

Final Agency Determination: FAD-263

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Subject: Request dated April 14, 2016, to the Risk Management Agency (RMA) requesting a Final Agency Determination for the 2015 and 2016 crop years regarding the interpretation of the section 1 definition of “harvest” of the Small Grains Crop Insurance Provisions, published at 7 C.F.R. § 457.101. This request is pursuant to 7 C.F.R. part 400, subpart X.

Background:

Referenced policy and procedure related to the request:

Section 1 of the Small Grains Crop Insurance Provisions states, in relevant part:

1. Definitions.

Harvest - Combining or threshing the insured crop for grain or cutting for hay or silage on any acreage. A crop which is swathed prior to combining is not considered harvested.

Interpretation Submitted

The requestor is specifically asking for clarification on the intent and full impact of the last sentence of the definition: “A crop which is swathed prior to combining is not considered harvested.” The requestor’s interpretation of the sentence, when taken with the rest of the definition: a crop that is swathed is not considered harvested until it is subsequently combined. If the crop is swathed with the intention of baling it for hay it would be considered “cut for hay”, thus harvested. If it were swathed to be combined later and subsequently the decision was made to bale or chop it as hay

or haylage, it would at that point be considered harvested. The requestor does not believe the statement means that once a crop is swathed, it would never be considered harvested.

Final Agency Determination

The Federal Crop Insurance Corporation agrees with the requestor's interpretation. When this portion of the policy was written, it was common practice for producers to swath their grain, let it dry in the swath or windrow to cure, and subsequently combine the grain. Section 11(b) of the Common Crop Insurance Basic Provisions provides that insurance ends at the earlier of destruction of the crop, harvest or the end of the insurance period. The policy provides insurance for grain swathed and in a windrow so insurance would not end before combining (harvesting) the crop. In accordance with the definition of "harvested" in the Small Grains Crop Provisions, a crop would not be considered "harvested" if it is only swathed. The common dictionary meaning as set forth by Merriam-Webster Dictionary defines "swath" as "an area of grass or grain that has been cut or mowed." This means the crop has not been "harvested", but left on the acreage. If at any time the swathed crop is baled, combined, or other such action in which the crop will be used for grain, hay, or silage, it is considered to be harvested.

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: July 14, 2016