

**RISK MANAGEMENT AGENCY  
PREVENTED PLANTINGS OF  
1996 INSURED CROPS  
AUDIT REPORT NO. 05601-5-Te**

**MARCH 1999**

**UNITED STATES DEPARTMENT OF AGRICULTURE  
OFFICE OF INSPECTOR GENERAL - AUDIT  
SOUTHWEST REGION  
ROOM 324, FEDERAL OFFICE BUILDING  
101 SOUTH MAIN STREET  
TEMPLE, TEXAS 76501**



UNITED STATES DEPARTMENT OF AGRICULTURE  
OFFICE OF INSPECTOR GENERAL  
Washington D.C. 20250



DATE: March 15, 1999

REPLY TO

ATTN OF: 05601-5-Te

SUBJECT: Prevented Plantings of 1996 Insured Crops

TO: Kenneth D. Ackerman  
Administrator  
Risk Management Agency

This report presents the results of our audit of prevented plantings of 1996 insured crops. A written response to the draft report is included as exhibit E with excerpts and the Office of Inspector General's position incorporated into the relevant sections of the report. The response shows that Risk Management Agency requested a time extension to respond to Recommendations Nos. 1a and 3b. We issued the report without a written response to these recommendations because a response was not provided within the time extension granted by OIG. The initial response contained sufficient justification to reach management decisions on Recommendations Nos. 2b and 4a. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer.

Based on your written response, a management decision has not been reached for Recommendations Nos. 1, 2a, 3a, and 3b. The information needed to reach agreement is set forth in the Recommendations section of the report. In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing corrective actions taken or planned and the timeframes for implementation for all recommendations. Please note that the regulation requires management decisions to be reached on all findings and recommendations within a maximum of 6 months from report issuance.

We appreciate the cooperation and courtesies extended to us by members of your staff.

JAMES R. EBBITT  
Assistant Inspector General  
for Audit

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## EXECUTIVE SUMMARY

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### Results in Brief

#### ***Crop Insurance Coverage for Prevented Planting***

Starting with the 1994 crop year (CY), the Federal Crop Insurance Corporation (FCIC) modified policy provisions and allowed increased insurance coverage for prevented planting of an insured crop. This was done to provide growers some protection after Farm Service Agency (FSA)-administered ad hoc disaster assistance was ended by Congress. The original FCIC policy provisions allowed a 50-percent coverage for prevented planting when the insured crop was prevented from planting, and the insured did not plant a substitute crop. For the 1995 CY, provisions were modified to also provide a reduced 25-percent crop insurance coverage for prevented planting of an insured crop when a substitute crop was planted on the prevented planted acreage.

We initiated a review of 1996 CY prevented planting payments in six States to determine if claims were justified and accurate, and controls were in place to prevent abuse. We judgmentally selected for review 75 policies with prevented planting payments totaling \$1,846,935.

#### ***Controls Not in Place to Prevent Abuse***

Based on this review, we concluded that controls were not sufficient to prevent abuse as the insureds were not required to report losses until after substitute crops were planted, and loss adjustments were not performed in sufficient time for the insured companies to determine whether disaster conditions actually caused the prevented plantings. Claims were paid based on the reported losses shown on acreage reports, generally filed 30 days after the crop planting dates, and adjusted months later when it was not possible to verify conditions that caused prevented plantings. Thus, the reinsured companies did not have reasonable assurance that the prevented planting payments on the 75 policies covered by our review were justified.

#### ***CY 1998 Policy Revisions***

Effective for CY 1998, Risk Management Agency (RMA) has revised policy provisions that basically eliminate acreages planted to substitute crops. These revisions should substantially reduce the abuse disclosed in our review.

#### ***Claims Questioned in 43 Percent of Cases Tested***

Of \$1,846,935 indemnities paid on 75 policies, we questioned \$158,430 (9 percent) relating to 32 of the policies (43 percent). Of this amount, payments of \$134,612 on 30 policies are recommended for collection because they included acreages left flooded for crawfish production, not planted based on management decisions not to plant because of drought, and not suitable for agricultural production. These 30 policies also included 2 cases paid at incorrect guarantee levels, 1 case where 10-day late planting window provisions were violated, and 1 case where payment was based on an inaccurate crop-share interest.

Our review also disclosed questioned payments on 3 policies of \$23,818 for about 430 acres that was under water, idle, or otherwise not suitable for agricultural production. In these cases, we are not recommending recovery of the

## ***Loss Adjusters Had Conflicts of Interest***

questioned amounts because of conflicting requirements concerning the acreage eligible for payment.

We also found that three loss adjusters had conflicts of interest with the insureds. In one case, the adjuster was a relative of the insured (cousin), and in the other two cases, adjusters rented land to the insured and adjusted the insured's land which included land owned by the adjusters.

### **Key Recommendations**

We recommend that policy provisions for reporting loss and adjusting claims be used for prevented plantings, i.e., reporting of losses within 72 hours and releasing acreage if planted to another crop. We also recommend that \$134,612 in questioned payments be recovered and that action be taken to have the reinsured companies improve loss adjustment procedures of prevented planting claims to detect violations similar to those disclosed by audit. Action is needed to prevent payment of claims on idle crop land that has not been farmed for a number of years. The RMA (the agency which now administers the crop insurance program for FCIC) needs to sanction the reinsured company and/or loss adjusters involved in violating conflict of interest provisions.

### **Agency Response**

The Administrator provided a written response to the draft report (see copy attached as exhibit E). The response shows that RMA requested additional time for making a response to Recommendations Nos. 1 and 3b; however, a response to these recommendations was not made in the time extension granted by OIG, and the report was issued without the agency position on these recommendations. For recommendations relating to recovery for questioned indemnities, RMA will notify OIG of the amounts after the RMA Compliance Field Office completed their review of the work papers. The RMA did not agree with our recommendation for controls to improve loss adjustment procedures for prevented planting claims because reinsured companies are required to have a quality control program in place. They did agree to issue a bulletin to all reinsured companies notifying them of the violations detected by our review and to remind the reinsured companies of their quality control responsibilities. Also, the RMA Risk Compliance work plan for the 1999 fiscal year includes an evaluation of quality control programs for each reinsured company.

### **OIG Position**

If questioned amounts determined by RMA Risk Compliance differ from our reported amounts, we need explanations of the differences. Because our review did not include an assessment of the companies quality review process, we agree with the alternative corrective action mentioned in the response.

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## INTRODUCTION

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### Background

#### **Mission**

The FCIC is a wholly-owned Government corporation created within the United States Department of Agriculture (USDA) under Title V of the Agriculture Adjustment Act of 1938. The mission of FCIC is to improve the economic stability of agriculture through a sound system of crop insurance. The Federal Crop Insurance Act of 1980 created an expanded, subsidized, all-risk insurance program and encouraged FCIC to provide crop insurance through an all-private delivery system by means of reinsurance.

The Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 provided for the establishment of catastrophic crop insurance protection at nominal costs to all producers of insurable crops. Another provision of the act was the establishment of RMA under the auspices of FSA. This arrangement changed in April 1996 when RMA was designated as a separate agency in USDA. The RMA provides both supervision of FCIC and oversight of all programs under the Federal Crop Insurance Act.

#### **Prevented Planting Coverage**

Prevented planting coverage was made a part of the policy following CY 1993 to lessen the need for ad hoc disaster assistance for growers who were prevented from planting. Insureds who were prevented from planting insured crops could obtain 50-percent coverage if they did not plant substitute crops. For CY 1995, these provisions were modified to also allow insureds 25-percent crop insurance coverage on insured crops if they planted substitute crops. These prevented planting insurance coverages were based on a percentage (25 or 50 percent) of the level of coverage selected by the insureds. For the 1995 CY, the insureds were allowed to purchase up to 75 percent of the insurance coverage guarantee level.<sup>1</sup> For the 1996 CY, this limit was reduced to 50 percent of the crop insurance guarantee (40 percent for the hybrid seed corn and 35 percent for cotton and rice). (Effective CY 1998, RMA rescinded the 25-percent coverage when substitute crops were planted which basically eliminated prevented planting payments involving acreages planted to substitute crops.)

#### **Changes in the Prevented Planting Coverage**

Other changes to the CY 1996 prevented planting program included (1) eliminating provisions that required acreage eligible for a prevented guarantee to be prorated to all units that could have been planted in the crop year, (2) changing the date that the notice of loss is required from 3 days after the final planting date, or the date the producer discovers that planting will not be possible within the late planting period, to the acreage reporting date, and (3) allowing prevented planted acreage planted with conserving use cover crop to be hayed and grazed without affecting prevented planting benefits.

The basic rules outlined in the prevented planting procedures allow the payment of indemnities for crops which

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<sup>1</sup> Cotton and rice coverage levels were set up to 52.5 percent, and hybrid corn was set at up to 60 percent of insurance coverage levels.

(1) could not be planted with proper equipment by the final planting date for the crop or by the end of the late planting period, and (2) the inability to plant the insured crop with proper equipment was due to an insured cause of loss that prevented the majority of producers in the surrounding area from planting the same crop.

**Objectives**

The objectives of this audit were to determine whether crop insurance claim payments for CY 1996 prevented plantings were justified and accurate, and controls were sufficient to prevent abuses. Specifically, we wanted to determine if claims for prevented plantings were justified, losses were timely reported, and adjustment and indemnity payments were correctly made.

**Scope**

The scope of our review was limited to indemnities paid for prevented plantings of CY 1996 insured crops. Information about the universe of these indemnities was obtained from reports created by RMA from the EXPERE data base as of the August 1997 accounting process. As of August 1997, there were 4,446,515 acres for prevented plantings on which indemnities of \$109,020,787 were paid.

We judgmentally selected for review, indemnity payments in Illinois, Louisiana, Ohio, Oklahoma, South Dakota, and Texas. The States selected for review included those with large numbers of indemnity payments (Illinois, Ohio, and South Dakota) and those with only a few indemnity payments (Louisiana, Oklahoma, and Texas). Information about the universe of the States included in our review follows.

STATE	PREVENTED PLANTING PAYMENT
South Dakota	\$29,782,052
Ohio	12,047,495
Illinois	8,817,432
Texas	172,313
Louisiana	169,973
Oklahoma	40,926
<b>Total</b>	<b>\$51,030,191</b>

Eight counties were judgmentally selected based on the largest total indemnity that was paid in each of the selected States. We judgmentally selected for review 75 claims with prevented planting payments totaling \$1,846,935. (See exhibit B for the policies selected for audit.)

The audit was performed in accordance with the Government auditing standards (June 1994 revision) issued by the Comptroller General of the United States.

### Methodology

To accomplish the audit objectives, we examined the prevented planting claims in States with large numbers of claims and in States with only a few claims. In those States with only a few claims, we performed tests to determine if insured crops were prevented from being planted because of insurable causes that were prevalent in the areas and prevented the majority of producers from planting their crops. In all States, our review was designed to determine if insureds provided timely notices of loss and that field inspections or appraisals were timely made to verify disaster conditions that caused prevented plantings of insured crops. To accomplish this, we judgmentally selected the large-dollar loss claims and reviewed acreage reports and loss adjustment records. The reported cropland acreage on which prevented planting occurred was compared with FSA records to determine if the reported acreage was considered cropland by FSA. We interviewed crop insurance agents, loss adjusters, and insureds and made field inspections necessary to accomplish our audit objectives. The claims were also reviewed for accuracy and tests made to determine that insureds were paid at correct coverage levels. Loss adjustment records from the claims included in our review were obtained from the reinsurance companies.

Statements of Conditions were issued to the reinsurance companies to obtain their input about the claims we questioned. Information about indicated fraudulent claim activity relating to one insurance agent was reported to OIG investigations for possible criminal prosecution.



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## FINDINGS AND RECOMMENDATIONS

### FINDING NO. 1 LATE NOTIFICATION AND UNTIMELY INSPECTION OF LOSSES

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***Procedures Not  
Sufficient to  
Prevent Abuse of  
Preventing  
Planting  
Provisions***

Regulations allow insureds to not report crop losses due to prevented plantings until the acreage report filing date.<sup>2</sup> This date is generally 30 days after the final plant date and not in sufficient time for reinsured companies to inspect the areas and determine whether disaster conditions made insureds eligible for prevented planting claims. Also, field inspections or crop appraisals were not made in sufficient time to evaluate disaster conditions relating to the claims for prevented plantings. For this reason, the reinsured companies did not have reasonable assurance that insureds were eligible for prevented planting payments or that such payments were justified.

The basic provisions of the crop insurance policy require that insureds provide notices of loss within 72 hours of the initial discovery of damage. Also, that insureds obtain consent from the insurance companies before they put the acreages to other uses.<sup>3</sup> However, the 1996 Loss Adjustment Manual (LAM) provides for prevented planting claims to be inspected within the earlier of 55 days after the final planting date, or the general harvest date, for crops in the area.<sup>4</sup>

Of the 75 indemnities reviewed, 50 contained plantings of substitute crops on all or part of the acreages for which claims were paid. In cases where substitute crops were planted, the notices of loss were made after substitute crops were planted. Also, representatives of the reinsured companies did not inspect fields or adjust claims until late in the year when it was difficult or impossible to determine if disaster conditions prevented insureds from planting insured crops.

***Examples of Problems***

In South Dakota, there was a large area, including the two counties selected for audit, where excess moisture prevented plantings of early-planted crops such as oats and wheat by the crop planting dates. However, conditions improved, and the insureds were generally able to plant crops with later planting dates such as corn, soybeans, and sunflowers. This allowed producers without intentions of planting early crops (wheat) to claim prevented planting payments on acreages planted to corn, soybeans, or sunflowers.

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<sup>2</sup> FCIC 30010-2, LAM, exhibit 57, paragraph 5A, dated April 1996.

<sup>3</sup> 7 CFR 457.8, sections 14 (a) & (b), as amended on August 19, 1994.

<sup>4</sup> LAM, exhibit 57, paragraph 6, dated April 1996.

**Examples of Problems**

Three policyholders who were family members in Kingsbury County (policy nos. [ ]) and claimed prevented planting on 156 acres of wheat are examples of producers who may not have intended to plant the first crop or were not prevented from planting by an insurable condition. The loss was reported on the acreage report dated June 29, 1996. The insureds planted sunflowers as a substitute crop, and the claim was not adjusted until October 18, 1996. The loss was reported about 45 days after it occurred and not in sufficient time for the reinsured company to inspect the fields to reasonably determine if the loss was disaster related.

Indemnities selected for review in Louisiana, Oklahoma, and Texas were in areas with very few prevented planting payments. This indicates the decision not to plant the crop was a management decision rather than caused by insurable conditions. Also, these indemnities generally did not involve the planting of substitute crops. Again, acreage reports were used to report losses, and the claims were not inspected or adjusted until later in the year. For example, five of the claims for prevented plantings of soybeans were in Acadia Parish, Louisiana. The five losses were reported on acreage reports that were prepared after the final soybean plant date of June 15, 1996, and the claims were not inspected or adjusted by the company until September or November (in one case, policy no. , the adjustment was not made until January 1997). Excessive rain was reported as the cause of losses for claims on three policies, and drought was the reported cause of losses for claims on the other two policies. Three of the five claims involved land that had been previously flooded for crawfish production. Four of the insureds requested prevented plantings from FSA. The FSA inspected these fields in July, August, or September and determined the producers were not eligible for preventing planting consideration with FSA because neighboring producers were able to plant soybeans.

We found that generally there were no field inspections at the time of replanting to verify that disaster conditions prevented planting of insured crops. For loss adjustment purposes, insured companies relied on insureds' statements on acreage reports showing that they were prevented from planting. In some cases, adjusters simply obtained certifications or documents from the insureds that they intended to plant the insured crops. For example, the file for policy no. [ ] contained a handwritten statement by a neighbor showing an agreement to plant the insured's soybeans, after he finished with his crawfishing, for \$10 an acre and to harvest his soybeans for \$1 a bushel.

Without visual inspections of the acreages on which insureds claimed they were prevented from planting, the reinsured companies had no reasonable assurance the claims were justified.

Some loss adjusters told us it was difficult to verify the validity of prevented planting claims since timely field inspections were not required to ensure the prevented plantings were caused by insurable conditions. They also said that under current loss reporting and adjustment procedures, it was not possible to stop abuse by insureds who claimed prevented plantings of early seeded crops such as wheat, when they intended to plant later crops, such as soybeans, in the first place.

Effective for CY 1998, RMA has revised policy provisions that basically eliminate acreage planted to a substitute crop. These revisions should substantially reduce the abuse disclosed in our review.

***Need for Revising  
Procedures***

Further, to reduce abuse of prevented planting provisions, RMA needs to revise procedures to require timely notifications of loss and inspections of acreages on which prevented planting claims are made. A requirement that these claims be handled like normal loss claims (for example, 72 hours notice and insurance company release before putting acreage to another use) would provide better control to prevent abuse of these provisions by insureds.

***Recommendation  
No. 1***

Require that normal loss adjustment policy procedures be followed for reporting and adjusting losses of prevented planting claims.

**Agency Response**

A written response to the recommendation was not provided within the time extension granted by OIG.

**OIG Position**

To reach a management decision, we need documentation showing that normal loss adjustment policy procedures be followed for reporting and adjusting prevented planting losses or justification for not following these procedures.

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**FINDING NO. 2 - INADEQUATE LOSS ADJUSTMENT PROCEDURES  
RESULTED IN OVERPAYMENTS**

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We questioned indemnity payments of \$133,163 for 30 of 75 policies included in our review for failure to comply with basic rules of the prevented planting provisions of the crop(s) policies. These questioned payments could have been prevented by more accurate loss adjustments. Information about the questioned payments is categorized below, with details of the individual claims shown in exhibit C.

When adjusting claims for indemnity losses, adjusters are responsible for verifying the insureds' participation in FSA programs, the eligibility of prevented planting acreages, and that correct prevented planting guarantees have been reported and processed.<sup>5</sup>

***Prevented Planting  
Claims on Land Used  
for Crawfish  
Production***

We questioned indemnities totaling \$33,253 paid to three Acadia Parish, Louisiana, insureds who claimed prevented plantings of soybeans on acreages used for crawfish production (policy nos. [

]). In these cases, rice was planted the previous year (1995), and the acreages were left flooded for crawfish production after rice was harvested in the fall of 1995. When the price of crawfish is high (as it was in the spring of 1996), producers leave the land flooded for crawfish production and do not plant crops such as soybeans, a crop normally planted following the planting of rice.

We questioned the three insureds' prevented planting claims because evidence showed the inability to plant was not caused by conditions which also prevented the majority of producers in the surrounding area from planting the same crops. Also, the loss claim files contained insufficient evidence to prove the insureds' intentions to plant soybeans. In two of the three cases, FSA inspected the area and disapproved the producers' claims for prevented plantings.

For example, the insured on policy no. [ ] was paid \$15,450 for 423.2 acres of prevented planting of soybeans. The acreage was planted to rice in 1995 and left flooded for crawfish production in the spring of 1996. The insured reported the prevented planting to FSA, and they inspected the acreage and found water, water lilies, and crawfish traps still in the fields. The FSA person making the field inspections also reported that the producer planted soybeans in neighboring fields. The FSA county committee disapproved the producer's request for prevented planting with FSA based on results of their field inspection.

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<sup>5</sup> LAM, exhibit 57, paragraph 4(c), dated April 1996.

The reinsured company did not adjust the prevented planting claim until November 25, 1996, and at that late date, it was not in a position to know if the prevented planting was caused by the insured's failure to timely drain the acreage used for crawfish production. The adjuster showed that the insured had a booking paper and note from another person who was able to plant and harvest the beans as evidence of intent to plant. We questioned the claim because the insured did not meet a basic requirement of program eligibility; i.e., the inability to plant the insured crop was due to an insured cause of loss that prevented the majority of producers in the surrounding area from planting the same crop.

We believe that the cause of loss was the failure of the three insureds to timely drain acreages used for crawfish in sufficient time to plant soybeans. This was evidenced by the fact that surrounding fields not used for crawfish production were planted to soybeans. We also question whether the one producer provided adequate evidence of his intentions to plant. A booking for seed is not a transaction that is binding on either party and does not show evidence that seed was purchased. Similar type information was reported for other claims as shown in exhibit C.

***Prevented Planting  
Claims Involving  
Double Cropping***

In two cases, we questioned indemnities of \$12,807 because the prevented plantings included land that was double cropped without past histories of double cropping (policy nos. [ ] in Acadia Parish, Louisiana, and [ ] in Jackson County, Oklahoma).<sup>6</sup> Records relating to the policy in Acadia Parish, Louisiana, showed an indemnity payment for 82.5 acres that was shown planted to wheat in 1996, but the file did not show the acreage had been previously double cropped. FSA records confirmed that the acreage was not double cropped in 1995.

In the other case, the insured (policy no. [ ]) obtained a prevented planting payment on 73.5 acres planted to cotton in 1996, and the insured received an indemnity payment for a 1996 CY loss on wheat under another policy. The reinsured company agreed that the insured was not eligible for the prevented planting payment on cotton.

***Prevented Planting  
Claims For Crops Not  
Planted***

Indemnity payments of \$79,172 were made on 21 policies where the insureds made management decisions not to plant because of drought. We questioned these payments because the insureds did not qualify under provisions that state the "inability to plant the insured crop with proper equipment \* \* \* caused the prevented planting." The deputy administrator sent a bulletin (Bulletin No. MGR-96-033) to all reinsured companies and all RMA field offices telling them that to qualify for prevented plantings on cotton acreage affected by drought conditions, insureds must have been unable to plant insured crops due to insured causes of loss that prevented the majority of producers in the surrounding area from planting the same crops. Since many producers in the affected areas planted cotton, it was anticipated that the definition of prevented planting could not be met in these areas. Even though MGR-96-033 only

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<sup>6</sup> LAM, exhibit 57, paragraph 2 G 7, dated April 1996.

mentions cotton, the same conditions should apply to wheat, corn, and grain sorghum. In most of these cases, the loss adjusters documented loss adjustment records to show it was management decisions by the insureds not to plant.

The 21 policies where we questioned the indemnities are shown in exhibit C. These indemnities were paid for prevented planting of corn, grain sorghum, and wheat in Bexar County, Texas; corn and grain sorghum in Wilson County, Texas; soybeans in Acadia Parish, Louisiana; and for cotton in Jackson County, Oklahoma.

The Bexar County Executive Director (CED) told us that at least 98 percent of the producers in his county were able to plant in 1996. The Wilson CED indicated that a majority of producers in Wilson County, Texas, had planted corn and grain sorghum in 1996. Our review of 1996 RMA data revealed that a majority of the insured cotton producers had planted cotton in Jackson County, Oklahoma. Acadia Parish FSA County Committee documented that soybeans were planted in all areas of the parish in 1996.

For example, the insured on policy no. [ ] received \$1,733 for 70.7 acres of prevented planting of grain sorghum. Drought was shown as the cause of the prevented planting, and to justify the claim, the adjuster recorded in the loss adjustment documents that the insured was advised, after inquiring at the FSA office, that he made a wise management decision to not plant grain sorghum. However, other producers in the area did plant grain sorghum; therefore, this producer did not comply with the definition of prevented planting.

**Prevented Planting  
Claims In Excess of  
FSA Base Acreages**

In three cases in Bexar County, Texas, policy nos. [ ], we questioned indemnities totaling \$13,671 because the corn and grain sorghum prevented planting acreage exceeded the feed grain base established by FSA. (In addition to drought not being an acceptable cause of loss as mentioned previously.)

For the 1996 CY, RMA initiated controls to prevent insureds from claiming prevented plantings on more acres than the insureds historically planted. These controls were initiated after a RMA compliance investigation found that insured companies paid canola policyholders in North Dakota for 1995 prevented planting claims on substantially more acres than they historically planted. Other than in the three Texas cases, the insured companies limited the acreages eligible for prevented plantings to amounts specified in the LAM. For program crops, the acreage was limited to the FSA-established base or the acreage planted the previous year, whichever was greater. For nonprogram crops, the acreage was limited to the acreage planted the previous year. Certain exceptions were allowed for crops without a previous history of planting.<sup>7</sup> In the cases we questioned, the acreages exceeded the bases or the acreages planted the previous year.

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<sup>7</sup> LAM, exhibit 57, paragraph 2 E, dated April 1996.

To arrive at the acreage that exceeded the base, we computed the difference between the prevented planting acreage and total corn and grain sorghum base acres on all farms in which the insured had a share. For example, the insured on policy no. [ ] claimed prevented planting for 333.6 acres of corn and 241.7 acres of grain sorghum. This combined acreage (575.3) exceeded the combined feed grain base of 366.7 acres by 208.6 acres on the 9 farms where claims were made. The FSA farm numbers for these nine farms are shown in exhibit C. No recovery is recommended because overpayments were questioned previously in this finding.

**Other Isolated  
Compliance Violations**

We questioned payments of \$20,738 to 6 insureds because of incorrect crop-share interests, planting a substitute crop within the 10-day window after the final plant date (1 case), and for making payments at the 50-percent guarantee for idle acres rather than at the 25-percent guarantee level for acres actually planted to substitute crops (2 cases). Information about these specific claims are shown in exhibit C. The following table also shows the policies, types of violations, and questioned amounts of these indemnities.

Policy Number	Violations	Questioned Payments
[ ]	Crop Share	\$ 259
[ ]	Planting Window	5,270
[ ]		
[ ]	Guarantee Level	9,225
[ ]	Guarantee Level	5,984
<b>Total</b>		<b>\$20,738</b>

One of the reinsured companies, in response to our Statements of Condition, agreed the claims were wrong. The other reinsured company has not completed its field reviews on the questioned claims. We are recommending that RMA take action to collect these overpayments from the reinsured companies.

**Recommendation  
No. 2a**

Recover \$133,163 in questioned indemnities paid to 30 insureds as shown in exhibit C.

**Agency Response**

The Administrator's written response to the draft report (see exhibit E) stated that RMA cannot determine the exact amounts due until the RMA Compliance Field Offices have completed their review of the workpapers. Once completed, RMA will notify OIG of the results.

**OIG Position**

To reach a management decision, we need (1) documentation showing the specific corrective actions taken or planned, the timeframes within which the corrective actions will be completed, and agreement on the monetary amounts associated with this recommendation, (2) documentation that the amounts owed the Government have been collected or set up as an account receivable, and (3) explanation and justification regarding any monetary amounts not considered valid.

**Recommendation  
No. 2b**

Require reinsured companies to establish controls to improve loss adjustment procedures for prevented planting claims in order to detect violations similar to those disclosed in our review.

**Agency Response**

The Administrator's written response to the draft report (see exhibit E) stated that RMA does not concur with the audit recommendation. The Administrator's response further states that RMA has taken steps to address the abuse mentioned above through changes in the prevented planting program. The RMA will issue a bulletin to all reinsured companies notifying them of the violations detected by the review, and remind them of their Manual 14, Quality Control responsibilities. In addition, the RMA Risk Compliance fiscal year 1999 Work Plan includes, "a review of each reinsured company to evaluate their quality control program as required by Manual 14." The bulletin will be issued in the first quarter of 1999.

**OIG Position**

We accept the management decision.



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**FINDING NO. 3 - PREVENTED PLANTING  
CLAIMS FOR IDLE LAND**

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***Claims on Lakes,  
Potholes, and  
Riparian Areas***

Prevented planting payments of about \$25,000 were made on about 430 acres that was not suitable for agricultural production. Claims relating to these payments were made by three insureds from Brown and Kingsbury Counties, South Dakota. The idle land included lakes, potholes, and riparian areas (stream beds and similar terrain) that was under water or idle during 1996 and the 4 previous years.

We concluded payments were made for these areas because of conflicting requirements concerning acreages eligible for payments. Also contributing to the problem were untimely and inadequate adjustments of claims by the reinsured companies which were generally months after the prevented plantings occurred.

The LAM and the crop insurance policy contain provisions relating to eligibility for prevented plantings. A LAM exhibit states eligible acres must be available for planting. The exhibit defines "available for planting" as land that is free from trees, rocky outcroppings, or other factors that would prevent proper and timely preparation of the seed bed for planting and harvesting a crop.<sup>8</sup> From this definition, potholes and riparian areas, which have not been farmed for several years because of excess surface moisture, did not appear eligible for prevented planting insurance coverage because the acreage was not available for planting. However, basic provisions on crop insurance policies allow indemnities for prevented plantings on acreages classified by FSA as cropland.<sup>9</sup> All of the 430 acres was classified as cropland by FSA.

In our review of prevented planting payments in 2 South Dakota counties, we identified 46 separate potholes or riparian areas that had not been cropped for at least 5 years. We identified the questioned acres using FSA aerial slides and visited selected sites, including one identified on maps as a lake, to determine the conditions of the areas at the time of our review. Some of these areas were relatively small. Ten contained less than 2 acres, however, 7 of the areas exceeded 35 acres, as identified in the following schedule.

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<sup>8</sup> LAM, exhibit 57 paragraph 2 E (1), dated April 1996.

<sup>9</sup> 7 CFR 457.8, section 9(a)(1), as amended on August 19, 1994.

POLICY NO.	COUNTY	LEGAL DESCRIPTION	IDLE ACRES	INDEMNITY	DATE ADJUSTED
[ ]	Brown	[ ]	35.3	\$ 1,404	08-22-96
[ ]	Brown	[ ]	62.3	1,637	08-23-96
[ ]	Brown	[ ]	124.2	8,465	08-23-96
[ ]	Kingsbury	[ ]	74.1	5,107	11-01-96
[ ]	Kingsbury	[ ]	47.4	1,449	08-16-96
[ ]	Kingsbury	[ ]	48.0	3,930	08-16-96
[ ]	Kingsbury	[ ]	40.0	3,275	08-16-96
<b>Total</b>			<b>431.3</b>	<b>\$25,267</b>	

FSA generally only changes their classification of cropland if it involves a permanent change such as land taken out of production for developmental purposes. For these reasons, land that had not been farmed in recent years was still classified as cropland, and according to crop insurance policy provisions, eligible for prevented planting insurance coverage. We did not recommend recovery of questioned payments made on idle land, other than in one case where the land was a lake, and the reinsured company agreed it was not eligible for payment. The lake area was located at legal description 33-110-53, and the questioned payment amounted to \$1,449 as shown in exhibit C. We also included as exhibit D copies of aerial photos showing the acreage (lake) not suitable for agricultural production.

We concluded that policy provisions need to be revised to preclude payments for potholes, lakes, and riparian areas that have not been farmed for a number of years. The policy should include provisions that cover the size of the areas (small acreage excluded) and history of past productions, i.e., not farmed in 4 of the past 5 years.

**Recommendation  
No. 3a**

Recover \$1,449 in questioned claims paid to one insured (policy no. [ ] ) as shown in exhibit C.

**Agency Response**

The Administrator's written response to the draft report (see exhibit E) stated that RMA cannot determine the exact amounts due until the RMA Compliance Field Offices have completed their reviews of the workpapers. Once completed, RMA will notify OIG of the results.

**OIG Position**

To reach a management decision, we need (1) documentation showing the specific corrective actions taken or planned, the timeframes within which the corrective actions will be completed, and agreement on the monetary amounts associated with this recommendation, (2) documentation that the amounts owed the Government have been collected or set up as an account receivable, and (3) explanation and justification regarding any monetary amounts not considered valid.

***Recommendation  
No. 3b***

Change policy and LAM provisions to preclude payments of prevented planting claims on land having a history of not being farmed in past years (such as 4 of the last 5 years) and for which current conditions preclude its planting of crops.

**Agency Response**

A written response to the recommendation was not provided within the time extension granted by OIG.

**OIG Position**

To reach a management decision, we need evidence showing that action has been taken to preclude payment of prevented planting claims on land having a history of not being farmed in past years.

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**FINDING NO. 4 - ADJUSTERS HAVING  
CONFLICTS OF INTEREST WITH INSUREDS**

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***Three Adjusters  
Have Conflicts of  
Interest***

Loss adjusters who adjusted prevented planting claims for two of the insureds had conflicts of interest or close relationships with the insureds. In one case, two loss adjusters leased land to the insured and adjusted the 1996 prevented planting claims of the insured. In the second case, one loss adjuster was a first cousin of the insured.

The conflict of interest rule is delineated in the LAM. It states, "the adjuster must not adjust any claims which are sold by any member of the adjuster's family (including but not limited to parents, brothers, sisters, children, spouse, in-laws, grandchildren, aunts, uncles, cousins, and grandparents) or of the family of an employee of the adjuster or any party that the adjuster has a material or financial interest with. Family is defined as anyone in lineal consanguinity, collateral consanguinity to the third degree, affinity to the third degree, or related by adoption or to a like extent."<sup>10</sup>

Our review in South Dakota included prevented planting claims of an insured who was also a sales agent for a reinsured company. Both of the adjusters own land that was rented to the insurance agent and his brother. Land of one adjuster was rented on a cash-share basis, and the other was rented on a crop-share basis. The two adjusted the 1996 prevented claim of the agent and his brother which included claims on land owned by the adjusters. The agent and his brother received approximately \$100,000 for 1996 prevented planting claims that were adjusted by the two adjusters having financial interests with the insured. These two adjusters also adjusted most of the 1996 prevented planting claims for insureds where this agent was the sales representative. The agent told us that he has about 200 crop insurance policies in Kingsbury County and about 1,100 policies nationwide where he was the agent. He estimated that over one-half of these policies had 1996 CY claims for prevented plantings. Information about the claims on this cases was referred for investigation, and our audit findings will be provided later in a separate report to be issued by the OIG Great Plains Regional Office in Kansas City. Therefore, we are not recommending any action on this case at this time.

In another sample case, the insured requested that his claim be adjusted by an adjuster who was his first cousin. The insured, policy no. [ ], Acadia Parish, Louisiana, wrote a note on top of the multiple peril crop insurance (MPCI) notification of probable loss and check list requesting by name the person whom he wanted to adjust his claims. This person, who was the first cousin of the insured, was selected by the insured's company to adjust the claim. The insured received \$7,224 for prevented

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<sup>10</sup> LAM, part 1, section 1, paragraph 91 P, dated May 1995.

planting on 187.40 acres of soybeans. We questioned this entire claim because of crawfish production as shown in Finding No. 2.

**Recommendation  
No. 4**

Take action to discipline the reinsurance company and/or the loss adjuster who violated existing conflict of interest requirements in the above-identified Louisiana case. At the minimum, hold the reinsurance company liable for indemnities emanating from the cited case.

**Agency Response**

The Administrator's written response to the draft report (see exhibit E) stated that RMA concurs with the audit recommendation. They will develop initial findings for program violations cited in this report, and upon completion of due process, they will initiate appropriate administrative action.

The response also stated that since this audit was performed, RMA has strengthened language in the Standard Reinsurance Agreement (SRA) and Manual 14 regarding conflicts of interest. To reinforce this provision, RMA will issue a reminder notice to all reinsured companies that proper internal controls must be established and in place to comply with provisions of the SRA and Manual 14. Any violations of section V.G.2.c. through e. of the SRA shall be issued to the affected reinsured company as a finding of non-compliance. The notice will be issued in the first quarter of 1999.

**OIG Position**

We accept the management decision.

**EXHIBITS**

**EXHIBIT A - SUMMARY OF MONETARY RESULTS**

FINDING NO.	DESCRIPTION	AMOUNT	CATEGORY
2	Prevented planting acres had been planted to rice and left flooded for crawfish production.	\$33,253	Questioned Costs, Recovery Recommended
	Insurance claim file showed no double-cropping history on prevented planting acreage.	1/ 1,828	Questioned Costs, Recovery Recommended
	Drought is not acceptable cause of loss. Insured made management decision not to plant.	2/ 77,344	Questioned Costs, Recovery Recommended
	Prevented planting acreage exceeded feed grain base.	3/ 0	
	Isolated compliance violations.	20,738	Questioned Costs, Recovery Recommended
<b>Subtotal</b>		<b>\$133,163</b>	
3	Prevented planting acres not suitable for agricultural production.	\$ 1,449	Questioned Costs, Recovery Recommended
	Prevented planting acres not suitable for agricultural production.	23,818	4/ FTBPTBU: Management or Operating Improvement/ Savings
<b>Subtotal</b>		<b>\$ 25,267</b>	
<b>TOTAL</b>		<b>\$158,430</b>	
1/ \$12,807 less 10,979 duplicated in questioned costs of \$33,253. 2/ \$79,172 less duplicated questioned costs of \$1,828. 3/ \$13,671 (\$1,283 + \$9,555 + \$2,833) is included in the \$77,344 mentioned above. 4/ Funds to be put to better use.			

STATE	COUNTY	POLICY NO.	CROPS	INDEMNITY
Illinois	Will	[ ]	Corn	\$15,617
Illinois	Will	[ ]	Corn	26,376
Illinois	Will	[ ]	Corn, Soy Bean	26,904
Illinois	Will	[ ]	Corn, Soy Bean	42,116
Illinois	Will	[ ]	Corn, Soy Bean	21,928
Illinois	Will	[ ]	Corn	1,163
Illinois	Will	[ ]	Corn	13,216

**EXHIBIT B - POLICIES SELECTED FOR AUDIT**

STATE	COUNTY	POLICY NO.	CROPS	INDEMNITY
Illinois	Will	[ ]	Corn	5,380
Illinois	Will	[ ]	Corn	12,267
Illinois	Will	[ ]	Corn	17,432
Illinois	Will	[ ]	Corn	20,935
Illinois	Will	[ ]	Corn	21,095
Illinois	Will	[ ]	Corn	37,275
Illinois	Will	[ ]	Corn	14,999
Illinois	Will	[ ]	Corn	7,333
Illinois	Will	[ ]	Corn	83,272
Illinois	Will	[ ]	Corn	4,247
Illinois	Will	[ ]	Corn	49,025
Illinois	Will	[ ]	Corn	15,242
Illinois	Will	[ ]	Corn	16,623
Louisiana	Acadia	[ ]	Soy Bean	7,224
Louisiana	Acadia	[ ]	Soy Bean	15,450
Louisiana	Acadia	[ ]	Soy Bean	2,901
Louisiana	Acadia	[ ]	Soy Bean	10,979
Louisiana	Acadia	[ ]	Soy Bean	6,824
Ohio	Pickaway	[ ]	Corn	27,709
Ohio	Pickaway	[ ]	Corn, Soy Bean	\$28,097
Ohio	Pickaway	[ ]	Corn	21,956
Ohio	Pickaway	[ ]	Corn	20,592
Ohio	Pickaway	[ ]	Corn	24,762
Ohio	Pickaway	[ ]	Corn	28,773
Ohio	Pickaway	[ ]	Corn	28,491
Ohio	Pickaway	[ ]	Corn	33,261
Ohio	Pickaway	[ ]	Corn	18,856
Ohio	Pickaway	[ ]	Corn, Soy Bean	25,596
Ohio	Pickaway	[ ]	Corn	18,626
Ohio	Pickaway	[ ]	Corn	32,192
Ohio	Pickaway	[ ]	Corn	20,317
Ohio	Pickaway	[ ]	Soy Bean	3,192

**EXHIBIT B - POLICIES SELECTED FOR AUDIT**

STATE	COUNTY	POLICY NO.	CROPS	INDEMNITY
Ohio	Pickaway	[ ]	Corn	34,790
Ohio	Pickaway	[ ]	Corn	39,232
Ohio	Pickaway	[ ]	Corn	34,340
Ohio	Pickaway	[ ]	Corn, Soy Bean	14,904
Ohio	Pickaway	[ ]	Corn	12,724
Ohio	Pickaway	[ ]	Corn	5,780
Oklahoma	Jackson	[ ]	Cotton	105
Oklahoma	Jackson	[ ]	Cotton	1,828
Oklahoma	Jackson	[ ]	Cotton	251
Oklahoma	Jackson	[ ]	Cotton	552
Oklahoma	Jackson	[ ]	Cotton	2,664
South Dakota	Brown	[ ]	Barley, Soy Bean, Wheat	67,698
South Dakota	Brown	[ ]	Barley, Sunflower, Wheat	80,994
South Dakota	Kingsbury	[ ]	Corn, Soy Bean, Sunflower, Wheat	\$ 51,193
South Dakota	Kingsbury	[ ]	Corn, Soy Bean	223,917
South Dakota	Kingsbury	[ ]	Corn, Sunflower, Wheat	59,803
South Dakota	Kingsbury	[ ]	Corn, Sunflower, Wheat	59,803
South Dakota	Kingsbury	[ ]	Corn, Sunflower, Wheat	59,803
South Dakota	Kingsbury	[ ]	Corn, Oats, Soy Bean, Sunflower, Wheat	55,328
South Dakota	Kingsbury	[ ]	Corn, Oats, Soy Bean, Sunflower, Wheat	43,221
South Dakota	Kingsbury	[ ]	Corn, Soy Bean	50,915
South Dakota	Kingsbury	[ ]	Corn, Sunflower, Wheat	55,200
Texas	Bexar	[ ]	Wheat	645
Texas	Bexar	[ ]	Grain Sorghum	1,733
Texas	Bexar	[ ]	Grain Sorghum	1,283
Texas	Bexar	[ ]	Corn, Grain Sorghum	9,555
Texas	Bexar	[ ]	Corn, Grain Sorghum	1,587
Texas	Bexar	[ ]	Corn, Grain Sorghum	9,186
Texas	Bexar	[ ]	Corn, Grain Sorghum	7,715
Texas	Bexar	[ ]	Corn, Grain Sorghum	2,833



**EXHIBIT B - POLICIES SELECTED FOR AUDIT**

<b>STATE</b>	<b>COUNTY</b>	<b>POLICY NO.</b>	<b>CROPS</b>	<b>INDEMNITY</b>
Texas	Wilson	[ ]	Corn	4,592
Texas	Wilson	[ ]	Corn	1,264
Texas	Wilson	[ ]	Corn	631
Texas	Wilson	[ ]	Corn	62
Texas	Wilson	[ ]	Corn, Grain Sorghum	3,526
Texas	Wilson	[ ]	Corn	19,035
<b>Total</b>		<b>75</b>		<b>\$1,846,935</b>

**EXHIBIT C - SCHEDULE OF QUESTIONED CLAIMS**

**Fireman's Fund Insurance Co. (Crop Grower's Insurance, Inc.)**

**Policy No. [ ] - Acadia Parish, LA**

The insured received \$6,824 for 363.2 acres of prevented planting of soybeans. The loss was reported on the acreage report dated July 11, 1996, and the loss was not adjusted until November 25, 1996. Excess rain was shown as the cause of the loss. The adjuster showed that the insured has financial statement, assignment of payment, negotiable paper, a pledge to a seed company, and seed bookings for proof of intent.

We found that the prevented planted acres had been planted to rice and left flooded for crawfish production (a common practice in Louisiana). When the insured reported his crop acreage to FSA, he listed the acreage as prevented planting. An FSA representative inspected the fields on August 22, 1996, and reported that a field had water and water lilies on it and was used as a crawfish pond. Also, the representative reported that soybeans had been planted on other farms across the road. Based on this information, the county office committee disapproved the producer's request for prevented planted soybeans. We are questioning the entire amount because of insufficient evidence of intent and evidence presented by FSA indicating that it was not a justified claim.

**Policy No. [ ] - Acadia Parish, LA**

The insured received \$7,224 for 187.4 acres of prevented planting of soybeans. The loss was reported on the acreage report dated July 11, 1996, and the loss was adjusted on November 26, 1996. The adjuster shows on the loss adjustment documents that the insured said the reason for not planting was because of drought. A statement prepared by a quality control review states conversations with the adjuster indicated the final reason for prevented planting was excess precipitation. The adjuster shows that all the insured has to prove his intention on planting was a financing statement from the bank.

The insured reported the acreage as prevented planting to FSA, and one of their representatives inspected the acreage on September 4, 1996. They reported tall grass, weeds, and chicken trees 2 to 4 feet tall. The representative also found that soybeans had been planted across the road from the prevented planted acres. Based on their findings, the county committee disapproved the prevented planting of soybeans. We are questioning the entire payment because of insufficient evidence of intent to plant and the data developed by FSA indicating that a claim was not justified.

**Policy No. [ ] - Acadia Parish, LA**

The insured received \$15,450 for 423.2 acres of prevented planting soybeans. The loss was reported on the acreage report dated July 11, 1996, and the loss was not adjusted until November 25, 1996. Excess rain was shown as the cause of loss. The adjuster showed that the insured has a seed booking paper and note from another person who was to plant and harvest the beans.

The prevented planted acres had been planted to rice and left flooded for crawfish production. The acreage was reported to FSA as prevented planting, and they inspected the acreage on July 17, 1996, and found water and water lilies in the fields. They found that crawfish traps were still in one of the fields and soybeans had been planted in the same area. Based on FSA field inspections, the county committee disapproved the producer's request for prevented planting of soybeans. We are questioning the entire payment because of insufficient evidence of intent to plant and the data developed by FSA indicating that the insured did not have a justifiable prevented planting claim.

**Policy No. [ \_\_\_\_\_ ] - Acadia Parish, LA**

The insured received \$2,901 for 73.4 acres of prevented planting soybeans. The loss was reported on an acreage report dated July 9, 1996, and the claim was adjusted on September 26, 1996. Drought was shown as the cause of loss. The loss adjuster reported that he verified prevented acreage to be idle. Promissory notes and seed receipts were shown as evidence of intention to plant.

The acreage was reported to FSA as prevented planting, and they inspected the acreage on September 25, 1996. A representative from FSA who visited the farm reported that the field had recently been plowed. Also, soybeans were planted on an adjoining field and across the road. Based on these findings, the county committee disapproved the producer's request for prevented planting of soybeans. The acreage report filed with FSA was not filed until September 23, 1996. The file also contained an MPCCI notice of claim and a prevented planting worksheet, which were dated September 26 and 27, 1996, respectively. We are questioning the claim because adjoining fields were planted to soybeans, and there was no support for the producer's contention that drought conditions caused the prevented plantings.

**Policy No. [ \_\_\_\_\_ ] - Acadia Parish, LA**

The insured received \$10,979 for 179.4 acres of soybean prevented planting. The loss was shown on the acreage report dated July 15, 1996, and the loss was not adjusted until January 8, 1997. Excess rain was shown as the cause of loss. The adjuster showed on the adjuster's special report that the insured only has a written agreement that they made on February 15, 1996, to show intent of planting. The report also shows that they do not book seed, and they are self-financed.

FSA records show that 96.9 acres of the prevented planting had been planted to rice in 1995. The remaining 82.5 acres was reported as planted to wheat in 1996. The loss adjuster records did not contain information showing that these acres were double cropped in past years to qualify for prevented planting. FSA officials told us that the insured uses flood rice acreage for crawfish production. None of the soybean prevented planting had been reported to FSA by the insured, so they did not inspect the acreage to make a prevented planting determination. The insured planted over 900 acres of soybeans on other tracts that he farms, some of which were planted next to fields where prevented plantings were claimed.

We are questioning the entire payment because sufficient justification was not provided to show intent to plant soybeans. Use of the acreage for other crops, including crawfish, also disproves the producer's intent to plant soybeans. Also, the producer's intentions are in question because the acreage was not reported to FSA as prevented planting.

**Rural Community Insurance Services**

**Policy No. [ \_\_\_\_\_ ] - Pickaway County, OH**

The insured received \$28,773 for 1,081 acres of prevented planting of corn. The loss was reported on an acreage report dated July 10, 1996, and the loss was adjusted on September 30, 1996. Excess precipitation was shown as the cause of loss.

The insured was overpaid on one claim for corn prevented planting on 8.3 acres because payment was not limited to the insured's crop-share interest. We found that the insured has only a 50-percent share in the land. This resulted in an excess indemnity payment of \$259. This error appeared to be the result of an oversight by Rural Community Insurance Services, as the production worksheets contained the correct information.

**Policy No. [ ] - Pickaway County, OH**

The insured received \$20,317 for 207.1 acres of prevented planting of corn. The loss was reported on an acreage report dated June 28, 1996, and the loss was adjusted on October 8, 1996. Excess precipitation was shown as the cause of loss.

The insured was paid at an incorrect production guarantee level on two claims for prevented plantings of corn. Payment was made at the 50-percent guarantee level for 89 acres that was shown as left idle for claim purposes. Records maintained by FSA show the insured reported that 85 of the 89 acres was planted to soybeans. We confirmed, through interviews with the insured, that 85 acres was planted to soybeans. As a result, the insured was overpaid \$5,271. The insured received prevented planting payments on 118.1 acres of corn. The payments were based on 43.8 acres reported as idle (50-percent guarantee) and 74.3 acres were planted to soybeans (25-percent guarantee for substitute crop). We found, through review of FSA records and interviews with the insured, that 86.7 acres were planted to soybeans (substitute crop). As a result, the insured was overpaid \$713 on the second claim.

**Policy No. [ ] - Jackson County, OK**

The insured received \$105 for 6.7 acres of cotton prevented planting. The loss was reported on an acreage report dated July 15, 1996, and the loss was adjusted on February 27, 1997. Drought was shown as the cause of loss. Loss adjustment records provided by the company did not contain any information to show intent to plant. We are questioning the entire claim because insufficient evidence of intent and a majority of the cotton insureds had planted cotton in Jackson County, Oklahoma.

**Policy No. [ ] - Kingsbury County, SD**

The insured received \$223,917 for 4,166 acres of prevented plantings of corn and soybeans. Excessive moisture was shown as the cause of loss. The prevented planting acreage was reported on acreage report dated June 27, 1996, and the loss was adjusted on August 16, 1996. The insured was overpaid \$9,225 because 225.3 acres of corn prevented planting was paid at the 50-percent guarantee level rather than the 25-percent level. The adjuster showed that the 225.3 acres were fallow. Thus, payment was made at the 50-percent level when the acreage was planted to millet-proso and harvested. The insured reported the millet planting to FSA, and we confirmed this information with the insured. The insured also claimed corn prevented planting on 47.4 acres that was shown on aerial slides to be a lake. The land was located in the northwest quarter of section 33-110-53 as shown in the aerial photos displayed in exhibit D. We are questioning \$1,449 that the insured received for prevented planting of the 47.4 acres shown in aerial photos to be a lake and not suitable for agricultural production. We are also questioning \$7,205 that the insured received for prevented plantings on two other areas, but we are not recommending recovery of these amounts because of conflicting regulations as to the definition of cropland.

**Policy Nos. [ ] - Kingsbury County, SD**

Each insured received \$59,803 for 6,509.6 acres of prevented plantings of wheat, corn, and sunflowers. Excessive moisture was shown as the cause of the prevented planting losses. Prevented planting was reported on an acreage report dated June 29, 1996, and the loss was adjusted on October 18, 1996. The insureds were overpaid \$3,004 because a substitute crop of corn was planted within the 10-day late window of the final plant date for wheat, the crop for which prevented planting was claimed. The corn was shown as planted on May 20, and the final plant date for wheat is May 15. The insureds received a second overpayment of \$2,124 because payment for 64.7 acres of corn prevented planting on land located in section [ ] was duplicated on another claim. The land at this legal description included two fields, one of 156 acres and another with 64.7 acres. The production worksheets show a claim for 220.7 acres of prevented planting of the amount for both fields and a separate claim for 64.7 acres. The insureds received another overpayment of \$142.50 for 3.1 acres of corn prevented planting in section [ ]. The adjuster showed this field as fallow when it was planted to sunflowers. As a result, payment was made at the 50-percent guarantee level rather than the 25-percent level. Total overpayment for the three insureds was \$5,270.50.

**Policy No. [ ] - Wilson County, TX**

The insured received \$4,592 for 95.9 acres of prevented planting of corn. The loss was reported on an acreage report dated May 20, 1996, and the loss was adjusted on November 13, 1996. Drought was shown as the cause of the prevented planting. The adjuster showed on loss adjustment documents that the insured was advised, after inquiring at the FSA office, that he had made a wise management decision by not planting anymore corn. We are questioning the entire claim because drought did not cause the majority of the producers in the area to be prevented from planting and it was a management decision not to plant.

**Policy No. [ ] - Wilson County, TX**

The insured received \$1,264 for 50 acres of prevented planting of corn. The loss was reported on an acreage report dated May 20, 1996, and the loss was adjusted on November 13, 1996. Drought was shown as the cause of the prevented planting. The adjuster showed on loss adjustment documents that the insured was advised, after inquiring at the FSA office, that he had made a wise management decision by not planting anymore corn. We are questioning the entire claim because drought did not cause the majority of the producers to be prevented from planting and it was a management decision not to plant.

**Policy No. [ ] - Wilson County, TX**

The insured received \$631 for 50 acres of prevented planting of corn. This is a companion policy with policy no. [ ]. We are questioning the entire claim because a majority of the producers in Wilson County, Texas, had planted corn and it was a management decision not to plant.

**Policy No. [ ] - Wilson County, TX**

The insured received \$62 for 13.5 acres of prevented planting of corn. This is a companion policy with policy no. [ ]. Information about the claim is the same except with respect to the amount of eligible acres. We are questioning the entire claim because drought did not cause the majority of the producers to be prevented from planting and it was a management decision not to plant.

**Policy No. [ ] - Bexar County, TX**

The insured received \$645 for 72 acres of prevented planting of wheat (1/4 crop-share interest). The loss was reported on an acreage report dated December 29, 1995, and the loss was adjusted on October 30, 1996. Drought was shown as the cause of loss. The adjuster showed that the insured's tenant decided not to plant, as he felt it would just be wasting seed, feed, and labor. We are questioning the entire claim because drought could not cause the prevented planting (under dry or drought conditions a crop can be planted) and because loss adjustment records show it was a management decision not to plant.

**Policy No. [ ] - Bexar County, TX**

The insured received \$1,733 for 70.7 acres of prevented planting of grain sorghum. The loss was reported on an acreage report dated June 1, 1996, and the loss was adjusted on October 22, 1996. Drought was shown as the cause of the prevented planting. The adjuster showed on loss adjustment documents that the insured was advised, after inquiring at the FSA office, that he had made a wise management decision by not planting any more grain sorghum. We are questioning the entire claim because drought could not prevent planting of the insured crop and because it was a management decision not to plant.

**Policy No. [ ] - Bexar County, TX**

The insured received \$1,283 for 45 acres of grain sorghum prevented planting. The loss was reported on an acreage report dated May 30, 1996, and the loss was adjusted on October 22, 1996. Drought was shown as the cause of the prevented planting. The adjuster showed on loss adjustment documents that the insured was told by FSA that he had made a wise management decision by not planting anymore acres to grain sorghum. The insured was not eligible for prevented planting because 54 acres of corn and 25 other acres of grain sorghum was planted on a farm, identified on FSA records as Farm [ ], that has a 59.2-acre feed grain base. Also, the insured did not have any other qualifying base acres from other farms to use on making the 45 acres eligible for payment. We are questioning the entire claim because drought cannot prevent planting of the crop and because the planted grain sorghum acres and the prevented acreage exceed the feed grain base.

**Policy No. [ ] - Bexar County, TX**

The insured received \$9,555 for 333.6 acres of corn prevented planting and 241.7 acres of grain sorghum prevented planting. The loss was reported on an acreage report dated April 16, 1996, and the loss was adjusted on November 8, 1996. Drought was shown as the cause of loss. The loss adjuster reported that the insured decided not to plant after discussing the matter with personnel from the Natural Resources Conservation Service (NRCS) (previously Soil Conservation Service). The 575.3 acres of prevented planting exceeded the feed grain base on the farms where prevented plantings were claimed by 208.6 acres. Claims were made on FSA farm nos. [ ]. We are questioning the entire claim because it was a management decision not to plant.

**Policy No. [ ] - Bexar County, TX**

The insured received \$1,587 for his 25-percent share of 173.5 acres of prevented planting corn and 29.5 acres of prevented planting grain sorghum. This is a companion policy with policy no. [ ]. Information about the claim is the same except that the loss was adjusted on November 8, 1996. We are questioning the entire claim because drought is not an acceptable cause of loss when the insured made a management decision not to plant.

**Policy No. [ ] - Bexar County, TX**

The insured received \$9,186 for 119.2 acres of prevented planting of corn and 125 acres of prevented planting of grain sorghum. The loss was reported on an acreage report dated April 16, 1996, and the loss was adjusted on November 7, 1996. Drought was shown as the cause of loss. As justification for the claim, the adjuster stated that the insured did not plant anymore corn and grain sorghum after discussing the matter with NRCS and FSA personnel. We are questioning the entire claim because drought is not an acceptable cause of loss when the insured made a management decision not to plant.

**Policy No. [ ] - Bexar County, TX**

The insured received \$7,715 for 245.5 acres of prevented planting corn and 66 acres of prevented planting grain sorghum. The loss was reported on an acreage report dated April 16, 1996, and the loss was adjusted on November 7, 1996. Drought was shown as the cause of the prevented planting. The adjuster showed on loss adjustment records that the insured decided not to plant anymore corn and grain sorghum after discussing the matter with personnel from the NRCS. We are questioning the entire claim because drought is not an acceptable cause of loss when the insured made a management decision not to plant.

**Policy No. [ ] - Wilson County, TX**

The insured received \$3,526 for 20.4 acres of prevented planting of corn and 46.3 acres of prevented planting of grain sorghum. The loss was reported on an acreage report dated June 15, 1996, and the loss was adjusted on October 25, 1996. Drought was shown as the cause of the prevented plantings. The adjuster showed on loss adjustment documents that the insured was advised, after inquiring at the FSA and NRCS offices, that he had made a wise management decision by not planting anymore grain crops. We are questioning the entire claim because drought did not cause the majority of producers to be prevented from planting and it was a management decision not to plant.

**Policy No. [ ] - Bexar County, TX**

The insured received \$2,833 for a 25-percent crop share on 200 acres of prevented planting corn and 188.2 acres of prevented planting grain sorghum. This is a companion policy with two other insureds on policies [ ] and [ ]. Information about the claim is the same as reported under these policy numbers, except with respect to the amount of eligible acres. The feed grain base on the acreage for which claims were made (farm nos. [ ]) totaled 253.8 acres, or 134.40 acres less than the amount of acres for which payment was made. We are questioning the entire claim because drought did not prevent planting of a crop and because the prevented planting acres exceeded the feed grain base.

**Policy No. [ ] - Wilson County, TX**

The insured received \$19,035 for 334.1 acres of prevented planting of corn. The loss was initially reported on an acreage report dated June 17, 1996, and the loss was adjusted on June 24, 1996. Drought was shown as the cause of the prevented planting. The adjuster showed on loss adjustment documents that the insured was advised, after inquiring extension agent and FSA, that he had made a wise management decision by not planting anymore corn. We are questioning the entire claim because drought did not cause a majority of the producers in Wilson County, Texas, to be prevented from planting corn and it was a management decision not to plant.

**Farmers Alliance Mutual Insurance Co.  
(Blakely Crop Hail, Inc.)**

**Policy No. [ \_\_\_\_\_ ] - Jackson County, OK**

The insured received \$1,828 for 73.5 acres of cotton prevented planting. The loss was reported on an acreage report dated June 21, 1996, and the loss was adjusted on September 1, 1996. Drought was shown as the cause of loss. Loss adjustment records provided by the company did not contain any information to show intent to plant. A majority of the cotton insureds had planted cotton in Jackson County, Oklahoma. The insurance claim file record did not contain information showing a history of double-cropping the acreage. The insured also received a loss claim for wheat under policy no. [ \_\_\_\_\_ ] which makes [ \_\_\_\_\_ ] ineligible for cotton prevented planting.

**Cigna Insurance Co.  
(Rain and Hail Insurance Service, Inc.)**

**Policy No. [ \_\_\_\_\_ ] - Jackson County, OK**

The insured received \$2,664 for 193.6 acres of cotton claimed as prevented planting. The loss was reported on an acreage report dated July 12, 1996, and the loss was adjusted on August 27, 1996. The adjustor's special report shows that the insured had drought for about 6 months before June, then 5 inches of hard rain that packed soil so seed could not come up. The special report shows that the insured said it was too wet before June 20, and he could not get back in the field until June 24 or 25. The report also shows that the insured went to grain sorghum, and mung beans on these units. No other evidence of the producer's intent to plant was provided by the insured's company. We contacted the insured and learned that the insured raised mung beans under contract with Dover Seed from Martha, Oklahoma. A representative from Dover Seed told us that they contract with the insured for about 500 acres of mung beans a year.

We are questioning the entire claim because of a lack of evidence showing the insured's intention to plant cotton. Also, a hard rain after a long drought did not appear to be a probable cause of the prevented planting, considering the fact that the producer had a contract to plant mung beans that are generally planted from late June through the middle of July. Further, the insured was not eligible for prevented planting because, by his own admission to the adjuster, he could get back in the field 5 days after the final planting date for cotton, which is not within the 10-day window required by regulations. The insured's company agreed that the insured was not eligible for payment because he could have planted during the 10-day period after the final plant date.

**Policy No. [ \_\_\_\_\_ ] - Jackson County, OK**

The insured received \$552 for 106.1 acres of cotton prevented planting. The policy is a companion to policy no. [ \_\_\_\_\_ ], and the loss information is the same, except the insured had an interest in only 106.1 of the 193.6 paid under that policy. We are questioning the entire amount for reasons stated under policy no. [ \_\_\_\_\_ ].

**Policy No. [ \_\_\_\_\_ ] - Jackson County, OK**

The insured received \$251 for 39.6 acres of cotton that was prevented from planting. The policy is a companion to policy no. [ \_\_\_\_\_ ], and the loss information is the same, except the insured had an interest in only 39.6 of the 193.6 paid under that policy. We are questioning the entire amount for reasons stated under policy no. [ \_\_\_\_\_ ].



EXHIBIT D - AERIAL PHOTOS SHOWING ACREAGE NOT SUITABLE FOR AGRICULTURAL PRODUCTION



EXHIBIT D - AERIAL PHOTOS SHOWING ACREAGE NOT SUITABLE FOR AGRICULTURAL PRODUCTION

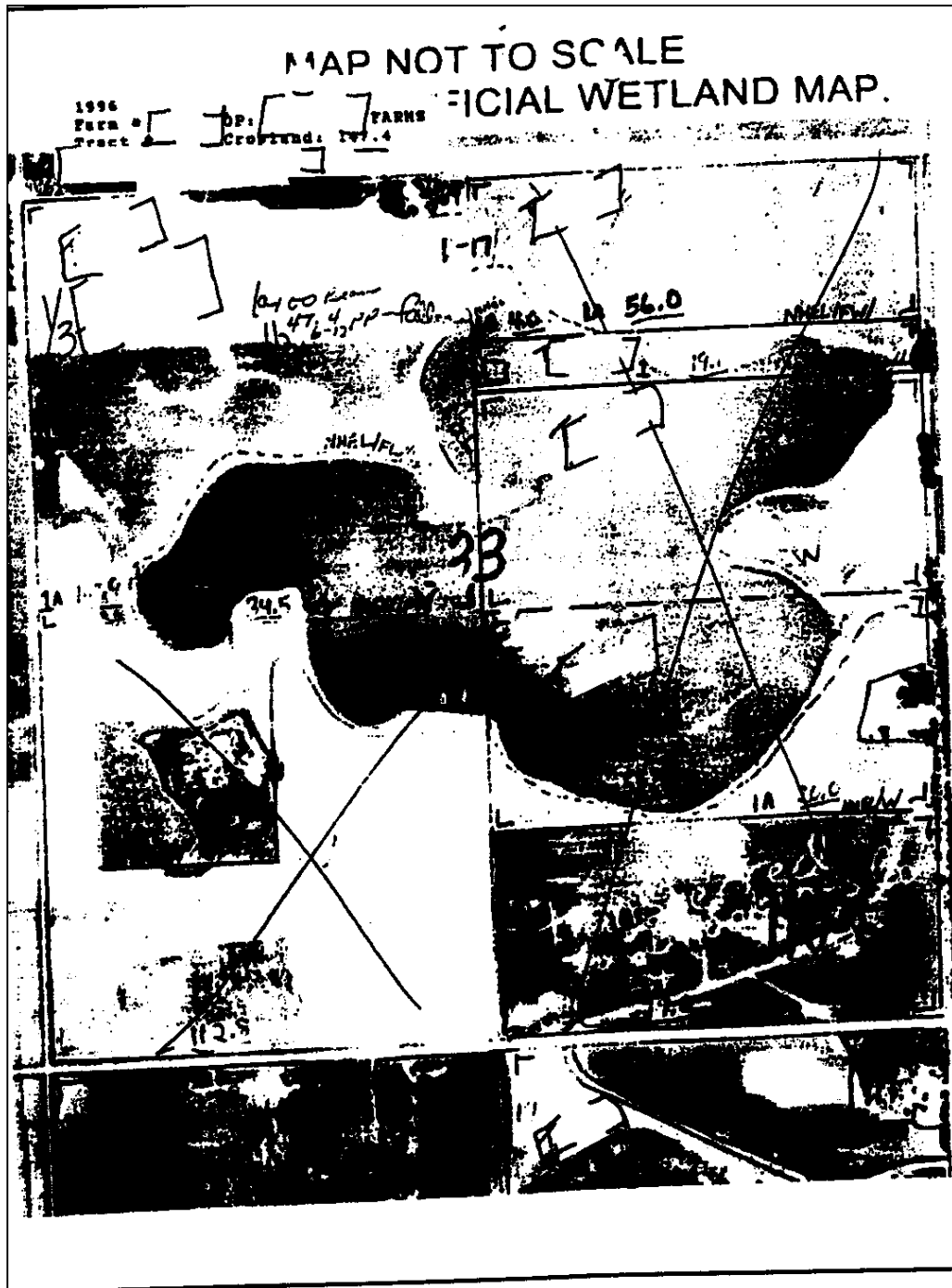


EXHIBIT E - RMA RESPONSE TO THE DRAFT REPORT



United States Department of Agriculture

Farm and Foreign Agricultural Services  
Risk Management Agency

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

FROM: Kenneth D. Ackerman *KDA* JAN 28 1999  
Administrator

SUBJECT: OIG Official Draft Audit Report No. 05601-5-Te: Prevented Plantings of 1996 Insured Crops

Outlined below is our response to recommendation numbers 2a, 2b, 3a and 4a in the subject official draft report. For recommendation numbers 1 and 3b, Risk Management Agency (RMA) requests an additional 30 days to complete its analysis of the findings and recommendations.

**RECOMMENDATION NO. 2a**

*Recover \$133,163 in questioned indemnities paid to 30 insureds as shown in exhibit C.*

RMA conditionally concurs. We cannot determine the exact amounts due until the RMA Compliance Field Offices have completed their review of the work papers. Once completed, we will notify OIG of the results.

**RECOMMENDATION NO. 2b**

*Require reinsured companies to establish controls to improve loss adjustment procedures for prevented planting claims in order to detect violations similar to those disclosed in our review.*

RMA does not concur. Reinsured companies are required to have a quality control program in place. Manual 14, "Guidelines and Expectations for Delivery of the Federal Crop Insurance Program," Section 7 "Quality Control Guidelines", Section A, "Insurance Provider Responsibilities" requires, "The insurance provider will provide oversight to properly underwrite the Federal crop insurance program and assure that the Federal crop insurance program is being administered in accordance with the Agreement, the Act, and FCIC approved policies and procedures. The quality control reviews will provide assurances that procedures, systems, and



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All Programs Authorized Under the Federal Crop Insurance Corporation

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programs are effective and adequate and will be used to expose intentional program abuse and to identify discrepancies, inconsistencies, or errors. The quality control program is also a means to identify the need for enhancing existing or developing additional internal controls, training programs and/or implementing the necessary corrective actions, if required."

The audit report states in the Executive Summary, "Based on this review, we concluded that controls were not sufficient to prevent abuse as the insureds were not required to report losses until after substitute crops were planted and loss adjustments were not performed in sufficient time for the insured companies to determine whether disaster conditions actually caused the prevented plantings." There is no mention in the audit report that the companies quality control processes were assessed to determine their existence nor adequacy. For this reason, it is difficult for RMA to determine whether the violations were the result of a lack of controls, failure by existing controls, or the norm that can be expected given the sample size used in this audit, and therefore, cannot take action against the companies because there is no specific evidence of a manual 14 violation.

RMA has taken steps to address the abuse mentioned above through changes in the prevented planting program. The audit report recognizes this and states, "(Effective CY 1998, RMA rescinded the 25 - percent coverage when a substitute crop was planted which basically eliminated prevented planting payments involving acreage planted to a substitute crop.)" RMA will issue a bulletin to all reinsured companies notifying them of the violations detected by your review, and remind them of their Manual 14, Quality Control responsibilities. In addition, the RMA Risk Compliance FY 1999 Work Plan includes, "a review of each reinsured company to evaluate their quality control program as required by Manual 14."

The bulletin will be issued in the first quarter of 1999.

*RMA requests management decision be reached on recommendation 2b.*

#### RECOMMENDATION NO. 3a

*Recover \$1,449 in questioned claims paid to one insured (policy no. [ ] as shown in exhibit C.*

RMA conditionally concurs. We cannot determine the exact amount due until the responsible RMA Compliance Field Office has completed their review of the work papers. Once completed, we will notify you of the results.

#### RECOMMENDATION NO. 4a

*Take action to discipline the reinsurance company and/or the loss adjuster who violated existing conflict of interest requirements in the above-identified Louisiana case. At the*

**EXHIBIT E - RMA RESPONSE TO THE DRAFT REPORT**

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*minimum, hold the reinsurance company liable for indemnities emanating from the cited case.*

RMA concurs. RMA Compliance will develop initial findings for program violations cited in this report. Upon the completion of due process for the specific procedural errors noted, RMA will initiate appropriate administrative action.

Since this audit was performed, RMA has strengthened language in the SRA and Manual 14 regarding conflicts of interest. To reinforce these provisions, RMA will issue a reminder notice to all reinsured companies that proper internal controls must be established and in place to comply with provisions of the SRA and Manual 14. Any violations of section V.G.2.c. through e. of the SRA shall be issued to the affected reinsured company as a finding of non-compliance.

The notice will be issued in the first quarter of 1999.

*RMA requests management decision be reached on recommendation 4a.*

If there are any questions, please contact Alan Sneeringer on (202) 720-8813, or Tracey Mock on (202) 690-6020.

Risk Management Agency