

<b>RAIN AND HAIL INSURANCE SERVICE, INC.,</b>	)	<b>AGBCA Nos. 97-197-F</b>
<b>(WILKERSON COMPLIANCE)</b>	)	<b>98-111-F</b>
	)	
Appellant	)	
	)	
<b>Representing the Appellant:</b>	)	
	)	
Bruce B. Green	)	
Willson & Pechacek, P.L.C.	)	
P.O. Box 2029	)	
Council Bluffs, Iowa 51502	)	
	)	
<b>Representing the Government:</b>	)	
	)	
Sue Gordon	)	
Office of the General Counsel	)	
U. S. Department of Agriculture	)	
P.O. Box 419205	)	
Kansas City, Missouri 64141	)	

**DECISION OF THE BOARD OF CONTRACT APPEALS**

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**November 18, 1998**

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**OPINION BY ADMINISTRATIVE JUDGE EDWARD HOURY**

These appeals arose under a 1994 Standard Reinsurance Agreement (SRA) between the Federal Crop Insurance Corporation (FCIC), a wholly-owned Government corporation within the U. S. Department of Agriculture, and Rain and Hail Insurance Service, Inc., of West Des Moines, Iowa (Appellant). Under the SRA, Appellant sells and administers Multiple Peril Crop Insurance (MPCI) policies in furtherance of the Government's crop insurance program.

Appellant issued an MPCI policy to an insured in Louisiana to cover a rice crop and later paid an indemnity to the insured for a crop loss. The FCIC claimed Appellant was indebted to it in the amount of \$51,419 for an indemnity overpayment and \$1,764 in premium overstatement, because Appellant had undercalculated the actual rice crop yield, and because Appellant did not apply a required Nonstandard Classification System (NCS) yield adjustment and special rate to this policy. The FCIC alleged that the NCS applied to an individual, and therefore to the insured corporation in which the individual was a shareholder, because the individual had not transferred his shares in the corporation until after insurance attached.

Appeal AGBCA No. 97-197-F was based on FCIC's failure to render a decision on Appellant's claim. AGBCA No. 98-111-F was based upon FCIC's denial of Appellant's claim. The appeals were consolidated at the request of the parties. The Board has jurisdiction over such appeals pursuant to 7 CFR § 400.169(a)-(d) and 7 CFR § 24.4(b).

On appeal, Appellant conceded that it had undercalculated the actual yield but continued to contest the NCS application to the insured. The Complaint, Answer, and Rule 4 file (7 CFR § 24.21, Rule 4) were filed. After a telephone conference call with the Board, the parties advised the Board that the disputes had been settled and that the appeals should be dismissed.

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**DECISION**

The appeals are dismissed as settled.

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**EDWARD HOURY**  
Administrative Judge

Concurring:

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**HOWARD A. POLLACK**  
Administrative Judge

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**JOSEPH A. VERGILIO**  
Administrative Judge

Issued at Washington, D.C.  
**November 18, 1998**