

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

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

Amendment 7

Approved by: Acting Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 202 C has been amended to clarify when a redefinition of field due to CRP may require a HEL determination.

Subparagraphs 202 E and G have been amended to remove a current year AD-1026 requirement for field redefinition HEL determinations that require a field visit.

Subparagraphs 207 C and E have been amended to clarify affiliated persons ineligibility to RMA exemptions.

Paragraph 218 has been amended to clarify third party exemptions.

Paragraph 232 has been amended to clarify ineligibility dates due to RMA exemptions.

Subparagraph 301 G has been amended to clarify AD-1026 filing requirements for revocable trusts without employer IRS assigned TINs.

Subparagraph 302 F has been added to explain when avoidance of affiliated persons' provisions are applicable.

Paragraphs 336 and 337 have been amended to explain when sole proprietorship exemptions are applicable to husband/wife informal joint ventures.

Paragraph 340 has been amended to clarify timely filed AD-1026 and timely filed with additional information needed for RMA.

Subparagraph 356 C has been amended to clarify referring AD-1026 to NRCS when box 7 C of AD-1026 is checked "yes".

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraphs 422 D and E have been combined and subparagraph D has been corrected to communicate which wetland determinations determine when a tract contains a wetland.

Subparagraph 502 B has been amended to provide instruction for FSA-569 when a converted wetland is determined several or many years prior to the current year FSA-569 was issued.

Subparagraph 503 B has been amended to explain the applicable years of ineligibility due to denied access.

Paragraph 601 B has been amended to clarify applicable reinsurance year benefits are denied.

Subparagraph 602 F has been amended to clarify when to update ineligibility for affiliated persons.

Subparagraphs 606 A and 608 C have been updated to clarify ineligibility determinations.

Subparagraphs 616 D, 621 F, I, and J have been amended to clarify GPR assessments.

Subparagraph 702 D has been amended to clarify for what years FSA-493 is needed.

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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: <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • 33.33 percent • 50 acres 	consider the area: <ul style="list-style-type: none"> • previously determined HEL as HEL • not previously determined HEL as NHEL. <p>Note: See 8-CM for recording the determination within the Service Center GIS.</p>

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 incorrectly delineated as the result of a County Office error when NRCS made the initial HEL determination		make HEL determination by using the criteria for highly erodible fields in subparagraph 200 B.
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, if the remaining land is used to produce an agricultural commodity.--*

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: <ul style="list-style-type: none"> • 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. Take action according to subparagraph F.--*

* * *

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

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

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

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

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

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

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

G Field Access Authority Is Needed

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

* * *

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

C Conservation Compliance Eligibility for New to Conservation Compliance HELC Exemption

Individuals and entities (and affiliated persons) that are solely seeking the benefit of the federal crop insurance subsidy benefit, and certify to compliance based on this exemption, shall be set to “certified” in subsidiary for AD-1026 to communicate their eligibility to RMA. However, the applicable HEL tract that does not have the conservation plan developed and implemented shall be set to “HEL: conservation system is not being applied” until their conservation plan has been developed and implemented. This will ensure their ineligibility of FSA and NRCS programs subject to conservation compliance until the plan has been *--implemented (applicable affiliates, will have their farm/tract eligibility, in the conservation compliance section of the web based subsidiary set to “past violation”).--*

If after the 5-reinsurance-year period the individual or entity has not developed or implemented a conservation plan they shall be changed to “not filed” for AD-1026 in subsidiary. NRCS CPA-027, as discussed in paragraph 401, will be used by NRCS when plans have been developed and implemented under this exemption.

D Previously in Compliance With HELC

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

E Conservation Compliance Eligibility for Previously in Compliance With HELC

Individuals and entities previously in compliance with HELC should have been identified as “not filed” for AD-1026 in subsidiary. Those now filing for the reinsured crop insurance premium subsidy benefit 2 year HELC exemption shall be changed to “certified” to communicate their eligibility to RMA. Their tract data will remain flagged with “HEL: *--conservation system is not being applied” (applicable affiliates, will have their farm/tract eligibility, in the conservation compliance section of the web based subsidiary set to “past violation”).--*

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

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

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

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

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

Example: Jane Farmer was found out of compliance for HELC provisions in 2012. Jane Farmer did not want to invest in structural practices or no-till equipment to meet the erosion reduction as required by the NRCS Conservation Plan. Jane Farmer decided to quit participating in FSA programs and had AD-1026 changed to “not filed”. Jane Farmer buys federally reinsured crop insurance administered through RMA and wants to restore eligibility for the reinsured crop insurance subsidy. Jane Farmer has a neighbor who is going to retire within the next 2 years, and she has the opportunity to buy his no-till equipment at a bargain price. Jane Farmer certifies to compliance on AD-1026 in May 2016 based on an exemption referred to in AD-1026 Appendix, item 6. Jane Farmer will be changed to “certified” for AD-1026 in the web-based subsidiary eligibility to communicate her eligibility for the reinsured crop insurance subsidy for reinsurance year 2017 (July 1, 2016). Her tract data will remain set at “HEL: conservation system is not being applied” to communicate ineligibility for FSA and NRCS programs. The County Office will also prepare and issue FSA-569 for crop year 2016. Jane Farmer buys her neighbor’s no-till equipment in the fall of 2017 and NRCS returns FSA-569 in May 2018 communicating “The field meets the requirements of the HELC provisions”. Jane Farmer’s tract data is updated to “HEL: conservation system is being actively applied”, restoring her eligibility to participate in any FSA and NRCS programs.--*

208-209 (Reserved)

Subsection 2 Third Party Exemption

218 Conversion by a Third Party

A Definition of Third Party Exemption

*--A wetland conversion may be considered for a “third party exemption” if it is determined the wetland was converted:

- because of actions of a person (including an entity) unrelated to, and outside the control of, the owner or tenant of the land at the time of the conversion
- without approval of the landowner or tenant at the time of the conversion.

Approval of third party exemption:

- results in a “third party” (TP) wetland determination for the converted wetland
- allows the planting of an agricultural commodity on the area covered by the designation.

Example 1: A pothole straddles a property line. The adjoining neighbor runs a ditch on their property that drains the entire pothole resulting in a determination of CW + year on wetland acreage of both properties. The other neighbor had no knowledge/consultation/collusion with the neighbor that did the ditching. He applies for and is granted “third party exemption” and his wetland acreage is determined “TP” (the wetland acreage on the neighbor’s property remains CW + year).

Example 2: Joe Farmer purchases a farm in 2017 from Jane Grower. While completing a wetland determination NRCS determines there is 1.0 acres of CW + 2015. The CW + 2015 violation is attributed to Jane Grower, a predecessor in interest. The wetland is not eligible for a third party exemption because it was converted by the owner at the time of conversion. The wetland acreage remains CW + 2015. Joe Farmer is in violation any year he plants the acreage determined CW + 2015 to an agricultural commodity.

Exception: See subparagraph B for an exception to third party exemption determinations, for drainage districts or similar entities.

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

* * *

218 Conversion by a Third Party (Continued)

***--B Conversion by Drainage Districts**

The following table shows the effect of wetland conversion by drainage districts or similar entities and their ineligibility to be considered a “third party” for a resulting third party exemption and wetland determination of “TP”.--*

* * *

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	<ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> • CW if converted before November 28, 1990 • CWXX if converted on or after November 28, 1990.

--C Eligibility Requirements for Land Converted by Drainage Districts--

Use the following tables 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 for FSA and NRCS benefits 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: <ul style="list-style-type: none"> • they plant or produce an agricultural commodity on CWXX • they harvest a forage crop by mechanical means on CWXX. <p>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.</p>

218 Conversion by a Third Party (Continued)

--C Eligibility Requirements for Land Converted by Drainage Districts (Continued)--

<p>IF the conversion of the wetland by the drainage district or similar entity was completed...</p>	<p>THEN producers will be determined ineligible for RMA benefits in any year that...</p>
<p>after February 7, 2014</p>	<p>either of the following occurs:</p> <ul style="list-style-type: none"> • they plant or produce an agricultural commodity on CW14 or CW>14 • they harvest a forage crop by mechanical means on CW14 or CW>14. <p>Note: If CW14 date is proven by the producer to have taken place January 1, 2014, through February 7, 2014, than CW14 is not applicable in either bullet.</p>

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

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

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

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

B Conservation Compliance Eligibility for Prior to CW+14 Wetland Violations

Individuals and entities that have wetland violations through February 7, 2014, and certify to conservation compliance based on provisions in AD-1026 Appendix, item 6 shall be set to “certified” in subsidiary to communicate their eligibility to RMA. However, their tract record must remain set to the appropriate wetland violation to communicate their ineligibility to FSA and NRCS.

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

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

232 Additional Time Before Ineligibility

A One Reinsurance Year Exemption

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

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

B Two Reinsurance Year Exemption

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

C New Insurance Policy Exemption

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

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

The exemption:

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

D Conservation Compliance Eligibility

Those certifying to conservation compliance for the reinsured crop insurance premium subsidy benefit for either exemption in subparagraph A or B shall be changed to "certified" to communicate their eligibility to RMA. Their tract data shall be flagged with the appropriate wetland violation ("wetland converted after November 28, 1990") to communicate ineligibility for FSA and NRCS programs.

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

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

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

If the restoration or mitigation is not completed within the required 1- or 2-reinsurance-year time period data NRCS will communicate this with FSA-569. Wetland tract data will not be updated and the individual or entity certifying to compliance for these exemptions will be changed to “not filed” after the exhaustion of appeal rights to communicate ineligibility to RMA.

If the producer is not associated with the tract (affiliate) to which the violation requesting exemption is applicable to, they shall have their farm/tract eligibility, in the conservation compliance section of the web-based subsidiary, set to “past violation” with year, State, and county where the violation occurred.

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

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

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

--233 Wetland Determinations Applicable to FCIC Only (Continued)--**B Timely Assistance**

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

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

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

C Conservation Compliance Eligibility

Individuals and entities that are determined to have wetlands CWIL or CWTA and certify to conservation compliance, for FCIC, shall have their web-based subsidiary set to “certified” to communicate eligibility to RMA. However the appropriate wetland violations tract data will be set to “wetland converted after November 28, 1990” to communicate their ineligibility for FSA and NRCS.

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

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

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

Equitable Contribution:

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

B Failure to Certify

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

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

301 AD-1026 Filing Requirements (Continued)**C When to File AD-1026**

There is no specific deadline for filing AD-1026 for FSA and NRCS benefits 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 D, item 10A is signed.

The federal crop insurance subsidy administered by RMA has a filing deadline of June 1, before the beginning of the reinsurance year (July 1), for which premium subsidy is being *--requested (see paragraph 340). However, this is also a continuous certification that--* only requires updates according to paragraph 305.

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. 2).

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 IRS ID Number--

* * *

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.

--However, if the individual beneficiary is different from the grantor and is receiving premium subsidy on a Federal Crop Insurance policy, they are required to file AD-1026 because they are receiving a benefit subject to conservation compliance. See subparagraph 336 A.--

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

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 or 10-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 an e-mailed PDF copy from the affiliated persons’ recording County Offices.

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

--F Avoidance of Affiliate Provisions*7 CFR Part 12 § 12.8 (a)**

Person means an individual, partnership, association, corporation, cooperative, estate, trust, joint venture, joint or other legal entity and, whenever applicable, a State, or any agency thereof, and such person’s affiliates as provided in § 12.8.

7 CFR Part 12 § 12.8 (e)

Limitations on affiliation shall not apply as needed to correct for any action that would otherwise tend to defeat the purposes of this part.

If a violation occurs and action is taken that is determined to circumvent ineligibility caused by that violation, the limitations on affiliated persons can be expanded as determined necessary to compensate for the circumvention.

Example: Joe Farmer and Tyler Rancher are business partners and have a business entity and each has their own individual farming interest.

Business Venture 1 – TJ Farms JV with EIN 50/50 members Joe Farmer and Tyler Rancher. Joe and Tyler are first level members with farming interests and are required to file individual AD-1026.

TJ Farms JV becomes in violation with CW + 2015 and Joe and Tyler form another business venture and transfer all the land of TJ Farms JV into it, except the one tract in violation with CW + 2015.

Business Venture 2- TJ Ranches Inc. (a different EIN than business venture 1) 50/50 members Joe Farmer and Tyler Rancher (Joe and Tyler are affiliates required to file AD-1026 because they are both first level members with more than 20 percent interest with their individual farming interest).

TJ Farms JV is still determined to have CW + 2015 and therefore is in violation of WC provisions. Joe and Tyler are each in “affiliate violation” (being first level members and affiliates to TJ Farms JV). According to affiliate provisions TJ Ranches Inc. is not determined in affiliate violation because affiliation for conservation compliance is only carried to the first level members. However, COC determined TJ Ranches Inc. was being used to circumvent their ineligibility. The limitation on affiliation will not apply because it defeats the purpose of affiliated person provisions. Therefore TJ Ranches Inc. is also determined to be in “affiliate violation”.--*

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. 2) 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.

***--Section 2.5 Additional AD-1026 Filing Requirements Unique
to Federal Crop Insurance Producers**

335 AD-1026, Items 5 B and 8 A

A AD-1026, Item 5 B

The item 5 B checkbox of AD-1026 (10-30-14):

- may be checked by producers who only participate in crop insurance and meet the criteria indicated for that checkbox
- is intended to allow the producers to bypass the HELC/WC compliance questions in Part B, and proceed to Part D, if the HELC/WC compliance questions have **no** applicability to their situation.

B Recording FCIC Producers as “Certified” for AD-1026

Producers who file AD-1026 and check the item 5 B checkbox must be entered into Business Partner according to 6-CP, subparagraph 641 D, with at least 1 associated county, to create a subsidiary/eligibility record of “Certified” for AD-1026.

C AD-1026, Item 8 A

The item 8 A checkbox was added to identify those FCIC producers who complete the entire AD-1026 (do **not** check the item 5 B checkbox) and filing AD-1026 represents the first time the producer, including any affiliated person, has been subject to HELC and WC provisions. The producer is making this certification. However, it may have been a number of years since the producer was subject to conservation compliance, such as prior crop insurance participation when it was previously subject to conservation compliance, disaster programs, etc. Any past program participation, regardless if a payment was received, subject to conservation compliance means the producer was previously subject to conservation compliance. If the producer does **not** know and there is evidence of past program participation or prior AD-1026 in possession of FSA or NRCS, they should **not** check the item 8 A checkbox.--*

336 Entity Differences Between RMA and FSA

A RMA Insurance Exemptions

RMA has exemptions that allow a person to insure another person's interest in the crop. Because the reinsured crop insurance subsidy is the benefit subject to conservation compliance, these persons who meet these exemptions shall be allowed to complete AD-1026, if FSA does **not** have AD-1026 on file for that person. They are now receiving a benefit (reinsured crop insurance subsidy) subject to conservation compliance.

The RMA exemptions that will likely fall under these situations are as follows.

- Husband/Wife - Either spouse may insure all interest in the crop under 1 policy. A husband and wife have an interest in each other; therefore, a spouse can insure all of the land interests of the other spouse, unless proven to be legally separated.
- Landlord/Tenant - Either the landlord or tenant may insure both parties' share with the permission of the other party.
- Revocable Trust - An individual beneficiary's or grantor's TIN is used to insure the entire interest of the revocable trust.
- Joint Venture - If EIN has been established for a joint venture, it must be used and reported to RMA. However, if the joint venture does **not** have EIN, 1 of the member's TIN is used to insure the entire interest of the joint venture with all members agreeing ~~and signing the policy. See paragraph 337 for information on husband/wife informal joint ventures insuring with sole proprietorship EIN's.~~

B RMA Exemptions Do Not Apply

An individual/entity cannot claim to have an interest in land/crop to FSA and claim to have the same interest in the same land/crop as a different individual/entity to RMA unless 1 of the ~~exemptions in subparagraph A is met. If it is discovered a producer represented~~ themselves to FSA as an individual/entity type different from the way they have represented themselves to RMA for the same land/crop, consult 4-RM. If what the producer told FSA is correct, the producer needs to correct records with their AIP. If FSA records are incorrect, the producer must correct those records and file AD-1026 for the correct person/entity.

336 Entity Differences Between RMA and FSA (Continued)

B RMA Exemptions Do Not Apply (Continued)

Example: Brothers A and B do business with FSA as individuals with current and past program participation as 100 percent share to each individual on their acreage reports. A and B Corporation received a letter from RMA indicating they did **not** have AD-1026 on file. That is because Brothers A and B have filed AD-1026 with their individual SSN’s for current and past FSA participation. However, they have been obtaining crop insurance as entity A and B Corporation claiming 100 percent share on the same land/crop using the corporation’s EIN. FSA did **not** have any knowledge of A and B Corporation. This is conflicting information about which “person”, the individuals (Brothers A and B) or the A and B Corporation, actually has the interest in the land/crop. Brothers A and B must correct their records with their AIP or FSA and file AD-1026 accordingly.

337 Sole Proprietorship

--A Explanation of Sole Proprietorship (Insuring with EIN)--

Some producers have EIN for a sole proprietorship because of hired labor and paying into Social Security taxes for that hired labor. The sole proprietorship may have the same name as the individual or a different name. RMA allows producers in this situation to insure their crops with either EIN or SSN. If the same producer conducts business with FSA as an individual using SSN and conducts business with RMA as a sole proprietorship using EIN, there is a mismatch.

***--Note:** Informal joint ventures that involve husband/wife only, that have sole proprietorship EIN’s, are insured as such.--*

B Exemption for Sole Proprietorships

If it can be verified through the Comprehensive Information Management System that an ***--individual, doing business with FSA as an individual or informal husband/wife joint venture with no tax ID, has filed AD-1026 as an individual using SSN, there is no need for the--*** producer to file another AD-1026 in the name of the sole proprietorship using EIN. The individual and sole proprietorship are one and the same and therefore, their conservation compliance is one and the same. Producers in this situation are not required to correct records with either FSA or RMA.

Verification for producers found to have sole proprietorship/individual mismatches between FSA and RMA can be obtained through the Comprehensive Information Management System as follows.

Step	Action
1	On the FSA Intranet, CLICK “FSA Applications”, “A-C”, and “Comprehensive Information Management System (CIMS)”.
2	Under “Management Reports”, CLICK “Producer/Crop Acreage”.
3	Search for the producer’s name by physical location State and county.
4	If the producer comes up with EIN identified as “Individual as Company” with RMA, they are verified.

337 Sole Proprietorship (Continued)**C Filing and Recording AD-1026 for Sole Proprietorships**

To communicate the conservation compliance certification to RMA for the sole proprietorship, the entity must be entered as “Individual Operating as a Small Business” into Business Partner using EIN of the sole proprietorship. The member of the sole
--proprietorship is the individual or the husband in an informed husband/wife joint venture.--

If there is an AD-1026 on file for the individual comprising the sole proprietorship, conservation compliance can be validated as “Certified” for the sole proprietorship. The
--applicable affiliate box on the individual’s AD-1026 (or if applicable each the husband and wife’s AD-1026) shall be notated with “Certification also applies to [Name] Sole--
Proprietorship” with the last 4 digits of EIN applicable to that sole proprietorship.

If there are no FSA or NRCS benefits received by the sole proprietorship’s EIN, no further action is required. If FSA or NRCS benefits are received using EIN, all other applicable eligibility determinations apply to EIN as they do to the individual.

340 Timely Filed for Federal Crop Insurance Benefits**A AD-1026 Filing Date of June 1**

A person or legal entity must have AD-1026 on file with FSA by June 1, before the beginning of the reinsurance year (July 1). The failure of a person or legal entity to file AD-1026 with FSA by June 1, will result in ineligibility of the person or legal entity for premium subsidy for the entirety of that reinsurance year.

***--Example:** A producer purchases federal crop insurance for crop year 2016. Reinsurance year 2016 began July 1, 2015. The AD-1026 needed to be filed by June 1, 2015.--*

A person or legal entity will have until the first applicable crop insurance sales closing date to provide information necessary for the filing of AD-1026 if the person or legal entity:

- is unable to file AD-1026 by June 1, because of circumstances beyond the person's or legal entity's control, as determined by FSA.
- files AD-1026 by June 1, in good faith and FSA subsequently determines that additional information is needed and where the person or legal entity is unable to respond and comply with additional information by July 1, because of circumstances beyond the person's or legal entity's control, as determined by FSA.

B Relief Considerations for Timely Filed if AD-1026 Is Filed After June 1

AD-1026 with signature of a person or legal entity in AD-1026, item 10, and delivered by or postmarked by June 1, will be considered filed by June 1.

A person or legal entity that files AD-1026 after June 1 must submit with the late-filed AD-1026, a written explanation for the late filing.

Relief can be granted for a late-filed AD-1026 that was filed late for reasons beyond the person's or legal entity's control if an adequate explanation for the late filing, as determined by DAFP, is provided and if AD-1026 is filed no later than the first sales closing date for the insured in the reinsurance year. If the late-filed AD-1026 is filed after June 1, FSA will make no relief determination to the person's or legal entity's sales closing date. RMA will verify the eligibility for subsidy based on the date of filing AD-1026 and if relief is applicable.

The documentation provided with the late-filed AD-1026 must discuss and support the reasons for the person's or legal entity's late filing of AD-1026. Only cases with reasonable extenuating circumstances shall be submitted for consideration of relief.

340 Timely Filed for Federal Crop Insurance Benefits (Continued)

B Relief Considerations for Timely Filed if AD-1026 Is Filed After June 1 (Continued)

Example: A person may have been unable to file AD-1026 because of an unforeseen, unplanned, and unavoidable hospital stay. Other circumstances include, but are not limited to, a U.S. serviceman or servicewoman obligation that helped delay timely filing of AD-1026, death of family member, adverse weather, or other circumstance that made it difficult for the person or legal entity to timely file AD-1026.

All relief requests shall be submitted to DAFP by the applicable State Office electronically, according to 7-CP, paragraph 4. Additional information in 7-CP, subparagraph 4 C specific to these relief cases is as follows:

- responding division is “PECD”
- type of action requested is “CC” for conservation compliance
- FSA-321 (not applicable)
- COC or STC concurrence or approval is not applicable.

C Timely Filed but Additional Information Is Needed

A person or legal entity that timely files AD-1026, but with missing, incomplete, or inaccurate information, preventing the loading of the certification, will be granted additional time up to the first applicable sales closing date for any insured crop of the person or legal entity in the reinsurance year to provide required information to update their AD-1026. Relief is **not** required for these situations. County Offices will work with these federal crop insurance clients to get required information.

Situations that do **not** require relief but only additional information filed by the deadline of the first sales closing date for any insured crop under these circumstances, include the following:

- inadequate documentation of “affiliated persons” in AD-1026, item 4

Note: FSA has no responsibility for knowing affiliated persons of persons or legal entities. Inadequate documentation can include requests for corrections because of listing SBI’s as affiliates or requests to add affiliates. If there are **no** affiliated persons, AD-1026, item 4 should be identified with “None”.

- filing AD-1026 of “affiliated persons” listed in AD-1026, item 4--*

--340 Timely Filed for Federal Crop Insurance Benefits (Continued)*C Timely Filed But Additional Information Is Needed (Continued)**

- providing full address and TIN needed for the web-based subsidiary eligibility record
- persons and legal entities that filed AD-1026, but under a different TIN (SSN or EIN) than used by RMA for federally reinsured crop insurance, and qualify for entity exemptions according to paragraphs 336 and 337.

Example: A married couple received all FSA benefits under Spouse A and had AD-1026 on file. However, Spouse B insured the crop with RMA. Spouse B did **not** file because Spouse A has already filed AD-1026. As it stands, Spouse B would **not** qualify for the reinsured crop insurance premium subsidy because Spouse B did **not** have AD-1026 on file. If Spouse B files a late-filed AD-1026 after June 1, 2015, and by the first sales closing date for any of Spouse B's insured crops in the reinsurance year, FSA and RMA shall consider this as timely filed (June 1, 2015, certification date).

- providing AD-1026, but failing to check appropriate boxes in AD-1026, item 5, 6, or 7
- correcting and updating records with FSA or RMA for mismatched entities.

Note: BIA allotments are exempt from correcting mismatched entities. RMA underwriters are looking into some long-term solutions to the BIA issues that go beyond conservation compliance.

- *--a timely filed individual that becomes an entity as sole member or members are the timely filed individual and their spouse only.

Example: Roger Rancher is timely filed to the applicable reinsurance year. He informs FSA, after the RMA filing date, that he has formed Rancher's Ranch Inc. consisting solely of him and his spouse as members and filed a new AD-1026. Rancher's Ranch Inc. is considered timely filed as the filing of AD-1026 was an administrative update for name and TIN change only to the timely filed individual Roger Rancher.

- an estate formed for a deceased individual that was timely filed (an estate is a stand in for the deceased person, if the deceased was timely filed, the estate created for them is timely filed).--*

D Certifying AD-1026 for Timely Filed With Inadequate Information

Those persons and entities that become "Certified" for AD-1026 after affiliate certification, and all other situations outlined in subparagraph 340 C, will be entered into the subsidiary/ eligibility with the applicable certification date when originally filed. Individuals and entities in these situations may need to be passed to the National Office to ensure RMA records their certification timely.

Example: Producer A filed AD-1026 on May 1, 2015, and listed an affiliate that filed on June 4, 2015. The certification date is May 1, 2015.

The certification date shall be entered into web-based subsidiary eligibility as original filing date or **June 1. It is important to enter the date on or before June 1 to communicate eligibility to RMA.**

--341 RMA Exemptions for Certification to Conservation Compliance*A Purpose of RMA Exemptions**

RMA has developed certifications that will exempt persons and entities from conservation compliance in any given reinsurance year. These certifications will be passed from crop insurance agents to AIP's that will work with RMA on granting exemptions. The exemptions in this paragraph are provided to FSA for informational purposes as FSA records may need review for verification of these certifications. FSA employees also need to be familiar with these exemptions to refer RMA producers in these situations to their agents.

B New Producer Exemption

"By signing below, I certify that:

(1) I (name of individual or name of entity), hereafter referred to as the policyholder, began farming for the first time on (month and day), 20__;

(2) The policyholder, if an individual, had no interest, as an individual or entity, in any land or commodity subject to the Highly Erodible Land Conservation (HELC) or Wetland Conservation (WC) provisions prior to the date contained in paragraph (1);

(3) The policyholder, if an entity, has no substantial beneficial interest, as defined in section 1 of the Common Crop Insurance Policy Basic Provisions (7 C.F.R. § 457.8), that farmed prior to the date contained in paragraph (1);

(4) The policyholder had no substantial beneficial interest, as defined in 7 CFR Part 400, in any person who was subject to the HELC or WC provisions prior to the date contained in paragraph (1);

(5) The policyholder understands the Risk Management Agency and the Farm Service Agency may review historical records to determine prior participation in any USDA program or prior interest in any land, crop or person that was subject to the HELC or WC provisions;

*(6) The policyholder understands that if this certification is determined to be false, the policyholder will be subject to sanctions under the policy, including but not limited to voidance of the policy, and the policyholder may be subject to criminal or civil penalties (18 U.S.C. §1006 and §1014; 7 U.S.C. §1506; 31 U.S.C. §3729, §3730 and any other applicable Federal statutes). "--**

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 6, 7A, 7B, or 7C--*
- 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 7C, 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 B, item 7 instructs FSA to refer a copy of AD-1026 when Part B, item 6, 7A, 7B, or 7C 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 7C 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 7C.

Since NRCS-CPA-026e will **not** be provided to FSA in these cases, the FSA County Office ***--will check “no” under “Referred to NRCS” in the producer’s subsidiary file according--*** to 3-PL (Rev. 2), subparagraph 29 C.

D Exemption for Referral to NRCS on Interseeded Permanent Pasture

Many acres of permanent pasture are annually interseeded in the early fall with small grains to provide winter grazing when grass goes dormant. According to the National Food Security Act Manual, interseeding a small grain for grazing does not require a HEL determination because of an exemption. The exemption is listed in the National Food Security Act Manual, Fifth Edition, Part 520.14, C. Therefore, no HEL determination is required, nor is an AD-1026 referral to NRCS required for these situations.

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.

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 or 10-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 or 10-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 or 10-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 AW/FW, AW/W, CC, CMW, CW, CW + year, CWIL, CWNA, CWTA, CWTE, Easement, FW, FWP, MIW, MW, MWM, TP, W, WX, GFW, GFW + year, RPW, RSW, or RVW + year on the tract	tract does not contain a wetland.
wetland determinations have not been completed for the entire tract and there are no AW/FW, AW/W, CC, CMW, CW, CW + year, CWIL, CWNA, CWTA, CWTE, Easement, FW, FWP, MIW, MW, MWM, TP, W, WX, GFW, GFW + year, RPW, RSW, or RVW + year 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 AW/FW, AW/W, CC, CMW, CW, CW + year, CWIL, CWNA, CWTA, CWTE, Easement, FW, FWP, MIW, MW, MWM, TP, W, WX, GFW, GFW + year, RPW, RSW, or RVW + year	tract contains a wetland or farmed wetland.

Wetland determinations resulting in a “tract contains a wetland or farmed wetland” designation in the tract file, are those that may have an impact on producer eligibility if manipulated and/or planted.--*

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)

502 Completing FSA-569 (Continued)

B Completing FSA-569, Part A (Continued)

Item	Instruction	Responsibility
9	<p>Enter the names, addresses, and last 4 digits of IRS ID numbers *--for the crop year entered in item 7 of the:--*</p> <ul style="list-style-type: none"> • operator and tenants or sharecroppers recorded for the farm number entered in item 6 • owners recorded for the tract number entered in item 8. <p>Notes: 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.</p> <p>*--For FSA-569's returned by NRCS with "The area identified is a wetland that was converted after 11/28/90" in Part C, the year of the conversion must be checked to ensure owners and operators of record in Part 9 match the year of conversion. If they do not match, issue another FSA-569 with owners and operators of record applicable to the conversion year.--*</p>	FSA
10	<p>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.</p> <p>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.</p>	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: <ul style="list-style-type: none"> • 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 <p>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.</p>	2.
converting a wetland after November 28, 1990 <p>Note: If no producer on the farm filed AD-1026 for the crop year, clearly write “NONPARTICIPATING PRODUCER” at the top of FSA-569.</p>	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.

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

***--Note:** RMA ineligibility applies the immediate next reinsurance year (determined the first June 1 after denied access).

Example 1: FSA-569 created for crop year 2017 on March 30, 2017, returned no access in April 2017. The first June 1 is June 1, 2017, and RMA ineligibility would begin reinsurance year 2018.

Example 2: FSA-569 created for crop year 2017 on July 30, 2017, returned as no access in September 2017. The first June 1 is June 1, 2018, and RMA ineligibility would begin reinsurance year 2019.

- 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 for year in item 7 of the FSA-569 and each subsequent year
- change the certification option for AD-1026 in subsidiary eligibility to “Not Filed” according to 3-PL (Rev. 2) for all affected producers for each applicable year(s).--*

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.

601 Effective Year to Deny Program Benefits (Continued)

***--B Effective Year for Which Benefits Shall Be Denied**

FSA gets the FSA-569 back from NRCS when the NRCS technical determination is “final”. At this time FSA sets the appropriate violation in the tract file to show the producer is non-compliant and changes the AD-1026 to “not filed”. However, at that point it is not administratively final because the producer has 30 calendar days to appeal the NRCS technical determination to COC or NAD.

AD-1026 Appendix, item 6 states: “A producer is ineligible for any premium subsidy paid by FCIC on all policies and plans of insurance of the reinsurance year * * * following the reinsurance year of the final determination of HELC or WC provisions, **including all administrative appeals**, unless exemptions apply.” (see paragraph 207 for HELC exemptions and paragraphs 231-233 for WC exemptions applicable to FCIC benefits *--only). Reinsurance year ineligibility is determined on June 1 prior to the beginning of the reinsurance year (July 1).--*

To communicate the appropriate ineligibility (exhaustion of administrative appeals), to RMA, AD-1026 should not be changed to “not filed” until the appeal rights are exhausted. However the appropriate tract ineligibility files will continue to communicate the appropriate violation after the NRCS technical determination is final, as it has in the past.

Producers are ineligible for the reinsured crop insurance subsidy for the reinsurance year following a violation in which administrative appeals are exhausted for HELC even if they come back into compliance before the start of that reinsurance year.

Example: Farmer Inc. was determined to be in violation of HELC during NRCS annual status reviews in May 2016. Their administrative appeals were not exhausted until July 15, 2016. Farmer Inc.’s tract file was set to “HEL: conservation system is not being applied” in June 2016 when the FSA-569 was returned reporting the violation. However Farmer Inc.’s AD-1026 remained “certified” until July 15, 2016, to communicate eligibility for reinsurance year 2017. Farmer Inc. was not approved good faith or any other exemptions. Because they requested reinstatement, NRCS checked them in May 2017 and determined they were now in compliance. Farmer Inc. has eligibility flags for AD-1026 and tract data reinstating their eligibility for FSA and NRCS benefits. However, Farmer Inc. will be ineligible for the reinsured crop insurance subsidy in reinsurance year *--2018 (July 1, 2017) because their appeals exhausted date fell between June 2, 2016 and June 1, 2017.--*

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.

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

F Updating Eligibility Record for Affiliated Persons

If a producer is determined to be ineligible for program benefits because he or she is an affiliated person of a producer who has violated the HELC/WC program provisions, update ~~the web based subsidiary to "past violation"~~ with year, State, and county where the violation occurred. Once appeal rights are exhausted according to subparagraph 601 B, the AD-1026 must be changed to "not filed".~~*~~

603 Landlord Exemption – HELC or WC Planting Violation

A Landlord Exemption Rule

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

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

Following are landlord exemption provisions for Federal Crop Insurance participants.

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

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

B When Landlord Exemption Applies

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

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

C Updating Eligibility Record

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

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.

***--Note:** Update the eligibility file according 3-PL (Rev. 2) and farm records according to 3-CM or 10-CM.--*

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.

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.

* * *

609 Reinstatement of Eligibility Following HELC and WC Violations**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 or WC violation.

B Requirements for Eligibility Reinstatement

For reinstatement of eligibility in a year following a HELC or WC 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 or WC
- 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.

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. (See subparagraph 631 A for the maximum time period for FCIC provisions.)

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
HELCC violation on land that was converted from native vegetation to crop production after December 23, 1985.	*--Minimum - \$1,200--* Maximum - \$12,000
HELCC 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 HELCC violation.

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 or Wind Erosion:** The GPR amount for sheet and rill or wind--* 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 or wind--* 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 from a minimum of \$1200 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

Note: This includes MAL’s, NRCS and RMA benefits. Farm loans are only included if the loan contributed to the HELC violation.

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, items 18-25--*
- 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.

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

J Assessing GPR’s

As discussed in subparagraph H all applicable benefits are applicable to GPR to the crop year of the violation, at the time GPR is assessed.

Step	IF...	THEN...
1	the producer received FSA benefits and those benefits to the applicable year fully meet the GPR	issue demand letter and collect repayment from the producer for GPR amount or use applicable program code to offset any payments not yet made. No further action is required.
2	the producer did not receive FSA benefits or those benefits to the applicable year do not fully satisfy the GPR	contact NRCS to determine NRCS benefits applicable to subparagraph H.
3	NRCS benefits (solely or in combination with FSA benefits) fully meet the GPR	issue demand letter and collect repayment for the amount of the GPR from the producer. No further action is required.
4	FSA and NRCS benefits do not fully satisfy GPR, or there are not any FSA or NRCS benefits to the applicable crop year	research the producer in CIMS to determine if the producer is a Federal Crop Insurance participant.
5	the producer is a Federal Crop Insurance participant	*--determine the amount of federally reinsured crop insurance subsidies for the applicable reinsurance year by searching for the producer in CIM’s (conservation compliance).--*
6	the federally reinsured crop insurance subsidy will fully satisfy the GPR (solely or in combination of FSA and/or NRCS benefits)	issue demand letter and collect repayment for the amount of the GPR from the producer. No further action is required.
7	the producer is not a Federal Crop Insurance participant, or the federally reinsured crop insurance subsidy (solely or in combination with FSA and NRCS benefits) do not fully satisfy the GPR	at the time ARC/PLC payments are made determine if producer will receive one.
8	the producer will be issued an ARC/PLC payment	use the applicable program code to offset that payment up to the amount not to exceed the full amount of satisfying the GPR.
9	there will not be any ARC/PLC payments, or the ARC/PLC payments do not fully satisfy the GPR	obligation has been met according to the last bullet of subparagraph H. Monitor any future disaster payments made to the applicable crop year.

Use applicable FI handbooks to assess GPR’s with the nonautomated program code of *--XXGPR (including payments received for NRCS and RMA benefits if applicable). Amount of payment cannot be determined until GPR has been satisfied or all payments subject to conservation compliance have been determined to the violation year. Payment may be received by check or can be offset by FSA payments. The offset does not have to come from payments for the year of the violation.--*

Note: Substitute “XX” with the applicable year.

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, for each year of violation determined (e.g. CW + 2015 determined in 2017 has 3 years of violations 2015, 2016, and 2017).--*

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				1. Check if Farm Payment and Exemption Data on Prior Report YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>				
HIGHLY ERODIBLE LAND CONSERVATION/WETLAND CONSERVATION VIOLATION DATA (WORKSHEET)										
PART A - FSA-569 DATA (Copy data from corresponding FSA-569)										
2. Control Number 8	3. Crop Year 2011	4. FSA Administrative County: A. State Name State Code 00 B. County Name County Code 000		5. NRCS FIPS State & County Code (Enter if different from Item 4)	6. Farm Number 0000	7. Tract Number 0000	8. Acres 13.0	9. Type of Violation (Check one): A. HELC <input checked="" type="checkbox"/> B. Planting on CW <input type="checkbox"/> C. Wetland Conversion after 11/28/90 <input type="checkbox"/>		
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 Any Producer	11. Tax ID Number (Last 4 Digits) XXXX	12. ID Type: S <input checked="" type="checkbox"/> E <input type="checkbox"/>	13. AD-1026 Filed? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	14. GPR Approved \$ 1000.00 <small>Note: GPR amount shall be entered from AD-1068 only for County listed in Part A. Other counties leave blank.</small>	15. State Name & Code State 00	16. County Name & Code 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)	PART D - REASON CODES	
DCP		000	200.0	00	3000.00	2000.00	3	C 2-18-12	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:								PART E - EXEMPTION APPROVAL LEVEL		
A. Program		B. Requested Benefits (\$)		C. Reinstated Benefits (\$)	D. Reason Code (See Part D)	E. Exemption Approval Level (Code & Date) (See Part E)		Code	Description	
								C	County	
								S	State	
								N	National	
								J	Judicial Court	
3. Description of Code 7 entries in Item 1G or Item 2D:										
4A. Preparer's Signature Any Director		4B. Title of Preparer CED		4C. Name and Location of Office Any County FSA Office Anytown State				4D. Date Signed 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.

Section 2 National HELC and WC Violation Database

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	*--CLICK “Compliance - HELC/Wetlands Program”.--*
4	<p>On FSA-493 Main Login Screen:</p> <ul style="list-style-type: none"> • select 1 of the following from the “User Type” drop-down box <ul style="list-style-type: none"> • “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 <p>Notes: All USDA employees with access to the FSA Intranet may log in as a “Guest User” to view violation data and generate reports.</p> <p>Designated State and headquarter users and administrators may enter or correct FSA-493 data for violation data with the required password.</p> <ul style="list-style-type: none"> • 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	<p>On FSA-493 Login Screen, select the desired State from the drop-down box and CLICK “Continue”. Enter eAuthentication user ID and password.</p> <p>Notes: Guest users may view violation data only.</p> <p>State users may enter or correct FSA-493 data.</p> 

Reports, Forms, Abbreviations, and Delegations of Authority

Reports

This table lists the required reports in this handbook.

Report Control Number	Title	Reporting Period	Submission Date	Negative Report	Reference
PA-124R (AD-1026B)	Highly Erodible Land Exemption Request	Prior Crop Year	January 10	Yes	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
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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
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CCC-902	Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years		339
FSA-156EZ	Abbreviated 156 Farm Record and Tract Listing		439
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FSA-569	NRCS Report of HELC and WC Compliance	502	Text
FSA-577	Report of Supervisory Check		17
NRCS-CPA-026	Highly Erodible Land and Wetland Conservation Determination		400, 402, 422
NRCS-CPA-026e	Highly Erodible Land and Wetland Conservation Determination	400	Text
NRCS-CPA-027	Certification of Highly Erodible Land Conservation Plan(s) and System(s)		400-402

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

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

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

Delegations of Authority

None