



**United States
Department
of
Agriculture**

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TO: Board of Directors
Federal Crop Insurance Corporation

Federal Crop
Insurance
Corporation

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SUBJECT: Manager's Report
Exhibit No. 2980

This memorandum serves as the Manager's Report to the Federal Crop Insurance Corporation (FCIC) Board of Directors for the March 12, 2009, meeting.

Program Updates:

Group Risk Plan for Oysters - The Risk Management Agency (RMA) released to Approved Insurance Providers (AIPs) the policy and underwriting materials for the Group Risk Plan for Oysters (GRP-Oysters) plan of insurance. The Federal Crop Insurance Corporation Board of Directors approved the GRP-Oysters plan of insurance on November 20, 2008. The program is designed to provide insurance protection for oyster producers comparable to other Federally reinsured group risk plans of insurance. The GRP-Oyster program is available in select parishes in Louisiana, and provides coverage to oyster producers against substantive reduction in oyster yields occurring as a result of unavoidable natural causes. The GRP-Oysters plan does not rely on an individual's actual production to determine when an indemnity is due.

Biotechnology Qualifying Hybrids – On February 18, 2009, RMA activated a web-based support tool to assist AIPs, Agents, insured producers and others in verifying qualifying hybrids under the Biotechnology Endorsement approved by the FCIC Board of Directors. There is a link to this website on the “What’s new” section of the RMA website and a link under the “Tools and Calculators” section of the website under Pilot Biotechnology Endorsement. RMA developed the web application to assist in implementing a single unified Biotechnology Endorsement and determined it would be more efficient to have a single verification point rather than having four separate web sites for verification if Monsanto, Dow Agrosiences, Pioneer Hybrids and Syngenta Seeds all had individual websites for this purpose.

Grass Seed Solicitation – The Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) required RMA to enter into a contract to develop a pilot program for grass seed, specifically Kentucky bluegrass or perennial ryegrass, produced under contract within Minnesota and North Dakota. A solicitation for bids to develop such a program closed February 23, 2009, and proposals are being evaluated by RMA.

Sesame Pilot Development – The 2008 Farm Bill required RMA to enter into a contract to develop a pilot program for sesame produced under contract in Texas. A contract was awarded to Promar in January 2009, and work to develop the product is underway.

Organic Rating and Pricing – The 2008 Farm Bill required RMA to enter in a contract to review the underwriting, risk and loss experience of organic crops covered by crop insurance as compared

to crops produced in the same counties and crop years using nonorganic methods. A contract to do so has been awarded to Watts and Associates.

Comprehensive Information Management System (CIMS) – Since 2004, RMA and the Farm Service Agency (FSA) have been jointly working on the CIMS project to provide an information system that gives RMA, FSA, other USDA agencies, as well as AIPs, a tool to access data; assist in timely identifying reporting errors; reduce fraud and abuse vulnerabilities; and improve overall program integrity in their respective programs. On February 6, 2009, AIPs were provided access to CIMS information. They will be able to use this information to reduce costs associated with data collection by having electronic access to FSA data versus an in person visit to the USDA county office. They will also be able to identify inconsistencies between information reported for RMA and FSA programs.

Spring Flooding Possible in the North Red River Valley

The Red River Valley of the North has received between 200 and 300 percent of normal precipitation since late 2008 and had 23 days of snow, leaving the water content of snowpack at 170 to 300 percent above normal. Based on this, the North Central River Forecast Center expects a 50 to 75 percent chance of major flooding this spring. Several Minnesota Counties may be affected. In 2008, the 14 affected Minnesota Red River Valley counties insured 4.2 million acres of crops with a total coverage of over \$1.5 billion.

Washington State Wheat Update

Wheat stands in many Eastern Washington counties are poor and many fields may have to be replanted due to a combination of dry planting conditions, extreme cold and below normal precipitation through much of the winter. Reports from significant wheat counties estimate some wheat may have to be replanted. This follows the highest loss year on record with \$49 Million in wheat loss payments for 2008. Over the past month, the Spokane Regional Office has met with nearly 500 wheat producers at meetings in affected areas to discuss crop insurance, replanting provisions and other wheat crop insurance questions. There is concern mounting that in some of the drier areas it may not be practical to replant considering existing limited sub-soil moisture and average annual growing season precipitation. Washington wheat had a total coverage value of \$419,320,928 with 4,883 policies earning premium for the 2008 crop year. The total liability numbers may be higher for 2009.

Cherry ARH Program Sales Successful in the Northwest

The transition from the fixed dollar program to the Actual Revenue History (ARH) Cherry program has been very successful in the Northwest. To date there are 127 more buy-up cherry policies in force on ARH versus the fixed dollar program in 2008 and with fewer than one half of the 2009 policies reported, coverage has already eclipsed the final 2008 numbers.

Cold Weather Damages Florida Crops

Mid January and early February brought extreme cold temperatures throughout the State of Florida and in Georgia with lows reported in the high teens as far south as Lake Okeechobee. The duration of these lows was in excess of seven hours in most areas with conditions damaging to citrus trees as well as citrus fruit. The winter vegetable harvest was almost complete however; some production that was still in the field was damaged. Palm tree nurseries were especially hard hit. The Valdosta Regional Office received 42 large claims notifications that included citrus fruit, citrus trees, nursery, tomatoes, peppers, and potatoes.

California Drought

California's water supply has dropped after the third year of drought. The Bureau of Reclamation announced its 2009 allocation for contract water users of the Central Valley Project (CVP). The CVP and the State Water Project (SWP) are two water delivery systems in the state of California that provide

irrigation water to over 1.6 million acres of farmland. The water allocation for the SWP was previously announced as 15 percent; and this past week, the CVP announced its allocation as zero percent. The predictions are that most reservoirs will not be able to fill up to its original anticipated capacity. The SWP will most likely announce a very low percentage on water allocation as well. The Davis Regional Office is working with the California/Nevada Regional NCIS Committee to form a Water/Drought Task Force.

Managers Bulletin MGR-09-001—Non-disclosure Statements

On January 5, 2009, RMA issued MGR-09-001 “Non-disclosure Statements.” In this bulletin, approved insurance providers are directed to ensure that all persons having access to personally-identifiable information arising from FCIC programs sign a non-disclosure certification. This certification requirement initially arose from sharing with the Farm Service Agency and, in turn insurance providers, of Comprehensive Information Management System (CIMS) data. This bulletin modifies and supersedes MGR-08-004.

Managers Bulletin MGR-08-018—Privacy Act Statement for Agents, Loss Adjusters and Policyholders

On December 12, 2008, RMA issued MGR-08-018 “Privacy Act Statement for Agents, Loss Adjusters and Policyholders. In the bulletin, insurance providers are directed to include the RMA approved Privacy Act Statement on all contracts and forms on which agents and loss adjusters provide personally identifiable information. The statement explains how personally identifiable information on the forms will be used by RMA and others. Previously, a Privacy Act Statement was required only on forms used by policyholders.

Loss Adjuster Proficiency and State Licensing

RMA has been working closely with the National Association of Insurance Commissioners (NAIC) Crop Insurance Working Group and the crop insurance industry on loss adjuster proficiency and certain challenges of state licensing of crop insurance loss adjusters. State licensing requirements vary widely and some states require property and casualty tests that do not relate to crop loss adjustment. NAIC, RMA and the industry have determined that an amendment to the Standard Research Agreement (SRA) is needed to ensure that loss adjuster proficiency is more consistent across the country while preserving State licensing as the primary, but not sole, basis for determining proficiency. The amendment will allow RMA to approve a crop loss adjuster proficiency testing program operated by a third party in lieu of state licensing requirements if the state’s requirements are not crop specific. It will also require a third-party proficiency testing program in states that currently have no licensing requirements, thereby raising loss adjuster proficiency and improving program integrity. RMA, with the support of NAIC and the industry, will soon issue this voluntary SRA amendment for signature by approved insurance providers. If approved by insurance providers, the amendment will become effective for the 2010 reinsurance year.

Plan of Operations Guidance

RMA anticipates issuing an Informational Memorandum, which will provide guidance to all insurance providers in preparing and submitting Plans of Operation for the 2010 reinsurance year. Plans of Operation are due April 1 for the 2010 reinsurance year beginning July 1, 2009.

Controlled Business

The 2008 Farm Bill included a new requirement that all persons receiving compensation for the sales and service of FCIC policies could not receive more than 30 percent of that compensation as a result of their own or their immediate family’s policies. After the passage of the 2008 Farm Bill, RMA issued a bulletin to the industry (Informational Memorandum IS-08-007) alerting participants to this new provision and the fact that it became effective for the 2009 reinsurance year. RMA has received many inquiries for

clarification on the provision. It has also received requests from insurance providers for RMA to provide guidance regarding the end-of-year compliance certification requirement. RMA plans to shortly issue guidance to insurance providers that will establish a standardized certification process to ensure uniformity across the program.

FY2007 Partnership Agreement Close-Out

The Risk Management Education (RME) staff is reviewing final project reports from partners and the close out process has begun. These agreements ended September 30, 2008. Close out letters have been sent to partners and RME Financial Management staff.

FY2008 Agreements

First quarter progress reports are being reviewed and quarterly conference calls are being conducted with the respective regional offices, partners and RME staff.

FFA Risk Management Writing Contest

The RMA-sponsored FFA Risk Management Writing contest was kicked off last October at the FFA National Convention in Indianapolis, Indiana. January 31, was the deadline for submission of essays. RME is waiting the top 33 essays from National FFA. A panel of reviewers will review these essays and the top 10 identified by the end of March. The 10 winners will be travelling to Washington, DC on May 6-8, for meetings with USDA officials and Members of Congress.

FY2009 Request for Applications

The final drafts of the FY 2009 Request for Applications for Targeted States and Commodity Partnership Small Sessions are in its final stage of approval. Hawaii was added as a Targeted State with the passage of the 2008 Farm Bill, making a total of 16 Targeted States. With the addition of Hawaii, each Targeted States' funding allocation was adjusted. The Targeted States' combined funds are annually set at \$5 million. In carrying out the programs established under the 2008 Farm Bill, the RFA announcement will include special emphasis on risk management strategies, education, and outreach specifically targeted at beginning farmers and ranchers; legal immigrant farmers and ranchers who are attempting to become established producers in the United States; socially disadvantaged farmers and ranchers; farmers and ranchers who are preparing to retire and are using transition strategies to help new farmers and ranchers get started; and new or established farmers or ranchers who are converting production and marketing systems to pursue new markets.

Regulatory Update:

General Administrative Regulations- Compliance

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, with the comment period ending on June 18, 2007. Compliance reviewed the comments to the proposed regulation and received USDA Office of General Counsel (OGC) clearance on the final rule. Due to language in the 2008 Farm Bill, the regulation required some modifications that were incorporated and approved by OGC. The final rule was published on December 18, 2008, and became effective on January 20, 2009.

Common Crop Insurance Policy and Group Risk Plan Basic Provisions

The interim rule published in the Federal Register on November 12, 2008, implemented several changes mandated by the 2008 Farm Bill. The changes include a new organic crop definition, enterprise and whole farm unit changes, crop production on native sod, and settlement of claims on farm-stored production. The interim rule is in effect for 2009 spring crops. RMA will respond to public comments as the final rule is prepared for publication in the Federal Register in March 2009.

Subpart V – Submission Regulation

The final rule to remove all references to premium reduction plans under Section 508(h) of the Federal Crop Insurance Act was approved by USDA on February 18, 2009, for publication in the Federal Register. This change is mandated by the 2008 Farm Bill.

Apple Crop Provisions

The Product Administration and Standards Division (PASD) is working with OGC to resolve concerns they have raised regarding the proposed rule. The proposed rule contains changes to the Optional Coverage for Fresh Fruit Quality Adjustment and changes requested by apple producers and the apple industry. PASD also worked extensively with AIP representatives to prepare the apple regulatory changes. The final rule is now targeted for the 2011 crop year.

Avocado (Florida)

The proposed rule was sent to OGC for review and approval on January 28, 2009. The proposed rule converts the avocado (Florida) pilot crop insurance program to a permanent program and is targeted for the 2010 crop year.

Cabbage Crop Provisions

The final rule was approved for publication in the Federal Register on February, 18, 2009. The final rule converts the cabbage pilot crop insurance program to a permanent program and is in effect for the 2010 crop year.

Grape and Table Grape Crop Provisions

The final rule is in Product Management's concurrence process. The final rule makes several changes requested by grape growers and the grape industry, and is targeted for the 2010 crop year.

Tobacco

The final rule is in the USDA clearance process. The 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 is targeted for the 2010 crop year.

Financial Operations and Review Staff and National Association of Insurance Commissioners (NAIC) Coordinate Efforts - RMA's Financial Operations and Review Staff continues to enhance and foster a strong reciprocal relationship with the National Association of Insurance Commissioners and State Insurance Regulators. RMA continues to receive annual and quarterly financial data as well as detailed regulatory information related to AIPs from NAIC. RMA's working relationships with NAIC and the State Insurance Regulators have been enhanced through interaction at the National NAIC Spring, Summer, Fall and Winter Conferences as well as the NAIC Financial Summit attended throughout 2008.

National Financial and Operations Reviews (NFOR) – The Financial Review Staff provides financial and operational oversight over AIPs and managing general agencies participating in the Federal crop insurance program. The staff continued to enhance its financial oversight of all 17 companies by conducting 5 to 6 on-site NFORs per year, more than 17 annual financial analysis reviews, and 68 quarterly financial analysis reviews, in addition to new-company financial analysis reviews, and new-company orientations. The Financial Review Staff continues to be on target with its goal of conducting an on-site review of each AIP at least once every three years. Financial Review Staff have scheduled on-site NFORs of the following companies for Fiscal Year 2009:

- American Agri-Business Insurance Company/ARMtech Insurance Services (Oct 2008)
- Insurance Company of the State of Pennsylvania/John Deere Risk Protection (Dec 2008)
- Western Agricultural Insurance/Crop 1 Insurance Direct (Apr 2009)
- Stonington Insurance Company/Agro National Insurance (May 2009)
- Great American Insurance Company (July 2009)
- Austin Insurance Company/CGB (Sept 2009)

Compliance:

Compliance Database Modernization Project – The Compliance Activity Reporting System (CARS) project continues to be on track with an anticipated completion date of June 2009. As part of the overall Information Technology Modernization (ITM) project, the RMA Compliance staff is in the process of obtaining a replacement database management system. The specifications call for the new system to be compatible with the RMA platform configuration and run with “off the shelf” software to reduce costs and increase electronic interface with the companies. Compliance is working toward a system in the future that will accommodate an all electronic exchange of findings and responses to each of the companies. We have initiated a pilot program with one company to start testing this concept and develop the processes necessary for paperless interactions.

National Program Operations Reviews (NPOR) – The Compliance Offices are completing the notification process to the companies for findings associated with the policies selected for the **2007** crop year NPOR’s.

<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

Additionally, Compliance has announced the companies that will be reviewed for the **2008** crop year as follows:

RO code	AIP Name	Compliance Office
WA	Crop 1 Insurance Direct, Inc.	CRCO – Kansas City, MO
FA	American Farm Bureau Ins. Services	MRCO – Indianapolis, IN
*	Nursery Program Reviews	ERCO – Raleigh, NC
GI	Heartland Crop Insurance, Inc.	SRCO – Dallas, TX
RH	Rain and Hail Insurance Services	NRCO – Minneapolis, MN
CM	Country Mutual Insurance Company	WRCO – Davis, CA

*Due to limited resources and significant OIG findings relative to the Nursery crop insurance program, the ERCO has been assigned to perform targeted Nursery program reviews during 2009 to ascertain the extent of the Nursery problems, issue findings, and recommend sanctions and other corrective actions as indicated.

Update 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:

1. 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. Farm Service Agency has stated that without additional resources, it will be unable to perform 100 percent of the designated growing season inspections.

Status - Complete

2. 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.

Status – Overdue The Farm Service Agency did not add “Taxpayer Identification Number Data Mining by RMA” to its routine use listing under the Privacy Act. Subsequently, until FSA completes this task, RMA cannot use FSA entity information to implement the 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, continues to be 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 has been interpreted to 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 is in process, however RMA expects that the information will be available for data mining. In any event FSA must publish a Systems of Records Notice to provide constructive public notification that FSA intends to provide producer data to RMA to improve program integrity.

- 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.

Status – In Progress The work on this recommendation is ongoing. 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 the testing of the data. RMA continues to work on ensuring companies can fully report their quality control results through this automated system. We continue to show this as “in progress” because we continue to modify the Type 57 record. While the project is operational and substantially complete, it remains subject to modification and improvement to meet the initial automated reporting goal.

- Finalizing the ARPA-implemented sanctions regulations as soon as OGC has completed its review of the current draft.

Status – Complete RMA informed GAO that the lack of these regulations had not hindered RMA from using the statutory authority to sanction some producers. However, getting the regulations in place should help improve the overall sanctions process.

Sanctions Report for 2008

The Compliance Appeals, Litigation, and Legal Liaison Staff and the Sanctions Office are responsible for preparing and monitoring corrective actions against persons found to have violated the Federal Crop Insurance Act, associated statutes, and regulations. The following actions and pending cases were reported for

SANCTION TYPE TOTAL	Civil Fine	Debarment	Disqualification	Suspension
New Referrals 24 (received)	4	2	14	4
Completed 33 (sanction imposed)	6	5	18	4
Declined 4 (lacked legal sufficiency)	1		1	2
Appealed, Withdrawn, or Dismissed	1			
Pending into 2009 32 (A&L, OGC, ALJ, or DOJ)	12	6	14	0

FSA Crop Disaster Program (CDP) Referrals – The number of CDP referrals for crop years 2005, 2006, and 2007 received as of February 23, 2009, from Farm Service Agency offices nationally is **6,606**. Approximately half of these referrals are due to reported entity discrepancies between FSA and RMA records. Producers often structure their operations to maximize FSA benefits, but fail to amend their entity or Substantial Beneficial Interest certifications, as required, on their crop insurance policy. In some

cases this can result in policy voidance. RMA's issuance of Manager's Bulletin **MGR-08-008**, Correction of Named Insureds (Jun 4, 2008), provided some relief for the 2006 and 2007 crop years, but does not address those producers who changed entities in 2005 or earlier and failed to correct their crop insurance identification.

Information Technology Modernization (ITM)

Risk Management Agency's IT Modernization initiative is underway. The first phase of the program, focused on actuarial and policy acceptance systems, is fully staffed. Program planning and requirements analysis phases are being completed. Development of the Compliance Activities and Results System (CARS) is completing the second iteration of 4, and the Comprehensive Information Management System (CIMS) delivered new geographical and production data to AIPs in February 2009.

RMA's IT Modernization initiative was authorized in the 2008 Farm Bill. The initiative is to modernize 15 year old information technology systems to support new products and increased liability coverage. The new modernization technology system will implement the COMBO rule for the 2011 crop year. A phased development approach is being used to manage risk and complexity. Phase I is focused on actuarial and policy acceptance business processes. Phase II is focused on accounting, reporting, and regional office exceptions. When deployed, the ITM systems will more easily accommodate potential changes or initiatives within the crop insurance program.