



## **Final Agency Determination: FAD-275**

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**Subject:** Two requests dated October 21, 2017, and October 24, 2017, to the Risk Management Agency (RMA) requesting a Final Agency Determination for the 2016 crop year, and all other crop years for which the referenced policy provision is applicable, regarding the interpretation of section 11(c) of the Coarse Grains Crop Provisions, published at 7 C.F.R. § 457.113. These requests are pursuant to 7 C.F.R. part 400, subpart X.

### **Background:**

Referenced policy related to the request:

Section 11 of the Coarse Grains Crop Provisions states, in relevant part:

#### **11. Settlement of Claim.**

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(b) In the event of loss or damage covered by this policy, we will settle your claims by:

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(1) Multiplying the number of insured acres of each insured crop or type, as applicable, by your respective:

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(ii) Revenue protection guarantee (per acre) if you elected revenue protection;

(2) Totaling the results of section 11(b)(1)(i) or 11(b)(1)(ii), whichever is applicable;

(3) Multiplying the production to count of each insured crop or type, as applicable, by your respective:

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(ii) Harvest price if you elected revenue protection;

(4) Totaling the results of section 11(b)(3)(i) or 11(b)(3)(ii), whichever is applicable:

(5) Subtracting the result of section 11(b)(4) from the result of section 11(b)(2); and

(6) Multiplying the result of section 11(b)(5) by your share.

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(c) The total production to count (in bushels for corn insured as grain or in tons for corn insured as silage) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) For yield protection, not less than the production guarantee, or for revenue protection, not less than the amount of production that when multiplied by the harvest price equals the revenue protection guarantee (per acre) for acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) Damaged solely by uninsured causes;

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(ii) Production lost due to uninsured causes;

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(2) All harvested production from the insurable acreage.

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## **Interpretations Submitted**

Two interpretations were submitted in this FAD request.

### First Requestor's Interpretation:

The first requestor interprets section 11(c) of the Coarse Grains Crop Provisions to mean that, for Revenue Protection policies, the production assessed for uninsured causes relating to the failure to follow good farming practices must be determined and valued at an amount of production that when multiplied by the harvest price equals the revenue production guarantee for the commodity lost due to the uninsured cause. The requestor further interprets that this position holds true even if some portion of the insured's loss is determined to be due to an insured cause of loss.

### Second Requestor's Interpretation:

The second requestor interprets section 11(c) of the Coarse Grains Crop Provisions to mean that, for Revenue Protection policies, the production assessed for uninsured causes related to the failure to follow good farming practices must be determined and valued at an amount equal to the actual production to count multiplied by the Harvest Price, unless one of the enumerated circumstances of section 11(c)(1)(i)(A) through (E) exists.

## **Final Agency Determination**

The Federal Crop Insurance Corporation (FCIC) agrees with the second requestor's interpretation.

The production assessed for uninsured causes related to the failure to follow good farming practices must be determined and valued at an amount equal to the actual production to count multiplied by the harvest price in accordance with sections 11(b)(3)(ii) and 11(c)(1)(ii), unless the acreage meets any of the conditions listed in section 11(c)(1)(i)(A) through (E).

If the acreage is determined to meet any of the conditions listed in section 11(c)(i)(A) through (E), the production assessed for uninsured causes relating to the failure to follow good farming practices must be determined and valued at an amount of production that when multiplied by the harvest price equals the revenue

production guarantee for the commodity lost due to the uninsured causes in accordance with section 11(c)(1)(i).

The key distinction is whether or not the acreage was damaged solely or partially due to an uninsured cause of loss. If the acreage was damaged solely due to an uninsured cause of loss, the appraised production is the amount of production that when multiplied by the harvest price equals the revenue protection guarantee (per acre) for the acreage. For example, the producer's revenue protection guarantee is \$56,250 and the harvest price is \$2.00. The appraised production would not be less than 28,125 bushels (\$56,250 divided by \$2.00 equals 28,125 bushels). No producer indemnity would be due.

By contrast, if the damage was partially due to an uninsured cause of loss and partially due to an insured cause of loss, the total production to count would be multiplied by the harvest price, with no separate valuation calculation for insured and uninsured appraised production. To determine the indemnity, the total value of the production to count would be subtracted from the revenue protection guarantee. For example, the producer's revenue protection guarantee is \$56,250 (25,000 bushel production guarantee times \$2.25 projected price). The producer harvests 15,000 bushels. An appraisal determines that 5,000 bushels were lost due to uninsured causes and any other losses were attributed to an insured cause. The 5,000 bushels of appraised production are added to the harvested production for a total production to count of 20,000 bushels (15,000 harvested bushels plus 5,000 appraised bushels). The value of production to count would be \$40,000 (20,000 bushels times \$2.00 harvest price), resulting in a producer indemnity of \$16,250 (\$56,250 revenue protection guarantee minus \$40,000 value of production to count).

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:** January 16, 2018