UNITED STATES DEPARTMENT OF AGRICULTURE
RISK MANAGEMENT AGENCY
CROP INSURANCE ON FRESH MARKET TOMATOES
CROP-YEAR 1996 - FLORIDA
AUDIT REPORT NO. 05099-1-At

SEPTEMBER 1997

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL - AUDIT
SOUTHEAST REGION
401 WEST PEACHTREE STREET NW., SUITE 2328
ATLANTA, GA 30365-3520

UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Washington D.C. 20250

DATE: September 30, 1997

REPLY TO
ATTN OF: 05099-1-At

SUBJECT: Crop Insurance on Fresh Market Tomatoes

TO: Kenneth D. Ackerman
Administrator
Risk Management Agency

ATTN: Garland Westmoreland
Director
Risk Compliance Division

This report presents the results of our audit of the Risk Management Agency's administration of the Fresh Market Tomato (Dollar Plan) Crop Insurance Program in Florida. Your August 21, 1997, response to the draft report is included as exhibit C with excerpts and the Office of Inspector General's position incorporated into the relevant sections of the report. Based on your response and our subsequent discussions with officials from the Office of the General Counsel, we revised Finding No. 1 and Recommendation No. 1a.

Management decisions have not been reached for any of the report's recommendations. The "Findings and Recommendations" section of the report includes a description of the status of the management decision for each recommendation.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective action taken or planned and the timeframe for implementing such action for each of the report's recommendations. Please note that the regulation requires a management decision to be reached on all findings and recommendations within a maximum of 6 months from report issuance.

We appreciate the cooperation and assistance your staff provided during the audit.

JAMES R. EBBITT
Assistant Inspector General
for Audit

EXECUTIVE SUMMARY

RISK MANAGEMENT AGENCY
CROP INSURANCE ON FRESH MARKET TOMATOES
CROP-YEAR 1996 - FLORIDA

AUDIT REPORT NO. 05099-1-At

PURPOSE

We performed an audit of the Risk Management Agency's (RMA) administration of the Fresh Market Tomato Crop Reinsured Program in Florida. During our monitoring of crop insurance indemnity payments resulting from disasters occurring in Florida, we noted that large indemnity payments had been made to a limited number of Florida tomato producers. The objective of the audit was to perform reviews of the Catastrophic Crop Insurance (CAT) and the additional insurance coverage programs administered by the Farm Service Agency (FSA) and private reinsured companies to determine the effectiveness of RMA in administering the crop insurance program for fresh market tomatoes. Specific objectives were to (1) review the crop-year 1996 Fresh Market Tomato Crop Insurance Program in Florida and (2) evaluate the resulting CAT and additional insurance indemnity payments processed by the FSA and the reinsured companies.

RESULTS IN BRIEF

The Fresh Market Tomato Crop Insurance Program in Florida has been poorly managed by the reinsured companies and abused by sales agents, loss adjusters, and producers. This situation has developed and worsened because of a major breakdown in oversight controls by RMA. Consequently, we found that reinsured companies paid indemnities for (1) abandoned crops, (2) losses outside the insurance period, (3) crops planted on converted wetlands, and (4) under/nonreported production. Additionally, we found two sales agents of reinsured companies who received almost $400,000 in commissions for crop insurance policies sold to producers in conflict-of-interest situations. One of these two producers subsequently received over $2.4 million in indemnities from the insurance policies.

In this audit, we reviewed seven large loss claims submitted by five producers and found one or more of the previously cited deficiencies in each case. We also found a lack of RMA oversight reviews of the policies. In fact, there have been no RMA reviews performed of fresh market tomato losses in south Florida since the late 1980's.

In addition to the above problems, we also found that the practices and procedures used in administering the insurance program for fresh market tomatoes (Dollar Plan) allow indemnities to be paid to producers who did not experience a loss in quantity or quality of production, but instead, suffered financial losses due to low market prices. This appears to be contrary to the enacting legislation. In addition, by not requiring the producer to provide the actual

production history (APH) for prior years' tomato production, the regulations for fresh market tomatoes are not in compliance with the general crop insurance regulations.

After receipt of RMA's response to the draft report (see exhibit C), we met with Office of the General Counsel (OGC) officials and discussed the legality of paying indemnities based on low market prices and not a loss of commodity. OGC officials verbally advised that to qualify for an indemnity, the insured must suffer a quantity or quality loss of commodity caused by an insurable peril. During that discussion, it was agreed that we would request a formal opinion from OGC concerning this issue and the issue regarding whether an APH is required for the Dollar Plan for fresh market tomatoes.

KEY RECOMMENDATIONS

We recommend that RMA develop a plan of action to ensure that reinsured companies comply with program regulations in their management of the Fresh Market Tomato Crop Insurance Program. The plan of action should include specific steps to be taken to correct the deficiencies identified during this audit. In addition, we recommend that the RMA (1) obtain data on all cases where indemnities were paid on fresh market tomato (Dollar Plan) claims where there was no loss in quantity or quality of production, and based on the results of the OGC opinion, recover from the reinsured companies that portion of the $15,082,744 that was improper, (2) revise the current system of monitoring crop insurance activities to ensure more direct involvement by the agency in the review of individual claims, (3) determine what sanctions should be taken against the reinsured companies and the sales agents involved in the conflict-of-interest situations, (4) review the rate structure used to reimburse reinsured companies for administrative expenses to determine if amounts used for computing sales agent commissions are excessive, (5) provide additional oversight to ensure that reinsured companies comply with crop insurance regulations and that indemnities are properly computed, and (6) review the cited cases, and, as appropriate, recover questionable indemnities totaling $1,370,054.

AGENCY POSITION

In its August 21, 1997, written response to the draft report, RMA expressed general agreement with the report's findings and recommendations. For those recommendations involving recovery of questionable indemnities, RMA requested the opportunity to review applicable workpapers before preceding further.

TABLE OF CONTENTS

TABLE OF CONTENTS

INTRODUCTION

BACKGROUND

The Risk Management Agency (RMA) was created by the Federal Agriculture Improvement and Reform (FAIR) Act of 1996, Public Law 104-127. Under the act, RMA was established as an independent agency to provide supervision to the Federal Crop Insurance Corporation (FCIC) and have oversight of all insurance programs. The FCIC is a wholly-owned Government corporation that publishes insurance regulations and manages the Federal crop insurance fund.

RMA offers two types of crop insurance plans for fresh market tomatoes--the Dollar Plan and the Guaranteed Production Plan. This report concentrates on the Dollar Plan. The Dollar Plan is only available in 12 counties in Florida, while the Guaranteed Production Plan is offered in 9 States, including Florida. The Guaranteed Production Plan requires producers to submit their prior crop year's production which is used to compute production history for the purpose of determining the producer's guarantee for the insured crop year.[1]

Under the Dollar Plan, past production is not required to determine the insured's guarantee. Under this plan, the guarantee is a per-acre dollar amount, determined by RMA using planting and production cost information provided by the State's university system.

In addition to the basic coverage provided under the Dollar Plan, producers may purchase additional insurance coverage provided by the Minimum Value Option which, for increased premiums, provides higher levels of coverage. To purchase one of the two options under the additional coverage, the producer must have the basic Dollar Plan coverage.

The Dollar Plan was first made available to producers in 1991. The following table shows that the majority of insurance coverage purchased for fresh market tomatoes was under the Dollar Plan. The table reflects the liability and indemnity for all States where the plans were available during crop-years 1991 through 1996. In 1996, indemnities totaling $6,892,115 were paid out under the Dollar Plan while only $354,297 were paid out under the Guaranteed Production Plan.

[1] 7 CFR, paragraph 454.7(d)4.f., effective January 1, 1991.

Year	Dollar Plan		Guaranteed Production Plan	
	Liability	Indemnity	Liability	Indemnity
1991	$ 47,910,010	$ 2,684,729	$ 4,162,622	$ 215,654
1992	19,650,810	- 0 -	3,527,283	206,596
1993	20,835,960	2,085,173	3,420,176	214,505
1994	21,429,080	142,495	4,740,476	296,434
1995	42,266,238	3,278,232	19,137,112	319,102
1996	45,483,434	6,892,115	23,096,640	354,297
Totals	$197,575,532	$15,082,744	$58,084,309	$1,606,588

TABLE 1

OBJECTIVES

The objective of the audit was to determine the effectiveness of RMA in administering the crop insurance program for fresh market tomatoes (Dollar Plan). Specific objectives were to (1) review the crop-year 1996 Fresh Market Tomato Crop Insurance Program in Florida and (2) evaluate the resulting Catastrophic Crop Insurance (CAT) and additional insurance indemnity payments processed by the FSA and reinsured companies.

SCOPE

The audit was performed in accordance with generally accepted government auditing standards, and primarily covered indemnities paid in Florida for 1996 crop-year tomato losses caused by a February 5, 1996, freeze and a period of cold weather and rain occurring March 9 through March 11, 1996. To a limited degree, we also reviewed indemnities paid for crop-year 1995. Indemnity payments in Florida for tomato losses totaled about $3.3 million (paid to 9 producers) for crop-year 1995, and about $6.9 million (paid to 24 producers) for crop-year 1996. Three producers received about $3.2 million (97 percent) of the total indemnities paid for crop-year 1995, and eight producers received over $5.2 million (76 percent) of the total indemnities paid in 1996.

We reviewed indemnities totaling about $4.3 million paid to five producers for crop losses caused by freeze and a hurricane occurring in crop-years 1995 and 1996. The five producers were judgmentally selected for review based on their having received

large indemnities in 1996. The 5 producers received over 41 percent ($2,860,712) of indemnities totaling $6,892,115 paid to 24 producers for fresh market tomatoes in 1996. Table 2 shows indemnity amounts received by each of the five producers reviewed.

PRODUCER	CROP-YEAR	ACREAGE	INDEMNITY
A	1996	165.9	$ 323,213
B	1996	124.3	314,371
C	1996	128.1	334,120
D	1996	364.7	853,337
E	1996	565.3	1,035,671
E	1995	883.3	1,409,380
TOTALS		2,231.6	$4,270,092

TABLE 2

Based on information developed during the audit regarding potential conflict-of-interest situations, we obtained information from reinsured companies regarding insurance sales agents who were employed by producers to whom the sales agents sold crop insurance. Regarding this issue, we did not limit our review to the Fresh Market Tomato Crop Insurance Program.

METHODOLOGY

To accomplish the audit objectives, our examination consisted of the following.

- Review of applicable Federal laws and regulations, and RMA and FCIC policies and procedures.
- Review of CAT and additional insurance coverage instructions.
- Review of prior audits and other examinations and analyses performed by FSA and RMA.
- Interviews with officials of FSA, RMA, FCIC, and private reinsured companies.
- Tests of loss adjusters' indemnity determinations.
- Interviews with loss adjusters, insurance sales agents, producers, and tomato packing house officials.
- Field visits to producers' farm operations and reviewing their records.
- Interviews with tomato industry technical experts.

FINDINGS AND RECOMMENDATIONS

I. THE ADMINISTRATION OF THE CROP INSURANCE PROGRAM NEEDS IMPROVEMENT

RMA needs to make changes in its administration of the insurance program for fresh market tomatoes. Although the implementing legislation requires that insurance cover only losses caused by prescribed insurable perils, current practices and procedures allow indemnities to be paid to producers whose losses were the result of low market prices rather than perils. Policyholders could claim a loss as long as they experienced an insurable peril; they did not need to suffer a production loss or a reduction in crop value as a result of the disaster. Also, contrary to general crop insurance regulations, a producer's actual production history (APH) was not required; consequently, there was no crop loss to measure. For four of the five producers we reviewed, we question whether an indemnified crop loss occurred. (See Finding No. 4.)

In addition, RMA's oversight of the insurance program was not adequate. RMA relied on quality control (QC) reviews performed by reinsured companies to ensure that loss adjustment activities were performed in accordance with laws and regulations. We concluded that the reviews were superficial and lacked independence. Our audit also disclosed that two sales agents were involved in conflict-of-interest situations as a result of being employed by producers to whom they sold crop insurance.

INDEMNITIES WERE PAID WITHOUT A LOSS OF COMMODITY

FINDING NO. 1

The practices and procedures used in administering the insurance program for fresh market tomatoes (Dollar Plan) allow indemnities to be paid to producers who did not experience a loss of commodity, but instead, suffered financial losses due to low market prices. This appears to contradict the 1990 Federal Crop Insurance Act and the Federal Crop Insurance and Department of Agriculture Reorganization Act of 1994 which provides for insurance coverage against commodity losses caused by prescribed insurable perils. In addition, the insurance policy for fresh market tomatoes (Dollar Plan) does not require the use of the insured's APH in computing indemnities even though this is a requirement of general crop insurance regulations. As a result, indemnities totaling $15,082,744 paid for fresh market tomato loss claims during crop-years 1991 through 1996 may not have been in compliance with the law.

Section 508(a) of the 1990 Federal Crop Insurance Act states:

> *If sufficient actuarial data are available, as determined by the Board, the Corporation may insure producers of agricultural commodities grown in the United States under any plan or plans of insurance determined by the Board to be adapted to the agricultural commodity involved. Such insurance shall be against loss of the insured commodity due to unavoidable causes, including drought, flood, hail, wind, frost, winterkill, lightning, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease, and other such unavoidable causes as may be determined by the Board.*

The Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 provided that "To qualify for coverage under a plan of insurance, the losses of the insured commodity must be due to drought, flood, or other natural disaster (as determined by the Secretary)."

The General Crop Insurance Policy, and applicable endorsements for the Fresh Market Tomato Dollar Plan, also provide that the insurance is against unavoidable loss of production caused by prescribed insurable perils.

We found that current practices and procedures used in administering the Fresh Market Tomato Crop Insurance Program (Dollar Plan) appeared to be at variance with the law and the regulations that govern most multiple peril crop insurance (MPCI) policies.

a. Indemnities Were Paid Without a Loss of Commodity

Although the legislation requires that insurance shall be against loss of the insured commodity due to a prescribed insurable peril, we found that indemnities were paid based solely on low market prices. An actual loss of commodity (quantity or quality) was not necessary to receive an indemnity. Producers could receive indemnity payments for losses resulting from low market prices, as long as an insurable peril had occurred. When computing indemnities, adjusters made no determination regarding whether an insurable peril caused the insured's crop to be below normal production or to sell for less than normal value.

For example, in crop-year 1996, if a producer purchased 65-percent coverage for 100 acres of tomatoes, RMA would guarantee that the producer would receive at least $2,860 per acre if an insurable peril were to occur within the period covered, regardless of whether an actual quantity or quality loss occurred. (For an explanation regarding how guarantees are computed, see subpart b below.) The indemnity amount is based on the guaranteed dollar amount, the insured acreage, and a percentage of the growth stage at the time the insurable peril occurred. (This amount is subsequently reduced by the value of harvested and appraised production.) In this procedure, the indemnity is not based on a loss of commodity, but on the market price of the commodity even if the low market price is caused by something other than an insurable peril; i.e., oversupply.

Table 3 shows how a 50-cent fluctuation in price could impact whether or not an indemnity was due. In this example, the producer suffered an insurable peril, but was still able to produce and harvest 1,200 25-pound cartons of tomatoes per acre. As shown in the table, if the producer received $5.50 per box, he would not be entitled to an indemnity because his net sales of $300,000 would have exceeded the guarantee. However, if he received only $5 per box, he would be entitled to a $46,000 indemnity.

	@ $5.50/box	@ $5.00/box
Acres	100	100
Production (25 lb cartons per acre)	1,200	1,200
Per Carton Sales Price	$ 5.50	$ 5.00
Gross Sales	$660,000	$600,000
Allowable Packing Cost ($3 per carton)	($360,000)	($360,000)
Net Sales Proceeds	$300,000	$240,000
Guarantee ($2,860 per acre)	$286,000	$286,000
Indemnity Due	- 0 -	$ 46,000

TABLE 3

Our review of indemnity payments made to producer E in 1995 disclosed that he harvested two units totaling 83.3 acres of tomatoes. From these two units, producer E harvested a total of 154,137 cartons of tomatoes, an average of about 1,850 cartons per acre. According to the local county extension agent, the normal production in the area is about 1,200 to 1,400 25-pound cartons per acre. Therefore, producer E's production exceeded the normal production by at least 450 cartons per acre. As a result of a brief 2- to 3-hour period of freezing temperatures occurring in February 1995, producer E was able to file a loss claim without any documentation that the reduced market price was the result of a reduction in quality caused by an insurable peril.

The producer's insurance policy provided for 65-percent coverage which guaranteed him 65 percent or $2,900 of the maximum $4,462 per acre for his area. Based on this coverage, the producer received an indemnity of $117,836, or $1,415 per acre. Since the producer did not experience an actual loss of commodity, we concluded that the indemnity payment was improper. (See table 4.)

INDEMNITY COMPUTATIONS		
	PER ACRE	**TOTAL**
Number of Acres	1	83.3
Production (Cartons)	1,850	154,137
Guarantee	$2,900	$241,570
Market Price Received	$1,485	$123,734
Indemnity Amount	$1,415	$117,836

TABLE 4

During 1995, producer E had crop insurance coverage on 2,237.4 acres of tomatoes and received indemnities totaling $1,409,380. As further discussed in Finding No. 4, on one unit containing 16.7 acres of tomatoes, producer E received an indemnity of $41,430. During our review of the producer's records, we discovered a note, dated June 12, 1995, which stated, "we elected not to pick this field for the packinghouse because the market price was below harvest and packing costs."

Based on current operating practices and procedures, producer E received indemnities based on the low market price for tomatoes and not on an actual loss of commodity that resulted from a prescribed insurable peril. Although RMA recently implemented programs to provide Crop Revenue Coverage and Income Protection coverage for certain crops, such coverage is not available for tomatoes.

b. The Insured's Actual Production History Was Not Required

Under MPCI, the production guarantee is based on the insured's APH. The guarantee is computed by multiplying the insured's average per-acre yield by the coverage level requested (guaranteeing a harvest of 35, 50, 65, or 75 percent of the crop). Thus, indemnity payments are based directly on an insured's yield and are payable only if a disaster causes a loss of production in excess of the amount set by the coverage level.

However, under current provisions of the Dollar Plan for Fresh Market Tomatoes, the guarantee is not based on a per-acre yield but is set at a per-acre dollar amount determined by RMA using planting and production cost information provided by officials of the State's university system. (For 1996, this cost was about $4,400 per acre, depending on the location of the farm.) This plan does not require that the APH be used, even though it is required by the MPCI provisions and most new income protection plans.

Since producers were not required to report APH data to purchase fresh market tomato insurance coverage under the Dollar Plan, adjusters had no measurement to determine whether there had been a loss of production. If required, the APH would be used to establish a standard against which production could be measured and to determine if there has been an actual loss of production. Without the producer's APH, adjusters were not able to determine what the producer's normal production was and, therefore, were unable to determine if there had been an actual loss of production.

Based on the above, we concluded that, as currently implemented and administered, the crop insurance coverage for fresh market tomatoes (Dollar Plan) does not appear to fully comply with the legislation or policy provisions. Producers are able to be indemnified for losses resulting from other than the prescribed insurable perils (drought, flood, hail, wind, frost, etc.) even though the legislation does not provide for coverage that is unrelated to losses caused by the identified insurable perils. In addition, producers were not required to report their APH even though an APH is required for MPCI policies.

The following table provides information concerning premiums, liabilities, and indemnities for the Dollar Plan on fresh market tomatoes since it was first made available in 1991.

YEAR	PREMIUMS	LIABILITY	INDEMNITY	LOSS RATIO
1991 - 1993	$11,518,106	$ 88,396,780	$ 4,769,902	---
1994	2,911,010	21,429,080	142,495	.05
1995	4,249,239	42,266,238	3,278,232	.77
1996	4,352,632	45,483,434	6,892,115	1.58
TOTALS	$23,030,987	$197,575,532	$15,082,744	---

TABLE 5

As can be seen from table 5, since 1994 the percentage of increase for indemnities has been substantially greater than the percentage of increase for premiums. During the period 1994 to 1996, the loss ratio on fresh market tomatoes increased from .05 to 1.58.

After receipt of RMA's response to the draft report (see exhibit C), we met with Office of the General Counsel (OGC) officials and discussed the legality of paying indemnities based on low market prices and not a loss of commodity. OGC officials verbally advised that to qualify for an indemnity, the insured must suffer a quantity or quality loss of commodity caused by an insurable peril. During that discussion, it was agreed that OIG would request a formal opinion from OGC concerning this issue and the issue regarding whether an APH is required for the Dollar Plan for fresh market tomatoes.

Our review focused on 1995 and 1996 operations. However, the program was administered in the same manner since its inception in 1991. Consequently, we believe the deficiencies we cited regarding 1995 and 1996 operations would also have existed during the period 1991 through 1994. Therefore, pending the formal OGC opinion, RMA

should begin to obtain data concerning all indemnities paid during the period 1991 through 1996 where the indemnities were paid based on low market prices and not a loss of commodity.

RECOMMENDATION NO. 1a

Obtain data on all cases where indemnities were paid on fresh market tomato (Dollar Plan) claims where there was no loss of commodity during the period 1991 through 1996. Based on the results of the formal OGC opinion to be obtained, (1) recover from the reinsured companies that portion of the $15,082,744 that was improper and (2) take appropriate actions to ensure that future indemnity payments are based on a loss of commodity caused by an insurable peril and not low market prices.

RMA Response

Finding No. 1 and Recommendation No. 1a were revised after receipt of the RMA response to the draft report and our discussion with OGC. RMA did not respond to Recommendation No. 1a as currently shown.

OIG Position

To accept management decision, based on the OGC opinion we need (1) the results of the RMA findings regarding those cases where indemnities were paid without a loss of commodity and actions to be taken to recover the questionable payments and (2) details regarding actions to be taken to ensure that future indemnity payments are based on a loss of commodity caused by a prescribed insurable peril.

RECOMMENDATION NO. 1b

Revise regulations regarding the Dollar Plan for Fresh Market Tomatoes to require that an APH be established and used in computing crop guarantees.

RMA Response

In its response dated August 21, 1997, RMA replied:

> *The 1998 revisions modify the claim for indemnity calculations by providing calculations for catastrophic risk protection coverage and for coverage other than catastrophic risk protection. The provision includes the use of the catastrophic risk protection price election equivalent to determine the total dollar of production to count for indemnity purposes. This assures that producers are insured based on a dollar amount of insurance are indemnified comparable to producers that are insured based on an APH yield basis.*
>
> *For the reasons stated in our response to No. 1a, we do not believe it is necessary to change the insurance plan for Fresh Market (Dollar Plan) Tomatoes from a dollar amount of insurance plan to an APH plan of insurance.*

OIG Position

During the audit, OGC verbally advised that based on current regulations, an APH plan of insurance is required for the Fresh Market Tomato Crop Insurance Program (Dollar Plan). We will obtain a formal opinion from OGC regarding this issue. As previously stated, without an APH, adjusters were not able to determine what a producer's normal production was, and, therefore, were unable to determine if there had been an actual loss of production. To accept management decision for this recommendation, we need details and applicable timeframes regarding RMA's plans to require an APH plan of insurance for the Fresh Market Tomato Crop Insurance Program (Dollar Plan), pending the OGC opinion.

RMA's MONITORING OF THE CROP INSURANCE PROGRAM WAS NOT ADEQUATE

FINDING NO. 2

RMA did not perform sufficient oversight of the Fresh Market Tomato Crop Insurance Program to ensure program integrity. We found significant problems in all seven policies reviewed for which reinsured companies had previously performed their own QC reviews and found no deficiencies. Current RMA regulations do not require the agency to conduct reviews of activities pertaining to individual producers even when the producers have filed claims which result in large indemnity payments. Instead, RMA relies on reinsured companies to perform reviews to ensure that loss adjustment activities were administered in accordance with applicable laws and regulations. Although RMA does perform periodic oversight reviews of reinsurance activities, such reviews were not sufficient to detect or correct questionable indemnities or other practices of the reinsured companies and their employees.

Current RMA policy provides that reinsured companies are responsible for ensuring compliance with the Standard Reinsurance Agreement (SRA). The SRA is a cooperative financial assistance agreement between the FCIC and the reinsured company to deliver MPCI which establishes the terms and conditions under which the FCIC will provide premium subsidy, expense reimbursement, and reinsurance on MPCI policies sold or reinsured by the insurance company. When companies sign the SRA, they agree to administer the reinsurance program to ensure compliance with SRA requirements. As part of the SRA, reinsured companies are required to provide a QC (self-audit) review plan of their activities to FCIC. The plan must include company procedures necessary to monitor producer certification, determination, and verification of yield data and other information necessary to establish insurance guarantees and indemnities.

FCIC instructions state "the insurance company shall conduct special loss audits when loss claims exceed $100,000 and must be performed by experienced, qualified, competent company QC personnel."[2] Our examination of reinsured company QC reviews performed on 16 crop-year 1996 insurance claims totaling $7,046,134 disclosed that the reviews were performed by field loss adjusters, not independent QC reviewers. For example, all 15 of 1 reinsured company's QC reviews were performed by either 1 of 2 loss adjusters who work in the same geographical area or by another loss adjuster employed by the same reinsured company. The adjusters routinely performed QC reviews of the other's loss adjustment work.

[2] FCIC Directive 14010, paragraph 8a, effective July 22, 1994.

The QC reviews were basically a series of questions requiring only a "yes" or "no" answer. However, the QC review also required the reviewer to rework the loss as if it were being done for the first time. Our review disclosed no evidence indicating that the QC reviewer actually reworked any of the claims. None of the 16 QC reviews identified problems.

Our review of one 1995 and six 1996 loss claims with indemnity payments totaling about $4 million disclosed significant problems or errors in each of the loss claims (see Findings Nos. 3, 4, 5, 6, and 7). In these cases, the company adjusters (1) approved indemnity payments even though the producers abandoned their crops because of low market prices, (2) professed to be unaware that the perils on which claims had been filed occurred after the insurance period had expired, and (3) discounted harvested production even though the harvests were from the same crop the producers claimed were damaged by a peril.

For one claim, in which an indemnity was paid on crops grown on converted wetlands, the sales agent who sold the policy failed to obtain the producer's certification that the farmland was not converted wetlands. The indemnity was approved in spite of the missing certification, and the QC reviewer noted that the claim was "complete and well documented." In other instances, we found sales agents who were employed by the producers they sold policies to. Company officials disregarded these conflict-of-interest situations.

RMA officials told us that they do perform some oversight reviews of the reinsured companies' activities when resources are available. However, no RMA reviews have been performed of indemnities paid for fresh market tomato losses in south Florida since the late 1980's.

Lack of RMA oversight of crop insurance was also reported in a June 1987 audit of FCIC Reinsurance Operations. In that report, the Office of Inspector General reported that producers received excessive indemnities which were caused, in part, by insufficient FCIC controls to ensure compliance with loss adjustment procedures.[3]

In response to the audit, a compliance division was established to ensure the integrity of crop insurance programs, enforce program requirements, and to ensure that Federal funds are expended in accordance with laws, agreements, and regulations to prevent fraud, waste, and abuse. FCIC instructions require the compliance division to "administer a sound system of oversight to assure that mandates, policies, and procedures are effective and that Reinsured Companies, Agency Sales and Service Contractors, and FCIC program activities are in compliance with program requirements."[4] However, because of RMA's reliance on reinsured companies to conduct QC reviews and the degree of problems identified in this audit, we concluded that the compliance division had not performed adequate oversight to ensure integrity in the crop insurance program.

Moreover, under FCIC's reinsurance program, reinsured companies receive compensation based on a percentage of total premiums paid, while FCIC ultimately assumes the majority of the risk and pays a large percentage of indemnities based on loss adjustments performed by employees of the reinsured companies. This arrangement intensifies the need for strong RMA oversight and monitoring to preclude or detect fraud and abuse.

---

[3] FCIC - Crop Reinsurance Operations, Audit Report No. 05608-2-Te, issued June 1987.

[4] FCIC Directive 1030, paragraph 1037.5-3, effective October 1992.

The SRA provides for sanctions against reinsured companies that mismanage the Federal crop insurance program and allow improper indemnity payments to be made. We concluded from the seven indemnity claims we reviewed that the reinsured companies involved had poorly managed the claims. To ensure the integrity of the Fresh Market Tomato Crop Insurance Program, RMA should consider imposing sanctions against these companies. We recommend that RMA consult with OGC to determine what sanctions may be applied and that it impose those sanctions.

To further ensure that the interests of the Government are fully protected and the requirements of the SRA are met, the RMA should be more involved in the oversight of crop insurance program activities. RMA should establish a monetary threshold and require that claims which exceed the threshold automatically be reviewed by RMA before payment could be made by the reinsured company.

RECOMMENDATION NO. 2a

Consult with OGC concerning what sanctions may be applied against the reinsured companies determined by this audit to have poorly managed the Fresh Market Tomato Crop Insurance Program, and impose those sanctions.

RMA Response

In its response dated August 21, 1997, RMA replied:

> *If our subsequent review of the OIG findings and/or additional information yields sufficient evidence then we will request OGC to proceed with the appropriate administrative or other enforcement action. These actions may include, but are not limited to, cancellation of the Standard Reinsurance Agreement (SRA) with the company(s), suspension, or debarment (7 C.F.R. § 400.451) of agents or companies.*
>
> *We may also pursue disqualification (7 U.S.C § 1506(n)) against any producers suspected of wrongdoing.*

OIG Position

To accept management decision for this recommendation, we need the results of RMA's review of the conditions cited and, as applicable, OGC's opinion regarding sanctions to be applied against the reinsured companies. Where appropriate, we also need the timeframes for imposing sanctions.

RECOMMENDATION NO. 2b

Develop a plan of action to ensure that reinsured companies comply with program regulations in their management of the Fresh Market Tomato Crop Insurance Program. The plan of action should include specific steps to be taken to correct the deficiencies identified during this audit.

RMA Response

In its response dated August 21, 1997, RMA replied:

> *Our plan for addressing the conditions cited in this audit consist of (1) reviewing the OIG work papers, etc, and submitting appropriate findings to the reinsured companies, (2) collecting any overpayments through the necessary means, (3) conveying program concerns and vulnerabilities to the appropriate RMA departments, (4) suggesting policy changes or other corrective measures to address OIG and RMA concerns. We will inform OIG of other specific measures once our review of the information is complete.*

OIG Position

To accept management decision for this recommendation, we need specific details including applicable timeframes regarding " * * * policy changes or other corrective measures to address OIG and RMA concerns." Such details should include specific steps to be taken to correct the deficiencies noted during this audit.

RECOMMENDATION NO. 2c

Revise the current system of monitoring crop insurance activities to include more direct involvement by RMA to ensure compliance with program requirements. The revisions should include a requirement for a detailed review by RMA of indemnities above a prescribed dollar threshold before payment can be made.

RMA Response

In its response dated August 21, 1997, RMA replied:

> *RMA currently requires the companies to conduct a special loss audit of any claim in excess of $100,000. We believe this is sufficient to address the problem and do not favor delaying payment of a claim to a producer until RMA can review the claim.*
>
> *RMA performs oversight reviews of reinsurance activities at the level that current resources and statutory authority permit. We attempt to conduct oversight reviews National Operation Review's (NOR) of all reinsured companies every three years. These reviews are in addition to our other enforcement responsibilities including follow-up reviews, hotline complaints, assisting OIG investigations and other law enforcement agencies, redetermination of findings, etc. We will inform OIG of any additional or redirection of monitoring activities resulting from this audit of fresh market tomatoes.*

OIG Position

As discussed above, the QC reviews performed by the reinsured companies were superficial and, therefore, not sufficient to detect or correct questionable indemnities or other practices of the reinsured companies and their employees. None of the 16 QC reviews that we looked at identified problems. Because of this and the fact that our audit disclosed significant problems with all seven of the indemnities reviewed, we believe that there is a need for RMA to be more heavily involved in the oversight of crop insurance program activities. This would include a requirement for a detailed review by RMA of indemnities above a prescribed dollar threshold before payment can be made. To accept management decision for this recommendation, we need details, with timeframes, of actions to be taken by RMA to (1) show more direct involvement by RMA in monitoring crop insurance activities and (2) review indemnities above a prescribed dollar threshold before payment can be made.

SALES AGENTS WERE INVOLVED IN CONFLICT-OF-INTEREST SITUATIONS

FINDING NO. 3

Two sales agents were involved in conflict-of-interest situations as a result of being employed by producers to whom they sold crop insurance. In his position as the comptroller for a tomato producer, one sales agent was responsible for providing information used by the adjusters in computing indemnity payments. During 1995 and 1996, this sales agent received crop insurance sales commissions totaling $284,225 while his employer received indemnity payments totaling $2,446,261. The second sales agent, employed by a citrus producer, received sales commissions totaling $96,430 during 1995 and 1996. During these years, his employee received no indemnity payments. Such arrangements compromise the integrity of the crop insurance program and are prohibited by the SRA between the FCIC and the reinsured companies.

The SRA states:

> *The (Reinsured) Company may not permit its sales agents * * * to adjust losses, or supervise, or otherwise control loss adjusters, nor to participate in the determination of the amount or cause of any loss nor to verify yields of applicants for the purpose of establishing any coverage or guarantee, if the eligible crop insurance contracts involved are sold or serviced by or through the sales agent.*[5]

We identified two sales agents who were employed by producers to whom the agents sold crop insurance. One of the sales agents was employed as the full time comptroller responsible for all accounting functions of both the farming and packing house operations owned by producer E. In this position, the sales agent was directly responsible for providing acreage information used to determine premiums and production history and gross sales used by adjusters in computing indemnity payments. The sales agent told us that he routinely provided loss adjusters with production and sales figures used to determine indemnity amounts.

[5] SRA between the FCIC and the insurance company, effective July 1, 1994.

In 1995 and 1996, producer E had crop insurance coverage on 3,359.5 acres of tomatoes, involving three separate policies. Table 6 shows premiums paid and indemnities received by the producer and sales commissions paid to the agent for the crop insurance policies.

CROP-YEAR	PRODUCER PREMIUM[1]	INDEMNITY	COMMISSION
1995	$ 535,815	$1,409,380	$148,580
1996	521,781	1,035,671	135,645
TOTALS	$1,057,596	$2,445,051	$284,225

[1] Amount does not include Government subsidized premium.

TABLE 6

The sales agent told us that he discussed this situation with two RMA officials and they told him that his relationship with producer E did not violate the SRA. One RMA official (an RMA Crop Insurance Specialist) acknowledged that he was aware that the sales agent was the producer's comptroller and was responsible for providing financial information to adjusters. He further said he did not consider it to be a conflict of interest.

We also discussed this issue with an official of the sales agent's reinsured company who stated that he did not see any problems with his sales agent being an employee of the insured. After we first brought this matter to his attention, the reinsured company sought legal advice from its attorney. In a November 11, 1996, letter to the reinsured company, the attorney stated, "the sales agent is neither involved in the loss adjusting nor the yield verification of the producer's policies * * * it is my opinion that the relationship between the sales agent and the producer is not a violation of the conflict of interest provisions of the SRA." However, as previously stated, our review disclosed that the sales agent is directly involved with providing information necessary for determining indemnity amounts and also providing verifications of production (yield) to the loss adjusters.

In addition to the sales commissions totaling $284,225 for the 1995 and 1996 crop-years, the sales agent received an annual salary of about $60,000 from producer E. This sales agent has been selling crop insurance to producer E since 1991. The sales agent told us that the producer was not aware of the amount of commission he received for selling the crop insurance. In addition to the policies sold to this producer, the sales agent also sold fresh market tomato and green pepper CAT coverage to three other producers for which he received commissions of $3,023 and $4,368 for crop-years 1995 and 1996, respectively.

RMA Headquarters officials told us that since the sales agent was responsible for providing information used to determine indemnity amounts to the loss adjusters, the agent was involved in a conflict-of-interest situation and the reinsured company was in violation of the SRA.

The second sales agent, employed by a citrus producer as a senior vice president, told us that he was not responsible for any financial duties related to determination of losses or any other duties associated with establishing insurance coverage or guarantee. He said that he first became involved in selling crop insurance to his employer because his employer was not satisfied with the service provided by past sales agents. For crop-years 1995 and 1996, the sales agent received commissions totaling $96,430 for the policies sold to his employer. The producer received no indemnities during these 2 years. Based on the SRA, we believe the relationship between this agent and the producer also constitutes a conflict-of-interest situation, or at least the appearance of a conflict-of-interest, and is therefore prohibited.

Considering the level of commissions paid to the sales agents in the above cases, we believe that RMA needs to evaluate its commission structure to determine if changes are needed. It is very questionable whether commissions totaling hundreds of thousands of dollars can be supported and justified for the sale of crop insurance to one producer.

The General Accounting Office (GAO) recently conducted a review of FCIC's administrative expense reimbursement to participating reinsured companies for selling buyup crop insurance. In its report,[6] GAO concluded that the expense reimbursement rate being paid to reinsured companies exceeded the reasonable expenses associated with selling and servicing crop insurance. The level of commissions paid in the cases cited above would further support that administrative expense reimbursements are excessive.

RECOMMENDATION NO. 3a

Review the details of the above cases to determine what sanctions, if any, should be taken against the sales agents and the reinsured companies. In addition, determine whether conflict-of-interest situations exist regarding other sales agents, and, if so, take appropriate corrective actions. If indemnities were improperly paid as a result of the conflict-of-interest situations, reduce the reinsured company's draw/payable by the improper amount and/or any sanctioned amounts.

RMA Response

In its response dated August 21, 1997, RMA replied:

> *This recommendation will be addressed upon completion of our review of the documentation requested from OIG and subsequent issuance of findings and/or other litigation. We will inform OIG when any of these corrective measures are initiated by RMA. Also, it is our understanding that the appearance of a conflict-of-interest is not in itself sufficient evidence to allege a violation. Rather, the burden of proof is upon RMA to show that a conflict-of-interest situation occurred in specific instances. OGC officials have indicated that all potential conflict-of-interest issues must be reviewed on a case by case basis. Therefore, upon conclusion of our review and sorting through all the information contained in your report, we will forward each issue involving a possible conflict-of-interest to OGC.*

[6] GAO/RCED-97-70 Crop Insurance, dated April 17, 1997.

OIG Position

To accept management decision for this recommendation, we need the results of the review to be conducted by RMA and details, with applicable timeframes, of sanctions to be taken against sales agents and reinsured companies, because of conflict-of-interest situations. If indemnities were improperly paid as a result of the conflict-of-interest situations, we need information regarding reductions in the applicable reinsured company's draw/payable.

RECOMMENDATION NO. 3b

Review the rate structure used to reimburse reinsured companies for administrative expenses to determine if amounts used for computing sales commissions are excessive. If so, reduce the administrative expense reimbursement amount to reflect more equitable sales commissions.

RMA Response

In its response dated August 21, 1997, RMA replied:

> *RMA proposed in the Draft 1998 Standard Reinsurance Agreement (98 SRA) both an overall reduction in the expense reimbursement rate and a new methodology by which the administrative and operating expense (A&O) subsidy would be provided to private sector insurance companies. The proposed A&O subsidy was to be built using two components: 1) a flat rate of $100 per policy, and 2) a percentage of gross premium based on the proposed A&O reimbursement rate of 24.5 percent less the amounts equivalent to $100 per policy. This proposal would have reduced large commissions paid on policies generating large amounts of premium as well as providing a minimum reimbursement for policies not generating large amounts of premium.*
>
> *The proposed restructuring would have required legislative action which was not forthcoming. In addition, this proposal met under opposition from the private crop insurance industry. However, it is likely that companies will receive an amount of A&O subsidy less than the amount received in previous years pending completion of the SRA negotiations. Historically, reductions in A&O subsidies have been passed on to crop insurance agents through reduced commission rates.*
>
> *RMA plans to continue the study of this issue upon final resolution of A&O subsidy appropriations.*

OIG Position

To accept management decision for this recommendation, we need details regarding reductions in administrative expenses to be paid to reinsured companies after final resolution of the A&O subsidy appropriations.

II. QUESTIONABLE INDEMNITIES WERE PAID FOR FRESH MARKET TOMATO LOSSES

Indemnities totaling $1,370,054 paid to the five producers selected for review were questionable because (1) the losses resulted from the producers' decisions not to harvest the crop based on economic considerations, (2) the losses occurred outside the effective period of insurance, (3) of violations with wetland conservation requirements, and (4) the value of actual production was not included in computing the losses. We concluded that the questionable indemnities could have been avoided had the reinsured companies and loss adjusters complied with applicable regulations when the policies were originally written and the indemnities were computed.

Table 7 shows the basis for questioning the indemnity, by producer, and a reference to the finding where the conditions are discussed.

PRODUCER	FINDING NO.	BASIS FOR QUESTIONING INDEMNITY	QUESTIONABLE INDEMNITY	TOTAL QUESTIONABLE INDEMNITY PER PRODUCER
A	4	Crops not harvested for economic reasons	$ 71,720	$ 71,720
B	4	Crops not harvested for economic reasons	120,120	120,120
C	4	Crops not harvested for economic reasons	168,740	168,740
D	5	Loss occurred outside insurance period	72,480	-----
D	6	Crops grown on converted wetlands	853,337	853,337[1]
E	4	Crops not harvested for economic reasons	84,330	-----
E	5	Loss occurred outside insurance period	71,807	156,137
TOTAL				$1,370,054

[1] The questionable indemnity of $72,480 from Finding No. 5 was included in the $853,337 from Finding No. 6.

TABLE 7

PRODUCERS RECEIVED INDEMNITIES FOR ABANDONED CROPS

FINDING NO. 4

Indemnities were paid to producers who abandoned their crops as a result of low market prices. Because of a qualifying insurable peril which occurred while the crops were still in the fields, the adjusters assigned no value to the unharvested crop, thereby computing indemnities based on zero production. In at least one case, the producer allowed penhookers[7] to harvest the tomatoes because it was not economically feasible to harvest for shipment. As a result, four producers received questionable indemnities totaling $444,910.

Adjusters are required to ensure that the insured has complied with all provisions of the contract. The adjuster is specifically directed by the Federal Crop Insurance Handbook (FCIH) to ensure that rejected production is attributable to insured causes rather than economic (market price) factors. Insured causes include excessive rain, frost, freeze, hail, fire, tornado, wind or excess precipitation caused by a cyclone, or failure of the irrigated water supply. Policy instructions also state that FCIC "will not insure against any loss of production due to * * * failure to market the tomatoes unless such failure is due to actual physical damage caused by one of the qualifying causes."

Special provisions of the SRA state, "the insurance period ceases the date the harvest should have been started on any acreage which will not be harvested."[8] An RMA Senior Compliance Officer informed us that producers should start harvesting tomatoes within 90 days of transplanting and if harvesting has not begun during that time period, the compliance officer would consider the crop to have been abandoned. In an opinion dated October 21, 1996, USDA-OGC stated that a crop is defined as abandoned if the producer does not harvest in a timely manner. OGC stated that there does not need to be an express intent to abandon a crop, but that, simply, the producer must have stopped all care for the crop. Once this has occurred, the crop is considered abandoned and not eligible for crop insurance coverage, which terminated when the crop was abandoned.

Our review of indemnities paid to five producers disclosed that four of them received indemnities based on their decisions not to harvest their crops because of economic considerations. For example, in 1995, producer E received an indemnity totaling $41,430 on one unit of tomatoes having 16.7 acres. During our review of the producer's records, we discovered a note, dated June 12, 1995, which stated, "we elected not to pick this field for the packinghouse because the market price was below harvest and packing costs."

On another unit, producer E received an indemnity payment of $42,900 for tomatoes which were abandoned. The 15 acres were planted on October 15, 1995, and harvest should have begun about 90 days later, or January 13, 1996. The adjuster's appraisal report stated that the crop was ready for harvest on January 18, 1996. At that time, the adjuster estimated production to be 876 boxes per acre. However, the producer chose not to harvest the crop because of low market prices and later reported that a February 5, 1996, freeze destroyed the crop. The producer's comptroller told us

[7] "Penhookers" are individuals who purchase the right to harvest tomatoes remaining in the field after commercial harvest has been completed.

[8] MPCI Special Provisions - Fresh Market Tomatoes - Dollar Plan, effective 1991.

that the reason they did not harvest was that they were waiting for the tomatoes to reach optimum size. However, by foregoing a timely harvest, the producer had effectively abandoned his crop, which terminated the insurance coverage and nullifies the $42,900 indemnity. The adjuster made no determination regarding whether the producer had harvested his crop in a timely manner. (See Findings Nos. 1 and 7 for further information regarding producer E.)

Our review also disclosed that producers A, B, and C chose not to harvest their tomatoes in a timely manner. Producers B and C told us that they delayed harvesting their tomatoes because of low market prices. This decision was made before February 5, 1996, the date of the freeze. Both producers had planted their tomatoes from 101 to 118 days prior to the freeze date. Producers B and C received indemnities of $120,120 and $168,740, respectively. Producer A stated he was actually planning to begin harvesting his tomatoes on the day after the freeze occurred. His tomato plants were 97 days old at the time of the freeze. This producer received a $71,720 indemnity for 32.6 acres of tomatoes destroyed by the freeze.

Because of economic considerations, the cited producers decided to delay or forego harvest of their tomato crops. The fresh tomato insurance plan was intended to protect against unavoidable loss of production caused by one of the insurable perils. By foregoing a timely harvest, the producers waived their right to insurance claims and, as a result, indemnities totaling $444,910 paid to the producers were questionable.

RECOMMENDATION NO. 4a

Review the details of the cited cases and, as appropriate, recover from the reinsured companies the questionable indemnities totaling $444,910.

RMA Response

In its response dated August 21, 1997, RMA replied:

> *This recommendation will be addressed upon RMA's review of the documentation requested from OIG and subsequent issuance of findings and/or other litigation. We will inform OIG when any of these corrective measures are initiated by RMA.*

OIG Position

To accept management decision for this recommendation, we need the details and applicable timeframes for recoveries to be made from the reinsured companies as a result of the cited questionable indemnities.

RECOMMENDATION NO. 4b

Provide oversight and monitoring to ensure that, in the future, reinsured companies comply with the regulations which require that indemnities not be paid on abandoned crops.

RMA Response

In its response dated August 21, 1997, RMA replied:

The definition of harvest was revised for the 1998 crop year to clarify and remove the term marketable. Tomatoes picked from the vine are considered harvested whether marketable or not. Potential production was also revised to include the number of cartons of tomatoes that would have been produced by the end of the insurance period. Also, section 14(c)(2)(iv) requires the insured to continue to care for acreage when the insured does not agree with the appraisal on that acreage. Production to count for such acreage will be determined using the harvested production if the crop is harvested, or our reappraisal if the crop is not harvested.

Section 9(b)(3) clarifies that any acreage previously planted to tomatoes (except for replanted tomatoes), peppers, eggplants, or tobacco is not insurable unless the soil has been fumigated or properly treated before planting tomatoes. Section 10 states that "Coverage ends at the earliest of (b) abandonment of the tomatoes on the unit; (c) The date harvest should have started on the unit on any acreage which will not be harvested....Section 11(b)(1) specifies that disease and insect infestation are not an insured cause of loss, unless no effective control measure exists for such disease or insect infestation. Also, the maximum amount of the replanting payment per acre will be the lesser of the actual cost of replanting, or the result obtained by multiplying the per acre replanting payment amount contained in the Special Provisions by the insured share. This change will allow the flexibility to set the amount at appropriate levels.

OIG Position

We believe that the changes noted are a step in the right direction. However, to accept management decision for this recommendation, we need additional information regarding steps to be taken by RMA to provide oversight and monitoring to ensure that reinsured companies comply with the regulations which require that indemnities not be paid on abandoned crops.

LOSSES OCCURRED OUTSIDE THE EFFECTIVE PERIOD OF INSURANCE

FINDING NO. 5

Indemnities were paid for tomato losses occurring outside the period during which the crop insurance was in effect. This occurred because loss adjusters did not determine if the insurable peril occurred within the 140 days following the planting date for which insurance was available. As a result, indemnities totaling $144,287 were improperly paid to two producers in crop-year 1996.

FCIC crop insurance instructions state:

> ** * * insurance provided is against an unavoidable loss of production resulting from the following causes occurring within the insurance period: excessive rain, frost, freeze, hail, fire, tornado, wind/excess precipitation occurring in conjunction with a cyclone, or failure of the irrigation system after planting.*[9]

Regarding insurance coverage on tomatoes, MPCI Special Provisions state:

> *The insurance period begins at the time the tomatoes are planted in each planting period and will cease upon the earliest of (a) total destruction of the tomatoes, (b) discontinuance of harvest, (c) the date the harvest should have started on any acreage which will not be harvested, (d) 140 days after the date of direct seeding, transplanting, or replanting, (e) final harvest, or (f) final adjustment of a loss.*[10]

Our review disclosed two producers who received indemnities totaling $144,287 for crop-year 1996 losses occurring more than 140 days after the tomatoes were transplanted. The insurable peril (freeze) occurred on February 5, 1996, more than 140 days after the tomatoes were planted. Table 8 shows indemnities paid to the two producers for crop losses occurring outside the 140-day insurance period.

PRODUCER	ACRES	DATE PLANTED	DATE OF FREEZE	DAYS[1]	INDEMNITY
D	30.0	9/15/95	2/5/96	143	$ 72,480
E	35.7[2]	9/13/95	2/5/96	145	32,380
E	33.3[2]	9/13/95	2/5/96	145	39,427
TOTAL	99.0				$144,287

[1] Number of days from last planting date to date of insurable peril.

[2] The 35.7 acres and the 33.3 acres were identifiable tracts within two separate insured units of tomatoes.

TABLE 8

Because the loss occurred after the expiration of the 140-day period, the indemnities paid by the reinsured company were improper. The applicable loss adjusters told us that they were not aware the insurance period had expired.

[9] FCIC Fresh Market Tomato Endorsement.

[10] MPCI Special Provisions - Fresh Market Tomatoes - Dollar Plan, effective 1991.

RECOMMENDATION NO. 5a

Require the reinsured companies to refund the improper indemnities totaling $144,287 paid in the cited cases. In addition, review other 1995 and 1996 indemnities to determine if payments were made for losses which occurred outside the insurance period and, if so, recover the improper payments.

RMA Response

In its response dated August 21, 1997, RMA replied:

This recommendation will be addressed upon RMA's review of the documentation requested from OIG and subsequent issuance of findings and/or other litigation. We will inform OIG when any of these corrective measures are initiated by RMA. We will also request additional policies from the insurance companies where indemnities were paid in 1995 and 1996 to determine if payments were made in accordance with FCIC approved policies and procedures.

OIG Position

To accept management decision for this recommendation, we need the details and applicable timeframes for recoveries to be made from the reinsured companies as a result of (1) the cited questionable indemnities and (2) other questionable indemnities identified by RMA.

RECOMMENDATION NO. 5b

Develop and implement controls to ensure that future payments are not made for losses occurring outside the period of insurance coverage.

RMA Response

In its response dated August 21, 1997, RMA replied:

This recommendation will be addressed upon RMA's review of the documentation requested from OIG and subsequent issuance of findings and/or other litigation. We will inform OIG when any of these corrective measures are initiated by RMA.

Section 10 of the 1998 policy changes the calendar date for the end of the insurance period from 140 days to 125 days after the date of transplanting or replanting with transplants. This change incorporates the actual number of days for transplanted tomatoes to reach maturity and for the crop to be harvested. Also, section 9(b)(2) allows an insured to elect not to replant damaged tomatoes that were initially planted within the fall or winter planting periods, provided the final planting date for the planting period has passed and damage occurs after 30 days of transplanting or after 60 days of direct seeding. With this election, the insured may collect an indemnity and that particular acreage will be uninsurable for the next planting period. The insured may also elect to replant such tomato acreage, collect a

replanting payment under section 12, and maintain the initial planting period coverage.

This change incorporates and standardizes procedures utilized in the fresh market vegetable crops.

OIG Position

To accept management decision for this recommendation, we need details and applicable timeframes regarding RMA's plans to develop and implement controls to ensure that indemnities are not made for losses occurring outside the period of insurance coverage.

INDEMNITIES WERE PAID FOR CROPS GROWN ON CONVERTED WETLANDS

FINDING NO. 6

A reinsured company sold crop insurance on tomatoes without obtaining the necessary certification from the producer that he was in compliance with wetland conservation (WC) requirements. In addition, FSA officials allowed the indemnity to be paid by granting a "good faith" determination. Before granting the "good faith" determination, FSA accepted a restoration plan improperly entered into by the producer, not the landowner. As a result, indemnities totaling $853,337 paid to the producer for crop-year 1996 were improper.

FCIC is required to ensure participants in the crop insurance program are not in violation of the conservation provisions of the Food Security Act of 1985, National Environmental Policy, and the Food, Agriculture, and Trade Act of 1990. Participating producers are required to comply with the Highly Erodible Land Conservation (HELC) and WC provisions by completing and submitting form AD-1026 to FSA, certifying compliance with HELC and WC provisions.[11]

Reinsured companies are required to ensure that the producer signs and submits this form before they can sell crop insurance to the producer. By signing the form, the producer agrees not to plant or produce an agricultural commodity on (a) highly erodible land and (b) wetlands converted after December 23, 1985.

Producer D did not prepare and submit form AD-1026 when purchasing crop insurance in 1995. In addition, the reinsured company did not require the form before selling crop insurance coverage to the producer.

In crop-year 1995, producer D leased 109.65 acres on which he planted Fall 1995 and Spring 1996 tomatoes. The Fall 1995 tomatoes were destroyed by excessive rain in August 1995 and the Spring 1996 tomatoes were destroyed by a freeze in February 1996. For crop insurance/FSA purposes, both crops were considered 1996 plantings.

The 109.65 acres included 101.6 acres of wetlands that had been cleared (cutting and removing the trees and other natural foliage) by the original landowner sometime prior to 1989. As a result of a bankruptcy, the landowner lost title to the land, which was later purchased by a group of investors. The investors then leased the land to another farmer to grow vegetables. This farmer drained the acreage in 1989 and 1990 to allow for the planting of vegetables.

[11] FCIC 14020, Service Office Handbook for Catastrophic Risk Protection, effective December 1994.

Producer D began farming this acreage in 1995, planting fall tomatoes. Only when the insured filed for an indemnity was it discovered that form AD-1026 had not been provided. The 1985 Food Security Act requires this certification to be submitted to FSA prior to crop planting for persons to receive any USDA loans or other program benefits that are subject to highly erodible land and WC provisions, unless an exemption has been granted by USDA. FSA initially ruled the producer was ineligible for an indemnity because the producer had not submitted the form to FSA for review before planting the questionable acreage.

The producer filed loss claims for the Fall 1995 and the Spring 1996 crops on November 17, 1995, and February 27, 1996, respectively. The losses resulted from damage caused by excessive rain in 1995 and a freeze in 1996. In January 1996, producer D submitted form AD-1026 to the FSA county office. The Natural Resources and Conservation Service (NRCS), the agency responsible for reviewing form AD-1026, evaluated the producer's acreage and discovered that 101.6 acres were converted wetlands. According to FSA officials, producer D was not aware that the acreage was converted wetlands until he filed for the indemnity payment.

On May 7, 1996, producer D applied for and was granted a good faith determination by the FSA county committee which would allow him to receive the indemnity. The county committee granted the good faith determination because the producer did not know the land was converted wetlands and because of the producer's good faith effort to comply with program requirements. As a condition in the good faith determination, the producer was required to pay a graduated payment reduction of $10,000 and restore the wetland to its former natural state. On May 10, 1996, the producer submitted a restoration plan to the NRCS, which NRCS approved. The producer paid the $10,000 graduated payment reduction on May 17, 1996.

On May 13, 1996, the reinsured company paid producer D $853,337 for losses sustained, including $623,094 for tomato losses and $230,243 for losses on green peppers.

The restoration plan showed that the producer would restore the land to its former condition. However, our review disclosed that the producer did not own the land, did not obtain permission from the landowners to enter into the agreement to restore the land, and that the owners of the land have refused to give permission for the land to be restored. NRCS officials, who are responsible for conducting inspections and monitoring progress of restoration activities, told us that no restoration actions have occurred. As a result, the producer is in violation of the HELC/WC provisions which provide that if the producer fails to restore the wetland to NRCS specifications, the good faith determination will be voided and the producer must refund the full $853,337 indemnity received. FSA instructions state, "if good faith provisions are not met, the good faith determination will be rescinded and benefits that were reinstated as a result of the good faith determination must be refunded."[12]

[12] FSA Handbook 6-CP, Revision 1, subparagraph 475 L.

Our review further disclosed that the February 27, 1996, QC review of the loss adjuster's work did not address the converted wetlands issue or report any deficiencies. The QC review sheet includes a number of questions regarding whether any exceptions were noted. In answer to these questions, the reviewer answered "no." In his summary, the QC reviewer stated, "all worksheets, proof of loss, etc. were reviewed and no exceptions were found * * * claim was complete and well documented." The review sheet also included the question, "Were additional inspections required by procedure, ordered and received prior to payment?" The QC reviewer answered "no." (See Finding No. 2 for further information regarding QC reviews.)

Regarding claims against producers and reinsured companies, RMA Headquarters officials told us that if the claim is undisputed and fraud on the part of the producer is not involved, the refund amount is deducted by the Kansas City Computer Center from the reinsured company's account. If fraud is involved, RMA allows the reinsured company to collect from the insured before electronically reducing the reinsured company's account. If the reinsured company disputes the refund, RMA enters into an arbitration process before requiring the company to repay the indemnity.

As a result of (a) the reinsured company not obtaining the required form AD-1026 before selling crop insurance coverage, (b) FSA's acceptance and approval of the producer's restoration plan for converted wetlands, and (c) no action being taken by the producer to restore the land to its natural wetlands condition, the $853,337 indemnity should be refunded to the Government.

RECOMMENDATION NO. 6

Reduce the reinsured company's balance/draw by the $853,337 improperly paid.

RMA Response

In its response dated August 21, 1997, RMA replied "This recommendation will be addressed upon RMA's review of the documentation requested from OIG and subsequent issuance of findings and/or other litigation. We will inform OIG when any of these corrective measures are initiated by RMA."

OIG Position

To accept management decision for this recommendation, we need the details and applicable timeframes for recovery from the reinsured company as a result of the cited questionable indemnity.

PRODUCERS DID NOT REPORT ALL PRODUCTION

FINDING NO. 7

Loss adjusters did not include the value of "penhooking" production when computing 1995 and 1996 indemnity payments. Producers did not report such income to adjusters and adjusters did not ask about it. As a result, one producer received questionable indemnities for crop-years 1995 and 1996 and other producers may have also been overpaid indemnities because of unreported penhooking income.

FCIH instructions require "the insured to provide the number of cartons of penhooking production from insurable acreage and if the number of cartons harvested from penhooked acreage cannot be determined, the production guarantee must be assigned for the actual acreage affected.[13]

During the audit, we noted that producers were also using penhookers to pick tomatoes too ripe for the green tomato market. This practice allowed remaining tomatoes on the vine to receive the benefit of additional nutrients. We observed this to be an ongoing, required farming practice during the harvesting period.

Our review disclosed that producer E received penhooking income of $13,925 in 1995 and $11,315 in 1996 for indemnified acreage that adjusters did not include in their indemnity computations. We could not determine the exact fields of production sold to penhookers because records of those transactions were not maintained by the producer. Because penhooking income was not included when computing the producer's 1995 and 1996 indemnities, loss claim payments for those years of $1,409,380 and $1,036,881 should have been reduced by all production which includes tomatoes sold to penhookers. Since we were unable to identify the specific field where the tomatoes harvested by penhookers were grown, we were unable to determine the amount of improper payment.

The producer's comptroller told us that he did not report income from penhooking, although he stated that all his indemnified fields had been penhooked. He also told us that he did not think he was required to report the income from penhooking and stated adjusters never asked about penhooking income.

We were told by a reinsured company sales agent that income from the sales of penhooking should not be counted. However, an RMA Senior Compliance Officer informed us that such income should be counted as required by the instructions. The FCIH requires that tomatoes harvested by penhookers be reported on FCIC Form FCI-74: Field Inspection and Claim for Indemnity. Production reported on this form must be used to reduce the indemnity. This form was not completed and no records were kept for the tomatoes sold to penhookers by producer E.

We identified no income received by other producers in our review from penhooking. However, a County Extension Service Vegetable Specialist stated that penhooking is a normal practice for the counties in which these producers farmed during 1995 and 1996. The specialist stated that most producers employ penhookers to help clear the vines of ripened tomatoes which provides additional nutrients to the remaining fruit and increases the production

[13] FCIH 30180, exhibit 5, item 51, effective December 1990.

potential of each plant. She stated that it would be unusual for any producers in the area not to have any income from penhooking. We noted that adjusters did not question any of the producers in our sample about income from penhooking.

RECOMMENDATION NO. 7a

Require that the applicable reinsured company (1) identify penhook-ing production not reported and not included in the indemnity determination and (2) repay any excessive indemnities.

RMA Response

In its response dated August 21, 1997, RMA replied "This recommendation will be addressed upon RMA's review of the documentation requested from OIG and subsequent issuance of findings and/or other litigation. We will inform OIG when any of these corrective measures are initiated by RMA."

OIG Position

To accept management decision for this recommendation, we need the details and applicable timeframes for recovery from the reinsured company as a result of penhooker production not being reported and included in computing the indemnity.

RECOMMENDATION NO. 7b

Implement procedures to ensure that the reinsured companies comply with the insurance contract which requires all production to be included when determining indemnities.

RMA Response

In its response dated August 21, 1997, RMA replied:

> *Section 14(c)(3) of the 1998 policy changes the value to count for harvested production to the dollar amount obtained by subtracting the allowable cost from the price received (this resulting price must not be less than the minimum value shown in the Special Provisions), and multiplying this result by the number of cartons harvested. Current regulations allow the value of sold production to be as low as zero.*
>
> *Also, section 15 adds provisions for providing insurance coverage by written agreement. FCIC has a long standing policy of permitting certain modifications for the insurance contract by written agreement for some policies.*
>
> *This amendment allows FCIC to tailor the policy to a specific insured in certain instances. The new section will cover the procedures for and duration of written agreements.*

OIG Position

To accept management decision for this recommendation, we need details regarding RMA's plans to implement procedures to ensure that reinsured companies require that all production, specifically penhooking production, be included when computing indemnities.

EXHIBIT A - SUMMARY OF MONETARY RESULTS

FINDING NO.	DESCRIPTION	AMOUNT	CATEGORY
1	Indemnities Were Paid Without a Loss of Commodity	$ 15,082,744[14]	Unsupported Costs - Recovery Recommended
4	Producers Received Indemnities for Abandoned Crops	444,910	Questioned Costs - Recovery Recommended
5	Losses Occurred Outside the Effective Period of Insurance	144,287	Questioned Costs - Recovery Recommended
6	Indemnities Paid for Crops Grown on Converted Wetlands	853,337	Questioned Costs - Recovery Recommended
Total Questioned Costs		$15,082,744	

Note: Figures shown above and in the footnote are rounded to the nearest dollar. In some instances, the amounts shown in this exhibit are duplicated from finding to finding. Any such duplications are explained in the footnote below. The total questioned cost amount is unduplicated.

[14] Total questioned costs of $15,082,744 in Finding No. 1 included $444,910 from Finding No. 4, $144,287 from Finding No. 5, and $853,337 from Finding No. 6. Only the difference of $13,640,210 will be entered into OIG's management information system.

EXHIBIT B - LOCATIONS WHERE WORK WAS PERFORMED

ORGANIZATION/ENTITY	LOCATION
U.S. Department of Agriculture	
Risk Management Agency	
National Office	Washington, D.C.
Regional Service Office	Valdosta, Georgia
Farm Service Agency	
Florida State Office	Gainesville, Florida
Lee County Office	Fort Myers, Florida
Henry County Office	Clewiston, Florida
Collier County Office	Clewiston, Florida
Manatee County Office	Palmetto, Florida
Natural Resources and Conservation Service	LaBelle, Florida
University of Florida	
Cooperative Extension Service	Palmetto, Florida
Food and Resource Economics	Gainesville, Florida

EXHIBIT C - RMA RESPONSE TO THE DRAFT REPORT

United States Department of Agriculture

Risk Management Agency

1400 Independence Ave., S.W.
Washington, D.C.
20250-0800

AUG 2 1 1997

TO: James R. Ebbitt
Assistant Inspector General
Office of Inspector General

FROM: Kenneth D. Ackerman
Administrator

SUBJECT: OIG Audit 05099-1-AT (Fresh Market Tomatoes, Crop Year 1995 - Florida)

Thank you for the opportunity to respond to your report. The Fresh Market Tomato (Dollar Plan) Crop Insurance Provisions have been revised and will be effective for the 1998 and succeeding crop years (R&D-97-025). Where applicable, we have referenced the revisions related to your findings under the appropriate OIG recommendation.

Following are our comments to your findings and recommendations.

RECOMMENDATION NO. 1a:

Consult with the Office of the General Counsel (OGC) to determine if the crop insurance program for tomatoes, as currently implemented, complies with the legislation. If not, revise regulations to restrict indemnities to conditions resulting from one of the identified insurable perils. If OGC determines this program is contrary to the law, RMA should disclose in its financial statement footnotes that indemnities paid were not in compliance with the law.

RMA Response:

We have been advised by OGC that the Fresh Market (Dollar Plan) Tomato Crop Insurance Program complies with the legislation and is not contrary to the law. Section 508(a) of the Act authorized Federal Crop Insurance Corporation (FCIC) to "offer 1 or more plans of insurance determined by the Corporation to be adapted to the agricultural commodity concerned." In accordance with the authority granted under the Act, FCIC offers both Actual Production History (APH) plans of insurance and dollar amounts of insurance plans for certain crops under the MPCI program.

EXHIBIT C - RMA RESPONSE TO THE DRAFT REPORT

INFORMATIONAL MEMORANDUM TO THE ASSISTANT INSPECTOR GENERAL FOR AUDIT 2

RMA has requested the work papers, findings, etc. related to Exhibit A, Summary of Monetary Results, of the Audit Report from OIG Southeast Region. If we concur that indemnities were not properly paid according to policy terms and/or approved FCIC procedures, we will issue appropriate findings to the reinsured companies. Any findings we issue are subject to appeal by the reinsured companies under 7 C.F.R. § 400.169. We will inform you of any findings that we issue and we will also inform you of any legal referrals to OGC concerning this recommendation.

After our review we will also offer suggested changes to the regulations and/or policy provisions that we feel are necessary to address program vulnerabilities.

RECOMMENDATION NO. 1b:

Revise regulations regarding the Dollar Plan for Fresh Market Tomatoes to require that an APH be established and used in computing crop guarantees.

RMA Response:

The 1998 revisions modify the claim for indemnity calculations by providing calculations for catastrophic risk protection coverage and for coverage other than catastrophic risk protection. The provision includes the use of the catastrophic risk protection price election equivalent to determine the total dollar of production to count for indemnity purposes. This assures that producers are insured based on a dollar amount of insurance are indemnified comparable to producers that are insured based on an APH yield basis.

For the reasons stated in our response to No. 1a, we do not believe it is necessary to change the insurance plan for Fresh Market (Dollar Plan) Tomatoes from a dollar amount of insurance plan to an APH plan of insurance.

RECOMMENDATION NO. 2a:

Consult with OGC concerning what sanctions may be applied against the reinsurance companies determined by this audit to have grossly mismanaged the Fresh Market Tomato Crop Insurance Program, and impose those sanctions.

RMA Response:

If our subsequent review of the OIG findings and/or additional information yields sufficient evidence then we will request OGC to proceed with the appropriate administrative or other enforcement action. These actions may include, but are not limited to, cancellation of the Standard Reinsurance Agreement (SRA) with the company(s), suspension, or debarment (7 C.F.R. § 400.451) of agents or companies.

We may also pursue disqualification (7 U.S.C § 1506(n)) against any producers suspected of wrongdoing.

RECOMMENDATION NO. 2b:

Develop a plan of action to ensure that reinsurance companies comply with program regulations in their management of the Fresh Market Tomato Crop Insurance Program. The plan of action should include specific steps to be taken to correct the deficiencies identified during this audit.

RMA Response:

Our plan for addressing the conditions cited in this audit consist of (1) reviewing the OIG work papers, etc. and submitting appropriate findings to the reinsured companies, (2) collecting any overpayments through the necessary means, (3) conveying program concerns and vulnerabilities to the appropriate RMA departments, (4) suggesting policy changes or other corrective measures to address OIG and RMA concerns. We will inform OIG of other specific measures once our review of the information is complete.

RECOMMENDATION NO. 2c:

Revise the current system of monitoring crop insurance activities to include more direct involvement by RMA to ensure compliance with program requirements. The revisions should include a requirement for a detailed review by RMA of indemnities above a prescribed dollar threshold before payment can be made.

RMA Response:

RMA currently requires the companies to conduct a special loss audit of any claim in excess of $100,000. We believe this is sufficient to address the problem and do not favor delaying payment of a claim to a producer until RMA can review the claim.

RMA performs oversight reviews of reinsurance activities at the level that current resources and statutory authority permit. We attempt to conduct oversight reviews National Operation Review's (NOR) of all reinsured companies every three years. These reviews are in addition to our other enforcement responsibilities including follow-up reviews, hotline complaints, assisting OIG investigations and other law enforcement agencies, redetermination of findings, etc. We will inform OIG of any additional or redirection of monitoring activities resulting from this audit of fresh market tomatoes.

INFORMATIONAL MEMORANDUM TO THE ASSISTANT INSPECTOR GENERAL FOR AUDIT 4

RECOMMENDATION NO. 3a:

Review the details of the above cases to determine what sanctions, if any, should be taken against the sales agents and the reinsurance companies. In addition, determine whether conflict-of-interest situations exist regarding other sales agents, and, if so, take appropriate corrective actions. If indemnities were improperly paid as a result of the conflict-of-interest situations, reduce the insurance company's draw/payable by the improper amount and/or any sanctioned amounts.

RMA Response:

This recommendation will be addressed upon completion of our review of the documentation requested from OIG and subsequent issuance of findings and/or other litigation. We will inform OIG when any of these corrective measures are initiated by RMA. Also, it is our understanding that the appearance of a conflict-of-interest is not in itself sufficient evidence to allege a violation. Rather, the burden of proof is upon RMA to show that a conflict-of-interest situation occurred in specific instances. OGC officials have indicated that all potential conflict-of-interest issues must be reviewed on a case by case basis. Therefore, upon conclusion of our review and sorting through all the information contained in your report, we will forward each issue involving a possible conflict-of-interest to OGC.

RECOMMENDATION NO. 3b:

Review the rate structure used to reimburse insurance companies for administrative expenses to determine if amounts used for computing sales commissions are excessive. If so, reduce the administrative expense reimbursement amount to reflect more equitable sales commissions.

RMA Response:

RMA proposed in the Draft 1998 Standard Reinsurance Agreement (98 SRA) both an overall reduction in the expense reimbursement rate and a new methodology by which the administrative and operating expense (A&O) subsidy would be provided to private sector insurance companies. The proposed A&O subsidy was to be built using two components: 1) a flat rate of $100 per policy, and 2) a percentage of gross premium based on the proposed A&O reimbursement rate of 24.5 percent less the amounts equivalent to $100 per policy. This proposal would have reduced large commissions paid on policies generating large amounts of premium as well as providing a minimum reimbursement for policies not generating large amounts of premium.

INFORMATIONAL MEMORANDUM TO THE ASSISTANT INSPECTOR GENERAL FOR AUDIT 5

The proposed restructuring would have required legislative action which was not forthcoming. In addition, this proposal met under opposition from the private crop insurance industry. However, it is likely that companies will receive an amount of A&O subsidy less than the amount received in previous years pending completion of the SRA negotiations. Historically, reductions in A&O subsidies have been passed on to crop insurance agents through reduced commission rates.

RMA plans to continue the study of this issue upon final resolution of A&O subsidy appropriations.

RECOMMENDATION NO. 4a:

Review the details of the cited cases and, as appropriate, recover from the reinsurance companies the questionable indemnities totaling $444,910.

RMA Response:

This recommendation will be addressed upon RMA's review of the documentation requested from OIG and subsequent issuance of findings and/or other litigation. We will inform OIG when any of these corrective measures are initiated by RMA.

RECOMMENDATION NO. 4b:

Provide oversight and monitoring to ensure that, in the future, reinsurance companies comply with the regulations which require that indemnities not be paid on abandoned crops.

RMA Response:

The definition of harvest was revised for the 1998 crop year to clarify and remove the term marketable. Tomatoes picked from the vine are considered harvested whether marketable or not. Potential production was also revised to include the number of cartons of tomatoes that would have been produced by the end of the insurance period. Also, section 14(c)(2)(iv) requires the insured to continue to care for acreage when the insured does not agree with the appraisal on that acreage. Production to count for such acreage will be determined using the harvested production if the crop is harvested, or our reappraisal if the crop is not harvested.

Section 9(b)(3) clarifies that any acreage previously planted to tomatoes (except for replanted tomatoes), peppers, eggplants, or tobacco is not insurable unless the soil has been fumigated or properly treated before planting tomatoes. Section 10 states that "Coverage ends at the earliest of (b) abandonment of the tomatoes on the unit; (c) The date harvest should have started on the unit on any acreage which will not be harvested. . . .. Section 11(b)(1) specifies that disease and insect

EXHIBIT C - RMA RESPONSE TO THE DRAFT REPORT

infestation are not an insured cause of loss, unless no effective control measure exists for such disease or insect infestation. Also, the maximum amount of the replanting payment per acre will be the lesser of the actual cost of replanting, or the result obtained by multiplying the per acre replanting payment amount contained in the Special Provisions by the insured share. This change will allow the flexibility to set the amount at appropriate levels.

RECOMMENDATION NO. 5a:

Require the insurance companies to refund the improper indemnities totaling $144,287 paid in the cited cases. In addition, review other 1995 and 1996 indemnities to determine if payments were made for losses which occurred outside the insurance period and, if so, recover the improper payments.

RMA Response:

This recommendation will be addressed upon RMA's review of the documentation requested from OIG and subsequent issuance of findings and/or other litigation. We will inform OIG when any of these corrective measures are initiated by RMA. We will also request additional policies from the insurance companies where indemnities were paid in 1995 and 1996 to determine if payments were made in accordance with FCIC approved policies and procedures.

RECOMMENDATION NO. 5b:

Develop and implement controls to ensure that future payments are not made for losses occurring outside the period of insurance coverage.

RMA Response:

This recommendation will be addressed upon RMA's review of the documentation requested from OIG and subsequent issuance of findings and/or other litigation. We will inform OIG when any of these corrective measures are initiated by RMA.

Section 10 of the 1998 policy changes the calendar date for the end of the insurance period from 140 days to 125 days after the date of transplanting or replanting with transplants. This change incorporates the actual number of days for transplanted tomatoes to reach maturity and for the crop to be harvested. Also, section 9(b)(2) allows an insured to elect not to replant damaged tomatoes that were initially planted within the fall or winter planting periods, provided the final planting date for the planting period has passed and damage occurs after 30 days of transplanting or after 60 days of direct seeding. With this election, the insured may collect an indemnity and that particular acreage will be uninsurable for the next planting period. The insured may also elect to replant such tomato acreage, collect a replanting payment under section 12, and maintain the initial planting period coverage.

This change incorporates and standardizes procedures utilized in the fresh market vegetable crops.

RECOMMENDATION NO. 6:

Reduce the insurance company's's balance/draw by the $853,337 improperly paid.

RMA Response:

This recommendation will be addressed upon RMA's review of the documentation requested from OIG and subsequent issuance of findings and/or other litigation. We will inform OIG when any of these corrective measures are initiated by RMA.

RECOMMENDATION NO. 7a:

Require that the applicable insurance company (1) identify penhooking production not reported and not included in the indemnity determination and (2) repay the excessive indemnities.

RMA Response:

This recommendation will be addressed upon RMA's review of the documentation requested from OIG and subsequent issuance of findings and/or other litigation. We will inform OIG when any of these corrective measures are initiated by RMA.

RECOMMENDATION NO. 7b:

Implement procedures to ensure that the insurance companies comply with the insurance contract which requires all production to be included when determining indemnities.

RMA Response:

Section 14(c)(3) of the 1998 policy changes the value to count for harvested production to the dollar amount obtained by subtracting the allowable cost from the price received (this resulting price must not be less than the minimum value shown in the Special Provisions), and multiplying this result by the number of cartons harvested. Current regulations allow the value of sold production to be as low as zero.

Also, section 15 adds provisions for providing insurance coverage by written agreement. FCIC has a long standing policy of permitting certain modifications of the insurance contract by written agreement for some policies.

EXHIBIT C - RMA RESPONSE TO THE DRAFT REPORT

INFORMATIONAL MEMORANDUM TO THE ASSISTANT INSPECTOR GENERAL FOR AUDIT 8

This amendment allows FCIC to tailor the policy to a specific insured in certain instances. The new section will cover the procedures for and duration of written agreements.

If you have any questions or comments regarding our responses, please have a member of your staff contact Mr. Jimmy Wortham at 202-720-7603.

ABBREVIATIONS

APH	Actual Production History
CAT	Catastrophic Crop Insurance
CFR	Code of Federal Regulations
FAIR	Federal Agriculture Improvement and Reform Act
FCIC	Federal Crop Insurance Corporation
FCIH	Federal Crop Insurance Handbook
FSA	Farm Service Agency
GAO	General Accounting Office
HELC	Highly Erodible Land Conservation
MPCI	Multiple Peril Crop Insurance
NRCS	Natural Resources and Conservation Service
OGC	Office of the General Counsel
OIG	Office of Inspector General
QC	Quality Control
RMA	Risk Management Agency
SRA	Standard Reinsurance Agreement
USDA	U.S. Department of Agriculture
WC	Wetland Conservation