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Federal Crop  
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Risk Management  
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Insurance  
Services

FCIC-14040  
(12-2016)

# LARGE CLAIM STANDARDS HANDBOOK

FCIC-Approved Standards and Procedures for Handling Large Claims and Referrals for Insurance Services, Regional Offices, and AIPs for the **2017** and Succeeding Crop Years.

**RISK MANAGEMENT AGENCY  
WASHINGTON, D.C. 20250**

<b>TITLE: LARGE CLAIM STANDARDS HANDBOOK</b>	<b>NUMBER: RMA-14040 (12-2016)</b>
<b>EFFECTIVE DATE: Upon approval for 2017 And Succeeding Crop Years</b>	<b>ISSUE DATE: December 06, 2016</b>
<b>SUBJECT:</b>  <b>Provides the procedures and instructions for administering Large Claim Reviews for the 2017 and succeeding crop years.</b>	<b>OPI: Risk Management Services Division</b>  <b>APPROVED:</b>  <b>/s/ Robert Ibarra</b>  <b>Deputy Administrator for Insurance Services</b>

**REASON FOR ISSUANCE**

This handbook provides FCIC-approved standards and procedures for handling large claims determinations. Insurance Services and all Regional Offices (RO) will use these standards and procedures when administering large claims determinations and making intra-agency referrals. AIPs will use this handbook when administering their duties in the Large Claim Review process.

# LARGE CLAIM STANDARDS HANDBOOK

## CONTROL CHART

Large Claim Standards Handbook							
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## REASON FOR AMENDMENT

Listed below are significant changes for the 2017 FCIC 14040 LCH. Highlighted text throughout the LCH represents changes or additions, and three stars (\*\*\*) identify removal of information.

1. Throughout the LCH, dates, references to the LC/GFP Tracking System (now the LC/GFP Database) and other terminology were updated.
2. In Subparagraph 1B (8) and 31B (4)(e), AGR and AGR Lite was replaced with WFRP Pilot Insurance Policy
3. In Subparagraph 1C (13), The GSH was added.
4. In Subparagraph 2B (1) and (2), clarified RO elections to participate will be done through LC/GFP Database.
5. In Subparagraph 2B (3)(d), clarified minimum number of LCs are selected on a fiscal year basis.
6. In Subparagraph 11A, clarified minimum training requirements.
7. In Subparagraph 11B (1), clarified training is required on a calendar year basis.
8. In Subparagraph 12B (10)(c), clarified topics may include other types of dispute resolution.

9. In Subparagraph 31A(1), clarified how an AIP must screen potential large claims.
10. In Subparagraph 31B (4)(m), (n), and (o) added initial notification requirements for AIP notice of LC
11. In Subparagraph 31 D (2), added guidance for AIP when RO delays its decision to participate in a potential LC.
12. In Subparagraph 31 E (2), clarified AIP has 15 calendar days to provide policy and underwriting documents to the RO after it elects to participate in a LC.
13. In Subparagraph 31 E (7), removed signature requirement.
14. In Subparagraph 31 F, added mandatory APH reviews for all LC reviews in which RMA chooses to participate, which should be completed within 60 days of the RO's notification of participation on the claim.
15. In Subparagraph 32 B, clarified when the RO must conduct a preliminary review of a potential LC.
16. In Subparagraph 32 B (1)(c), removed scoring information.
17. In Subparagraph 32 B (2), clarified when RO will participate in LC if there is an ongoing compliance review or investigation.
18. In Subparagraph 32 B (3)(b), changed "step 5" to "32 C".
19. In Subparagraph 32 B (4)(c), moved paragraph from 32 C as it pertains to declining participation in the LC.
20. In Subparagraph 32 C (1)(a), clarified RO will notify AIP through the LC/GFP Database of its decision to participate.
21. In Subparagraph 32 C (1)(b), added information RO will provide in its notification to AIP.
22. In Subparagraph 32 C (1)(c), added, "RMA reviewers will not opt out of or terminate a LC review after accepting a large claim for review".
23. In Subparagraph 32 C (3), added procedure for electing to delay the RO decision to participate in a LC.
24. In Subparagraph 32 D (1)(b), clarified LC participation must be logged in to the LC/GFP Database and all applicable fields must be completed. Subparagraphs (i)-(vii) were removed.
25. Subparagraph 32 D (3) was deleted
26. In Subparagraph 32 E (1)(a), changed "interview" to "meeting".
27. In Subparagraph 32 E (2), clarified RO will request loss and underwriting files from the AIP be uploaded in the LC/GFP Database.

28. In Subparagraph 32 E (2)(a), removed “(items not available from the RMA Tracking System)”.
29. In Subparagraph 32 E (2)(f), added, “RO should review all previous production-loss claim work for that crop policy in the county that was completed prior to reaching the \$500k threshold that required the AIP to provide a LC notice RMA, i.e.- replants and prevent plant claims in that crop year.”
30. In Subparagraph 32 E (2)(g), added, “The RO may elect to participate on future claim(s) in that year for the selected crop policy, if applicable. The RO must provide the AIP written notification prior to completion of the elected LC if they wish to participate in future potential claims”.
31. In Subparagraph 32 E (5), added “in the LC/GFP Database” and changed Exhibit 3 to Exhibit 3 and 4.
32. In Subparagraph 32 E (6), moved requirement for director reports from exhibits to RO Duties, but this is not a new requirement.
33. In Subparagraph 32 E (7)(a), changed “signing off” to “issuance of”.
34. In Subparagraph 32 E (7)(d), removed, “This procedure must be followed in order to document the policyholder’s claim and to establish the date of interest accrual. The BP, Section 26 (Interest Limitations), states: “We will pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment of a court of competent jurisdiction, from and including the 61<sup>st</sup> day after the date you sign, date, and submit to us the properly completed claim on our form.”
35. In Subparagraph 32 E (7)(d), clarified which portion of the LAM applies to the Controversial Claim Procedure.
36. In Subparagraph 32 E (9)(b), added “in accordance with Exhibits 3 and 4.”
37. In Subparagraph 32 E (9)(d), requires RO to forward lessons learned to RMSD, and debrief the LC team as appropriate.
38. In Subparagraph 32 E (9)(e), requires RO to document referrals in the “Notes” section in the LC/GFP Database.
39. In Subparagraph 32 E (9)(f), removed cost saving calculation requirements and changed to time and expense documentation to comply with LC/GFP Database requirements.
40. Removed previous Subparagraph 32 E (9) as it is covered in the referrals section.
41. Removed Subparagraph 32 F (1) and referred LC File requirements to Exhibits.
42. Added Subparagraph 41 F Filing Requirements to ensure referrals resulting from LC notices or participation is captured in the LC/GFP Database
43. In Subparagraph 46 B (5), added instructions on uploading the Administrative Review in LC/GFP Database.

44. In Subparagraph 48 A (2)(c), clarified when 30 days to request appeal is met when multiple appeal rights are elected.
45. In Subparagraph 48 B (1), added RMSD Field Specialist role.
46. In Subparagraph 49 B (5)(a), clarified the agency record for a Lawsuit when NAD is involved.
47. Added Paragraph 50 Witness Requests, and all subparagraphs.
48. Exhibit 1 includes some acronym additions and deletions.
49. Exhibit 3 was changed to “File Organization and Storage” and updated to include mandatory use of the LC/GFP Database with links and instructions for completion.
50. Exhibit 4 was changed to “Guidelines for Supporting File Records” and addresses additional requirements for a complete file record.
51. Exhibit 5 was deleted.
52. Exhibit 6 was changed to “Sample Entrance Letter to AIP” and a sample template was added.
53. Exhibit 7 contains merged language from previous exhibits and the body of a new sample Decision letter for a WFRP claim review in Paragraph C.
54. Exhibit 7 B, under the heading “Actual Production History (APH) Review:”, clarified that all claims must have APH review completed.

## **FILING INSTRUCTIONS**

This handbook replaces FCIC-14040 Large Claims Handbook dated May 2014 and is effective for the 2017 and succeeding crop years. This handbook is not retroactive to any 2016 or prior crop year determinations however Exhibits 1-11 should be used where applicable to document current or pending Large Claim reviews.

# **LARGE CLAIM STANDARDS HANDBOOK**

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# **LARGE CLAIMS HANDBOOK**

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# **PART 1 GENERAL INFORMATION AND RESPONSIBILITIES**

## **1 General Information**

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### **A Purpose**

This handbook identifies RMA's official standards and procedures for participation in LC reviews, including:

- (1) Training;
- (2) AIP notification to RMA of potential LCs;
- (3) Completion of LC reviews;
- (4) Referrals of identified program vulnerabilities and suspected cases of fraud, waste, and abuse; and
- (5) Dispute resolution

This handbook remains in effect until superseded by reissuance of either the entire handbook or selected portions (through amendments, Manager's Bulletins, or FADs). If amendments are issued for a handbook, the original handbook as amended shall constitute the handbook. A Manager's Bulletin or FAD can supersede either the original handbook or subsequent amendments.

### **B Source of Authority**

Federal programs enacted by Congress and the regulations and policies developed by RMA, USDA, and other Federal agencies provide the authority for program and administrative operations, and basis for RMA directives. Administration of the Federal crop insurance program is authorized by the following:

- (1) The Federal Crop Insurance Act, 7 U.S.C. 1501
- (2) The Food Security Act of 1985, 16 U.S.C. 3801 et seq.
- (3) Controlled Substance Act of 1970, 21 U.S.C. 801 et seq.
- (4) Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 653a
- (5) 7 CFR part 400

## 1 General Information (Continued)

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### B. Source of Authority (continued)

- (6) 2017 (07-01-16) SRA Appendix I Section IV:

“As a condition of reinsurance and prior to commencing any loss adjustment activity, the Company agrees to comply with all provisions of FCIC’s Large Claims Procedures, as applicable.”

- (7) 2017 Livestock Price Reinsurance Agreement (07-01-16) Appendix I Section IV:

“As a condition of reinsurance and prior to commencing any loss adjustment activity, the Company agrees to comply with all provisions of FCIC’s Large Claims Procedures, as applicable.”

and

- (8) FCIC Policy Provisions:

(a) Common Crop Insurance Policy BP (11-BR), Sections 20 and 21.

(b) ARPI Basic Provisions (17-ARPI), Section 23.

(c) FCIC WFRP Pilot Insurance Policy (16-0076), Section 33.

(d) LRP Insurance Policy (10-LRP-Basic), Section 11.

### C Order of Precedence

If there is a conflict between the procedure in this handbook and other documents issued by RMA, the following order of precedence will apply.

- (1) The Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.) (Act) and any FAD interpreting the Act.
- (2) The CAT Endorsement, as applicable, and any FAD interpreting the CAT Endorsement.
- (3) Written Agreement, as applicable.
- (4) The SP and other actuarial documents in the following order of precedence:

## **1 General Information (Continued)**

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### **C Order of Precedence (continued)**

- (a) SP; and
- (b) Actuarial Map.
- (5) The Commodity Exchange Price Provisions, as applicable.
- (6) Crop endorsement/options/exclusions and any FAD interpreting the crop endorsement/options/exclusions if published in 7 C.F.R part 457. **Exception:** For ARH policies, crop provisions will take precedence over the ARH Endorsement.
- (7) CP and any FAD interpreting the CP.
- (8) BP and any FAD interpreting the BP.
- (9) Administrative regulations at 7 CFR Part 400 and any FAD interpreting the administrative regulations.
- (10) Manager's Bulletins and any interpretation of procedures therein (refer to MGR 05-18, Interpretation of Procedures).
- (11) Prevented Planting LASH (FCIC-25370) and any interpretation of these procedures.
- (12) CIH (FCIC-18010) and other applicable underwriting guides for a specific commodity or plan of insurance and any interpretation of these procedures.
- (13) GSH (FCIC-18190) and any interpretation of these procedures.
- (14) LAM Standards Handbook (FCIC-25010) and any interpretation of these procedures.
- (15) Crop LASH and any interpretation of these procedures.
- (16) Large Claim Standards Handbook (FCIC-14040).
- (17) Product Management and Insurance Services Informational Memorandums.

### A AIP Responsibilities

- (1) The AIP will:
  - (a) conduct screening activities in accordance with Part 4, paragraph 31A – AIP Large Claim Screening.
  - (b) notify the applicable RO immediately upon receiving notice of a potential claim on an ECIC where the LC screening process indicates a production loss or indemnity is likely to exceed \$500,000, or such other amount determined by RMA, as directed in Part 4 paragraph 31 B – Initial Notification; and
  - (c) designate a point of contact for LC coordination according to Part 4, Paragraph 31 C – AIP Point of Contact.
- (2) If the RMA RO elects to participate in a potential LC, the AIP will conduct the claim and all related activities in accordance with Part 4 paragraph 31 parts E-H under AIP Responsibilities.
- (3) Resolve disputes between the AIP and RMA in accordance with Part 6 paragraph 45 – Dispute Resolution.

### B RMA RO Responsibilities

- (1) The RO will:
  - (a) establish a LC Selection Plan in accordance with standards and procedures in Part 3 paragraph 22 A – Large Claim Selection Plan;
  - (b) review notices of a potential LC from the AIP in accordance with procedures in Part 4 paragraph 32 – RO Responsibilities and elect one of the following:
    - (i) Participate in the loss determination with the AIP before an agreement is reached with the policyholder and before payment; or
    - (ii) Decline participation in review of the claim. If the RO fails to respond to the AIP within three business days of receiving a notice of a potential LC, the AIP will receive an automated email from the LC/GFP Database indicating non-participation and may proceed as if the RO declined participation.

## 2 Responsibilities (Continued)

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### B RMA RO Responsibilities (continued)

- (2) If the RO elects to participate in the LC, the RO will:
  - (a) select participation on the notice in the LC/GFP Database within three business days of receiving a complete notice of a potential LC. An email will be generated to notify the AIP's point of contact of the RO's election to participate in the loss determination of the claim;
  - (b) assure the selected policy(s) are underwritten and adjusted according to RMA published policies, standards, and procedures;
  - (c) assess the AIP's performance;
  - (d) assess the effectiveness of the approved policies standards, and procedures and recommend changes; and
  - (e) identify instances of potential or suspected program fraud, waste, and abuse, or failure to follow policies, standards, and procedures and make appropriate referrals to RMSD for cases with issues which require follow up.
- (3) RO Directors will:
  - (a) ensure all appropriate staff are certified and maintain certification for working with LCs according to Part 2;
  - (b) maintain certification records for their staff;
  - (c) develop, maintain, and ensure compliance with a LC Selection Plan according to Part 3 paragraph 22; and
  - (d) ensure that a minimum number of LCs, as determined by the DAIS, are selected for review during the fiscal year.

### C RMSD Responsibilities

RMSD will:

- (1) provide support, leadership, training, assistance, and monitoring to the ROs and:
  - (a) develop and maintain policy and handbook procedures for LC reviews;

## **2 Responsibilities (Continued)**

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### **C RMSD Responsibilities (continued)**

- (b) develop training standards and procedures as set forth in Part 2 paragraph 11 – Training Requirements;
  - (c) assist the RO in preparing and conducting mediation or NAD appeals;
  - (d) establish target deadlines for timely completion of LC reviews and monitor the progress of LC reviews.
- (2) provide a written process for referrals as set forth in Part 5, paragraph 41 – Procedures for Written Referrals and;
  - (a) follow up on referrals and document outcome of referrals;
  - (b) advance and coordinate recommended corrections for vulnerabilities identified in the Federal Crop Insurance program.
- (3) perform administrative reviews.

### **3-10 (Reserved)**

## PART 2 TRAINING

### 11 RMA Employee Training Requirements

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#### A Training Curriculum

Training curriculum must include, at a minimum, sufficient information to make RMA employees familiar with:

- (1) The meaning of the terms and conditions of the Common Crop Insurance Policy BP and its association or application to CP and SP;
- (2) Other programs and plans of insurance such as, but not limited to:
  - (a) Area Risk Plans of insurance;
  - (b) Revenue Plans of insurance;
  - (c) Pilot programs; and
  - (d) Applicable endorsements and options and any changes thereto.
- (3) The differences between the applicable plans of insurance;
- (4) The actuarial documents published in the Actuarial Information Browser;
- (5) Applicable forms, documents, notices, and reports:
  - (a) Ensuring proper completion and submission process;
  - (b) Verifying the accuracy of information;
- (6) Recognizing anomalies in reported information and common indicators of misrepresentation, fraud, waste or abuse;
- (7) The appropriate actions to take when anomalies or evidence of misrepresentation, fraud, waste or abuse exist, and how to report such to RMA;
- (8) The procedural requirements applicable to adjustment of claims for RMA, and any changes thereto;
- (9) Proper determination of the amount of production or revenue to be used for the purposes of determining losses;
- (10) The requirements under applicable federal civil rights statutes;
- (11) Other requirements as determined by RMA.



## **11 Training Requirements (Continued)**

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### **B Large Claim Certification**

All RMA employees working with LCs will adhere to industry training standards consistent with the requirements of AIP loss adjusters, as outlined in the SRA, Appendix IV, Section II – Training of Agents, Loss Adjusters, and Other Personnel.

- (1) All RMA employees working with LCs must initially participate in a structured training program of at least 60 hours, including 24 hours of classroom training. To retain certification, employees are required to participate in 16 hours of structured training **during each calendar year**.
- (2) All RMA employees working with LCs must pass a basic competency test developed by RMSD to determine the proficiency of the person to accurately and correctly determine the amount of loss and verify applicable information. Employees must retake and pass the competency test every three years, and meet all other requirements as may be determined by the RO Director or RMSD.
- (3) RO Directors will:
  - (a) verify RMA employees working with LCs have completed required training;
  - (b) review the test results and document any area of identified weakness on the part of any employee working with LCs and;
  - (c) ensure follow-up training initiatives are provided and completed for any area of identified weakness on the part of any employee working with LCs.
  - (d) ensure training and certification is documented in the LC/GFP Database.

## **12 Training Sources**

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### **A Sources of Classroom and Field Training**

- (1) The following are acceptable sources of classroom and field training that may be used to meet the training requirements for employees working with LCs.
  - (a) RMSD or Product Management provided training;
  - (b) USDA Graduate School;
  - (c) Relevant AgLearn courses;
  - (d) AIP adjuster schools or update training, specific for the area covered by the RO;
  - (e) National Crop Insurance Services (NCIS) meetings or schools specific for the region covered by the RO;

## 12 Training Sources (Continued)

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### A Sources of Classroom and Field Training (continued)

- (f) University/Cooperative Extension schools, conferences, classes, or field days;
  - (g) Invited outside speakers – RO specific;
  - (h) Crop industry field days;
  - (i) LC training library such as presentations or crop/claims training modules;
  - (j) Insurance industry schools such as Insurance Institute of America;
  - (k) Other USDA agencies such as the FSA or NAD;
  - (l) State departments of agriculture;
  - (m) Crop Adjuster Proficiency Program;
  - (n) Certified Professional Crop Consultant program; or
  - (o) Commodity industry meetings.
- (2) In addition, for RO personnel, the following in-house training sources may be used to meet the training requirements.
- (a) Actuarial documents, policy, handbooks, bulletins and memorandums;
  - (b) Loss adjustment topic presentations; or
  - (c) RO personnel led field training.

**NOTE:** An instructor of in-house training will be granted credit for the in-house training they present.

### B Training Library

The Training Library, which is available on the RMA GFP/LC SharePoint site, contains internal RMA training presentations. As RMA staff develops training materials for their particular needs, those materials may be placed in the Training Library. RMSD and the ROs will coordinate to populate the LC Training Library. Topics which may be submitted to the Training Library include:

- (1) Crop Program Modules;

## **12 Training Sources (Continued)**

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### **B Training Library (continued)**

- (2) Training modules developed by the RO or Product Management for various crop specific policy provisions, LASH, or underwriting guides.
- (3) General Program Topic Modules;
- (4) LC Modules;
- (5) Loss Adjustment Modules;
- (6) Program Integrity Modules;
- (7) Case Studies;
- (8) Directives;
- (9) Correspondence;
- (10) Other:
  - (a) Center for Agribusiness Excellence training such as HyDRA, Dashboard, Maps, Weather Data or PRISM/RMA Weather and Climate Portal;
  - (b) Using GPS Camera such as documentation with photos, downloading, and filing; and
  - (c) Preparing for different types of dispute resolution.

## **13 Training Plans**

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The LC Coordinator and RO Director will establish a training plan using a mixture of the tools in paragraph 12 – Training Sources to ensure all RO staff assigned LCs are properly trained and maintain certification on an annual basis.

### **14-20 (Reserved)**

## **PART 3 RMA SCREENING AND SELECTION**

### **21 RMSD Considerations**

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RMSD will identify systemic program or AIP performance issues that may have national implications. RMSD will request that ROs participate in LCs involved with these issues. The requests will be provided to the RO prior to the beginning of the current claim season, or no later than April 1 of the current crop year. The recommendation(s) may be by AIP, by crop, or related to any other issue.

### **22 Large Claim Selection Plan**

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#### **A RO Considerations**

- (1) Each RO will create and maintain a LC Selection Plan.
- (2) The LC Selection Plan will address:
  - (a) General Considerations
    - (i) Reviewing a variety of AIPs, especially AIPs new to the region or program;
    - (ii) Previously identified systematic issues for a particular AIP; and
    - (iii) Past large claims participation for each AIP.
  - (b) Program Considerations
    - (i) New policies, procedures, and pilot programs;
    - (ii) Areas of probable/potential program vulnerabilities, such as changes in planting, crop, or management practices;
    - (iii) Unusual fluctuations in area loss ratios (not on an individual policy basis); and
    - (iv) Systemic issues identified for a particular crop policy or procedure.
  - (c) Regional Considerations
    - (i) Crop distribution to result in participation in a variety of crops; and
    - (ii) Geographical distribution to result in participation in a variety of areas.

**A RO Considerations (continued)**

(d) Seasonal Considerations

(i) The LC Selection Plan will address unique claim circumstances such as

Quality issues, disease, weather, market losses, etc.

(ii) The LC Selection Plan should be specific in response to the above criteria, for example, prevented planting in a particular state.

(e) Natural Disasters in the Region

**B Plan Submission**

A copy of the plan will be submitted annually to RMSD by May 1 to take effect with the next crop year. For example, a LC Selection Plan submitted on May 1, 2016 would take effect for the 2017 crop year for all crops.

**23-30 (Reserved)**

## PART 4 LARGE CLAIMS PROCESS

### 31 AIP Duties

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#### A AIP Large Claim Screening

- (1) AIPs must determine whether a notice of potential claim will likely result in a production loss or indemnity exceeding the \$500,000 threshold, or such other amount determined by RMA.

**Screening must** include:

- (a) Field visits and communications with the policyholder or others to collect production loss and cause of loss information;
  - (b) Performing appraisals **in a timely manner after the notice of loss is received from the insured** to ascertain an estimate of the production potential, **if applicable**; and
  - (c) Verification of information provided by the policyholder that an insurable cause of loss has occurred.
- (2) During the screening process, AIPs must **NOT**:
  - (a) Make any final determinations of the amount of loss;
  - (b) Release the acreage for other use;
  - (c) Reach an agreement with the policyholder as to appraisals, the amount of uninsured causes, production to count, or the amount or cause of loss;
  - (d) Allow loss adjusters or the policyholder to sign any production worksheets or appraisal worksheets; or
  - (e) Notify an RO of potential large claims based solely on the policy's total liability.
- (3) Other than performing activities related to the screening process, AIPs must not conduct any loss adjustment activity without first coordinating such activity with the RO, unless:
  - (a) Authorized by the RO if the RO is participating in the claim process; or
  - (b) Three business days from the date the notice was sent to RMA have elapsed without a response from the RO.

**B Initial Notification**

After screening, the AIP must immediately notify RMA of a potential LC on an ECIC which is likely to exceed \$500,000, or such other amounts as determined by RMA, in production loss or indemnity. The notification:

- (1) Will be sent to the attention of the RMA RO Director for the region where the insured acreage is physically located;
- (2) May be sent by facsimile or e-mail (use the general RO e-mail address if e-mailing the notification);
- (3) Must be clearly identified as a “Potential Large Claim Notice”;
- (4) Must include the following:
  - (a) Policyholder’s name;
  - (b) State and County code;
  - (c) Policy number;
  - (d) Claim number, if applicable;
  - (e) Crop (for WFRP policies, include the crop(s) damaged, and whether the policyholder is a fiscal or calendar year filer);
  - (f) Insurance plan;
  - (g) Unit numbers and number of acres affected;
  - (h) Cause of loss and date of damage as reported on the notice of loss;
  - (i) Estimated indemnity (for revenue protection plan, use the projected price as a basis for the estimate unless the harvest price has been announced);
  - (j) Intended use for the damaged acreage;
  - (k) Total liability (or estimated liability for claims if before ARD);
  - (l) Companion contracts, if known;
  - (m) AIP field office or contact e-mail,
  - (n) Reinsurance year, and
  - (o) List of Screening activities collected in A(1) which may be requested by the RO.

**B Initial Notification (continued)**

**IMPORTANT:** Notifications received after close of business of the RO, or on any day the RO is officially closed, will be considered as having been received the next business day.

- (5) If the AIP fails to send the RO the required information, the RO may request additional information or will not accept the potential LC, giving the reason(s) for the rejection. The AIP then must:
  - (a) Complete the screening process if it has not been done; and
  - (b) Resubmit the potential LC notice with all required information.
- (6) If the AIP discovers, at any time after the initial screening, that an ECIC will likely exceed \$500,000 in production loss or indemnity, or such other amounts as determined by RMA, due to a subsequent loss, the AIP must immediately report the claim to RMA using the initial notification process.

**C AIP Point of Contact**

The AIP will designate a person as the point of contact for LC coordination who is responsible for coordinating all loss adjustment activities with the RMA RO LC Coordinator or LC Team Member.

**D RMA RO Declines or Delays the Decision to Participate in a Large Claim**

- (1) If the RO exercises its option to not participate in the LC:
  - (a) The RO will notify the AIP that it may proceed with all aspects of the loss determination for the claim without any further notification to the RO.
  - (b) If the RO declines participation in a LC, the AIP is not required to notify the RO of any subsequent losses that exceed the LC threshold for that ECIC.
  - (c) If the AIP suspects fraud, waste, or abuse, the AIP should follow the procedures set forth in the SRA, Appendix IV, Section IV and Part 5 paragraph 41 D – Referrals for Suspected Cases of Fraud, Waste, and Abuse of this handbook.



**D RMA RO Declines or Delays the Decision to Participate in a Large Claim (continued)**

(2) If the RO delays its decision to participate in a LC in accordance with Paragraph 32 C (3), the AIP:

- (a) may monitor and continue all claim activities required in determining the actual loss amount on the claim.
- (b) must notify the RO when it becomes clear the loss exceeds the LC threshold if prior to the follow-up date provided by the RO.
- (c) must notify the RO prior to settlement and payment of the claim if prior to the follow-up date provided by the RO.

**E RMA RO Elects to Participate in a Large Claim**

If the RO elects to participate in a potential LC, the AIP must:

- (1) Collaborate with the RO representative working the claim;
- (2) Provide a copy of the claim file and all policy and underwriting documents to the RO within 15 calendar days;
- (3) Participate in a meeting or conference call with the RO to review the LC process and develop a plan for the field review (see paragraph 32 E (1)) – Large Claim;
- (4) Participate in an entrance conference with the RO and the policyholder;

**NOTE:** This conference may occur at the start of the initial field visit if the policyholder will be present. However, the timing of the meeting, whether in the field or by phone, should be prearranged with the RO staff.

- (5) Notify the RO before scheduling any loss adjustment activity, including field inspections, so the RO representative may participate;
- (6) Obtain all necessary documents from the policyholder to complete the claim in compliance with all regulations and procedures;
- (7) Submit claim documents to the RO for review and approval. \*\*\*

**NOTE:** If there is a dispute between RMA and the AIP with respect to RMA's determination of a loss, the AIP will pay the claim in accordance with FCIC's approval, but retains the right to dispute RMA's actions in accordance with the administrative appeals procedures found in 7 CFR part 400.169.

**E RMA RO Elects to Participate in a Large Claim (continued)**

- (8) Participate in an exit conference with the RO and the policyholder to review the claim and obtain the policyholder's signature on documents; and
- (9) Process the claim and report information to RMA PASS in accordance with 31 I – Policy Acceptance and Storage System Reporting.

**F Conduct Mandatory Actual Production History (APH) Reviews**

In lieu of the SRA Appendix IV, and in conjunction with the SRA Appendix I, CIH and LAM, an APH review is required for all large claim reviews in which RMA chooses to participate.

- (1) The AIP must review APH records in accordance with the SRA Appendix I, Section IV and with Section 21 of the BP. If acceptable records as obligated under these procedures are not provided, the APH must be corrected in accordance with approved policy and procedure.
- (2) The APH review should be completed and provided to the RO within 60 days of the RO's notification of participation on the claim.
- (3) The AIP will forward a copy of all documents used for the review to the RO.

**G Communicating with the Policyholder**

- (1) AIPs are responsible for communications with the policyholder. If RMA elects to participate in the claim, the AIP must:
  - (a) Inform the policyholder of RMA's review and participation in the loss determination;
  - (b) Assign a loss adjuster or AIP representative who will be responsible for contacting the policyholder to:
    - (i) Set up an entrance conference with RMA participation;
    - (ii) Arrange farm access and time for loss adjustment activities as appropriate;
    - (iii) Obtain production records and any other documents necessary for completing the claim and any associated APH review; and
    - (iv) Set up an exit conference with RMA participation; and
  - (c) Update the policyholder on the status of the claim at regular intervals.

**G Communicating with the Policyholder (continued)**

- (i) The frequency of communication will depend on the circumstances of the claim. A minimum communication interval should be decided upon during the entrance conference. A communication interval of at least once every 45 days is recommended.
- (ii) The update may be in the form of a conference call involving the AIP, RMA RO, and the policyholder, or may be in written form as a letter or e-mail. All written communication must adhere to the requirements in the following section.

(2) Written communication

Any written communication the AIP intends to send to the policyholder regarding the claim review or loss determinations must be sent to the RMA RO, or RMSD, for approval before it is sent to the policyholder.

- (a) The RO or RMSD must respond to the AIP in writing with approval or disapproval of the communication.
- (b) If the RO or RMSD disapproves of the communication, reasons for the disapproval will be given in writing and the AIP and RO/RMSD representatives will work together to resolve the cause of the disapproval. In the event that a resolution cannot be reached, the AIP will send the written communication as determined by RMA.

(3) All communication with the insured (verbal and written) should be documented in a special report or factsheet.

The AIP must report the action taken by RMA on the applicable record to PASS in accordance with Appendix III of the SRA. Records that are part of a potential claim on an ECIC, the Large Claim Flag must be:

N = AIP notified RMA of excessive indemnity and RMA did not participate in the determinations; or

R = RMA participated in loss determinations or reviewed loss determinations before payment.

## 31 AIP Duties (Continued)

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### I Ensuring Compliance with Large Claim Review Requirements

RMA recommends the AIPs involve field supervision early in the LC process to ensure review requirements are met. If RMA determines that all requirements have not been met, RMA will take appropriate action as authorized under the SRA.

## 32 RMA RO Duties

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### A Preliminary Review

If the potential large claim notice is incomplete, the RO may request additional information or it will not accept the potential LC, giving the reason(s) for the rejection. The RO will notify the AIP of the missing information in writing and request the AIP submit the information (see paragraph 31 A(5) – AIP Large Claim Screening). If the AIP fails to send the RO the required information, the RO should notify RMSD for further action.

### B Election to Participate or Decline

If the RO considers participation, and the notice is complete (requirements are listed in paragraph 31 B – Initial Notification), the RO will conduct a preliminary review according to the following procedure to determine if the RO will participate in the loss determination.

(1) Gather the following information:

- (a) Policyholder information.
- (b) APH, if applicable.
- (c) Center for Agribusiness Excellence producer information.
- (d) Claim information as required under paragraph 31B – Initial Notification.

If needed, check with local FSA, CES, and/or NRCS to ascertain the extent of the loss event and if there is a likelihood of other potential notices.

- (2) Contact the RMA RCO to determine if the RCO or Special Investigations Services has an ongoing review or investigation with the policyholder. The RO will consider not participating in the claim if there is an ongoing compliance review. The RO will not participate in the claim if the producer is under investigation for the current year.

**B Election to Participate or Decline (continued)**

**NOTE: If Special Investigations Services is investigating a policyholder suspected of wrongdoing, the AIP and RMA are prohibited from paying a claim until the investigation is concluded.**

- (3) Review findings with the RO Director, RO Deputy Director, LC Coordinator or designee.
  - (a) If electing to decline participation in the loss determination, go to step 4.
  - (b) If electing to participate in loss determination, go to **32 C**.
- (4) If electing to decline participation in the loss determination:
  - (a) The RO should notify the AIP according to subparagraph 32 C –Notifying AIP of RO Election with a cc to the RO Director, Deputy Director, the crop and LC team member(s), or other notification as determined by each RO Director.
  - (b) The RO will log participation decision in the LC/GFP Database.
  - (c) When the RO declines to participate, the AIP may proceed with all aspects of the loss determinations for the claim.

**C Notifying the AIP of RO Election**

- (1) The RO will notify the AIP, **through the LC/GFP Database**, of its decision within three business days of receipt of a complete potential LC notice.
  - (a) If the RO is closed for any reason when the response is due, the deadline for a response will be extended to the next business day.
  - (b) The RO will provide the name of the contact person, **crop, crop year, policy number, and name of insured** in the response to AIP.
  - (c) **RMA reviewers will not opt out of or terminate a LC review after accepting a large claim for review.**

**C Notifying the AIP of RO Election (continued)**

- (2) If the RO fails to respond to the potential LC notification within three business days of receiving a complete notification, the AIP may proceed with normal loss adjustment activity.
- (3) The RO may elect to delay the decision to participate on a large claim to monitor the progress of a crop from the loss event to see if it will in become a large production loss. For the RO to delay the decision to participate, it must do the following:
  - (a) Provide timely notification to the AIP of the decision to delay participation by contacting the AIP and documenting the activity in the LC/GFP Database.
    - (i) The RO may only delay the decision to participate in a LC when there is uncertainty on whether the claim will exceed \$500K.
    - (ii) The RO must monitor the progress of the crop from the loss event to determine if it may recover as the crop matures.
  - (b) Set the Notice Response in the LC/GFP Database to 'MI' "Request for More Information" in order to bypass the 3-day requirement to elect participation.
  - (c) Document the reason and evidence supporting the decision to delay electing participation in the LC/GFP Database
  - (d) Provide the AIP with a follow-up date applicable to the crop. If the RO does not follow up within three days of the designated date, the AIP may proceed with normal loss adjustment activity.

**D Recording Large Claim Information**

- (1) The RO must enter the LC information in the LC/GFP Database.
  - (a) If the RO declines participation in the LC, the RO must log the AIP potential LC notice information and the RO participation decision in the LC/GFP Database.
  - (b) If the RO elects to participate in the LC, the RO must log the AIP potential LC notice and the RO participation decision in the LC/GFP Database and complete all applicable fields in the database related to the RO's participation in the claim. \*\*\*
- (2) The RO will create and maintain records in accordance with Exhibits 3 and 4.

\*\*\*

**E RO Large Claim Involvement**

- (1) The RO must hold an in-person meeting or teleconference with the AIP. The RO will:
  - (a) Participate in a meeting with AIP adjuster and/or representative to review the LC process and develop a plan for the entrance conference with the policyholder and a field review. Explain that the RO representative will collaborate and participate fully and equally in working the claim with the AIP, including making appraisals, conducting the APH review and signing claim documents.
  - (b) Request a briefing from the AIP adjuster on expected issues, difficulties, and other pertinent policyholder file information.
- (2) The RO will request the entire loss and underwriting file from the AIP be uploaded to the LC/GFP Database, and review the following:
  - (a) The AIP Claim File \*\*\*;
  - (b) Mandatory APH Review;
    - (i) The RO will review mandatory APH review files completed by the AIP as required by the SRA or FCIC issued procedure.
    - (ii) Completion of the LC review requires determination that the guarantee and indemnity were properly calculated based on substantiating records for APH certification. The RO must verify the information on the documents is correct via third party records to the extent practical.
    - (iii) The SRA (Appendix IV), BP, CIH, and LAM are used by the RO and AIP for APH procedure and APH review requirements.
  - (c) Unit Structure, Pre-Acceptance Inspection, legal description, acreage report, and loss experience, as applicable;
  - (d) Insurability of all acreage in the unit(s) involved; and
  - (e) Special underwriting actions; e.g., Written Agreements, Added Land, etc.

**E RO Large Claim Involvement (continued)**

- (f) The RO should review all previous production-loss claim work for that crop policy in the county that was completed prior to reaching the \$500k threshold that required the AIP to provide a LC notice RMA, i.e.- replant and prevented plant claims in that crop year.
- (g) The RO may elect to participate on future claim(s) in that year for the selected crop policy, if applicable. The RO must provide the AIP written notification prior to completion of the elected LC if they wish to participate in future potential claims.

(3) Entrance Conference with Policyholder

- (a) The RO will participate in a meeting or conference call with the AIP and policyholder. At a minimum, this meeting agenda should include:
  - (i) An explanation of RMA's involvement in the loss determination;
  - (ii) An explanation of the LC process;
  - (iii) A review of the cause of loss;
  - (iv) A list of the documents that the policyholder will be expected to provide to complete the loss determination and any associated APH review, as applicable; and
  - (v) A plan for keeping the policyholder informed of the claim status.
- (b) The policyholder should be advised that additional documents may be requested as a result of findings in the reviews.

(4) Keeping the policyholder informed

- (a) The AIP will inform the policyholder of RMA involvement and contact the policyholder in accordance with subparagraph 31 G – Communicating with the Policyholder.
- (b) Regularly scheduled communication between the RO LC representative, AIP and policyholder may prevent the review from stalling. The time interval for communication of the status of the claim should be agreed upon with the policyholder at the entrance conference. It is recommended that the interval be no longer than 45 days.



**E RO Large Claim Involvement (continued)**

- (c) RMA will review and approve all written communication between the AIP and the policyholder regarding the loss determination in accordance with procedures set forth in subparagraph 31 G (2) before it is sent to the policyholder.

(5) Forms and documentation

The RO representative will ensure the Claim Checklist, Remarks and Field Notes, and Interview/Telephone Record are completed as appropriate in the LC/GFP Database (see Exhibits 3 and 4).

- (6) Prepare and submit to the RO Director, a trip report that includes your observations, findings, and recommendations based on information documented in your Claim Checklist, or Remarks & Field Notes. This information provides the basis for making a decision whether there is an adverse determination and, if appropriate, to begin drafting the body of your LC Review Decision Letter.

(7) The Exit Conference

- (a) The RO will participate in a meeting or teleconference (Exit Conference) with the policyholder and AIP prior to issuance of the Decision Letter for the LC review.
  - (i) While this Exit Conference can usually be accomplished via telephone, there may be adverse or controversial cases that merit a face-to-face meeting.
  - (ii) In all cases when it is determined that an in-person visit with the policyholder to discuss an adverse finding is necessary, the RO must accompany the AIP.
- (b) The Exit Conference includes a review of:
  - (i) Final loss determinations (prior to AIP and RMA sign-off).
  - (ii) Findings of facts and issues when signing Production Worksheet(s).
- (c) The policyholder should be given at least 10 calendar days to provide additional information before issuing the LC Review Decision Letter.
  - (i) Reasonable extensions to provide additional information may be documented and granted in writing.

**E RO Large Claim Involvement (continued)**

- (ii) Policyholders may choose to waive the 10 calendar days if they have no additional information and want the indemnity released sooner. Verbal waivers may be given during the exit conference and recorded in the meeting notes.

(d) Controversial Claim Procedure

In the event the policyholder does not agree with the determinations made during the LC review, the AIP and RO must follow the Controversial Claim procedures outlined in Part 12, Paragraph 1204, of the current LAM that pertains to preparation of two claim documents, one by the insured and one by the AIP.

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- (8) Issue a Decision letter in accordance with a template provided in the LC Review Decision Letter Template (Exhibit 7).
  - (a) Following the 10 calendar days the policyholder has to provide additional information, or following receipt and review of additional supporting claim documentation, the RO:
    - (i) Completes the final draft LC Review Decision Letter; and
    - (ii) Obtains the AIP's comments and written concurrence on the final draft LC Review Decision Letter and requests that the AIP calculate, verify and complete any change(s) in APH, determined acres, guarantee, and indemnity due prior to issuance of the letter.
  - (b) Deliver the LC Review Decision Letter by certified mail or overnight delivery (signature required) to the policyholder within 15 business days of the Exit Conference. The Decision Letter should include:
    - (i) Copies of signed production worksheets and proof of loss;
    - (ii) Revised APH, if applicable, prepared by the AIP; and
    - (iii) A stamped, self-addressed envelope or overnight delivery service return delivery envelope for the policyholder to return any necessary signed documents, if applicable.
  - (c) Upload a copy of the signed LC Review Decision Letter with exhibits, in PDF format, to the LC/GFP Database.

**E RO Large Claim Involvement (continued)**

(9) Officially Close the LC:

- (a) The file may be closed after:
  - (i) The policyholder has completed an administrative review, mediation, and/or an appeal; or
  - (ii) The time period for the policyholder to request an administrative review, mediation, and/or appeal has expired.
- (b) The RO must record the results of the claim activity in the LC/GFP Database in accordance with Exhibits 3 and 4.
- (c) The RO must complete the uploading of all files, records, and pictures to the LC/GFP Database in accordance with Exhibits 3 and 4.
- (d) After the file has been closed, forward any “lessons learned” to RMSD, and debrief the LC team (including RO Director and Deputy Director), as appropriate.
- (e) Develop any referrals in accordance with the Large Claim Referral Procedures contained in Part 5 and document the referrals in the “Notes” section in the LC/GFP Database.
- (f) Document hours spent working on each LC and travel expenses in the “Time and Expenses” section in the LC/GFP Database in accordance with Exhibit 3.

**F Large Claim Files**

The LC Case File Organization and Storage Procedure will be used to develop the claim case file, including exhibits, photographs, related documentation and LC Review Decision Letters (see Exhibits 3 and 4).

#### **A AIP Inquiries**

- (1) Regulations published at 7 CFR part 400, subpart X, provide the procedures for requesting written interpretations of the Federal Crop Insurance Act and regulations such as the Basic Provisions and various Crop Provisions. However, written interpretations of FCIC issued procedures are not covered by subpart X.
- (2) For interpretations of the meaning or applicability of procedure, prepare the request according to the criteria for requesting an interpretation in MGR-05-018, dated October 7, 2005, “Requesting a Written Interpretation of FCIC Procedures under Section 20 of the Common Crop Insurance Policy Basic Provisions.”
- (3) The AIP must notify the policyholder of a request for interpretation and give them the opportunity to also submit an interpretation request. If the policyholder decides to submit an interpretation request, it should accompany the AIP submission as a joint request of interpretation of procedure.

#### **B RMA Inquiries**

- (1) Understanding the meaning and the proper application of FCIC-issued policies, standards, and procedures is critical for successful claim participation, documentation of claim determinations, and defense of the RO decision through mediation, administrative review, NAD appeal, and judicial review.
- (2) All RO questions or issues requiring clarification, explanation or interpretation of policies or procedures for LCs reviews will be directed to RMSD. RMSD will develop the request for clarification, explanation or interpretation and submit it to the Deputy Administrator for Product Management (DAPM) in accordance with MGR-05-018 or 7 CFR part 400, subpart X.
  - (a) When the response is received from DAPM, RMSD will then provide a written response to the RO who made the inquiry. Verbal responses, e-mail, or phone conversations conducted outside this process are not adequate support for RO determinations.
  - (b) The RO must notify the policyholder and AIP of the intent to submit a request for interpretation and give them an opportunity to also submit an interpretation request. Submit any requests for interpretation of the same procedure together as a joint request of interpretation of procedure.
- (3) If OGC legal sufficiency is needed, RMSD will coordinate this effort. If the case is forwarded by RMSD to OGC for legal sufficiency review, all pertinent information related to the final decision will be included in the RO’s LC Review Decision Letter unless otherwise specified by OGC.

**34-40 (Reserved)**

## **PART 5 REFERRALS**

### **41 Procedures for Written Referrals**

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#### **A Background**

In the normal course of performing RO duties and responsibilities related to the review of LCs, situations arise that require referral to various functional units within RMA for additional follow up. This section establishes the process and requirements for written referrals when program vulnerabilities are identified, an AIP systemically fails to follow FCIC-issued policy and procedures, and/or program fraud, waste and abuse is identified. These referrals should be made to the RMSD and RMSD will forward the referral to the appropriate division within RMA.

Complaints received from outside sources of alleged fraud, waste, and abuse of the crop insurance program must be immediately documented and referred in writing to the appropriate division with a copy to the RMSD.

#### **B Referrals of Program Vulnerabilities for Policy or Procedural Changes**

ROs are in a unique position to review policies, standards, and procedures in actual claim situations. ROs can identify program vulnerabilities or the misunderstanding and misapplication of policies and/or procedures and suggest program improvements that protect program integrity and provide the appropriate risk protection to policyholders.

Referrals of program vulnerabilities for policy or procedural changes that arise from participation in a LC review are to be submitted to RMSD for consideration and coordination of cross regional issues. If in agreement, RMSD will forward the referral to the DAPM through the DAIS.

To be effective, referrals must include, to the extent possible:

- (1) Condition
  - (a) Describe the situation or problem; and
  - (b) Include documents and exhibits only if necessary.
- (2) Current criteria

Cite and reference the FCIC-issued policy or procedure at issue, if applicable.
- (3) Effect of the condition
  - (a) State the negative program impact that is occurring due to the condition; and

### **B Referrals of Program Vulnerabilities for Policy or Procedural Changes (continued)**

- (b) State the consequence of not correcting the problem (for example, loss of time, accuracy, monetary, etc.), quantified, if possible.
- (4) Recommendation

State a suggested solution for the problem or improvement for the situation. Include specific language, if possible.
- (5) Analysis and assessment
  - (a) Consider and describe the effect of the condition and the recommendation on any other programs, rates, coverage, regions, etc., to the extent possible.
  - (b) Consider and describe the effect of the recommendation on stakeholders (for example, increased field inspections for AIPs, workload changes for AIPs or RMA, benefits, etc.).
- (6) Support for recommendation.
  - (a) State whether or not the recommendation has been discussed with other ROs, AIPs, NCIS, and/or Product Management staff; and
  - (b) State any support or concerns raised with regard to the recommendation.

### **C Referrals for Systemic AIP Performance Issues**

Referrals for systemic failure to follow FCIC-issued policies, standards, and procedures that arise out of the normal conduct of RO activities or operations which can be fully documented and do not require further review must be submitted in writing to RMSD for consideration and coordination of cross regional issues. If in agreement with the referral, RMSD will forward the referral to RSD through the DAIS.

- (1) Systemic AIP performance issues include non-compliance with the SRA and Appendix IV, including but not limited to:
  - (a) Failure to respond to specific agency directions;
  - (b) Failure to correct identified discrepancies; and
  - (c) Failure to reconcile identified errors, etc.

### C Referrals for Systemic AIP Performance Issues (continued)

(2) Written referrals must include:

(a) Party(ies) of the alleged wrongdoing.

Include full name, address, phone number, AIP, agent, policy number, crops, etc. for all parties involved.

(b) Condition – the situation or problem itself.

(i) Describe the discrepancy and who is alleged to be responsible; and

(ii) Include documents relevant to the discrepancy as exhibits.

(c) Cause

State your opinion of the underlying reason why the condition occurred (for example, lack of training, absence of quality controls, AIP reluctance to research cause of loss, etc.).

(d) Criteria

(i) Provide the policy provision or procedure that establishes the standard.

(ii) Cite, quote, and exhibit FCIC issued policies, procedures, SRA, etc., to clearly identify the standard to be applied or followed.

(e) Impact

(i) State the logical quantified result of correcting the discrepancy, or applying FCIC issued policies, standards, and procedures, i.e., bushels, tons, etc., of APH correction, amount of reduced indemnity, etc.

(ii) State the consequences of not correcting the discrepancies or problem.

(f) AIP response

(i) Include the manner, date, etc., the AIP was made aware of the discrepancy; and

(ii) Detail the AIP reaction, reply, actions they are taking or plan to take, or disagreements.

### D Referrals for Suspected Cases of Fraud, Waste, or Abuse

During the course of conducting LCs reviews, instances of suspected fraud, waste, or abuse and suspected wrongdoing in the use of FCIC-issued policies, standards, and procedures may be identified and should be discussed initially with the appropriate RCO. All referrals originating out of this process must be in writing to RMSD for consideration and coordination of cross regional issues. If in agreement, RMSD will forward the referral to the DAC through the DAIS.

(1) A referral must include:

(a) Copies of all relevant documentation such as acreage determinations, appraisals, verification of entity, documented interviews, telephone interview records, contact information, etc., that the RO has obtained or completed prior to referral.

(b) Party(ies) of alleged wrongdoing.

Include full name, address, phone number, AIP, agent, FSA county office, policy number, crops, etc. for all parties involved.

(c) Condition

(i) Describes the discrepancy and who is alleged to be responsible; and

(ii) Include documents including the discrepancy as exhibits.

(d) Cause

State your opinion of the underlying reason why the condition occurred.

(e) Criteria

(i) Provide the policy provision or procedure that establishes the standard.

(ii) Cite, quote, and exhibit FCIC issued policies, procedures, SRA, etc., to clearly identify the standard to be applied or followed.

(f) Impact.

(i) State the expected result of correcting the discrepancy, or applying FCIC issued policies, standards, and procedures, i.e., bushels, tons, etc., of APH correction, amount of reduced indemnity, etc.

(ii) Describe impacts such as potential widespread misunderstanding or misapplication of procedure or claim administration.



### **D Referrals for Suspected Cases of Fraud, Waste, or Abuse (continued)**

(iii) Include the cost avoidance when RMA participation avoids or corrects a monetary discrepancy.

(g) Recommendation.

State your recommendation to correct the problem, i.e., more specific training is needed, AIP needs to conduct further claim review, etc.

- (2) ROs cannot delay a LC review determination unless notification is received from the RCO indicating that OIG has officially opened an investigation regarding the case or is conducting an investigation of a prior year's claim for which policy holder wrongdoing is suspected.
  - (a) Refer to FAD-078 at [www.rma.usda.gov](http://www.rma.usda.gov) for additional guidance.
  - (b) ROs cannot approve a claim for indemnity until all necessary information to support the indemnity payment is received. When fraud is suspected, it is necessary to wait for the verification of information before authorizing an indemnity.
- (3) RMA reviewers are not to opt out of or terminate a LC review after accepting a large claim for review or when they identify instances of noncompliance with FCIC-issued policy and procedure after having accepted a large claim for review.
- (4) ROs will provide written updates to the referral when additional information becomes available.

### **E RMA Regional Compliance Office Responsibilities**

- (1) Cases referred by RMSD to Compliance must be recorded and tracked according to established procedures. RCOs will send an email to the referring RO and RMSD acknowledging their receipt of information within 30 days of receipt and advise if the referral has been accepted for review.
- (2) RCOs will provide written information and updates to the RO every 30 days, or sooner when necessary, and when RCO action is complete. The RCO will provide valid information that could affect the LC determination or other RO function as soon as it becomes available.
- (3) DAC is responsible for referring appropriate cases to the OIG. The RCO will refer cases appearing to have reasonable cause for investigation to the appropriate OIG office. The RCO will notify the RO of any open OIG investigation(s) related to the referral to ensure that RMA administrative action does not interfere with the OIG case(s).

### **E RMA Regional Compliance Office Responsibilities (continued)**

- (4) Cases **must** be referred to the OIG if fraudulent activity is known, suspected, or alleged, including:
  - (a) The submission of false claims or false or fraudulent statements by employees, policy holders, contractors, or others; and,
  - (b) Any violations of agricultural programs involving contractors, policy holders, employees, or others.
- (5) OIG involvement.
  - (a) The OIG determines whether to accept the case for investigation based on consultation with the Department of Justice. Once a case is accepted by the OIG, all subsequent administrative actions pertaining to the case must be coordinated with the OIG.
  - (b) RCO Directors will inform the referring parties of any actions deemed necessary by the OIG and ensure administrative actions do not interfere with the OIG's investigation.
  - (c) If the case is accepted for investigation, any indemnity due will be held until completion of the investigation or until released by OIG.
  - (d) If the OIG declines to investigate a matter referred to them, the OIG will advise Compliance to take any administrative actions determined to be appropriate.

### **F Filing Requirements**

In all cases where a referral results from a LC notice or LC review, the referral must be referenced in the "Notes" section of the LC/GFP Database. The notes should include the date forwarded to RMSD, the issue or vulnerability identified for referral, and the outcome of the referral when notified. The referral document itself must be attached to the referral note.

42-44 (Reserved)

## PART 6 DISPUTE RESOLUTION

### 45 Dispute Resolution

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#### A General Information

- (1) If there are any disputed or unresolved issues between RMA and the AIP regarding a loss determination during RMA's review or participation in such loss determination, such disputes or unresolved issues:
  - (a) will be elevated to the AIP's National Claims Manager and RMA's RMSD Director.
  - (b) will not, without RMA concurrence, be discussed in the presence of the policyholder or anyone else outside of RMA or the AIP.
- (2) If there is a dispute between RMA and the AIP, with respect to RMA's determination of a loss, the AIP will pay the claim according to RMA's written approval. The AIP retains the right to dispute RMA's actions in accordance with administrative appeals procedures found in 7 CFR § 400.169.
- (3) When RMA elects to participate in the loss determination, or modifies, revises, or corrects a claim during review prior to the AIP reaching an agreement with the policyholder or prior to the AIP making payment to the policyholder on the claim:
  - (a) If the policyholder disputes the claim, the policyholder's dispute on the RMA modification, revision or correction will be with RMA.
    - (i) The policyholder may request administrative review, mediation, or appeal to NAD in accordance with section 20(e) of the BP.
    - (ii) The AIP must provide RMA with cooperation and assistance as needed in any dispute with the policyholder.
    - (iii) The policyholder may not bring arbitration, mediation or litigation action against the AIP in regards to the settlement of the claim.

### A General Information

If the policyholder does not agree with RMA's decision, the policyholder has a right to request an administrative review of the RMA decision within 30 calendar days of receipt of the LC Review Decision Letter in accordance with 7 CFR part 400, subpart J, by providing the required information to the RMA DAIS at:

Deputy Administrator for Insurance Services  
USDA/RMA/Insurance Services/STOP 0801  
ATTN: LARGE CLAIM ADMINISTRATIVE REVIEW  
1400 Independence Avenue SW  
Washington, D.C. 20250-0801

First class mail to Washington, D.C. is often delayed for security measures. Participants are encouraged to send information by a delivery service that records pickup or postmark, and records and guarantees delivery.

### B Processing Requests for an Administrative Review

- (1) If the policyholder requests a LC Administrative Review, RMSD will notify the RO of the request.
- (2) RMSD will review the documents filed by the RO and if necessary contact the RO, the policyholder or AIP for additional information or documentation.
- (3) RMSD conducts its review, prepares an Administrative Review Decision Letter, with all cited Exhibits attached to the letter. Prior to the DAIS signature, RMSD will inform the RO of its decision.
- (4) RMSD will send the Administrative Review Decision Letter and Exhibits to the policyholder in accordance with PII requirements via certified mail or overnight delivery service. The RO and AIP will also receive a copy of the Decision Letter (usually via email).
- (5) To maintain file continuity, RMSD will:
  - (a) create a new Document Set or folder titled "Administrative Review" in the "Documents" section of the appropriate LC file in the LC/GFP Database.
  - (b) scan, name, and upload the signed Administrative Review Decision Letter and any new additional information generated by RMSD or received during the review to the Administrative Review Document Set.

## 47 Mediation

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### A General Information

- (1) If the policyholder does not agree with RMA's decision, they have a right to request mediation of the RMA decision within 30 days from receipt of the LC Review Decision Letter. The policyholder may seek mediation in addition to administrative review.

- (a) Sample language for LC Review Decision Letter:

***Request mediation of the FCIC decision within 30 calendar days from receipt of this letter by writing to the [RO] Director at:***

*(Name of RO Director)*

*(Regional Office Name)*

*(Address)*

***ATTN: MEDIATION REQUEST***

- (b) The mediation service generally requests the participant to include a copy of the LC Review Decision letter with the request.
    - (c) Although the policyholder has a right to seek both administrative review and mediation, they cannot occur at the same time. If both mediation and administrative review are requested at the same time, the administrative review will be held in abeyance until the conclusion of mediation.
    - (d) The RO must notify RMSD if a policyholder requests mediation for a LC determination.

## 48 Appeal

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### A General Information

- (1) If the policyholder does not agree with RMA's decision they have a right to request an appeal. Sample language for LC Review Decision Letter:

***Request an appeal within 30 calendar days from receipt of the Large Claim Review Decision Letter in accordance with 7 CFR part 11, by writing directly to the National Appeals Division (NAD) at the following address:***

*Regional Assistant Director*

*National Appeals Division*

*(Address)*

**A General Information (continued)**

**NOTE:** For the regional NAD Office mailing address, refer to the NAD website at:  
[www.nad.usda.gov/](http://www.nad.usda.gov/)

- (2) Nothing precludes a policyholder from electing both an administrative review and mediation. If the policyholder elected to utilize the administrative review and/or mediation, the policyholder can still appeal to NAD after the receipt of the administrative review or completion of the mediation, whichever is later.
  - (a) If the administrative review or mediation concludes with a different decision, then the policyholder has 30 days from receipt of the decision to request an appeal from NAD. Additionally, this modified decision becomes the new adverse decision that is appealable to NAD.
  - (b) If the administrative review or mediation supports RMA's original decision, the policyholder will have only the remaining time from the 30 days from receipt of the LC Review Decision Letter to appeal to NAD after the conclusion of the administrative review or mediation, whichever is later. In this case, since the original adverse decision was upheld, it remains the decision that is appealable to NAD.
  - (c) If the producer elects mediation, administrative review, and appeal at the same time, each successive level of review will be held in abeyance until the conclusion of mediation and administrative review respectively. In this case, the requirement to request appeal within 30 days of the decision is considered to be met.

**B Preparing to Defend an Adverse Decision**

In the event of an adverse decision and a filing for an appeal, the RO will do the following:

- (1) Contact the Appeals and Litigation Liaison Office (A&L) upon receipt of a Notice of Appeal from NAD. Provide a copy of the Appeal notice to A&L and RMSD. Coordinate assistance from A&L or RMSD in preparing documents for NAD. RMSD Field Specialists may assist ROs in the preparation and/or defense of a LC Appeal or lawsuit with the approval of the RMSD Director.
- (2) Prepare an RMA agency position letter, to include:
  - (a) Regulatory and statutory basis for your decision;
  - (b) The facts of the situation; and

## **48 Appeal (Continued)**

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### **B Preparing to Defend an Adverse Action (continued)**

- (c) References to the evidence and documents used to arrive at your decision.
- (3) Prepare the Agency Record
  - (a) Obtain assistance from A&L, as needed, to compile the Agency Record in the format required by NAD;
  - (b) Determine who the Agency Representative will be based on the issues on appeal;
  - (c) Prepare a witness list. Witnesses may be experts whose opinions were used in the decision-making process, RMA employees, or other RMA subject matter experts.

## **49 Litigation**

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### **A General Information**

- (1) If a policyholder exhausts all administrative remedies and still does not agree with the outcome of RMA's decision, the policyholder may file suit against FCIC in accordance with 7 CFR part 400, subpart J within one year after the date of the decision rendered in the NAD appeal.
- (2) Any suit must be brought in the United States District Court for the district in which the insured acreage is located.

### **B Preparing to Defend a Lawsuit**

In the event a lawsuit is filed, the RO will do the following:

- (1) Contact the Appeals and Litigation Liaison Office (A&L) upon receipt of a Summons in a Civil Action, or Complaint. Provide a copy of the Summons and Complaint to A&L and RMSD. Coordinate any required documents with A&L;
- (2) Work closely with the AUSA and OGC as needed to answer questions and provide information about the case and ensure deadlines are met;
- (3) Determine who the Agency Representative will be based on the issues on appeal;
- (4) Prepare a Litigation Report to include:
  - (a) Regulatory and statutory basis for your decision;

## 49 Litigation (Continued)

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### B Preparing to Defend a Lawsuit (continued)

- (b) The facts of the situation; and
  - (c) References to the evidence and documents used to arrive at your decision.
- (5) Prepare the Agency Record
- (a) Obtain assistance from A&L to compile the Agency Record in the format required by the court. If NAD was involved, NAD will supply the Agency Record to include the appellate reviews and determinations, so it must be requested immediately after receiving the Summons and Complaint;
  - (b) Prepare a witness list. Witnesses may be experts whose opinions were used in the decision-making process, RMA employees, or other RMA subject matter experts for use by the AUSA or OGC when defending the case.

## 50 Witness Requests

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### A General Information

The Risk Management Agency follows regulations of USDA pertaining to the appearance of USDA employees as witnesses in judicial and administrative proceedings. The requirements for whether an RMA employee may be a witness in a proceeding depend on whether the United States is a party and who is requesting the appearance of the RMA employee.

### B RMA Employees as Witnesses

- (1) Witness for the United States: Under 7 C.F.R. § 1.213, an RMA employee may appear as a witness on behalf of the United States without the issuance of a summons or subpoena. The RMA employee must obtain permission from his or her supervisor before appearing as a witness. An RMA employee may contact the Appeals and Litigation Division with any questions.
- (2) Witness when United States is not a party: Under 7 C.F.R. § 1.214, an RMA employee may only appear as a witness in a proceeding where the United States is not a party when the RMA administrator authorizes the appearance because it is in the interest of USDA and the Office of General Counsel (OGC) concurs.



## **50 Witness Requests (Continued)**

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### **B RMA Employees as Witnesses (continued)**

- (a) When deciding whether an employee's appearance is in the interest of the USDA, the Administrator will consider:
  - (i) what interest of USDA will be promoted by the testimony;
  - (ii) if the testimony will unnecessarily interfere with the duties of the employee; and
  - (iii) if the testimony will appear to improperly favor one litigant over another.
- (b) See Paragraph 50 C for guidance on RMA's process for obtaining authorization.
- (3) Witness for another party when United States is a party: Under 7 C.F.R. § 1.215, if an RMA employee is served with a valid summons or subpoena to appear as a witness for a party other than the United States in a proceeding where the United States is a party, the employee must notify the RMA administrator and OGC. The Administrator and OGC will consult on whether there are grounds to oppose the employee's attendance. See Paragraph 50 D for guidance on RMA's process for obtaining authorization.

### **C Witness Requests When United States is Not a Party**

- (1) A&L is responsible for coordinating and obtaining the necessary authorization for the appearances of RMA employees as witnesses. A requesting party must submit a written request to the Director of A&L that provides at a minimum, the following:
  - (a) A copy of the Complaint or Demand for Arbitration;
  - (b) A detailed statement of the nature of the dispute, including the position of both parties;
  - (c) A copy of the Answer or response to the Demand for Arbitration;
  - (d) A written statement outlining the need for the RMA witness to testify, including a statement as to why it would be in the interest of the RMA for the employee to appear;
  - (e) The subject matter the RMA employee will be asked to testify about, including any policies, amendments, endorsements, bulletins and/or manuals relevant to the proceeding.

## **50 Witness Requests (Continued)**

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### **C Witness Requests When United States is Not a Party (continued)**

- (f) Dates, times, and location of the proceeding;
- (g) Date, time, and location you intend to brief the witness prior to the employee's appearance; and
- (h) Any other relevant documentation that will assist RMA in obtaining authorization.

(2) A witness request must be sent to the Director of Appeals and Litigation. It can be sent via email to: [rma.disputes@rma.usda.gov](mailto:rma.disputes@rma.usda.gov) or via First class mail or overnight/express delivery. First class mail to Washington, DC is often delayed for security measures. You are encouraged to send your request by a delivery service that records pickup or postmark and records and guarantees delivery. The requested information should be sent to the following address:

USDA, Risk Management Agency  
Attn: Director, Appeals and Litigation Division  
1400 Independence Avenue, S.W.  
Room 6603 - Stop 0806  
Washington, D.C. 20250

### **D Witness Requests for Another Party When U.S. is a Party**

Employees must notify the Director of A&L, and A&L will coordinate the request with the Administrator and OGC.

## Acronyms and Abbreviations

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The following table provides approved acronyms and abbreviations that may be used in this handbook or other LC procedure.

Acronym/ Abbreviation	Term
A&L	Appeals and Litigation Division
AIP	Approved Insurance Provider
APH	Actual Production History
ARD	Acreage Reporting Date
ARH	Actual Revenue History
ARPI	Area Risk Protection Insurance
AUSA	Assistant United States Attorney
BP	Basic Provisions
CAE	Center for Agribusiness Excellence
CAT	Catastrophic Risk Protection
CAW	Crop Addendum Worksheet
CFR	Code of Federal Regulations
CIH	Crop Insurance Handbook
CP	Crop Provisions
DAC	Deputy Administrator of Compliance
DAIS	Deputy Administrator of Insurance Services
DAPM	Deputy Administrator of Product Management
ECIC	Eligible Crop Insurance Contract
FAD	Final Agency Determination
FCIC	Federal Crop Insurance Corporation
FSA	Farm Service Agency
GFP	Good Farming Practices
GIS	Geographic Information System
GSH	General Standards Handbook
IS	Insurance Services
LAM	Loss Adjustment Manual
LASH	Loss Adjustment Standards Handbook
LC	Large Claim
LCH	Large Claim Handbook
LPRA	Livestock Price Reinsurance Agreement
NAD	National Appeals Division
NCIS	National Crop Insurance Services
NRCS	Natural Resources Conservation Service
OGC	Office of General Counsel
OIG	Office of Inspector General

**Acronyms and Abbreviations (Continued)**


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<b>Acronym/ Abbreviation</b>	<b>Term</b>
PASS	Policy Acceptance and Storage System
PAIR	Perennial Crop Pre-Acceptance Inspection Report
PAW	Pre-Acceptance Worksheet
PII	Personally Identifiable Information
PIVR	Plant Inventory Value Report
PM	Product Management
PRISM	Parameter elevation Regressions on Independent Slopes Model
RCO	Regional Compliance Office
RMA	Risk Management Agency
RMSD	Risk Management Services Division
RO	Regional Office
RSD	Reinsurance Services Division
SP	Special Provisions
SRA	Standard Reinsurance Agreement
USDA	United States Department of Agriculture
<b>WFRP</b>	<b>Whole Farm Revenue Protection</b>

## Definitions

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The following are definitions of terms used in this handbook.

Approved Insurance Provider (AIP) means a legal entity, including the company, which has entered into a SRA with FCIC for the applicable reinsurance year.

Authorized Representative means any person, whether or not an attorney, who is authorized in writing by the policyholder to act for the policyholder.

Cost Savings means the amount of indemnity and premium not paid as a result of the correction of error(s) discovered by RMA on claims for which RMA elected to participate. Cost savings must be calculated when RMA modifies, revises or corrects a claim during review prior to the AIP reaching agreement with the policyholder or prior to the AIP making payment to the policyholder on the claim. Cost savings cannot be counted for the portion of the initial decision not supported in administrative review, NAD appeal, NAD Director's review, or judicial review.

Eligible Crop Insurance Contract (ECIC) means an insurance contract with an eligible producer: (1) covering an agricultural commodity authorized to be insured under the Act and approved for sale by FCIC; (2) with terms and conditions in effect as of the applicable contract change date; (3) that is sold and serviced consistent with the Act, FCIC regulations, FCIC procedures, and this Agreement; and (4) that has a sales closing date within the reinsurance year.

*For the purposes of a LC Review, ECIC claims that the AIP must forward to the RO for review include:*

- (1) Any single claim on an individual policy that exceeds the large claim threshold for an ECIC due to prevented planting and/or production losses (losses under an area based endorsement are not included when determining the amount of the claim);*
- (2) Any aggregate claims on an individual policy, including claims that were closed and subsequent claims during the same crop year, that exceed the large claim threshold due to prevented planting and/or production losses;*
- (3) For Revenue Protection plans of insurance, any ECIC claim that exceeds the large claim threshold due to a prevented planting and/or a production portion of the loss only (revenue losses and losses under an area based endorsement are not included when determining the amount of the claim);*
- (4) For Actual Revenue History, Nursery, Whole Farm Revenue Protection, Dollar plan, and any other plans of insurance, any ECIC claim that exceeds the large claim threshold. However, area and index based plans of insurance are not included in policies subject to Large Claims Reviews.*

**Definitions (Continued)**

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Inspection means the verification:

- (1) As to whether the application, production report, acreage report, notice of claim, or other relevant documents (such as a Farm Report for **WFRP** eligible crop insurance contracts) were timely submitted in accordance with FCIC procedures.
- (2) Of the information reported on the documents referenced in (1), that are:
  - (a) Related to the claim, including preliminary and final loss adjustment (Verification of the approved yield will be in accordance with Appendix IV of the SRA); and
  - (b) Related to pre-harvest, growing season, or pre-acceptance examination of the crop;
- (3) That policy documents, including but not limited to, actuarial documents, have been properly used and applied;
- (4) That the reported practice is being carried out in accordance with good farming practices;
- (5) That the crop has been planted, or replanted, as applicable;
- (6) That the policy constitutes an ECIC;
- (7) That the policyholder qualifies as an eligible producer; and
- (8) That the agent and loss adjuster have complied with FCIC procedures.

Large Claim means a potential claim on an ECIC with an indemnity in excess of \$500,000, or such amount as determined by FCIC, or the production losses or indemnity under such claim are likely to exceed such amount.

Personal Identifiable Information (PII) means any document that has information specific to the policyholder.

Verification means the determination of whether information submitted is true and accurate through independent third parties or independent documentation in accordance with FCIC procedures. With respect to certifications, asking the policyholder whether the information is true and accurate does not constitute verification.

Written Documentation means any written information in hard copy or compatible electronic format, including facsimile and email.

## **File Organization and Storage**

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### **A The LC/GFP Database**

All LC participation and associated case files will be stored in the LC/GFP Database. This Database is the only approved electronic storage location for LC files. ROs are no longer required to keep paper copies of files as official records, but may have them on hand for reference.

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### **B Organization and Contents**

Each electronic LC File must contain the complete record of claim review and all documents related to the claim must be uploaded to the LC/GFP Database.

#### **(1) Large Claim Record (Notice Screen) in the LC/GFP DATABASE**

- (a)** Upon selecting a LC to participate, ROs must ensure all data fields in the LC/GFP Database that are not already filled, are completed where applicable.
- (b)** Summary Cost Information is entered under “Time and Expenses” for each period of time an employee spends working on a LC review. Specialists must also enter travel expenses and any other related expenses to capture the entire cost of claim participation as the expenses occur. Cost savings is automatically calculated in the LC/GFP Database based on the original Estimated Indemnity, Summary Total Cost, and the Final Indemnity.
  - (i)** The RO must update the Estimated Indemnity Amount as soon as possible after accepting a claim for participation.
  - (ii)** The RO must update the Final Indemnity Amount within 30 days after the claim is complete.

#### **(2) Activities**

- (a)** ROs may add an Activity to a large claim record to document a task, fax, phone call, email, letter, or appointment. However, the majority of activities can easily be documented and uploaded into the Documents folder as described in Paragraph B (3) below.

**File Organization and Storage (Continued)**

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**B Organization and Contents (continued)**

- (b) When notifying an AIP of a delayed decision to participate in a LC, annotate the activity in the LC/GFP Database in accordance with Paragraph 32 C(3).
- (c) Activities that are automatically annotated in the LC/GFP Database, such as automated email activity, should not be deleted.

**(3) Documents**

- (a) ROs must use the Documents folder to upload all documents related to the LC review on a real-time basis, or as soon as available. **All documentation**, if not in an electronic format, must be scanned as individual PDF files with the exception of:
  - (i) Data that is too large to be scanned (such as periodicals);
  - (ii) Data not suitable for scanning (such as certain types of photographs); or
  - (iii) Data marked as duplicate data that is already on file.
- (b) Most documents related to a LC file will fit into one of the categories below. ROs should open a “Document Set” or a “New Folder” with the following names to hold documents that fall into these categories:

- Admin Review
- AIP Records
- Claim File
- Correspondence and Emails
- Decision Letter and Exhibits
- Duplicate Files
- Field Notes
- Interview or Telephone Records
- NAD Appeal
- Photographs
- Producer Records
- Underwriting File
- Other



**File Organization and Storage (Continued)**

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**B Organization and Contents (continued)****(4) Naming Convention**

The Naming Convention for each “PDF” file will be:

**(a) Producer Name, ID, and Exhibit name.**

Leave a space between segments. Invalid characters include: # % & \* : < > ? / { | and }.

**Example: Farmer Farms EX A.1 Basic Provisions.pdf**

**(b) After the draft LCs Review Decision Letter is signed, it becomes the final signed version. The final signed version will be scanned prior to mailing and will use the same naming convention as follows:**

**Example: Farmer Farms Potatoes (RO name) LCR Decision Letter 01-23-09.pdf**

**(c) All subsequent letters and exhibits are scanned and uploaded as they are delivered or revised. Any revised files must contain the letters “REV” prior the new date (date of revision).**

**Example: EX A.1 Basic Provisions REV 02-18-09.pdf**

**(5) ROs may use the following forms, or similar forms to document field notes, telephone calls, or interviews. Any form used should be uploaded in the Documents tab in the appropriate named folder.**

**File Organization and Storage (Continued)**

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**B Organization and Contents (continued)****Remarks and Field Notes:**

The following is the form for recording remarks and field notes. If more than one form is required, number forms consecutively, such as 1 of 3, 2 of 3, etc.

Policyholder's Name	Claim Number	Policy Number
Crop(s) – Unit(s)		Crop Year
Remarks/Notes		
Associated or related materials, such as worksheets, photos, maps, etc.		
RO Representative signature	Date	Page ____ of ____

# File Organization and Storage (Continued)

## B Organization and Contents (continued)

### Interview/Telephone Record

The following is the form for recording interview/telephone communications. If more than one form is required, number forms consecutively, such as 1 of 3, 2 of 3, etc.

Policyholder's Name	Claim Number	Policy Number
Crop(s) – Unit(s)		Crop Year
Date	Time	
Interview/Call (Circle one)	Incoming/outgoing (Circle one)	
Person contacted:  Name:  Address:  Phone Number: Fax Number: E-mail address:		
Purpose:		
Narrative:		
RO Representative signature		Page ____ of ____

**File Organization and Storage (Continued)**

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**B Organization and Contents (continued)****(6) Notice Checklist Items**

The Notice Checklist Items must be completed while participating in the LC review. ROs must ensure the checklist is complete before closing out the claim. Explain any “no” answers in the Corrections field. Include references to the documents reviewed, interviews conducted, telephone conversations, and/or applicable policy and procedure supporting your determination.

**(7) LC/GFP Appeal Logs**

- (a) Add a new appeal log in the LC file whenever a Policyholder requests Mediation, Administrative Review, NAD Appeal, NAD Director Review, or files a lawsuit.
- (b) Only one appeal type may be active at any one time. Therefore, it is important to update the dates and files immediately when several appeal types are elected and are held in abeyance until completion of another. Any new appeal shall be added
- (c) When other appeals are pending, but not active in the database, add a Note to annotate the status of the claim.

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**(8) Additional Information**

- (a) Duplicate Materials. The same (exact) information may be received from different sources. Use one set for the exhibit(s) and store all duplicated materials at the end of the file. This material should be separated with a label stating “Duplicate Materials.” It is not necessary to scan duplicate materials.
- (b) Electronic Format. If everything is received in electronic format (i.e., a CD is received and no other emails were generated, no phone calls were made, etc.), then the original file would only contain the CD. However, the data would need to be extracted from the CD, appropriately labeled following the examples for exhibits, pages, etc., converted to PDF and loaded into the LC/GFP Database.
- (c) File Retention. The file will be maintained in accordance with RMA’s Record Keeping Management System guidelines.

**Guidelines for Supporting File Records**

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**A Additional Supporting File Guidelines**

In addition to LC file guidelines contained in Exhibit 3 – File Organization and Storage, the RO must:

- (1) Create and maintain a Chronology of Events log to document significant policy-required actions, such as date of acreage report, notice of loss, etc., and all contacts and actions on the claim, such as date and participants of entrance conference, etc.
- (2) Take photographs with appropriate landmarks and labeling while visiting field sites and conduct appraisals or otherwise document crop and field conditions.
  - (a) Label photos so that anyone unfamiliar with the issue can understand what the photo is intended to communicate.
  - (b) Keep and document all photos.
  - (c) Upload all photos to the LC/GFP Database Documents file.

\*\*\*

- (3) Complete field notes within 24 hours of completion of the field inspection after leaving the field. ROs may use the “Remarks & Field Notes” form in Exhibit 3B and upload in Documents, or annotate field notes in the “Notes” section of the database. Timeliness is necessary to assert the notes were contemporaneous.
- (4) Develop a record of phone conversations with the policyholder, AIP, or loss adjustor and any interviews for the file as they occur.
  - (a) Use the Interview/Telephone Record, Exhibit 3B, or a similar form, to aid in this documentation.
  - (b) Include the time of day and date; the name, address and contact information for the person you are talking to; the purpose of the call or interview; and a written overview of the conversation.

**Guidelines for Supporting File Records (Continued)**

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**A Additional Supporting File Guidelines (Continued)**

In some cases, you may want to document what the person is saying word for word. Do not hesitate to ask them to repeat something to ensure that you clearly understand what they are saying.

- (c) When interviewing the policyholder or others, write notes of the conversation and, when practical, ask the policyholder or other person to review, edit to ensure accuracy of the conversation, sign and date the special report.
- (d) If the RO representative is asked to keep the person's name and contact information confidential, do so. It is very important to comply with the person's wishes. If the information provided is pertinent to the issue or supports an adverse finding then, if possible, verify the validity of the information through other sources.
- (6) Ensure that copies of all documents are clear, easy to read, and understandable. Include an objective narrative when appropriate to ensure a person unfamiliar with the issue can understand its purpose and how it pertains to the proper determination of the claim amount.
- (7) Obtain copies of all documents in the AIP underwriting and claim files.

**NOTE:** AIP field notes may be located in the agent's copy of the policyholder file.

**B Requesting Information from the AIP**

- (1) Any requests for AIP action, such as measuring insured acres and determining uninsured acres, obtaining documentation, completion of the mandatory APH review, researching a GFP issue, etc., must be in writing and submitted to the AIP as soon as possible.
  - (a) E-mail may be used so long as it is treated in the same way as any other official form of communication; i.e., use the same level of thought and decorum as a bulletin or memorandum; off-handed or inappropriate comments are not to be used.
  - (b) Telephone requests in accordance with item A (6) above, should be followed up in writing.
  - (c) Set a reasonable date for completing the action and document when it is complete.
  - (d) If not completed by the agreed upon date, immediately contact by telephone and follow up in writing with the AIP about the matter.

**Exhibit 5 (Reserved)**

**Sample Entrance Letter to AIP****VIA E-MAIL**

United States  
Department of  
Agriculture

Farm and Foreign  
Agricultural  
Services

Risk  
Management  
Agency

XXX Regional  
Office

Regional Office  
Address and  
Zip

AIP Name  
Attn: Joe Manager  
Corporate Compliance Manager  
Address  
Anywhere, US 20250

Re: Large Claim Review – 2015 Crop Year – Producer Name, Corn,  
Policy Number: 0012345

Dear Mr. Manager:

As you are aware, the Xxxxx Regional Office (RO) elected to participate in the loss adjustment for the potential large claim for Producer (Policy Number: 0012345, Crop: Corn). All coordination of loss adjustment activities, including field inspections, conversations with the producer, and all related activities must include [Xxxxxxx RO]. All future notices or claims filed for this crop are subject to this participation and must be provided to [Xxxxxxx RO].

To maintain a complete claim and underwriting file, the [Xxxxxxx RO], requires the following information and documentation by December XX, 2017 (allow 30 days):

- Name and contact information for loss adjusters(s) for this claim;
- Name and contact information for field loss supervisor for this claim;
- Name and contact information for the underwriter for this policy;
- Complete underwriting policy file, including but not limited to:
- Application
  - APH (reviewed and verified by [AIP])
  - Written Agreement, if applicable
  - Acreage Report
  - Pre-acceptance inspection
  - All other underwriting documents related to this policy;
- Complete claim policy file, including but not limited to:
  - Notice of Loss
  - Field notes or inspections to determine potential large claim;
  - GSIs and photographs
  - All other claim documents related to this policy.

**Sample Entrance Letter to AIP (Continued)**

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The [Xxxxxx RO] shall also receive copies of all additional claim documents, notes, etc. prepared in the settlement of this claim. To conduct the review, please note the following requirements:

Entrance Conference - The [Xxxxxx RO] held an Entrance Conference with your designated field supervisor on November 18, 2017. During this conference, we discussed the strategy to approach and process the claim, including information relayed by this letter and the FCIC-14040, Large Claims Handbook. [AIP] field staff was asked about crop conditions in the area, and other information relevant to this policy.

An Entrance Conference was held with the Policyholder – The [Xxxxxx RO] and [AIP] staff held an Entrance Conference call with the policyholder on December 1, 2017 to discuss the claims process. Claim items discussed were the [Xxxxxx RO] and [AIP] roles and responsibilities, the claim process, applicable policy provisions, and records or other documentation the policyholder will need to complete the claim. Questions, answers, and the information provided at this meeting were documented and signed by the [AIP] representatives and retained in the claim file.

The FCIC-14040, Large Claims Handbook, provides that the [Xxxxxx RO] must be notified of and have an opportunity to participate in all loss adjustment activities. In addition to field inspections, loss adjustment activities include meetings with producers and third parties to collect information, reviewing the results of field inspections, or the possible outcome of the claim. The [Xxxxxx RO] may, based on our observations of the progress the claim is making, elect to waive joining in certain activities. In such case, your loss adjuster(s) and field loss supervisor(s) shall be advised in writing that they may continue certain specifically identified activities.

**[AIP] representatives shall not discuss pending claim determinations with the policyholder or other interested parties until the [Xxxxxx RO] completes its review and joins in the Exit Conference with the policyholder.**

Exit Conference – the [Xxxxxx RO] will conduct an Exit Conference with your field staff and the policyholder to discuss pending claim determinations and give the producer an opportunity to provide additional information to be considered in the final claim determinations. Determining the validity of documentation submitted during the claim process is your responsibility. Someone from your company who can discuss the indemnity payment process may be asked to join. The Exit Conference conversations are documented, and will be signed by the [AIP] and [Xxxxxx RO] participants, and retained in the claim file.

Indemnity Payment - Payment of any indemnity or the revision of underwriting or claim documents must not be processed without [Xxxxxx RO] approval. If the decision is not adverse to the policyholder – meaning the guarantee remains unchanged and all aspects of the loss are uncontested, the [Xxxxxx RO] shall authorize payment of the indemnity before the letter is issued. If the claim determinations are in any way adverse to the



**Sample Entrance Letter to AIP (Continued)**

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Policy holder, the claim shall not be processed until the decision letter is issued. The [XXXXXX RO] may authorize an indemnity on a unit basis.

Decision Letter – The [XXXXXX RO] shall ask you to review and provide concurrence on the decision letter. Once the [XXXXXX RO] receives your concurrence, the [XXXXXX RO] will issue the claim decision letter to the producer with appropriate appeal rights.

Policyholder Disputes - When the [XXXXXX RO] participates, the policyholder's dispute is with Risk Management Agency (RMA). Should the policyholder appeal to USDA's National Appeals Division (NAD) or pursue the case to United States District Court, you are reminded that the Large Claims Handbook states:

*FCIC-14040, Part 6 Dispute Resolution, Paragraph 45, A. General Information:*

*“(3) When RMA elects to participate in the loss determination, or modifies, revises, or corrects a claim during review prior to the AIP reaching an agreement with the policyholder or prior to the AIP making payment to the policyholder on the claim:*

*(a) If the policyholder disputes the claim, the policyholder's dispute on the RMA modification, revision or correction will be with RMA.*

*(ii) The AIP must provide RMA with cooperation and assistance as needed in any dispute with the policyholder.”*

**Note:** A common misconception concerning RO participation in a large claim is that RMA has taken over your claim. This is not true. RO participation means that the RO joins with you in making all claim determinations unless participation in some determinations is waived. We work together to develop findings and determine the amount due according to policy provisions. The RO may ask your loss adjusters to conduct additional research and to collect additional information. The approach to be taken, the application of policy provisions and procedures, and concerns shall be discussed privately; remaining united and professional in the policyholder's presence.

If we ultimately disagree on the amount due according to policy provisions and RMA determines that the amount due should be sustained without further modifications, the RO shall instruct you in writing to process the RO determined claim amount. However, by working closely together, this usually will not become an issue.

If there is a dispute and the Company wishes to take issue with the RMA determined amount due the producer or any other concern in regards to the handling of this claim, the Company must follow the process outlined in the Large Claims Handbook for Dispute Resolution.

**Sample Entrance Letter to AIP (Continued)**

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RMA supports your need to provide timely customer service. Working together, we can ensure appropriate and timely claim settlement. Please contact [RO Specialist] at XXX-XXX-XXXX if you have any questions concerning this letter or participation in this claim.

Sincerely,

Name  
Director

## Decision Letter Templates

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### A General Rules for Writing the Letter

Review of the large claim must be substantially complete before you begin writing your LC Review Decision Letter. Substantially complete means you have collected appropriate documentation to justify the Decision.

**NOTE:** Letters and Exhibits mailed to the policyholder must be packaged, marked and processed according to PII requirements.

- (1) Follow the format. **Only use the sections headers applicable to the crop for the LC completed.** Address each section as indicated in the example.
- (2) Write clearly in simple terms.
- (3) Write in a logical manner.
- (4) Write to follow the exhibits in sequential order.
- (5) Use spell check and grammar check.
- (6) Watch for tone and personal bias. Refrain from stating personal opinions or observations assumed but not supported by facts
- (7) Use non-controversial terms.
- (8) Double check all references and quotations.
- (9) Make certain that you use the correct version (applicable crop year and plan of insurance) of the crop provisions, BP, CIH, LAM, Manager's Bulletins, etc. used as your exhibits.
- (10) Update the Header to reflect the Policyholder's Name.
- (11) The Template Letter may not be in the exact font and margin size of the approved letter format used by RMA for correspondence. Format accordingly in terms of **current** letterhead, font, and margins.

**Decision Letter Templates (Continued)**

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**A General Rules for Writing the Letter (continued)**

(12) Include exhibits for any adverse decision.

(a) All Exhibits, if not in an electronic format, must be scanned as individual PDF files with the exception of:

(i) Data that is too large to be scanned (such as periodicals);

(ii) Data not suitable for scanning (such as certain types of photographs); or

(iii) Data marked as duplicate data.

For these exceptions, an Exhibit may only include the copy of relevant pages or a note that the information is located in the RO, with a copy available upon request.

**Example:** *The documentation for this exhibit is located in the (Name of the RO) and is available upon request.*

(b) When the Exhibit is the BP, CP, CIH, Loss LAM or other large handbooks, **in lieu of copying the entire document**, copy the cover page, the table of contents, the actual page(s) that you are referencing and add a note on the Exhibit cover page of the document citation and the pages copied.

(13) Include an Exhibit Index at the end of the letter. Refer to the example after the Administrative Review Letter Template.

(14) Advise the AIP to use track changes and save document to show suggested changes.

(15) The concurrence lines are to show agreement with track changes. Concurrence lines **are not** included on the final version sent to the policyholder.

## Decision Letter Templates (Continued)

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### B Regional Office Adverse LC Review Decision Letter Template

**\*Use Official RO Letterhead – This is only a Sample\***



Date \_\_\_\_\_

United States  
Department of  
Agriculture

**VIA CERTIFIED MAIL- XXXXXXXXXXXXXXXXXXXX**

Farm and Foreign  
Agricultural  
Services

**Concurrence:** (Note: Do not include concurrence lines on final copy sent to policyholder.)

RMA RO Dir. or Deputy Dir. \_\_\_\_\_ Date \_\_\_\_\_

AIP National Claims Manager \_\_\_\_\_ Date \_\_\_\_\_

Risk  
Management  
Agency

AIP Regional Claims Manager \_\_\_\_\_ Date \_\_\_\_\_

XXX Regional  
Office

[Policyholder or Legal Representative Name/Title]

[Address]

Regional Office  
Address and  
Zip

[Address]

[Address]

RE: Large Claim Review  
for [Name of policyholder]  
[Crop Year], [Crop], [Policy #XXXXXXX]  
[County Name], [State Name]

Dear [Policyholder or Legal Representative Name]:

Your crop insurance provider, [Full name of AIP] [AIP acronym], notified you of the Risk Management Agency (RMA) involvement in the loss adjustment for the claim you filed on the above referenced policy. This policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the provisions of the Federal Crop Insurance Act (Act) (7 U.S.C. 1501 et seq.). As a Federal regulator for the crop insurance program, FCIC has the authority to take actions as necessary to ensure the program is administered in accordance with the Act, applicable regulations, policy provisions, and procedures. In its exercise of this authority, RMA, which administers the FCIC programs, elected to participate in making the loss determinations for your claim in conjunction with the authority of the Large Claims Handbook (FCIC-14040) and the Standard Reinsurance Agreement. Thus, RMA's

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USDA is an Equal Opportunity Employer and Provider

**Decision Letter Templates (Continued)**

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**B Regional Office Adverse LC Review Decision Letter Template (continued)**

[Name of Regional Office] (RO acronym) is authorized to make determinations on behalf of FCIC on claims such as yours.

This is the final decision on your claim for indemnity based on the information provided by you, and obtained and verified by [AIP acronym] and [RO acronym].

**Decision Summary: (Required)**

The [RO acronym] conducted an extensive review of the loss documents prepared and/or used by [AIP acronym] to complete your claim. The [RO acronym] and [AIP acronym] agree on all claim determinations and the [RO acronym] has authorized [AIP acronym] to issue your indemnity payment of \$XX,XXX.XX, less any premium owed.

The following sections demonstrate how this amount was calculated and outline your rights to review, mediation, or appeal if you do not agree with this determination.

**Notice and Cause of Loss: (Required)**

[AIP acronym] received a notice of loss on [DATE] for your policy. The notice(s) of loss forms stated the insurable cause of loss as [list cause(s) of loss] for this [crop name] policy.

The claim notice was received by [Name of Adjuster], loss adjuster, and s/he made contact with you on [Date]. At this time, you stated that dry weather in June stunted the growth of your tobacco crop, but felt it maintained the potential to reach an average production level. Then, tropical storm Hanna in early September further damaged your crop. You stated that the poor growth early in the season postponed the start of harvest until the first part of August.

[AIP acronym] and [RO acronym] were unable to confirm the dry weather you reported in June. According to weather reports from [Name] weather station nearest to your farm, located at XXX, in XX County, 50 miles away, the average temperatures were exactly normal, and at no time exceed the average temperature for the area, 85 degrees (see enclosed weather data in Exhibit X.X).

**Policy Coverage Review: (Required)**

[Name of Adjuster], [AIP Acronym] [Official Title], reviewed your policyholder file. From the documents contained therein and other documents collected (such as Farm Service Agency (FSA) reports), s/he verified that everything required for insurance coverage to attach to your crop acreage was indeed correctly and/or timely reported.

[AIP acronym] and [RO acronym] note that you report planting your tobacco on your crop insurance acreage report on [Date], and reported a different date of [Date] to the FSA. Although the dates are two weeks apart, both dates certified are before the final planting date for the insured crop.

**Decision Letter Templates (Continued)**

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**B Regional Office Adverse LC Review Decision Letter Template (continued)****Acreage Review: (Required)**

All the acreage was verified by field observations and FSA 578's and maps, which showed the acreage would measure within the 5% allowance for differences between reported and measured acreage contained in the FCIC issued procedures.

Additionally, the following Farm Serial Numbers (FSN) were noted and verified as Added Land, which became part of the one Enterprise Unit for all tobacco grown in the county: FSN XXX (19.54 acres), FSN XXX (2.73 acres), FSN XXX (15.09 acres), FSN XXX (41.03 acres) and FSN XXX (23.00 acres). The Added Land was assigned XX, the same yield as the existing acreage (FSN XXX, 540.29 acres) as outlined in the provisions of the Crop Insurance Handbook (FCIC 18010) for adding insurable acreage.

Copies of Acreage Reports for crop year's 20XX-20XX were obtained and found to be properly signed and timely submitted. No discrepancies were found in the acreage review.

**Actual Production History (APH) Review: (Required)**

In all claims in which RMA participates, the AIP is required to conduct an APH review of the production and acreage for up to the past three years.

Prior to the [RO acronym] conducting the APH review for your claim, [Loss Adjuster's Name (and title if not referenced before)] reviewed the production history for years 20XX, 20XX, and 20XX, using sales records and loss documentation. Sold production was also verified by sales records from Phillip Morris International, Phillip Morris USA, and the Flue-Cured Tobacco Stabilization Corporation.

For the 20XX crop year, acreage and production records, including loss records, support the yield records on the APH form and were verified by Mr./s. [Loss Adjuster's Name]. Also, a Quality Control Review was done for the 20XX crop year.

**Liability Review: (Required)**

The liability amount for your policy is calculated by using the coverage level you elect, the average of your APH production, the acreage planted, and the price election for the crop year. Given that the acreage and production records for all applicable crop years have been verified, no adjustment was made to the liability on this policy.

**Plant Inventory Value Review (PIVR) and Record Review: (Required for Nursery)**

**(NOTE: This section does not directly relate to the rest of the example letter)**

In documenting your claim, a Nursery PIVR Supporting Records Review was completed to verify the reported values by plant unit/type supported by your records. The Record Review resulted in the following finding for unit 00100 (Foliage):

## Decision Letter Templates (Continued)

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### B Regional Office Adverse LC Review Decision Letter Template (continued)

The value you reported on your PIVR for unit 00100, Foliage plants, of \$XXX,XXX (Exhibit X.X and Exhibit X.X) was found to be within tolerance in accordance with a Manager's Bulletin (MGR-08-013.1), which raised the tolerance previously established for over-reporting nursery inventory values from 5% to 10% (Exhibit X.X).

#### **Claim Review: (Required)**

#### **Field Visit & Recorded Final Loss Paperwork: September 24, 20XX**

**(NOTE: Tailor this section to address Large Claim issues for the case.)**

[Loss Adjuster's Name] and [Loss Adjuster's Name], [AIP acronym] Loss Adjusters, [Loss Adjuster's name], [AIP acronym] Senior Loss Adjuster, [RO Employee's Name] and [RO Employee's Name], RMA Representatives, met and reviewed the claim file for [insured crop] crop on September 24, 20XX. After reviewing the claim file, all parties traveled to meet with you for the farm visit. This initial field inspection took place at this time and all tobacco had been harvested.

Upon inspection of the remaining stalks, it appeared that most stalks varied from 2 to 3 feet in height and produced 12 to 14 leaves each. At this inspection, permission to destroy stalks was given. No quality adjustment was needed as shown on the production worksheets.

Soil types were noted as marginal for a majority of the tobacco fields; therefore, soil tests and fertilizer records were requests. You provided soil tests for each unit taken on [Date] and the following fertilizer receipts from XXX (Exhibit X.X):

[List date, amount, and chemical]

On November 5, 20XX, [Loss Adjuster's Name], contacted Cumberland Agriculture Extension Agent, [County Agent's Name], and they discussed Mr./s. [County Agent's Name]'s observations of the insured acreage throughout the growing season. Mr./s. [County Agent's Name] noted that Fusarium Wilt Disease was evident in the crop, but that the extremes of drought early in the growing season and excessive rain late in the growing season were the prevalent factors in the crop's poor performance. It was [his/her] opinion that adverse weather affected your crop; there are no controls to prevent or mitigate the effects of Fusarium Wilt Disease.

#### **Exit Conference: (Required)**

On [DATE] RO representatives, [RO Employee's Name] and [RO Employee's Name], and AIP representatives, [AIP Employee's Name] and [AIP Employee's Name] met with you to discuss the preliminary claim determinations. The two issues for discussion were your assertion that hot weather early in the season affected your production and the discrepancy in the reported planting dates. It was agreed that within 10 days, you would provide additional documentation for consideration to establish the hot weather and verify your planting dates.



## Decision Letter Templates (Continued)

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### B Regional Office Adverse LC Review Decision Letter Template (continued)

On [DATE], you provided contemporaneous notes from your day planner that document the temperature and rainfall that occurred at your field locations. These records were supported by newspaper articles dated [Date] and [Date] from the Down Home News which mention the records breaking temperatures of XXX and XXX observed in your area during June. Since the closest weather station is 50 miles away from your farming location, this documentation is considered acceptable to establish the weather conditions your crop experienced. The [RO acronym] and [AIP acronym] agree that heat was a secondary cause of loss affecting your tobacco production.

The discrepancy of reported planting dates was resolved by your receipts for paying XXX to transplant your tobacco. These receipts show your crop insurance certified planting dates are accurate. The certification to FSA may have been a transposition error.

With all the issues cleared up, the claim can move forward into closure and payment.

#### **Settlement of Claim: (Required)**

The Common Crop Insurance Policy Basic Provisions (BP) (Exhibit X.X) states in Section 14 (e) that one of your duties in the event of damage or loss are to:

*“Establish: (A) The total production or value received for the insured crop on the unit; (B) That any loss occurred during the insurance period; (C) That the loss was caused by one or more of the insured causes specified in the Crop Provisions; and (D) That you have complied with all provisions of this policy.”*

The primary insurable loss for your claim was excess moisture occurring in XX, which complies with the causes of loss listed in Section 10 of the Guaranteed Tobacco Crop Provisions (99-071) (Exhibit X.X).

Since all requirements for a claim were met, Section 12, Settlement of Claim, of the Guaranteed Tobacco Crop Provisions was applied by [AIP acronym] for settlement of your claim.

The following acres and production will be used in calculating your indemnity:

<u>Unit/FN</u>	<u>Acres</u>	<u>Total Lbs Guarantee</u>	<u>Production Sold</u>	<u>Indemnity Pounds</u>	<u>Price Election</u>	<u>Indemnity</u>
XXXX	540.29	1,125,424	283,561	841,863	\$1.60	\$1,346,981
XXX	19.54	40,702	13,766	26,936	\$1.60	\$43,098
XXX	15.09	31,432	10,818	20,614	\$1.60	\$32,982
XXXX	41.03	85,465	18,945	66,520	\$1.60	\$106,432

**Decision Letter Templates (Continued)**

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**B Regional Office Adverse LC Review Decision Letter Template (continued)**

XXXX	23.00	47,909	17,366	30,543	\$1.60	\$48,869
XXX	<u>2.73</u>	<u>5,687</u>	<u>1,510</u>	<u>4,177</u>	\$1.60	<u>\$6,683</u>
<b>Total</b>	<b>641.68</b>	<b>1,336,619</b>	<b>345,966</b>	<b>990,653</b>		<b>\$1,585,045</b>

The final total indemnity for this flue cured tobacco claim is \$1,585,045.

**Your Right to Administrative Review, Mediation, or Appeal: (Required)**

Section 20(j) of the Basic Provisions states:

*“If FCIC elects to participate in the adjustment of your claim, or modifies, revises or corrects your claim, prior to payment, you may not bring arbitration, mediation or litigation action against us. You must request administrative review or appeal in accordance with section 20(e).”*

In accordance with the preamble of your policy, the term “us” refers to the company providing insurance. Therefore, if you disagree with FCIC’s findings in this letter, you cannot seek redress from your insurance company. Your only recourse is to request an administrative review or appeal in accordance with section 20(e).

Section 20(e) of the Basic Provisions states:

*“Except as provided in sections 18(n) or (o), or 20(d), if you disagree with any other determination made by FCIC or any claim where FCIC is directly involved in the claims process or directs us in the resolution of the claim, you may obtain an administrative review in accordance with 7 CFR part 400, subpart J (administrative review) or appeal in accordance with 7 CFR part 11 (appeal). If you elect to bring suit after completion of any appeal, such suit must be filed against FCIC not later than one year after the date of the decision rendered in such appeal... Under no circumstances can you recover any attorney fees or other expenses, or any punitive, compensatory, or other damages from FCIC.”*

If you do not agree with FCIC’s determination in this letter you have a right to:

- 1) **Request an administrative review** of the FCIC decision within 30 calendar days from receipt of this letter in accordance with 7 CFR part 400, subpart J, by providing the required information to the RMA Deputy Administrator for Insurance Services (DAIS) at:

[Name of DAIS]  
 Deputy Administrator for Insurance Services  
 USDA/RMA/Insurance Services/STOP 0801  
 ATTN: LARGE CLAIM ADMINISTRATIVE REVIEW  
 1400 Independence Avenue SW  
 Washington, DC 20250-0801

## Decision Letter Templates (Continued)

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### B Regional Office Adverse LC Review Decision Letter Template (continued)

First class mail to Washington, DC is often delayed for security measures. You are encouraged to send your information by a delivery service that records pickup or postmark and records and guarantees delivery.

- 2) **Request mediation** of the FCIC decision within 30 calendar days from receipt of this letter by writing to the [Regional Office] Director at:

[Name of RO Director]

[Regional Office Name]

[Address]

**ATTN: MEDIATION REQUEST**

Or,

- 3) **Request an appeal** within 30 calendar days from receipt of this letter, unless the appellant participated in an administrative review or mediation, the appellant will have only the remaining time to further appeal in accordance with 7 CFR part 11, by writing directly to the National Appeals Division (NAD) at the following address:

Regional Assistant Director

National Appeals Division

[Appropriate] Regional Office

[Appropriate Address]

[Appropriate Address]

You can request administrative review and mediation; however, they can't occur at the same time. If you request both mediation and administrative review, the administrative review will be held in abeyance until the conclusion of mediation. Further, if you elect to utilize the administrative review and/or mediation you may appeal to NAD in accordance with 7 CFR Subpart J.

If you have any questions about any of the findings or your rights to, administrative review, mediation, or appeal, you may contact [RO Contact Person's Name] of this office at (XXX) XXX-XXXX.

Sincerely,

[Director's Name]

RO Director

Enclosures (include number and what they are **if applicable**).

cc: [Name of AIP Point of Contact]

Director, [Name of Compliance Office]

(Include exhibits in accordance with guidelines set forth in Exhibit 9 of this handbook).

**Decision Letter Templates (Continued)**

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**C Regional Office Adverse LC Review Decision Letter Template for WFRP**

**Follow the Template in Exhibit 7 B until you reach the heading “Policy Coverage Review”**

**\*Use Official RO Letterhead – This is only a Sample\***

**Policy Coverage Review**

We determined that this entity is a Limited Liability Company (LLC) and Whole Farm Revenue Protection (WFRP) procedure<sup>1</sup> requires the 2009-2013 tax forms (Form 1120s, Schedule F substitute, and Federal Statements) be used to calculate the 5-year average Allowable Revenue for the 2015 WFRP Policy.

The following details how the Approved Revenue was reviewed and how adjustments were made to the WFRP Whole Farm History Report by reviewing tax forms, Allowable Income History, Allowable Expense History and the Farm Operation Report.

**Whole Farm History Report**

The Whole Farm History Report documents your farm operation’s Allowable Revenue and Allowable Expenses for each tax year in the whole farm history period and other information necessary to determine your Whole Farm Historic Average Revenue and Expenses.

During the Claims process we noted that the Allowable Revenue for 2011 was recorded as \$1,541,918 on the WFRP Whole Farm History Report (Exhibit B.3) and on the Schedule of Insurance (Exhibit B.4) while the 2011 Schedule F, line 2b, shows \$1,541,198 (Exhibit B.5).

The WFRP Whole Farm History Report’s 2011 Allowable Revenue was corrected to match the 2011 Schedule F. This correction to the 2011 Allowable Revenue resulted in a decrease to the Simple Five Year Allowable Revenue Average from \$1,896,195 to \$1,896,051. This Policy qualified for Indexing and therefore the Indexed Revenue also was decreased by \$11,623, from \$3,248,182 to \$3,236,559 on the Revised WFRP Whole Farm History Report (Exhibit B.6) and on the Revised Schedule of Insurance (Exhibit B.7).

The Whole Farm Historic Average is the greater of the Simple Five Year Average Allowable Revenue, the Indexed Average and the Expanded Operation Average (if applicable). The Indexed Average of \$3,236,559 for this Policy was higher and therefore was determined to be the Whole Farm Historic Average.

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<sup>1</sup> 2015 WFRP Handbook paragraph 21 A(1)(c)

**Decision Letter Templates (Continued)**

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**C Regional Office Adverse LC Review Decision Letter Template for WFRP**

The Approved Revenue for the Policyholder is the lower of the WFRP Whole Farm Historic Revenue or the WFRP Expected Revenue for the crop year as shown on the Farm Operation Report as described below.

**Farm Operation Report**

The Farm Operation Report is the insured's report of individual agricultural commodities that will be produced, the amount that will be produced, and the expected allowable income from these commodities for the 2015 insurance year. The acreage and yields reported on the WFRP Farm Operation Report were reviewed and reconciled with those reported for multi-peril crop insurance (MPCI) crops where applicable.

The Farm Operation Report's Expected Revenue (Exhibit B.8) showed the total Expected Revenue as \$3,237,293, the Whole Farm Historic Average as \$3,248,182, and the Approved Revenue as \$3,237,293 as it was the lower of those two numbers.

During the claim process, the Blueberry acres were revised to match the MPCI reported acres, which were not rounded. This resulted in a decreased weighted average revenue and decreased the Expected Revenue from \$3,237,293 to \$3,227,040.

The Approved Revenue for the Policy is the lower of the WFRP Whole Farm Historic Revenue (\$3,236,559) or the WFRP Expected Revenue for the crop year (\$3,227,040). For this Policy, \$3,227,040 became the Approved Revenue. The Revised Farm Operation Report (Exhibit B. 9) reflects these changes.

The next step in the process is to determine if the allowable expenses for the insurance year fell below 70 percent of the approved expenses<sup>2</sup>.

The Allowable Expenses<sup>3</sup> for the Insurance Year are those farm expenses specified by this policy that are incurred in the production of commodities on your farm and reported to the IRS on farm tax records. Your Allowable Expenses were \$1,437,208. (Exhibit B.10)

The Approved Expenses<sup>3</sup> for the Insurance Year is the amount of allowable expenses your farm operation is expected to incur during the insurance year and are based on the determination of your Approved Revenue. Your Approved Expenses were \$2,032,215

The Allowable Expenses for the Insurance Year were not below 70 percent of the Approved Expenses and therefore no Expense Reduction Factor<sup>3</sup> was applied to the Approved Revenue.

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<sup>2</sup> 2015 WFRP Policy section 9 Coverage (f)(1)

<sup>3</sup> 2015 WFRP Policy section 50 Definitions

**Decision Letter Templates (Continued)**

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**C Regional Office Adverse LC Review Decision Letter Template for WFRP****Claim Review**

On May 18, 2016, the ARMtech Loss Adjuster visited with by phone and reviewed the claim file with you.

**Exit Interview**

On May \_\_\_\_\_, 2016, XXX RO representatives \_\_\_\_\_ and \_\_\_\_\_, and representatives from (AIP) discussed with you via telephone the changes made to your WPRP policy and the claim determinations (Exhibit B.11).

**Settlement of Claim****Indemnity Calculations:**

Allowable Expenses for Insurance Year	\$1,437,208
Approved Expenses for Insurance Year	\$2,032,215
Expense Percentage (Allowable Expenses/Approved Expenses)	0.707
Expense Reduction Factor	0.0

Approved Revenue	\$3,227,040
Coverage Level	x _____ .85
Approved Insured Revenue	\$2,742,984

Allowable Revenue for the Insurance Year (From Schedule F)	\$2,059,579
Inventory Adjustment (2014 crop revenue)	(\$703,892)
Accounts Receivable Adjustment (2015 crops)	+ \$261,534
Adjusted Revenue to Count	\$1,617,221

Approved Insured Revenue	\$2,742,984
Revenue to Count	(\$1,617,221)
<b>Revenue Deficiency/Indemnity Due</b>	<b>\$1,125,763</b>

**Your Right to Administrative Review, Mediation, or Appeal:**

Use the Administrative Rights and remaining paragraphs in Exhibit 7 B and the Exhibit 9 to complete the template.

**Decision Letter Templates (Continued)**

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**D RO Non-Adverse Large Claim Review Decision Letter**

- (1) When the LC determination is not adverse to the policyholder in any way, meaning there were no changes to any policy documents and no dispute on the cause or amount of loss, the RO will write the Decision Letter to include:
  - (a) The RO participated with the named AIP to complete loss determinations;
  - (b) The cause of loss;
  - (c) The amount of production or value to count;
  - (d) Relevant facts that should be documented;
  - (e) The authorization of the AIP to process the claim for indemnity; and
  - (f) The rights to administrative review, mediation or appeal to NAD from the Adverse Determination template.

**NOTE:** Although the decision is not adverse, OGC has advised if appeal rights are not included in non-adverse decision letters the “clock” never stops for the policyholder to seek recourse, because it never started.
- (2) Exhibits are not necessary for a non-adverse LC Review Decision Letter, but may be included.

## **RMSD Large Claim Administrative Review Letter Template**

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**(Note: Letters and Exhibits mailed to the policyholder must be packaged, marked, and processed according to PII requirements.)**



United States  
Department of  
Agriculture

### **VIA OVERNIGHT MAIL**

Farm and Foreign (Policyholder or Legal Representative Name/Title)  
Agricultural (Address)  
Services (Address)

Risk  
Management  
Agency  
RE: Administrative Review Decision  
for (Name of Policyholder)  
(Crop Year), (Crop), ( Policy #XXXXXXX)  
(County Name), (State Name)

1400  
Independence  
Avenue, SW  
Stop 0801  
Washington, DC  
20250-0801  
Dear (Policyholder or Legal Entity Name):

The Risk Management Agency (RMA), which administers the program of the Federal Crop Insurance Corporation (FCIC), has completed its administrative review of the claim determinations issued by RMA's (RO Name) Regional Office (RO) on (date of RO Letter), incorporated as Exhibit F. To complete this administrative review of the large claim, RMA has carefully reviewed the (RO Name) RO decision file, related information submitted on behalf of the (policyholder's name), and documentation provided by (policyholder's name).

### **Background and Summary:**

Give a brief outline of the original notice and cause of loss, the participation of the RO in the claim adjustment and disputed determinations. Then summarize the administrative review decision and how it was made. This should be like a short executive summary for the policyholder to read and know the highlights pertinent to the decision, as well as the decision itself. The sections that follow should fill in more of the details about the dispute and how the reviewer came to the decision.

**(RO Name) Position:** *(prior to writing the letter, determine the issues, number them and address them in the section as part of the summary. For example, Issue No. 1:)*

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**RMSD Large Claim Administrative Review Letter Template (Continued)**

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Concisely summarize the RO's position listing and addressing each issue separately. Reference the exhibits containing specific documents rather than quoting large portions directly from the Policy, Provisions, the policyholder or consultants. However, when it is necessary to quote the document or a person, indent the quotation, set the statement between quotation marks, and italicize the statement (See Example below). State the facts as given. Do not expand, change, re-state, or re-interpret the RO letter for intent or clarity.

**Example for Quotation:**

Mr. Adjuster stated:

*"All of the 2005 nursery stock that was determined to be destroyed was in fact destroyed."*

**(Policyholder Name) Position:** *(restate each issue identified above in the RO and address each one using the same issue number)*

Concisely summarize the policyholder's position listing and addressing each issue separately. Reference the exhibits containing specific documents rather than quoting large portions directly from the Policy, Provisions, the policyholder or consultants. However, when it is necessary to quote the document or a person, indent the quotation, set the statement between quotation marks, and place the statement in italics. State the facts as given. Do not expand, change, re-state, or re-interpret the policyholder's letter for intent or clarity.

**Administrative Review Determination:** *(restate each issue identified above in the RO and policyholder positions and address each one using the same issue number)*

Write your determination in a clear and logical manner. Address each concern stated by either the RO or the policyholder. State your agreement or disagreement with the position of either or both. Justify your position with the law, policy, procedures or related documentation (this additional information must be made part of the Exhibits). Reference the page and paragraph of the Exhibit you are using to state your justification. Use language with a matter of fact tone. Be aware of personal bias. Write your statements to display only the facts, not your feelings.

**Your Right to Appeal:**

If you do not agree with FCIC's determination in this letter you may request an appeal within XX calendar days from receipt of this letter by writing directly to the National Appeals Division (NAD) at the following address: **(NOTE:** If the policyholder participated in an administrative review or mediation, the appellant will have only the remaining time to request an appeal in accordance with 7 CFR part 11)

**RMSD Large Claim Administrative Review Letter Template (Continued)**

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Regional Assistant Director  
National Appeals Division  
[Appropriate] Regional Office  
[Appropriate Address]  
(**NOTE:** Address changes based on location of RO)

If you have questions concerning this determination or your right to appeal, you may contact the RMSD Director at (202) 260-8286.

Sincerely,

Name  
Deputy Administrator for Insurance Services

Exhibits:

*(List Exhibits in numeric order using the Exhibit Index. Make sure your letter follows the exhibit order as you are composing your findings) It is not necessary to send exhibits that were already sent with the RO decision.*

cc: (Name of AIP Point of Contact)  
(AIP Address)

Director, (Name of RO) Regional Office

Director, (Name of Compliance Office)

## Exhibit Index

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### A General Exhibit Headings

The exhibit index and exhibits are attachments to the LC Review Decision Letter and the Administrative Review Letter and must be included with the letter. The Exhibit Index will be divided into three Headings, as applicable (see part D of this Exhibit for an example):

**Heading 1:** The following exhibits are supporting documentation cited in the RO Decision Letter or Administrative Review Decision Letter and included with this correspondence. *(Place the applicable exhibits cited in the letter under this heading)*

**Heading 2:** The following exhibits are supporting documentation examined as part of the review but were not cited in the RO Decision Letter and are therefore not included in this correspondence. This information is located at the (RO Name) RO. *(Place the applicable exhibits not cited in the letter under this heading)*

**Heading 3:** The following exhibits were provided by you to the [NAME] RO and are not provided again with this determination. *(Place the applicable exhibits under this heading)*

### B Exhibit List

#### EX A Policy and Procedure

- A.1 Basic Provisions
- A.2 Crop Provisions
- A.3 Actuarial Documents
- A.4 RMA Handbooks, Memos, Manuals or Bulletins\*

*\* You may either copy only the portion applicable and then cite the publication, the section or paragraph number, and the page number on the exhibit cover page, or, for non-adverse decisions, you may include a statement for this exhibit that directs the reader to the RMA website.*

#### EX B Insurance and Claim Documents for Policyholder

- B.1 Policyholder Application
- B.2 Insured Acreage Report (or in the case of Nursery: PIVR, CIVER, etc.)
- B.3 Notice of Loss
- B.“X” Other documents such as production summaries, APH reviews, schedule of insurance, non-waiver agreements, previous production, claim histories, other claim forms, etc.

## Exhibit Index (Continued)

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### B Exhibit List (Continued)

#### **EX C Policyholder Position**

C.1 Letter from the policyholder to the RO

C.“X” Other documents from the policyholder such as personal financial statements, production records, other claim data submitted from the policyholder such as weather data, published materials (may include consultant reports, journal articles, independent surveys, university studies, newspaper or magazine articles), photographs, GIS data, communications (may include secondary sources such as neighbors, bankers, etc.) This should include, but not be limited to, telephone notes or emails pertinent to the claim that were submitted by the policyholder.

#### **EX D Information Provided by AIP**

D.1 Related LC Review correspondence from the AIP to the policyholder

D.“X” Other claim data provided by AIP, including but not limited to weather data, published materials (may include consultant reports, journal articles, independent surveys, university studies, newspaper or magazine articles), photographs, GIS data, communications (may include secondary sources such as neighbors, extension services, FSA, etc.). This should include, but not be limited to, telephone records, emails, or observations pertinent to the claim submitted by the AIP or AIP representatives.

#### **EX E Other Pertinent Data Collected by the RO**

E.1 Herbicide labels (*for example*)

E.2 Soil Survey information (*for example*)

E.3 Communications (RO phone logs and /or notes and should also include any additional communication source submitted by either policyholder or AIP to support the RO findings or to validate the information provided by either the AIP or the policyholder).

E.“X” Any additional information that the RO collected (not submitted by either policyholder or AIP) to assist in making the determination.

### C Exhibits Added for Administrative Review

If the LC review goes to administrative review, RMSD will scan the information and upload the exhibits to the LC/GFP Database.

**EX F** A copy of the signed LC Review Decision Letter to the policyholder from the RO

**EX G** Letter from the policyholder to RMSD to initiate Reconsideration or Administrative Review Process

**Exhibit Index (Continued)**

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**C Exhibits Added for Administrative Review (continued)**

- EX H** Additional information submitted by the policyholder to support his/her request for Reconsideration and Administrative Review.
- EX I** Additional pertinent data collected by RMSD to validate or reject information and data submitted by the policyholder, the AIP or the RO.
- EX J** A copy of the signed Administrative Review Letter to the policyholder from RMSD.

## Exhibit Index (Continued)

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### D Example Exhibit Index:

#### Exhibit Index

The following exhibits are supporting documentation cited in the RO Decision Letter or Administrative Review Decision Letter and included with this correspondence.

#### **EX A Policy and Procedure**

- A.1 Basic Provisions (11-BR)
- A.2 Cotton Crop Provisions (11-0021)
- A.3 Any County Actuarial Documents

#### **EX B Insurance and Claim Documents for Policyholder**

- B.1 Policyholder Application
- B.2 Insured Acreage Report
- B.3 Schedule of Insurance
- B.4 Notice of Loss
- B.5 Appraisals and Photographs
- B.6 FSA 578 Report of Commodities
- B.7 Cotton Load Report, dated December 31, 2012

#### **EX D Information Provided by AIP**

- D.1 Related LC Review correspondence from the AIP to the policyholder

#### **EX E Other Pertinent Data Collected by the RO**

- E.1 Herbicide labels
- E.2 Soil Survey information
- E.3 Letter from [NAME] RO to Policyholder, dated March 12, 2012

The following exhibits are supporting documentation examined as part of the review but was not cited in the RO Decision Letter and are therefore not included in this correspondence. This information is located at the [NAME] RO.

- A.4 2011 Loss Adjustment Manual Standards Handbook (FCIC 25010)
- E.4 2012 Cotton Module Tickets, sent from XYZ Gin March 23, 2012

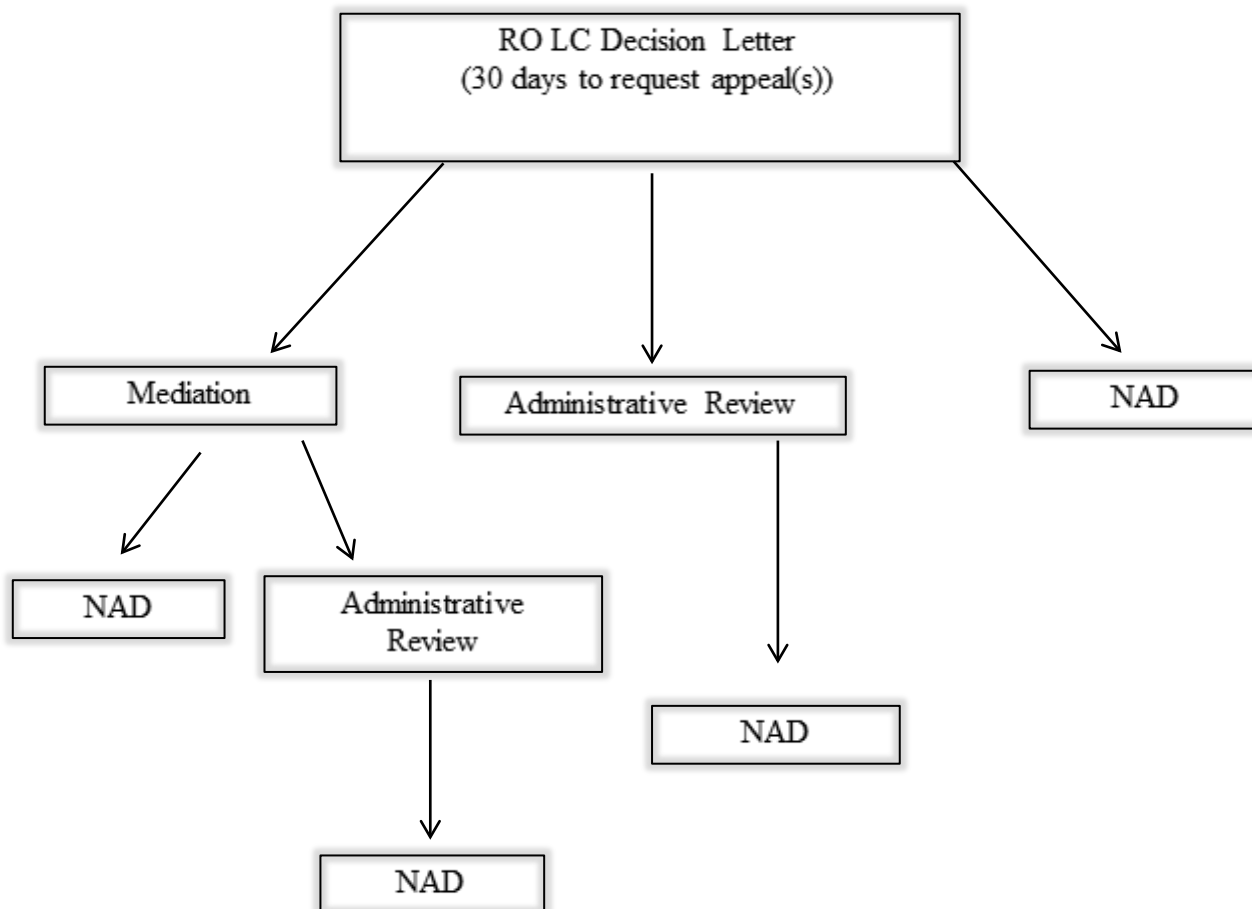
The following exhibits were provided by you to the [NAME] RO and are not provided again with this determination.

#### **EX C Policyholder Position**

- C.1 Letter from the policyholder to the RO, dated March 18, 2012
- C.2 Letter from Irrigation Supply House, dated March 16, 2012

## Large Claim Appeal Flowchart

(BP, section 20(e) – 7 CFR part 400, subpart J)



Note: NAD Decisions are subject to judicial review.

## RO Referral Template

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<b>United States Department of Agriculture</b>	<b>TO:</b>	(RMSD Director's Name) Director, Risk Management Services Division
Farm and Foreign Agricultural Services	<b>FROM:</b>	(Name of RO Director/signature) Director
Risk Management Agency	<b>RE:</b>	(Name of Policy, Policyholder, or AIP) – Subject of Referral (Program Vulnerability for Policy or Procedural Changes/AIP Performance Issue/Fraud, Waste or Abuse)
XXX Regional Office		
Regional Office Address and Zip	The (RO Name) Regional Office (Xxxx RO) requests you forward this referral to (name appropriate division) for action based on the following information.	

### **Background:**

For referrals regarding policy, state the problem you have discovered with a policy or procedure as it is currently written. Include a cite or reference to the policy or procedure and the negative program impact the policy is causing. Thoroughly describe any consequences that would occur if the policy were not corrected, and any negative impact already observed. (See Section 41 – B for examples of information to include in this type of referral).

For referrals regarding AIP performance issues, describe any systemic AIP performance issues you have discovered that are related to non-compliance with the SRA. Include the full name, address, phone number, AIP, agent, policy number, crops, etc. for all parties involved. Clearly state the policy or procedure that has been violated and state the impact the discrepancy is having on program integrity.

State the date and manner the AIP was made aware of the discrepancy and detail any response you received from the AIP. Include any actions the AIP plans to take to correct the discrepancy (See Section 41 – C for examples of information to include in this type of referral).

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**RO Referral Template (Continued)**

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For referrals regarding suspected fraud, waste, or abuse, describe the condition that led the RO to believe a wrongdoing has occurred and the full name, address, phone number, AIP, agent, FSA county office, policy number, crops, etc. for all responsible parties. Provide a cite or reference to the policy or procedure that identifies the FCIC standard to be followed and describe how that standard was violated. If possible, determine and state the impact of the violation if it were not corrected or stopped. (See Section 41 – D for examples of information to include in this type of referral).

**Recommendation:**

For referrals regarding policy, make a recommendation on how to correct the problem, if possible. Suggest language to replace what is written in the policy or procedure. Describe the effect the change would have on other programs, rates, coverage, policyholders or other stakeholders, etc. to the extent possible. Finally, state any discussions, support or concerns raised by other ROs, AIPs, NCIS, and/or Product Management staff.

For referrals regarding AIP performance issues, do not make a recommendation on how to correct the discrepancy.

For referrals regarding suspected fraud, waste, or abuse, make a recommendation on how to correct the problem, if possible. This recommendation may be to open an investigation on a particular practice or violation of policy or procedure.

Please contact (provide POC at the RO) at (phone number) if you need additional information or would like to discuss this referral in more detail.

Attach any documents that verify the concerns of the RO, show program vulnerability or non-compliance, or otherwise demonstrate the problem as stated in the referral request.

Enclosure(s)