



**United States  
Department of  
Agriculture**

Federal Crop  
Insurance  
Corporation

1400 Independence  
Avenue, SW  
Stop 0801  
Washington, DC  
20250-0801

DATE: June 8, 2005

TO: Board of Directors  
Federal Crop Insurance Corporation

FROM: Ross J. Davidson, Jr. /signed/  
Manager

SUBJECT: Board Memorandum No. 801  
Manager's Report

This memorandum serves as the Manager's Report to the Board of Directors (Board), Federal Crop Insurance Corporation (FCIC), for the June 8, 2005, meeting. The report relates to program issues as outlined below:

**Program Issues:**

**Good Farming Practices** – The obligation of a producer to follow “Good Farming Practices” has long been part of the Federal crop insurance policy. The Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*) prohibits crop insurance from covering losses due to the failure to follow good farming practices. The Agricultural Risk Protection Act required the FCIC to establish an informal administrative process to allow producers to seek RMA reconsideration of adverse good farming practice determinations. The reconsideration process is codified at 7 C.F.R. § 400.98.

A Manager's Bulletin will be issued in the near future to establish procedures for the Approved Insurance Provider (AIP) to make objective and scientifically sound good farming practices decisions and for the producer to seek reconsideration of those decisions from RMA. This Bulletin will not pertain to new or emerging risks. As such risks emerge, RMA will issue other procedures to make good farming practices decisions and to provide due process appeals for producers for new and emerging risks such as Asian soybean rust.

**Large Claim Reviews** – A Manager's Bulletin has been issued to establish procedures for RMA to participate in the review of loss determinations for claims that are likely to exceed \$500,000. This authority, established in the 2005 Standard Reinsurance Agreement and 2005 Livestock Price Reinsurance Agreement, is a significant new RMA Insurance Services function that promotes program integrity and prevents fraud, waste and abuse.

**Non-Citizen Eligibility for Federal Crop Insurance Benefits** – The Common Crop Insurance Policy, Basic Provisions and the Federal Crop Insurance Act require the

reporting of Social Security Numbers (SSN) or Employer Identification Numbers (EIN) to receive Federal crop insurance benefits. In accordance with the Basic Provision language, RMA has the ability to assign the non-citizens a number for Federal crop insurance purposes. However, non-citizens must be a qualified alien in order to receive Federal benefits in accordance with the Personal Responsibilities and Work Reconciliation Act (PRWORA). Benefits provided under the Federal Crop Insurance Act are considered Federal benefits under PRWORA.

RMA has issued a Manager's Bulletin providing the process in which RMA will assign a number to qualified alien non-citizens for crop insurance purposes to include determinations of qualified alien status. Due to the nature of this issue, RMA coordinated the development of the Bulletin with the Social Security Administration and the Department of Homeland Security.

**Pasture/Rangeland and Forage Update** – RMA's four contracts for research and development of new and potentially innovative crop insurance programs for pasture/rangeland, forage and hay continue to progress well. At this time, two proposals may be ready for the Board to consider for independent expert review at its August 2005 meeting. If approved by the Board in late Fall 2005, it is possible that pilot testing could begin as early as Summer 2006. However, release of final program materials, educational efforts and processing systems development and deployment must be considered well in advance of the initial sales closing date.

### **Regulatory Update:**

**Agent/Adjustor License Standardization** - On June 1, 2005, representatives of RMA attended a discussion session on standardization of state crop insurance agent and adjustor license requirements. National Crop Insurance Services (NCIS) arranged and hosted the meeting, which included participants from NCIS, RMA, state departments of insurance, insurance companies participating in the Federal crop insurance program, representatives of the National Association of Insurance Commissioners (NAIC) and a trade group representing independent agents. Issues covered included the breadth, complexity and significant growth (states, crops and plans) of the program; wide variation (in some cases absence) among states for licensing and training requirements; reciprocity of license or certification among states; program integrity; risk exposure of policy holders serviced by unknowledgeable agents; and fraud, waste and abuse within the program.

There was unanimous agreement among the participants that this topic should be pursued as part of the upcoming NAIC meetings and activities. In June, the NAIC Crop Insurance Working Group (CIWG) will take up the standardization issue in preparation for a presentation to the NAIC Producer License Working Group (PLWG) at the Fall NAIC meeting. By coordinating the activities of the CIWG and PLWG, a formal request can be made to incorporate the issue of license standardization into the NAIC 2006 work plans.

**Combination Regulation** – A Proposed Rule that combines the existing Actual Production History (APH), Crop Revenue Coverage (CRC), Income Protection (IP), Indexed Income Protection (IIP) and Revenue Assurance (RA) plans of insurance into one consolidated plan of insurance has been prepared and is with the Office of General Counsel (OGC) for legal review.

**Nursery Crop Provisions** – Responses to the comments received on the Nursery Proposed Rule are completed and the Final Rule is in Departmental clearance. The Final Rule is planned for implementation for the 2006 crop year. However, the Final Rule must be published in the Federal Register by the June 30, 2005, contract change date.

**Subpart V General Administrative Regulations; Submission of Policies, Provisions of Policies, and Rates of Premium** – The Final Rule incorporating the Board of Directors, Sense of the Board regarding disclosure of business relationships and marketability of products submitted under Section 508(h) has been updated based on final comments and is pending final review and signature by the Administrator.

### **Program Highlights/Announcements:**

**House Testimony** – On May 4, 2005, the House Agriculture Subcommittee on General Farm Commodities and Risk Management held a hearing to review the Federal crop insurance program. RMA Administrator Ross J. Davidson, Jr. and FCIC Board of Directors Chairman Keith Collins testified and provided updates on agency progress and activities.

**Request for Applications (RFA) for Non-insurance Risk Management Tools** – The Risk Management Agency announced on May 11, 2005, the availability of approximately \$4 Million for partnerships to develop non-insurance risk management tools that will be utilized by agricultural producers to assist them in mitigating the risks inherent in agricultural production. Applicants have 60 days to develop proposals addressing at least one of 10 objectives identified in the RFA. Proposals will undergo a rigorous technical review and projects that provide the most benefit for producers will be awarded partnership agreements.

**Sorghum Silage Pilot Program** – The Board of Directors approved a new Sorghum Silage pilot program on May 6, 2004, effective for the 2005 crop year. It appears first year sales were relatively successful with 1,159 policies sold. Only 10 policies were sold at the catastrophic risk protection level, while all other policies were at buy-up levels of coverage. The policies were fairly evenly distributed throughout the pilot counties, with policies sold in 35 of the 37 approved counties in Kansas and in each of the two approved counties in Colorado.

### **Compliance:**

**Conflict of Interest Supplemental Guidance** – As a result of revisions to the conflict of interest requirements found in the SRA, RMA management agreed at an October 2004 industry session to provide additional time for companies to comply with the SRA conflict of interest procedures until such time as RMA has issued supplemental guidance. The draft guidance has been used to brief House and Senate Agriculture Committee staff. RMA also held two conference calls on May 26, 2005, to brief companies and agent representatives, as well as producer and special interest groups. The final guidance will be issued in the near future.

**Operations Reviews** – RMA has committed to reviewing all Approved Insurance Providers once every three years. These reviews assess insurance providers' adherence to the SRA, quality control guidelines and RMA approved policies and procedures. RMA is in the process of completing

Operations Reviews on four insurance providers in Fiscal Year 2005. These random reviews will also be used under RMA's plan to report an error rate to the Office of Management and Budget under the requirements of the Improper Payments Act. RMA will report an error rate for 2004 using the random reviews required for the companies by Manual 14.

**Annual Report to Congress** – The 2003 Crop Year Compliance Annual Report to Congress is going through concurrence and shows a continuing trend to identify and control waste fraud and abuse. The report demonstrates these gains from the use of data mining, other new technologies and more sanctions to identify anomalous program results and exclude violators from the program. The 2005 SRA builds on these results by incorporating data mining into the selection of policies that will be reviewed by the companies as part of their quality control requirements.

**Wentworth Agricultural Insurance Agency Investigation** – RMA is assisting the Office of Inspector General (OIG) in a criminal/civil investigation of the Wentworth Agricultural Insurance Agency (Wentworth). The OIG initiated the investigation as a result of RMA reviews that identified the appearance of fraud, waste and abuse in the crop insurance policies serviced by Wentworth. Currently, the U.S. Attorney's office and OIG are in charge of the matter, with RMA and the impacted insurance providers assisting to bring this matter to a close as soon as possible.

Wentworth serviced a large book of business of over 400 crop insurance policies in Nebraska and South Dakota. Based on complaints received from the Farm Service Agency, RMA began investigating the appearance of fraudulent activities of Wentworth for the 2000, 2001 and 2002 crop years. On review, RMA found significant misrepresentations of the production and acreages covering several years in policies serviced by Wentworth. The misrepresentations included several cases in which producers certified having planted crops they had never grown or had not grown in several years, and producers certified having an interest in a crop(s) in which they had no interest. There were also instances of inflation or deletion of production histories involving multiple crop units and years, which had the effect of inflating the producers' guarantees. As a result, the producers, over a period of several years, had inflated Actual Production History (APH) databases, incorrect insurance premiums and had received overpaid indemnities.

Some producers have been identified as being complicit in obtaining inflated coverage and indemnities to which they were not entitled. USDA is also addressing certain civil actions that are taking place as a result of the ongoing investigation. In response to a request filed by some Wentworth producers, an agreement was reached regarding a Temporary Restraining Order request, with RMA agreeing to stay any ineligibility actions for the 2005 crop year and to re-determine the impact of the discrepancies on policyholders to ensure consistent treatment of those impacted.

The U.S. Attorney in charge of the civil side of this case sent a letter to the plaintiff's attorneys in May indicating how RMA would address the Temporary Restraining Order agreement. RMA subsequently sent letters to the companies indicating to them what was required to maintain reinsurance on these policies as a result of a new data mining review of Wentworth's policies. RMA continues to believe that changes can be implemented in time to make sure these producers have had their APH data reconstituted and corrected for the 2005 crop year.

**Data Mining/Remote Sensing:**

RMA is submitting a contract modification to the current data mining contract that will allow the remaining budget of \$1.7 million to be used to fund the data mining contract for the remainder of this fiscal year. The President's Fiscal Year 2006 Budget contains an allocation of \$3.6 million for data mining. RMA is also providing remote sensing expertise on several OIG investigations and is also working on providing Approved Insurance Providers with access to the USDA satellite imagery archive to assist their program integrity efforts.