



**United States
Department of
Agriculture**

Federal Crop
Insurance
Corporation

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DATE: August 14, 2008

TO: Board of Directors
Federal Crop Insurance Corporation

FROM: Eldon Gould /signed/
Manager

SUBJECT: Manager's Report
Exhibit No. 2951

This memorandum serves as the Manager's Report to the Federal Crop Insurance Corporation (FCIC) Board of Directors (Board), for the August 14, 2008, meeting. This report relates to program issues as outlined below:

Regulatory Update:

Catastrophic Risk Protection (CAT) Endorsement Group Risk Plan Common Policy

On July 27, 2008, the final rule for the CAT Endorsement Policy was published in the *Federal Register*. This changed the CAT administrative fees from \$100 per crop per county to \$300 per crop per county, in accordance with the Food, Conservation, and Energy Act of 2008 (Farm Bill). This change is in effect for crop insurance programs with a contract change date of June 30, 2008 or later.

Common Crop Insurance Policy and Group Risk Protection Basic Provisions

The Product Administration and Standards Division (PASD) is working on an interim rule to implement programs changes mandated by the Farm Bill. The changes include the following: 1) a new organic crop definition; 2) enterprise and whole-farm-unit changes; 3) crop production on native sod; and 4) settlement of claims on farm-stored production. The interim rule implementation is targeted for spring crops in crop year 2009.

Combination Regulation Update

The publication of the *Combination Regulation* final rule is on hold pending the funding or resolution of certain issues within the Risk Management Agency's (RMA) automated systems.

Cabbage Crop Provisions

The *Cabbage Crop Provisions* final rule is in PASD for review and approval. The final rule converts the cabbage pilot crop insurance program to a permanent program. The final rule is targeted for implementation in crop year 2010.

Coverage Enhancement Option (CEO)

On July 27, the *Coverage Enhancement Option* final rule was published in the *Federal Register*. The rule converts the pilot program to a permanent program option in follow-up to previous Board action. CEO will be available for the 2009 crop year. Currently, CEO is only available for Texas citrus trees.

Dry Pea Crop Provisions

On March 18, the *Dry Pea Crop Provisions* proposed rule comment period ended, and PASD prepared responses to the comments. The final rule provides coverage for fall-planted, dry peas and allows those who are insured to select different coverage levels and price election percentages by dry-pea type. The final rule is with the Office of General Counsel (OGC) for review. The rule is targeted for implementation in crop year 2009.

Grape and Table Grape Crop Provisions

On April 29, the *Grape and Table Grape Crop Provisions* proposed rule public comment period ended, and PASD is preparing responses to the public comments. The rule proposes several changes requested by grape growers and the grape industry. The final rule is targeted for implementation in crop year 2010.

Tobacco Crop Provisions

The public comment period to the *Tobacco Crop Provisions* proposed rule has ended, and PASD prepared responses to the comments. The proposed rule rewrites and renames the current Guaranteed Tobacco Crop Provisions to the Tobacco Crop Provisions reflecting the elimination of tobacco quotas. In addition, the proposed rule eliminates the Quota Tobacco Crop Provisions. The final rule has been forwarded to OGC for legal review. The final rule is targeted for implementation in crop year 2009.

Program Highlights/Announcements:

Midwest Flood Damage Update

Iowa

Iowa's estimated crop loss has affected the whole State. Approximately 80 percent of Iowa's counties received 8-15 inches of rain between June 1 and June 14. Corn crop loss has been estimated at 13.2 million acres that were planted in 2008. It is estimated that 1.38 million insured corn acres have been destroyed. Soybean crop loss has been estimated at 9.8 million acres that were planted in 2008. It is estimated that 1.04 million insured corn acres have been destroyed.

Minnesota

Minnesota's estimated crop loss affected five counties in the Southeastern Corner of the State. Approximately ten counties in Southeastern Minnesota received 6-15 inches of rain between June 1 and June 14. Corn crop loss has been estimated at 684,000 acres that were planted in the five counties in 2008. It is estimated that 50,000 insured corn acres have been destroyed. Soybean crop loss has been estimated at 399,000 acres that were planted in the five counties in 2008. It is estimated that 37,000 insured soybean acres have been destroyed.

Wisconsin

Wisconsin's estimated crop loss affected 20 Counties in the Southern part of the State. Approximately 20 counties in Southern Wisconsin received 8-15 inches of rain between June 1 and June 14. Corn crop loss has been estimated at 1.73 million acres that were planted in the 20 counties in 2008. It is estimated that 96,000 insured corn acres have been destroyed. Soybean crop loss has been estimated at 75,000 acres that were planted in the 20 counties in 2008. It is estimated that 53,000 insured soybean acres have been destroyed.

Illinois

Illinois' estimated crop loss primarily affected counties along the Western and Southeastern portions of Illinois. Lawrence County experienced five levee breaks. It is estimated that 384,132 acres were affected by flooding or excess moisture. Measured rainfall for May 1 through June 16, was 11.14 inches, compared to average rainfall of 6.96 for this period. It is estimated that approximately 16,672,222 insured acres were planted in 2008. It is estimated that approximately 192,066 acres have been destroyed. USDA has declared 74 counties and 17 contiguous counties in Illinois as disaster areas while the Federal Emergency Management Agency (FEMA) has declared 18 counties as disaster areas due to flooding.

Indiana

Indiana's estimated crop loss primarily affected South Central Indiana. It is estimated that 583,872 acres were affected by flooding or excess moisture. Measured rainfall for April 1 through June 16, was 17.3 inches, compared to average rainfall of 9.91 inches for this period. It is estimated that approximately 7,796,297 acres were planted in 2008. It is estimated that approximately 291,936 acres have been destroyed. USDA had declared 56 counties and 31 contiguous counties in Indiana as disaster areas. FEMA has declared 49 counties disaster areas due to flooding.

Ohio

Damage was not wide spread in Ohio. Most of the damage occurred due to excess moisture, not flooding. Approximately 30 counties reported having extensive rainfall, flash flooding, and thunderstorms May 1 through July 1. It is estimated that 20,513 acres were impacted by flooding or excess moisture. Measured rainfall for May 1 through June 16 was 9.44 inches. The average rainfall for this period is 6.48 inches. No measureable number of acres was destroyed in this area.

Missouri

Missouri's estimated crop loss affected 16 counties in the Northwest, North Central, and Eastern parts of the State. Approximately 86,000 insured corn acres have been destroyed and approximately 70,000 insured soybean acres have been destroyed in Missouri.

Kansas

Kansas' estimated crop loss affected nine counties in the Northeastern and Southeastern parts of the State. Approximately 14,000 insured corn acres have been destroyed and approximately 9,000 insured soybean acres have been destroyed in Kansas.

Nebraska

Nebraska's estimated crop loss affected three counties in the Southeastern part of the State. Approximately 7,000 insured corn acres have been destroyed and approximately 6,000 insured soybean acres have been destroyed in Nebraska.

Additional Program Updates

Hawaii Declares Crop Disaster

United States Senator Daniel K. Inouye announced that Secretary Schafer designated Hawaii as a primary natural disaster area because of volcanic emissions (sulfur dioxide), which have been occurring over the past 4 months. Hawaiian farmers who meet eligibility requirements will qualify for low-interest emergency loans from the Farm Service Agency to offset crop losses. Thus far, no policyholders have been given notices of damage regarding emissions. The Hawaiian Department of Agriculture has asked RMA to tour the impacted areas and speak to farmers about crop insurance programs. RMA continues to monitor the region.

Lower Rio Grande Valley Crop Damage Report from Hurricane Dolly

Due to Hurricane Dolly, all 91,000 acres of cotton in the Lower Rio Grande Valley were destroyed. Estimated damage to other crops includes the following: 1) 80 percent of the corn crop has been destroyed; and 2) 35 percent of the grapefruit crop and 20 percent of the orange crop have been damaged. Most of the grain sorghum crop had been harvested but the remainder was destroyed and was already poor quality due to previous rain events. However, most of the sugarcane crop appears to be undamaged. RMA continues to monitor the region.

California Drought Conditions

The California Department of Water Resources (DWR) issued its final snow survey for snow-water content. Snow-water content is 67 percent of normal (statewide) and snowpack-water content is normal. After the driest spring in more than 80 years, Westland's Water District, which is the nation's largest (600,000 acres) district, is rationing water in order to provide minimum (to less than adequate) water supply to water users for the period of June through August 2008. Reduced water amounts will affect such crops as forage, almonds, tomatoes, and cotton. Processing-tomato growers have begun to abandon their fields in the San Joaquin Valley due to a lack of irrigation water caused by dry conditions. Cotton farmers have either not planted or abandoned more than 48,000 acres of farmland due to water shortages. The Davis Regional Office (RO) is monitoring drought conditions for all crops.

Drought in the Billings Region

Drought is currently affecting crops in Eastern Montana and the Western part of the Dakotas. The Billings RO has received 16 large claims notices for light grain. Elevators are offering \$2 a bushel for this grain. Most producers have set their light grain guarantee at approximately \$10. Drought conditions are forecasted for at least one more week. RMA continues to monitor the region.

Program Concerns

The Risk Management Services Division (RMSD) continues to work with Approved Insurance Providers (AIPs) and the nursery industry to address program concerns noted in Large Claim Reviews

and in the recent Office of the Inspector General (OIG) audit of the Hurricane Indemnity Program. Required by Manager's Bulletin MGR-08-003, RMSD will be providing training to RO (??) staff who will review plant inventory records. This requirement will ensure that records are available to support Plant Inventory Value Reports (PIVR). Any deficiencies will be reported to the applicable AIP servicing the policy.

After meeting with the Florida Nursery Growers and Landscape Association in Florida June 2008, RMA issued Manager's Bulletin MGR-08-013, which provides a tolerance between inventory records and PIVRs. That tolerance is 5 percent or \$2,500, whichever is less. RMA expects that record availability will continue to be a concern for the 2008 claim season as growers become accustomed to maintaining the necessary documentation required to support their PIVR.

Standard Reinsurance Agreement (SRA) and Livestock Price Reinsurance Agreement (LPRA) Mandatory Amendments

The Reinsurance Services Division (RSD) issued a Mandatory Amendment for both the SRA and LPRA which revises the 2008 Agreements for the 2009 reinsurance year to implement the required changes in the Farm Bill. The AIPs signed the Amendments prior to July 1 2008 (the beginning of the 2009 reinsurance year). In addition, RSD will issue a Mandatory Amendment for the CORPORACIÓN DE SEGUROS AGRÍCOLAS Farm Insurance Corporation of Puerto Rico Agreement for the 2009 reinsurance year, which begins April 1, 2009.

Loss Adjuster Licensing

RMA met with the National Association of Insurance Commissioners' (NAIC) Crop Insurance Working Group (CIWG). Both parties agreed there is a need for procedure changes to include crop-adjuster, proficiency tests for those states requiring crop adjusters to obtain a Property & Casualty license. RMA has drafted a proposed SRA amendment, currently under review, which will modify state, loss-adjuster, licensing requirements for crop-insurance adjusters.

Fiscal Year (FY) 2008 Agreement Process

The Risk Management Education Division (RMED) will oversee 34 small session agreements, totaling approximately \$340,000; 15 targeted states agreements, totaling approximately \$ 4.5 million; and 3 FFA agreements, totaling \$200,000. The majority of the agreements has been signed by the potential partners and is awaiting RMA signature and budget allocation. All agreements are expected to be in place no later than August 15, 2008.

FY 2008 Unfunded Commodity Program

RMED issued letters to applicants who applied for funding under the Commodity Partnerships program advising them that the 2008 Farm Bill reduced funding available under section 522(d) for Risk Management Education Programs beginning with FY 2008. Therefore, given the lateness of the statutory reduction in funding, many of the funds that RMA thought were going to be available for FY 2008 had been obligated for other authorized purposes. As a result, RMA does not have sufficient funds remaining to fund any of the applications submitted under the Commodity Partnerships Funding Opportunity for FY 2008 (approximately 50 agreements).

Compliance:

California Producer Indicted

On July 18, 2008, The U.S. Attorney for the Eastern District of California announced that a Federal grand jury returned a 15-count indictment charging a Stockton, California producer for filing false claims for crop insurance benefits. Allegedly, the producer received approximately \$400,000 in crop insurance payments to which he was not entitled because of the false claims. USDA's OIG and RMA's Special Investigations Branch investigated the case. The RMA Special Investigator will continue to assist the U.S. Attorney throughout the prosecution of this case.

Debarment Upheld on Review

On July 12, 2008, a USDA Agriculture Administrative Law Judge affirmed RMA's debarment of two Georgia producers and related entities. The producers each plead guilty to misprision of a felony and had repaid several hundred thousand dollars for failing to notify the government that they knew a crop insurance fraud had taken place, but had not told anyone of the crime. Because of this decision, the producers will remain on the public Excluded Parties List System (EPLS) until April 3, 2011. The EPLS provides information regarding entities debarred, suspended, proposed for debarment, excluded or disqualified under the non-procurement common rule, or otherwise declared ineligible from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits.

National Program Operations Reviews (NPOR)

The Compliance Offices have nearly completed their field reviews for policies selected for the 2007 crop year NPORs.

<u>RO code</u>	<u>AIP Name</u>	<u>Compliance Office</u>
AB	ARMtech Insurance Services	WRCO - Davis, CA
AU	CGB Diversified Services	MRCO – Indianapolis, IN
EF	Rural Community Insurance Services	ERCO – Raleigh, NC
GA	Great American Insurance Company	SRCO – Dallas, TX
NA	NAU Country Insurance Company	NRCO – Minneapolis, MN
PL	Producers Agriculture Insurance Company	CRCO – Kansas City, MO

Update Government Accounting Office (GAO) Report on Fraud, Waste, and Abuse

This audit provided recommendations to RMA as to how we could improve compliance efforts. RMA agreed, in principle, with most of the GAO recommendations and agreed to proceed on the following items:

- Adjusting the producer spot-check list procedures to permit FSA to review fall-seeded crops for the following year, as opposed to the current year which was ineffective. RMA discussed the possibility of separating the data-mining algorithms for the fall and spring, but determined that essential data would be excluded in the process. FSA has stated that without additional resources it will be unable to perform 100 percent of the designated growing season inspections.
- Distributing to each AIP the listing of its policyholders whose tax identification numbers or shareholders with substantial beneficial interests did not reconcile with FSA's permitted entity file. RMA will formally require the AIPs to review the discrepancies under Appendix IV and report the results in the future.
- FSA did not add "Taxpayer Identification Number Data Mining by RMA" to its routine use listing under the Privacy Act. Until FSA completes this task, RMA cannot use FSA entity information to implement this GAO recommendation. FSA released the draft Notice to OGC for formal review and concurrence on February 22, 2008, but has held up the notice due to language inserted in the 2008 Farm Bill that restricts the distribution of producer information under the Freedom of Information Act. The 2008 Farm Bill, Section 1619, is under review for its impact on this process. Enacted to ensure producer data was not widely available through the Freedom of Information Act, this section will restrict some distribution and use of certain Personally Identifiable Information data between government entities or their contractors. The legal review and analysis of these new restrictions on the use of producer data has been completed.
- Finalizing a quality control program for the AIPs intended to help RMA assess the effectiveness of the quality controls used by the AIPs. In addition, RMA Compliance will continue to test AIP quality control programs during scheduled national operations reviews.
- On April 30, 2008, companies were required to have all their quality control inspections electronically submitted to RMA on "Type 57" records (except for the consecutive, loss-adjuster reviews). Processing errors appear to have corrupted some of the data and we are continuing to test the data. RMA continues to work on ensuring that companies can fully report their quality control results through this automated system.
- Finalizing the ARPA-implemented sanctions regulations as soon as OGC has completed its review of the current draft. RMA informed GAO that the lack of these regulations had not hindered RMA from using its statutory authority to sanction some producers. However, having the regulations in place should help improve the overall sanctions process.
- The proposed rule to amend the *General Administrative Regulations, Administrative Remedies for Non-Compliance Provisions* was published in the *Federal Register* on May 18, 2007. The comment period for the proposed rule ended on June 18, 2007. Compliance has reviewed the comments to the proposed rule and forwarded the final rule to OGC for clearance. RMA received 17 comments within the comment period. The proposed rule and the comments received are now available online at www.regulations.gov under the Federal Crop Insurance Corporation.

FSA Crop Disaster Program Referrals

As of August 1, 2008, the number of Crop Disaster Program (CDP) referrals from 2005 to 2007 received from FSA offices nationally is **5,545**. Approximately half of these referrals are due to reported entity discrepancies between FSA and RMA. Producers often structure their operations to maximize FSA benefits, but fail to amend their entity structure on their crop insurance policy. In some cases, this can result in policy avoidance. See below for a breakdown of referrals by Regional Compliance Office and State.

Northern Regional Compliance Office CDP Activity

STATE	2005 CY	2006 CY	2007 CY	TOTAL	To Be Entered	Grand Total
Iowa	15	13	23	51	0	51
Minnesota	43	75	149	267	0	267
Montana	19	62	56	137	0	137
North Dakota	65	112	47	224	153	377
South Dakota	29	81	63	173	0	173
Wisconsin	58	71	116	245	0	245
Wyoming	1	0	1	2	0	2
Total	230	414	455	1,099	153	1,252

Southern Regional Compliance Office CDP Activity

STATE	2005 CY	2006 CY	2007 CY	TOTAL
Arkansas	6	5	6	17
Kentucky	23	10	79	112
Louisiana	1	1	0	2
Mississippi	2	30	10	42
New Mexico	0	0	1	1
Oklahoma	33	87	141	261
Tennessee	7	0	4	11
Texas	72	242	52	366
Total	144	375	293	812

Western Regional Compliance Office CDP Activity

STATE	2005 CY	2006 CY	2007 CY	TOTAL
California	19	27	55	101
Idaho	128	78	118	324
Nevada	1	0	0	1
Oregon	6	0	0	6
Utah	0	0	1	1
Washington	16	28	12	56
Total	170	133	186	489

Midwest Regional Compliance Office CDP Activity

STATE	2005 CY	2006 CY	2007 CY	TOTAL
Illinois	20	11	27	58
Indiana	87	34	66	187
Michigan	51	30	67	148
Ohio	70	7	41	118
Total	228	82	201	511

Central Regional Compliance Office CDP Activity

STATE	2005 CY	2006 CY	2007 CY	TOTAL
Colorado	5	6	1	12
Kansas	149	268	388	805
Missouri	80	41	124	245
Nebraska	28	37	23	88
Total	262	352	536	1,150

Eastern Regional Compliance Office CDP Activity

STATE	2005 CY	2006 CY	2007 CY	TOTAL
Alabama	2	46	9	57
Delaware	14	12	19	45
Florida	2	2	10	14
Georgia	3	7	2	12
Maine	39	25	6	70
Maryland	10	13	39	62
New York	21	52	70	143
North Carolina	25	32	56	113
Pennsylvania	277	149	216	642
South Carolina	4	1	3	8
Virginia	39	32	82	153
West Virginia	1	2	9	12
Total	437	373	521	1,331

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