

June 16, 2016

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Chief, Natural Resources Conservation  
Service  
U.S. Department of Agriculture  
1400 Independence Ave. SW  
Washington, DC 20250  
*Delivered via email to*  
[Jason.Weller@wdc.usda.gov](mailto:Jason.Weller@wdc.usda.gov)

Brandon Willis  
Administrator, Risk Management Agency  
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1400 Independence Ave. SW  
Washington, DC 20250  
*Delivered via email to*  
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Dear Chief Weller and Administrator Willis,

We write today out of our mutual desire to remove barriers to farmers using environmentally friendly and risk reducing practices and technologies.

As we are sure you know, cover crops are reemerging as an excellent tool for farmers to prevent soil loss and build soil health. The adoption of cover crops has the potential to address our most pressing environmental problems, such as nitrates in drinking water and the Gulf of Mexico dead zone. There is also emerging evidence that cover crops reduce yield risk, which is good for farmers and for the federal crop insurance program.<sup>1</sup> And despite the success of the USDA Interagency Task Force to resolve some policy issues around cover crops, problems still remain in crop insurance leading to NRCS and RMA policy conflict.

The National Sustainable Agriculture Coalition and the National Wildlife Federation are committed to removing barriers to the use of cover crops. While cover crops are becoming more popular, the best estimates have found that cover crops are planted on less than 2 percent of crop acres.<sup>2</sup>

One of the biggest barriers we hear about from farmers is the fear that putting in a cover crop will cause them to lose their crop insurance coverage. This fear has recently become reality, as was described in a recent Progressive Farmer article about a farmer in Iowa.<sup>3</sup> While still not fully resolved, there appears to be potential progress thanks to the diligent work of advocates and the cooperation of the AIP and RMA.. We have heard from other farmers who are facing a similar situation, most recently a Montana farmer denied coverage due to implementation of an NRCS-approved conservation enhancement under the Conservation Stewardship Program for interseeding cover crops. These situations can have a chilling effect on those thinking about using a cover crop.

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<sup>1</sup> <http://www.sare.org/Learning-Center/From-the-Field/North-Central-SARE-From-the-Field/2015-Cover-Crop-Survey-Analysis>

<sup>2</sup> <http://www.ers.usda.gov/publications/eib-economic-information-bulletin/eib147/report-summary.aspx>

<sup>3</sup> <http://agfax.com/2016/04/29/farmer-threatened-crop-insurance-cancellation-cover-crop-interseeding-dtn/>

Consistent with previous recommendations from our organizations and from the participants in the AGree Conservation and Crop Insurance Task Force, we urge you to take the following two actions:

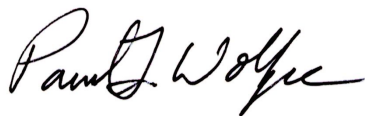
1. Amend the Special Provisions of the Common Crop Insurance Policy to allow farmers to use the GFP process in place of the NRCS termination guidelines. Correspondingly modify the NRCS Cover Crop Termination Guidelines to be consistent with the Special Provisions.
2. Amend the Common Crop Insurance Policy and the GFP Handbook to clarify that NRCS conservation practice standards and conservation enhancements are GFP.

Detailed red lines of the requested changes are included as attachments to this letter.

These two modest changes to the Common Crop Insurance Policy and the Good Farming Practice Handbook are relatively easy methods of removing barriers to the expanded use of cover crops and other similarly important conservation practices. These changes will create a more consistent message across USDA about cover crops and other high priority conservation activities and will give farmers a more consistent and reliable set of rules to follow.

We would be happy to meet with you or your technical staff to discuss any concerns you may have. It is important that this request is acted on quickly so that the changes can be in place for the 2017 Crop year. The solutions presented here represent valuable steps toward further harmonizing NRCS and RMA policy in meaningful ways that maintain the integrity of agency program goals.

Sincerely,



Paul Wolfe  
Policy Specialist  
National Sustainable Agriculture Coalition



Dr. Ryan Stockwell  
Senior Agriculture Program Manager  
National Wildlife Federation

## **1. Language to amend the Special Provisions of the Common Crop Insurance Policy to allow farmers to use the GFP process in place of the NRCS termination guidelines.**

The special provisions of the common crop insurance policy includes language which requires the farmer to follow the NRCS termination guidelines in order for a crop following a cover crop or a crop into which a cover crop is planted is allowed for insurance to attach. This unique treatment has caused numerous problems for producers and considerable confusion on the part of insurance companies, leading to concerns with insurance being the biggest reason farmers are not implementing cover crops.

The language below includes the existing language in the special provisions along with recommended edits to allow flexibility for farmers to choose whether they wish to follow the NRCS termination guidelines or the GFP process which relies on local experts and information for determining if the management was appropriate for the crop and region.

Additionally, language changes will need to be made to the NRCS Cover Crop guidelines that refer to their use to reduce risk.

Current special provisions language:

“Insurance shall attach to a crop following a cover crop when the cover crop meets the definition provided in the Basic Provisions, was planted within the last 12 months, and is managed and terminated according to NRCS guidelines. If growing conditions warrant a deviation from the guidelines, producers should contact either Extension or the local NRCS for management guidance. For information on cover crop management and termination guidelines, refer to the Cover Crop Termination Guidelines published at <http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/landuse/crops/>.”

Proposed edits:

“Insurance shall attach to a crop following a cover crop when the cover crop meets the definition provided in the Basic Provisions, was planted within the last 12 months, and is managed and terminated according to **local expert knowledge as determined through the Good Farming Practice determination process. In the event the GFP process determines the cover crop was not managed using good practices, any loss adjustment will adhere to the process for determining insured from uninsured loss, as delineated in the Loss Adjustment Manual. If the insured so chooses, they may adhere to the NRCS guidelines in place of the GFP process.** For information on cover crop management and termination guidelines, refer to the Cover Crop Termination Guidelines published at <http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/landuse/crops/>.”

## Edits to the NRCS Cover Crop Termination Guidelines Document

Current NRCS Cover Crop Management guidelines refer to their development for the purpose of “developing cover crop termination guidelines.” This may lead to some interpreting the NRCS guidelines as the only source of information that may guide cover crop management decisions. In order to clarify the Good Farming Practice as an option for providing expert guidance and evaluation of cover crop strategies, NRCS must update the Cover Crop Termination Guidelines document.

### Current NRCS Cover Crop Termination Guidelines introduction:

To ensure that USDA policies are coordinated and up to date with evolving cover crop practices, the administrators of the Natural Resources Conservation Service (NRCS), Risk Management Agency (RMA) and Farm Service Agency (FSA) organized an interagency workgroup to develop consistent, simple and flexible policy across the three agencies. National and local experts, along with multiple stakeholders, were involved in the process. Research literature, plant growth, soil hydrology models, and input from national/local experts in cover crop management provided the basis for developing cover crop termination guidelines to achieve their conservation benefits while minimizing risk of reducing yield to the following crop due to soil water use. These guidelines will be applicable to all USDA programs.

### Proposed edits:

To ensure that USDA policies are coordinated and up to date with evolving cover crop practices, the administrators of the Natural Resources Conservation Service (NRCS), Risk Management Agency (RMA) and Farm Service Agency (FSA) organized an interagency workgroup to develop consistent, simple and flexible policy across the three agencies. National and local experts, along with multiple stakeholders, were involved in the process. Research literature, plant growth, soil hydrology models, and input from national/local experts in cover crop management. **These guidelines are provided as a national technical source and serve as an alternative set of information to local information and expertise that provides the basis for “Good Farming Practices.”**

## **2. Proposed language to amend the Common Crop Insurance Policy and the GFP Handbook to clarify that NRCS conservation practice standards and conservation enhancements are GFP**

### **PROPOSED COMMON CROP INSURANCE POLICY CHANGES**

#### **Terms and Conditions**

## Basic Provisions

### 1. Definitions

*Good farming practices.* The production methods utilized to produce the insured crop and allow it to make normal progress toward maturity and produce at least the yield used to determine the production guarantee or amount of insurance, including any adjustments for late planted acreage, which are: (1) For conventional or sustainable farming practices, those generally recognized by agricultural experts for the area; ~~or~~ (2) for organic farming practices, those generally recognized by organic agricultural experts for the area or contained in the organic plan; **or for conservation farming practices and activities, those that comply with conservation practice standards or conservation enhancement specifications established by the Natural Resources Conservation.** We may, or you may request us to, contact FCIC to determine whether or not production methods will be considered to be “good farming practices.”

## PROPOSED GFP HANDBOOK CHANGES

### Good Farming Practice Determination Standards Handbook FCIC 14060 October 2014

#### 21 Agricultural Experts

The opinions and published materials by agricultural experts are an integral part of determining whether a production method is a GFP. A. Agricultural Experts Currently Approved by RMA Approved Agricultural Experts include personnel whose research or occupation is related to the specific crop or practice for which such expertise is sought, and is:

(1) employed by Cooperative Extension Service or USDA National Institute of Food and Agriculture (NIFA), formerly Cooperative State Research, Education, and Extension Service (CSREES);

**(2) employed by the Natural Resources Conservation Service;**

~~(2)~~ (3) employed by the agricultural departments of universities;

~~(3)~~ (4) certified by the American Society of Agronomy (ASA) as Certified Crop Advisers and Certified Professional Agronomists, <https://www.agronomy.org/>;

~~(4)~~ (5) certified by the National Alliance of Independent Crop Consultants (NAICC) as Certified Professional Crop Consultants, <http://naicc.org/>;

~~(5)~~ (6) certified by the American Society for Horticultural Sciences as Certified Professional Horticulturists; or

(6 7) certified by the International Society of Arboriculture as Certified Arborists.

For the organic industry, in addition to the experts listed above, approved Organic Agricultural Experts include persons employed by:

(1) the Appropriate Technology Transfer for Rural Areas National Sustainable Agriculture Information Service <https://attra.ncat.org/>;

(2) the Sustainable Agriculture Research and Education organization, <http://www.sare.org/>; or

(3) USDA Accredited Certifying Agents (ACA), third party agents who certify operations under USDA organic standards. A list of ACAs is available on the NOP site, <http://www.ams.usda.gov/>.

NOTE: Both Organic Agricultural Experts and Agricultural Experts are referred to as “Agricultural Experts” in this Handbook for simplicity.

### **31 AIP Duties**

#### **A. GFP Decision Process**

The AIP makes a decision of whether the production methods used by a Policyholder constitute GFP according to the terms of the policy and these procedures, and confirms the Policyholder carried out generally recognized GFPs. These procedures apply to all GFP Decisions, regardless of the origination of the review, i.e., RCO review requests, loss adjustment process, growing season inspection, etc., when the AIP or RMA has a reason to question whether GFP were followed by the Policyholder.

(1) To decide if GFP were followed, the AIP may ask Policyholders to show they complied with the policy provisions and generally recognized GFP. The Policyholder must provide the AIP with all the relevant facts relating to their agronomic situation, including but not limited to:

(a) receipts;

(b) farm records;

(c) third party verification;

(d) Organic Plan, if applicable;

(e) NRCS approved conservation plan or other evidence of implementation of an NRCS conservation practice standard or conservation enhancement; and

(e f) any other documentation to show the practice is or is not a recognized GFP, as requested.

(2) The AIP may request the Policyholder provide, as applicable, published material relating to the production method or a written opinion directly from an agricultural expert:

(a) that the production method used by the Policyholder meets the standards contained in Paragraph 22 A (4); or

(b) recommending that the production methods that would meet the standards contained in Paragraph 22 A (4).

## **Exhibit 2 Definitions**

The following are definitions of terms related to good farming practices or are used in this handbook.

**Agricultural Expert** – Persons who are employed by the Cooperative State Research, Education and Extension Service or the agricultural departments of universities, or other persons approved by FCIC, whose research or occupation is related to the specific crop or practice for which such expertise is sought. See also Organic Agricultural Experts.

**Approved Insurance Provider (AIP)** – A legal entity, including the company, which has entered into a SRA with FCIC for the applicable reinsurance year. **Certifying Agent (Organic)** – A private or governmental entity accredited by the USDA Secretary of Agriculture for the purpose of certifying a production, processing or handling operation as organic.

**Conventional Farming Practice** – A system or process that is necessary to produce an agricultural commodity, excluding organic practices.

**Generally Recognized** – When agricultural experts or organic agricultural experts, as applicable, are aware of the production method or practice and there is no genuine dispute regarding whether the production method or practice allows the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee or amount of insurance.

**Good Farming Practices** – The production methods utilized to produce the insured crop and allow it to make normal progress toward maturity and produce at least the yield used to determine the production guarantee or amount of insurance, including any adjustments for late planted acreage, which are: (1) for conventional or sustainable farming practices, those generally recognized by agricultural experts for the area; or (2) for organic farming practices, those generally recognized by organic agricultural experts for the area or contained in the organic plan; or for conservation farming practices and activities, those that comply with conservation practice standards or conservation enhancement specifications established by the Natural Resources Conservation. The AIP may, or the producer may request the AIP to, contact FCIC to determine whether or not production methods will be considered to be “good farming practices.”

Good Nursery Practice – The horticultural practices generally in use in the area for nursery plants to make normal progress toward the stage of growth at which marketing can occur and: (a) For conventional practice, generally recognized by agricultural experts for the area as compatible with the nursery plant production practices and weather conditions in the county; or (b) for organic practices, generally recognized by the organic agricultural industry for the area as compatible with the nursery plant production practices and weather conditions in the county or contained in the organic plan. The AIP may, or the Policyholder may request the AIP to, contact FCIC to determine whether or not production methods will be considered to be “good nursery practices.”

Organic Agricultural Experts - Persons who are employed by the following organizations: Appropriate Technology Transfer for Rural Areas, Sustainable Agriculture Research and Education or the Cooperative Extension System, the agricultural departments of universities, or other persons approved by FCIC, whose research or occupation is related to the specific organic crop or practice for which such expertise is sought.

Organic Crop - An agricultural commodity that is organically produced consistent with Paragraph 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502).

Organic Farming Practice - A system of plant production practices used to produce an organic crop that is approved by a certifying agent in accordance with 7 CFR part 205.

Organic Plan – A written plan, in accordance with the National Organic Plan (NOP) published in 7 CFR part 205, that describes the organic farming practices that the policyholder and a certifying agent agree upon annually or at other times as prescribed by the certifying agent.

Personal Identifiable Information (PII) – Any information, in any medium, that identifies a specific individual whether on paper or electronic.

Sustainable Farming Practice – A system or process for producing an agricultural commodity, excluding organic farming practices, that is necessary to produce the crop and is generally recognized by agricultural experts for the area to conserve or enhance natural resources and environment.

Written Documentation – Any written information related to the case in hard copy or compatible electronic format, including facsimile.