

Final Agency Determination: FAD-260

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Subject: Request dated April 21, 2016, to the Risk Management Agency (RMA) requesting a Final Agency Determination for the 2013 crop year regarding the interpretation of the preamble and section 14 of the Common Crop Insurance Basic Provisions (Basic Provisions), published at 7 C.F.R. § 457.8. This request is pursuant to 7 C.F.R. part 400, subpart X.

Background:

Referenced policy related to the request:

The preamble of the Basic Provisions states, in relevant part:

This insurance 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.). All provisions of the policy and rights and responsibilities of the parties are specifically subject to the Act. The provisions of the policy may not be waived or varied in any way by us, our insurance agent or any other contractor or employee of ours or any employee of USDA unless the policy specifically authorizes a waiver or modification by written agreement. We will use the procedures (handbooks, manuals, memoranda and bulletins), as issued by FCIC and published on RMA's Web site at www.rma.usda.gov or a successor Web site, in the administration of this policy, including the adjustment of any loss or claim submitted hereunder. In the event that we cannot pay your loss because we are insolvent or are otherwise unable to perform our duties under our reinsurance agreement with FCIC, your claim will be settled in accordance with the provisions of this policy and FCIC will be responsible for any amounts owed. No state guarantee fund will be liable for your loss.

Section 14 of the Basic Provisions states, in relevant part:

14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage.

(i) We recognize and apply the loss adjustment procedures established or approved by the Federal Crop Insurance Corporation.

Interpretation Submitted

The requestor interprets the above-referenced policy provisions to mean that an approved insurance provider must service a Federal crop insurance policy, including the adjustment of claims arising thereunder, in accordance with the terms of the policy itself along with the procedural guidance promulgated by FCIC. The approved insurance provider is to use FCIC's, and only FCIC's, policies and procedures in the administration and servicing of a Federal crop insurance policy. The rules, regulations, policies, and procedures promulgated by any other entity including, but not limited to, the United States Department of Agriculture, Farm Service Agency ("FSA") have no applicability or bearing on an approved insurance provider's servicing of a Federal crop insurance policy. The Federal crop insurance program regulated by FCIC and the farm programs administered by FSA are separate and distinct. Consequently, the Federal crop insurance program is governed solely by the policies and procedures established and/or specifically adopted by FCIC, not those issued by FSA.

Final Agency Determination

The Federal Crop Insurance Corporation (FCIC) agrees with the requestor's interpretation. FCIC, through the Risk Management Agency (RMA), issues the policy and procedures used in the sales and service of FCIC reinsured crop insurance policies offered under the Federal Crop Insurance Act (7 U.S.C. § 1501-1524). Given that FCIC/RMA has been statutorily delegated the authority to administer the Federal crop insurance program, the rules, regulations and procedures from other agencies do not apply unless FCIC policy and procedure expressly makes them applicable. For example, the conservation compliance procedures created and administered by the

Natural Resources Conservation Service have been expressly made applicable to the crop insurance program in FCIC approved policy and procedures. Therefore, no policy and procedures established by FSA are applicable to the crop insurance program unless FCIC approved policy and procedures expressly make them applicable.

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 21, 2016