

Final Agency Determination: FAD-278

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Subject: Request received May 2, 2018, to the Risk Management Agency (RMA) requesting a Final Agency Determination for the 2016 crop year regarding the interpretation of section 3(a) of the Common Crop Insurance Policy Basic Provisions (Basic Provisions), published at 7 C.F.R. § 457.8. This request is pursuant to 7 C.F.R. § 400, subpart X.

Background:

Section 3(a) of the Basic Provisions states, in relevant part:

3. Insurance Guarantees, Coverage Levels, and Prices.

Unless adjusted or limited in accordance with your policy, the production guarantee or amount of insurance, coverage level, and price at which an indemnity will be determined for each unit will be those used to calculate your summary of coverage for each crop year.

Interpretations Submitted

The requestor's interpretation is that the production guarantee amount (i.e., the dollar amount of insurance/indemnity) that is expressly stated on the Summary of Coverage for the subject crop year is the mandatory dollar amount to be used to subsequently calculate the amount of indemnity potentially payable to the insured for a loss that occurred during the insurance period for the subject crop year.

The foregoing includes that a notice of the loss was duly given to the Approver Insurance Provider (AIP) during the subject crop year. Further, the requestor stipulates that unless there is an adjustment or limitation in the language of the Basic Provisions, Crop Provisions, or any applicable Special Provisions, the operative production guarantee stated in the Summary of Coverage for the subject crop year

of the loss remains the amount potentially payable.

For example, the amount of damages/indemnity for a covered cause of loss may not be determined/calculated by the AIP until after the insurance period has ended. If the AIP presents the producer with a completed Production Worksheet only after the subsequent crop year/insurance period has begun, a new production guarantee/dollar amount of insurance may have been established on a new Summary of Coverage for the new crop year. This new production guarantee may be different from the prior crop year when a loss actually occurred and was reported and should not be used to calculate an indemnity.

The requestor's interpretation is that regardless of when the loss is calculated, the production guarantee/amount of insurance in force for the crop year and insurance period when the loss occurs is the controlling dollar amount of insurance to be used to calculate the amount of indemnity.

Final Agency Determination

FCIC agrees in part with the requester's interpretation of section 3(a) of the Basic Provisions. The actual provision states that the production guarantee or amount of insurance, coverage level, and price at which an indemnity will be determined for each unit is used to establish the Summary of Coverage for each crop year, not the other way around. The policy provisions control, not the Summary of Coverage, which is established by the approved insurance provider based on the policy provisions and may be adjusted in accordance with such provisions.

The requestor states that the guarantee amount stated on the Summary of Coverage is the mandatory amount used to calculate the indemnity for a loss that occurred during that crop year. FCIC agrees that if the production guarantee was calculated in accordance with the terms of the policy and there were no errors or omissions, that production guarantee is the amount that is used to determine whether there was an indemnified loss for that crop year. It does not matter when the actual amount of the loss is determined. Even if the amount of loss is established after the start of the next insurance period, the amount of loss is determined by subtracting the production to count for the crop year from the guarantee established for that crop year.

In accordance with 7 C.F.R. § 400.765(c), this Final Agency Determination is binding on all participants in the Federal crop insurance program for the crop years the policy provisions are in effect. Any appeal of this decision must be in accordance with 7 C.F.R. § 400.768(g).

Date of Issue: June 5, 2018