

Final Agency Determination: FAD-285

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Subject: Request received October 22, 2018, to the Risk Management Agency (RMA) requesting a Final Agency Determination (FAD) for the 2016 crop year regarding the interpretation of section 20(d)(1)(i) the Common Crop Insurance Policy Basic Provisions (Basic Provisions), published at 7 C.F.R. § 457.8. This request is pursuant to 7 C.F.R. § 400, subpart X.

Background:

Section 20(d)(1)(i) of the Basic Provision states, in relevant part:

20. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review.

(d) We will make decisions regarding what constitutes a good farming practice and determinations of assigned production for uninsured causes for your failure to use good farming practices.

(i) If you disagree with our decision of what constitutes a good farming practice, you must request a determination from FCIC of what constitutes a good farming practice before filing any suit against FCIC.

(ii) If you disagree with our determination of the amount of assigned production, you must use the arbitration or mediation process contained in this section.

(iii) You may not sue us for our decisions regarding whether.

Interpretation Submitted

The requester interprets section 20(d)(1)(i) of the Basic Provisions, along with MGR-05-010, as creating a duty upon an approved insurance provider (AIP) that when an AIP makes a determination that the policyholder did not utilize good farming practices, the AIP must date and send that decision in writing to the policyholder.

The requestor further proposes that the policyholder has 30 days after the date of receiving the written and dated good farming practice decision letter to request a subsequent good farming practice determination from the RMA Regional Office.

Final Agency Determination

The Federal Crop Insurance Corporation (FCIC) agrees in part with the requestor. The relevant portion of MGR-05-10 has been incorporated into current procedure and can be found in the 2015 Good Farming Practice Determination Standards Handbook (FCIC-14060). Part 4, Section 31B(1) and B(5)(b) of the 2015 Good Farming Practice Determination Standards Handbook states, in the relevant part:

31. AIP Duties.

B. The GFP Decision Letter

The GFP Decision letter provided from the AIP to a Policyholder must:

(1) be in writing and dated;

(5) inform the Policyholder of their appeal rights under Paragraph 20 of the BP;

(b) to request a GFP Determination, in writing, from the RO through the AIP to the RO within 30 calendar days from the date of the GFP Decision.

FCIC agrees that the thirty-day period in which a policyholder may request a GFP determination from the RMA Regional Office commences from the date of the written and dated AIP good farming practice decision letter, not when the policyholder receives the written and dated AIP good farming practice decision letter. However, this presumes the letter was mailed on the date of the letter but the producer can rebut this presumption if the postmark shows a much later date. This could extend the 30 days if there has been a delay in sending the letter.

In accordance with 7 C.F.R. § 400.765(c), this Final Agency Determination is binding on all participants in the Federal crop insurance program for the crop years the policy provisions are in effect. Any appeal of this decision must be in accordance with 7 C.F.R. § 400.768(g).

Date of Issue: December 19, 2018