

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency  
Washington, DC 20250

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

**Amendment 2**

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



**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraph 204 B has been amended to include name and address of sample producer.

Subparagraph 306 C, item 11 has been amended to add item 9, **only** if “**Yes**” was answered.

Subparagraph 502 A has been amended to update the example of FSA-569.

Subparagraph 602 A has been amended to clarify the table to read “tenant” instead of “producer”, and to correctly reference paragraph 604.

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
	2-11, 2-12 3-13 through 3-60 5-5, 5-6 6-5 through 6-8	



204 Relief for Undue Economic Hardship (Continued)

B Example of AD-1026D

The following is an example of AD-1026D.

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This form is available electronically.		Form Approved – OMB No. 0560-0185	
AD-1026D (02-06-12 )		U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency	
<b>RELIEF FOR UNDUE ECONOMIC HARDSHIP REQUEST                  HIGHLY ERODIBLE LAND CONSERVATION</b>		1A. STATE NAME State	
		1B. COUNTY NAME County	
<p><b>NOTE:</b> <i>The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a – as amended). The authority for requesting the information identified on this form is 7 CFR Part 12, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246). The information will be used to make a determination as to whether application of the conservation system according to the specifications determined by NRCS would impose an undue economic hardship on the producer. The information collected on the form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated). Providing the requested information is voluntary. However, failure to furnish the requested information will result in an inability to make a determination as to whether application of the conservation system according to the specifications determined by NRCS would impose an undue economic hardship on the producer.</i></p> <p><i>According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0185. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.</i></p>			
<b>PART A – PRODUCER INFORMATION</b>			
2A. NAME AND ADDRESS OF PRODUCER (Including Zip Code) Any Producer 123 4 <sup>th</sup> Avenue Sometown, State 00000		3. TAX IDENTIFICATION NUMBER (Last 4 Digits) XXXX	4. FARM NUMBER 1234
2B. TELEPHONE NO. (Including Area Code): (555) 123-4567		5A. TRACT NUMBER 567	5B. FIELD NUMBER 5
6. CROP YEAR 2012			
<b>PART B - PRODUCER REQUEST FOR UNDUE ECONOMIC HARDSHIP DETERMINATION</b>			
7. State the reasons that application of a conservation system according to the specifications determined by NRCS would impose an undue economic hardship. Include all pertinent information to be considered, such as the cost of installation of the required conservation practices, efforts to obtain cost-share, benefits to be earned through programs subject to compliance, and general economic situation. The request must be in writing and signed and dated by the affected producer. The request may be made on a separate sheet, signed and dated, and attached to this application. Include copies of any documents that would support a finding that application of the conservation requirements would impose an undue economic hardship and relief requested to avoid the hardship:			
Reasons			
Note: The relief determination shall apply only for the crop year and fields identified in Part A. Application for relief shall be requested annually.			
8A. SIGNATURE OF PRODUCER (By)  <i>Signature</i>	8B. TITLE/RELATIONSHIP OF THE INDIVIDUAL IF SIGNING IN A REPRESENTATIVE CAPACITY	8C. DATE (MM-DD-YYYY) 03-08-2012	<b>FOR FSA USE ONLY</b> 9. DATE REFERRED TO NRCS (MM-DD-YYYY) 03-14-2012
<b>PART C – TO BE COMPLETED BY NRCS</b>			
10. Describe in detail the practices required, estimated cost, suggested alternatives, cost share assistance available for the practices, and any other information that NRCS or the Conservation District may have to assist the Committee in making a recommendation or determination. The information may be provided on a separate sheet, signed and dated, and attached to this application:			
Detailed description and information			
11A. SIGNATURE OF NRCS EMPLOYEE  <i>Signature</i>	11B. DATE (MM-DD-YYYY) 03-21-2012	12. DATE REFERRED TO FSA (MM-DD-YYYY) 03-21-2012	

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204 Relief for Undue Economic Hardship (Continued)

B Example of AD-1026D (Continued)

AD-1026D (02-06-12)		Page 2 of 2
<b>PART D - TO BE COMPLETED BY THE COUNTY COMMITTEE</b>		
13. Estimated cost of the practices that the producer affirms would cause undue economic hardship. \$ 15,000	14. Approximate amount of USDA benefits the producer expects to earn if compliance requirements are met. \$ 500	
15. Based on information provided by the producer, information provided by NRCS, and the County Committee's knowledge of the producer's operation, describe in detail the County Committee's recommendation and extent of relief to avoid the hardship, if any, and reasons for the recommendation to the State Committee:  Detailed description of recommendation and recommendation		
16A. SIGNATURE OF COUNTY COMMITTEE REPRESENTATIVE  <i>Signature</i>	16B. DATE (MM-DD-YYYY)  03-28-2012	17. DATE REFERRED TO STATE COMMITTEE (MM-DD-YYYY)  03-28-2012
<b>PART E - TO BE COMPLETED BY STATE COMMITTEE</b>		
18. Based on information provided, and any other information deemed necessary to make a determination, describe in detail the State Committee's determination, extent of relief, if any, and the reasons for the determination:  Detailed description of determination, relief and reasons		
19A. SIGNATURE OF COUNTY COMMITTEE REPRESENTATIVE  <i>Signature</i>	19B. DATE (MM-DD-YYYY) 04-03-2012	20. DATE PRODUCER WAS NOTIFIED (MM-DD-YYYY) 04-06-2012
	21. DATE REFERRED TO COUNTY COMMITTEE (MM-DD-YYYY) 04-06-2012	
<b>PART F - TO BE COMPLETED BY FSA COUNTY OFFICE</b>		
22. Date NRCS was provided a copy of AD-1026D and related documents: (MM-DD-YYYY):  04-09-2012		
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306 Completing and Obtaining AD-1026 (Continued)

C Completing AD-1026 (Continued)

Item	Instruction
7	<p>ENTER “X” in either the “Yes” or “No” box.</p> <p>Answer “Yes”, if a landlord refuses to apply a required conservation system or plan on a highly erodible field on a farm on which the producer is a tenant.</p>
8	<p>List all affiliated persons with farming interests. Only affiliated persons of the producer requesting program benefits with farming interests are required to complete AD-1026. See AD-1026, page 2 to determine affiliated persons.</p> <p>If there are no affiliated persons with farming interests, then ENTER “None”.</p>
9	<p>ENTER “X” in either the “Yes” or “No” box.</p> <p>Answer “Yes”, if there are any fields in which an agricultural commodity will be or has been planted that has not received a HEL determination from NRCS.</p> <p>If “Yes” is answered, FSA will request a HEL determination from NRCS for the specific fields.</p>
10	<p>ENTER “X” in either the “Yes” or “No” box for each of items 10A, 10B, and 10C.</p> <p>These questions refer to drainage activity. If “Yes” is answered in item 10A or 10B, FSA will request a wetland evaluation from NRCS for the specific area listed in item 11.</p> <p>If “Yes” is answered in item 10C (maintenance), it does <b>not</b> require a certified wetland determination. NRCS will be notified of the intention to maintain an existing drainage system.</p>
11	<p>*--This item must be completed only if “Yes” was answered in item 5, 9, or 10.--*</p> <p>List the farm number, tract number, and field number. Briefly describe the activity and current land use. List the location county.</p>
12	<p>The producer shall read the Continuous AD-1026 Certification statement and sign and date the certification.</p> <p>The producer should <b>not</b> sign AD-1026 if the producer’s farming operation is <b>not</b> in compliance with all HELC and WC provisions.</p>
13	<p>This item is for FSA use only.</p>

307-327 (Reserved)



502 Completing FSA-569

A Example of FSA-569

The following is an example of FSA-569.

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This form is available electronically.

<b>FSA-569</b> (02-06-12)		U.S. DEPARTMENT OF AGRICULTURE Farm Service Agency		1. Control Number 1	
<b>NRCS REPORT OF HELC AND WC COMPLIANCE</b>				2. Was This Determination Requested by NRCS? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
<b>PART A – TO BE COMPLETED BY FSA</b>					
<b>TO: NRCS</b>			4. FSA Administrative County:		
<b>FROM 3. (County FSA Office Name and Address)</b> Lake County FSA Office P.O. Box 415 Andrews, IA 21901-00000			A. State Name and Code Iowa - 19	B. County Name and Code Andrews - 071	
5. NRCS FIPS State and County Code 19071					
6. Farm Number 1010			7. Crop Year 2012		
8. Tract Number 2100					
9. Producer Information				10. To be completed by NRCS	
<b>Producer</b>	<b>A. NAME AND ADDRESS</b>		<b>B. TAX ID NUMBER (Last 4 Digits)</b>	<b>Enter Date NRCS Technical Determination Is Final (MM-DD-YYYY)</b>	
Operator of Farm entered in Item 6.	Jim Smith Worthing, IA 21003 - 0000		XXXX	07-10-2012	
Owner(s) of tract entered in Item 8.	Jane Johnson Gaines, OH 92163 - 0000		XXXX	07-10-2012	
Tenant(s) or Sharecropper(s) on farm entered in Item 6 Note: Enter "NONE" if applicable.					
<b>INSTRUCTIONS FOR NRCS:</b> The above farm has been identified as having a potential noncompliance of the highly erodible land and wetland conservation provisions of the Food Security Act of 1985, as amended, for the crop year indicated above. Applicable field(s) or area(s) are marked with a red "X" on the attached photocopies.					
a) Please make applicable review(s) for the determination checked in Part B. b) Complete Item 10 above when the NRCS technical determination becomes final and Part C below and return it to the FSA County Office immediately so that the producer's eligibility for program benefits can be determined.					
11. FSA County Office Representative (Complete Part B)				12. Date Referred to NRCS (MM-DD-YYYY) 5/30/2006	
<b>PART B – TYPE OF DETERMINATION</b>			<b>PART C – TO BE COMPLETED BY NRCS (Check this block if NRCS was refused access to the land to verify compliance).</b>		
FSA Enter a "check" for the type of determination requested			1. Check If Reviewed		2. Field Nos.
1. <input checked="" type="checkbox"/>	HELC Compliance Determination		<input checked="" type="checkbox"/> The field does "NOT" meet requirements of the HELC provisions	2	23
			<input type="checkbox"/> The field meets the requirements of the HELC provisions.		
2. <input type="checkbox"/>	Verify wetland classification on land that was planted to an agricultural commodity		<input type="checkbox"/> The area identified is a CW.		
			<input type="checkbox"/> The area identified is "NOT" CW.		
3. <input type="checkbox"/>	Determine whether an area is a wetland that was converted after 11/28/90.		<input type="checkbox"/> The area identified is a wetland that was converted after 11/28/90.		
			<input type="checkbox"/> The area identified is "NOT" a wetland that was converted after 11/28/90.		
<b>NRCS Certification: NRCS reviewed the field(s) or area(s) requested for the subject farm that are entered in Part C, Items 2 and 3.</b>					
4A. Signature, NRCS Representative				4B. Date (MM-DD-YYYY) 07-12-2012	

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502 Completing FSA-569 (Continued)

**B Completing FSA-569, Part A**

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

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

602 Determining Producers Who Are Ineligible

A Determining Ineligibility for HELC or WC Planting Violations

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

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

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

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

IF the producer’s status on the farm is...	AND the crop planted on the land with the violation is...	THEN the producer shall be...
operator	shared by the operator	ineligible for all USDA benefits subject to the provisions of this handbook.  *-- <b>Exception:</b> If a tenant exemption has been approved according to paragraph 604, the producer--* shall be ineligible only on the farm for which an exemption was approved.
	<b>not</b> shared by the operator	
landlord and also operator	shared by the landlord and operator	ineligible for all USDA benefits subject to the provisions of this handbook.
	cash rented and <b>not</b> shared by the landlord and operator	ineligible for USDA benefits subject to the provisions of this handbook on: <ul style="list-style-type: none"> <li>• the farm where the violation occurred</li> <li>• any other land and warehouses where the landlord is involved with:                             <ul style="list-style-type: none"> <li>• the violating tenant or sharecropper</li> <li>• affiliated persons of the violating tenant or sharecropper.</li> </ul> </li> </ul> <p><b>Note:</b> AD-1026C shall be filed according to paragraph 603 if the landlord or operator requests benefits on other farms.</p>

602 Determining Producers Who Are Ineligible (Continued)

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

IF the producer's status on the farm is...	AND the crop planted on the land with the violation is...	THEN the producer shall be...
landlord, who is <b>not</b> the operator	shared by the landlord	<ul style="list-style-type: none"> <li>• ineligible for USDA benefits subject to the provisions of this handbook on:                             <ul style="list-style-type: none"> <li>• all lands on the farm where the violation occurred that the violating operator, tenant or sharecropper, or their affiliated persons are involved</li> <li>• any other land and warehouses where the landlord and violating operator, tenant or sharecropper, or their affiliated persons are involved</li> </ul> </li> <li>• eligible on lands approved under the landlord exemption rule according to paragraph 603. AD-1026C shall be used to document exemption.</li> </ul> <p><b>Exception:</b> The share rent landlord shall be ineligible on <b>all</b> lands, if it is determined that the tenant or sharecropper is required to produce an agricultural commodity on predominately HEL or converted wetland, under the terms and conditions of an agreement between the landlord and the tenant or sharecropper.</p>

602 Determining Producers Who Are Ineligible (Continued)

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

IF the producer's status on the farm is...	AND the crop planted on the land with the violation is...	THEN the producer shall be...
landlord, who is <b>not</b> the operator	cash rented and <b>not</b> shared by the landlord	<p>ineligible for USDA benefits subject to the provisions of this handbook on lands and warehouses where the landlord and violating operator, tenant or sharecropper, or their affiliated persons are involved.</p> <p><b>Note:</b> The landlord could be eligible for USDA benefits on the farm where the violation occurred, if the landlord is share-renting a part of the farm with another tenant or sharecropper, provided a landlord exemption is approved on AD-1026C according to paragraph 603.</p>
either of the following: <ul style="list-style-type: none"> <li>• tenant</li> <li>• sharecropper</li> </ul>	shared by either of the following: <ul style="list-style-type: none"> <li>• tenant</li> <li>• sharecropper</li> </ul>	<p>ineligible for USDA benefits subject to the provisions of this handbook on:</p> <ul style="list-style-type: none"> <li>• all lands</li> <li>• any warehouse in which the tenant or sharecropper has an interest.</li> </ul> <p><b>Note:</b> This includes cases where it is determined that the tenant or sharecropper planted an agricultural commodity on predominately HEL or converted wetland, or converts a wetland under the terms and conditions of an agreement between the landlord and the tenant or sharecropper.</p> <p><b>Exception:</b> If a tenant exemption has been approved according to paragraph 604, the producer shall be ineligible only on the farm for which an exemption was approved.</p>
	<b>not</b> shared by either of the following: <ul style="list-style-type: none"> <li>• tenant</li> <li>• sharecropper</li> </ul>	<p>able to remain eligible for USDA benefits subject to the provisions of this handbook on:</p> <ul style="list-style-type: none"> <li>• all lands</li> <li>• any warehouse in which the tenant or sharecropper has an interest.</li> </ul>

602 Determining Producers Who Are Ineligible (Continued)

**B Determining Ineligibility for WC Conversion Violations**

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

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

**C Requesting Relief for Operator of Farm With Wetland Conversion**

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

<b>IF...</b>	<b>THEN...</b>
COC determines that the farm operator: <ul style="list-style-type: none"> <li>• was in no way responsible for the wetland conversion</li> <li>• had no control over the wetland conversion activities</li> </ul>	COC shall forward a recommendation for relief to STC. <p><b>Notes:</b> Any relief under this subparagraph does <b>not</b> relieve the farm operator from ineligibility as the result of planting on a converted wetland. The conversion of a wetland *--and the planting of an agricultural commodity on a--* converted wetland are 2 separate violations.</p> <p>See paragraph 637 for possible reduction in ineligibility for a planting violation if the operator is unable to mitigate a wetland conversion to meet the requirements for relief under the Good Faith Relief exemption.</p>
STC concurs with COC recommendation	State Office shall forward the case file to DAFP for a decision.
STC does <b>not</b> concur with COC recommendation	the operator shall be ineligible for relief under this subparagraph.