

## **Final Agency Determination: FAD-325**

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**Subject:** Request dated March 24, 2025, submitted to the Risk Management Agency (RMA) for a Final Agency Determination for the 2025 crop year of the preamble and sections 1 and 20 of the Common Crop Insurance Policy, Basic Provisions, published at 7 C.F.R. §457.8. This request is pursuant to 7 C.F.R. § 400, Subpart X.

### **Reference:**

The relevant policy provisions are:

The 2025 CCIP Basic Provisions (25-BR) (Released June 2024) state, in relevant part:

### **Preamble**

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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.1501-1524). 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 FCIC procedures (handbooks, manuals, memoranda and bulletins), published on RMA's website at [www.rma.usda.gov](http://www.rma.usda.gov) or a successor website, in the administration of this policy, including establishing your approved yield and the adjustment of any loss or claim submitted under this policy. 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.

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## **1. Definitions**

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**Policy** - The agreement between you and us to insure an agricultural commodity and consisting of the accepted application, these Basic Provisions, the Crop Provisions, the Special Provisions, the Commodity Exchange Price Provisions, if applicable, other applicable endorsements or options, the actuarial documents for the insured agricultural commodity, the Catastrophic Risk Protection Endorsement, if applicable, and the applicable regulations published in 7 CFR chapter IV. Insurance for each agricultural commodity in each county will constitute a separate policy.

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

(a) If you do not agree with 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 the disagreement cannot be resolved through mediation, or you and we do not agree to mediation, you must timely seek resolution 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.

(1) All disputes involving determinations made by us, except those specified in section 20(d) or (e), are subject to mediation or arbitration. However, if the dispute in any way involves a policy or procedure interpretation, regarding whether a specific policy provision or procedure is applicable to the situation, how it is applicable, or the meaning of any policy provision or procedure, either you or we must obtain an interpretation from FCIC in accordance with 7 CFR part 400, subpart X or such other procedures as established by FCIC.

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(2) Unless the dispute is resolved through mediation, the arbitrator must provide to you and us a written statement describing the issues in dispute, the factual findings, the determinations and the amount and basis for any award and breakdown by claim for any award. The statement must also include any amounts awarded for interest. Failure of the arbitrator to provide such written statement will result in the nullification of all determinations of the arbitrator. All agreements reached through settlement, including those resulting from mediation, must be in writing and contain at a minimum a statement of the issues in dispute and the amount of the settlement.

(b) Regardless of whether mediation is elected:

(1) You must initiate arbitration proceedings within 1 year of the date we denied your claim or rendered the determination with which you disagree, whichever is later;

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(f) In any mediation, arbitration, appeal, administrative review, reconsideration or judicial process, the terms of this policy, the Act, and the regulations published at 7 CFR chapter IV, including the provisions of 7 CFR part 400, subpart P, are binding. Conflicts between this policy and any state or local laws will be resolved in accordance with section 31. If there are conflicts between any rules of the AAA and the provisions of your policy, the provisions of your policy will control.

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(i) In a judicial review only, you may recover attorney's fees or other expenses, or any punitive, compensatory or any other damages from us only if you obtain a determination from FCIC that we, our agent or loss adjuster failed to comply with the terms of this policy or procedures issued by FCIC and such failure resulted in you receiving a payment in an amount that is less than the amount to which you were entitled. Requests for such a determination should be addressed to the following:  
USDA/RMA/Deputy Administrator of Compliance/Stop 0806, 1400 Independence Avenue, SW., Washington, DC 20250-0806.

**Interpretation Submitted**

The requestor interprets the preamble of the Common Crop Insurance Policy (CCIP) to mean that Approved Insurance Providers (AIPs) are only allowed to make determinations that the provisions of the policy or the FCIC procedures allows them to make. Further, section 20 of the CCIP Basic Provisions gives the authority to the AIP to make determinations relating to the federal crop insurance contract. The requestor contends that the Federal Crop Insurance Act, the regulations at 7 C.F.R. chapter IV, and the FCIC procedures regulate who or what are to make the determination depending on the circumstances. Based on the requestor's interpretation of the preamble of the CCIP Basic Provisions, the requestor contends that section 20 of the CCIP Basic Provisions only "regulates" how determinations "allowed" to be made by the AIP under the contract (policy), that the insured does not agree with, are to be resolved. In other words, the policy does not allow the AIP (or an employee of the AIP) to make any determination they feel (or believe) is appropriate for the situation. Section 20 of the CCIP Basic Provisions "assumes" that the AIP did not waver or vary in any way from the provisions of the policy.

The requestor contends that determinations made by the AIP, under a federal crop insurance policy that the insured does not agree with, are to be resolved through mediation or arbitration in accordance with section 20.

Lastly, the requestor asserts the Deputy Administrator of Compliance is authorized to determine whether the AIP complied with the terms of the policy and/or the procedures issued by FCIC, pursuant to section 20(i) of the CCIP Basic Provisions.

### **Final Agency Determination**

FCIC agrees with the requestor that determinations made by the AIP under a federal crop insurance policy are governed by the terms of the contract, meaning the provisions of the policy may not be waived or varied in any way by the AIP. FCIC also agrees that section 20 sets forth dispute resolution procedures for when the policyholder disagrees with any determination made by the AIP. These include mediation, arbitration, and judicial review. Lastly, FCIC agrees that the Deputy Administrator of Compliance has the authority to determine whether a policyholder may recover attorney's fees or other expenses, or any punitive, compensatory, or any other damages from an AIP upon obtaining a determination from FCIC that the AIP or the AIP's agent or loss adjuster failed to comply with the terms of this policy or procedures issued by FCIC and such failure resulted in a policyholder receiving a payment in an amount that is less than the amount to which the policyholder was

entitled. The process for acquiring a determination from the Deputy Administrator of Compliance is provided in section 20(i) of the CCIP Basic Provisions.

In accordance with 7 C.F.R. § 400.766(b)(2), this FAD 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. § 400.766(b)(5).

**Date Issued:** May 8, 2025