

## **FAD-058**

**Subject:** Request dated June 1, 2006, for a Final Agency Determination for the 2006 and subsequent crop years, regarding the interpretation of section 6(d)(1) of the Common Crop Insurance Policy Basic Provisions (Basic Provisions), published at 7 C.F.R. § 457.8 as it relates to the methods FCIC approves for reducing reported planted acreage after the acreage reporting date has passed. This request is pursuant to 7 C.F.R. part 400, subpart X.

### **Background**

Section 6(d)(1) of the Basic Provisions is as follows:

#### Section 6. Report of Acreage

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(d) Regarding the ability to revise an acreage report you have submitted to us:

(1) For planted acreage, you cannot revise any information pertaining to the planted acreage after the acreage reporting date without our consent (Consent may only be provided when no cause of loss has occurred; our appraisal has determined that the insured crop will produce at least 90 percent of the yield used to determine your guarantee or the amount of insurance for the unit (including reported and unreported acreage), except when there are unreported units (see section 6(f)); the information on the acreage report is clearly transposed; you provide adequate evidence that we or someone from USDA have committed an error regarding the information on your acreage report; or if expressly permitted by the policy);

### **Interpretation Submitted**

The requestor interprets section 6(d)(1) to mean that a request to revise an acreage report must be denied unless one of the conditions that would permit consent exists. In addition, the requestor concludes that acreage revisions cannot be made solely to match Farm Service Agency (FSA) certified acres on a form 578 (FSA-578) unless the current crop year acreage has been determined (measured) by FSA and the acres appear in the “determined” column of the FSA-578. This would be true of any acreage revision, whether requested as the result of a claim being processed or requested prior to a loss occurring or a claim being filed.

Also, the requestor interprets section (6)(d)(1) to mean acres originally reported on an acreage report cannot be revised downward as a result of an insured producer’s request to revise an acreage report when no claim has been filed unless the insured provides proof of the crop acreage for the unit at his/her own expense by permanent field maps or a measurement by FSA or a measuring service. The requestor does not believe that acres certified on a FSA-578 form

meet this requirement unless those acres are based on a current acreage measurement. In the submitted interpretation, the requestor also quotes the following procedure contained in section 29.B(8) of the Loss Adjustment Manual:

(8) Acreage has been over reported

(a) When an insured requests a decrease in reported acres of a unit, the acreage report may be revised to remove those acres, provided:

1 At the time the insured requests a decrease in reported acreage, no cause of loss has occurred.

2 All units of the crop for which the revision is NOT requested must have existing acceptable determined acres, as defined in PAR. 80; and

3 For the unit for which the insured has requested a decrease in acres the insured must, at his/her expense, have a current measurement of the unit acreage that meets all the criteria for acceptable measured acres as stated in PAR. 80.

(b) Document the acceptable determined and measured acreage on a form used for documentation purposes or aerial photo map.

(c) Insured's request to reduce acres is not the same as automated revisions that occur during claims processing to adjust the premium based on what actually existed (e.g., less acres actually exist than reported).

### **Final Agency Determination**

The Federal Crop Insurance Corporation (FCIC) agrees revisions to acreage reports must be made in accordance with section 6 of the Basic Provisions. Section 6(d)(1) of the Basic Provisions states that the insured producer can revise acreage with consent from the approved insurance provider only when: (1) no cause of loss has occurred; (2) the approved insurance provider's appraisal has determined the crop will produce at least 90 percent of the yield used to determine the guarantee; (3) the information on the acreage report is clearly transposed; (4) the agent, approved insurance provider or someone from USDA committed an error regarding the information on the acreage report; or (5) if expressly allowed by the policy. There is nothing in section 6(d)(1) of the Basic Provisions that expressly allows the amount of reported planted acreage to be revised solely to match the certified number of acres on the FSA-578 form.

Paragraph 29B(8) of the Loss Adjustment Manual (LAM) Standards Handbook (FCIC-25010) is applicable when acreage has been over-reported and (1) there has been no cause of loss, in accordance with section 6(d)(1) of the Basic Provisions; (2) all units not included in the request

must have acceptable determined acres; and (3) all units for which a decrease is requested must have a current measurement of the acreage. If all these and the other stated requirements are met, the acreage can be reduced. Therefore, acreage that is only certified by the producer on a FSA-578 form and is not measured can not be used to reduce reported acreage even if there is no loss.

If consent to revise the acreage report is not authorized by the policy, sections 6(e), (f), and (i) still require that the acreage report be revised if the approved insurance provider discovers that the reported acreage is not correct. However, the provisions in section 6(g) of the Basic Provisions would apply.

In accordance with 7 C.F.R. 400.765(c), this constitutes the Final Agency Determination and is binding on all participants in the Federal crop insurance program for the 2006 and succeeding crop years. Any appeal of this decision must be in accordance with 7 C.F.R. 400.768(g).

***Date of Issue:*** August 31, 2006

Last Modified: 08/31/2006