

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

**Notice CP-707**

**For:** State and County Offices

**Filing AD-1026 for Conservation Compliance for FCIC**

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



**1 Overview**

**A Background**

The current version of AD-1026 reflects the linkage for any premium subsidy eligibility for crop insurance policy or plan paid by FCIC to compliance with HELC and WC provisions, as required by the Agricultural Act of 2014. The linkage of eligibility for the crop insurance premium subsidy to compliance with HELC and WC provisions results in some crop insurance customers becoming subject to HELC and WC provisions for the first time. It also results in customers previously subject to conservation compliance that dropped out of FSA and NRCS programs to recertify to compliance, and customers who were previously out of compliance to seek out the process to come back into compliance.

FSA has primary responsibility for making producer eligibility determinations about compliance with HELC and WC provisions. This will continue with the linkage to the crop insurance premium subsidy administered by RMA. RMA reached out with letters to their customer base who did **not** have AD-1026 on file in December 2014. RMA sent another letter in mid-April 2015 to communicate the same message. Customers who have been in to file and are **not** entered within the FSA web-based subsidiary/eligibility as such will continue to receive notifications to file. It is important to enter customers who have filed as soon as possible.

FCIC compliance begins with reinsurance year 2016, which begins on July 1, 2015. RMA has a deadline of June 1, 2015, for producers to file AD-1026, for reinsurance year 2016. This deadline is firm and has been communicated through various information outlets and notification letters.

Disposal Date	Distribution
January 1, 2016 4-21-15	State Offices; State Offices relay to County Offices

## Notice CP-707

### 1 Overview (Continued)

#### B Additional Information

FCIC crop insurance participants who receive notifications that they do **not** have AD-1026 on file should be researched to make certain they have AD-1026 on file. Eligibility is determined through the web-based subsidiary/eligibility. If the participant received notification that they do **not** have AD-1026 on file, paper copies of AD-1026 are **not** sufficient research to determine “Certified”. The web-based subsidiary/eligibility flag should be checked to ensure that it is set properly. If it is set properly, questions should be asked about how they insure their crop. Are they recorded as the same individual/entity with FSA and RMA? RMA finds a match for filed AD-1026 by TIN. Follow procedure outlined in this notice when it is determined that there is **not** a match between RMA and FSA.

Crop insurance agents should **not** be asking for copies of AD-1026. Filing for certification to conservation compliance is **not** determined by paper copies of AD-1026. County Offices are under **no** obligation to provide crop insurance agents with a copy of AD-1026.

Producers are allowed to mail in AD-1026. County Offices should enter these producers as “Certified” for AD-1026, if the basic filing information is available. Producers who do **not** provide the basic filing information should be contacted if some type of contact information, such as telephone, mail, or e-mail, is provided. Documentation of this contact shall be kept with AD-1026.

#### C Purpose

This notice:

- clarifies FSA responsibility on filing requirements of AD-1026
- provides instructions and additional information for certifying compliance for customers unique to RMA.

### 2 Filing and Recording AD-1026 for Customers Unique to FCIC

#### A AD-1026, Items 5 B and 8 A and AD-1026 Appendix, Item 6

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.

**2 Filing and Recording AD-1026 for Customers Unique to FCIC (Continued)**

**A AD-1026, Items 5 B and 8 A and AD-1026 Appendix, Item 6 (Continued)**

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.

AD-1026 Appendix, item 6 was added to explain the compliance provisions applicable to a producer certifying compliance only for RMA crop insurance policies reinsured by FCIC.

**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. These producers should be entered as soon as possible to be removed from RMA’s list of “Not Filed”.

Producers who complete the entire AD-1026 (including items 6 and 7), and subsequently check the item 8 A checkbox, need to have full farm records established. Notice PL-268 announced this option for AD-1026 in the web-based subsidiary/eligibility is now available to identify those producers who check the item 8 A checkbox. This information is needed to track dates on exemptions referred to in AD-1026 Appendix, item 6. If these or any producers have checked “Yes” to any questions in AD-1026, item 6 or 7, this does **not** prevent the producer from being entered as “Certified” for AD-1026.

**Note:** County Offices that have numerous new AD-1026’s that need full farm records established should make it a priority to first get the producer entered into Business Partner as “Certified” for AD-1026. This will remove the producer from RMA’s list for future notification.

## 2 Filing and Recording AD-1026 for Customers Unique to FCIC (Continued)

### B Recording FCIC Producers as “Certified” for AD-1026 (Continued)

It is important to note AD-1026 Appendix, item 6 now allows producers to certify to compliance for FCIC unique conservation compliance provisions. Therefore, that same producer may **not** be in compliance for FSA and NRCS. These producers who certify to conservation compliance provisions outlined in AD-1026 Appendix, item 6 shall be entered as “Certified” in the eligibility for AD-1026. However, flags in the tract data shall remain in place or put in place to identify noncompliance for FSA and NRCS conservation compliance provisions. **This is only applicable to persons certifying to compliance based on AD-1026 Appendix, item 6. All other persons not in compliance shall remain as “Not Filed” for AD-1026 in the web-based subsidiary/eligibility.**

**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” as instructed in 6-CP, paragraph 305. Joe Farmer buys Federally reinsured crop insurance administered through RMA. AD-1026 Appendix, item 6 states, “Unless an exemption applies, a producer must **not** have converted a wetland for the purpose, or to have the effect, of making the production of an agricultural commodity possible on such converted wetland after February 7, 2014.” 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 subsidiary 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.

### C Exemptions Unique to RMA/FCIC

Additional exemptions, referred to in AD-1026 Appendix, item 6, also apply to producers who were previously subject to conservation compliance provisions and determined out of compliance for HELC or WC.

A person who had HELC violations in the past, stopped participating in USDA programs subject to conservation compliance, and would have remained in violation if they had continued participating, has 2 reinsurance years after administrative appeals are exhausted before they become ineligible for Federal crop insurance premium subsidies.

A person **not** subject to conservation compliance provisions for the first time, and has a wetland violation after February 7, 2014, has additional time before becoming ineligible for the Federal crop insurance premium subsidy.

They have 1 reinsurance year after the final determination is made, including all administrative appeals, before becoming ineligible for Federal crop insurance premium subsidies.

**2 FSA Responsibility for Filing AD-1026 for Customers Unique to FCIC (Continued)**

**C Exemptions Unique to RMA/FCIC (Continued)**

Persons in these situations should have been identified as “Not Filed” for AD-1026 according to 6-CP, paragraph 305. However, because of exemptions unique to FCIC producers, discussed in AD-1026 Appendix, item 6, these producers can now certify to compliance for FCIC benefit only. To communicate eligibility to RMA, these producers will be changed to “Certified” for their new AD-1026 filing. Their tract data will remain flagged with the appropriate HEL or wetland violation. FSA shall prepare FSA-569 for the current crop year if one is **not** on file. FSA-569 should be clearly marked “PARTICIPATING FCIC PRODUCER FILING AD-1026 FOR HELC EXEMPTION (OR WC EXEMPTION)” before submitting to NRCS. If FSA-569 is on file for the current crop year, a copy will be made and submitted to NRCS with the appropriate notation. A folder shall be kept of FSA-569’s as instructed in 6-CP, subparagraph 504 A. However, it is important to note they may be outstanding for 1 to 2 years, depending on the exemption.

**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 does want to remain eligible 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 based on an exemption referred to in AD-1026 Appendix, item 6. Jane Farmer will be changed to “Certified” in the web-based subsidiary eligibility. The County Office will also prepare and issue FSA-569 for crop year 2015. Tract data will remain as “conservation system is **not** being applied” until FSA-569 is returned, which may be approximately 2 years later, communicating “meets the requirements of HELC provisions”.

**D Producers Previously Filed AD-1026 and Not Determined “Out of Compliance”**

Producers may have stopped participating with FSA for several reasons other than past noncompliance issues. Some of these producers may now be “Not Filed” in the web-based subsidiary/eligibility. These producers may be Federally reinsured crop insurance participants and now wish to certify to compliance again. If there is no evidence of a past violation, the FSA-569 process is **not** a requirement, unless there is reason to believe that a noncompliance of HELC or WC provisions has occurred. If there is no reason to believe noncompliance has occurred, these producers should be recorded as “Certified”, but encouraged to visit with NRCS to ensure that any required HEL conservation plans are up to date.

## 2 FSA Responsibility for Filing AD-1026 for Customers Unique to FCIC (Continued)

### E Exhaustion of Appeal Rights

FSA gets 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 noncompliant and changes AD-1026 to “Not Filed”. However at that point, it is **not** administratively final because the producer still 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 for the reinsurance year (July 1 – June 30) following the reinsurance year of a final determination of a violation of HELC or WC provisions, **including all administrative appeals**, unless specific exemptions apply.”

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 shall continue to communicate the appropriate violation after the NRCS technical determination is final, as it has in the past.

## 3 Affiliated Persons

### A Affiliated Persons Reminders

Affiliated persons filing requirements are discussed in 6-CP, paragraph 302 and in AD-1026 Appendix, item 7 have **not** changed. Only affiliated persons with farming interests (defined as owner, operator, tenant, or sharecropper on any farm or undeveloped land) are required to file AD-1026.

**Note:** Any producer requesting benefits (AD-1026, item 1) shall be entered as “Awaiting Affiliate Certification” in the subsidiary/eligibility record until all persons listed in AD-1026, item 4 also file AD-1026.

### B Affiliated Persons and FCIC Benefit

If the producer requesting benefits is an individual, then affiliated persons with farming interests who must be in compliance with HELC and WC provisions and file AD-1026 are spouses or minor children with separate farming interests, or who receive benefits under their individual ID number. Under RMA’s Substantial Business Interest (SBI) rules, either spouse can insure all interest in the crop under 1 policy, unless they are proven to be legally separated.

### 3 Affiliated Persons (Continued)

#### B Affiliated Persons and FCIC Benefit (Continued)

There will be situations where FSA has 1 spouse receiving all the benefits for FSA. The other spouse may be insuring the crop. In these situations, because the reinsured crop insurance subsidy is now a benefit subject to conservation compliance, the other spouse is now also required to complete AD-1026.

**Example:** John and Jane Doe own their farm jointly. John has always received FSA benefits 100 percent under his individual SSN. Jane does **not** have any other farming interest. However, Jane insures the crop under her individual SSN. Jane now receives a benefit under her individual SSN (the reinsured crop insurance subsidy), is now subject to conservation compliance, and is required to fill out AD-1026.

### 4 SBI and RMA Insurance Exemptions

#### A SBI for Federal Crop Insurance Purposes

A substantial beneficial interest is an interest held by any person of at least 10 percent in the insured person.

**Example:** Two partnerships each have a 50 percent interest in the insured person and each partnership is made up of 2 individuals, each with a 50 percent share in the partnership. Each individual would be considered to have a 25 percent interest in the insured person, and both the partnerships and the individuals would have a substantial beneficial interest in the insured person.

There is **not** an AD-1026 certification to compliance filing requirement for SBI of an insured. However, if SBI has their own farming interest, of which they insure, they are required to file AD-1026 to remain eligible for their premium subsidy.

#### B SBI and Affiliated Persons

The rules for determining whether a person has a substantial beneficial interest in an insured and the rules for determining whether a person is an affiliated person are different. A person can have a substantial benefit interest in an insured, but **not** be an affiliate person to the insured. 6-CP, paragraph 302 and AD-1026 Appendix, item 7 shall be used to determine affiliated persons who are required to file AD-1026 for conservation compliance.

## 4 SBI and RMA Insurance Exemptions (Continued)

### C 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.

### D Some 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 C 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 Approved Insurance Provider (AIP). If FSA records are incorrect, the producer must correct those records and file AD-1026 for the correct person/entity.

**Note:** This subparagraph is not applicable to members of sugar beet cooperatives. Procedure is forthcoming for conservation compliance certification for Federal crop insurance participants with policies on sugar beets, who received notification from RMA that they do not have AD-1026 on file.



**4 SBI and RMA Insurance Exemptions (Continued)**

**D Some 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 employee ID number. 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.

**5 Signature Authority for Filing AD-1026**

**A Benefits and AD-1026**

AD-1026 conservation compliance certification is a requirement for most USDA benefits administered by FSA and NRCS, and now the reinsured Federal crop insurance subsidy administered by RMA, beginning with reinsurance year 2016 (July 1, 2015). However, the benefit or payment is **not** being sought with AD-1026. So, that AD-1026's execution by a person in a representative capacity (other than power of attorney) can be accepted at face value because a payment or benefit is **not** being sought with AD-1026 itself.

**B CCC-901 and CCC-902**

Entities filing AD-1026 for FCIC purposes only, and **not** seeking any programmatic benefit from FSA or NRCS, are **not** required to complete CCC-901 or CCC-902. If these entities seek this benefit in the future, CCC-901 and CCC-902 would be required at that time.