

Final Agency Determination: FAD-262

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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 section 20(a) and (b) 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 and procedure related to the request:

Section 20 of the Basic Provisions states, in relevant part:

20. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review.

(a) If you and we fail to agree on any determination made by us except those specified in section 20(d) or (e), the disagreement may be resolved through mediation in accordance with section 20(g). If resolution cannot be reached through mediation, or you and we do not agree to mediation, the disagreement must be resolved through arbitration in accordance with the rules of the American Arbitration Association (AAA), except as provided in sections 20(c) and (f), and unless rules are established by FCIC for this purpose. Any mediator or arbitrator with a familial, financial or other business relationship to you or us, or our agent or loss adjuster, is disqualified from hearing the dispute.

(b) Regardless of whether mediation is elected:

(1) The initiation of arbitration proceedings must occur within one year of the date we denied your claim or rendered the determination with which

you disagree, whichever is later;

Additional guidance may be found in Manager's Bulletin 12-003.I (MGR-12-003.1) which was issued by the RMA on October 4, 2012. MGR-12-003.1 states in relevant part:

2. If all parties elect not to have AAA arbitrate their dispute:

a. **Arbitration may be initiated by filing a copy of the demand with the AIP.** The demand shall clearly state a demand for arbitration and shall contain a statement of the nature of the dispute, including a short statement of the facts and identification of the policy provisions upon which the policyholder relies, the names and addresses of all parties, any claims and counterclaims, the amount involved, if any, the remedy sought, the hearing locale requested.

Interpretation Submitted

The requestor interprets the above-referenced policy provisions to mean for an arbitration sought to be filed by a policyholder outside of the administration of the AAA, the document purporting to be the Demand for Arbitration must comply with and satisfy to the requirements of MGR-12-003.I. That is, the Demand for Arbitration must include:

1. A clear statement demanding arbitration;
2. A statement of the nature of the dispute, including a short statement of the facts and identification of the policy provisions upon which the policyholder relies;
3. The names and addresses of all parties;
4. Any claims and counterclaims;
5. The amount involved, if any;
6. The remedy sought; and
7. The hearing locale requested.

A document that fails to comply with the requirements of MGR-12.003.1 cannot be considered an acceptable Demand for Arbitration.

Final Agency Determination

The Federal Crop Insurance Corporation (FCIC) agrees with the requestor's interpretation. MGR-12.003.1 clearly states the information that must be included in the demand for arbitration. Failure to include all the required information will result in the approved insurance provider rejecting the demand for arbitration. However, if the one year time period had not yet expired, the insured could cure the defective demand but the required information must be provided before the one year time period for filing a demand has expired.

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