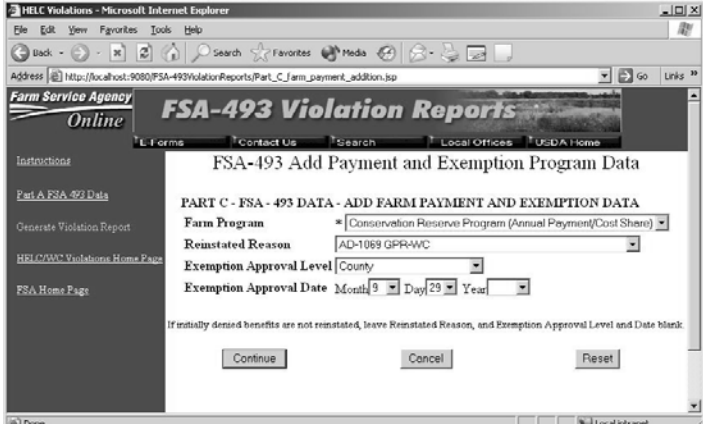
850 Entering Violation Data Into the National Database (Continued)

A Accessing and Entering FSA-493 Information Into the National Database (Continued)

Step	Action
11	On FSA-493 Farm Specific Data Screen: • “Part C - FSA - 493 Data - Farm Specific Data” will be blank if being accessed for the first time for the listed producer. To initially enter producer data, CLICK “Add Another Farm”. Go to step 12 • “Part A - FSA - 493 Data”, “Part B - FSA - 493 Data - Producer Data”, and “Part C - FSA - 493 Data - Farm Specific Data” will be pre-filled with previously entered data • CLICK “Add Another Farm” or “Edit Current Farm” to add or edit farm data for this producer • CLICK “Part C - Farm Payment and Exemption Data” to enter payment and exemption data for the farm displayed in “Part C - FSA - 493 Data - Farm Specific Data”. Go to step 13. 

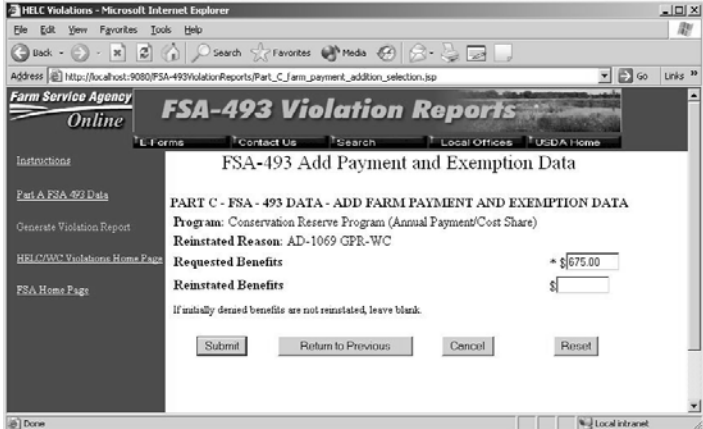
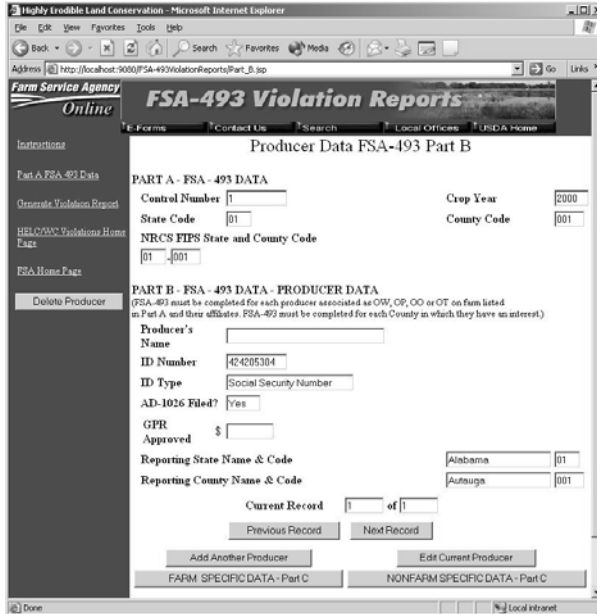
850 Entering Violation Data Into the National Database (Continued)

A Accessing and Entering FSA-493 Information Into the National Database (Continued)

Step	Action
12	On Add FSA-493 Farm Specific Data Screen: • enter data from FSA-493, items 17 through 19 • CLICK “Submit”.  FSA-493 Farm Specific Data Screen will be displayed.
13	On FSA-493 Add Payment and Exemption Data Screen: • enter data from FSA-493, items 20B, 23, and 24 • CLICK “Continue”. 

850 Entering Violation Data Into the National Database (Continued)

A Accessing and Entering FSA-493 Information Into the National Database (Continued)

Step	Action
14	On FSA-493 Add Payment and Exemption Data Screen: - enter data from FSA-493, items 21 and 22 Note: If item 23 is “Other”, enter the reason. - CLICK “Submit”. 
15	On Producer Data FSA-493 Part B Screen, CLICK: “Add Another Producer” to add other producers associated with this record “Edit Current Producer” to edit previously entered data “NONFARM SPECIFIC DATA - Part C” to enter data from FSA-493, items 20 A through 24 for this producer. 

850 Entering Violation Data Into the National Database (Continued)

A Accessing and Entering FSA-493 Information Into the National Database (Continued)

Step	Action
16	On the FSA-493 Nonspecific Data Screen: “Part C - FSA - 493 Data - Nonfarm Data” will be blank if being accessed for the first time for a particular producer associated with this FSA-493. To initially enter a new FSA-493, CLICK “Add non-Farm Specific Data”. Go to step 17. “Part A - FSA - 493 Data” and “Part B - FSA - 493 Data - Producer Data” will be pre-filled with previously entered data - CLICK: “Previous Record” or “Next Record” for other nonfarm specific FSA-493 data previously entered for this producer and control number “Edit Current non-Farm Specific Data” to change previously entered data “Return to 569 Data Screen” to add a new FSA-569 violation record “Return to Producer Data Screen” to add another producer violation record.

Highly Erodible Land Conservation - Microsoft Internet Explorer

Address http://localhost:3000/FSA-493ViolationReports/Part_C_nonfarm.jsp

Farm Service Agency Online

FSA-493 Violation Reports

Instructions

Part A FSA-493 Data

Generate Violation Report

WELCOME Violations Home Page

FSA Home Page

FSA-493 Nonspecific Data

PART A - FSA - 493 DATA

Control Number Crop Year

State Code County Code

NRCS FIPS State and County Code

PART B - FSA - 493 DATA - PRODUCER DATA

Producer Name Producer ID

Reporting State Name & Code

Reporting County Name & Code

PART C - FSA - 493 DATA - NONFARM SPECIFIC DATA

Program

Requested Benefits \$

Reinstated Benefits \$

Reinstated Reason

Exemption Approval Level

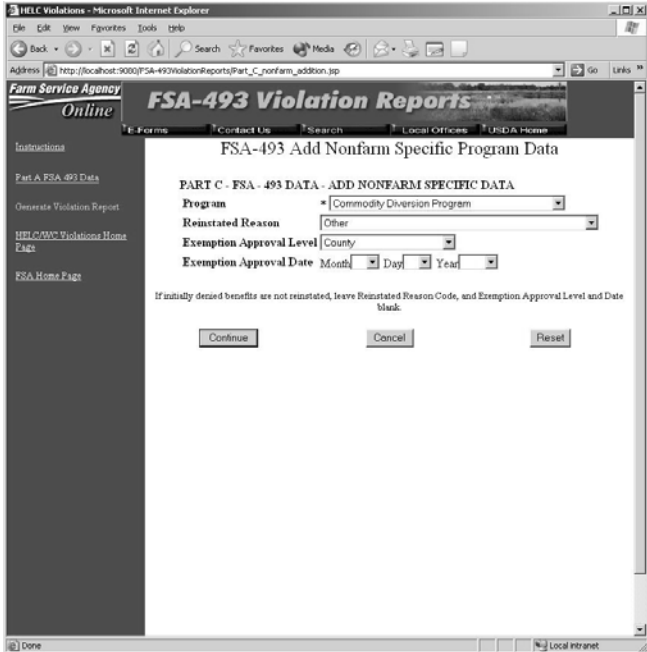
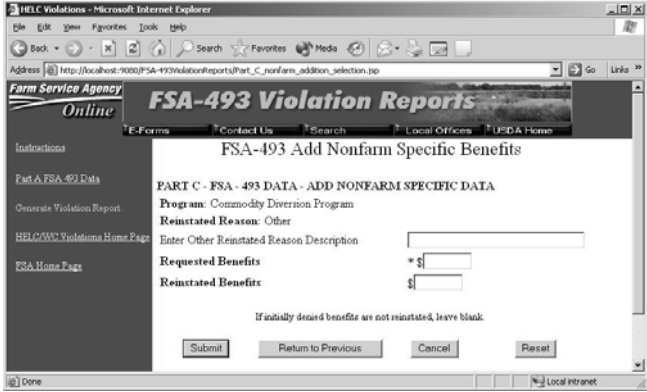
Exemption Approval Date Month Day Year

Current Record of

Done Local intranet

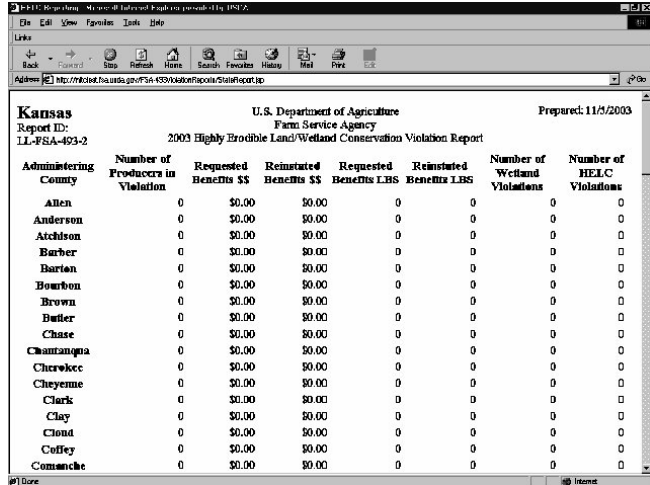
850 Entering Violation Data Into the National Database (Continued)

A Accessing and Entering FSA-493 Information Into the National Database (Continued)

Step	Action
17	On FSA-493 Add Nonfarm Specific Program Data Screen: - enter data from FSA-493, items 20A, 23, and 24 - CLICK “Continue”. 
18	On FSA-493 Add Nonfarm Specific Benefits Screen: - enter data from FSA-493, items 21 and 22 Note: If item 23 is “Other”, enter the reason. - CLICK “Submit”.  FSA-493 Nonfarm Specific Data Screen will be displayed. Go to step 16.

850 Entering Violation Data Into the National Database (Continued)

A Accessing and Entering FSA-493 Information Into the National Database (Continued)

Step	Action																																																																																																																																																
19	On FSA-493 Report Options Screen, a variety of report options are available for national, State, county, or individual FSA-493 violations and violation summaries. See subparagraph C.  All program benefits are reported in dollars except tobacco. Program benefits for tobacco are reported in pounds. The following is an example of the 2003 Highly Erodible Land/Wetland Conservation Violation Report for Kansas.  <table><tr><th>Administering County</th><th>Number of Producers in Violation</th><th>Requested Benefits \$</th><th>Reinstated Benefits \$</th><th>Requested Benefits LBS</th><th>Reinstated Benefits LBS</th><th>Number of Wetland Violations</th><th>Number of HELC Violations</th></tr><tr><td>Allen</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Anderson</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Atchison</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Barber</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Barston</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Bourbon</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Brown</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Butler</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Chase</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Chautauque</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Cherokee</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Cheyenne</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Clark</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Clay</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Cloud</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Coffey</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Comanche</td><td>0</td><td>\$0.00</td><td>\$0.00</td><td>0</td><td>0</td><td>0</td><td>0</td></tr></table> State users cannot delete database records. If a record needs to be deleted, an e-mail request shall be sent to jan.jamrog@wdc.usda.gov listing the following: • State • county • year • control number. An e-mail will be received confirming the deletion.	Administering County	Number of Producers in Violation	Requested Benefits \$	Reinstated Benefits \$	Requested Benefits LBS	Reinstated Benefits LBS	Number of Wetland Violations	Number of HELC Violations	Allen	0	\$0.00	\$0.00	0	0	0	0	Anderson	0	\$0.00	\$0.00	0	0	0	0	Atchison	0	\$0.00	\$0.00	0	0	0	0	Barber	0	\$0.00	\$0.00	0	0	0	0	Barston	0	\$0.00	\$0.00	0	0	0	0	Bourbon	0	\$0.00	\$0.00	0	0	0	0	Brown	0	\$0.00	\$0.00	0	0	0	0	Butler	0	\$0.00	\$0.00	0	0	0	0	Chase	0	\$0.00	\$0.00	0	0	0	0	Chautauque	0	\$0.00	\$0.00	0	0	0	0	Cherokee	0	\$0.00	\$0.00	0	0	0	0	Cheyenne	0	\$0.00	\$0.00	0	0	0	0	Clark	0	\$0.00	\$0.00	0	0	0	0	Clay	0	\$0.00	\$0.00	0	0	0	0	Cloud	0	\$0.00	\$0.00	0	0	0	0	Coffey	0	\$0.00	\$0.00	0	0	0	0	Comanche	0	\$0.00	\$0.00	0	0	0	0
Administering County	Number of Producers in Violation	Requested Benefits \$	Reinstated Benefits \$	Requested Benefits LBS	Reinstated Benefits LBS	Number of Wetland Violations	Number of HELC Violations																																																																																																																																										
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Comanche	0	\$0.00	\$0.00	0	0	0	0																																																																																																																																										

850 Entering Violation Data Into the National Database (Continued)**B Entering FSA-493 Data into the National Database**

Designated State Office specialists shall enter information from FSA-493's into the national database as soon as FSA-493's are received from County Offices.

Note: Menu options related to data entry will **not** appear if the user is logged into the national database as a "Guest User".

C Violation Data Reports

Violation reports may be generated for:

- a specific violation record (if the control number is known)
- year specific:
 - county reports
 - State reports
 - national reports.

Generate a HELC/WC violation report according to the following.

Step	Action
1	Access the national database as a "Guest User" or "State User" according to subparagraph A.
2	On FSA-493 Login Screen, select the desired State from the drop-down box and CLICK "Continue".
3	On the left side of the FSA-493 Data Screen, CLICK "Generate Violation Report".
4	Select the desired individual, county, State, or national report from the drop-down box.

851-899 (Reserved)

Part 9 Scheme or Device, Appeals, and Equitable Relief**Section 1 Scheme or Device****900 Scheme or Device Violations****A Violation**

A person may be denied all program benefits if COC determines that the person adopted or participated in a scheme or device to evade HELC or WC provisions.

B Examples of Scheme or Device

A scheme or device can be any of the following:

- concealing information
- submitting false information
- creating entities to:
 - conceal a person's interests in a farming operation
 - avoid compliance with HELC and WC provisions.

Note: COC shall only make scheme or device determinations for producers who request FSA benefits.

C Payments To Be Refunded

Any payment made for the crop year in which the violation occurs shall be refunded according to 58-FI.

901-910 (Reserved)

Section 2 Appeals and Equitable Relief

911 General Appeal Provisions

A Right of Appeal

Any person who receives an adverse determination from a USDA Agency shall have the opportunity to appeal the determination according to 1-APP.

912 Equitable Relief

A Misaction/Misinformation by FSA

Follow the provisions of 7-CP if a producer is considered in violation as a result of misaction or misinformation by FSA employees.

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 HELC or WC provisions, then payments and benefits may be made available to the extent similar relief would be allowed under the provisions of 7-CP.

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.

Definitions of Terms Used in This Handbook (Continued)

Conservation System

Conservation system means a combination of 1 or more conservation measures or management practices that are:

- based on local resource conditions, available conservation technology, and standards and guidelines in NRCS Field Office Technical Guides
- designed to achieve, in a cost-effective and technically practicable manner, a substantial reduction in soil erosion or a substantial improvement in soil conditions on a field or group of fields containing highly erodible cropland when compared to the level of erosion or soil conditions that existed before the application of the conservation measures and management practices.

Conversion

Conversion or “convert” is draining, dredging, filling, leveling, or otherwise manipulating a wetland, including any activity that results in impairing or reducing the flow, circulation, or reach of water, for the purpose or to have the effect of making the production of an agricultural commodity possible if this production would not have been possible but for such action.

Converted Wetland

Converted wetland is a wetland that has been drained, dredged, filled, leveled, or otherwise manipulated, including the removal of woody vegetation or any activity that results in impairing or reducing the flow and circulation of water, for the purpose of or to have the effect of making possible the production of an agricultural commodity without further application of the manipulations if:

- such production would not have been possible but for such action
- before such action such land was wetland, farmed wetland and was **not** HEL.

Farmed Wetland (FW)

FW is a wetland that before December 23, 1985, was manipulated and used to produce an agricultural commodity, and on December 23, 1985, did not support woody vegetation and met the hydrologic criteria for farmed wetland listed in 7CFR Part 12.2.

Definitions of Terms Used in This Handbook (Continued)**Farmed Wetland Pasture (FWP)**

FWP is wetland that was manipulated and managed for pasture or hayland prior to December 23, 1985, and on December 23, 1985 met the hydrologic criteria for farmed-wetland pasture listed in 7CFR Part 12.2.

Field

A field means a part of a farm that is separated from the balance of the farm by permanent boundaries, such as fences, permanent waterways, or other similar features. At the option of the owner or operator of the farm, croplines may also be used to delineate a field if farming makes it practicable that the croplines are **not** subject to change.

Highly Erodible Field

A highly erodible field is a field where HEL is predominant. HEL shall be considered to be predominant if either:

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

Highly Erodible Land (HEL)

HEL is land that has an erodibility index of 8 or more.

Hydric Soil

Hydric soil is soil that, in its undrained condition, is saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation.

Hydrophytic Vegetation

Hydrophytic vegetation is a plant growing in either of the following:

- water
- a substrate that is at least periodically deficient in oxygen during a growing season because of excessive water content.

Definitions of Terms Used in This Handbook (Continued)**Marketable Unit**

A marketable unit for Agriculture Farm Credit personnel easement review team purposes is an average farm in the area on which a family can make a living. Some of the considerations in determining whether the parcel is a marketable unit are:

- CAB's and allotments
- historical plantings and yield capability.

Minimal Effect (MW)

Minimal effect (MW) is the effect on the hydrological and biological functions of the wetland caused by the production of an agricultural commodity on converted wetland.

Note: MW determinations are made by NRCS.

Native Vegetation

Native vegetation can vary by area. NRCS shall provide FSA with a determination of native vegetation for a particular State or county when needed to make sodbuster violation determination. The NRCS technical guide materials on native vegetations will be used as a primary source for such determinations and can be located at <http://plants.nrcs.usda.gov/links.html>.

Other County Office

Other County Office is a county that maintains farm and tract records for a producer who is associated with a violating farm that is administered by another County Office.

Definitions of Terms Used in This Handbook (Continued)**Person**

A person is 1 of the following:

- an individual
- partnership (general or limited)
- association
- corporation
- cooperative
- estate
- trust
- joint venture
- joint operation
- limited liability company
- other business enterprise
- other legal entity
- State or local government
- political subdivision of a State
- any State agency
- the person's affiliates. See the definition of affiliated persons.

Note: The definition of person for conservation compliance purposes differs from the 1-PL definition.

Prior Converted (PC) Wetland

PC wetland is a converted wetland where the conversion occurred before December 23, 1985, an agricultural commodity had been produced at least once before December 23, 1985, and as of December 23, 1985, the converted wetland did not support woody vegetation and met the hydrologic criteria for prior-converted cropland listed in 7CFR Part 12.2.

Note: These areas, unless abandoned, are not subject to the swampbuster provisions.

Produced

Produced is an agricultural commodity planted on HEL or converted wetland.

Definitions of Terms Used in This Handbook (Continued)**Recording County Office**

The recording County Office is the County Office assigned the specific responsibilities for a multi-county producer.

Sodbuster Violation

Sodbuster violations are highly erodible land violations on land that was converted from native vegetation, such as rangeland or woodland, to crop production after December 23, 1985.

Soil Map Unit

A soil map unit is an area of the landscape shown on a soil map that consists of 1 or more soils.

Third Party Exemption

Third party exemption means a person shall not be determined to be ineligible for program benefits as a result of the production of an agricultural commodity on wetlands converted after December 23, 1985, or the conversion of wetland by actions of persons other than either of the following:

- the person applying for USDA benefits
- any of the predecessors in interest on the converted wetland.

Wetland

Wetland is land that meets both of the following characteristics:

- has a predominance of hydric soils
- is inundated or saturated by surface or ground water at a frequency and duration and sufficient to support, and that under normal circumstances does support a prevalence of hydrophytic vegetation, typically adapted for life in saturated soil conditions.

Menu and Screen Index

The following menus and screens are displayed in this handbook.

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	FSA-493 Main Login Screen	850
	FSA-493 Guest Login Screen	850
	FSA-493 Data Screen	850
	Add FSA-493 Part A Data Screen	850
	Producer Data FSA-493 Part B Screen	850
	Add FSA-493 Producer Data Screen	850
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