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 4)

UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

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Highly Erodible Land Conservation and Wetland Conservation Provisions 6-CP (Revision 4)	**Amendment 3**

Approved by: Deputy Administrator, Farm Programs

Amendment Transmittal

A Background

The Agricultural Act of 2014 amended the Food Security Act of 1985 to apply HELC and WC provisions to any premium subsidy paid by FCIC for any policy or plan of insurance. The amendments made to HELC and WC provisions by the Agricultural Act of 2014 do **not** apply to any payment or benefit under FSA or NRCS programs. However, AD-1026 and AD-1026 Appendix have been revised to reflect the applicability of HELC and WC provisions to the subsidized portion of insurance premium.

Note: Additional procedure and revised forms will be provided at a later date.

B Reasons for Amendment

Subparagraphs 201 B, 301 C and D, 302 C, 303 E, 305 A, 328 C and D, 356 B and C, 357 B and C, 505 C, and 702 C and G have been amended to update references to the revised AD-1026.

Paragraph 306 has been amended to provide:

- an example of the revised AD-1026
- updated instructions for completing AD-1026.

Paragraph 328 has been amended to provide an example of the revised AD-1026 Appendix.

Paragraph 356 has been amended because the question has been removed from AD-1026.

C Form Changes

AD-1026 has been revised to make it more readable, ask only 4 questions instead of the previous 8 questions, and include provisions relating to crop insurance policies reinsured by FCIC.

AD-1026 Appendix has been significantly expanded to include more information, including information on compliance provisions for crop insurance policies reinsured by FCIC.

Note: The revised AD-1026 and AD-1026 Appendix are to be used for any new filing upon receipt of this amendment. It is **not** necessary for producers with an existing AD-1026 on file to file a new AD-1026 unless there are changes to the answers on AD-1026 or a violation occurs.

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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 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, unless the production of an agricultural commodity on HEL is in compliance with an approved conservation plan or system or an exemption applies.

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 1985 Act (Pub. L. 99-198) as amended by:

- Food Security Act of 1985 amendment (Pub. L. 100-28)
- Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101-624)
- Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104-127)
- Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171)
- Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246).

B Federal Regulations

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

C Related Handbooks

The following handbooks relate to HELC and WC provisions:

- 2-CM for farm reconstitutions
- 3-CM for farm, tract, and crop data
- 8-CM for CLU's
- 3-PL (Rev. 1) for web-based subsidiary files for 2009 and subsequent years.

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 applicable to NRCS:

- Agriculture Management Assistance Program
- Emergency Watershed Protection Program
- Healthy Forests Restoration Program.

Federal Crop Insurance programs administered by RMA are also exempt from the HELC and WC provisions.

B Person Applicability

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

3 Applicability (Continued)

C Land Applicability

If a person requests 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 any affiliated person and all land on which the person or affiliated person 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 this land. It also includes land located in the following:

- American Samoa
- Commonwealth of Northern Mariana 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

  Note: See Exhibit 2 for the definition of native vegetation.

- 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 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 shot 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 whether the land is a converted wetland

- determine whether 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, NIFA, 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 NIFA Responsibilities

NIFA will coordinate related information and educational programs for USDA about implementing HELC and WC provisions. NIFA contact information is located at **www.nifa.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**.

20-199 (Reserved)

Part 2 HELC and WC Compliance Provisions

Section 1 HELC Compliance

200 Overview of HELC Provisions

A Background

The 1985 Act, as amended, provides that 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, unless the production of an agricultural commodity on HEL is in compliance with an approved conservation plan or system or an exemption applies.

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 provided in the following table.

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

Term	Definition
Agricultural commodity	An agricultural commodity is any crop planted and produced by annual tilling of the soil, including tilling by 1-trip planters or sugarcane.
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 that are highly erodible • 50 or more acres in this field are identified as soil map units that are highly erodible.
Highly erodible land	HEL is land that has an erodibility index of 8 or more. **Note:** NRCS makes all HEL and highly erodible field determinations.

200 Overview of HELC Provisions (Continued)

B Definitions of Key Terms (Continued)

Term	Definition

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.

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.
Conservation district	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.

200 Overview of HELC Provisions (Continued)

C Summary of HELC Exemptions or Relief

The following table provides paragraph references for various exemptions or relief applicable to HELC provisions.

Exemption or Relief	Paragraph References
Undue economic hardship	204
NRCS exemptions	206
Landlord exemption	603
Tenant HELC exemption – landlord refusal	604
Good faith relief	616, 621-623

201 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 200 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 because of the use of digital photography.

  Reduction in a field size because of land taken out of agricultural production.

  Combination/division of previously delineated fields.

  Either a field:

  - with an NHEL designation is combined with any other field or area

  - with a HEL designation is combined with an area without an NRCS determination

  - is reduced in size (field division or land taken out of agricultural production).

201 Redefining Fields With Previous NRCS HEL Determinations (Continued)

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

  Note: 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 is required with a "Yes" response on AD-1026, Part B, item 1.**--***

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 because of 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 that is substantially NHEL, from that field for different management uses.

201 Redefining Fields With Previous NRCS HEL Determinations (Continued)

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 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.

202 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.

202 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		make HEL determination by using the criteria for highly erodible fields in subparagraph 200 B.
incorrectly delineated as the result of a County Office error when NRCS made the initial HEL determination		
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.

202 Criteria Used to Redefine Fields (Continued)

D Referring Boundary Changes to NRCS

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

Step	Action
1	Number fields according to 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, 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 but AD-1026 that covers the current year is not available.

202 Criteria Used to Redefine Fields (Continued)

F Explanation on AD-1026

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

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

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

Example 2: "HEL field combined with adjoining field."

Example 3: "Producer requested redetermination. NRCS redefines to separate HEL from NHEL."

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

G Field Access Authority Is Needed

If NRCS determines that access to a field is required to make a HEL redetermination 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.

202 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-026e that reflects the new field boundaries and HEL determinations
- notify FSA of new HEL determinations.

203 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 this 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.

203 Conservation Plans and Systems (Continued)

C Considerations for Conservation Plans and Systems

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

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

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

204 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, 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.

204 Relief for Undue Economic Hardship (Continued)

B Example of AD-1026D

The following is an example of AD-1026D.

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This form is available electronically. Form Approved – OMB No. 0560-0185

AD-1026D (02-06-12) **U.S. DEPARTMENT OF AGRICULTURE** Farm Service Agency

RELIEF FOR UNDUE ECONOMIC HARDSHIP REQUEST
HIGHLY ERODIBLE LAND CONSERVATION

1A. STATE NAME: State

1B. COUNTY NAME: County

NOTE: *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 12, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to make a determination as to whether application of the conservation system according to the specifications determined by NRCS would impose an undue economic hardship on the producer. The information collected on the form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in an inability to make a determination as to whether application of the conservation system according to the specifications determined by NRCS would impose an undue economic hardship on the producer.*

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. The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

PART A – PRODUCER INFORMATION

2A. NAME AND ADDRESS OF PRODUCER *(Including Zip Code)*	3. TAX IDENTIFICATION NUMBER *(Last 4 Digits)*	4. FARM NUMBER	
Any Producer 123 4th Avenue Sometown, State 00000	XXXX	1234	
	5A. TRACT NUMBER	5B. FIELD NUMBER	6. CROP YEAR
2B. TELEPHONE NO. *(Including Area Code)*: (555) 123-4567	567	5	2012

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:

Reasons

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 (By)	8B. TITLE/RELATIONSHIP OF THE INDIVIDUAL IF SIGNING IN A REPRESENTATIVE CAPACITY	8C. DATE *(MM-DD-YYYY)*	FOR FSA USE ONLY 9. DATE REFERRED TO NRCS *(MM-DD-YYYY)*
Signature		03-08-2012	03-14-2012

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:

Detailed description and information

11A. SIGNATURE OF NRCS EMPLOYEE	11B. DATE *(MM-DD-YYYY)*	12. DATE REFERRED TO FSA *(MM-DD-YYYY)*
Signature	03-21-2012	03-21-2012

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204 Relief for Undue Economic Hardship (Continued)

B Example of AD-1026D (Continued)

AD-1026D (02-06-12) Page 2 of 2

PART D - TO BE COMPLETED BY THE COUNTY COMMITTEE

13. Estimated cost of the practices that the producer affirms would cause undue economic hardship.	14. Approximate amount of USDA benefits the producer expects to earn if compliance requirements are met.
$15,000	$ 500

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:

Detailed description of recommendation and recommendation

16A. SIGNATURE OF COUNTY COMMITTEE REPRESENTATIVE	16B. DATE *(MM-DD-YYYY)*	17. DATE REFERRED TO STATE COMMITTEE *(MM-DD-YYYY)*
Signature	03-28-2012	03-28-2012

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:

Detailed description of determination, relief and reasons

19A. SIGNATURE OF COUNTY COMMITTEE REPRESENTATIVE	19B. DATE *(MM-DD-YYYY)*
Signature	04-03-2012
	20. DATE PRODUCER WAS NOTIFIED *(MM-DD-YYYY)* 04-06-2012
	21. DATE REFERRED TO COUNTY COMMITTEE *(MM-DD-YYYY)* 04-06-2012

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):*

04-09-2012

The U.S. Department of Agriculture (USDA) prohibits discrimination in all of 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, political beliefs, genetic information, 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, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

204 Relief for Undue Economic Hardship (Continued)

C AD-1026D, Items 1 Through 6

Complete AD-1026D, items 1 through 6 according to the following table 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	Instruction
1A	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 producer's name and address, including ZIP Code and telephone number.
3	Enter the last 4 digits of the tax ID number for the producer listed in item 2.
4	Enter the FSA FSN 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.

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.

204 Relief for Undue Economic Hardship (Continued)

D AD-1026D, Items 7 and 8 (Continued)

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.

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.

204 Relief for Undue Economic Hardship (Continued)

G AD-1026D, Part D

COC shall complete AD-1026D, item 15 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.

204 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 402.

205 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 imagery 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.

206 Conservation Compliance Exemptions by NRCS

A Exemptions NRCS May Apply

The following table provides exemptions that NRCS may apply for determining whether a person is using an acceptable conservation plan or system on HEL.

Note: See Part 6 for producer exemptions that may be applied by FSA.

Exemption	Description
Reliance on an incorrect NRCS determination of HEL	Production of an agricultural commodity on HEL in reliance on a determination by NRCS that this 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	Noncommercial production of agricultural commodities on HEL on an area of 2 acres or less if it is determined by COC that this 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.
Beyond the producer's control	Failure to comply is beyond the control of the person.

206 Conservation Compliance Exemptions by NRCS (Continued)

A Exemptions NRCS May Apply (Continued)

Exemption	Description
Temporary variance	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 this variance.
Small areas of noncropland	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 that are converted to cropland, if they are included in an approved conservation plan for the entire highly erodible field.

Note: See subparagraph 621 F for HELC violations NRCS determines to be technical and minor in nature.

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.

207-209 (Reserved)

Section 2 WC Compliance

Subsection 1 Wetland Conservation

210 Overview of WC 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.

210 Overview of WC Provisions (Continued)

B Permitted Uses and Restrictions of Wetlands

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

Type of Wetland	Permitted Use and Restrictions
W	Wetlands cannot be converted, but can be farmed under natural conditions.
CW Before November 28, 1990	Wetlands converted before November 28, 1990, cannot be planted to an agricultural commodity and retain eligibility for benefits.
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. Persons who plant agricultural commodities shall be ineligible for benefits.
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.

C Summary of WC Exemptions or Relief

The following table provides paragraph references for various exemptions or relief applicable to WC provisions.

Exemption or Relief	Paragraph References
Minimal effect	212
Artificial wetland	212
Natural condition	212
Conversion by third party	212, 218-221
Restoration/mitigation	601 B and E
Operator relief	602 C
Good faith relief	616
Reduction in ineligibility	637

211 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 imagery 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 and 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.

212 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 table 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	MW.
NRCS determines AW is the result of excavating or diking NW to collect and retain water for the following: • livestock • fish production • irrigation • rice production • flood control	AW.

212 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, 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.

213 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.

214-217 (Reserved)

Subsection 2 Third Party Exemption

218 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 8 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 table 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.

218 Conversion by a Third Party (Continued)

C Conversion by Drainage Districts

The following table 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 table 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.

219 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 covered USDA benefits, 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 that convert adjoining land in which he or she has no interest. Producers on the adjoining land can request a third party exemption.

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

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

  Note: See Part 8 for additional information on scheme or device.

219 Request for Third Party Exemption (Continued)

E Examples of Third Party Requests

The following table 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 County Highway Department. The culvert and new open ditch will drain the small wetland in field number 1. Mrs. Jones used a scraper 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 Corps 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 Corps of Engineers. Mr. Smith files FSA-492 requesting third party exemption.	The conversion of wetlands by actions of the Army Corps of Engineers is considered eligible for a third party exemption, even though the project listed drainage of agricultural lands as a secondary purpose.

220 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 (02-06-12) **U.S. DEPARTMENT OF AGRICULTURE** Farm Service Agency

DATA NEEDED FOR THIRD-PARTY DETERMINATIONS

1. STATE NAME: State
2. COUNTY NAME: County
3. FARM NUMBER: 876

NOTE: *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 12, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to make a determination as to whether a wetland was converted by persons who have no current or former interest in the affected area. The information collected on the form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in an inability to make a determination as to whether a wetland was converted by persons who have no current or former interest in the affected area.*

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. The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

4. NAME AND ADDRESS OF PRODUCER

Ima Producer
1234 Avenue A
Town, State 123456

5. TELEPHONE NO. OF PRODUCER *(Area Code)*: (555) 789-4321

6. GIVE LEGAL DESCRIPTION OF AREA *(Attach a photo copy and identify areas)*

SE 1/4 of SW 1/4 of Section 16, T2N R1W

	YES	NO
7. Has a wetland determination been completed by NRCS? *(If "NO", a wetland determination is needed to consider a third party request.)*	X	
8. If a wetland determination has been completed, are the areas in question determined to be wetlands?	X	

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.

My neighbor converted a wetland on his property. The wetland extended into my property. His actions converted the wetland on my property. I was on vacation when this occurred he did not ask for my permission and did not tell me he was going to do it.

10. Has a crop been planted in the wetland in the current year? YES ☐ NO ☒ If "YES", enter date planted: _____

11. Is the request within the boundary of a drainage district? YES ☐ NO ☒

12A. SIGNATURE OF PRODUCER	12B. TITLE/RELATIONSHIP OF THE INDIVIDUAL IF SIGNING IN A REPRESENTATIVE CAPACITY	12C. DATE *(MM-DD-YYYY)*
Signature		05-01-2012

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

B Example of FSA-492 (Continued)

FSA-492 (02-06-12) Page 2 of 2

PART B – COC THIRD PARTY DETERMINATION

13. COC Determination: Third Party Exemption: Approved ☒ Disapproved ☐

14. Reasons for COC Determination:
Document in detail the COC determination and facts to support the determination.

The Producer has never had an interest in her neighbor's land. The Producer's neighbor conducted the drainage activities when the Producer was gone on vacation. The Producer had no prior knowledge that the neighbor planned on conducting drainage activities. She did not agree to the wetland conversion, was not involved in the conversion and had no way of knowing the wetland was being converted.

15A. Signature of COC Member	15B. Date *(MM-DD-YYYY)*	16. Date Producer was notified *(MM-DD-YYYY)*
Signature	05-15-2012	05-16-2012

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

D Completing FSA-492

Complete FSA-492 according to the following table.

Item	Instruction	Responsibility
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 221.	
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	The 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 determination.	County Office

220 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.

221 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
- make an assessment of the extent of the drainage activity and what activities caused the conversion.

222-225 (Reserved)

Subsection 3 Maintenance and Abandonment

226 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.

226 Maintenance of Existing Drainage Systems (Continued)

C NRCS Maintenance Determinations

All maintenance determinations shall be referred to NRCS. The following table 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, is allowed. This 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.

227 Abandonment Provisions

A Definition of Abandonment

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

228-299 (Reserved)

Part 3 AD-1026 and AD-1026 Appendix

Section 1 AD-1026 Purpose and Requirements

300 Overview

A Introduction

The 1985 Act, as amended, requires that producers who request certain USDA program benefits (subparagraph 3 A) comply with HELC and WC provisions to be eligible for these 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
- provide authorization for USDA representatives to enter and inspect all farms in which the producer has an interest for the purpose of confirming compliance with HELC and WC provisions.

B Importance of Accurate AD-1026 Certification

Before a producer is provided AD-1026 for certification and signature, County Offices shall make every effort to ensure that the producer understands:

- 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.

301 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 affiliated persons with farming interests determined according to paragraph 302.

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

Note: 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.
a 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.
a 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.

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 (Rev. 1). The recording County Office will update the producer's eligibility files including a record of filing the AD-1026 certification.

301 AD-1026 Filing Requirements (Continued)

C When to File AD-1026

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 affiliated persons, if applicable, must have filed and certified compliance with HELC and WC provisions.

--**AD-1026 is considered filed and certified when AD-1026, Part C, item 1A is signed.**--

D AD-1026 Certifications for Programs Covering Past Years

In certain cases, a producer may apply for program benefits that are applicable to previous program or crop years.

If AD-1026 was **not** on file for the year of eligibility, the certification of compliance must be completed before issuing program payments. The County Office shall instruct the producer to complete AD-1026 for the year of eligibility by:

- ***--**entering the applicable program or crop year in Part A, item 3

  Example: If a producer is completing an application in 2014 for program benefits associated with 2012, "2012" shall be entered in Part A, item 3.

- answering the questions on AD-1026 about the year indicated in Part A, item 3.**--***

E 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 (Rev. 1).

F Joint Venture Without ID Number

For a joint venture requesting program benefits that does **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. Affiliated persons 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.

301 AD-1026 Filing Requirements (Continued)

G Revocable Trust Without Employer ID Number

For a revocable trust requesting program benefits that does **not** have an IRS employer ID number, only the grantor shall be required to file AD-1026. There is no need to obtain a separate AD-1026 for the trust.

Affiliated persons of the grantor must also file AD-1026 if they have farming interests.

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

H Updating Tract Records

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 than the producer's recording County Office.

I 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 filed by their affiliated persons 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 affiliated persons' recording County Offices.

302 Affiliated Persons – Determination and AD-1026 Requirement

A Overview

The ineligibility for benefits of a producer under the provisions of this handbook shall also result in the ineligibility of any "affiliated person" of the producer.

B Determining Affiliated Persons

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

IF the producer requesting benefits is…	THEN the affiliated persons are…
an individual	• spouses **Exception:** Spouses who establish to COC's satisfaction that their operations are maintained separately and independently will **not** be considered affiliated persons. • minor children • estates, trusts, LLC's, 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 in which 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, affiliated persons also include the father and mother or the guardian of the child.

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

B Determining Affiliated Persons (Continued)

IF the producer requesting benefits is…	THEN the affiliated persons are…
• a general partnership • a joint venture • a limited partnership • LLC • an estate • a revocable trust • an irrevocable trust	first level members of the entity. See subparagraph 301 G for revocable trusts using grantor's SSN. **Example:** The members of Irrevocable Trust A are Partnership A and Estate A. The affiliated persons of Irrevocable Trust A are: • Partnership A • Estate A. **Note:** The members of Partnership A and heirs of Estate A are **not** affiliated persons of Irrevocable Trust A.
a corporation	first level members with more than 20 percent interest in the corporation.
• an Indian tribal venture • a State • a charitable organization, church, or nonprofit organization • a county • a city • a public school	none. These entities are separate from each other for eligibility purposes if they have separate tax ID numbers. **Example:** If a State Department of Natural Resources has its own tax ID number, other Departments within that State government are **not** considered affiliated persons.

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

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

C AD-1026 Filing Requirement for Affiliated Persons

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

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

Exception: A spouse or minor child of the person requesting benefits 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, Part A, item 4 and shall**--* not** be required to file AD-1026 as an individual, if she does **not** receive benefits under her individual ID number.

D Affiliated Persons of Multi-County Producers

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

303 Certification of Compliance and Eligibility for Payment

A When Producer May Sign

The producer may sign AD-1026 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.

Exception: If a producer is declared ineligible for benefits because of a COC or NRCS determination, then follow instructions in Part 6.

B Updating Web-Based Eligibility System

Follow instructions in 3-PL (Rev. 1) to update the web-based eligibility system.

C Eligibility for Payment

Provided all other eligibility requirements are met, County Offices may issue program payments to the producer before all NRCS determinations are completed if the producer certifies compliance with HELC and WC provisions.

D Withholding Program Payments

Some producers may be uncertain as to their compliance with HELC and WC provisions. In these 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.

E Continuous AD-1026 Certification

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

- there are changes or activities that affect compliance with HELC or WC provisions, including refusal to provide access to determine compliance

- the producer submits a written request that AD-1026 be withdrawn.

If the previously filed AD-1026 is no longer effective, a new AD-1026 must be filed to regain eligibility. See subparagraph 305 A for situations that require a new AD-1026.

304 Distributing Copies of AD-1026

A Producer Copies

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

Attach AD-1026 Appendix to the producer's AD-1026.

B Review Affiliated Persons' Copies

Ensure that all AD-1026's for the affiliated persons of the producer requesting benefits include either of the following:

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

305 When New AD-1026 Is Required To Be Filed

A Requirements for New AD-1026

The producer shall file a new 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 the question in AD-1026, Part B, item 1 or 2 for activities**--***
  not previously reported on AD-1026 and technical determinations for these activities were **not** completed by NRCS

- any land that does **not** have a determination is broken out on farms or tracts associated with the producer

- the producer was determined ineligible because of a violation of HELC or WC provisions or a refusal to provide access to determine compliance.

B Updating Web-Based Eligibility System

If a producer is required to file a new AD-1026, County Offices shall update the AD-1026 determination information in the web-based eligibility system according to 3-PL (Rev. 1) to indicate "Not Filed" until a new AD-1026 is filed. The previously filed AD-1026 is no longer valid.

306 Completing and Obtaining AD-1026

A Example of AD-1026, Page 1

The following is an example of AD-1026, page 1.

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This form is available electronically. *(See Page 2 for Privacy Act and Paperwork Reduction Act Statements)*

AD-1026
(06-30-14)

U.S. DEPARTMENT OF AGRICULTURE
Farm Service Agency

HIGHLY ERODIBLE LAND CONSERVATION (HELC)
AND WETLAND CONSERVATION (WC)
CERTIFICATION

PART A – BASIC INFORMATION

1. Name of Producer	2. Tax Identification Number *(Last 4 digits)*	3. Crop Year
XYZ, Inc.	XXXX	2014

4. Names of affiliated persons with farming interests *(Use Part D if additional space is needed. Enter "None," if applicable).*
Note: *See the AD-1026 Appendix for an explanation of affiliated persons.*
John Person, Jane Person

5. Check this box if the statement applies; otherwise continue to Part B.

☐ Neither the producer in Part A, nor any affiliated person, has an interest in land that produces or could produce an agricultural commodity.
Note: If this box is checked, go to Part C and sign and date.

PART B - HELC/WC COMPLIANCE QUESTIONS

Note: *A "YES" answer authorizes FSA to refer this AD-1026 to NRCS. Producer must provide additional information in Part D. If "YES" is checked to Item 2C, NRCS does not have to conduct a certified wetland determination.*	YES	NO
1. During the crop year entered in Part A, or the term of a requested USDA loan, did or will the producer in Part A plant or produce an agricultural commodity on land for which an HEL determination has not been made?		X
2. Has anyone performed (since December 23, 1985), or will anyone perform any activities to:		X
A. Create new drainage systems, or conduct land leveling, filing, dredging, land clearing, excavation, or stump removal that has **NOT** been evaluated by NRCS? ***If "YES", indicate the year(s):*** _____		
B. Improve or modify an existing drainage system that has **NOT** been evaluated by NRCS? ***If "YES", indicate the year(s):*** _____		X
C. Maintain an existing drainage system that has **NOT** been evaluated by NRCS? ***If "YES", indicate the year(s):*** _____		X
Note: *Maintenance is the repair, rehabilitation, or replacement of the capacity of existing drainage systems to allow for the continued use of wetlands currently in agricultural production and the continued management of other areas as they were used before December 23, 1985. This allows a person to reconstruct or maintain the capacity of the original system or install a replacement system that is more durable or will realize lower maintenance or costs.*		

3. Check one or both boxes, if applicable; otherwise, continue to Part C.

A. ☐ Check this box only if the producer in Part A has FCIC reinsured crop insurance and filing this form represents the first time the producer in Part A, including any affiliated person, has been subject to HELC and WC provisions.

B. ☐ Check this box if either of the following applies to the producer and crop year entered in Part A:
- Is a tenant on a farm that is/will not be in compliance with HELC and WC provisions because the landlord refuses to allow compliance, but all other farms not associated with that landlord are in compliance. (AD-1026B, Tenant Exemption Request, must be completed).
- Is a landlord of a farm that is/will not be in compliance with HELC and WC provisions because of a violation by the tenant on that farm, but all other farms not associated with that tenant are in compliance. (AD-1026C, Landlord or Landowner Exemption Request, must be completed).

PART C – CERTIFICATION OF COMPLIANCE

I have read the AD-1026 Appendix and understand and agree to the terms and conditions therein on all land in which I (or the producer in Part A if different) and any affiliated person have or will have an interest. I understand that eligibility for certain USDA program benefits is contingent upon this certification of compliance with HELC and WC provisions and I am responsible for any non-compliance. I understand and agree that this certification of compliance is considered continuous and will remain in effect unless revoked or a violation is determined. I further understand and agree that:
- **all applicable payments must be refunded if a determination of ineligibility is made for a violation of HELC or WC provisions.**
- **a revised Form AD-1026 must be filed if there are any operation changes or activities that may affect compliance with the HELC and WC provisions. I understand that failure to revise Form AD-1026 for such changes may result in ineligibility for certain USDA program benefits or other consequences.**
- **affiliated persons are also subject to compliance with HELC and WC provisions and their failure to comply or file Form AD-1026 will result in loss of eligibility for applicable benefits to any individuals or entities with whom they are considered affiliated.**

Producer's Certification:
I hereby certify that the information on this form is true and correct to the best of my knowledge, and I authorize NRCS to make an HELC/WC and/or certified wetland determination on the field, tract, or farm numbers listed in Part D.

1A. Producer's Signature *(By)*	1B. Title/Relationship *(If Signing in Representative Capacity)*	1C. Date *(MM-DD-YYYY)*
John Person	President	07-10-2014
FOR FSA USE ONLY *(for referral to NRCS)* Sign and date if NRCS determination is needed.	2A. Signature of FSA Representative	2B. Date *(MM-DD-YYYY)*

--*

306 Completing and Obtaining AD-1026 (Continued)

B Example of AD-1026, Page 2

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

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AD-1026 (06-30-14) Page 2 of 2

PART D - ADDITIONAL INFORMATION

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

   A. Farm and/or tract/field number: _____

   B. Activity: _____

   C. Current land use *(specify crops)*: _____

   D. County: _____

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

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

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

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

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

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306 Completing and Obtaining AD-1026 (Continued)

C Completing AD-1026

Producers shall complete AD-1026 according to the following table.
*--

Item	Instruction
	Part A – Basic Information
1	Enter producer's full name or the name of the business entity applying for USDA program benefits.
2	Enter last 4 digits of the producer's SSN or tax ID 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	List all affiliated persons with farming interests. Only affiliated persons of the producer requesting program benefits with farming interests are required to complete AD-1026. See AD-1026 Appendix, item 7 to determine affiliated persons.
5	Check this box if the producer or any affiliated person does **not** have an interest in land that could produce an agricultural commodity. If this box is checked, go to Part C. **Example:** Producer A is a honey producer that files AD-1026 for FSA program participation (ELAP and NAP). Producer A's hives are not placed on any land that the producer has an interest in and honey is their only crop. In this situation, the box would be checked in item 5.
	Part B – HELC/WC Compliance Questions
1	ENTER "X" in either the "Yes" or "No" column. Answer "Yes" if during the crop year entered in Part A, or the term of a requested USDA loan, the producer in Part A did or will plant and produce an agricultural commodity on land for which a HEL determination has **not** been made. If "Yes" is answered, FSA will request a HEL determination from NRCS for the specific fields provided in Part D.
2	ENTER "X" in either the "Yes" or "No" column for each of items 2A, 2B, and 2C. These questions refer to drainage activity. If "Yes" is answered in item 2A or 2B, FSA will request a wetland evaluation from NRCS for the specific areas listed in Part D. If "Yes" is answered in item 2C (maintenance), it does **not** require a certified wetland determination. NRCS will be notified of the intention to maintain an existing drainage system.

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306 Completing and Obtaining AD-1026 (Continued)

C Completing AD-1026 (Continued)

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Item	Instruction
Part B – HELC/WC Compliance Questions (Continued)	
3	Check **box 3A** if the producer in Part A has FCIC reinsured crop insurance and the filing of AD-1026 represents the first time the producer in Part A, including any affiliated person, has been subject to HELC and WC provisions. Check **box 3B** if either of the following applies to the producer in Part A for the specified crop year in Part A: • is a tenant on a farm that will **not** be in compliance with HELC and WC provisions because the landlord refuses to allow compliance, but other farms associated with that landlord are in compliance. AD-1026B must be completed. • is a landlord of a farm that is or will not be in compliance with HELC and WC provisions because of a violation by the tenant on that farm, but other farms not associated with that tenant are in compliance. AD-1026C must be completed. If neither box 3A nor 3B are checked, go to Part C.
Part C – Certification of Compliance	
1	The producer shall read the Certification of Compliance statement and sign and date. The producer should **not** sign AD-1026 if the producer's farming operation is **not** in compliance with all HELC and WC provisions.
2	This item is for FSA use **only**.
Part D – Additional Information	
1	This item must be completed only if "Yes" was answered in Part B, item 1 or 2. List farm, tract, and field number in item A. Briefly describe activity in item B. List land use and specify crops in item C. List the location county in item D.
2	This item is to provide space for any additional information provided in item 1.

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307-327 (Reserved)

328 AD-1026 Appendix

A Example of AD-1026 Appendix

The following is an example of AD-1026 Appendix.

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This form is available electronically.
AD-1026 Appendix
(06-30-14)

U.S. DEPARTMENT OF AGRICULTURE
Farm Service Agency

APPENDIX TO FORM AD-1026
HIGHLY ERODIBLE LAND CONSERVATION (HELC) AND
WETLAND CONSERVATION (WC) CERTIFICATION

1. Overview

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

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

2. Statutory and Regulatory Authority

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

3. Explanation of Terms

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

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

Highly erodible fields are fields where either:

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

Wetland is an area that:

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

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328 AD-1026 Appendix (Continued)

A Example of AD-1026 Appendix (Continued)

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AD-1026 Appendix (06-30-14) Page 2 of 3

4. NRCS and FSA Determinations

When making HELC and WC compliance determinations:

- NRCS makes technical determinations; these include:
  - For HELC compliance:
    - whether land is considered highly erodible;
    - establishing conservation plans or systems; and
    - whether highly erodible fields are being farmed in accordance with a conservation plan or system approved by NRCS.
  - For WC compliance:
    - whether land is a wetland and if certain technical exemptions apply, such as prior converted; and
    - whether a wetland conversion has occurred.

- FSA makes eligibility determinations, such as who is ineligible based upon NRCS technical determinations of non-compliance. FSA also acts on requests for application of certain eligibility exemptions, such as the good faith relief exemption.

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

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

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

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

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

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

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

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

Unless an exemption applies, a producer must:

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

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328 AD-1026 Appendix (Continued)

A Example of AD-1026 Appendix (Continued)

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AD-1026 Appendix (06-30-14) Page 3 of 3

A producer is ineligible for any premium subsidy paid by FCIC on all policies and plans of insurance for the reinsurance year (July 1 – June 30) following the reinsurance year of a final determination of a violation of HELC or WC provisions, including all administrative appeals, unless specific exemptions apply. Further, a producer will be ineligible for any premium subsidy paid by FCIC on all policies and plans of insurance for the reinsurance year if they do not have a completed Form AD-1026 on file with FSA certifying compliance on or before the June 1 prior to the beginning of the subsequent reinsurance year (July1), unless otherwise exempted. RMA will contact FSA to determine compliance with HELC and WC provisions and the filing of Form AD-1026 prior to the June 30 end of the reinsurance year. If the producer is not in compliance and is not exempt, the producer will be ineligible for premium subsidy for all crops with a sales closing date between July 1 through the next June 30.

7. Affiliated Persons

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

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

IF the producer requesting benefits is a (an) . . .	***THEN** affiliated persons with farming interests who must be in compliance with HELC and WC provisions and file Form AD-1026 are. . .*
individual **NOTE**: If the individual filing is a minor child, the parents shall be listed as affiliated persons.	spouse or minor children with separate farming interests, or who receives benefits under their individual ID number.
	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.

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

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

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

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

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

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328 AD-1026 Appendix (Continued)

B Purpose of AD-1026 Appendix

AD-1026 Appendix 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 Part C, item 1A. 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, Part C, item 1A, 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 Continuous AD-1026 Certification statement in AD-1026,
--**Part C, item 1A.**--

329 Printing and Using Producer Farm Data Report

A Printing Producer Farm Data Report

A single Producer Farm Data Report covering all of the producer's farming interests in the country may be printed from any County Office according to 3-CM.

B Using Producer Farm Data Report

The Producer Farm Data Report includes the following:

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

The information on the Producer Farm Data Report may be useful to a producer when completing the questions on AD-1026. However, its use is **not** a requirement for producer certification on AD-1026.

330-355 (Reserved)

Section 3 Referrals to NRCS

356 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

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 Part B, item 1, 2A, 2B, or 2C--*****

- there is reason to believe the questions were not answered correctly and an NRCS determination is necessary before FSA can determine whether the producer is out of compliance.

*** * ***

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

C Referral to NRCS Because of Maintenance

*--When producers answer "Yes" on AD-1026, Part B, item 2C, 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, Part C, item 2 instructs FSA to refer a copy of AD-1026 when Part B, item 1, 2A, 2B, or 2C is answered "Yes".

NRCS assistance is **not** required for normal maintenance of existing drainage systems. Therefore, NRCS-CPA-026e will **not** be issued by NRCS in response to receiving AD-1026 on which only Part B, item 2C is answered "Yes". However, NRCS will maintain a record of these 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 Part B, item 2C.--*

Since NRCS-CPA-026e 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 (Rev. 1), subparagraph 29 C.

357 Preparation for Referral to NRCS

A Referrals to NRCS

When a referral to NRCS is necessary according to paragraph 356, use the following table to initiate the referral.

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

357 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 table.

Task	Action
Prepare copies of aerial imagery	Prepare 3 complete sets of copies that require determinations as follows. • List the tract number or numbers with the owner's name on the reverse side of the copy or attach a copy of the Farm Producer Data Report and circle applicable tract numbers. • Delineate fields or subdivisions of fields for which a "Yes" answer on *--AD-1026, Part B, item 1 or 2 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, *--Part C, item 2	On AD-1026, Part C, item 2:--* • 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.

357 Preparation for Referral to NRCS (Continued)

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

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

Situation: Producer X has farming interests in Counties A, B, and C. County C is the ***--**recording County Office. The question in AD-1026, Part B, item 2A is answered "Yes". County A, farm 200, tract 1025, field 1, is indicated on AD-1026, Part D.**--***

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 in ***--**AD-1026, Part D**--*** • contact the producer, if additional information is needed • attach a farm photocopy to a 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-026e to recording County C.

358-399 (Reserved)

Part 4 Recording and Filing NRCS Determinations

Section 1 Information From NRCS

400 Information From NRCS on NRCS-CPA-026e or Wetland Certification Letter

A NRCS Forms Included in This Section

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

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

B NRCS Determination Data

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

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

400 Information From NRCS on NRCS-CPA-026e or Wetland Certification Letter (Continued)

C Example of NRCS-CPA-026e

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

USDA

United States Department of Agriculture

Natural Resources Conservation Service

NRCS-CPA-026e
1/2011

HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION

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

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	Preliminary Determination Date	Final Certification Date

The Preliminary Wetland Determination was completed in the .
It was

Remarks:

I certify that the above determinations are correct and were conducted in accordance with regulations and procedures contained in 7 CFR Part 12 and the National Food Security Act Manual.

Signature: Designated Conservationist	Date

I certify the above determinations as Final. Preliminary Appeal Rights have been either concluded or not utilized in accordance with regulations and procedures contained in 7 CFR Part 614 and the National Food Security Act Manual.

Signature:	Date

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To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

400 Information From NRCS on NRCS-CPA-026e or Wetland Certification Letter (Continued)

C Example of NRCS-CPA-026e (Continued)

DEFINITIONS OF WETLAND LABELS

AW	Artificial Wetland: An area that was formerly a non-wetland area under natural conditions but now exhibit wetland characteristics because of the influence of human activities. These areas are exempt from the Food Security Act of 1985, as amended. This label includes irrigation induced wetlands.
CC	Commenced Conversion: A wetland, farmed wetland, farmed wetland pasture, or converted wetland on which the conversion began but was not completed before December 23, 1985, was approved by FSA to continue, and the conversion was completed by January 1, 1995.
CPD	COE Permit with Mitigation: A converted wetland authorized by a permit issued under Section 404 of the Clean Water Act. Production of agricultural commodities is allowed subject to conditions of the permit.
CWE	Categorical Minimal Effect: A wetland that meets specific categories of conversion activities that have been determined by NRCS to have minimal effect, individually and cumulatively, on the function and values of the wetland and the wetlands in the watershed.
CW	Converted Wetland: A wetland converted between December 23, 1985 and November 28, 1990. Production of an agricultural commodity or additional manipulation of these areas will yield UDSA benefit ineligibility. Also, these areas are wetlands converted after December 23, 1985 by a county, drainage district or similar entity. For these instances, production of an agricultural commodity or forage for mechanical harvest or additional manipulation will cause ineligibility for USDA program benefits.
CW+year	Converted Wetland +(year the conversion occurred): A wetland converted after November 28, 1990 where the USDA program participant is ineligible for benefits until the wetland is restored or mitigated unless an exemption applies.
CWNA*	Converted Wetland Non-Agricultural Use: A wetland converted after November 28, 1990 to a use other than agricultural commodity production.
CWTE	Converted Wetland Technical Error: A wetland converted or commenced after December 23, 1985 based on an incorrect NRCS determination. This label does not apply to obvious wetlands as defined in the National Food Security Act Manual.
FW	Farmed Wetland: A wetland that is farmed under natural conditions, was manipulated and planted before December 23, 1985 but still meets wetland criteria, and addresses either of the pothole, playa or pocosin criterions. These areas may be farmed and maintained as documented before December 23, 1985 as long as they are not abandoned (i.e., management or maintenance for commodity production ceased for five consecutive years).
FWP	Farmed Wetland Pasture or Hayland: A wetland that is used for pasture or haying under natural conditions, was manipulated and planted before December 23, 1985, meets the inundation or saturation criteria, but still meets wetland criteria. These areas may be farmed and maintained as documented before December 23, 1985 as long as they are not abandoned (i.e., management or maintenance for commodity production ceased for five consecutive years).
MIW	Mitigation Exemption: A converted wetland, farmed wetland or farmed wetland pasture of which the acreage, functions and values lost have been compensated for through an NRCS approved mitigation plan.
MW	Minimal Effect Exemption: A converted wetland that is exempt from the wetland conservation provisions of the Food Security Act of 1985, as amended, based on an NRCS determination that the conversion has or will have a minimal effect, individually and cumulatively, on the functions and values of the wetland and the wetlands in the watershed.
MWM	Mitigation Site: The site of wetland restoration, enhancement, or creation serving as mitigation for the mitigation exemption (MIW) site.
NI*	Not Inventoried: An area where no wetland determination has been conducted.
NW	Non-Wetland: An area that does not contain a wetland. Also includes wetlands converted before December 23, 1985, but a commodity crop was not produced and the area does not meet wetland criteria. The area has not been abandoned.
PC	Prior Converted Cropland: A wetland converted to cropland before December 23, 1985, and as of December 23, 1985 was capable of being cropped and did not meet farmed wetland hydrology criteria. These areas are not subject to the wetland conservation provisions of the Food Security Act of 1985, as amended, unless further drainage manipulation affects adjacent wetlands.
TP	Third Party Exemption: A wetland converted after December 23, 1985 by a third party who is not associated with the participant, and without the participant's collusion, fraud, scheme or device. A third party does not include predecessors in interest on the tract, drainage districts, or other local government entities.
W	Wetland: An area meeting wetland criteria that was not converted after December 23, 1985. These areas include farmed wetlands and farmed wetland pasture that have been abandoned.
WX	Manipulated Wetlands: A wetland manipulated after December 23, 1985, but the manipulation was not for the purpose of making production possible and production was not made possible. These areas include wetlands manipulated by drainage maintenance agreements.

*These labels are no longer used for certified wetland determinations completed after posting of the revised National Food Security Act Manual Part 514-516 (February 8, 2008).

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To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

D Notification of Certified Wetlands by Letter Instead of NRCS-CPA-026e

NRCS will provide an official "certified" wetland determination to producers upon receiving a written request from the producer. Areas with previous wetland determinations that are **not** changed from an earlier NRCS-CPA-026 or NRCS-CPA-026e will be certified as accurate by a letter to the producer with a copy to FSA. County Offices shall:

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

E 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.

401 Information 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 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 of the following:
  - “good faith” waiver
  - NRCS technical assistance variance.

402 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 table.

IF the 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	
NRCS-CPA-027	until a replacement record is received.
FSA-569	indefinitely.

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

D Reconstituted Farms

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

403-420 (Reserved)

Section 2 Updating Imagery and Records With NRCS Data

421 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 HEL determinations. The following codes shall be used as HEL attributes:

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

Note: "U" indicates that a 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 point 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.

421 Updating Aerial Imagery (Continued)

E NRCS Food Security Act Wetland Labels

The following table 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, which 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	Nonwetland 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 nonwetland.
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+Year 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 preconversion 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 preconversion conditions has been completed.

422 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		
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 one 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 are either complete or incomplete for the tract, but an agricultural commodity is not being produced on the tract	compliance with HELC and WC provisions	HEL, conservation system is **not** required, no agricultural commodity.
producer has received an NRCS variance on former CRP land		HEL, producer has been granted 2 years to implement an approved conservation system on former CRP land.

422 Updating Tract Records (Continued)

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** W or FW on the tract	tract does **not** contain a wetland.
wetland determinations have **not** been completed for the entire tract and there are **no** W or 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 W or 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 W and FW.

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

Example: PC, AW, etc.

423-438 (Reserved)

Section 3 Providing Producer Record Changes to NRCS

439 NRCS Requested Information

A Providing NRCS Requested Information

If requested by NRCS, County Offices shall provide 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 table 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's 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.

439 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 Offices explain the changes reflected on these reports to NRCS.

440-499 (Reserved)

Part 5 Compliance Checks and FSA-569

500 Compliance Checks of AD-1026 Certifications

A NRCS Compliance Checks

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

B FSA Compliance Reviews

County Offices shall conduct HELC and WC compliance reviews according to 2-CP, Part 3 for producers selected under the national compliance review process. Potential noncompliance may also be identified while conducting other activities.

If potential noncompliance with HELC or WC provisions is observed, prepare FSA-569 for referral to NRCS according to paragraph 501.

501 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.

501 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.

Note: FSA-569 shall also 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 table.

Note: If NRCS requests FSA-569:

- the following table 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 FSA-569 • prepared for referral to NRCS.

501 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 uses FSA-569 to notify FSA of HELC or WC noncompliance discovered by NRCS.

FSA-569 shall be prepared according to the following table **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 502 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 502 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 502 E.

502 Completing FSA-569

A Example of FSA-569

The following is an example of FSA-569.

*--

This form is available electronically.

FSA-569 (02-06-12)

U.S. DEPARTMENT OF AGRICULTURE
Farm Service Agency

NRCS REPORT OF HELC AND WC COMPLIANCE

1. Control Number: 1

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 21901-00000

4. FSA Administrative County:
A. State Name and Code: Iowa - 19
B. County Name and Code: Andrews - 071

5. NRCS FIPS State and County Code: 19071

6. Farm Number: 1010

7. Crop Year: 2012

8. Tract Number: 2100

9. Producer Information

10. To be completed by NRCS

Producer	A. NAME AND ADDRESS	B. TAX ID NUMBER (Last 4 Digits)	Enter Date NRCS Technical Determination Is Final (MM-DD-YYYY)
Operator of Farm entered in Item 6.	Jim Smith Worthing, IA 21003 - 0000	XXXX	07-10-2012
Owner(s) of tract entered in Item 8.	Jane Johnson Gaines, OH 92163 - 0000	XXXX	07-10-2012
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)

12. Date Referred to NRCS (MM-DD-YYYY): 5/30/2006

PART B – TYPE OF DETERMINATION

FSA Enter a "check" for the type of determination requested

1.	☒	HELC Compliance Determination
2.	☐	Verify wetland classification on land that was planted to an agricultural commodity
3.	☐	Determine whether an area is a wetland that was converted after 11/28/90.

PART C – TO BE COMPLETED BY NRCS (Check this box if NRCS was refused access to the land to verify compliance). ➡ ☐

1. Check If Reviewed		2. Field Nos.	3. Acres
☒	The field does **"NOT"** meet requirements of the HELC provisions	2	23
☐	The field meets the requirements of the HELC provisions.		
☐	The area identified is a CW.		
☐	The area identified is **"NOT"** CW.		
☐	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.

4A. Signature, NRCS Representative

4B. Date (MM-DD-YYYY): 07-12-2012

The U.S. Department of Agriculture (USDA) prohibits discrimination in all of 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, political beliefs, genetic information, 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, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

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502 Completing FSA-569 (Continued)

B Completing FSA-569, Part A

Complete FSA-569, Part A according to the following table to prepare for referral to NRCS.

Item	Instruction	Responsibility
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 4B	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

502 Completing FSA-569 (Continued)

B Completing FSA-569, Part A (Continued)

Item	Instruction	Responsibility
9	Enter the names, addresses, and last 4 digits of IRS ID 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.	

502 Completing FSA-569 (Continued)

C Completing FSA-569, Part B

FSA shall complete FSA-569, Part B according to the following table 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 copies of aerial imagery, and attach to FSA-569 for referral to NRCS.

502 Completing FSA-569 (Continued)

E NRCS Action on Referred FSA-569's

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

Step	Instructions for NRCS	
1	**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 501 • sign and enter the referral date in Part C, item 4 before referring to FSA.	

502 Completing FSA-569 (Continued)

F NRCS Determinations for FSA-569 Requests

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

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

IF NRCS determines...	AND...	THEN...
HELC 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		
HELC 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 producers, and submit a copy to FSA • FSA shall determine producers who will be ineligible and to what extent according to Part 6 • 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 • FSA will immediately begin withholding benefits when NRCS reports the technical determination is final.
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	
the area is a wetland that was converted after November 28, 1990		
access to the land was denied for making a compliance determination		take action according to paragraph 503.

503 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 affiliated persons 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
- AD-1026 on file is considered revoked
- change the certification option for AD-1026 in subsidiary eligibility to "Not Filed" according to 3-PL (Rev. 1) for all affected producers.

C Regaining Eligibility

Any producer determined ineligible as a result of refusing access to land to determine compliance must allow access and file a new AD-1026 to regain eligibility.

504 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 current status of pending NRCS determinations:

- 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.

505 Possible HELC Compliance Deficiencies Discovered Through Technical Assistance

A Potential Violations and Technical Assistance

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

- 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 instead of being reported as a compliance violation

- 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.

505 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 table in this subparagraph.

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

C Referrals to NRCS for Technical Assistance (Continued)

The following table 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 Part C, item 2,**--*** do **not** consider it technical assistance according to this paragraph. Prepare FSA-569 according to paragraph 502 and do **not** identify it as technical assistance.	Prepare FSA-569 according to paragraph 502. 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 4 if an exemption is requested.

505 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 complete 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 names and addresses of: • operator of the farm • owner of the tract • tenants and sharecroppers on the farm.	

506-599 (Reserved)

Part 6 Producer Eligibility and Relief Provisions

Section 1 Ineligible Producer Determinations

600 Overview

A Determining and Notifying Affected Producers

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.

601 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 503.

Note: See Part 5 for NRCS violation determinations.

601 Effective Year to Deny Program Benefits (Continued)

B Effective Year for Which Benefits Shall Be Denied

Use the following table to determine the year or years for which program benefits shall be denied if an exemption or relief is **not** applicable.

IF the action that caused the violation was...	THEN deny benefits for the crop or program year or years...	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 2011. Benefits shall be denied for crop or program year 2012.
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 2009 and restored in August 2011. Benefits shall be withheld for crop or program years 2009, 2010, and 2011. Eligibility is regained for crop or program year 2012 because the wetland was restored before January 1, 2012.
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 that NRCS was refused access to the land. **Note:** See paragraph 503 for notification instructions.	

601 Effective Year to Deny Program Benefits (Continued)

C Ineligibility for Loans and LDP's

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

- **not** disburse loans and LDP's for any crop for the crop year in which noncompliance occurs
- for existing loans that were disbursed before noncompliance was determined for the crop year, call the loans according to applicable LP handbooks
- require refund of any LDP for the years in violation.

D Multiple Year Planting Violations

The following table 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.

601 Effective Year to Deny Program Benefits (Continued)

D Multiple Year Planting Violations (Continued)

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 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.

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 NRCS determines the wetland has been restored or mitigated 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.

602 Determining Producers Who Are Ineligible

A Determining Ineligibility for HELC or WC Planting Violations

When a HELC or WC violation is determined, the recording County Office shall determine the affected producers and the extent of their ineligibility based on both of the following:

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

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

Use the following table to determine which producers are ineligible and the extent of their ineligibility.

IF the producer's status on the farm is...	**AND 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 subject to the provisions of this handbook. ***--Exception:** If a tenant exemption has been approved according to paragraph 604, 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 subject to the provisions of this handbook.

	cash rented and **not** shared by the landlord and operator	ineligible for USDA benefits subject to the provisions of this handbook on:
		
		• the farm where the violation occurred
		
		• any other land and warehouses where the landlord is involved with:
		
		  • the violating tenant or sharecropper
		
		  • affiliated persons of the violating tenant or sharecropper.
		
		Note: AD-1026C shall be filed according to paragraph 603 if the landlord or operator requests benefits on other farms.

602 Determining Producers Who Are Ineligible (Continued)

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

IF the producer's status on the farm is...	AND 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 subject to the provisions of this handbook on:
		  • all lands on the farm where the violation occurred that the violating operator, tenant or sharecropper, or their affiliated persons are involved
		  • any other land and warehouses where the landlord and violating operator, tenant or sharecropper, or their affiliated persons are involved
		• eligible on lands approved under the landlord exemption rule according to paragraph 603. 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.

602 Determining Producers Who Are Ineligible (Continued)

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

IF the producer's status on the farm is...	AND 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 subject to the provisions of this handbook on lands and warehouses where the landlord and violating operator, tenant or sharecropper, or their affiliated persons 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 603.
either of the following: • tenant • sharecropper	shared by either of the following: • tenant • sharecropper	ineligible for USDA benefits subject to the provisions of this handbook 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 tenant exemption has been approved according to paragraph 604, 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 subject to the provisions of this handbook on: • all lands • any warehouse in which the tenant or sharecropper has an interest.

602 Determining Producers Who Are Ineligible (Continued)

B 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 considered to be in general control 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 C.

C Requesting Relief for Operator of Farm With Wetland Conversion

As indicated in subparagraph B, the farm operator is considered to be in general control of that farm. Therefore, the operator of a farm with a wetland conversion is included as being responsible for a wetland conversion occurring during the time he or she is the designated farm operator. However, if there are circumstances that may warrant relief for the farm operator, relief may be requested from DAFP according to the following table.

IF...	THEN...
COC determines that the farm operator: • was in no way responsible for the wetland conversion • had no control over the wetland conversion activities	COC shall forward a recommendation for relief to STC. **Notes:** Any relief under this subparagraph does **not** relieve the farm operator from ineligibility as the result of planting on a converted wetland. The conversion of a wetland ***--**and the planting of an agricultural commodity on a**--*** converted wetland are 2 separate violations. See paragraph 637 for possible reduction in ineligibility for a planting violation if the operator is unable to mitigate a wetland conversion to meet the requirements for relief under the Good Faith Relief exemption.
STC concurs with COC recommendation	State Office shall forward the case file to DAFP for a decision.
STC does **not** concur with COC recommendation	the operator shall be ineligible for relief under this subparagraph.

602 Determining Producers Who Are Ineligible (Continued)

D Group Wetland Projects

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

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

E Extent of Ineligibility of Affiliated Persons

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

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. Benefits to affiliated person Corporation A shall be reduced by 25 percent.

F Updating Eligibility Record for Affiliated Persons

If a producer is determined to be ineligible for program benefits because he or she is an affiliated person of a producer who has violated the HELC and WC program provisions, update the affiliated person's AD-1026 certification according to 3-PL (Rev. 1). This will ensure that benefits will **not** be issued to the ineligible affiliated person.

603 Landlord Exemption – HELC or WC Planting Violation

A Landlord Exemption Rule

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

The landlord exemption shall **not** apply if the production of an agricultural commodity on HEL 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 AD-1026C, page 2. See subparagraph G.

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

C Updating Eligibility Record

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

D Purpose of AD-1026C

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

- certifications of eligibility by producers
- determinations by COC.

603 Landlord Exemption – HELC or WC Planting Violation (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.

603 Landlord Exemption – HELC or WC Planting Violation (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 (02-06-12) **U.S. DEPARTMENT OF AGRICULTURE** Farm Service Agency

LANDLORD OR LANDOWNER EXEMPTION REQUEST

1A. STATE NAME: State

1B. COUNTY NAME: County

NOTE: *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 12, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to process a landlord or landowner request to receive an exemption for highly erodible land and/or wetland conservation provisions under USDA programs. The information collected on the form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in an inability to process a landlord or landowner request to receive an exemption for highly erodible land and/or wetland conservation provisions under USDA programs.*

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. The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. ***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. TAX IDENTIFICATION NUMBER (Last 4 Digits)
Ben There 9889 A Street Sometown, State 55555	(555) 555-5555	XXXX
	5A. FARM NUMBER 5432	5B. TRACT NUMBER 172
	6. CROP YEAR 2012	7. CROPLAND ACRES 80.0

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:*

(a) 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.*

(b) 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)
Signature	2/20/2012

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.)*

FSN 5432

11. Describe the reasons for the COC determination. (Attach another sheet, if necessary.)

The landlord did not instruct the tenant to violate HELC provisions and in fact, encouraged the tenant to use no till methods on his land. The tenant ignored the landlord and violated HELC provisions. The landlord lives in another State and was unaware of the violation until notified of it.

12A. SIGNATURE OF COC	12B. DATE (MM-DD-YYYY)
Ima Member	

603 Landlord Exemption – HELC or WC Planting Violation (Continued)

G Example of AD-1026C (Continued)

AD-1026C (02-16-12) Page 2 of 2

PART D – RULES FOR APPLYING LANDLORD INELIGIBILITY

13. If item 10B 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.

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603 Landlord Exemption – HELC or WC Planting Violation (Continued)

H Entries Required on AD-1026C

Complete AD-1026C according to the following table.

Item	Instruction	Responsibility
1A	Enter State name and code.	County Office or Producer
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 last 4 digits of 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 that 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.	

604 Tenant HELC Exemption – Landlord Refusal

A HELC Exemption if Violation From Landlord Refusal

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 a 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".

604 Tenant HELC Exemption – Landlord Refusal (Continued)

C Where to Request 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 HELC Exemption

If the landlord refuses to allow application of:

- structural practices, COC in the administrative County Office for the farm for which the request is made is authorized to approve the HELC exemption

- planting practices, STC, upon recommendation by COC, is authorized to approve the HELC exemption.

E Purpose of AD-1026B

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

604 Tenant HELC Exemption – Landlord Refusal (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 (02-06-12) **U.S. DEPARTMENT OF AGRICULTURE** Farm Service Agency

HIGHLY ERODIBLE LAND CONSERVATION EXEMPTION REQUEST

1A. STATE NAME: State

1B. COUNTY NAME: County

NOTE: *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 12, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to process a producer request to receive an exemption for highly erodible land conservation provisions under USDA programs. The information collected on the form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in an inability to process a producer request to receive an exemption for highly erodible land conservation provisions under USDA programs.*

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. The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. ***RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.***

PART A – PRODUCER'S REQUEST

2A. NAME AND ADDRESS OF PRODUCER *(Including Zip Code)*

Producer Name
1234 56th Street
Anytown, State 00000

2B. TELEPHONE NO. OF PRODUCER *(Area Code)*: (555) 123-4567

3. TAX IDENTIFICATION NUMBER *(Last 4 Digits)*: XXXX

4. FARM NUMBER: 1234

5. CROP YEAR: 2012

6. CROPLAND ACRES: 500

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.)*

Detailed explanation

8A. SIGNATURE OF PRODUCER (BY): *Signature*

8B. TITLE/RELATIONSHIP OF THE INDIVIDUAL IF SIGNING IN A REPRESENTATIVE CAPACITY

8C. DATE *(MM-DD-YYYY)*: 11/11/2012

9A. SIGNATURE OF LANDLORD (BY): *Signature*

9B. TITLE/RELATIONSHIP OF THE INDIVIDUAL IF SIGNING IN A REPRESENTATIVE CAPACITY

9C. DATE *(MM-DD-YYYY)*: 11/11/2012

FOR FSA USE ONLY

10. REFERRED TO NRCS *(MM-DD-YYYY)*

PART B - TO BE COMPLETED BY NRCS

	YES	NO
11. Was a conservation plan timely obtained by the producer?		

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)*

The U.S. Department of Agriculture (USDA) prohibits discrimination in all of 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, political beliefs, genetic information, 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, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

604 Tenant HELC Exemption – Landlord Refusal (Continued)

F Example of AD-1026B (Continued)

AD-1026B (02-06-12) Page 2 of 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: *(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.)*

Structural Practice
Detailed explanation

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. *(Describe the reasons why.)*

Planting practice
Detailed explanation

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. *(Describe the reasons why.)*

18A. SIGNATURE OF COUNTY COMMITTEE REPRESENTATIVE	18B. DATE *(MM-DD-YYYY)*	19. DATE REFERRED TO STO *(Refer if practices are entered in Item 17)* *(MM-DD-YYYY)*
Signature	12/11/2012	12/11/2012

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: *(Describe the reasons why)*

Concur
Reasons why

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: *(Describe the reasons why.)*

22A. SIGNATURE OF STATE COMMITTEE REPRESENTATIVE	22B. DATE *(MM-DD-YYYY)*	23. DATE RETURNED TO COF *(MM-DD-YYYY)*
Signature	12/20/2012	12/20/2013

24. DATE PRODUCER NOTIFIED *(MM-DD-YYYY)*	25. DATE FINAL TO STO *(MM-DD-YYYY)*	26. DATE COPY TO PECD *(MM-DD-YYYY)*
1/10/2013	1/10/2013	1/10/2013

604 Tenant HELC Exemption – Landlord Refusal (Continued)

G Entries Required on AD-1026B

Complete AD-1026B according to the following table.

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

Item	Instruction	Responsibility
1A	Enter State name for administrative County Office location.	FSA County Office or Producer
1B	Enter name of administrative County Office.	
Part A - Producer's Request		
2	Enter producer's name and address, including telephone number.	
3	Enter last 4 digits of 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, 8B, and 8C	Producer requesting exemption shall sign, enter title/relationship if applicable, and date.	Producer
9A, 9B, and 9C	Landlord who refuses to allow the required practices according to the conservation plan shall sign, enter title/relationship if applicable, 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.	
14A and 14B	NRCS employee shall sign and date.	

604 Tenant HELC Exemption – Landlord Refusal (Continued)

G Entries Required on AD-1026B (Continued)

Item	Instruction	Responsibility
Part C - To Be Completed by the County Committee		
15	Enter description of the practices that will be considered exempt, and the reasons why.	COC
16	Enter measures that were requested for an exemption, and will **not** be granted, and the reasons why.	
17	Enter 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.	
19	Enter date referred to the 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 the County Office, after STC signature is obtained.	
23	Enter date AD-1026B is returned to the County Office.	State Office
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

604 Tenant HELC Exemption – Landlord Refusal (Continued)

H Completing AD-1026B, Part A

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

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

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 in AD-1026B, item 9.

I Completing AD-1026B, Part B

Keep a copy of AD-1026B in a temporary file, and send the original to NRCS for completing 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 the original to the 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.

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

604 Tenant HELC Exemption – Landlord Refusal (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 submit a copy of AD-1026B Summary Report to PECD. The report covers STC action taken on AD-1026B's during the previous calendar year. Negative reports are required. The report may be FAXed to PECD at 202-690-2130.

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

604 Tenant HELC Exemption – Landlord Refusal (Continued)

N AD-1026B Process

The following 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 in AD-1026B, Part C	STC determination is **not** required	• notify producer of the determination • provide copy of completed AD-1026B to the State Office • provide copy of AD-1026B to the recording County Office for multi-county producers • attach original AD-1026B to NRCS-CPA-026e • 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 the State Office.

604 Tenant HELC Exemption – Landlord Refusal (Continued)

N AD-1026B Process (Continued)

IF...	AND...	THEN the State or County Office receiving AD-1026B shall...
County Office receives AD-1026B from the 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 the State Office • provide copy of AD-1026B to the recording County Office for multi-county producers • attach original AD-1026B to NRCS-CPA-026e.
State Office receives copy of AD-1026B	STC determination is required in AD-1026B, Part D	• document STC determination on the bottom of AD-1026 • file a copy in a pending file • mail original to the 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 of AD-1026B Summary Report 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 HEL Field for Farm or Tract

If a producer is granted an exemption on AD-1026B, update the HEL field for the farm or tract, as applicable, by selecting "Landlord/Tenant" from the drop-down box according to 3-CM.

605 Applying Landlord/Tenant Exemption Rules

A Background

When either the Landlord Exemption or Tenant HELC Exemption is approved according to paragraph 603 or 604, ineligibility for the producer is limited to specific farms on which the producer is considered to be in violation. If a benefit is **not** farm-specific, it will be more difficult to determine for what portion of benefits a producer is ineligible.

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:

- requesting benefits that are **not** farm-specific
- violated HELC or WC provisions
- exempted from ineligibility on farms **not** in violation of HELC or WC provisions because of the Landlord Exemption or Tenant HELC Exemption according to paragraph 603 or 604.

C Benefits for Which Producer Is Ineligible

Producers approved for a Landlord Exemption or Tenant HELC Exemption shall be ineligible for:

- any program benefits specifically associated with the ineligible farm
- any proportion of benefits based on acreage or livestock maintained on the ineligible farm.

Example: Producer A owns FSN 200 and rents FSN 100. Producer A violated HELC provisions on FSN 100, but was approved under the Tenant HELC Exemption so benefits could be earned on FSN 200.

If Producer A located beehives on FSN 100, the honey produced from the beehives during the crop year in violation would be ineligible for benefits.

If Producer B, who does **not** have an interest in FSN 100, places beehives on that farm, Producer B will be eligible for honey benefits if all other provisions are met.

606 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 602
- each affiliated person who is determined ineligible according to paragraph 602.

C Information for Notifying Participating Producers

The notification of ineligibility to participating producers shall include the following:

- an explanation of the violation determination, including the following:
  - statement of the program rules that apply
  - 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 COC in the producer's recording FSA County Office
- good faith relief provisions for inadvertent HELC and WC violations.

606 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 the following:

- an explanation of the conversion determination by NRCS, including the following:
  - statement of the program rules that apply in this case
  - 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 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.

606 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 608.

607 Notifying Other County Offices and NRCS of Ineligibility Determinations

A Notifying Other County Offices

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

- review the Producer Farm Data Report to determine County Offices associated with the producer
- send a copy of the ineligibility notification to each County Office listed on the producer's Producer Farm Data Report.

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.

608 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.

608 County Offices Receiving Copies of Producer Ineligibility Notifications (Continued)

C Producer Appeals

Producers must file their appeal in the County Office that maintains their producer eligibility records. COC that made the producer's ineligibility determination shall be responsible for making a determination about 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 (Rev. 1) and farm records according to 3-CM.

609 Reinstatement of Eligibility Following HELC Violation

A Applicability

This paragraph is applicable to producers who did **not** receive a Good Faith Relief exemption or any other exemption that allowed the retention of program benefits for the year of the HELC violation.

B Requirements for Eligibility Reinstatement

For reinstatement of eligibility in a year following a HELC violation, a producer must:

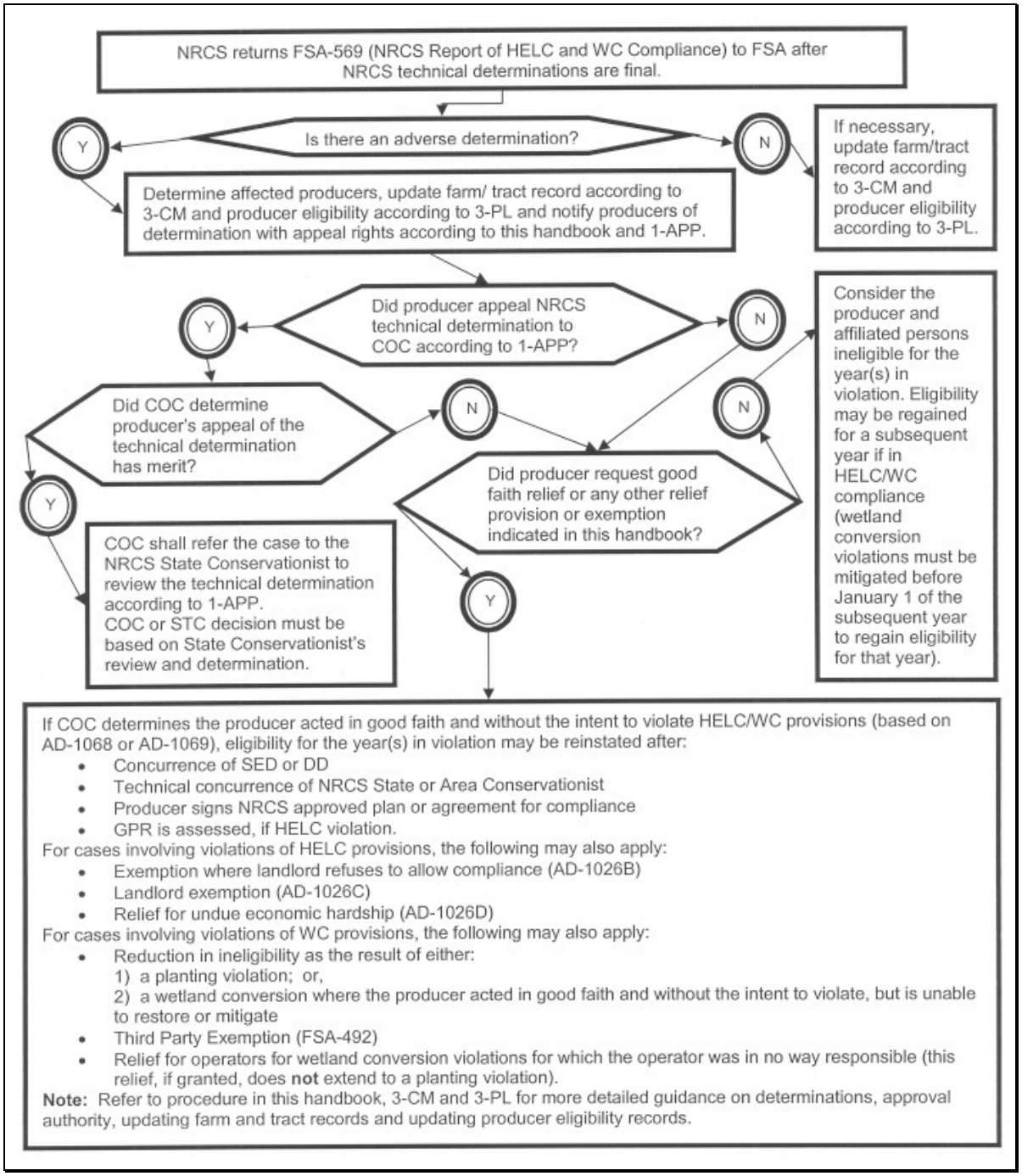
- certify HELC and WC compliance on a new AD-1026
- be reviewed by NRCS and determined to be in compliance with HELC provisions for the applicable year.

To ensure that these requirements are met, the County Office shall provide FSA-569 to NRCS when a producer requests program benefits and certifies compliance on a new AD-1026.

610 Process for HELC or WC Violations

A Process Overview

The following flowchart provides an overview of the process for HELC or WC violations.



611-615 (Reserved)

Section 2 Good Faith Relief Provisions

616 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 505, 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 505.

B Good Faith Relief for HELC Violations

Persons who violate HELC requirements remain eligible if good faith relief is approved. If good faith relief is approved, eligibility is reinstated, but program benefits that the producer would otherwise be eligible to receive for the crop year in violation are reduced by GPR based on the seriousness of the violation.

As a condition of good faith relief, the producer must implement the measures and practices necessary to be considered to be actively applying the producer's conservation plan within the period of time required by NRCS. The maximum period of time allowed by statute is 1 year.

Note: A second good faith relief determination cannot be granted on the same violation to extend the 1-year maximum period to apply the conservation plan.

616 General Provisions for Good Faith Relief (Continued)

C Good Faith Relief for WC Violations

Persons who violate WC requirements remain eligible if good faith relief is approved.

Note: GPR's do **not** apply to WC violations.

As a condition of good faith relief, the producer must implement the measures and practices necessary to be considered to be actively restoring the wetland within the period of time required by NRCS. The maximum period of time allowed by statute is 1 year.

Note: A second good faith relief determination cannot be granted on the same violation to extend the 1-year maximum period to restore or mitigate the wetland.

D Summary of GPR Applicability

The following table provides a summary of the application of GPR's to conservation compliance violations for which the Good Faith Relief exemption is approved.

Situation	GPR
HELC violation on land that was converted from native vegetation to crop production after December 23, 1985.	Minimum - $1,000 Maximum - $12,000
HELC violation on land that was **not** converted from native vegetation to crop production after December 23, 1985.	Minimum - $1,000 Maximum - $10,000
WC violation for planting on a converted wetland.	None
WC violation for conversion of wetland after November 28, 1990.	

Note: See paragraph 623 to use AD-1068A to determine the GPR distribution when multiple producers are approved for reinstatement of benefits under the Good Faith Relief exemption for the same HELC violation.

616 General Provisions for Good Faith Relief (Continued)

E 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.

F Who Makes Good Faith Relief Request

Each producer, including affiliated persons, 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.

G 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 AD-1068, Part E or AD-1069, Part D that a conservation or mitigation plan has been signed.

H Yearly Report to NRCS

COC shall provide NRCS annually, but not later than November 30, a report of all tracts issued Good Faith Relief exemptions from HELC and WC provisions.

617-620 (Reserved)

Subsection 1 Good Faith Relief for HELC Violations

621 Good Faith Relief Provisions and Requests – HELC

A Good Faith Relief Provisions

A producer who is determined ineligible as the result of a violation of HELC provisions may regain eligibility for the crop year in violation if all of the following conditions are met:

- the producer requests good faith relief using AD-1068
- COC determines that the producer acted in good faith and without intent to violate HELC provisions

  Note: If COC does **not** approve the producer's request for good faith relief, the producer shall be notified according to 1-APP.

- SED, or DD if authority is delegated, reviews and concurs with COC's determination
- State Conservationist, or Area Conservationist if authority is delegated, provides technical concurrence based on a review of the proposed conservation plan and the factors used to determine GPR
- the producer agrees to implement the practices according to a conservation plan within an agreed period determined by NRCS, **not** to exceed 1 year
- GPR is assessed according to subparagraphs E and F.

B Making a Request for Good Faith Relief

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 following:

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

Note: Do either of the following:

- attach the producer's signed and dated request to AD-1068 for processing
- have the producer write the request on AD-1068.

621 Good Faith Relief Provisions and Requests – HELC (Continued)

C Where to Make a Good Faith Relief Request

Producer shall file a good faith relief request with COC for the county where the farm with the HELC violation is located for program administration purposes.

D 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, such as NRCS notification to the producer about their determination
- whether the producer obtained or attempted to obtain a conservation plan for the land in a timely manner
- whether there was any face-to-face discussion with the producer concerning the 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 violation and the erodibility index of each field in violation
- characteristics of the field and whether the producer should 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 made a good faith effort to comply
- whether there is evidence of intent to violate HELC provisions.

621 Good Faith Relief Provisions and Requests – HELC (Continued)

E GPR Calculation

The GPR amount calculated according to this paragraph reflects the amount of reduction in benefits determined to be commensurate with the seriousness of the HELC violation.

GPR for Sheet and Rill Erosion: The GPR amount for sheet and rill erosion shall be calculated by multiplying the applicable acres in violation times the dollar amount determined according to the following table, subject to any applicable adjustments indicated in subparagraph F.

GPR Amount per Acre for Sheet and Rill Erosion				
Erodibility Index	**Actual Soil Loss (Multiple of T)**			
	<3T	3T – 3.9T	4T – 4.9T	5T+
8.0 – 8.9	$13	$25	$38	$50
9.0 – 11.9	$25	$50	$75	$100
12.0 – 14.9	$50	$100	$150	$200
15.0 – 19.9	$75	$150	$225	$300
20.0 – 24.9	$100	$200	$300	$400
25.0+	$125	$250	$375	$500

GPR for Gully Erosion: The GPR amount for gully erosion shall be $1,000 per field, subject to any applicable adjustments indicated in subparagraph F.

Note: NRCS determines the type of erosion, erodibility index, actual soil loss, and acres or fields in violation of HELC provisions. Fields with both sheet and rill erosion **and** gully erosion shall have GPR based upon the higher of the 2 methods.

F Adjustments to Calculated GPR

The GPR amount calculated according to subparagraph E shall be adjusted as follows.

IF the calculated GPR amount is…	THEN the assessed GPR amount shall be…
less than $1,000	a minimum of $1,000, **unless** NRCS determines the HELC violation to be technical in nature with a minimal effect on the erosion control purposes of the conservation plan applicable to the land on which the violation occurred.
for a HELC violation NRCS determines to be technical in nature with a minimal effect on the erosion control purposes of the conservation plan applicable to the land on which the violation occurred	$0. **Note:** A good faith determination is **not** necessary to retain program benefits for HELC violations NRCS determines to be technical and minor in nature.

621 Good Faith Relief Provisions and Requests – HELC (Continued)

F Adjustments to Calculated GPR (Continued)

IF the calculated GPR amount is…	THEN the assessed GPR amount shall be…
greater than $10,000	a maximum of $10,000, **unless** NRCS determines the HELC violation is on land that has been converted from native vegetation, such as rangeland or woodland, to crop production after December 23, 1985.
for a HELC violation on land NRCS determines to have been converted from native vegetation, such as rangeland or woodland, to crop production after December 23, 1985	increased by 20 percent to a maximum of $12,000.

Note: When multiple persons are affected by a HELC violation, prorate GPR's according to paragraph 623.

G Determining Acres in Violation

The acres in violation shall be the total 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 HELC violation occurred.

H Application of GPR's

GPR amounts determined according to this subsection shall:

- apply only for violations on HEL
- apply in addition to any other program payment reductions that are applicable
- apply to **all** USDA benefits that are subject to HELC and WC provisions earned for the crop year of the violation determination

621 Good Faith Relief Provisions and Requests – HELC (Continued)

H Application of GPR's (Continued)

- **not** apply 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 HEL for the 2011 crop year. GPR of $5,000 is determined for the producer according to this subsection. If the total 2011 crop year earnings for the producer is $3,000:

- the producer would **not** receive 2011 benefits
- the $2,000 difference in the amount of GPR and benefits earned for the 2011 crop year cannot be deducted from benefits earned for crop years that are before or later than the 2011 crop year.

I Documentation and Notifications for Good Faith Determinations

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

- documented in 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 acted in good faith 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.

J Assessing GPR's

Use applicable FI handbooks to assess GPR's with the nonautomated program code of XXGPR.

Note: Substitute "XX" with the applicable year.

K Adverse Determinations

If SED or DD does **not** approve the good faith determination, the producer shall be provided appeal rights to NAD according to 1-APP.

If the NRCS State or Area Conservationist does **not** provide technical concurrence, the conservation plan and the determination of applicable GPR factors shall be returned to the District Conservationist for technical corrections.

622 Using AD-1068

A Purpose of AD-1068

AD-1068, together with any supporting attachment, is used to document the following:

- producer's request for a good faith determination and relief from ineligibility resulting from a violation of HELC provisions
- action taken on the producer's request by COC and reasons for COC's determination
- action taken by SED or DD and NRCS relating to the producer's violation and request for good faith relief
- GPR amount if good faith relief is approved for a HELC violation.

622 Using AD-1068 (Continued)

B Example of AD-1068

The following is an example of AD-1068.

This form is available electronically.

AD-1068
(02-06-12)

U. S. DEPARTMENT OF AGRICULTURE
Farm Service Agency
Natural Resources Conservation Service

REQUEST FOR GOOD FAITH RELIEF
HIGHLY ERODIBLE LAND CONSERVATION (HELC) VIOLATION

1A. State Name: State

1B. County Name: County

NOTE: *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 12 and the Food, Security Act of 1985 as amended. The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for program benefits.*

This information collection is exempted from the Paperwork Reduction Act, as it is required for administration of The Food, Conservation, and Energy Act of 2008 (see Pub. L. 110-246) Title II, Subtitle J – Miscellaneous Conservation Provisions. The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. ***COMPLETE PART A AND RETURN THIS FORM TO YOUR LOCAL FSA OFFICE.***

PART A - PRODUCER'S REQUEST

2. Name and Address of Producer *(Including Zip Code)*:
Producer Name
123 4th Avenue
Sometown, State 00000

3. Telephone No. *(Including Area Code)*: 555-123-4567

4. Tax Identification No.*(last 4 digits)*: XXXX

5. Farm No. With HELC Violation: 1234

6. Crop Year of Determination: 2012

7. 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 HELC provisions and not as a scheme or device to avoid compliance.)*

Description of circumstances and evidence of acting in good faith and without intent to violate.

8A. Signature of Producer *(By)*: *Signature*

8B. Title/Relationship of the Individual Signing in the Representative Capacity:

8C. Date *(MM-DD-YYYY)*: 10-09-2012

FSA COMPLETES

9. Date Referred to NRCS *(MM-DD-YYYY)*: 10-09-2012

NOTE TO PRODUCER: ***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. If a good faith relief request is approved by the county committee with concurrence of the State Executive Director and NRCS, eligibility will not be restored until an agreement is signed to apply practices according to NRCS requirements. The practices must then be applied within the period required by NRCS.***

PART B - NRCS INFORMATION

10. Describe any pertinent facts relating to the case that NRCS or the Soil and Water Conservation District have that may affect the COC determination:
Pertinent facts

11A. Signature of NRCS Employee: *Signature*

11B. Date Signed *(MM-DD-YYYY)*: 10-15-2012

PART C – DETERMINATION BY COC AND CONCURRENCES

12. Based on information available, the COC determined that a good faith effort to comply without intent to violate: ☒ Was made by the producer ☐ Was not made by the producer

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

14A. Signature of COC: *Signature*

14B. Date Signed *(MM-DD-YYYY)*: 10-22-2012

15A. Signature of SED/DD for concurrence: ☒ Concur ☐ Do Not Concur

15B. Date Signed *(MM-DD-YYYY)*: 10-29-2012

16. If SED/DD does not concur, provide reasons:

17A. Signature of NRCS State/Area Conservationist For Technical Concurrence: *Signature* ☒ Concur ☐ Do Not Concur

17B. Date Signed *(MM-DD-YYYY)*: 10-29-2012

622 Using AD-1068 (Continued)

B Example of AD-1068 (Continued)

AD-1068 (02-06-12) Page 2 of 2

PART D – CALCULATION OF GRADUATED PAYMENT REDUCTION (GPR)

18. Field Number	19. Acres in Violation	20. Erodibility Index	21. Actual Soil Loss Multiples of T	22. Per Acre GPR *(From Table below)*	23. GPR Penalty
					$
					$
					$
					$
					$
					$
					$
				24. Subtotal:	$
				25. Total GPR After Adjustment (if applicable):1/	$

1/ Adjustments:

- If any of the acres listed in Item 19 are on land converted from native vegetation after December 23, 1985, the subtotal for those acres in Item 23 shall be increased by 20%.
- If the subtotal of Item 24 is: • less than $1,000, enter $1,000 in Item 25.
  • greater than $10,000, enter $10,000 in Item 25.

Sheet/Rill Erosion – Use This Table to Determine the Per Acre GPR (Item 22)

Erodibility Index (EI)	Actual Soil Loss (Multiples of T)			
	<3T	3T-3.9T	4T-4.9T	5T+
8.0-8.9	$ 13.	$ 25.	$ 38.	$ 50.
9.0-11.9	$ 25.	$ 50.	$ 75.	$ 100.
12.0-14.9	$ 50.	$ 100.	$ 150.	$ 200
15.0-19.9	$ 75.	$ 150.	$ 225.	$ 300.
20.0-24.9	$ 100.	$ 200.	$ 300.	$ 400.
25.0 and greater	$ 125.	$ 250.	$ 375.	$ 500.

Gully Erosion - The GPR (Item 23) for gully erosion shall be $1,000 per field.

NOTE: *A field with both sheet/rill erosion and gully erosion shall have a GPR based upon the higher of the two methods.*

PART E - CONSERVATION PLAN

A Good Faith determination resulting in the reinstatement of USDA program benefits minus the Graduated Payment Reduction shall become effective after all required signatures in Part C are obtained and the producer signs the required conservation plan.

26. Date conservation plan was signed by the producer *(MM-DD-YYYY)*: 11-07-2012

27A. Signature of NRCS Employee	27B. Date Signed *(MM-DD-YYYY)*
Signature	11-07-2012

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To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

622 Using AD-1068 (Continued)

C Completing AD-1068

Complete AD-1068 according to the following table.

Item	Instruction	Responsibility
1A and 1B	Enter the FSA State and county name where the farm with the violation is located for program administration purposes.	FSA/Producer
Part A - Producer's Request		
2	Enter producer's name and address, including ZIP Code.	Producer
3	Enter telephone number.	
4	Enter last 4 digits of tax ID number.	
5	Enter farm number or numbers on which the HELC noncompliance occurred.	
6	Enter crop year of violation for which the good faith determination is requested.	
7	Enter reasons for request for a good faith determination.	
8A, 8B, and 8C	Producer requesting relief shall sign, enter their title if applicable, 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.	
9	Enter date AD-1068 was referred to NRCS. **Note:** Keep a copy of AD-1068 in a pending file.	FSA
Part B - NRCS Information		
10	Enter description of any pertinent facts about the case that either NRCS or SWCD has that may affect the COC determination.	NRCS
11A and 11B	NRCS employee shall sign and date.	

622 Using AD-1068 (Continued)

C Completing AD-1068 (Continued)

Item	Instruction	Responsibility
Part C – Determination by COC and Concurrences		
12	Check (✓) either of the following items to reflect the good faith determination for the producer: • was made by the producer • was not made by the producer.	COC
13	Enter reasons for COC determination.	
14A and 14B	COC representative shall sign and date.	
15A and 15B	SED or DD shall sign and date. Check (✓) either of the following items: • "Concur" • "Do Not Concur".	SED or DD
16	If SED or DD does **not** concur with COC determination, provide reasons.	
17A and 17B	NRCS State or Area Conservationist shall sign and date. Check (✓) either of the following items: • "Concur" • "Do Not Concur".	NRCS State or Area Conservationist
Part D – Calculation of Graduated Payment Reduction		
18	Enter field numbers of HEL in violation.	NRCS
19	Enter HEL acres in violation. See subparagraph 621 G.	
20	Enter erodibility index of the fields in violation.	
21	Enter the actual soil loss (multiples of T).	
22	Enter the per acre GPR dollar amount determined according to the table for sheet and rill erosion.	FSA
23	Enter the calculated GPR for each field in violation: • for sheet and rill erosion (item 19 x item 22) • for gully erosion ($1,000 per field).	
24	Enter the total of calculated dollar amounts in item 23.	
25	Enter total GPR after adjustments, if applicable, according to subparagraph 621 F.	

622 Using AD-1068 (Continued)

C Completing AD-1068 (Continued)

Item	Instruction	Responsibility
Part E - Conservation Plan **Note:** Part E shall be completed if a good faith relief approval is made by COC.		
26	Enter date the producer signed a conservation plan with NRCS.	NRCS
27A and 27B	NRCS employee shall sign and date.	

D Multiple Producers Affected by Same HELC Violation

When multiple producers file AD-1068 to regain eligibility for benefits denied as a result of the same HELC violation, determine GPR liabilities for producers affected according to paragraph 623.

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 as a result of a violation of HELC provisions.

623 Determining GPR for Multiple Producers on HEL in Violation

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 AD-1068A. An individual completing AD-1068A shall sign and date.

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.

623 Determining GPR for Multiple Producers on HEL in Violation (Continued)

C Example of AD-1068A

The following is an example of AD-1068A.

This form is available electronically

AD-1068A (02-06-12)	U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency	1. State and County Name: State County
	DISTRIBUTION OF GRADUATED PAYMENT REDUCTION (GPR) (Supplemental to AD-1068)	2. Farm No. *(AD-1068, Item 5)*: 1234
		3. Crop Year *(AD-1068, Item 6)*: 2012

PART A – PRODUCERS WHO EARNED BENEFITS AND FILED AD-1068 FOR REINSTATEMENT

4. Name	5. Tax Identification Number *(Last 4 digits)*
Ima Believer, LLC	XXXX
Veggie Farmer, Inc.	XXXX

PART B – PRODUCER GPR CALCULATION

6. Minimum GPR *($1,000)*	7. Number of Producers	8. Item 6 X Item 7	9. GPR *(AD-1068, Item 25)*	10.* Jointly and Severally Liable Amount *(Amount Item 9 exceeds Item 8. Enter "zero" if Item 8 is greater than Item 9)*
$ **1,000.00**	2	$ 2,000.00	$ 3,000.00	$ 1,000.00

INSTRUCTIONS FOR COMPLETING PART A AND PART B:

Item(s)	Action
1, 2, and 3	Enter information as requested.
Part A	Enter the names and last 4 digits of tax identification numbers for all producers who earn benefits and file AD-1068 for a single HELC 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	Minimum GPR is $1,000.00
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 25.
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.**

11A. Signature of Preparer	11B. Title	11C. Date Signed
Signature	Program Technician	12-17-2012

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623 Determining GPR for Multiple Producers on HEL in Violation (Continued)

D Collecting 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 HELC violations, 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 occurs:

- the following amounts are satisfied through withholding:
  - producer's minimum payment reduction for the violation
  - GPR amount for which affected producers are jointly and severally liable, calculated in 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 same HELC violation.

Example: The GPR calculation on AD-1068 is $5,000. Producers A, B, and C were each assessed the minimum $1,000. Producers A, B, and C are jointly and severally liable for $2,000 ($5,000 minus $3,000).

624-630 (Reserved)

Subsection 2 Good Faith Relief for WC Violations

631 Good Faith Relief Provisions and Requests – WC

A Good Faith Relief Provisions

A producer who is determined ineligible as the result of a violation of WC provisions may regain eligibility for the crop year in violation if **all** of the following conditions are met:

- the producer requests good faith relief using AD-1069
- COC determines that the producer acted in good faith and without intent to violate WC provisions
- SED, or DD if authority is delegated, reviews and concurs with COC's determination
- State Conservationist, or Area Conservationist if authority is delegated, provides technical concurrence based on a review of the proposed mitigation plan
- the producer agrees to implement the measures and practices necessary to be considered to be actively restoring the subject wetland within an agreed period determined by NRCS, not to exceed 1 year.

No payment reduction shall apply for producers who meet the good faith relief requirements for a WC violation.

Note: See paragraph 637 for reducing the payment ineligibility for producers who are unable to restore or mitigate the converted wetland, but acted in good faith without the intent to violate WC provisions.

B Requests for Good Faith Relief

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 have the producer provide the request in AD-1069, Part A or attach the producer's request to AD-1069 for processing.

631 Good Faith Relief Provisions and Requests – WC (Continued)

C Where to Make a Good Faith Relief Request

Producers shall file good faith relief requests with COC for the county where the farm with the WC violation is located for program administration purposes.

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 about 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 WC 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 WC provisions, based on information:

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

F Adverse Determinations

If SED or DD does **not** approve the good faith determination, the producer shall be provided appeal rights to NAD according to 1-APP.

If the NRCS State or Area Conservationist does **not** provide technical concurrence, the mitigation plan shall be returned to the District Conservationist for technical corrections.

632 Using AD-1069

A Purpose of AD-1069

AD-1069, together with any supporting attachment, is used to document the following:

- producer's request for a good faith determination and relief from ineligibility resulting from a violation of WC provisions
- action taken on the producer's request by COC and reasons for COC's determination
- action taken by SED or DD and NRCS relating to the producer's violation and request for good faith relief.

632 Using AD-1069 (Continued)

B Example of AD-1069

The following is an example of AD-1069.

This form is available electronically.

AD-1069
(02-06-12)

U. S. DEPARTMENT OF AGRICULTURE
Farm Service Agency
Natural Resources Conservation Service

REQUEST FOR GOOD FAITH RELIEF
WETLAND CONSERVATION (WC) VIOLATION

1A. State Name	1B. County Name
State	County

NOTE: *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 12 and the Food, Security Act of 1985 as amended. The information will be used to determine eligibility for program benefits. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for program benefits.*

This information collection is exempted from the Paperwork Reduction Act, as it is required for administration of The Food, Conservation, and Energy Act of 2008 (see Pub. L. 110-246) Title II, Subtitle J – Miscellaneous Conservation Provisions. The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. ***COMPLETE PART A AND RETURN THIS FORM TO YOUR LOCAL FSA OFFICE.***

PART A - PRODUCER'S REQUEST

2. Name and Address of Producer *(Including Zip Code)*:	3. Telephone No. *(Including Area Code)*	4. Tax Identification No. *(last 4 digits)*
Producer Name 1234 Avenue A Anytown, State 0000	555-123-4567	XXXX
	5. Farm No. With WC Violation 1234	6. Crop Year of Determination 2012

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 WC provisions and not as a scheme or device to avoid compliance.)*
Description of circumstances and evidence that activities were performed in good faith and without the intent to violate.

8A. Signature of Producer *(By)*	8B. Title/Relationship of the Individual Signing in the Representative Capacity	8C. Date *(MM-DD-YYYY)*	FSA COMPLETES
Signature		09-17-2012	9. Date Referred to NRCS *(MM-DD-YYYY)* 09-12-2012

NOTE TO PRODUCER: ***Application for a good faith determination does not preclude the opportunity to exercise appeal rights according to notice given with regard to the WC determination. If a good faith relief request is approved by the county committee with concurrence of the State Executive Director and NRCS, eligibility will not be restored until a mitigation agreement according to NRCS requirements is signed. The wetland must then be mitigated within the period required by NRCS.***

PART B - NRCS INFORMATION

10. Describe any pertinent facts relating to the case that NRCS or the Soil and Water Conservation District have that may affect the COC determination:
Pertinent facts

	YES	NO
11. Was the producer informed of the wetland determination made by NRCS through personal contact?	☐	☒
12. Does NRCS have knowledge that the producer was involved in a previous National, State, or local wetland violation issue?	☐	☒
13. Did NRCS have a discussion at any time with the producer concerning the wetland before the activity occurred? If "YES", describe the situation:	☐	☒

14A. Signature of NRCS Employee	14B. Date *(MM-DD-YYYY)*	15. Date Returned to FSA *(MM-DD-YYYY)*
Signature	09-24-2012	09-24-2012

PART C - DETERMINATION BY COC AND CONCURRENCES

16. Based on information available, the COC determined that a good faith effort to comply without intent to violate: ☒ Was made by the producer. ☐ Was not made by the producer.

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

18A. Signature of COC	18B. Date Signed *(MM-DD-YYYY)*	19A. Signature of SED/DD for Concurrence	19B. Date Signed *(MM-DD-YYYY)*
Signature	09-26-2012	☒ Concur ☐ Do not concur	10-10-2012

20. If SED/DD Does Not Concur, Provide Reasons:

21A. Signature of NRCS State/Area Conservationist For Technical Concurrence		21B. Date Signed *(MM-DD-YYYY)*
Signature	☒ Concur ☐ Do not concur	10-10-2012

PART D - MITIGATION PLAN

A Good Faith determination resulting in the reinstatement of USDA program benefits shall become effective after all required signatures in Part C are obtained and the producer signs the required mitigation plan.

22. Date mitigation plan was signed by the producer *(MM-DD-YYYY)*: 11-12-2012

23A. Signature of NRCS Employee	23B. Date Signed *(MM-DD-YYYY)*
Signature	11-12-2012

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632 Using AD-1069 (Continued)

C Completing AD-1069

The following table 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	Instruction	Responsibility
1A and 1B	Enter the FSA State and county name where the farm with the violation is located for program administration purposes.	FSA/Producer
Part A - Producer's Request		
2	Enter producer's name and address, including ZIP Code.	Producer
3	Enter telephone number.	
4	Enter last 4 digits of tax ID number.	
5	Enter farm number or numbers on which the WC violation occurred.	
6	Enter crop year of violation for which the good faith determination is requested.	
7	Enter reasons for request for a good faith determination.	
8A, 8B, and 8C	Producer requesting good faith determination shall sign, enter their title if applicable, and date. **Note:** FSA shall attach the producer's signed and dated request to AD-1069, if the request is made on another sheet. Make a notation in the signature block.	
9	Enter date AD-1069 was referred to NRCS. **Note:** Keep a copy of AD-1069 in a pending file.	FSA
Part B - NRCS Information		
10	Enter description of any pertinent facts about the case that either NRCS or SWCD has that may affect the COC determination.	NRCS
11	Check (✓) whether the producer was informed of the wetland determination made by NRCS.	
12	Check (✓) whether NRCS has knowledge that the producer was involved in a previous WC violation issue.	
13	Check (✓) whether NRCS had discussion at any time concerning the wetland before the violation occurred.	
14A and 14B	NRCS employee shall sign and date.	
15	Enter date AD-1069 was returned to FSA.	

632 Using AD-1069 (Continued)

C Completing AD-1069 (Continued)

Item	Instruction	Responsibility
Part C – Determination by COC and Concurrences		
16	Check (✓) either of the following items to reflect the good faith determination for the producer: • was made by the producer • was not made by the producer.	COC
17	Enter reasons for COC determination.	
18A and 18B	COC representative shall sign and date.	
19A and 19B	SED or DD shall sign and date. Check (✓) either of the following items: • "Concur" • "Do Not Concur".	SED or DD
20	If SED or DD does **not** concur with the COC determination, provide reasons.	SED or DD
21A and 21B	NRCS State or Area Conservation shall sign and date. Check (✓) either of the following items: • "Concur" • "Do Not Concur".	NRCS State or Area Conservationist
Part D - Mitigation Plan **Note:** Part D shall be completed if a good faith relief approval is made by COC.		
22	Enter date the producer signed a mitigation plan with NRCS.	NRCS
23A and 23B	NRCS employee shall sign and date.	

633 Mitigation Activities for Good Faith Approvals

A Monitoring Mitigation Plan Activities

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

B Mitigation Plan Requirements Not Met

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

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, such as hardwood survival or control of woody or exotic vegetation, NRCS will use FSA-569 to indicate that the producer is **not** in compliance with the provisions of his or her good faith waiver. The waiver will be invalidated and the converted wetland for which it was applied will revert to the previous CW+year label.

If NRCS determines that the 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 according to paragraph 637 for producers who acted in good faith but are unable to meet good faith relief requirements.

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.

634-636 (Reserved)

Subsection 3 Reduction in Ineligibility for WC Violations

637 Restrictions on Relief to Reduce Ineligibility

A When Relief May be Appropriate

Relief from total ineligibility as a result of a WC violation may be appropriate in the following situations:

- a producer planted an agricultural commodity on a converted wetland, but is unable to receive relief under the Good Faith Relief exemption

- a producer who converted a wetland is determined to have acted in good faith and without the intent to violate WC provisions, but is unable to restore or mitigate the converted wetland within the time allowed by NRCS to receive relief under the Good Faith Relief exemption.

Example: An operator who planted an agricultural commodity on a converted wetland is determined to have acted in good faith and without the intent to violate WC provisions, but is unable to restore or mitigate the converted wetland.

In these cases, 7 CFR 12.4(c) provides that, instead of the loss of all benefits for the crop year in violation of WC provisions, ineligibility may be reduced based on the seriousness of the violation, as determined by DAFP. If relief is approved under this provision, ineligibility is reduced, **not** waived.

Relief under the provisions of this subsection will **not** be authorized in either of the following situations involving a producer who converted a wetland:

- producer did **not** act in good faith and without the intent to violate WC provisions
- producer is able to restore or mitigate the converted wetland, but is unwilling to do so.

637 Restrictions on Relief to Reduce Ineligibility (Continued)

B Factors for Relief Consideration

Relevant factors, such as the following, shall be considered in determining whether relief is appropriate and the appropriate amount to reduce ineligibility.

- Did the producer act in good faith and without the intent to violate WC provisions?
- Is the producer able to remedy the violation by mitigating the converted wetland?
- What information was available to the producer before the violation?
- What are the previous land use patterns?
- Are there previous WC violations or other local, State, or Federal wetland violations?
- What are the wetland functions and values affected?
- What is the recovery time for full mitigation of the wetland functions and values?
- What impact would a reduction in payments have on the producer's ability to repay a USDA farm loan?
- Would taking away certain benefits defeat the purposes of encouraging good conservation of soil and water resources?

638 Requesting Relief to Reduce Ineligibility

A Request for a Reduction in Ineligibility

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

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 instead 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.

Note: Relief for an operator of a farm with a WC violation may be requested according to subparagraph 602 C.

638 Requesting Relief to Reduce Ineligibility (Continued)

B Processing Request for Reduction in Ineligibility

If COC believes relief under the provisions of this subsection is justified, the factors believed to justify relief must be documented and a recommendation must be made on an appropriate reduction in ineligibility, indicating why that amount is appropriate. The relief request shall then be submitted to STC for consideration.

If STC:

- concurs with COC's recommendations, the case may be submitted to DAFP for relief consideration
- concurs that relief according to this subsection is appropriate, but does **not** concur with COC's recommended amount of reduction in ineligibility, STC shall provide their recommendation and submit the case to DAFP for relief consideration
- does **not** concur with COC that relief is appropriate, the case shall **not** be submitted to DAFP.

639, 640 (Reserved)

Section 3 Updating Producer Eligibility Record

641 Producer Eligibility File

A Accessing Producer's Eligibility Record

County Offices shall follow the procedure in:

- 3-CM to update tract data
- 3-PL (Rev. 1) to access and update producer eligibility records.

Producer eligibility is based upon the following:

- certification of compliance on AD-1026

- summarization of HELC, converted wetland, and planted converted wetland exemptions in farm records.

B Producer AD-1026 Certification

To be eligible for certain USDA program benefits, a producer must certify compliance on AD-1026. Record the producer's certification in the eligibility file according to 3-PL (Rev. 1).

C Tract Data

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

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

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

642-699 (Reserved)

Part 7 Reporting HELC and WC Violations

Section 1 Recording HELC and WC Violation Data

700 HELC and WC Violation Documentation

A Violation Reporting System

HELC and WC violations are recorded on:

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

B HELC and WC Reporting System

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

Step	Action
1	FSA prepares FSA-569 for a potential HELC or WC violation 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 FSA-493's to other County Offices to complete Part C if needed.

700 HELC and WC Violation Documentation (Continued)

C HELC and WC Reporting System (Continued)

Step	Action
5	Other County Offices who receive FSA-493 from the administrative County Office shall: • complete FSA-493, Part C • return completed FSA-493's to the administrative County Office.
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 or WC database for completeness. Prepare FSA-493 for missing data and submit to the State Office.

701 Reporting Data on FSA-493

A FSA-493

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 or WC violation database
- must have a corresponding FSA-569 that is the basis for the producer report
- shall be prepared for all violations, including those where the violator is approved for relief, such as relief under the Good Faith Relief exemption.

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 determinations:

- HELC violations
- wetland conversions after November 28, 1990
- agricultural commodity planted on a converted wetland.

701 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.

Note: NRCS will only return FSA-569 when the technical determination is finalized.

702 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

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 table.

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.

702 Using FSA-493 (Continued)

C Administrative County Office Action (Continued)

Step	Action
3	Determine whether producers derived from step 2 filed AD-1026 effective for the crop year entered in FSA-569, item 10.
4	***--**Determine affiliated persons from AD-1026, Part A, item 4 for producers**--*** determined to have filed AD-1026 according to step 3.
5	Print the Producer Farm Data Report for producers and affiliated persons.
6	If affiliated persons determined in step 4 are **not** recorded in FRS, no further action is required. **Note:** Only affiliates of producers who filed AD-1026's will be reported.
7	Determine other counties where producers have a farming interest.
8	Complete separate FSA-493: • Parts A and B for each county where producers on the violating farm or their affiliated persons have farming interests determined in step 7 • Parts A, B, and C for producers on the violating farm reported on FSA-569 and affiliated persons in FRS. FSA-493, item 1 shall be checked either: • "No" for first time reports for the producer • "Yes" if reporting revisions from a prior report.

702 Using FSA-493 (Continued)

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.

This form is available electronically.

FSA-493
(02-06-12)

U.S. DEPARTMENT OF AGRICULTURE
Farm Service Agency

HIGHLY ERODIBLE LAND CONSERVATION/WETLAND CONSERVATION VIOLATION DATA
(WORKSHEET)

1. Check if Farm Payment and Exemption Data on Prior Report: YES ☐ NO ☒

PART A - FSA-569 DATA *(Copy data from corresponding FSA-569)*

2. Control Number	3. Crop Year	4. FSA Administrative County: A. State Name	Code	B. County Name	Code	5. NRCS FIPS State & County Code *(Enter if different from Item 4)*	6. Farm Number	7. Tract Number	8. Acres
8	2011	State	00	County	000		0000	0000	13.0

9. Type of Violation *(Check one)*:
- A. HELC ☒
- B. Planting on CW ☐
- C. Wetland Conversion after 11/28/90 ☐

PART B – PRODUCER DATA *(FSA-493 must be completed for each producer associated as OW, OP, OO, or OT on farm listed in Part A and their affiliates. FSA-493 must be completed for each County in which they have an interest.)*

10. Producer's Name	11. Tax ID Number *(Last 4 Digits)*	12. ID Type:	13. AD-1026 Filed?	14. GPR Approved $	15. State Name & Code	16. County Name & Code
Any Producer	XXXX	S ☒ E ☐	YES ☒ NO ☐	1000.00 **Note:** GPR amount shall be entered from AD-1068 only for County listed in Part A. Other counties leave blank.	State 00	County 00

PART C - FARM PAYMENT AND EXEMPTION DATA *(If Part C for the producer and county listed above was completed on another FSA-493 for the crop year, do not complete Part C again. Attach this FSA-493 to a photocopy of the previous FSA-493 report that has Part C completed for the producer.)*

1. PROGRAMS - FARM SPECIFIC:

A. Program	B. Farm No.	C. Cropland Acres	D. Status *(OO, OP, OW, OT)*	E. Requested Benefits ($)	F. Reinstated Benefits ($)	G. Reason Code *(See Part D)*	H. Exemption Approval Level *(Code & Date)* *(See Part E)*
DCP	000	200.0	00	3000.00	2000.00	3	C 2-18-12

PART D – REASON CODES

Code	Description
1	AD-1026B Tenant Exemption
2	AD-1026C Landlord Exemption
3	AD-1068 HELC
4	AD-1069 WC
5	NRCS Reversed
6	Misaction/Misinformation
7	Other: (Enter in Part C, Item 3

2. PROGRAMS - NOT FARM SPECIFIC:

A. Program	B. Requested Benefits ($)	C. Reinstated Benefits ($)	D. Reason Code *(See Part D)*	E. Exemption Approval Level *(Code & Date)* *(See Part E)*

PART E – EXEMPTION APPROVAL LEVEL

Code	Description
C	County
S	State
N	National
J	Judicial Court

3. Description of Code 7 entries in Item1G or Item 2D:

4A. Preparer's Signature	4B. Title of Preparer	4C. Name and Location of Office	4D. Date Signed
Any Director	CED	Any County FSA Office Anytown State	2-20-12

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702 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 table.

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", or "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.

702 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 table.

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	Wetland Conversion after 11/28/90

G Completing FSA-493, Part B

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

Item	Instructions
10 through 12	Enter the producer's name, last 4 digits of ID number, and ID type.
13	Check whether the producer in item 10 filed AD-1026 applicable to the crop ***--**year entered in Part A, item 3.**--***
14	Approved GPR amount from AD-1068 shall be entered on one FSA-493 only 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 and 16	Enter State and county name and code.

702 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 table.

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 the administrative County Office • a copy of FSA-493's prepared for other counties.
3	Send original FSA-493's to the applicable other county listed in 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 the Producer Farm Data Report for the producer recorded in 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	Send original completed FSA-493 to the County Office recorded in 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:

- Producer Farm Data Report printed for the producer by the County Office indicated in FSA-493, Part B, item 16

- the amount of FSA and NRCS benefits requested by the producer for all programs that are covered by HELC and WC provisions for the crop year entered in FSA-493, Part A, 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.

702 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 in FSA-493, Part C shall be obtained by researching records and contacting NRCS 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 table.

Item	Instruction
1A	Enter farm-specific programs, such as DCP, under which the producer requested benefits for the crop year in violation.
1B	Enter the farm number for each farm corresponding to the entry in item 1A.
1C	Enter the total cropland acres for each farm.
1D	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 the Producer Farm Data Report.
1E	Enter the dollar amount of program benefits under the program in item 1A for which the producer would be eligible, if **not** for the violation. **Note:** It is important that **all** program benefits that were requested by the producer for the crop year in item 3 be reported. Include benefits that will be paid because an exemption, such as the Good Faith Relief exemption, applies.
1F	Enter the dollar amount of program benefits indicated in item 1E that were reinstated for the producer. **Note:** Items 1G and 1H must be completed if program benefits have been reinstated.

702 Using FSA-493 (Continued)

L Completing FSA-493, Part C (Continued)

Item	Instruction
1G	If reinstated program benefits are recorded in item 1F, enter the: • reason code listed in Part D that is the basis for the reinstatement • explanation of the reason for the reinstatement on the reverse side of FSA-493 if reason code "7" is used.
1H	If a reason code was entered in item 1G, enter the: • level of authority that approved the determination, using the codes in Part E • date the determination was final.
2A	Enter programs that are **not** farm-specific, such as LIP, under which the producer requested benefits for the crop year in violation.
2B	Enter the dollar amount of program benefits under the program in item 2A for which the producer would be eligible, if **not** for the violation. **Note:** It is important that **all** program benefits that were requested by the producer for the crop year in item 3 be reported. Include benefits that will be paid because an exemption, such as the Good Faith Relief exemption, applies.
2C	Enter the dollar amount of program benefits indicated in item 2B that were reinstated for the producer. **Note:** Items 2D and 2E must be completed if program benefits have been reinstated.
2D	If reinstated program benefits are recorded in item 2C, enter the: • reason code listed in Part D that is the basis for the reinstatement • explanation of the reason for the reinstatement on the reverse side of FSA-493 if reason code "7" is used.
2E	If a reason code was entered in item 2D, enter the: • level of authority that approved the determination, using the codes in Part E • date the determination was final. **Example:** S - 7/6/11

702 Using FSA-493 (Continued)

M 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, which 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 402.
3	Submit the entire set of original completed FSA-493's that are required for the FSA-569 determination to the State Office.

703 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 table.

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 • AD-1068 or AD-1069 approved by COC, with SED concurrence.

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" in FSA-493, item 1 to indicate that a prior report was prepared
	
	• copy the revised FSA-493 and place it in the pending file of FSA-493's
	
	• mail the original revised FSA-493 to the administrative County Office listed in 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.

703 Revised FSA-493's (Continued)

C 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.

704-749 (Reserved)

750 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 table.

Step	Action
1	Access the FSA Intranet Home Page at **http://intranet.fsa.usda.gov/fsa/**.
2	Under “Resources”, 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
	  • “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”.

750 Entering Violation Data Into the National Database (Continued)

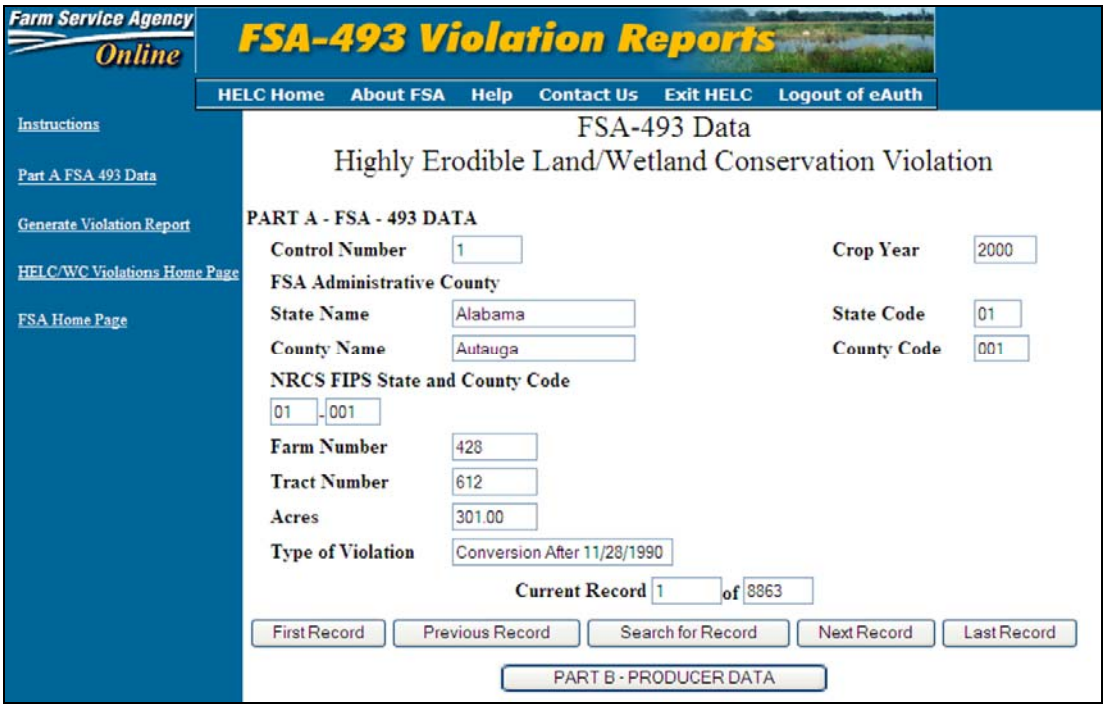
A Accessing and Entering FSA-493 Information Into the National Database (Continued)

Step	Action
5	On FSA-493 Login Screen, select the desired State from the drop-down box and CLICK “Continue”. Enter eAuthentication user ID and password. **Notes:** Guest users may view violation data only. State users may enter or correct FSA-493 data.

750 Entering Violation Data Into the National Database (Continued)

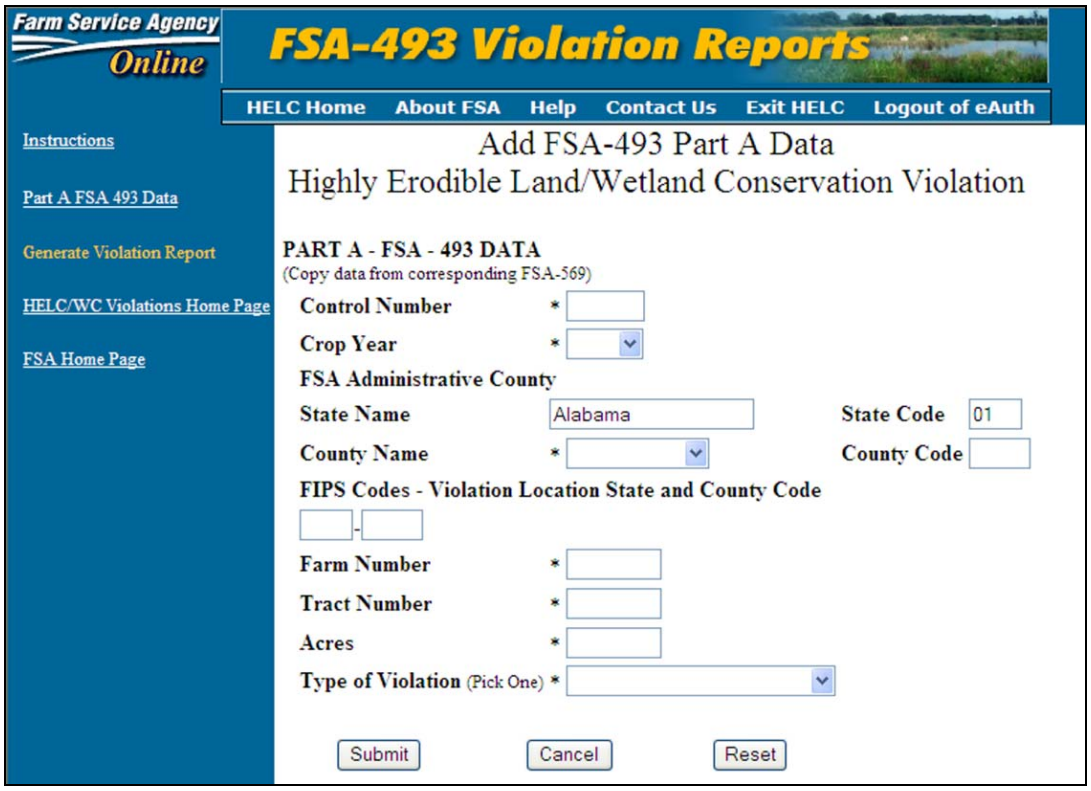
A Accessing and Entering FSA-493 Information Into the National Database (Continued)

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".
	
	 

750 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.  **Note:** FSA-493 Data Screen will be redisplayed.

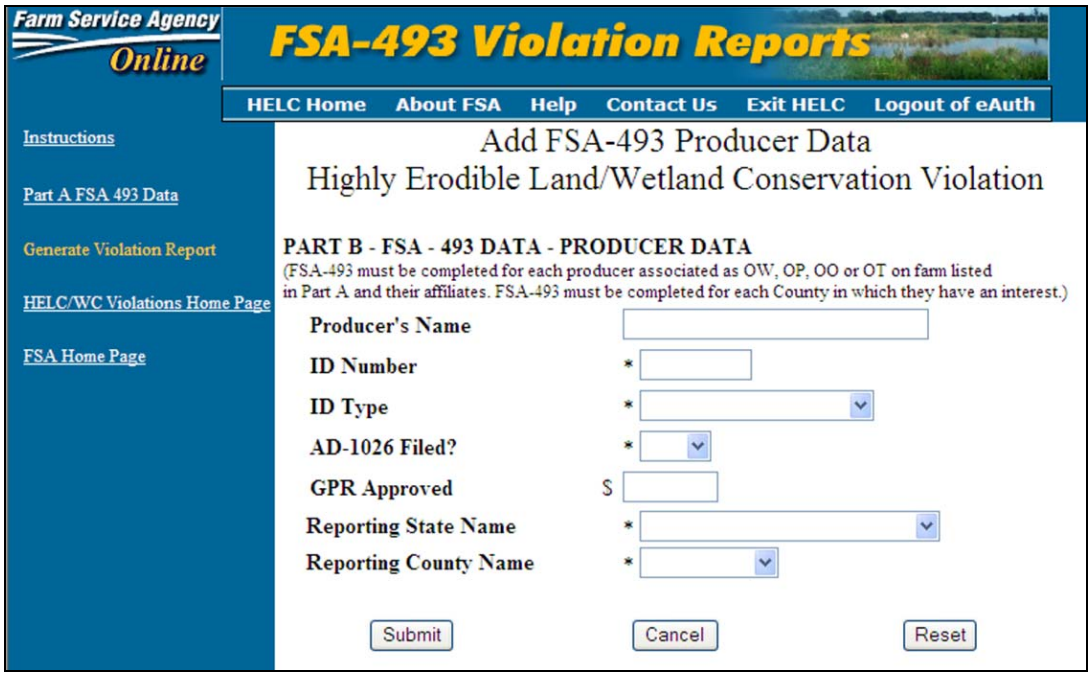
750 Entering Violation Data Into the National Database (Continued)

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 **Note:** 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 prefilled with previously entered data. Go to step 10.

750 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”. 

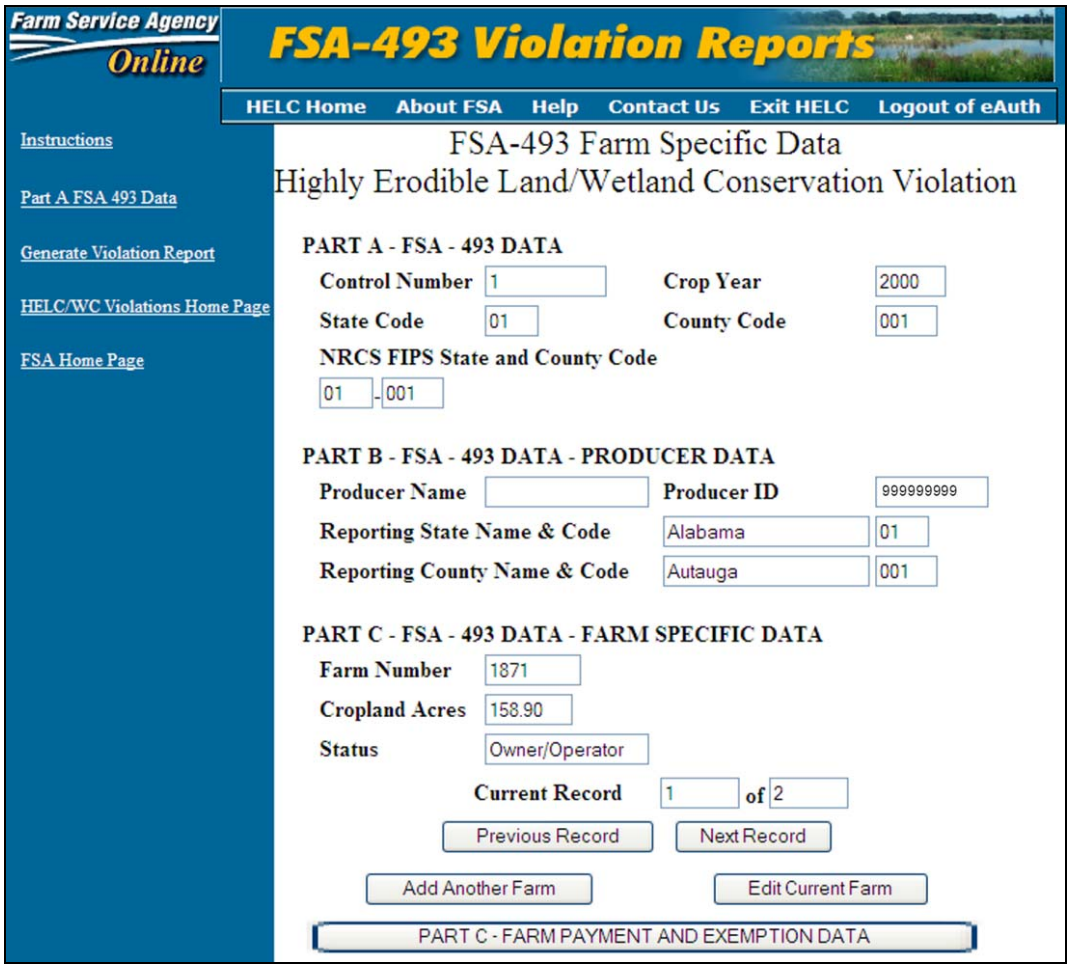
750 Entering Violation Data Into the National Database (Continued)

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

Step	Action
10	On Producer Data FSA-493 Part B Screen: • "Part A - FSA - 493 Data" and "Part B - FSA - 493 Data - Producer Data" will be prefilled with previously entered data • if there is more than 1 producer associated with this violation, CLICK "Add Another Producer" and enter the producer's information • CLICK "Previous Record" or "Next Record" to view other producers associated with this control number • CLICK "Farm Specific Data - Part C" to add farm-specific data from FSA-493 for this producer.

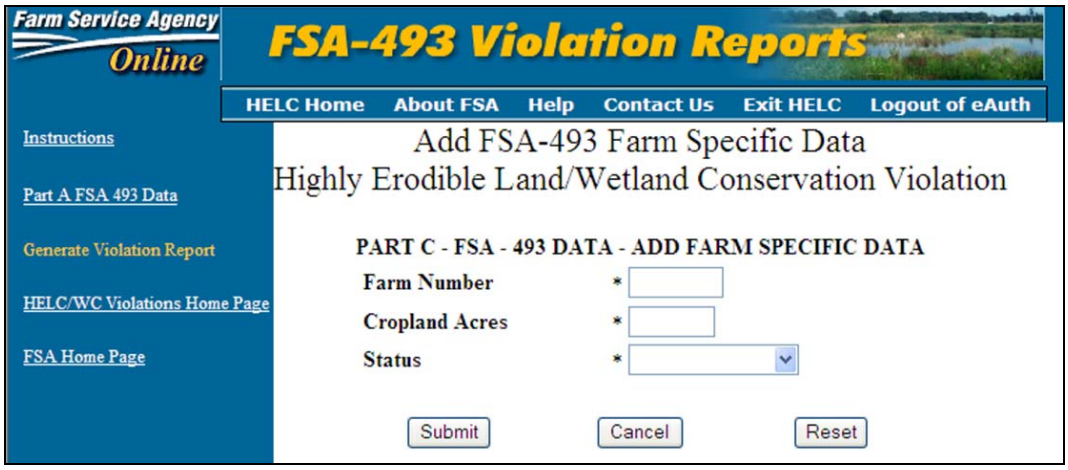
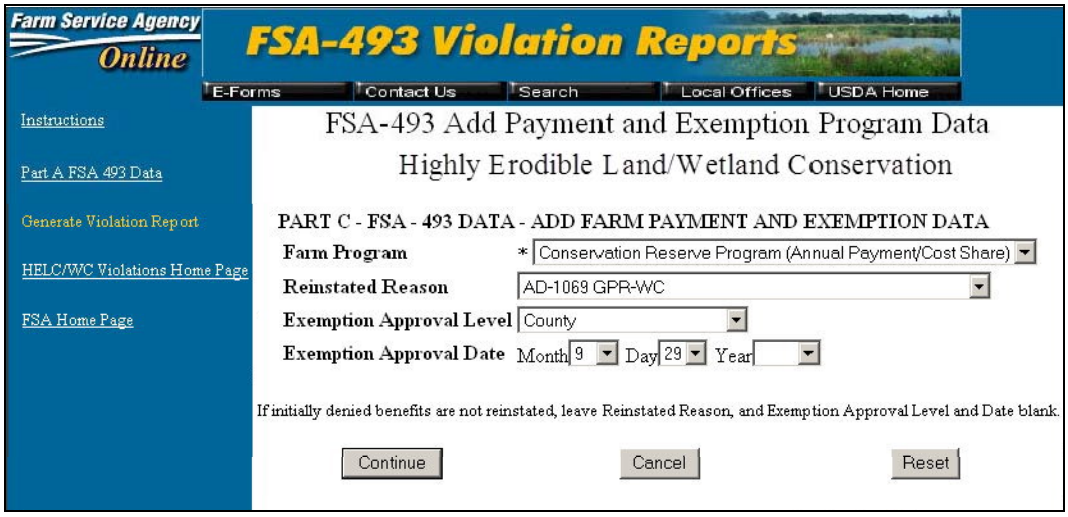
750 Entering Violation Data Into the National Database (Continued)

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 **Note:** 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 prefilled 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. 

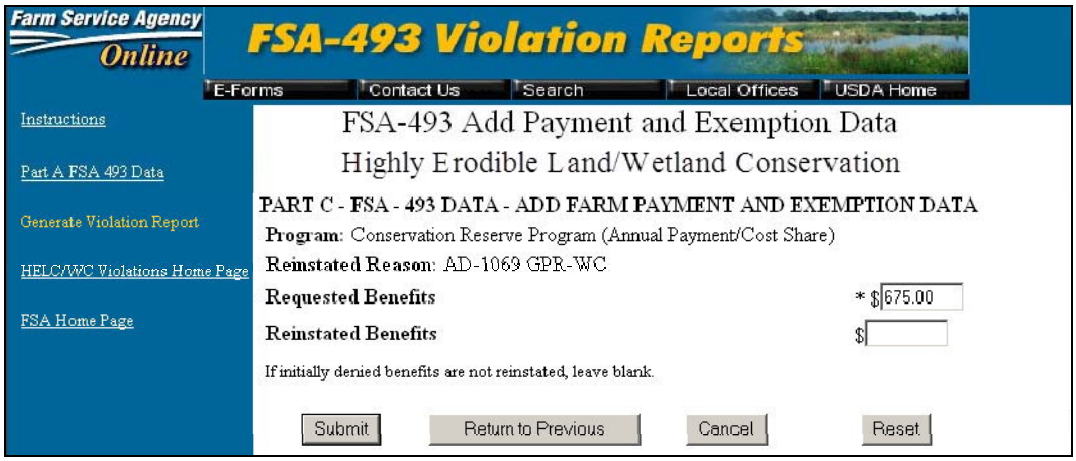
750 Entering Violation Data Into the National Database (Continued)

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, Part C, items 1B through 1D • CLICK “Submit”.  **Note:** FSA-493 Farm Specific Data Screen will be redisplayed.
13	On FSA-493 Add Payment and Exemption Program Data Screen: • enter data from FSA-493, Part C, items 1A, 1G, and 1H • CLICK “Continue”. 

750 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, Part C, items 1E and 1F **Note:** If Part C, item 1G is "Other", enter the description from Part C, item 3. • CLICK "Submit". 

750 Entering Violation Data Into the National Database (Continued)

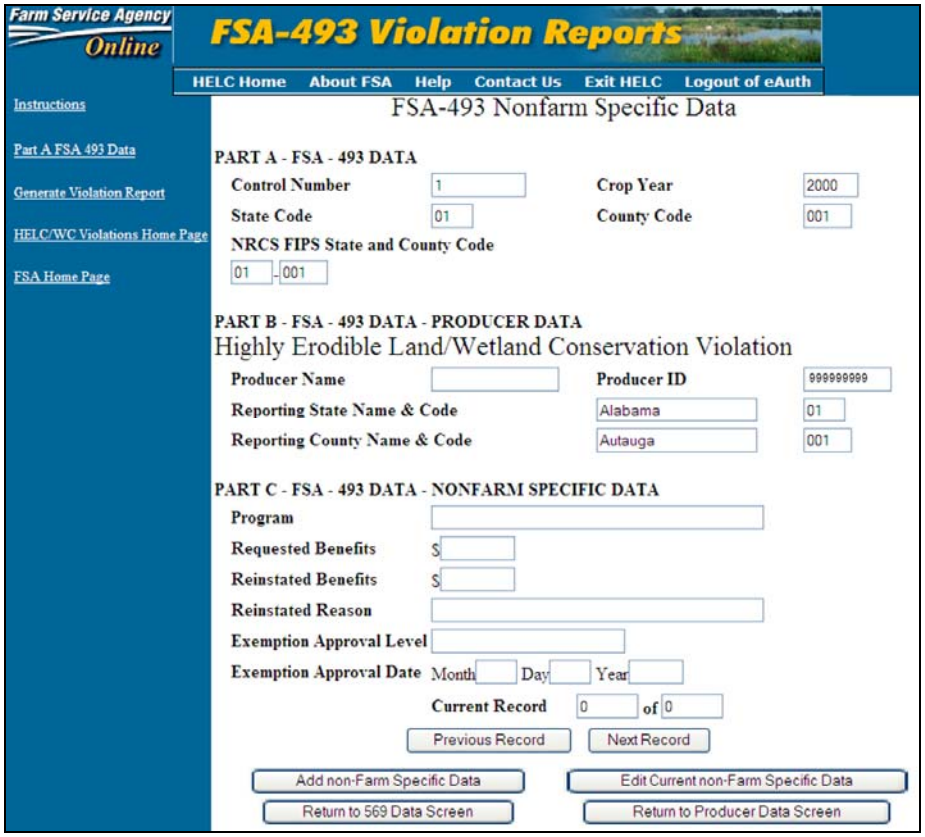
A Accessing and Entering FSA-493 Information Into the National Database (Continued)

Step	Action
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, Part C, items 2A through 2E for this producer.

750 Entering Violation Data Into the National Database (Continued)

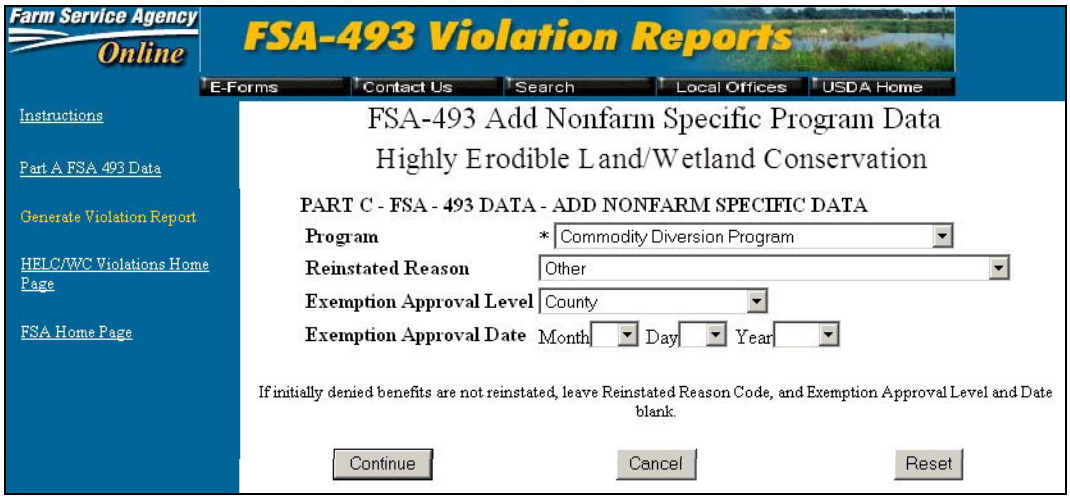
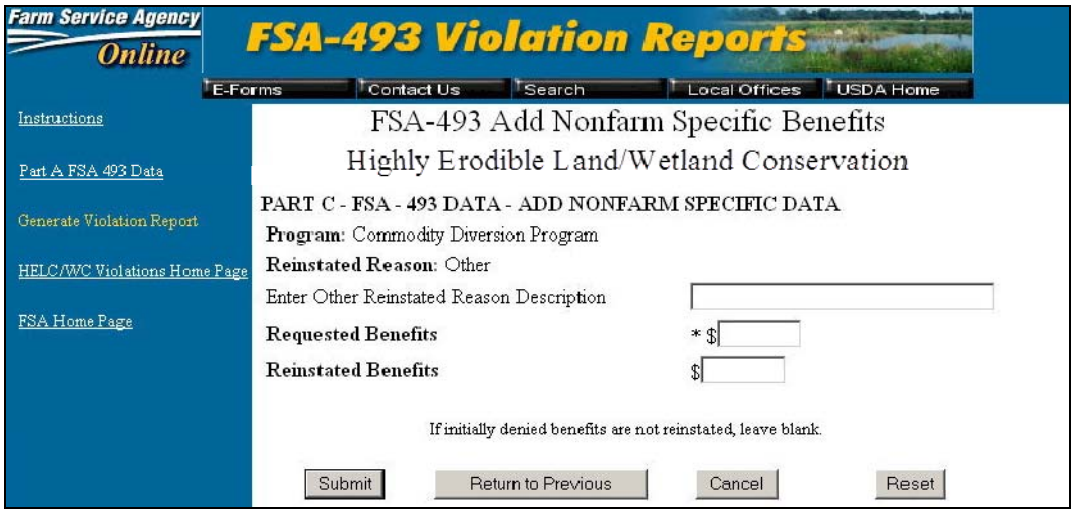
A Accessing and Entering FSA-493 Information Into the National Database (Continued)

Step	Action

16	On the FSA-493 Nonfarm Specific Data Screen:
	
	• "Part C - FSA - 493 Data - Nonfarm Specific Data" will be blank if being accessed for the first time for a particular producer associated with this FSA-493
	
	Note: 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 prefilled 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.
	
	 

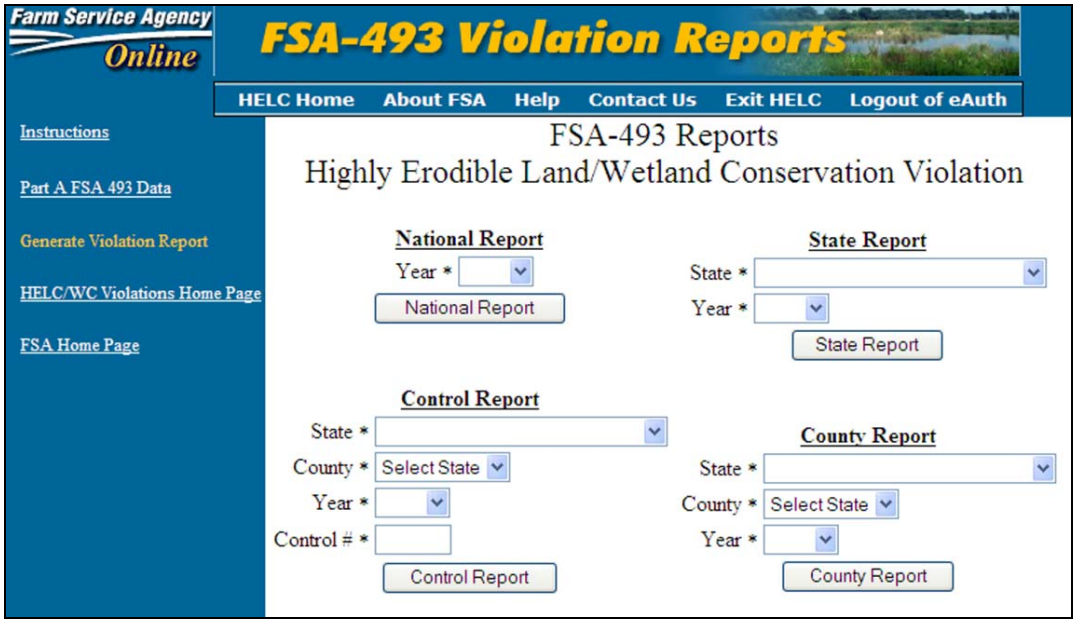
750 Entering Violation Data Into the National Database (Continued)

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, Part C, items 2A, 2D, and 2E • CLICK “Continue”. 
18	On FSA-493 Add Nonfarm Specific Benefits Screen: • enter data from FSA-493, Part C, items 2B and 2C **Note:** If Part C, item 2D is “Other”, enter the description from Part C, item 3. • CLICK “Submit”.  **Note:** FSA-493 Nonfarm Specific Data Screen will be redisplayed. Go to step 16.

750 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 Reports 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.

750 Entering Violation Data Into the National Database (Continued)

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

Step	Action
19 (Cntd)	The following is an example of the 2003 Highly Erodible Land/Wetland Conservation Violation Report for Kansas.

Kansas
Report ID:
LL-FSA-493-2

U.S. Department of Agriculture
Farm Service Agency
2012 Highly Erodible Land/Wetland Conservation Violation Report

Prepared: 1/11/2012

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
Barton	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
Chautauqua	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

State users **cannot** delete database records. If a record needs to be deleted, an e-mail request shall be sent to John Monahan at **john.monahan@wdc.usda.gov** listing the following:

- State
- county
- year
- control number.

Note: An e-mail will be received confirming the deletion.

750 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 or WC violation report according to the following table.

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.

751-799 (Reserved)

Part 8 Scheme or Device, Appeals, and Equitable Relief

Section 1 Scheme or Device

800 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 interest 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.

801-810 (Reserved)

Section 2 Appeals and Equitable Relief

811 General Appeal Provisions

A Right of Appeal

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

812 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 Redelegations 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	604

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-1026	Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification	306	Text
AD-1026 Appendix	Appendix to Form AD-1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification	328	303, 304, 306
AD-1026B	Highly Erodible Land Conservation Exemption Request	604	306, 703
AD-1026C	Landlord or Landowner Exemption Request	603	306, 602
AD-1026D	Relief for Undue Economic Hardship Request Highly Erodible Land Conservation	204	
AD-1068	Request for Good Faith Relief – Highly Erodible Land Conservation (HELC) Violation	622	616, 621, 623, 702, 703
AD-1068A	Distribution of Graduated Payment Reduction (GPR) (Supplemental to AD-1068)	623	616
AD-1069	Request for Good Faith Relief – Wetland Conservation (WC) Violation	632	616, 631, 703
FSA-156EZ	Abbreviated 156 Farm Record and Tract Listing		439
FSA-492	Data Needed for Third-Party Determinations	220	219
FSA-493	Highly Erodible Land Conservation/Wetland Conservation Violation Data	702	700, 701, 703, 750
FSA-569	NRCS Report of HELC and WC Compliance	502	Text
FSA-577	Report of Supervisory Check		17
NRCS-CPA-026	Highly Erodible Land and Wetland Conservation Determination		400, 402, 422
NRCS-CPA-026e	Highly Erodible Land and Wetland Conservation Determination	400	202, 356, 357, 402, 604
NRCS-CPA-027	Certification of Highly Erodible Land Conservation Plan(s) and System(s)		400-402

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
1985 Act	Food Security Act of 1985	1, 2, 200, 210, 300, 604
AW	artificial wetland	212, 226, 421, 422, Ex. 2
CD	Conservation District	19, 200, 203, Ex. 2
CW	converted wetland (converted after December 23, 1985)	210, 218, 421, 502, 633, 701, 702, Ex. 2
FW	farmed wetland	210, 226, 227, 421, 422, Ex. 2
FWP	farmed wetland pasture	226, 227, 421, Ex. 2
GPR	graduated payment reduction	616, 621-623, 702
MW	minimal effect wetland	212, 213, 218, 421, Ex. 2
NHEL	not highly erodible land	201, 202, 400, 421
NW	nonwetland	212, 421
OO	owner and operator	702
OP	operator	702
OT	tenant or sharecropper	702
OW	owner	702
PC	prior converted wetland (converted before December 23, 1985)	210, 226, 421, 422, Ex. 2
SWCD	Soil and Water Conservation District	204, 622, 631, 632
W	wetland	Text, Ex. 2

Redelegations of Authority

None

Definitions of Terms Used in This Handbook

Abandonment

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

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 tilling 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.

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.

Definitions of Terms Used in This Handbook (Continued)

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.

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.

Definitions of Terms Used in This Handbook (Continued)

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 this action.

Converted Wetland (CW)

CW is 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:

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

Farmed Wetland (FW)

FW is 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 7 CFR 12.2.

Farmed Wetland Pasture (FWP)

FWP is wetland that was manipulated and managed for pasture or hayland before December 23, 1985, and on December 23, 1985, met the hydrologic criteria for FWP listed in 7 CFR 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.

Definitions of Terms Used in This Handbook (Continued)

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 that are highly erodible
- 50 or more acres in this field are identified as soil map units that 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
- substrate that is at least periodically deficient in oxygen during a growing season because of excessive water content.

Minimal Effect Wetland (MW)

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. The NRCS technical guide materials on native vegetation will be used as a primary source for these determinations.

Definitions of Terms Used in This Handbook (Continued)

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.

Person

A person is 1 of the following:

- individual
- partnership (general or limited)
- association
- corporation
- cooperative
- estate
- trust
- joint venture
- joint operation
- LLC
- other business enterprise
- other legal entity
- State or local government
- political subdivision of a State
- any State agency
- the person's affiliated person, determined according to paragraph 302.

Note: The definition of person for conservation compliance purposes differs from the 1-PL or 4-PL definition.

Prior Converted Wetland (PC)

PC is 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 7 CFR 12.2.

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.

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 (W)

W 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 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.

Menu or Screen	Title	Reference
	FSA-493 Main Login Screen	750
	FSA-493 Guest Login Screen	750
	FSA-493 Data Screen	750
	Add FSA-493 Part A Data Screen	750
	Producer Data FSA-493 Part B Screen	750
	Add FSA-493 Producer Data Screen	750
	FSA-493 Farm Specific Data Screen	750
	Add FSA-493 Farm Specific Data Screen	750
	FSA-493 Add Payment and Exemption Program Data Screen	750
	FSA-493 Add Payment and Exemption Data Screen	750
	FSA-493 Nonfarm Specific Data Screen	750
	FSA-493 Add Nonfarm Specific Program Data Screen	750
	FSA-493 Add Nonfarm Specific Benefits Screen	750
	FSA-493 Reports Screen	750