

## [Final Agency Determination: FAD-315](#)

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**Subject:** Request dated August 17, 2022, submitted to the Risk Management Agency (RMA) for a Final Agency Determination (FAD) of section 2(b) of the Common Crop Insurance Policy (CCIP) Basic Provisions, published at 7 C.F.R. §457.8. This request is pursuant to 7 C.F.R. § 400, Subpart X.

**Reference:**

The 2018 CCIP Basic Provisions state, in relevant part:

2. Life of Policy, Cancellation, and Termination.

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(b) With respect to your application for insurance:

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(3) In addition to the requirements of section 2(b)(1) or (2), you must include the following for all persons who have a substantial beneficial interest in you:

(i) The SSN for individuals; or

(ii) The EIN for persons other than individuals and the SSNs for all individuals that comprise the person with the EIN if such individuals also have a substantial beneficial interest in you;

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(6) With respect to persons with a substantial beneficial interest in you:

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(ii) Your policies for all crops included on your application, and for all applicable crop years, will be void if the SSN or EIN of any person with a substantial beneficial interest in you is incorrect or is not included on your application and:

(A) Such number is not corrected or provided by you, as applicable;

(B) You cannot prove that any error or omission was inadvertent (Simply stating the error or omission was inadvertent is not sufficient to prove the error or omission was inadvertent)...

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(7) When any of your policies are void under sections 2(b)(5) or (6):

(i) You must repay any indemnity, prevented planting payment or replanting payment that may have been paid for all applicable crops and crop years;

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FAD-113 (Issued on March 17, 2010)

Request dated January 4, 2010, requesting a Final Agency Determination for the 2008 and three previous crop years regarding the interpretation of 2(b)(1) of the Common Crop Insurance Policy Basic Provisions (Basic Provisions), published at 7 C.F.R. 457.8, and section 3(b) of the Crop Revenue Coverage (CRC) Insurance Policy. The determination states, in part:

FCIC agrees that Manager's Bulletin MGR-08-008 does not affect, waive, or modify the requirements of section 2(b) of the Basic Provisions. Section 2(b) of the Basic Provisions involves persons with an interest in the insured and the requirement to provide identification numbers for such persons. MGR-08-008 involves the persons with an insurable interest in the crop, not the insured, and determining the correct insured and amount of indemnity. Interest in the insured and interest in the crop have always been treated as separate issues and have separate reporting requirements. RMA released MGR-08-008 to provide relief under section 10(a) of the Basic Provisions where the named insured is reported erroneously due to an inadvertent failure to report the

correct named insured. However, the issue with the named insured involves who has a proper interest in the crop and to be eligible for relief the persons with an SBI and the correct identification numbers had to be provided in accordance with the policy.

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### **Interpretation Submitted**

Section 2(b)(6) of the Basic Provisions requires and authorizes the requestor to void a crop insurance policy if the producer does not report all persons with a Substantial Beneficial Interest (“SBI”), as required by section 2(b)(3). Moreover, although the Basic Provisions do not define inadvertent, the producer must provide documentation establishing that the omission was inadvertent. To this end, a statement by the producer or agent stating that the failure to report the name and tax identification number of the SBI was inadvertent is not sufficient to establish that the omission was inadvertent. In addition, the existence of claim does not affect the requestor’s authority to void a policy if the policyholder has not complied with section 2(b)(3).

The requestor also believes that Bulletin No.: MGR-08-008 does not modify, waive, or affect either section 2(b)(3) or the requestor’s authority to void a policy under section 2(b)(6) of the Basic Provisions, because MGR-08-008 relates to persons with an insurable interest and provides relief only under section 10(a) of the Basic Provisions when the named insured is reported erroneously due to an error in reporting the correct insured.

Finally, the interpretation set forth above applies equally to other crop years to the extent the provisions of section 2(b) are identical or nearly identical to the policy in effect in 2019, as this assures consistent, uniform, and equitable treatment of all producers insured under the Basic Provisions.

### **Final Agency Determination**

FCIC agrees with the requestor that if the producer does not report all persons with a Substantial Beneficial Interest (SBI), as required by section 2(b)(3) and (6), and the producer cannot prove that the error or omission is inadvertent as required in 2(b)(6), the policies for all crops included on the application, and for all applicable crop years, will be void as required by section 2(b)(6). As provided in section 2(b)(6)(ii)(B), simply stating the error or omission was inadvertent is not sufficient to

prove the error or omission was inadvertent. Additionally, FCIC agrees with the submitter that the existence of a claim doesn't affect the ability of the AIP to void the policy at any time if there is a basis for avoidance as provided in the policy. Section 2(b)(7) states that when any of your policies are void under 2(b)(5) or 2(b)(6), which is the extension of the requirement in 2(b)(3), that you must repay any indemnity, prevented planting payment or replanting payment that may have been paid for all applicable crops and crop years.

FCIC agrees the requestor's interpretation of Manager's Bulletin MGR-08-008, "Correction of Named Insureds" does not affect, waive, or modify the requirements of section 2(b); therefore, is not applicable to the omission of an SBI from the application. This is supported by FAD-113, published on RMA's website on March 17, 2010, which states that MGR-08-008 provides relief for section 10(a) where the named insured is reported erroneously due to an inadvertent failure to report the correct named insured.

To the extent the language in the provisions interpreted is identical to the language applicable for any other crop year, the same interpretation can be applied to such other crop year. It is the responsibility of the person seeking to use the published interpretation for a different crop year to ensure that the language of the provisions is identical. Even minor language changes can affect the interpretation.

In accordance with 7 C.F.R. § 400.766(b)(2), this FAD 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. § 400.766(b)(5).

**Date of Issue:** October 7, 2022