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Division

FCIC-25370 (10-2006)

# PREVENTED PLANTING LOSS ADJUSTMENT STANDARDS HANDBOOK

2007 and Succeeding Crop Years



**UNITED STATES DEPARTMENT OF AGRICULTURE  
WASHINGTON, D.C. 20250**

<b>FEDERAL CROP INSURANCE HANDBOOK</b>		<b>NUMBER: 25370 (10-2006)</b>
<b>PREVENTED PLANTING (PP) LOSS ADJUSTMENT STANDARDS HANDBOOK 2007 AND SUCCEEDING CROP YEARS</b>	<b>OPI: Product Administration and Standards Division</b>	
	<b>APPROVED:</b>  <i>/s/ Tim B. Witt</i> Deputy Administrator, <b>Product Management</b>	<b>DATE:</b>  <i>10/02/06</i>

**THIS HANDBOOK CONTAINS THE OFFICIAL FCIC-ISSUED LOSS ADJUSTMENT STANDARDS FOR PREVENTED PLANTING (PP) FOR THE 2007 AND SUCCEEDING CROP YEARS. ALL REINSURED COMPANIES WILL UTILIZE THESE STANDARDS FOR BOTH LOSS ADJUSTMENT AND LOSS TRAINING.**

**SUMMARY OF CHANGES/CONTROL CHART**

The following list contains significant changes to this handbook, as determined by us. It may not represent all changes made. All changes made to this handbook are applicable regardless of whether or not listed.

Major Changes: See changes or additions in text which have been highlighted. Three stars (\*\*\*) identify information that has been removed.

**Changes for October 2006 Issuance (FCIC-25370):**

- A. Changed crop years in the examples throughout the handbook to relate to 2007 PP coverage.
- B. Section 1, page 1 – Revised the language to agree with the standard language used in crop loss adjustment standards handbooks.
- C. Section 3 D., page 3 – Added subsection D to explain the insured is eligible for a PP payment on acreage the insured has sold during the crop year but for which the insured still retains the right to produce the insured crop for that crop year, provided the listed criteria is met.
- D. Section 4 B. (3) (b), page 8 – Added reference to Section 4 C (3) (c) and (d) for examples of insured causes of loss that occurred and did not occur within the PP insurance period.
- E. Section 4 C. (1) (a), page 8 – Added “eligible PP acreage” and “due to an insured cause of loss.” Also, deleted the second sentence and combined it with the first sentence for clarification purposes.
- F. Section 4 C. (1) (b), page 8 – Added at end of (b): “Failure to plant when other producers in the area were planting will result in denial of a PP claim.” Also, added an “AND” at the end of (b) to indicate all of the items listed under (1) apply.

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## SUMMARY OF CHANGES/CONTROL CHART (Continued)

- G. Section 4 C. (3) (a) 1, page 9 – Added that farm records, written opinions from CSREES, and the soil moisture indices cannot be considered as being from sources who are in the business of recording and studying weather.
- H. Section 4 C. (3) (a) 1 b, page 10 – In (i), added that one of the insured’s requirements was to provide documentation that other producers with acreage with similar characteristics are also prevented from planting their crop. Also, added a paragraph indicating that each of the items in b must be proven separately and all must be provided to the AIP, along with providing some examples of documentation that by in and of itself would not meet two or more of the items in b.
- I. Section 4 C. (3) (c), pages 12 and 13 - Added that the inability to plant due to residual salt on the land or in the irrigation water supply resulting from an insured cause of loss (e.g., hurricane) occurring within the PP insurance period is covered. Added information regarding PP coverage if the same cause of loss (hurricane) prevented planting in subsequent crop years.
- J. Section 4 C. (3) (d), page 13 – Added the inability to plant due to large amounts of silt, sand, and/or other debris left on the land due to flooding that occurred during the PP insurance period is covered. Also, added information regarding PP coverage if the same cause of loss (same flood) continued to prevent planting in subsequent crop years.
- K. Section 4 E., page 16 –
- (1) Moved and made the statement about the guarantee for non-irrigated skip-row cotton being based on the solid-planted approved APH yield as footnote 2/ at the bottom of the chart.
  - (2) Added footnote 3/ at the bottom of chart stating the PP payment for the Revenue Assurance whole farm unit is paid on the weighted average of the per-acre revenue guarantees.
- L. Section 4 F. (9), page 22- Added a paragraph at the bottom of this subsection indicating regardless of the number of eligible acres determined by applying the ratio, coverage under the irrigated practice is limited to acres that the insured has adequate irrigation facilities in place to carry out an irrigated practice prior to the insured cause of loss preventing planting.
- M. Section 4 F. (10), page 22 – Added that the eligible PP acres for non-irrigated cotton planted in a skip-row planting pattern (or for other crops having a skip-row planting pattern practice listed on the actuarial documents or that is approved by Written Agreement) is determined by multiplying the gross acres times the percent planted for the particular skip-row pattern utilized.
- N. Section 4 G. (1) (a), page 23 – Added that if there were multiple crops planted in the field, the insured may select which crop will be used for the PP acreage in the field. Also, in (a) 1, changed the word “both” to “the” so it shows the insured could have history of planting more than two crops in a field.

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## SUMMARY OF CHANGES/CONTROL CHART (Continued)

- O. Section 4. I (2) (a) 1 and 2, page 27 – Revised to “insurance under the Forage Production Crop Provisions.
- P. Section 5. B (5) (a), page 33 – Added after “if the insured receives” the words “or will receive.”
- Q. Section 5 C. (4), page 35 – Revised Example 2 to make it more clear.
- R. Section 7 I. (1) (a) and (b), page 43 – Revised language to clarify when and what PP acreage information could be revised.
- S. Section 13, page 68, – Revised to show all of the soybean acreage in Unit 00200 will receive 100 percent of any indemnity due.
- T. Removed FAD-041 and FAD-042 from the Exhibits in Section 14 (formerly shown in Exhibits 10 and 11). FAD-041 and FAD-042 were based on the BR-04 version of the Basic Provisions. Due to changes in the BR-05 version of the Basic Provisions, FAD 041 and FAD-042 are no longer applicable for any crops insured under the 2006 and succeeding crop years.

Control Chart For: Prevented Planting Loss Adjustment Standards Handbook						
	SC Page(s)	TC Page(s)	Text Page(s)	Reference Material	Date	Directive Number
Remove	Entire Handbook					
Current Index	1-4	1-4	1-70	71-103	10-2006	FCIC-25370

**PREVENTED PLANTING LOSS ADJUSTMENT STANDARDS HANDBOOK**

**SUMMARY OF CHANGES/CONTROL CHART (Continued)**

**(RESERVED)**

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# 1. INTRODUCTION

**THIS HANDBOOK MUST BE USED IN CONJUNCTION WITH THE LOSS ADJUSTMENT MANUAL (LAM) STANDARDS HANDBOOK, FCIC-25010.**

The FCIC-issued loss adjustment standards for prevented planting are the official standard requirements for adjusting Multiple Peril Crop Insurance (MPCI) prevented planting losses in a uniform and timely manner. The FCIC-issued standards for prevented planting and crop year are in effect as of the signature date for this handbook at [www.rma.usda.gov/handbooks/25000/index.html](http://www.rma.usda.gov/handbooks/25000/index.html). All reinsured companies will utilize these standards for both loss adjustment and loss training for the applicable crop year. These standards, which include PP claims completion instructions, supplement the general (not crop-specific) loss adjustment standards identified in the LAM.

## 2. SPECIAL INSTRUCTIONS

### A. LIFE OF HANDBOOK

This handbook remains in effect until superseded by re-issuance of **either** the entire handbook **or** selected portions (through slipsheets or bulletins). If slipsheets have been issued for a handbook, the original handbook as amended by slipsheet pages shall constitute the handbook. A bulletin can supersede either the original handbook or subsequent slipsheets.

### B. DISTRIBUTION

- (1) The following is the minimum distribution of forms completed by the adjuster and signed by the insured (or insured's authorized representative) for the loss adjustment inspection:
  - (a) One legible copy to the insured.
  - (b) The original and all remaining copies as instructed by the Approved Insurance Provider (AIP).
- (2) It is the AIPs' responsibility to maintain original insurance documents relative to policyholder servicing as designated in their approved plan of operations.

### C. TERMS, ABBREVIATIONS, AND DEFINITIONS

- (1) Terms, abbreviations, and definitions **general** (not crop specific) to loss adjustment are identified in the LAM.
- (2) Terms, abbreviations, and definitions **specific** to loss adjustment of PP claims and this handbook, which are not defined in this section, are defined as they appear in the text.
  - (a) DC            Double cropped or double cropping. Producing two or more crops for harvest on the same acreage in the same crop year.

- (b) FAC Following another crop in the same crop year. For some crops/counties, this is a practice shown on the actuarial documents separate from NFAC.
- (c) NFAC Not following another crop. For some states/counties/crops, this is a practice shown on the actuarial documents that has a separate rating from FAC.

### **3. GENERAL INFORMATION**

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#### **A. PREVENTED PLANTING PROVISIONS**

Prevented planting (PP) provisions are contained in the Basic Provisions and are discussed throughout this handbook. These provisions provide PP coverage, unless the specific crop provisions or Special Provisions specifies otherwise. If PP provisions are applicable for the crop, the insured may receive a PP payment for eligible PP acreage if the insured was prevented from planting the insured crop due to an insured peril occurring during the PP insurance period (Refer to section 4 B herein) and meets all other policy provision requirements for a PP payment.

#### **B. DUTIES OF INSURED AND AIP IN REGARDS TO INSURED'S COMPLIANCE WITH POLICY PROVISIONS**

##### (1) INSURED'S DUTIES:

- (a) Some of the requirements (not all) listed in "Your Duties" in the section of the Basic Provisions entitled "Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, are as follows:
  - 1 The insured must submit (sign) the PP claim no later than 60 days after the end of the PP insurance period. Refer to section 4 B. (2) for the end of the PP insurance period. If the actions of the insured results in the insured not submitting (signing) a PP claim or if the insured fails to provide the required information to complete the PP claim, the PP payment for acreage for which the failure occurred will be denied. However, the insured will be required to pay the premium due under the policy for the unit.
  - 2 The insured's failure to comply with any of the requirements (except the PP claim requirement discussed in subsection 1) of the section of the Basic Provisions stated in (a) above will result in denial of the PP claim for the acreage for which the failure occurred, unless the AIP still has the ability to accurately adjust the loss. If no PP payment can be paid because of the insured's failure to comply with any of the policy provisions, the PP acreage will be removed from the acreage report and no premium will be due.
  - 3 The insured's failure to comply with other sections of Basic Provisions will subject the insured to the consequences specified in those sections.

- 4 It is the insured's duty to prove he/she has complied with all provisions of the policy.
- 5 Refer to section 8 of this handbook for the PP notice requirements stated in the Basic Provisions.

(2) AIP'S DUTIES:

It is the AIP's duty to assure that the insured's compliance with policy terms and conditions has been verified by the adjuster, contractor, and/or employee of the AIP.

**C. TRANSFER OF COVERAGE AND RIGHT TO AN INDEMNITY**

If a Transfer of Right to an Indemnity (Transfer) is in effect for the crop and unit of PP claimed, the transferee is also entitled to any PP payment due on the crop and acreage that was transferred. The Transfer form specifically states which crop and acreage the transfer applies to and the transferee is responsible only for the premium associated with the specified crop and acreage. Therefore, if there are more PP acres claimed for the crop than the insured actually has eligible acres, no PP payment can be paid to the transferee based on another crop having remaining eligible acres, unless there is also a Transfer in effect for that crop and the Transfer is for at least the number of PP acres that will be paid under that crop. If at the time the PP claim is prepared there is no Transfer in effect for the crop with remaining eligible acres, a Transfer form for this crop, unit, and number of PP acres can be completed at this time and submitted to the AIP. If at the time the PP claim is prepared the number of acres transferred is less than the number of PP acres to be paid under this crop, an additional Transfer form can be prepared at this time for the additional number of acres needed to pay the PP claim and submitted to the AIP. However, a PP payment under the crop with remaining acres cannot be made unless and until the Transfer is approved by the AIP. For more information pertaining to Transfers, refer to the LAM and CIH.

**D. ACREAGE SOLD BUT INSURED RETAINS RIGHT TO PP PAYMENT**

Unlike the situation where a Transfer of Right to an Indemnity is applicable because ownership of the land or crop has changed during the crop year, the insured may occasionally retain the right to produce a crop on the acreage after the acreage has been sold (e.g., to a developer). In this case, the insured is eligible for a PP payment when the acreage is sold prior to the latest FPD and the insured still retains the right to produce a crop on the acreage, PROVIDED the insured (1) Can provide the AIP with a copy of the written sales contract for the acreage showing a provision allowing the insured to retain possession of the acreage until harvest of the insured crop was completed; (2) Was prevented from planting the insured crop claimed as PP; and (3) Meets all other criteria for a PP payment. If the acreage was sold (e.g., to a developer) after the latest FPD for the insured crop, the insured is eligible for a PP payment, PROVIDED the insured provides the AIP a copy of the written sales contract showing the sale of the acreage was after the latest FPD for the insured crop and the insured meets all other criteria for a PP payment.

## **4. PP COVERAGE AND ELIGIBLE ACREAGE**

### **A. ELIGIBLE CROPS**

PP coverage is applicable to the following crops: barley, canola/rapeseed, corn, cotton, ELS cotton, dry beans, dry peas, flax, grain sorghum, green peas, hybrid seed corn, hybrid sorghum seed, millet, mustard, oats, onions, peanuts, popcorn, central and southern potatoes, northern potatoes, processing sweet corn, processing beans, rice, rye, safflowers, silage sorghum, soybeans, sugar beets <sup>1/</sup>, sunflower seed, and wheat.

<sup>1/</sup> PP is not available in California counties with an April 30 Contract Change Date and a July 15 Cancellation Date.

### **B. INSURANCE PERIOD**

(1) The insurance period begins:

- (a) For First Year Crop Coverage: on the sales closing date (SCD) for the insured crop in the county for the crop year the producer's application is accepted. New policyholders are eligible for PP payments if the insured cause of loss occurred on or after the SCD for the current crop year and all other requirements for PP have been met.

**EXAMPLE:** The corn SCD is March 15, 2007, for the 2007 crop year. The insured takes out a corn application for the 2007 crop year on March 1, 2007. An insured cause of loss (excess precipitation) occurs on or after March 15, 2007, and prevents the insured from planting corn by the final planting date (FPD). The insured could be eligible for a PP guarantee for the 2007 crop year since an insurable cause of loss occurred during the PP insurance period. An insurable cause of loss occurring prior to March 15, 2007, would be outside the PP insurance period.

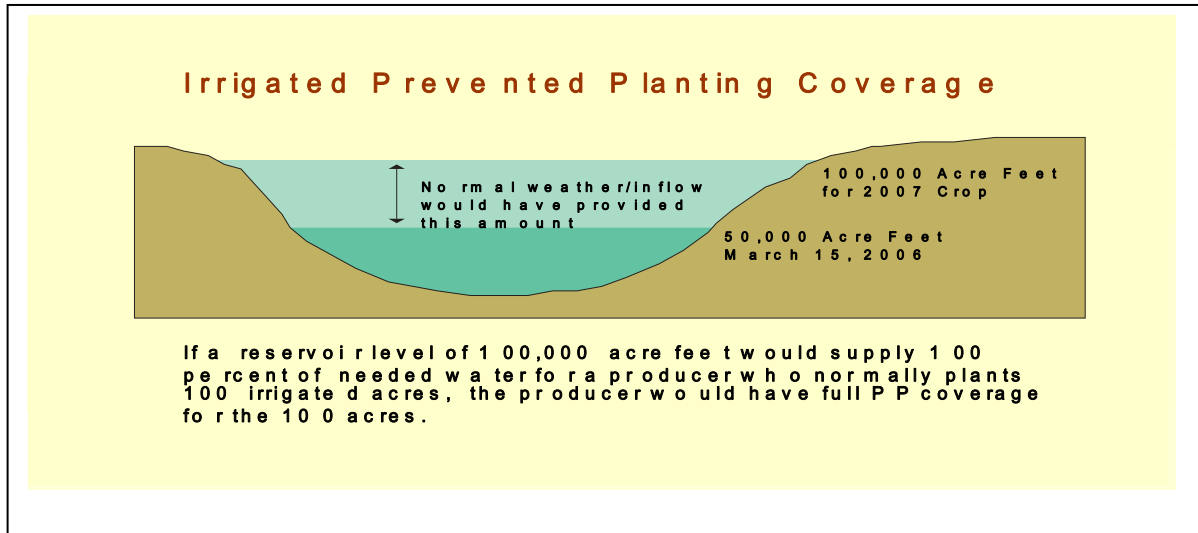
- (b) For Continuous Crop Coverage (not terminated or canceled for a crop year), also known as carryover insureds or policyholders: on the SCD for the insured crop in the county for the prior crop year. Carryover policyholders are eligible for PP payments if the insured cause of loss occurred after the SCD for the previous crop year, and all other requirements for PP have been met.

Transfer of coverage (cancellation/re-write) to a different AIP or a different plan of insurance (from APH to CRC, RA, etc.) is still considered continuous coverage.

**EXAMPLE:** The corn SCD is March 15, 2007 for the 2007 crop year. An insured cause of loss (failure of the insured's irrigation water supply) occurs on or after March 15, 2006, and prevents the insured from planting part of his/her 2007 crop. The insured could be eligible for a PP guarantee for the 2007 crop year. See illustration 1 below.

- (2) The insurance period ends for PP acreage the earlier of the calendar date for the end of the insurance period or the date the claim is finalized for the PP acreage.

**ILLUSTRATION 1:** This is an illustration of drought occurring in the current PP insurance period. Since drought occurred in the current PP insurance period, the insured would be eligible for the full amount of acreage the insured historically irrigates (eligible irrigated PP acres of the insured crop), provided normal weather/inflow during the insurance period would have provided 100% of needed water and all other PP requirements were met.



- (3) The following is applicable when an insured peril occurs in the prior crop year and continues to occur within the insurance period for the current crop year.
- (a) **Drought reduces irrigation water supply and normal weather conditions/inflow will recharge some or all of the irrigation water supply.** When information is available from local irrigation authorities responsible for water allocations, the Bureau of Reclamation, the U.S. Army Corp of Engineers, Cooperative State Research, Education, and Extension Service (CSREES), the National Resources Conservation Service (NRCS) or other sources responsible for water allocations, that indicates expected water allocations if average snow-pack/precipitation/inflow occurs during the PP insurance period, PP coverage will be provided as follows:
- 1 When available information indicates average snow-pack/precipitation/inflow occurring within the PP insurance period for the current year would provide sufficient water to produce a crop on all insurable acreage, PP coverage will be provided for all acreage that is prevented from planting.

**EXAMPLE 1:** A producer normally irrigates 100 acres in his/her farming operation in the county. All acreage that the insured irrigates is insured acreage. In 2006, the insured is prevented from planting 60 acres due to drought. As determined by the irrigation authorities, average snow-pack/precipitation/inflow expected during the insurance period for the 2007 crop year (begins March 15, 2006) should result in sufficient water allocation to allow production on 100 acres in 2007. However, a drought continues into the 2007 crop year (average precipitation is not received

during the insurance period), and the actual water allocation is sufficient for only 40 acres. In this case, since drought occurring during the insurance period caused failure of the irrigation water supply for 60 acres, those acres would again be eligible for a PP payment.

**EXAMPLE 2:** Same scenario, except 40 acres of the 100 acres the insured historically irrigates, is for crops not insured or uninsurable. The insured has the right to put the irrigation water on the uninsured or uninsurable crop acreage, and claim PP on 60 acres of the insured crop.

- a For prevented planting, if there was enough expected water to recharge the irrigation water the insured historically receives but due to an insured cause that occurred during the PP insurance period, the irrigation water supply is not recharged, the insured has the right to apply the irrigation water received to uninsured crops and claim PP on the portion of insured acreage for which the insured did not have enough irrigation water to irrigate, provided all other PP requirements are met for such acreage. When there is an insurable loss, there is no requirement to put remaining available water on insured acreage.
- b A producer's decision to change cropping patterns and using the same amount of water available as in previous years or to plant crops with greater water use requirements does not constitute an insurable cause of loss. If the amount of available water is reduced due to insured causes, a PP payment can be paid only on the amount of acreage associated with the amount of water lost due to insured causes.
- 2 When irrigation authorities indicate that average snow-pack/precipitation/inflow within the PP insurance period for the current year would result in a water allocation allowing production on only a portion of the acreage previously planted, only the portion of the loss attributable to insured perils occurring within the insurance period will be covered.

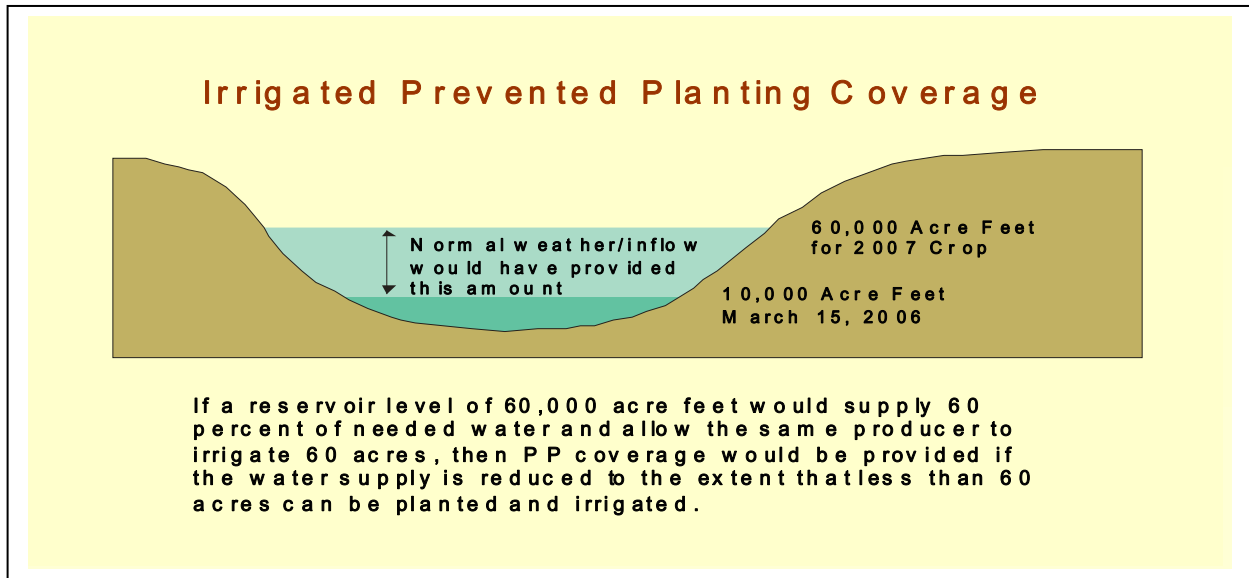
**EXAMPLE 1:** A producer normally irrigates 100 acres of insured crops and no uninsured crops. In 2006 the insured is prevented from planting 100 acres. As determined by the irrigation authorities, average snow-pack/precipitation/inflow expected during the insurance period for the 2007 crop year would provide enough water to produce a crop on 60 acres. In this case, a PP payment for 2007 can be made only if the irrigation water supply is reduced to the extent that a crop can be produced on less than 60 acres. If the water supply is reduced so that only 35 acres can be irrigated, then 25 acres would be eligible for a PP payment.

**EXAMPLE 2:** Same scenario, except 25 acres of the 100 acres the insured historically irrigates, is for crops uninsured or uninsurable; i.e., the insured normally irrigates only 75 acres of the insured crop. The insured has the right to put the irrigation water on the 25 acres of the uninsured or uninsurable crop acreage. If the water supply is reduced so that only 35



acres can be irrigated, then 25 acres would be eligible for a PP payment (60 acres minus 35 acres = 25), even if the water was applied to 25 acres of uninsured or uninsurable acres.

**ILLUSTRATION 2:** This illustrates Examples 1 and 2 above. Since normal weather/inflow during the PP insurance period would only provide a portion of needed water, a PP payment can be made only on a portion of the historic irrigated acres.



- 3 The burden is on the producer to prove that average snow-pack/precipitation/inflow would allow production on all the intended acreage for the current crop year. When information indicating how much acreage could be planted if average snow-pack/precipitation/inflow would have occurred within the insurance period is not available, PP payments will be limited based on the number of acres prevented from being planted due to causes occurring prior to the current year's insurance period.

**EXAMPLE:** A producer normally produces a crop on 100 acres and irrigates from a well. In 2006 the irrigation water supply is reduced, and the producer is prevented from planting 60 acres (failure occurs prior to the beginning of the insurance period for 2007). Information indicating the number of acres that could be irrigated if average weather conditions occurred after the beginning of the insurance period for the 2007 crop year is not available. A drought continues from the prior insurance period into the insurance period for the current crop year, and the producer is prevented from planting 75 acres. In this case, a PP payment can be made only for the number of PP acres in excess of 60, which is 15 acres.

- (b) **How to handle when the same cause of loss from previous PP insurance period, even with normal weather/inflow within current PP insurance period, continues to prevent planting.**

When available information indicates that the effects of drought, excess moisture, or flooding occurring prior to the insurance period for the current crop year are such that

normal weather/inflow within the insurance period would still not allow crop production (e.g., the land became part of a marsh or lake), the loss would be attributable to events occurring outside the insurance period for the current year and no PP payment could be made on such acreage. Refer to Examples in Section 4 C (3) (c) and (d) for specific examples of insured causes of loss that occurred in a covered PP insurance period and how these same causes of loss could continue to prevent planting in subsequent crop years.

## C. CRITERIA FOR PP PAYMENTS

(1) Unless limited by other policy provisions, PP payments are provided for eligible PP acreage, if **due to an insured cause of loss**:

(a) The **insured is prevented from planting** the insured crop on insurable acreage with proper equipment by the FPD (<sup>1/</sup> designated in the Special Provisions for the insured crop in the county) **or within the LP period** (ELS cotton and wheat and barley under **\*\*\*** the terms of the Winter Coverage Endorsement do not have an LP period). Also, for plans of insurance other than APH, LP periods may not be available in all states and counties for wheat. Refer to the respective Special Provisions to determine whether an LP period is applicable for the particular plan of insurance for wheat;

<sup>1/</sup> When there is more than one final planting date (FPD) in the county for barley, oats, or wheat, the applicable FPD, is the latest FPD.

(b) **The** cause of loss is general in the surrounding area and prevents other producers from planting acreage with similar characteristics **(Failure to plant when other producers in the area were planting will result in denial of the PP claim.); AND**

1 **EXAMPLE/QUESTION 1:** One producer chooses to start planting two to three days prior to the FPD for the insured crop, while other producers in the area planted two to three weeks prior to the FPD. How does that affect a PP payment for the producer who chose to plant 2-3 days prior to the FPD but was prevented from planting because of excess precipitation occurring late in the planting season?

**ANSWER TO EXAMPLE/QUESTION 1:** If conditions are such that other producers in the area planted two to three weeks prior to the FPD for the insured crop, the producer who chose to start planting two to three days prior to the FPD but was prevented from planting because of an insured cause of loss, would not be eligible for PP.

2 When determining “area” or “surrounding area,” the first step is to define the area by the cause of loss. For example, all acreage that has been affected by a flood or drought would be included. Once this acreage is determined, acreage with similar characteristic would be compared to determine whether other producers are prevented from planting.

3 Acreage with similar characteristics includes land with comparable geography, topography, soil types, and the same weather conditions and exposure. Ownership of the acreage or whether it is insured is not to be considered when determining whether acreage has similar characteristics.

4 For crop policies requiring processor contracts, insureds may qualify for a PP payment when:

A processor has control of seed, planting, and harvest equipment; and the processor cannot plant the acreage before the final planting date or during the LPP due to an insured cause of loss, provided: (1) the insured has an insurable interest in the crop, (2) the contractor has not over-contracted the total number of acres (contemplating “normal” planting delays, etc.), and (3) all other PP provisions have been met. In order for this situation to be considered an insured cause of loss, processors are not expected to modify contract-specified planting/harvesting dates to return and plant the insured’s acreage that was initially passed over for planting.

(c) The insured cause that prevented planting occurred during the PP insurance period. Refer to section 4 B above for PP insurance period. Conditions can vary significantly between farms, geographic areas, irrigation districts, etc. AIPs must make loss determinations based on each producer’s circumstances and in accordance with the policy and procedural guidelines.

(2) Factors such as existence of insurance, level of insurance coverage, or the financial position of the producer should not be considered when evaluating whether a producer was prevented from planting.

(3) Prevented planting coverage will be provided for:

(a) Drought or failure of the irrigation water supply only if, on the FPD (or within the LP period if the insured intended to plant the crop within the LP period).

1 For non-irrigated acreage, the area that is prevented from being planted has insufficient soil moisture for germination of seed OR progress toward crop maturity due to a prolonged period of dry weather. Prolonged precipitation deficiencies must be verifiable using information collected by sources whose business it is to record and study the weather, including but not limited to, local weather reporting stations of the National Weather Service. **As indicated in FAD-008 (Exhibit 2), farm records, written opinions from CSREES, and the soil moisture indices cannot be considered as being from sources who are in the business of recording and studying weather.**

a **In regards to the phrase, “insufficient soil moisture for germination of seed or progress toward crop maturity”:** there rarely is enough soil moisture at the time a crop is planted to carry the crop to full maturity. Normally, a non-irrigated crop depends on expected seasonal rains throughout the growing season to mature. **“Insufficient soil moisture for**

**progress toward maturity” means the crop may germinate but there is insufficient moisture to sustain the germinated plants.**

- b A non-irrigated crop would be considered to have been prevented from planting due to prolonged drought when the insured can provide the following verifiable documentation that is acceptable to the AIP:
- (i) Documentation that other producers with acreage with similar characteristics are also prevented from planting their crop;
  - (ii) Data showing prolonged precipitation deficiencies for the area in which the crop is grown from one or more of the sources stated in (a) 1 above;
  - (iii) Documentation (i.e., written opinions) from agricultural experts for the insured PP crop that states the amount of soil moisture needed to germinate seed or for progress toward maturity, as defined in (a) 1 a above is not available. Agricultural experts must be disinterested third parties to the insured. This written opinion must be based on the crop, area in which the crop is grown, soil type in which the crop is grown, and other relevant factors. Refer to the definition of agricultural expert in the LAM or Basic Provisions.
  - (iv) Information shows insufficient moisture conditions existed on the final planting date or within the late planting period, regardless of whether rain subsequently falls or is expected to fall. To eliminate any questions about the soil moisture content of the acreage in question, the insured may submit a written soil moisture profile/report of the acreages in question from a disinterested third party that is knowledgeable in determining soil moisture.

As stated in FAD-008 (Exhibit 2), each of the items above must be proven separately and all must be provided; i.e., an NRCS drought advisory alone does not provide the documentation that the crop would not have germinated and progressed the crop to maturity, UNLESS the advisory also specifically states that the soil is too dry for the germination or production of the crop. Likewise, documentation of inadequate rainfall for the area by itself does not indicate the crop would not germinate or progress to maturity. When it has been established that there is inadequate rainfall from an acceptable sources, item b (iii) above is also required, as well as the other listed items in b (iii).

- 2 For irrigated acreage, if due to an insured cause of loss:
- a The insured is unable to prepare the land for irrigation using the insured’s established irrigation method (e.g., furrow irrigation);
  - b The irrigation equipment or facilities fail or break down, provided the insured made all reasonable efforts to restore the equipment or facilities to

proper working order within a reasonable amount of time after **an** insured peril caused the equipment or facilities to be inoperable, unless the AIP determines it is not practical to do so. Cost will not be considered when determining whether it is practical to restore the equipment or facilities;

- c There is failure of the irrigation water supply; i.e., there is not a reasonable expectation of having adequate water to carry out an irrigated practice.
  - (i) The insured cause that reduces the amount of irrigation water available **MUST** occur within the insurance period for prevented planting (see subsection B). New policyholders are eligible for PP payments only if the peril insured against occurred on or after the SCD for the current year and all requirements for PP have been met.
  - (ii) A continued drought from one calendar year to the next generally has major components of insurable causes of loss occurring during the PP insurance period for the current crop year. (Refer to examples and illustrations in Section 4 B.)
  - (iii) Section 14, Exhibit 1 contains a copy of the Irrigated Practice Guidelines, as found in the Crop Insurance Handbook (CIH), that the AIPs, in accordance with the CIH, are to provide to the insured for the insured's use in determining the proper amount of irrigated acreage and acreage for which a PP payment may be paid under an irrigated practice.
  - (iv) The following contains additional information that must be considered when determining whether failure of the irrigation water supply (due to an insured peril) prevented the insured from planting the crop.
    - i Acreage historically grown under an irrigated practice for which the insured had no reasonable expectation of adequate irrigation water on the FPD (or within the LP period, if applicable) may be eligible for an irrigated PP payment, even if the acreage could have been planted with a non-irrigated practice and the producer elected not to plant. (Acreage historically grown under an irrigated practice is as stated in subsection G 10.)
    - ii Any reduction in the water supply due to participation in an electricity buy-back program or the sale of water under a water buy-back program (either before or after insurance attaches) is not considered an insurable cause of loss under the policy. However, if an insured cause of loss reduces the amount of irrigation water available, then subsequent participation in an electricity buy-back program (relative to the amount of water reduced by an insured cause of loss) will not reduce the insured loss.

- iii In those cases where an insured cause of loss reduced the irrigation water supply for a portion of the insured's acreage and the insured elects to participate in the electricity buy-back programs or water right buy-back programs, the AIP must separately determine the amount of acreage for which an insured cause reduced the irrigation water supply and the amount of acreage for which participation in the electricity buy-back programs or water right buy-back programs caused the reduced irrigation water supply. The insured may still be eligible for a PP payment or indemnity, as applicable, on the acreage where an insured cause of loss reduced the irrigation water supply, provided that all other requirements in the policy have been met.
  - iv Decreased water allocation resulting from the diversion of water for environmental or other reasons is not an insurable cause of loss unless the diversion is made necessary due to an insured cause of loss.
  - v Increased costs for water, electricity, fuel, etc., from sources historically used by the insured are not considered insurable causes of loss under the policy. Any acreage for which the irrigation water supply has been reduced by the insured because of such increased costs is not insurable under an irrigated practice and no PP payment may be made. Conversely, the availability of high-cost water, electricity, or fuel from a non-historical source will not be considered a reason to deny an otherwise payable claim.
  - vi Insureds are not expected to take extraordinary measures or amounts of money to modify their irrigation facilities when the water level of the surface water irrigation source (e.g., river) has decreased due to an insured cause of loss to the point that the insured cannot deliver adequate irrigation water to the crop; e.g., in order to deliver adequate water, the insured would have to place long runs of irrigation pipe not normally run, purchase additional or larger motors, lift stations, irrigation pipes, and/or other equipment not normally used in their normal irrigation operations.
- (b) Failure or breakdown of irrigation equipment or facilities due to an insured peril.
- (c) The inability to plant due to residual salt on the land or in the irrigation water supply as a result of an insured cause of loss (e.g., hurricane), provided the:
- 1 Condition is general in the surrounding area and prevented other producers from planting acreage with similar characteristics; and

- 2 The insured cause of loss occurred within the PP insurance period. The insured must report and document the cause of loss.

**EXAMPLE:** A hurricane occurred in October of 2006. As a result of this hurricane, producers were unable to plant their insured crops for the 2007 CY due to residual salt left on the land or in the irrigation water supply. The PP insurance period for the 2007 CY for carryover insureds began on the SCD for the 2006 CY. The PP insurance period for the 2007 CY for new insureds began on the SCD for the 2007 CY.

Carryover insureds would have PP coverage for the 2007 CY because the event (hurricane) occurred within the carryover insured's PP insurance period. However, new insureds would not have PP coverage for the 2007 CY because the event (hurricane) happened prior to when their PP insurance period began for the 2007 crop year (i.e., prior to the SCD for the 2007 CY.)

For the 2008 crop year and subsequent crop years, neither new or carryover insureds would be covered for PP due to residual salt on the land or in the irrigation water supply resulting from the October 2006 hurricane because the cause of loss (2006 hurricane) is outside of the 2008 and subsequent CYs PP insurance period.

The AIP must determine whether the loss is insurable and may need to ask the insured for additional documentation and published material from agricultural experts to support this PP claim.

- (d) The inability to plant due to large amounts of silt, sand, and/or other debris left on the land due to flooding that occurred during the PP insurance period and that cannot be removed to the extent needed to plant the crop by the final planting date for the crop year.

**EXAMPLE:** Flooding occurred in February of 2007 leaving anywhere from 6-24 inches of sand, silt, and other debris on the acreage. The acreage could not be reclaimed to the extent needed to plant the insured crop by the FPD for the 2007 CY. The PP insurance period for the 2007 CY for carryover insureds began on the SCD for the 2006 CY. The PP insurance period for the 2007 CY for new insureds began on the SCD for the 2007 CY.

Carryover insureds would have PP coverage for the 2007 CY because the event (flooding) occurred within the carryover insured's PP insurance period. However, new insureds would not have PP coverage for the 2007 CY because the event (flooding) happened prior to their PP insurance period (i.e., prior to the SCD for the 2007 CY).

If the sand, silt, and debris still had not been cleaned up to the extent the acreage could be planted for the 2008 and subsequent crop years, this would not be a covered cause of loss for new or carryover insureds.

(e) Any other insured cause of loss not listed above but that is listed in the crop provisions for the insured crop, provided the cause occurred during the PP insurance period and the cause prevented the insured from planting the insured crop. However, if it is possible for the insured to have planted on or prior to the FPD when other producers in the area were planting and the insured failed to plant, no prevented planting payment will be made.

(4) The insured must timely submit a notice of PP to the AIP. Refer to Section 8 for detailed information.

(5) The acreage of the insured crop that was prevented from being planted must be listed on a timely submitted acreage report to be eligible for a PP payment. (Refer to section 7.)

(a) Insureds are not required to plant the insured crop during the LP period even if they could have planted during the LP period.

(b) When acreage, due to an insurable cause of loss occurring within the insurance period for PP coverage, was prevented from being planted to the insured crop by the FPD (or during the LP period, if applicable) is subsequently planted to the insured crop AFTER the LP period (or after the FPD for crops that do not have a LP period), the insured has the choice of insuring or not insuring such acreage. The insured must report such acreage as insured or uninsured (as they have chosen) and the date such acreage is planted, along with any other items required for reporting acreage. If the insured decides to insure such acreage, coverage is provided under the LP provisions and the per-acre production guarantee or per-acre amount of insurance for such acreage will be the same as the insured's PP guarantee for the insured crop.

**EXAMPLE:** The insured has 60 percent PP coverage level with a 100 bu. per-acre guarantee for timely planted acres. The guarantee for the LP acres will be 60 bu. (.60 X 100.0).

(6) There must be enough eligible PP acreage (after deducting planted acreage) to cover the unplanted acreage. (Refer to subsection 4 F and G.)

(7) The amount of premium (gross premium less FCIC subsidy) that would be required to be paid by the insured for the PP acreage DOES NOT exceed the liability for such acreage. (Refer to section 6.)

(8) Refer to Section 4 G for acreage that is not eligible for PP coverage.

#### **D. PP COVERAGE LEVEL PERCENTAGES**

(1) The crop provisions contain the PP coverage level percentage that will automatically apply to the insured's crop policy if the insured does not elect an available PP coverage level percentage on or prior to the SCD. However, the actuarial documents may contain additional levels of PP coverage the insured may purchase for crop policies having additional coverage on or before the SCD. If the insured has a crop policy with CAT coverage, an additional level of PP coverage cannot be purchased. For example, the insured has a corn policy with CAT coverage for his/her high-risk land in county A, and



another corn policy in county A with additional coverage for non-high-risk land. The insured can only purchase additional PP coverage on the corn policy that has additional coverage.

- (2) The insured cannot increase the elected or assigned PP coverage level percent for any crop year if a cause of loss that will or could prevent planting is evident prior to the time the insured wishes to change his/her PP coverage level percent.

## E. PRODUCTION GUARANTEES

IF ACREAGE IS PREVENTED FROM PLANTING TO THE FOLLOWING INSURED CROP. . .	THEN THE GUARANTEE IS...
Barley <sup>3/</sup> , corn <sup>3/</sup> , canola/rapeseed <sup>3/</sup> , dry beans, dry peas, flax, grain sorghum, millet, mustard, oats, popcorn, rye, safflowers, silage sorghum, soybeans <sup>3/</sup> , sunflower seed <sup>3/</sup> , or wheat <sup>3/</sup> ;	60, 65 <sup>1/</sup> , or 70 <sup>1/</sup> percent of the per-acre production guarantee for timely planted acres.
Hybrid sorghum seed,	60, 65 <sup>1/</sup> , or 70 <sup>1/</sup> percent of the per-acre amount of insurance for timely planted acres.
Cotton <sup>2/</sup> , <sup>3/</sup> , ELS cotton <sup>2/</sup> , or peanuts,	50, 55 <sup>1/</sup> , or 60 <sup>1/</sup> percent of the per-acre production guarantee for timely planted acres.
Hybrid seed corn,	50, 55 <sup>1/</sup> , or 60 <sup>1/</sup> percent of the per-acre amount of insurance for timely planted acres.
Rice <sup>3/</sup>	45, 50 <sup>1/</sup> , or 55 <sup>1/</sup> percent of the per-acre production guarantee for timely planted acres.
Sugar Beets,	45, 50 <sup>1/</sup> , or 55 <sup>1/</sup> percent of the <u>final stage</u> per-acre production guarantee for timely planted acres.
Onions,	45 percent of the <u>final stage</u> per-acre production guarantee for timely planted acres.
Green peas, processing sweet corn, and processing beans;	40, 45 <sup>1/</sup> , or 50 <sup>1/</sup> percent of the per-acre production guarantee for timely planted acres.
Central and southern potatoes and northern potatoes,	25, 30 <sup>1/</sup> , or 35 <sup>1/</sup> percent of the per-acre production guarantee for timely planted acres.
<sup>1/</sup> If the insured has additional coverage and elects one of these higher PP coverages by the SCD.	
<sup>2/</sup> The production guarantee for non-irrigated cotton is based on the solid-planted approved APH yield.	
<sup>3/</sup> For RA Whole farm units, the PP payment is paid based on the weighted average of the per-acre revenue guarantees. For example, if corn and wheat are insured, it is the weighted average of the per-acre revenue for both crops.	
The PP guarantee for eligible double-cropped acreage is the same as for PP acreage that is not planted to any crop (e.g.; 60 percent for corn).	

## F. ELIGIBLE ACRES

(1) Acreage eligible for PP must be:

(a) Insurable. The adjuster (and/or other contractor or AIP employee designated by the AIP) must verify that the acreage claimed as PP is NOT any of the uninsurable acreage listed below:

1 Uninsurable acreage includes, but is not limited to, acreage:

a That has **not been planted and harvested or insured** (including insured acreage that was prevented from being planted) **in at least one of the three previous crop years, UNLESS** the insured can show that:

(i) Such acreage was not planted:

i In at least two of the previous three crop years to comply with any other USDA program;

ii Because of crop rotation, (e.g., corn, soybeans, alfalfa; and the alfalfa remained for four years before the acreage was planted to corn again); or

iii Because a perennial tree, vine, or bush crop was grown on the acreage. (**Clarification:** forage crops, grass crops, and sod are not considered perennial crops for this purpose.)

(ii) The Crop Provisions or a written agreement specifically allow insurance for such acreage; or

(iii) Such acreage constitutes five percent or less of the insured planted acreage in the unit;

b That has been strip-mined, unless otherwise approved by written agreement, or unless an agricultural commodity other than a cover, hay, or forage crop (except corn silage), has been harvested from the acreage for at least five crop years after the strip mined land was reclaimed;

c For which the actuarial documents do not provide the information necessary to determine the premium rate, unless insurance is allowed by a written agreement;

d That is otherwise restricted by the Crop Provisions or Special Provisions.

- (b) Available for planting. Available for planting means land is free of trees, rocky outcroppings, or other factors that would prevent proper and timely preparation of the seedbed for planting and harvest of the crop for the crop year. Acreage not considered available for planting includes, but is not limited to, the following:
- 1 acreage enrolled in CRP;
  - 2 perennial crop acreage; i.e., trees or vines still on the acreage or not removed in time to plant;
  - 3 pasture or forage acreage is in place (established). Refer to section 4 I and 4 K (2) (a) for what constitutes established pasture or forage acreage that is in place; and
  - 4 Acreage that in normal weather patterns is normally wet throughout the final and late planting period and that would only be available to plant in abnormally dry conditions. Because of the normally wet conditions from year to year on such acreage, this acreage is likely to have well established cattails, perennial weeds, and perennial grasses that increase the likelihood of the acreage being unavailable for planting even in the driest year. Unavailability of such land increases in this situation because of the time, expense, and labor needed to remove the well-established cattails, weeds, and grasses in time to plant the insured crop.
- (c) Acreage for which the insured can provide evidence that there was intent to plant an insured crop. Evidence that the insured had previously planted the crop on the unit will be considered adequate proof unless the insured's planting practices or rotational requirements show the acreage would have remained fallow or would have been planted to another crop.

- (2) Maximum eligible acreage for ALL insured crops eligible for PP payments.

The maximum is the TOTAL number of acres eligible for PP coverage for ALL crops. This total cannot exceed the number of cropland acres in the insured's farming operation for the crop year, unless the insured has provided proof that acreage was double cropped and at least one crop qualified for PP coverage. Refer to Section 4 G (4) and Section 5 C.

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**Continued on the next page**

(3) Maximum eligible acreage for each crop.

<b>TYPE OF CROP:</b>	<b>Eligible acres if, in any of the 4 most recent crop years<sup>2</sup>, the insured has planted ANY crop in the county for which PP insurance was available or has received a PP insurance guarantee:</b>	<b>Eligible acres if, in any of the 4 most recent crop years<sup>2</sup>, the insured HAS NOT planted ANY crop in the county for which PP insurance was available or has not received a PP insurance guarantee:</b>
<p>For crops not required to be contracted with a processor to be insured.</p> <p>Applicable crops not requiring processor contracts are as follows:</p> <p>Barley, canola/rapeseed, corn, cotton, ELS cotton, dry beans<sup>1/</sup>, dry peas<sup>1/</sup>, flax, grain sorghum, millet, oats, onions, peanuts, central and southern potatoes, northern potatoes, rice, rye, silage sorghum, soybeans, safflowers, sunflower seed, and wheat</p> <p><sup>1/</sup>This does not include contract seed beans or contract seed peas. See contract seed beans or contract seed peas below.</p>	<p>The maximum number of acres certified for APH purposes<sup>3/</sup>, or insured acres reported for insurance for the crop in any one of the 4 most recent crop years<sup>2/</sup> (not including reported PP acreage that was planted to a second crop unless the insured meets the double-cropping requirements stated in Section 5 C).</p> <p>The number of acres determined above for a crop may be increased by multiplying it by the ratio of the total cropland acres that the insured is farming in the current crop year<sup>2</sup> (if greater) to the total cropland acres that the insured farmed in the previous year, provided that the insured submits proof to the AIP that for the current crop year<sup>2</sup> the insured has purchased or leased additional land or that acreage will be released from any USDA program which prohibits harvest of a crop. Such acreage must have been purchased, leased, or released from the USDA program in time to plant it for the current crop year<sup>2</sup> using good farming practices. No cause of loss that would prevent planting may be evident at the time the insured leases the acreage (except acreage the insured leased the previous year and continues to lease in the current crop year<sup>2</sup>); the insured buys the acreage; or the acreage is released from a USDA program which prohibits harvest of a crop; the insured requests a written agreement to insure the acreage; or the insured otherwise acquires the acreage (such as inherited or gifted acreage).</p>	<p>The number of acres specified on an intended acreage report submitted to the AIP by the SCD for ALL crops insured for the crop year<sup>2</sup> and that is accepted by the AIP. The total number of acres listed (for all crops) cannot exceed the number of acres of cropland in the insured's farming operation at the time the intended acreage report is submitted. The number of acres determined above for a crop can only be increased by multiplying it by the ratio of the total cropland acres that the insured is farming in the current crop year<sup>2</sup> (if greater) to the number of acres listed in the intended acreage report, if the insured submits proof to the AIP that for the current crop year<sup>2</sup> the insured has purchased or leased additional land or that acreage will be released from any USDA program which prohibits harvest of a crop. Such acreage must have been purchased, leased, or released from the USDA program in time to plant it for the current crop year<sup>2</sup> using good farming practices. No cause of loss that would prevent planting may be evident at the time the insured leases the acreage (except acreage the insured leased the previous year and continues to lease in the current crop year<sup>2</sup>); the insured buys the acreage; or the acreage is released from a USDA program which prohibits harvest of a crop; the insured requests a written agreement to insure the acreage; or the insured otherwise acquires the acreage (such as inherited or gifted acreage).</p>
	<p><sup>2</sup> crop year as defined in the applicable crop provisions.</p> <p><sup>3/</sup> In accordance with the cotton provisions, the maximum eligible acres for PP are based on acres before adjustments for skip-row-planting patterns. Therefore, any skip-row cotton certified for APH purposes in the most recent four crop years must be adjusted back to gross acres; i.e., gross acres before the skip-row acreage factor is applied.</p>	

<b>TYPE OF CROP:</b>	<b>Eligible acres if, in any of the 4 most recent crop years<sup>1/</sup>, the insured has planted ANY crop in the county for which PP insurance was available or has received a PP insurance guarantee:</b>	<b>Eligible acres if, in any of the 4 most recent crop years<sup>1/</sup>, the insured HAS NOT planted ANY crop in the county for which PP insurance was available or has not received a PP insurance guarantee:</b>
<p>For crops that require a processor contract in order for the crop to be insured.</p> <p>Applicable crops requiring processor contracts are as follows:</p> <p>hybrid seed (corn), hybrid sorghum seed, contract seed beans under the dry bean crop provisions, mustard, contract seed peas under the dry pea crop provisions, green peas, popcorn, processing sweet corn, processing beans, and sugar beets.</p>	<p>The number of acres specified in the processor contract, if the contract specifies a number of acres contracted for the crop year<sup>1/</sup>; or</p> <p>The result of dividing the quantity of production stated in the processor contract by the insured's approved yield, if the processor contract specifies a quantity of production that will be accepted. (For the purposes of establishing the number of PP acres, any reductions applied to the transitional yield for failure to certify acreage and production for four prior years will not be used.)</p> <p>If a minimum number of acres or amount of production is specified in the processor contract, this amount will be used to determine the eligible acres. If a processor cancels or does not provide contracts, or reduces the contracted acreage or production from what would have otherwise been allowed, solely because the acreage was prevented from being planted due to an insured cause of loss, the AIP will determine the number of acres eligible based on the number of acres or amount of production the insured had contracted in the county in the previous crop year.<sup>1/</sup> (If the processor contract states both a minimum and maximum number of acres or production, the eligible PP acres will be based on the minimum number stated in the contract.) If the insured did not have a processor contract in place for the previous crop year<sup>1/</sup>, the insured will not have any eligible PP acres for the applicable processor crop. The total eligible PP acres in all counties cannot exceed the total number of acres or amount of production contracted in all counties in the previous crop year<sup>1/</sup>. If the applicable crop provisions require that the price election be based on a contract price, and a contract is not in force for the current crop year<sup>1/</sup>, the price election will be based on the contract price in place for the previous crop year<sup>1/</sup>.</p>	<p>The number of acres specified for the crop in the processor contract, if the contract specifies a number of acres contracted for the crop year<sup>1/</sup>; or</p> <p>The result of dividing the quantity of production stated in the processor contract by the insured's approved yield, if the processor contract specifies a quantity of production that will be accepted. (For the purposes of establishing the number of PP acres, any reductions applied to the transitional yield for failure to certify acreage and production for four prior years will not be used.)</p> <p>If a minimum number of acres or amount of production is specified in the processor contract, this amount will be used to determine the eligible acres. (If the processor contract states both a minimum and maximum number of acres or production, the eligible PP acres will be based on the minimum number stated in the contract.)</p>
<p><sup>1/</sup> crop year as defined in the applicable crop provisions.</p>		

- (4) PP acres subsequently planted to a second crop are not used to determine eligible acres unless double cropping requirements are met. Refer to Section 5 for information regarding second crop and double cropping requirements.
- (5) Any eligible acreage determined in accordance with the table in subsection F (3) above will be reduced by subtracting the number of acres of the crop planted (insured and uninsured acres of a first, second, or subsequent crop).
- (6) The insured must report the precise number of PP acres by the acreage reporting date. Refer to Section 7 for acreage reporting information and Section 12 for information about verifying eligibility of reported PP acreage and examples thereof.
- (7) If an insured has an additional coverage policy for a crop and executes a High Risk Land Exclusion Option that separately insures high-risk land acreage for that crop under a CAT policy, the maximum number of acres eligible for a PP payment will be limited for each crop policy as specified in subsection 4 F and G.
- (8) If the insured is prevented from planting a crop for which the insured does not have an adequate base of eligible PP acreage, as determined in accordance with the table in subsection F (3) above, the following applies:
  - (a) The PP production guarantee or amount of insurance, premium, and PP payment will be based on the crops insured for the current crop year, for which the insured has remaining eligible PP acreage. The crops used for this purpose will be those that result in a PP payment **most similar (closest)** to the per-acre PP payment that would have been made for the crop that was prevented from being planted.
  - (b) This will only be allowed if the crop that was prevented meets all policy provisions, except for having an adequate base of eligible PP acreage. Payment may be made based on crops other than those that were prevented from being planted even though other policy provisions, including but not limited to, processor contract and rotation requirements have not been met for the crop on which payments is being based.

However, if the insured was prevented from planting any non-irrigated crop acreage, and the insured does not have any remaining eligible acres for that crop and does not have any other crop remaining with eligible acres under a non-irrigated **practice** and a non-irrigated practice is not available, no PP payment will be made for the acreage. If the producer has only irrigated history for another crop that has remaining eligible acres, and both irrigated and non-irrigated practices for the crop are insurable in the county and the non-irrigated practice would result in the most similar payment, a non-irrigated practice will be established for the producer and the PP payment for the remaining acres will be paid based on the non-irrigated practice for the crop.

- (c) The PP payment may or may not be made from crop eligibility that is in the same physical location as the acreage that was actually prevented from being planted. For example, the land upon which the crop was prevented from being planting may be located in legal section 12 and the crop and unit for which the PP payment is the most similar may be associated with legal section 10. **Refer to example in subsection 12 E.**

- (9) Increases of the maximum eligible PP acres for a crop due to the insured increasing his/her cropland acres for the current crop year is determined separately for the crop and irrigated crop by determining a ratio and multiplying this ratio by the highest number of acres reported or insured in one of the last 4 crop years as stated in subsection (3) above.

**EXAMPLE:** For the 2006 crop year, the insured had 200 acres of irrigated acreage in county ABC and purchased an additional 100 acres of irrigated cropland in county ABC prior to the time planting preparation would have begun for the 2007 crop year. No cause of loss was evident at the time the additional irrigated acreage was purchased. Determine the ratio by dividing the total irrigated acreage the insured has in his/her operation for 2007 in county ABC by the amount of irrigated acreage the insured had in his/her operation in county ABC for the 2006 crop year ( $300/200 = 1.50$ ). To increase the insured's maximum irrigated PP corn acreage for the 2007 crop year in county ABC, determine the highest number of acres certified for APH purposes or insured acres reported for corn in county ABC in one of the 4 most recent crop years. Assume the highest number of irrigated corn acres in the past 4 years was 200 acres. Multiply 200 acres times the 1.50 ratio = 300 acres (maximum eligible irrigated corn PP acres for county ABC in 2007 crop year).

However, as stated in FAD-040 (Exhibit 9), regardless of the number of eligible acres determined in accordance with the above ratio as stated above and in subsection 3, coverage under an irrigated practice is limited to acres that the insured has adequate irrigation facilities in place to carry out an irrigated practice prior to the insured cause of loss preventing planting.

- (10) The Cotton Crop Provisions (or other crop's Special Provisions, or an approved Written Agreement) limit insurable acreage to "only the land occupied by the rows of cotton (other crop, if applicable) when a skip-row planting pattern is utilized." In addition, the Basic Provisions specify the eligible prevented planting acres are the maximum number of acres certified for APH purposes or insured acres reported, which in the case of skip-row cotton (or other crops having a skip-row planting pattern practice on the actuarial or by Written Agreement) is the gross acres (acreage occupied by the skip-rows and rows of crop) adjusted downward based on the particular skip-row planting pattern (which, in the example below would be 200.0 acres).

**EXAMPLE:**

300.0 gross acres planted in a skip-row planting pattern in one of the last four crop years. Percent planted for skip-row planting pattern is 66.67% (converted to decimal is .6667).  $300.0 \text{ acres} \times .6667 = 200.0 \text{ acres}$  used for eligible PP acres.

These are the acres that are used to determine the maximum eligible PP acres when looking at the previous four years of history on the APH form.



## G. ACREAGE WHICH IS NOT ELIGIBLE FOR PP COVERAGE

Regardless of the number of eligible acres determined from using the table in subsection F (3) above, PP coverage will not be provided for any acreage:

- (1) That does not constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit, whichever is less (after the minimum acreage requirement on the unit is met, PP payments are on a per acre basis). For Enterprise and Whole Farm Units, the 20 acres/20 percent rule applies to the total acreage for the crop (e.g., corn) in the Enterprise or Whole Farm Unit.
  - (a) Any PP acreage within a field that contains planted acreage will be considered to be acreage of the same crop, type, and practice that is planted in the field (if there are multiple crops planted in a field, the insured may select which crop will be used for the PP acreage), except the PP acreage may be considered to be acreage of a crop, type, and practice other than that which is planted in the field **ONLY** in the following situations:
    - 1 The PP acreage in the field constitutes at least 20 acres or 20 percent of the total insurable acreage in the field, and the insured produced **the** crops, crop types, or followed **the** practices in the same field in the same crop year within any of the 4 most recent crop years<sup>1/</sup>;  
  
<sup>1/</sup>crop year as defined in the applicable crop provisions.  
  
**Example:** The field is 160 acres but only 120 acres have irrigation facilities (e.g., irrigation pivot system) available to irrigate the field. Therefore, since there are no irrigation facilities available on the corners of the pivot and an irrigation practice has never been carried out on this portion of the field (40 acres), these acres cannot be considered as an irrigated practice even though in the same field.
    - 2 The insured was prevented from planting a first insured crop, and a second crop was planted in the same field (There can only be one first insured crop in a field unless the requirements in subsection (a) 1 or 3 are met); or
    - 3 The insured crop planted in the field would not have been planted on the remaining PP acreage; e.g., where rotation requirements would not be met or the insured already planted the total number of acres specified in the processor contract. **Example:** The insured's sugar beet contract is for 100 acres and all 100 acres of sugar beets are planted into a 160 acre field. Since the insured could not continue to plant sugar beets because of the limitation of 100 acres in the sugar beet contract, the remaining 60 acres of land in the field are eligible for a PP payment as a separate crop, provided all other PP eligibility requirements are met
  - (b) If an insured claims irrigated PP acreage for a crop, the insured cannot plant the same crop as a NI practice and collect PP on the irrigated practice even when the insured's

eligibility for irrigated acres has been reduced due to a progressive drought; .e. g., the insured's cropland acres consists of 100 acres, which is contained within one field. The insured has irrigated corn history on the 100 acres. However, due to the progressive drought, the insured's eligible irrigated PP acres for corn has been reduced to 90 acres. If the insured plants 10 acres of non-irrigated corn, the whole field would be considered non-irrigated corn and the PP payment would have to be based on a non-irrigated corn practice rather than irrigated corn.

- (2) For which the actuarial documents do not provide the information needed to determine a premium rate unless a written agreement designates such premium rate;
- (3) Used for conservation purposes or intended to be left unplanted under any program administered by the USDA or other government agency, or required to be left unharvested under the terms of the lease or any other agreement (The number of acres eligible for PP will be limited to the number of acres specified in the lease for which the insured is required to pay either cash or share rent);
- (4) On which the insured crop is prevented from being planted, if the insured or any other person receives a PP payment for any crop for the same acreage in the same policy crop year, (it is the insured's responsibility to determine whether a PP payment had previously been made for the crop year on the acreage for which the insured is now claiming a PP payment and report such information to the AIP before any PP payment can be made), excluding share arrangements, **unless ALL of the criteria for double cropping in section 5 C is met.**
- (5) On which the insured crop is prevented from being planted, if:
  - (a) Any crop is planted within or prior to the LP period (or on or prior to the FPD if no LP period is applicable) for the same crop year, unless:
    - 1 the insured meets the double cropping requirements (as stated in Section 5 C);
    - 2 the crop planted is a cover crop; or
    - 3 no benefit, including benefit under any USDA program was derived from the crop; OR
  - (b) Any volunteer or cover crop is hayed, grazed, or otherwise harvested within or prior to the LP period (or on or prior to the FPD if a LP period does not apply) for the PP crop for the same crop year.
- (6) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes or on which any pasture or other forage crop is in place on the acreage during the time planting of the insured crop generally occurs in the area;
- (7) That exceeds the number of acres eligible for a PP payment;

- (8) That exceeds the number of eligible acres physically available for planting;
- (9) For which the insured cannot provide proof that he/she had inputs available to plant and produce a crop with the expectation of at least producing the yield used to determine the production guarantee or amount of insurance; (See subsection F (1) above.)
- (10) Based on an irrigated practice production guarantee or amount of insurance unless adequate irrigation facilities were in place to carry out an irrigated practice on the acreage prior to the insured cause of loss that prevented the insured from planting. **Acreage with an irrigated practice production guarantee will be limited to the number of acres allowed for the irrigated practice within the eligible acres determined as described in subsection 4 F (3) (4) and (5) and subsection 4 G; or**

**EXAMPLE:** The insured turned in a PP claim for 150 acres of irrigated corn. The insured had irrigation facilities in place to irrigate all 150 acres. However, the insured only has history for 100 acres of corn of which 50 are irrigated and 50 are non-irrigated. In this situation, once the 50 acres of irrigated corn history has been exhausted, you must use the 50 acres of the non-irrigated corn history. Then if there is 50 acres of remaining eligible PP acreage for other crops, you would pay the 50 acres based on the crop with a non-irrigated PP payment most similar to the non-irrigated corn PP payment. If the insured has no other crop with remaining non-irrigated acreage or on which a non-irrigated practice can be set up, no PP payment will be made on the remaining 50 acres. Also, see examples in section 12 E of this handbook.

- (11) Of a crop type or variety that the insured did not plant or has not received a PP insurance guarantee in at least one of the 4 most recent crop years<sup>1/</sup>. Types or varieties for which separate price elections, amounts of insurance, or production guarantees are available must be included in the APH database in at least one of the 4 most recent crop years<sup>1/</sup>, or crops that do not require yield certification (crops for which the insurance guarantee is not based on APH) must be reported on the insured's acreage report in at least one of the four most recent crop years<sup>1/</sup>, except as otherwise allowed and approved on an intended acreage report as specified in subsection F (3) above.

<sup>1/</sup>Crop year as defined in the applicable crop provisions

- (a) Eligible acreage for a crop type or variety is limited to the maximum number of acres allowed for that crop type or variety as specified in subsection 4 F and G above. Refer to the following examples:

- 1 **Example 1** - The insured's dry bean history in the 4 most recent policy crop years is 10 acres for black turtle beans and 90 acres for navy beans. If the insured reports 100 prevented planting acres of black turtle beans on his/her acreage report, the acreage report must be revised to reflect 10 acres PP for black turtle beans and 90 acres PP for navy beans. The insured would be eligible for 100 acres of PP since no crop was planted, but the PP payment would have to be based on 10 acres of black turtle beans and 90 acres of navy beans.

2 **Example 2** – When a crop type does not have enough eligible acres to pay the PP claim, you must first determine if there is another type of the insured crop that has remaining eligible acres before looking at a different crop having remaining eligible acres to pay the PP claim under. If there is not another type of the insured crop that has remaining eligible acres, then you can look for remaining eligible acres with the most similar payment of another crop. In this scenario, the insured’s history for dry beans is 100 acres of irrigated Pintos, 100 acres of non-irrigated Pintos, 100 acres of irrigated Northerns, and 100 acres of non-irrigated Northerns. If the insured claimed 150 acres of irrigated Pintos, the insured is limited to a PP payment for 100 acres of irrigated pintos since the insured had only 100 acres history for irrigated Pintos. However, the remaining 50 PP acres claimed for dry beans would be paid based on 50 acres of irrigated Northerns because the insured has a history for 50 acres of irrigated Northerns and those acres remain eligible for a PP payment (i.e., not planted or 50 acres of irrigated Northerns were not claimed as PP acres), and would result in the closest PP payment to Pintos;

- (b) Refer to Section 12 E for another example of rolling part of the PP payment from one type to another type when all of the eligible acres of one type have been exhausted and there are remaining eligible PP acres of another type available to pay the PP claim.
- (12) When wheat acreage is short-rated (less than a full crop year coverage and premium), such acreage is not eligible for a PP payment for wheat, nor is it eligible for a PP payment for another crop unless it qualifies under “double cropping” provisions of the PP section of the policy. The insured short-rated acres reported on the acreage report in any of the 4 most recent crop years are used in the determination of the maximum number of eligible PP acres.
- (13) If a cause of loss has occurred that would prevent planting at the time:
- (a) The insured leased the acreage (except acreage the insured leased the previous crop year and continues to lease in the current crop year);
  - (b) The insured bought the acreage;
  - (c) The acreage is released from a USDA program which prohibits harvest of a crop;
  - (d) The insured requested a written agreement to insure the acreage; or
  - (e) The insured acquired the acreage through means other than lease or purchase (such as inherited or gifted acreage).

## **H. PP COVERAGE FOR SPRING CROPS INTENDED TO FOLLOW A FAILED FALL CROP**

An insured may be eligible for a PP guarantee for a spring-planted crop that was intended to be planted, even though a fall-planted crop had been planted on the acreage, if the acreage has a history of double-cropping, or if all of the following apply:

- (1) The fall-planted crop failed, crop insurance coverage was not available for the fall-planted crop, and the insured is not eligible for any payment associated with the crop loss; e.g.; insured plants fall wheat in a county that only offers coverage for spring planted wheat (there is no insurance available for fall wheat);
- (2) Failure of the fall-planted crop occurs prior to the time that planting of spring crops normally begins in the county;
- (3) No benefit, including any benefit under any USDA program, was derived from the failed fall-planted crop;
- (4) The fall-planted crop is not an established forage stand. Refer to subsection I below regarding PP eligibility when there is an established forage stand in place; and
- (5) An insurance policy with PP coverage is in place for the spring crop that is intended to be planted.

## **I. PP COVERAGE WHEN THERE IS PASTURE OR FORAGE**

PP coverage will not be provided for any acreage on which any established pasture or other forage crop is in place on the acreage during the time planting of the insured crop generally occurs in the area. However, in certain unique situations, they may not be considered to be in place, and the insured may be eligible for a PP guarantee when:

- (1) The insured can demonstrate his/her intent to destroy an existing forage stand (that meets the criteria in (2) below) and plant a spring crop on the acreage **but due to insurable causes** was unable to destroy the forage stand and plant the spring crop (e.g., **if chemical kill, plow-down, or chisel plow of the forage crop the fall before planting the ground to a spring crop is a recommended practice in the area, then that step must have been taken, unless the insured can provide documentation that an insured cause prevented that particular step**), and
- (2) Items (a)-(e) ALL apply:
  - (a) If:
    - 1 **Insurance under the Forage Production Crop Provisions** is available in the county, the forage crop must be an over-age stand or stand that is reduced such that insurance would not be available; or

- 2 If **insurance under the Forage Production Crop Provisions** is not available in the county, the stand must be reduced such that the forage would not be further cared for by producers in the area and would normally have been removed; **or**
  - 3 The insured can provide verifiable documentation that establishes the forage rotation practice, and that this would be the year the forage on this acreage would be rotated to another crop; **or**
  - 4 Before the insured's normal forage rotation practice would occur, the forage stand, due to adverse conditions, has been reduced such that insurance would not be available or if insurance is not available, it would be reduced such that the forage would not be further cared for by producers in the area and would normally have been removed, **or**
  - 5 The forage stand would have normally been removed in the fall for one of the reasons stated in 1-4 above, but agricultural experts recommend that the stand not be removed to prevent soil erosion.
- (b) No benefit (including any benefit under any USDA program) was derived from the forage crop;
  - (c) Insureds with acreage of similar characteristics in the surrounding area were prevented from planting;
  - (d) The insured provides documentation/proof to the AIP's satisfaction that the acreage would qualify as "Insurable Acreage" under the applicable policy provisions for the crop being claimed as prevented; and
  - (e) An insurance policy with PP coverage is in place for the spring crop that is intended to be planted.

**J. PP COVERAGE FOR AN INTENDED FALL-PLANTED OR SPRING-PLANTED CROP FOLLOWING A SPRING-PLANTED CROP FROM THE PRIOR CROP YEAR**

An insured producer may be entitled to a PP payment for a crop with a fall-planting date or spring-planting date that was prevented from being planted by the FPD due to adverse weather preventing harvest of a mature spring-planted crop, **provided other producers** with acreage having similar characteristics in the surrounding area were also prevented from harvesting a mature spring-planted crop (due to adverse weather). In counties that have crops with only spring FPDs or both fall and spring FPDs (e.g., Small Grains), the insured crop must be prevented from being planted until the spring FPD in order to be eligible for a PP guarantee.

**EXAMPLE 1:** A spring crop was planted in **2006**. Due to excess moisture, the crop was not harvested by the fall FPD and prevents planting of a fall-planted crop for the **2007** crop year.

**EXAMPLE 2:** A spring crop was planted in **2006**. Due to excess moisture, the crop remained in the field after the calendar date for the end of the insurance period for the crop. Continued

adverse weather prevented harvest of the crop until the late winter months or early spring months of 2007. Spring weather conditions prevented field preparation and/or planting of the 2007 spring crop by the spring FPD due to the 2006 crop not being harvested.

## **K. ACCEPTABLE COVER CROPS**

- (1) A cover crop is defined as: “A crop generally recognized by agricultural experts as agronomically sound for the area for erosion control or other purposes related to conservation or soil improvement.”
- (2) For insurance purposes the following will not be considered acceptable cover crops:
  - (a) Volunteer or cover plants that were seeded, transplanted, or that volunteer earlier than 12 months prior to the final planting date for the insured PP crop. These plants will be considered existing established pasture or forage that is in place, as stated in section 4 I; or  

**EXAMPLE:** The insured had 2005 PP corn, and on July 1, 2005, the insured planted a cover crop that remains in place throughout 2006 and until corn planting should take place for the 2007 crop year. Due to excess moisture, the insured claims prevented planting corn in 2007. Since the plants were seeded, transplanted, or volunteered more than 12 months prior to the 2007 final planting date they would be considered a crop in place (established), and the insured would not be eligible for a PP payment unless no benefit (includes grazing, haying, etc.) is derived from the acreage.
  - (b) Alfalfa, soybeans, peanuts, corn, and dual purpose grain sorghum varieties (types used for both grain and silage), male sterile grain sorghum varieties or photo period sensitive grain sorghum varieties, that have been developed to produce green matter to be ensiled, or any other plants or crop that agricultural experts would not recognize as a cover crop as defined in (1) above.
  - (c) Cover crops are not eligible to be enrolled and covered under NAP. Refer to Section 5 A (1) (b) and the clarification that follows this subsection.
- (3) When the cover crop planted is a crop that is commonly planted for silage, grazing, etc., in the area or for the type of farming operation the insured has (e.g. dairy operation), the adjuster must use extra caution in verifying whether the insured’s original plan was to plant the crop claimed as a cover crop or the crop claimed as being prevented from planting. Items that may be verified include but are not limited to: (1) That the insured has the inputs to plant the crop claimed as PP; (2) That the insured has a history of planting the cover crop for hay, silage, grazing, etc.; and (3) Whether the insured certified acreage at FSA this crop year and if so, what use is shown for the acreage in question. Refer to Section 5 below for more information pertaining to how haying, grazing, or otherwise harvesting a cover crop planted on the same PP acreage may affect the PP payment.

## **5. PP PAYMENT REDUCTION DUE TO SECOND CROP, COVER CROP OR VOLUNTEER CROP**

In accordance with the Agricultural Risk Protection Act of 2000, Section 508a of the Federal Crop Insurance Act was amended and subsequently the Basic Provisions were amended to limit prevented planting payments when a second crop is planted on the same acreage in the same crop year, except as allowed for acreage that qualifies for double-cropped acreage, as defined in the Basic Provisions.

### **A. FIRST INSURED CROP PREVENTED FROM BEING PLANTED AND SECOND CROP**

#### (1) Definitions.

- (a) **First Insured Crop** – With respect to a single crop year and any specific crop acreage, the first instance that an agricultural commodity is planted for harvest or prevented from being planted and is insured under the authority of the Act. For example, if winter wheat that is not insured is planted on acreage that is later planted to soybeans that are insured, the first insured crop would be soybeans. If the winter wheat was insured, it would be the first insured crop.
- (b) **Second Crop** – With respect to a single crop year, the next occurrence of planting any agricultural commodity for harvest following a first insured crop on the same acreage. The second crop may be the same or a different agricultural commodity as the first insured crop, except the term does not include a replanted crop. A cover crop, planted after a first insured crop (for PP after the FPD for the PP crop (LP period, if applicable)) and planted for the purpose of haying, grazing, or otherwise harvesting in any manner; or that is hayed or grazed prior to November 1 (which generally would be when crops in the area would normally be harvested), or otherwise harvested at any time, is considered a second crop. A cover crop that is covered by FSA’s noninsured crop disaster assistance program (NAP) or receives other USDA benefits associated with forage crops will be considered as planted for the purpose of haying, grazing, or otherwise harvesting. A crop meeting the conditions stated herein will be considered to be a second crop regardless of whether or not it is insured. Notwithstanding the references to haying and grazing as harvesting as stated within the Basic Provisions and above, for the purpose of determining the end of the insurance period, harvest of the crop will be as defined in the applicable crop provisions.

#### **CLARIFICATION of “A cover crop that is covered by FSA’s noninsured crop disaster assistance program NAP . . .” as stated in the definition above:**

“Covered” means the producer has NAP coverage for the crop planted on the PP acreage. FSA has clarified that crops intended for cover crops cannot be covered under NAP. Insureds must certify to the usage of the crop when they certify their acres at FSA. If their acres are certified as a cover crop (i.e., not haying, grazing, or otherwise harvesting), such acreage is ineligible for coverage under NAP. If the producer has signed the crop up for NAP and certifies the acreage at FSA as intended for haying, grazing or harvest; then it would be: (1) covered under NAP and would be considered a second crop, and (2) the (first insured crop) PP payment is limited to 35%. Even if the crop planted on the PP acreage has NAP coverage in effect and it is



never grazed, hayed, or harvested; it is still considered a second crop because NAP coverage is in effect.

(c) Cover Crop

- 1 If a cover crop is planted prior to the end of the late planting period (on or prior to the final planting date if no late planting period is applicable) for an insured crop that is prevented from being planted, prevented planting coverage may be provided for the insured crop.
- 2 If a cover crop is hayed or grazed prior to the end of the late planting period (on or prior to the final planting date if no late planting period is applicable) for an insured crop that is prevented from being planted, no prevented planting coverage is available.
- 3 If a cover crop is planted after the end of the late planting period (final planting date if no late planting period is applicable) for an insured crop that is prevented from being planted, but is not hayed or grazed prior to November 1, the prevented planting payment will not be reduced.
- 4 If a cover crop is hayed or grazed after the end of the late planting period (final planting date if no late planting period is applicable) for an insured crop that is prevented from being planted and prior to November 1 of the crop year, the prevented planting payment will be reduced by 65 percent.
- 5 If a cover crop is hayed or grazed after November 1 of the crop year in which an insured crop is prevented from being planted, the prevented planting payment will not be reduced.
- 6 A crop harvested for grain, seed, etc., is presumed not to have been grown for conservation or soil improvement purposes and the policy provisions for second crops or crops planted prior to the end of the late planting period, as applicable, will apply.

(2) If the insured is prevented from planting the first insured crop in the crop year (except in the case of double cropping, as described in subsection C below), the following applies:

(a) Insured's Options:

- 1 **Not plant a second crop** on the same acreage for harvest in the same crop year and collect 100 percent of the PP payment for the acreage, provided no other party plants a second crop on this acreage. Refer to subsection 5 B below.
- 2 **Plant a second crop** on the same acreage for harvest in the same crop year. (A cover crop or volunteer crop may be considered a second crop. Refer to subsection 4 K and 5 A (1) (b) above.) (For PP, the second crop does not have to be insured or suffer a loss before the PP payment for the first insured crop (PP acreage) is reduced to 35%. Also, if a second crop is planted by someone else, the PP payment will be reduced as stated in subsection B below.) When a

second crop is planted and the insured does not qualify for double cropping (refer to subsection C below), the following will apply:

- a The insured will receive 100 percent of an indemnity that may be due for the second crop and 35 percent of the PP payment for the acreage of the first insured crop provided the second crop is not planted on or before the FPD or during the LP period (as applicable) for the first insured crop.
- b The insured is responsible for a premium for the first insured crop of PP acreage that is commensurate with the amount of the PP payment paid for the first insured crop; i.e., 35%.
- c The insured is responsible for paying the full premium for the second crop acreage, if the second crop is an insured crop. If second crop planted acreage follows first insured crop of PP acreage, it must be reported as insured acreage if it meets all insurability requirements for the crop (no option to not insure second crop acreage if there is an active policy in the county for the crop.)
- d Subsequent crops planted will not affect the indemnity of second crop acreage.

**B. ADDITIONAL INFORMATION REGARDING REDUCTION IN PP PAYMENTS DUE TO SECOND CROP, COVER CROP, OR VOLUNTEER CROP**

**In addition to the insured planting a second crop (or cover crop when the cover crop is not considered a second crop; see section 5 A (1) above), except in the case of double cropping as described in subsection C below, the following applies:**

- (1) If another person plants a second crop on any of the PP acreage (first insured crop) after the LP period (FPD if the LP period is not applicable) for the PP crop, then the PP payment will be 35% of the PP payment due for such acreage.
- (2) If a volunteer crop or cover crop is hayed or grazed (by insured or another person) from the PP acreage (first insured crop), AFTER the LP period (or after the FPD if a LP period is not applicable) for the PP crop but prior to November 1, the insured is limited to only 35% of the PP payment for such acreage.
- (3) When a cover crop planted prior to the final planting date (or prior to the end of the LP period, if LP period is applicable) is hayed or grazed, refer to 5 A (1) (c) above.
- (4) The PP payment will be limited to 35% of the PP payment due if a cover crop is swathed or windrowed after the end of the LP period (FPD if no LP period is applicable), but prior to November 1. (If swathed or windrowed prior to the end of the LP period (on or prior to FPD, if no LP period is applicable), no PP payment will be made.)

- (5) First insured crop acreage (PP acreage) cash rented
- (a) If the insured receives **or will receive** cash rent for **use** of the PP acreage (first insured crop), the insured is limited to only 35% of the PP payment due for such acreage.
  - (b) Cash rent, as used in this subsection means cash renting for agricultural use (growing a crop, haying, grazing, etc.) This does not apply when the acreage is cash rented for a non-agricultural use; e.g., hunting.
  - (c) A crop planted, following first insured crop PP acreage, by the person cash renting the acreage is considered the second crop for both the person having the first insured crop and for the person that cash rented the acreage and planted a crop on this acreage.
  - (d) If the first insured crop acreage (PP acreage) is not owned by the insured of the first insured crop acreage and the PP acreage is cash leased by the landlord to another person, the PP payment is limited to 35% of the PP payment due, if the other person cash renting the acreage:
    - 1 Plants a second crop on the PP acreage;
    - 2 Hays or grazes a cover crop or volunteer crop from the PP acreage after the LP period (FPD if no LP period applies) but prior to November 1; or
    - 3 Harvests (for other than haying or grazing) a volunteer or cover crop from the PP acreage.
- (6) First crop acreage (PP acreage) share rented

If the first crop acreage (PP acreage) is share rented to another person, the PP payment will be limited to 35% of the PP payment due if 1, 2, or 3 of (5) (d) above applies.

### **C. PP PAYMENT AS IT RELATES TO DOUBLE-CROPPING HISTORY**

- (1) The insured may receive a full PP payment IF ALL of the double cropping qualifications are met, as stated in section 5 C (2), and the:
- (a) First insured crop was PP and the second crop is planted on the same acreage in the same crop year, regardless of whether or not the second crop is insured or sustains an insurable loss;
  - (b) First insured crop was PP and the subsequent insured crop is prevented from being planted on the same acreage in the same crop year (cannot call the subsequent PP crop a second crop since it is not a planted crop; refer to definition of second crop);
  - (c) First insured crop is planted and the subsequent insured crop is prevented from being planted on the same acreage in the same crop year (cannot call the subsequent PP crop a second crop since it is not a planted crop); refer to definition of second crop); and

- (d) The first planted crop for the crop year is uninsured but insurance is available for the uninsured crop (refer to footnote in (2) (b) below) and a subsequent insured crop is prevented from being planted on the same acreage in the same crop year (the PP crop would be the first insured crop);

(2) Double Cropping Criteria

IF all of the following conditions are met, the insured qualifies for double cropping history:

- (a) It is a practice that is generally recognized by agricultural experts or the organic agricultural industry in the area to plant the second crop for harvest following harvest of the **first insured crop**;
- (b) Additional coverage insurance offered under the authority of the Act is available in the county for two or more crops that are double cropped (insured is not required to have additional coverage to qualify <sup>1/</sup>);

<sup>1/</sup> The two crops claimed as qualifying double-cropped acreage for the current crop year, must both be “insurable” in the current crop year in order to qualify as double-cropped acreage; i.e., insurance offered under the authority of the ACT is AVAILABLE in the county for both crops. Available means that a Federal crop insurance program is offered for the insured crop in the county by either having: (1) actuarial documents on file for the crop in the county (crop not required to be insured), or (2) if no actuarial documents are on file for the crop in the county, the crop is insured via a written agreement.

**EXAMPLE:** Wheat planted for harvest as grain would have insurance available under the ACT, but wheat planted for haying purposes would not.

- 1 **For the purpose of determining double-crop history, both crops do not have to have been insurable or insured in prior years;** e.g., for the current crop year, the first insured crop is wheat, and the second crop is soybeans. Prior year records show wheat is followed by carrots (there is no insurance program for carrots) in at least two of the last four crop years. If soybeans are planted on the PP wheat acres, the PP wheat acreage qualifies for double-cropping (entitled to 100% PP payment) due to the fact that there was double-cropping history wheat (carrots followed wheat).
- 2 A crop that has been hayed or grazed (except an insured crop that was released for other use) will not qualify for a historical double-cropping crop.

- (c) The insured provides records acceptable to the AIP of acreage and production that show the insured has double cropped acreage in at least two of the last four crop years in which the **first insured crop**<sup>1/</sup> was planted, or that show the applicable acreage was double cropped in at least two of the last four crop years in which the first insured crop was grown on it. Acceptable records that would show double cropping history would include, but is not limited to: Insured's APH records (production and acres), crop appraisals for the Federal crop insurance program (production and acres), production from settlement sheets (insured has identified the (unit/acreage from which the production has come) or bin measurements, and FSA maps and FSA-578 identifying the acres; and

<sup>1/</sup> If an insured crop is planted prior to the PP crop, then the double-cropping history must be determined based on the first insured crop, not the subsequent PP crop. If the first insured crop is the subsequent crop planted on the same acreage in the same crop year as the uninsured crop, the double crop records are based on the subsequent crop (first insured crop). See examples below.

**CLARIFICATION:** Potential production from appraised production (including acreage by-passed by a processor) of an insured crop would meet the requirement for records of acreage and production that show double-cropping history.

- (d) The amount of acreage the insured is double cropping in the current crop year does not exceed the number of acres for which the insured provides records, as required in (c) above.
- (3) Double cropping history is specific to the county/policy in which the PP claim is being made. A crop that has been hayed or grazed (except an insured crop that was released for other use) will not qualify for historically double-cropping crop; i.e., a crop was planted and harvested and was followed by another crop on the same acreage within the same crop year that was hayed or grazed.

(4) **EXAMPLES OF DOUBLE-CROPPING ELIGIBILITY**

**EXAMPLE 1:** A producer on Farm A had double cropped 300 acres of wheat and soybeans three years ago. This same producer on Farm B (same county) had double cropped 300 acres of wheat and soybeans the previous year. These are the only double cropping records this producer has for the last four crop years in which the first insured crop was planted. This insured would be eligible for 300 acres of double cropping wheat and soybeans for the current crop year in this county.

**EXAMPLE 2:** A producer on Farm A had double cropped 200 acres of wheat and soybeans for one year out of the last four crop years. For another year out of the last four crop years in which the first insured crop was planted, the same producer double cropped 200 acres of wheat and sunflowers on Farm B (same county). **These are the only double cropping records this producer has for the last four crop years in which the first insured crop was planted.** The insured would be eligible for 200 acres of double cropping wheat.

**EXAMPLE 3:** The insured has history of 200 acres of double-crop wheat/soybeans. An insured claimed 150 acres of PP winter wheat on field A for the 2006 crop year and plants

and harvests 150 acres of 2006 winter wheat on field B. Subsequently, in the spring the insured is prevented from planting the double-crop soybeans. If the insured is paid at 100% on the 150 acres of PP wheat on field A and no PP soybeans were claimed on the field A or no second crop was planted on field A, the insured would still have 200 acres of double-cropping eligibility that could be used. In this case, the insured could claim and receive 100% PP on soybeans on field B, provided all other policy conditions are met.

**EXAMPLE 4:**

<p>First insured crop for 2007 crop year: Wheat Planted</p> <p>History –</p> <p>2001 CY 100 acres of wheat harvested          2002 CY 200 acres of wheat harvested          2003 CY 0 acres of wheat planted          2004 CY 0 acres of wheat planted          2005 CY 300 acres of wheat; not harvested/not appraised.          2006 CY 0 acres of wheat planted.</p>	<p>Subsequent insured crop in the 2007 crop year is PP Soybeans</p> <p>History:</p> <p>All soybeans acreage planted below was harvested.</p> <p>2001 CY 100 acres of soybeans planted on wheat acreage.          2002 CY 200 acres of soybeans planted on wheat acreage.          2003 CY 300 acres of soybeans planted          2004 CY 250 acres of soybeans planted          2005 CY 300 acres of soybeans planted on wheat acreage          2006 CY soybeans planted</p>
<p>Based on the first insured crop wheat, the insured has 100 acres of double cropping history in <b>two</b> out of the <b>past four crop years of the first insured crop</b>. You cannot count 2005 as a double cropping year because the unharvested wheat acreage was not appraised.</p> <p>In the three years wheat was planted, there were two years in which wheat was followed by a second crop (soybeans) – 2001 and 2002, and out of those two years, only 100 acres were planted in both of those years. Two hundred acres could not qualify as the double-cropped acreage because 200 acres of wheat and the second crop (soybeans) were not planted in both years, but 100 acres were.</p>	

**EXAMPLE 5**

<p>First Crop Planted for 2007 crop year:</p> <p>Wheat Planted but not insured (Insurance is available for wheat in this county.)</p> <p>History –</p> <p>2001 CY 100 acres of wheat harvested          2002 CY 200 acres of wheat harvested          2003 CY 0 acres of wheat planted          2004 CY 0 acres of wheat planted          2005 CY 300 acres of wheat; not harvested/not appraised.          2006 CY 0 acres of wheat planted.</p>	<p><b>First insured crop for 2007:</b></p> <p>Subsequent insured crop in the 2007 crop year is PP Soybeans and is the first insured crop.</p> <p>History:</p> <p>All soybeans acreage planted below was harvested.</p> <p>2001 CY 100 acres of soybeans planted on wheat acreage.          2002 CY 200 acres of soybeans planted on wheat acreage.          2003 CY 300 acres of soybeans planted          2004 CY 250 acres of soybeans planted          2005 CY 0 acres of soybeans planted          2006 CY 0 acres of soybeans planted</p>
<p>Based on the first insured crop (soybeans), the insured has only 100 acres of soybean double-cropping history because there is only 100 acres of double cropping history in <b>two</b> of the <b>past four crop years of the first insured crop, soybeans</b>.</p> <p>In the last four years of the first insured crop soybeans, there were two years that soybeans were planted and harvested in the same crop year that wheat was planted and harvested – 2001 and 2002, and out of those two years, only 100 acres were planted in both of those years. Two hundred acres could not qualify as the double-cropped acreage because 200 acres of soybeans were not planted in both years.</p>	

Refer to 12 D (3) for a much more detailed example of double cropping history.

- (5) Limitations of Number of Double Cropped Acres
- (a) The receipt of a full PP payment on both crops that are double cropped is limited to the number of acres for which the insured can demonstrate he/she has double cropped or that have been historically double cropped as specified in (1) (c) above. Ratios for increasing PP eligibility do not apply to double-cropping history. For example: If the producer has the two years of required history and double cropped 40 acres one year and 50 acres in the other, then 40 acres would qualify for the double cropping exemption.
  - (b) If the first insured crop is PP wheat and a second crop is planted, the insured qualifies for 200 acres of double cropping wheat based on the highest number of double cropped wheat acres in two of the last four crop years in which wheat was planted and harvested or appraised, and the insured reports 205 acres of PP wheat, the insured would only qualify to receive 100% payment on 200 acres based on the insured's double cropping history of 200 acres, and the other 5 acres would be subject to the 35% PP payment and APH reduction.
  - (c) If the first insured crop is planted wheat (205 acres), and the subsequent insured crop is PP soybeans (205 acres), the 5 acres would be removed from the acreage report because those acres do not qualify for a PP payment.

**D. REVISED ACREAGE REPORTS DUE TO CHANGE IN STATUS OF A SECOND CROP OR DISPOSITION OF SECOND CROP ACREAGE**

Changes in the status of first insured crop reductions due to the actions of the insured require a revised acreage report. Refer to Section 7 below.

**E. LOSS ADJUSTMENT INVOLVING FIRST/SECOND CROP ACREAGE**

- (1) When the insured does not meet the double cropping requirements, the AIP may allow the insured to certify to the following at the time of the first inspection and pay 100% of the PP payment (first insured crop) due; provided the insured owns or has control of the first insured crop acreage for the rest of the crop year:
  - (a) A second crop will not be planted on the PP acreage;
  - (b) An approved cover crop or volunteer crop will not be hayed or grazed from the PP acreage prior to November 1, or harvested (for other than haying or grazing) at any time); and
  - (c) The PP acreage will not be cash rented to another person.
- (2) If the insured is a tenant and does not have control of the land for the rest of the crop year, an insured cannot certify to the items in subsection E (1) above. However, the AIP may accept the landlord's certification to the items in E (1) above.

- (3) If the AIP allows insureds to certify to the information listed in E (1) and based on this certification, the AIP pays 100% of the PP claim shortly after the first field inspection of the PP acreage, the AIP should spot check a percentage of these to verify that what the insured certified to (or the landlord certified to, if applicable) has not changed.
- (4) If the AIP does not allow insureds (or a particular insured) to certify to the information in E (1), the AIP must make the first inspection as stated in Section 9 and, except when double cropping requirements have been met, will make an initial payment of 35% of the PP payment due if all other PP requirements are met.
- (5) When 35% of the PP payment has initially been made, determination of whether the other 65% of the PP payment is due cannot be made until the earlier of:
  - (a) It is known that a cover crop or volunteer crop has been hayed or grazed prior to November 1;
  - (b) The insured (or the insured's landlord) certifies after November 1 that any volunteer or cover crop will not be harvested for other than haying or grazing; or
  - (c) The volunteer or cover crop has been plowed under or otherwise destroyed.
- (6) Refer to Section 9 for field inspection procedures of the PP acreage.
- (7) Refer to Section 11 for specific procedures for completing the first insured crop acreage claim (PP payment claim) when second crop acreage is involved.

## **6. PREMIUM**

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- (1) The premium for PP is based upon the original per-acre production guarantee for timely planted acreage, less any premium for acreage deleted (by a revised acreage report) that was not eligible for PP coverage. If the premium amount for acreage that the insured is required to pay (gross premium less FCIC subsidy) for PP acreage exceeds the liability on such acreage, no premium will be due (coverage will not be provided for those acres and no PP payment will be paid for such acreage). For premium reduction when the first insured crop is prevented from being planted, and a second crop is subsequently planted or other actions taken on the PP acreage that requires reduction of the first insured crop PP payment, refer to Section 5.
- (2) When there is a Hail and Fire Exclusion in effect for a crop, premium is not reduced on acreage of the crop eligible for PP.



## **7. ACREAGE REPORTING**

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The acreage report is the primary tool for establishing the liability for all timely planted, LP and PP acres.

### **A. INSURED'S RESPONSIBILITIES**

With the agent's assistance:

- (1) On or before the acreage reporting date, report all timely planted, LP, and PP acreage along with any information required to complete an accurate initial acreage report (also see subsection E below for acreage reporting dates).
- (2) Report the correct unit number in which the PP acres (fields) of the insured crop are physically located. The correctly reported acreage may be revised by the AIP when remaining eligible acres from another unit or crop must be used to make the PP payment as stated in Section 4 F (8) (b).
- (3) Report any change in status of any PP acreage, including but not limited to the following changes:
  - (a) The insured certified a second crop would not be planted but it was subsequently planted (by the insured or any other person; e.g., by person to whom the insured (or landlord, if insured is the tenant rather than owner of the acreage) cash rented the acreage);
  - (b) The insured initially stated a second crop would be planted, but it was **never** planted on the PP acreage. The AIP verifies this to be true;
  - (c) The insured initially certified that the volunteer crop or cover crop would not be hayed or grazed, but the insured subsequently hayed or grazed the crop after the LP period (FPD if no LP period is applicable) for the PP crop but prior to November 1; or
  - (d) A volunteer or cover crop is harvested for other than haying or grazing at any time after the LP period (FPD if no LP period is applicable) for the PP crop (even after November 1). The PP payment for the first insured crop (PP) acreage is reduced to 35% of the PP payment.
- (4) Identify on the acreage report (or on an attachment) all uninsurable and ineligible PP acreage and the factors used in that determination. Factors used to determine uninsurable and ineligible acreage include, but are not limited to the following:
  - (a) Acreage planted for an uninsurable use (e.g., planted for pasture, etc.),
  - (b) Adjustment of reported acreage due to eligible PP acreage limitations,

- (c) A volunteer or cover crop on the PP acreage (first insured crop) is hayed, grazed, or otherwise harvested prior to or within the LP period (prior to or on the FPD if no LP period is applicable) for the PP crop, etc.
- (5) A revised acreage report must be prepared by the agent as needed. See subsection I below for revised acreage report examples.
- (6) Acreage planted to the insured crop after the LP period (after the FPD for crops that do not have a LP period) must be reported appropriately as insured or uninsured acreage and must include the date planted.

## **B. AIP's RESPONSIBILITIES**

The AIP is responsible for assuring:

- (1) Before processing a PP payment, the adjuster and/or another person contracted or employed by the AIP who does not have a conflict of interest performing loss adjustment duties, has verified that all PP eligibility requirements have been met for the acreage claimed as PP.
- (2) Retaining documentation of notification and any actions taken for adjuster verification and review.
- (3) Inform insureds that actions subsequent to the first insured crop (PP acreage) may reduce or negate their PP payment (actions by the insured or someone else). Refer to Section 5 for information regarding reduction or disqualification of PP payments.

## **C. LOSS ADJUSTER'S RESPONSIBILITIES**

For acreage report spot checks and/or when completing a claim for a PP payment, verify eligible PP acreage, whether all other PP requirements have been met, and whether the correct PP guarantee has been reported and processed.

## **D. INTENDED ACREAGE REPORT**

- (1) **WHEN, IN THE FOUR MOST RECENT CROP YEARS <sup>1/</sup>, AN INSURED DID NOT PLANT ANY CROP IN THE COUNTY FOR WHICH PP INSURANCE WAS AVAILABLE OR HAS NOT RECEIVED A PP INSURANCE GUARANTEE**, the insured must complete and submit an intended acreage report to the AIP prior to or on the SCD for the purpose of determining potential maximum number of eligible PP acres. This is not to be considered the final acreage report for reported PP acres. The final date for reporting PP acres is as stated in subsection E below. (For the purpose of determining maximum eligible number of PP acres, the total number of acres reported on the Intended Acreage Report cannot exceed the number of acres of cropland available for planting in the insured's farm operation at the time the report is submitted.) The eligible PP acres established by an approved intended acreage report, by crop, cannot be altered when acres are reported at acreage reporting time. For example: if the intended acreage report

<sup>1/</sup> crop year as defined in the applicable crop provisions

indicates 1,000 acres of corn, the insured cannot later claim 500 acres of PP corn and 500 PP soybean acres. The PP acres must remain as PP corn. Also, see example in subsection I below (revised acreage report examples).

- (2) The Application or Application/Acreage Report form must have a block clearly marked “Intended Acreage” to record acreage intended to be planted for a crop in order for acreage shown on an application to be considered “intended acreage” as stated in the prevented planting provisions of the Basic Provisions. Acreage entered in a block marked “Acreage or “Est. Acres” or “Estimated Acreage” cannot be considered “intended acreage.”

## **E. ACREAGE REPORTING DATE**

- (1) If all insurable acreage is planted by the FPD, the acreage report is due by the published acreage reporting date for the crop shown in the Special Provisions, unless the insured insures multiple crops. If the insured insures multiple crops with the same AIP with final planting dates on or after:
  - (a) August 15<sup>th</sup> but before December 31, the acreage reporting date for all such crops will be the latest applicable acreage reporting date for such crops with these final planting dates.
  - (b) December 31 but before August 15, the acreage reporting dates for all such crops will be the latest applicable acreage reporting date for these crops with these final planting dates.
- (2) For LP, PP, or a combination of timely planted, LP, or PP acreage, the acreage report is due the later of: (1) the date for the crop shown in the Special Provisions, or (2) if multiple crops are insured with the same AIP, the latest applicable reporting date for such crops (final planting dates of August 15<sup>th</sup> but before December 31, and December 31 but before August 15) are considered two separate reporting dates), or (3) 5 days after the end of the LP period (no LP period for ELS cotton or wheat and barley under the terms of the Winter Coverage Endorsement.)
- (3) Filing acreage reports for LP or PP acreage does not extend the policy-stated acreage reporting period nor the 10-week requirement for acreage data transmission for full commission reimbursement.

## **F. SEPARATE LINE ENTRIES ON ACREAGE REPORT**

- (1) Separate line entries are required on the acreage report for the following:
  - (a) Basic, enterprise, and optional units, and within each unit, separate line entries for differing practices, types, varieties, shares, APH yields, and risk classifications.
  - (b) For whole farm units, a separate line for each crop and for each crop with differing practices, types, varieties, shares, APH yield, and risk classifications;
  - (c) Timely planted acres (full production guarantee);

- (d) LP acres, with a separate line entry for each day of planting during the LP period, or if insurable, acreage planted after the LP period or after the FPD for crops that do not have a LP period (with a reduced production guarantee based upon the planting date); and
  - (e) Eligible PP acres eligible for 100% of the PP payment. Refer to Section 5.
  - (f) Eligible PP acreage limited to 35% of the PP payment. Refer to Section 5.
- (2) The total amount of PP and planted acres cannot exceed the maximum number of acres eligible for PP coverage.

**G. IDENTIFYING PP ACREAGE ON THE ACREAGE REPORT**

<b>For...</b>	<b>Enter...</b>
acreage eligible for a PP payment	as instructed by the AIP, the respective PP coverage codes "P2, PF, or PT" or respective PP coverage percentage. (The appropriate guarantee will be applied by line.)  Refer to PP codes in Table in subsection 11 A.

**Multiple cropping codes shown on acreage reports or a Summary of Coverage are as follows:**

**No Code = 100% premium for PP acreage.**

**PR = A premium reduction (65%) for first insured crop (PP) when the PP payment is also reduced 65%.**

**RP = Revised acreage report to restore the premium to 100%.**

**H. MISREPORTED PP INFORMATION ON THE ACREAGE REPORT OR FAILURE TO REPORT ANY PP ACREAGE FOR A CROP ON THE ACREAGE REPORT**

- (1) If PP acreage was initially reported on the acreage report, the insured cannot revise any information pertaining to the PP acreage after the report is initially submitted to the AIP without the AIP's consent. (Consent can only be provided by the AIP when there is a correctable acreage report error as stated in the LAM; e.g., transposed 96.0 acres for 69.0 acres. Refer to the section about revised acreage reports in the LAM for what the correctable errors are.)
- (2) For PP acreage not reported on the acreage report, insureds cannot revise the acreage report to add prevented planting acreage.
- (3) Filing a Notice of Loss prior to the acreage reporting date, even if the number of PP acres is reported on the Notice of Loss, does not constitute the required reporting of PP acres on the acreage report.

## I. REVISED ACREAGE REPORTS

### (1) WHEN INSUREDS CAN AND CANNOT REVISE PP ACREAGE REPORT INFORMATION

- (a) **ON OR BEFORE THE ACREAGE REPORTING DATE** – The insured can increase reported prevented planting acreage for the crop. The insured cannot make other changes to the reported PP crop acreage (such as, switching reported PP acreage to another crop, or changing practices on reported PP acreage), unless there is adequate evidence provided by the insured that the information on the acreage report is clearly transposed (see the LAM for correctable acreage report errors; e.g., transposed 96.0 acres for 69.0 acres), the AIP, agent, or someone from the USDA committed an error regarding the acreage information the insured reported. For example, as stated in FAD 048 (Exhibit 10), an insured initially submitted an acreage report listing 25 acres of PP wheat and later discovered that another crop would have given him or her a greater PP payment regarding this reported information, the insured cannot revise the 25 acres that were initially reported as PP wheat and change them to another crop that would provide a greater PP payment.
- (b) **AFTER THE ACREAGE REPORTING DATE** - PP acres for a crop that were not reported by the acreage reporting date cannot be added after the acreage reporting date. This would apply if the insured reported “0” acres or if the insured reported the incorrect acres. However, with the AIP’s approval, PP acreage information can be revised by the AIP after the acreage reporting date if the insured can provide adequate evidence that that the AIP, agent or someone from the USDA committed an error regarding the acreage information the insured reported. Refer to the LAM for correctable errors.

### (2) WHEN THE AIP MUST REVISE THE PP ACREAGE

The AIP must process revised acreage reports for PP acres in the following situations:

- (a) The acres are not eligible for a PP payment; refer to section 4 G for additional reasons:
- 1 If the reported PP acres exceed the number of acres for the crop, crop type, or variety on the intended acreage report (when intended acreage report is applicable to establish the maximum eligible PP acres) and the insured does not qualify for increasing the intended acres as specified in section 4 F (3), the acreage report must be revised to reduce the acres to those established on the intended acreage report for the crop.
  - 2 The insured failed to turn in any required intended acreage report to establish the maximum eligible PP acres for the crop (refer to Section 4 F (3));
  - 3 The acreage is not insurable.
  - 4 The insured was not prevented from planting due to an insured cause.

These situations may have occurred because the acreage was reported incorrectly (i.e., it never qualified) or because the insured's action disqualified the acreage reported as PP. Refer to subsection 7 A (3) for examples. If the adjuster discovers during the loss adjustment inspection that the acreage report has not been revised when the situation requires that it be revised, the acreage report must be revised by the adjuster or the adjuster must provide the information needed for the revision to the AIP.

- (3) If all the PP acres reported for the unit are found to be ineligible for PP coverage, the acreage report must be revised. However, if there is a combination of planted and PP acres, revised acreage reports to delete ineligible PP acres do not have to be made by the adjuster/AIP at the time the PP claim is worked, unless the AIP's claim processing system will not automatically:
  - (a) Refund excess premium, and
  - (b) Reduce the liability to the "determined liability" for over-reported PP acres.

**EXAMPLE:**

The liability calculated from the acreage report for the unit is \$180 (\$100 for LP acreage and \$80 for PP acreage). However, the "determined acres" liability is \$150 (\$100 for LP and \$50 for PP acreage). Premium would be refunded for the over-reported PP acres.

- (4) Revisions to raise liability at loss time are not permitted except as noted in the examples below and as stated in Part 2, Section 3 of the LAM.

(5) **EXAMPLES OF REQUIRED REVISED ACREAGE REPORTS FOR PP ACRES**

<b>IF...</b>	<b>THEN...</b>
the insured initially certifies PP acreage will be left idle, but the insured later plants it to a second crop within the late planting period for the PP crop, and the insured does not meet the double cropping requirements,	revise the acreage report to delete this ineligible PP acreage. If the insured has an active policy for the crop planted, and the crop has not already been reported, the acreage report may be revised to add the crop acreage if it is prior to the acreage reporting date for the planted crop. If it is after the acreage reporting date for the planted crop, the revised acreage report may be revised to add the crop as insured acreage IF a crop inspection is performed and the crop meets the criteria for accepting unreported acreage (unreported unit, if applicable), as outlined in procedures for crop inspections in the LAM.
the insured reported PP acres for a crop for which no eligible PP acres are provided under the policy (e.g., 100 acres of soybeans with no crop insurance history) but has eligible PP acres for another crop (e.g., 90 acres of corn).	<b>Refer to subsection 12 E for example.</b>
the insured reported 100 PP acres of black turtle beans, and the insured's dry bean history in the 4 most recent policy crop years shows the maximum acres for types of dry beans are: 10 acres for black turtle beans and 90 acres for navy beans	revise the acreage report to show 10 acres of PP acres for black turtle beans and 90 acres PP for navy beans.
acreage reported as PP is found to not be eligible for PP coverage	revise the acreage report to delete this ineligible acreage from the acreage report.
acreage reported as PP acres to be left idle (or planted to a cover crop not for harvest) is planted to the crop reported as PP after the LP period (after the final planting date for crops that do not have a LP period).	revise the acreage report to delete the PP acreage. If acreage is planted after the LP period (or after final planting date if LP period is not applicable), the acreage report is revised to show the acreage as insured or uninsured depending on the insured's choice. Refer to subsection 4 C (5) to determine whether to add the acreage as insured or uninsured acreage.
It is verified that the PP acreage of the insured crop is physically located in a different unit than was reported on the initial acreage report,	revise the acreage report to reflect the correct unit in which the PP acreage is located.

**EXAMPLES OF REQUIRED REVISED ACREAGE REPORTS FOR PP ACRES (Continued)**

<b>IF...</b>	<b>THEN...</b>																		
<p>the number of PP and planted acres reported do not match the PP and the planted acres that were determined to exist and the total number of determined acres do not exceed the reported acres for the unit; and:</p> <p>(1) the PP acres are not increased, and all other PP eligibility requirements are met, and</p> <p>(2) The planted acres pass a crop inspection in accordance with the criteria for increasing liability stated in the LAM.</p>	<p>revise the acreage report to reflect the number of acres of PP and planted acres that were actually determined to exist.</p> <p><b>EXAMPLE:</b></p> <table data-bbox="662 409 1323 661"> <tr> <td>Reported Acres</td> <td>50 planted</td> <td>\$ 5,000 liab.</td> </tr> <tr> <td></td> <td>100 PP</td> <td><u>\$ 6,000 liab.</u></td> </tr> <tr> <td></td> <td><sup>1/</sup>Total liab. =</td> <td>\$11,000 liab.</td> </tr> <tr> <td>Determined Acres</td> <td>75 planted</td> <td>\$ 7,500 liab.</td> </tr> <tr> <td></td> <td>75 PP</td> <td><u>\$ 4,500 liab.</u></td> </tr> <tr> <td></td> <td><sup>1/</sup>Total liab. =</td> <td>\$12,000 liab.</td> </tr> </table> <p>If the planted acreage did not pass the crop inspection, the PP acres that were not prevented from planting (25 acres in this case) would have to be removed, and the planted acreage could not be added.</p> <p><sup>1/</sup>A Misreported Information Factor will apply if it is determined that the liability was greater than 110% or less than 90% of the initially reported liability. The Misreported Information Factor is determined separately for planted and PP acres based on the respective liability for each of them.</p>	Reported Acres	50 planted	\$ 5,000 liab.		100 PP	<u>\$ 6,000 liab.</u>		<sup>1/</sup> Total liab. =	\$11,000 liab.	Determined Acres	75 planted	\$ 7,500 liab.		75 PP	<u>\$ 4,500 liab.</u>		<sup>1/</sup> Total liab. =	\$12,000 liab.
Reported Acres	50 planted	\$ 5,000 liab.																	
	100 PP	<u>\$ 6,000 liab.</u>																	
	<sup>1/</sup> Total liab. =	\$11,000 liab.																	
Determined Acres	75 planted	\$ 7,500 liab.																	
	75 PP	<u>\$ 4,500 liab.</u>																	
	<sup>1/</sup> Total liab. =	\$12,000 liab.																	
<p>in the 4 most recent policy crop years, an insured has not planted any crop in the county for which PP insurance was available or has not received a PP insurance guarantee, and the insured reports that he/she intends to plant all his/her cropland acres (1,000 acres) to fall wheat on the intended acreage report prior to the sales closing date for fall wheat, and the insured later reports 500 PP acres for wheat and 500 PP acres for corn by the final acreage reporting date</p>	<p>revise the acreage report to list 1,000 wheat PP acres if it is determined that the insured was prevented from planting all 1,000 acres due to an insurable cause. The acreage report must be revised to 1,000 wheat PP acres because the insured did not have any eligible PP acres for corn due to the eligible acres being established on the intended acreage report in accordance with the Basic Provisions (i.e., eligible PP acres for producer who in the 4 most recent policy crop years has not planted any crop in the county for which PP insurance was available or has not received a PP guarantee).</p>																		



## **J. WHEN MISREPORTED PP ACREAGE INFORMATION RESULTS IN A REDUCED PP PAYMENT**

If the insured misreports any information on the acreage report that results in liability greater than 110.0 percent or lower than 90.0 percent of the actual liability determined for the unit and a revised acreage report to correct the error is not allowed as stated in item (1) above, any PP payment due will be reduced in an amount proportionate with the amount of liability that is misreported in excess of the tolerance stated above. For example: If the actual determined liability is \$100, but the reported liability is \$120, the PP payment will be reduced by 10.0 percent ( $\$120/\$100 = 1.200000 - 1.100000 = 0.100000$  percent =  $1.00000 - .100000 = .900000$  Misreported Information Factor (MIF)).

## **8. NOTICE REQUIREMENTS**

### **A. WHEN NOTICE IS REQUIRED**

Insureds are required to provide a notice that they were prevented from planting an insured crop within 72 hours after:

- (1) The FPD, if the insured does not intend to plant the insured crop during the LP period or if a LP period is not applicable; or
- (2) The insured determines he/she will not be able to plant the insured crop within any applicable LP period.

### **B. MULTIPLE AIP'S OR ANOTHER PERSON PLANTS A SECOND CROP**

In the event a second crop is planted and insured with a different AIP, or planted and insured by a different person, the insured must provide written notice to each AIP that a second crop was planted on PP acreage of the first insured crop. Refer to Section 5 for additional information.

## **9. FIELD INSPECTIONS**

### **A. GENERAL INFORMATION**

During the field inspections verify all of the following, and document all applicable items:

- (1) Whether there was an insured cause of loss that prevented the insured from planting the insured crop, and if so, what the insured cause of loss was;
- (2) Whether the insured cause of loss occurred during the PP insurance period;

- (3) Whether PP acreage was or will be planted to a second crop by the insured and the planting date if a crop was planted at the time of the inspection;
- (4) Whether PP acreage was or will be planted to a cover crop that was or will be hayed, grazed, or otherwise harvested, and if it was hayed, grazed, or otherwise harvested at the time of the inspection, the date of such disposition;
- (5) Whether a volunteer crop was or will be hayed, grazed, or otherwise harvested, and if it was hayed, grazed, or otherwise harvested at the time of the inspection; the date of such disposition;
- (6) Whether the insured will receive cash rent for any of the PP acreage;
- (7) If the land is not owned by the insured, whether the insured's landlord cash rented or is going to cash rent the PP acreage to another person for the purpose of planting a crop for harvest, or haying or grazing a cover crop or volunteer crop prior to November 1, or harvesting the cover crop or volunteer crop for other than haying or grazing at any time; and
- (8) Whether PP acreage was left idle.

**B. WHEN FIELD INSPECTIONS ARE TO BE DONE**

- (1) An inspection must be made as soon as possible after the AIP has received the insured's PP notice to ensure an insured cause of loss occurred during the PP insurance period and to ensure the cause of loss did prevent the acres from being planted when:
  - (a) There is not a known cause of loss in the geographic area where the insured states he/she has been prevented from planting;
  - (b) Only a minimal percentage of the insureds in the AIP's book of business for a particular area turned in PP notices;
  - (c) It does not seem reasonable for the respective acreage to have been prevented from planting (e.g., acreages of lower elevation have been affected but this acreage is of higher elevation and should not have been affected); or
  - (d) The AIP has reason to suspect the insured of misrepresentation in the past.
- (2) In geographic areas where a known cause of loss has prevented planting (unless (1) (c) or (d) applies), at least one field inspection must be made by the earlier of:
  - (a) Fifty-five (55) days after the final planting date (the latest planting date for the crop in the county for spring-seeded barley, oats or wheat) for the insured crop (Refer to subsection 11 I.), or

- (b) The general harvest date for the crop in the area. At that time, a revised acreage report must be prepared if necessary (Refer to subsection 7 I), and the PP claim finalized if possible. Refer to subsection 11 I.
- (3) On the first inspection of the PP acreage, if the insured states he/she does not plan to plant a second crop for harvest, plan to hay, graze or otherwise harvest a cover crop or volunteer crop, or to cash rent the acreage and the insured owns the acreage or has control of the acreage for the crop year via a lease agreement, the AIP may obtain a signed certification from the insured stating such and pay the insured 100% of the PP payment, provided all other PP eligibility requirements are met. Refer to Section 5 E for additional information.
- (4) Final inspections/PP payments cannot be made until after the end of the LP period for the PP crop (final planting date if no LP period is applicable) because all eligibility requirements cannot possibly be verified prior to this date since planting a crop prior to this date affects eligibility.

## **10. REPLANTING PAYMENT ELIGIBILITY**

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Replanting payment eligibility is determined on a unit planted-acre basis. Acreage prevented from being planted is not considered when determining eligibility for a replant payment. See additional information about replanting payments in the LAM and the appropriate crop handbook.

# 11. CLAIMS

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## A. PP CODES FOR CLAIMS

PP Codes	Explanation
P2	When the PP coverage for the insured crop stated in the Basic Provisions is applicable and acreage of the insured crop is prevented from planting.  <b>Applicable policy percentage is 60 percent coverage for all crops eligible for PP except: hybrid seed corn, cotton, ELS cotton, and peanuts (50 percent); onions, rice, and sugar beets (45 percent); green peas, processing beans, and processing sweet corn (40 percent); and potatoes (central and southern and northern) (25 percent).</b>
PF	When the insured has additional coverage and elects a 5 percent increase of the policy stated PP coverage, if provided in the actuarial documents, by the SCD and acreage of the insured crop is prevented from planting and all requirements for a PP payment have been met.
PT	When the insured has additional coverage and elects a 10 percent increase of the policy stated PP coverage, if provided in the actuarial documents, by the SCD and acreage of the insured crop is prevented from planting and all requirements for a PP payment have been met.
PA	Indicates “planted acres;” i.e., not prevented from planting. <b>Used only when a claim is prepared solely as a PP payment.</b>
P2P, PFP, or PTP	Used ONLY on an Indemnity Payment claim (planted acres) when a PP Payment Claim was previously paid or prepared via a PP Payment Claim. These codes indicate a PP payment (showing the appropriate PP coverage) was previously paid or will be paid for the acreage shown on that line of the claim form; i.e., if a PP payment for 25 acres of corn at 60% PP coverage was previously paid, the line with the 25 acres would be coded “P2P.”

## **B. CLAIM ENTRY INSTRUCTIONS**

With the exception of the instructions for PP acreage in the following table, adjusters are to follow instructions in the appropriate crop handbooks.

<b>Item Name &amp; Number</b>	<b>Entry Instruction</b>
“Date Harvest Completed” column of the claim form	<ul style="list-style-type: none"> <li>▪ If insured crop acreage was prevented from being planted to the intended crop and such acreage meets all of the requirements for a PP payment, enter “P2,” “PF,” or “PT” as appropriate for the insured’s selected PP coverage.</li> <li>▪ If any acreage on the unit was planted to the insured crop, determine the entry as instructed in the appropriate crop handbook.</li> </ul>
“Stage” column of the claim form	<ul style="list-style-type: none"> <li>▪ When acreage is eligible PP acreage, enter the appropriate PP code.</li> <li>▪ If the claim is being prepared solely for a PP payment, enter “PA” for any acres that have been planted.</li> <li>▪ If the claim is being prepared solely for an Indemnity Payment Claim, and there has been a previously prepared PP claim, enter, as appropriate, “P2P,” “PFP,” or “PTP.”</li> </ul> <p>See codes in Table in subsection A above.</p>
“Intended or Final Use” column of the claim form.	<ul style="list-style-type: none"> <li>▪ If PP code in the “Stage” column is P2, enter “P2.”</li> <li>▪ If PP code in the “Stage” column is PF, enter “PF.”</li> <li>▪ If PP code in the Stage column is PT, enter “PT.”</li> <li>▪ If code in the Stage column is PA, enter “Planted Acres.” (USE ONLY ON CLAIMS PREPARED SOLELY FOR PP PAYMENT.)</li> <li>▪ If code in the Stage column is P2F, PFP, or PTP, enter “Prev. Paid.”</li> </ul>

## **C. MULTIPLE CROPPING CODES ON THE CLAIM FORM**

Refer to the LAM for specific codes and entry instructions when a crop (second crop) has been planted on any of the PP acreage that is the first insured crop or there are other actions taken on the same acreage that affect the PP payment. Refer to Section 5.

## **D. APH FOR PP ACREAGE**

- (1) PP acreage upon which the PP payment was not limited to 35% (i.e., a second crop was not planted (second crop as defined in the Basic Provisions) within the same crop year) will NOT be included in APH records when there are planted and PP acres within the same unit; e.g., 100 acres PP and 200 acres planted within the same unit - only the 200 planted acres will be reported on the APH record for the unit. If none of the acreage for the unit was planted, it will be considered a zero-planted year for APH record purposes. However, if the PP payment is limited to 35% (i.e., a second crop is planted on the PP acreage (second crop as defined in the Basic Provisions) within the same crop year and the insured acreage does not qualify for double cropping), the insured will receive a yield equal to 60 percent of the approved yield for the first insured crop PP acreage to calculate the insured's average yield for subsequent crop years on this acreage.
- (2) The first insured crop PP acreage's APH yield will be impacted for the crop that was prevented from being planted, even when the PP payment may have been based on another crop. For example: The insured met all policy requirements for a PP payment for corn but did not have any remaining PP acres for corn but did for soybeans. So, the PP payment is based on soybeans. If a second crop is planted, the corn APH yield will be impacted.

## **E. INDEMNITY AND/OR PP PAYMENT DETERMINATIONS**

- (1) Planted Acreage (timely or LP)
  - (a) Any harvested or appraised production from the insured crop, regardless of when planted, will be counted against the unit guarantee for timely and/or LP acreage UNLESS it is production from acreage that was planted for an uninsured use, planted on uninsurable land, and/or planted after the LP period and is not insurable - (Refer to Part 5 of the LAM regarding Late Planting Coverage, and subsection 4 C (4) (a) in this handbook). If the crop was planted for an originally insured use (e.g., corn for grain) and:
    - 1 Harvested for such use, the production will be counted on that basis (bushels of grain).
    - 2 Subsequently put to another use, an appraisal must be made on the basis of the original intended use. If notice was not given prior to destruction of the crop or harvest for another use, not less than the appropriate guarantee will be assessed on such acreage.
  - (b) Production from uninsured acreage of the insured crop MUST be kept separate or it will be considered production to count for the insured acreage.
- (2) PP Acreage

The guarantees for timely, LP, and PP acreage are determined separately. Production from planted acreage (timely and LP) is not counted against the PP guarantee.

### (3) Claims

A claim for a PP payment can be made separate from a claim for timely and LP acres or they can be combined onto one claim form (Production Worksheet (PW), hereafter, called PW.)

#### (a) **PP Payment Claim**

When preparing a separate claim for a PP payment, the PP acreage and PLANTED acres must be shown on the claim form. For example: If 70.0 acres were planted and 30.0 acres were prevented from planting, the PW will be completed as follows: The line with the 70 “planted” acres will show the appropriate entries in the “Stage” and “Intended Use” columns as indicated in the tables in subsections A and B above. The line with the 30 PP acres will be coded “P2,” “PF,” or “PT,” respectively, in the “Stage” and “Intended Use” columns. The “Total” final acres for the unit will be 100.0 acres. Only the line of PP acres will be transmitted to the RMA Data Acceptance System.

If the first insured crop on the acreage is PP and part of the PP acreage is or will be planted to a second crop, the PP acres that are or will be planted to a second crop must be shown on a separate line of the PW from the other PP acreage.

#### (b) **Indemnity Payment (planted acres) Claim**

If a PP claim has already been prepared and submitted previous to an Indemnity Payment (planted acres) claim, or the AIP prefers that separate PW’s are prepared for each type of claim, list the planted acres as instructed in the appropriate crop handbooks. List the PP acres for which a separate claim form has already been prepared, and make the appropriate entries (as instructed in subsections A and B above) in the “Stage” and “Intended Use” columns that indicate the PP payment has already been made. This would also include acreage planted after the LP period due to an insured cause that prevented planting prior to the respective crop’s final planting date or during the LP period for the respective crop.

For example, if there are 100 acres in the unit, the PW would be prepared as follows: A separate PP payment was previously paid on the 30 acres. The 70 acres of planted acres have been harvested. On the line with the 70 acres, the entry in the “Stage” column would be “H” and the “Intended Use” would be “H.” On the line showing the 30 acres of previously paid PP acres (60% PP coverage), the “Stage” column entry would be “P2P,” and the “Intended Use” column entry would be “Prev. Paid.” The entry for “Total” final acres for the unit would be 100.0 acres.

(c) **Combination Indemnity Payment (planted acres) and PP Payment Claim**

If the insured is eligible for a PP payment, which has not been claimed previously, and an indemnity payment is due for the planted acres, a combination of both types of claims can be entered on the same PW form.

- 1 For all lines of planted acres, follow the instructions in the appropriate crop handbook for making the appropriate claim entries.
  - 2 For all lines of PP acres, make the appropriate claim entries as instructed in subsections A and B above.
  - 3 The indemnity payment for the planted acres will be determined separately from the PP payment.
- (4) The AIP must be reasonably certain that PP acreage is not shared in common between two or more crops insured through different AIPs before finalizing a PP claim.
- (5) The PP acreage reported on the acreage report for the unit will be considered the PP acres for the unit UNLESS ineligible PP acreage was reported or the insured did not meet all of the PP coverage requirements.
- (a) Verify that all of the requirements for PP coverage were met and that all of the acres reported as PP are eligible PP acres.
  - (b) If the insured is not eligible for a PP payment for some of the PP acres reported, the entry for “determined acres” on the claim form for the PP acres must reflect only the PP acres for which the insured is eligible. The acreage report does not need to be revised during loss adjustment except as stated in subsection 7 I.

**F. PP PAYMENT CALCULATION**

The PP guarantee is separate from the timely and LP guarantees, and the guarantees are not added together to determine the PP payment. The PP payment is considered a separate payment from the indemnity payment. The PP payment is determined, as follows:

- (1) **STEP 1 = 100% of PP Payment** - Used when PP acres that are the first insured crop and that will not or does not have a second crop planted on the same acreage (or NO actions have been taken on the same acreage that would require reduction of the PP payment as stated in Section 5) AND Step (2) does not apply.
- per-acre production guarantee (or per-acre amount of insurance, if applicable) for timely planted acreage X
  - the price election for the crop (or type, if applicable) X
  - the PP coverage level in effect X
  - the number of eligible PP acres in the unit X
  - the insured’s share X



- Misreported Information Factor (MIF) **WHEN APPLICABLE**. See 7 J above for more information on MIF factor.

## **STEP 2 =REDUCE PP PAYMENT TO 35% of STEP 1**

Used only when PP acres are the first insured crop and will or has a second crop planted on the same acreage or other actions have been taken on the same acreage that would require reduction of the PP payment as stated in Section 5:

The ending results of Step (1) X 35%.

- (2) The PP payment is:
  - (a) The results of steps (1) above; or
  - (b) The SUM of steps 1 and 2 when both apply within the same unit ( i.e., part of the PP acres (first insured crop) in the unit are eligible for 100% PP payment, and part of the PP acres in the unit are limited to 35% of the PP payment).

## **G. UNIT GUARANTEE FOR THE CLAIM**

- (1) For planted acreage, the claim will reflect the total of the guarantees, by line, of the timely planted and LP acreage, and
- (2) For PP acres, the claim will reflect the PP guarantee.

## **H. MULTIPLE PP PAYMENTS**

Only ONE PP payment can be received by the insured or any other person (excluding share arrangement) for each acre for the crop year, unless the insured meets the requirement for double cropping as stated in Section 5 above. Double cropping must be an insurable practice in the county for the crop.

## **I. FINALIZING CLAIMS**

- (1) PP payment claims are **not** to be **finalized** UNTIL the adjuster and AIP are satisfied with all verifications/determinations, including, but not limited to:
  - (a) All acres claimed as PP for the insured crop met all eligibility requirements for PP payments, including that the acres were available for planting; refer to subsection 4 F (1) (b) for more information. If the adjuster questions the eligibility of any of the reported PP acreage, the adjuster is to contact the next level of supervision.
  - (b) The crop claimed as a cover crop met the criteria for a cover crop and whether the cover crop was hayed or grazed and if it was, the exact date it was hayed or grazed to determine whether the PP acreage is ineligible for a PP payment or whether the PP payment is reduced by 65% or not reduced due to double crop history. Refer to Section 5 for this information;

- (c) If a volunteer crop was hayed or grazed and if it was, the exact date it was hayed or grazed to determine whether the PP acreage is ineligible for a PP payment or whether the PP payment is reduced or not reduced. Refer to Section 5 for this information;
  - (d) Whether a volunteer or cover crop on the first insured crop (PP) acreage was harvested for other than haying or grazing and if so, the exact date it was harvested to determine whether the PP acreage is ineligible for a PP payment or whether the PP payment is reduced by 65% or not reduced due to double crop history. (Refer to Section 5 for more detailed information.) Also, it must be determined if the cover crop was planted on or prior to the FPD of the crop claimed as PP. If the cover crop that was harvested for other than haying or grazing was planted prior to this date, no PP payment can be made as stated in section 5 A (1) (c) 6 of this handbook and as stated in FAD-036-R (Exhibit 7) of this handbook.
  - (e) There was an insured peril that prevented the insured from planting the insured crop; and
  - (f) Any other factors that would affect eligibility for a PP payment.
- (2) Refer to Section 5 for information about reduction of PP payment or 100% PP payment.

## **12. VERIFYING ELIGIBLE PP ACREAGE**

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### **A. DOCUMENTATION**

Factors used in the determination of eligible acreage must be maintained in the insured's file for review.

### **B. MAXIMUM ELIGIBLE PP ACRES**

Determine the maximum number of eligible PP acres by totaling the number of eligible PP acres for ALL crops in the county in which the insured has a share. Refer to subsection 4 F.

**C. EXAMPLES OF MAXIMUM ELIGIBLE ACRES FOR THE CONTRACT (COUNTY/CROP)**

<b>EXAMPLE 1 - No Added Land (leased, purchased, or transferred out of CRP)</b>	
<u>TOTALS:</u>	<u>Maximum PP Acres by Crop and for ALL CROPS</u>
Cropland <sup>1/</sup> = 900 acres	Corn = 400 acres
Corn History = 400 acres	Soybeans = 400 acres
Soybean History = 400 acres	<u>Wheat = 100 acres</u>
Wheat History = 100 acres	TOTAL = 900 acres eligible
<sup>1/</sup> CRP acres enrolled = 200 acres	for all crops.

<sup>1/</sup>The term “cropland” as used in this example (and for crop insurance purposes) includes ONLY cropland that is available for planting. (Including the CRP acres in the example, there are 1100 total acres. Although FSA or others might consider this farmland/cropland, it would not be considered cropland for insurance purposes since it is not available for planting.) Refer to subsection 4 F (1) (b) for more information regarding cropland acreage that is available for planting. In the example above, the 200 acres still enrolled in the CRP program are not considered part of the cropland acres eligible for insurance purposes and therefore, are not included in the cropland total in the example above.

**EXAMPLE 2 - Added Land (purchased, leased, or transferred out of CRP)**

Previous Crop Year

700 cropland<sup>1/</sup> acres  
available for planting the previous year.

350 acres corn history

350 acres soybean history

Added 200 acres of cropland<sup>1/</sup> available for planting for the current crop year. (The added land: (1) was purchased, leased, or released from CRP in time to plant, (2) was available for planting, and (3) meets the policy provisions for allowing it for eligible PP acres and no cause of loss that would prevent planting was evident at the time the land was purchased, leased, or released from CRP.)

Total cropland available for planting in current crop year = 900 acres

Calculate the maximum eligible PP acres by crop, as follows:

- (1)  $\frac{900 \text{ cropland}^1/\text{acres}}{700 \text{ cropland}^1/\text{acres}}$  (available for planting the current crop year)  
available for planting the previous crop year)  
= 1.286 factor
- (2)  $350/A \text{ corn history} \times 1.286 = 450.1 \text{ acres}^2/$   
 $350/A \text{ soybean history} \times 1.286 = 450.1 \text{ acres}^2/$

<sup>2/</sup> **Since the sum of 450.1 + 450.1 is greater than the cropland<sup>1/</sup> acres, the acres will have to be adjusted to equal 900 acres.**

<u>Totals, including new land</u>	<u>Maximum PP Acres by Crop and for All Crops</u>
900 cropland <sup>1/</sup> acres available for planting	Corn = 450.0 acres
	<u>Soybeans = 450.0 acres</u>
	TOTAL = 900.0 acres
	eligible for ALL crops

<sup>1/</sup>The term “cropland” as used in this example includes ONLY cropland that is available for planting. Refer to subsection 4 F (1) (b) for more information regarding cropland acreage that is available for planting.

Continued on the next page

**EXAMPLE 3 - Added Land - (leased, purchased, or transferred out of CRP)**

Previous Crop Year

900 acres of cropland <sup>1/</sup> acres	400 acres corn history
available for planting the previous year.	300 acres wheat history
	300 acres soybean history

Added 300 acres of cropland<sup>1/</sup> available for planting for the current crop year. (The added land: (1) was purchased, leased, or released from CRP in time to plant, (2) was available for planting., (3) and meets the policy provisions for allowing it for eligible PP acres and no cause of loss that would prevent planting was evident at the time the land was purchased, leased, or released from CRP.)

Total cropland<sup>1/</sup> available for planting in current crop year = 1200 acres

Calculate the maximum eligible PP acres by crop, as follows:

- (1)  $\frac{1200 \text{ cropland}^1/\text{ acres}}{900 \text{ cropland}^1/\text{ acres}}$  (available for planting the current crop year)  
 $\frac{1200 \text{ cropland}^1/\text{ acres}}{900 \text{ cropland}^1/\text{ acres}}$  (available for planting the previous crop year)  
 = 1.333 factor
- (2) 400/A corn history X 1.333= 533.2 acres  
 300/A soybean history X 1.333 = 399.9 acres  
 300/A wheat history X 1.333 = 399.9 acres

<u>Totals, including new land</u>	<u>Maximum PP Acres by Crop and for All Crops</u>
1200 cropland <sup>1/</sup> acres	Corn = 533.2 acres
available for planting	Soybeans = 399.9 acres
	Wheat = 399.9 acres
	<sup>2/</sup> TOTAL = 1333.0 acres
	eligible for ALL crops

<sup>2/</sup>The total exceeds the cropland acres<sup>1/</sup> available for planting, so the maximum eligible acres for corn, soybeans, and wheat for this crop year will have to be based on the insured's intent, limited by the policy limitations and cropland<sup>1/</sup> acres available for planting. For example, the insured intends to plant 525.0 acres of corn, 375.0 acres of soybeans, and 300.0 acres of wheat, which would be within the maximum eligible PP acres.

<sup>1/</sup> The term "cropland" as used in this example includes ONLY cropland that is available for planting. Also, see subsection 4 F (1) (b) for more information regarding cropland acreage that is available for planting.

**D. EXAMPLES OF REMAINING ELIGIBLE PP ACREAGE WHEN THERE IS PLANTED AND PP ACREAGE**

(1) **EXAMPLE 1**

FSN # 1 (Unit 00101)
100 corn acres planted timely
50 soybean acres timely planted

FSN # 2 (Unit 00102)
100 corn acres planted timely
50 soybeans acres PP

FSN # 3 (Unit 00103)
50 soybean acres LP
100 corn acres planted timely

FSN # 4 (00104)
50 soybean acres LP
100 acres soybeans planted after the LP period due to insured cause preventing planting

4 FSN's with 150 cropland acres each available for planting = 600 cropland acres available for planting

100 acre corn history on each FSN = 400 acres total corn history.  
 300 acres soybean history. Insured's potential PP acres were 400 corn and 300 soybeans; however, the combination of the two exceeds the cropland acres available for planting, and one of these crop would be limited.

Insured Reports -                    300.0 acres corn planted  
    250.0 acres soybeans planted  
    50.0 acres PP soybeans

Cropland acres available for planting - 600 minus 550 planted acres = 50 acres eligible PP acres.  
 The 50 PP soybean acres reported meets all of the PP qualifications and is eligible for PP payment.

Refer to subsection 4 F (1) (b) for more information regarding cropland acreage that is available for planting.

(2) **EXAMPLE 2**

FSN #1 (Unit 00101)	FSN # 2 (Unit 00102)
100 PP Wheat acres	50 corn acres timely planted
100 PP Soybeans (double-crop)	50 corn LP
100 acres of corn LP	100 corn acres timely planted
100 corn timely planted	100 soybean acres timely planted

2 FSN's (each FSN represent an optional unit)

300 cropland acres available for planting in each FSN = 600 total cropland acres

Wheat History = 100 acres  
 Corn History = 400 acres  
 Single crop soybean History = 100 acres  
 Double crop (DC) soybean History = 100 acres (acceptable DC history)

Insured reports: Units:

00101	100 wheat acres PP 100 corn acres timely planted 100 corn acres LP 100 soybean acres PP (int. double-crop)
00102	150 corn timely planted 50 corn acres LP <u>100 soybean acres timely planted</u>
<b>TOTAL</b>	<b>700 acres for both units</b>

It is determined that there was an insured cause that prevented planting of wheat and soybeans. Since the insured met the policy requirements of a history of DC soybeans after wheat, both the PP wheat and PP soybeans are eligible.

Eligible for PP payment by crop: wheat = 100 acres  
 soybeans = 100 acres

Individual crop acres do not exceed maximum eligible PP acres by crop, and the 200 acres does not exceed the remaining eligible acres for ALL crops. All planted and PP acres do not exceed cropland when the eligible DC acreage is considered in determining the insured's maximum eligible PP acreage.

Refer to subsection 4 F (1) (b) for more information regarding cropland acreage that is available for planting.

(3) **EXAMPLE 3:**

**Total cropland 2545.9:**

In 2007, the insured planted, reported, and harvested 399.9 acres of insured winter (fall-planted) wheat.

For 2007, the insured reported the following acres of spring crops.

corn, planted	1215.4 acres
soybeans NFAC (not following another crop), planted	813.4 acres
soybeans FAC (following another crop; i.e. double-cropped (DC)), planted	74.0 acres
NFAC soybeans, prevented planting	72.8 acres
FAC soybeans, prevented planting	226.0 acres

**Question:** Based on the following history, are the 226.0 reported PP soybean acres allowed for a PP soybean payment for the 2007 crop year?

CROP HISTORY FROM INSURED'S RECORDS OR APH RECORDS						
CROP YEAR	OATS	CORN	SOYBEANS			WHEAT
			NFAC PRACTICE	FAC PRACTICE	TOTAL SB ACRES	
2001	0.0	0.0	885.7	191.6	1077.3	268.7
2002	30.0	0.0	1079.1	0.0	1079.1	0.0
2003	20.0	979.3	979.1	0.0	979.1	0.0
2004	0.0	909.4	950.9	50.9	1001.8	200.8
2005	0.0	805.3	954.8	106.9	1061.7	106.9
2006	0.0	793.4	816.7	341.3	1158.0	349.6
<b>MAX. ELIGIBLE ACRES FOR CROP (based on highest # of acres in one of the past four crop years.</b>	<b>20.0</b>	<b>979.3</b>			<b>1158.0</b>	<b>349.6</b>

**Answer:** No, 226.0 acres exceed the maximum FAC acres eligible for the 2007 crop year; see table below. However, the eligible remaining FAC acres for the 2007 crop year are 117.6 after the planted FAC soybean acres are deducted from the maximum eligible acres.

CROP YEAR	WHEAT (1st Insured crop in 2005 Crop Year)	1 <sup>st</sup> CROP PLANTED (Yes/No)	FAC Soybeans in the last 4 crop years the 1st insured crop was planted
2001	268.7	YES	191.6
2002	0.0	NO	n/a
2003	0.0	NO	n/a
2004	200.8	YES	50.9
2005	106.9	YES	106.9
2006	349.6	YES	341.3
<b>Maximum FAC acres based on at least two of the last four crop years that the first insured crop was planted</b>			<b>191.6</b>

See further explanation in the reason on the next page.



**Reason:** Per the double crop history (FAC) above, 191.6 FAC acres is the maximum number of soybean acres that have been double cropped in at least 2 of the last four crop years that the first insured crop was planted (wheat). There were double cropping records on wheat acreage in 2006, 2005, 2004, and 2001 crop years. Since there was no wheat planted in 2002 or 2003, those years have to be eliminated (i.e., another crop did not follow wheat since wheat was not planted in those years). Policy provisions require two years of double cropping in at least two of the last four crop years in which the first insured crop was planted. The maximum double-crop acres cannot be 341.3 acres because 341.3 acres have not been double-cropped for two of those last four crop years, but 191.6 acres have been; i.e., 191.6 acres were double cropped in 2001, and 341.3 acres were double cropped in 2006.

Since the insured planted 74.0 acres of (FAC) soybeans in 2007, the 74.0 acres would have to be subtracted from the 191.6 maximum soybean DC acres leaving 117.6 soybean DC acres eligible for PP.

(4) **EXAMPLE 4:**

Total Cropland acres = 168.5 acres

Total acres reported in 2007

88.4 PP Wheat acres (field A)

88.4 acres planted to Grain Sorghum on field A (2<sup>nd</sup> crop – planted on the pp wheat acres).

3.8 additional acres planted to Grain Sorghum (1<sup>st</sup> crop).

76.3 acres of soybeans planted

168.5 acres actually planted

Maximum PP Acres by Crop and for ALL CROPS and Deduction of Planted Acres

Corn = 73.8 acres – 0.0 acres planted for 2006 = 73.8 acres eligible

Soybeans = 105.3 acres – 76.3 acres planted for 2006 = 29.0 acres eligible

Grain Sorghum = 0.0 acres

Wheat = 0.0 acres

<sup>1/</sup>TOTAL for ALL Crops = 179.1 acres

<sup>1/</sup> Zero history of double-crop grain sorghum or soybean.

Since there were zero eligible PP wheat acres, the wheat must be paid using the crop that would result in the closest payment to the wheat PP payment, which is soybeans. Then the only crop remaining that has eligible acres is corn. Therefore, the 29.0 acres of the wheat PP payment would be paid under soybeans using the remaining 29.0 acres of soybean eligibility. The other remaining 59.4 wheat PP acres would have to be paid under the remaining eligible PP corn acres. Both PP payments under the soybeans and corn would be limited to 35% of the respective soybean and corn PP guarantees due to the fact that all of the PP wheat acres (88.4 acres - field A) had been planted to grain sorghum (2<sup>nd</sup> crop).

Even without double-cropping history, because of the 1<sup>st</sup> crop/2<sup>nd</sup> crop policy provisions, it is possible to have more acreage on which payments can be made than there are actual cropland acres, as in this instance; i.e., 88.4 acres PP payment, + 168.5 acres of grain sorghum and soybeans planted subject to possible indemnity payments = 256.9 acres which exceeds the 168.5 acres of cropland.

## **E. PREVENTED FROM PLANTING - NOT ENOUGH ELIGIBLE ACREAGE FOR THE CROP**

- (1) When determining the crop/unit having remaining eligible PP acres that would have the most similar (closest) PP payment to the crop prevented from planting (qualifying unit), all claims for PP acres for each crop must be deducted from the eligible PP acres for the crop unit before making this determination.

**EXAMPLE:** The insured claimed 50 acres of PP corn on unit 00100 but had only 20 acres of PP corn eligibility. The insured also claimed 60 acres of PP soybean on unit 00200 and had only 60 acres of soybean eligibility. The eligible soybean PP acres must be used to pay the insured's soybean PP claim. If the insured has no other crop with remaining eligible PP acres to roll the 30 acres of PP corn, the insured will receive no PP payment on the 30 acres of corn.

- (2) Once the crop unit that would result in the most similar payment is determined, the number of acres payable under that unit is not limited to the number of physical acres in that unit. For example, if a producer claimed 200 acres of PP corn and did not have any remaining eligible corn acres, and you determine the producer had 200 acres of soybeans remaining eligible PP acres, and soybeans unit 00101 would result in the closest payment, the 200 acres claimed as PP corn could be paid as PP soybeans, unit 00101, even though there may have only been 100 cropland acres in soybeans, unit 00101.
- (3) When determining the crop/unit with the most similar (closest) PP payment and when making PP payments (for the PP acreage for the qualifying unit), the share used will be the share from the crop unit on which the acreage was prevented from planting (qualifying unit).
- (4) The most similar (closest) PP payment could be either a higher amount or a lower amount than the qualifying crop's per acre PP amount would have been. For crops insured under a CRC, RA, or other revenue- type plans of insurance under which PP is available, when determining the per acre PP payment amount most similar (closest) to the qualifying crop's PP acre amount, calculate the per acre PP payment based on the CRC base price or RA projected harvest price, respectively. The actual PP payment for the CRC or RA crop will be calculated as stated in the applicable policy provisions.
- (5) Acreage reports will also be revised to show PP acreage that will be used to pay the PP acreage for the qualifying unit. The share will be the same as the qualifying unit (in this example unit 00101 corn).
- (6) When preparing the claim form for the PP payment for each crop unit that eligible PP acreage was used to pay the PP claim for the qualifying unit acreage, document the crop, unit number, and legal description of the qualifying crop/unit.
- (7) When the insured is prevented from planting any non-irrigated crop acreage, and the insured does not have any remaining eligible acreage for that crop and does not have any other crop remaining with eligible acres under a non-irrigated practice, no PP payment will be made for the acreage.

- (8) In counties having both a fall and spring barley, oats, and wheat final planting dates, eligible acres are based on the total of all barley, oats or wheat types; however, payment is based on the spring type only. If the insured does not have an APH data base for a spring type, then one must be created to make the PP payment.
- (9) When crops are insured with more than one AIP, and it is necessary for one AIP to use eligible acres from other crops they insure to pay a PP payment, the AIP should use remaining eligible acres from the crops they insure first. If all remaining eligible acres from other crops are exhausted, and the other AIP insures a crop(s) that has remaining eligible PP acres, the other AIP may (but is not required to) process the PP claim using these remaining eligible acres, provided they agree with the determinations, causes of loss, etc., that the other AIP made.
- (10) A transferee of a Transfer of Right to an Indemnity (Transfer) cannot be paid a PP payment based on a payment from another crop having the most similar PP payment as the crop prevented from planting, unless the crop having the most similar PP payment also has a Transfer in effect as explained in Section 3 C of this handbook.
- (11) Additional administrative fees that result solely from basing a PP payment on another crop will not be charged to the policyholder. AIPs are to flag these crops as administrative fee exception flag 'P' in the DAS record type 14 to ensure the waiver of the administrative fee, provided there is no planted acres for this crop and/or actual PP claim for that crop.
- (12) **EXAMPLES OF DETERMINING CROP/UNIT HAVING REMAINING ACRES WITH THE CLOSEST PP PAYMENT**

(a) **EXAMPLE 1:**

An insured plants 75 acres of Unit 00101 to corn and is prevented from planting 25 acres. The insured has a 100 percent share on this unit. The adjuster determines that there are 75 MAXIMUM eligible acres for corn. Since the insured has planted 75 acres of corn and there are no more eligible corn acres, the PP payment must be based on another crop(s) that will result in the most similar (closest) PP payment as corn. The corn Unit 00101 per acre PP amount is \$146.25. The insured also has soybeans and grain sorghum on the policy and has another policy for fall wheat for the same crop year. The per-acre PP guarantee dollar amounts (without regard to share) are:

<u>Soybeans</u>	<u>Grain Sorghum</u>	<u>Wheat-Fall Policy</u>
00101 - \$112.50	00100 - \$44.10	00101- \$35.88
00102 - \$101.25	00201 - \$53.75	00102 - \$32.48
<b>00103 - \$123.75</b>	<b>00202 - \$58.50</b>	<b>00200 - \$40.50</b>

**The maximum eligible PP acres for each crop is as follows:**

Corn = 75.0 acres	Grain Sorghum = 42.0 acres
Soybeans = 47.0 acres	Wheat = 105.4 acres

**Eligible acres for each crop after deduction for planted and prevented planting acres for the specific crop:**

Corn = 75 eligible PP acres minus 75 planted acres = 0 acres

Soybeans = 47.0 eligible acres minus 32.0 planted acres = 15 acres

Grain Sorghum = 42.0 eligible acres minus 30.0 planted acres minus 7 PP acres of actual PP acres of grain sorghum = 5 acres

Fall Wheat = 105.4 eligible acres minus 100.4 planted acres = 5 acres.

Unit 00103 soybeans per-acre PP amount of \$123.75 is the closest amount to the corn PP amount of \$146.25. Since there are not enough eligible soybean acres, the next similar (closest) payment must be found on another crop, which is Unit 00202 grain sorghum at \$58.50. Since there is not enough eligible grain sorghum acreage, the next most similar (closest) payment on another crop with eligible acreage must be used. The next most similar (closest) payment is on unit 00200 wheat at \$40.50. The insured would be paid a PP payment on the following crops, units as follows:

Soybeans unit 00103 - 15 acres X \$123.75 X (same share as unit 00101 corn)

Grain Sorghum unit 00202 - 5 acres X \$58.50 X (same share as unit 00101 corn).

The actual 7 PP acres for grain sorghum for this unit will be the share reported for this grain sorghum unit. Wheat unit 00200 - 5 acres X \$40.50 X (same share as qualifying corn unit)

- (b) **EXAMPLE 2** – The insured has 50 maximum eligible PP acres for pinto beans on all units of dry beans the insured has history for in the county. However, the insured has other dry bean types in the county that have remaining eligible acreage. The insured is claiming 75 PP acres for pinto beans on unit 00101 which has a per acre PP guarantee dollar amount of \$81 per acre. Since the 75 acres exceeds the 50 maximum eligible PP acres for pinto beans, the remaining 25 acres must be paid on the closest payment for another type of dry beans that has remaining eligible acres, if any. If there is no type of beans that has remaining eligible PP acres, no PP payment can be made for the 25 acres under dry beans. If there are different crops, such as wheat and soybeans, then the crop that would result in the most similar PP payment to the dry bean type on which the PP was claimed will be used. However, in this instance the insured does have two other bean types that have at least 25 acres of remaining eligible acres and with the following per acre PP guarantee dollar amounts:

Unit 00101 – navy beans = \$66 per acre      Unit 00102 – cranberry beans = \$85 per acre.

Since the \$85 per acre guarantee for cranberry beans is the closest to the \$81 per acre dollar guarantee for pinto beans, the 25 acres will be paid under unit 00102, cranberry beans.

## 13. EXAMPLES AND ILLUSTRATIONS OF 1<sup>ST</sup> AND 2<sup>ND</sup> CROPS

### EXAMPLE 1

2 <sup>nd</sup> crop soybeans Unit 00100		
1st Crop PP Wheat Unit 00100 No second crop 40 acres- Field A	1st Crop PP Wheat Unit 00200 2 <sup>nd</sup> crop soybeans 40 acres- Field B	1st Crop PP Wheat Unit 00300 2 <sup>nd</sup> crop soybeans 40 acres-Field C

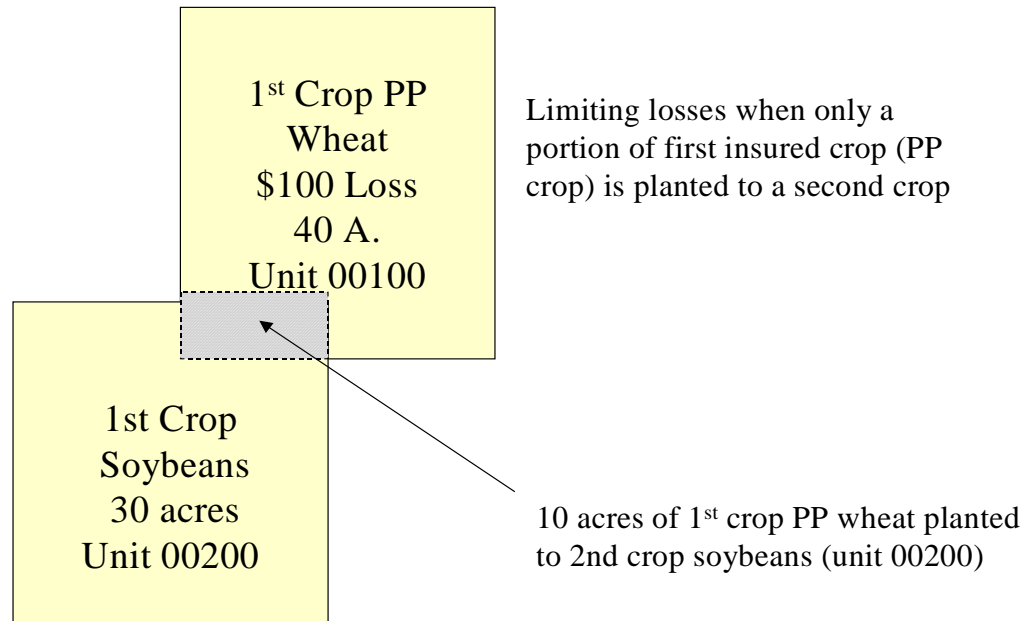
80 acres of soybeans were planted in fields B and C of unit 00100 soybeans. Only unit 00100 PP wheat will receive a 100% PP payment. Unit 00200 and unit 00300 PP wheat will receive 35 % of the PP payment.

### EXAMPLE 2

1 <sup>st</sup> Crop PP Wheat Unit 00100 40 acres Cover crop planted Cover crop hayed on August 30	1 <sup>st</sup> Crop PP Barley Unit 00100, 40 acres Cover Crop grazed Aug.-Sept.	1st Crop PP Corn Unit 00200, 40 acres Cover Crop planted after LP Period. Cover crop grazed Nov. 1- 30.
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Unit 00100 wheat will receive 35% of the PP payment since the cover crop was hayed prior to November 1. Unit 00100 barley also will receive only 35% prevented planting payment since the cover crop was grazed prior to November 1. Unit 00200 corn will receive 100% PP payment since the cover crop was grazed November 1 and later.

## EXAMPLE 3



For unit 00100 wheat, 30 acres of the PP wheat will receive 100% of the PP payment. However, the 10 acres on which the soybeans (second crop) was planted is limited to 35% of the PP payment for the 10 acres of PP wheat.

All of Unit 00200 soybean acreage will receive 100% of any indemnity due.

**EXAMPLE 4**  
**(1<sup>st</sup>/2<sup>nd</sup> crop elements, plus double-cropping elements)**

**For the 2007 crop year:**

386.8 acres of wheat planted

206.4 failed wheat acres went to corn - 180.4 harvested wheat acres went to double-crop soybeans.

244.6 acres of PP wheat went to soybeans

Total wheat acres = 631.4 acres planted and claimed as PP wheat acres

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Eligible PP acres for 2007 crop year

Wheat- 614.2 acres

Corn - 750.0 acres

Soybeans – 750.0 acres

Grain Sorghum – 350.0 acres

Double crop soybeans – 320.0 acres

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Wheat acres eligible for PP payment

Of the 244.6 acres claimed as PP acres, there are 227.4 acres of remaining eligible wheat acres. The other 17.2 acres can be paid only if another crop has remaining eligible PP acres that can be used to pay the 17.2 acres of PP wheat.

614.2 eligible PP wheat acres

-386.8 acres of wheat planted

227.4 acres of remaining eligible PP wheat acres

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Percent of PP payment made for the PP wheat acres

Double cropping history = 320.0

-180.4 acres planted double crop acres

139.6 remaining eligible double crop acres

139.6 PP wheat = 100% wheat PP payment

87.8 acres = 35% wheat PP payment

17.4 acres of PP wheat can be paid under another crop with remaining eligible PP acres of another crop, if any, that would result in the closest PP payment as wheat, = 35% PP payment for this crop

**(RESERVED)**



## 14. REFERENCE MATERIAL

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### EXHIBIT 1

#### IRRIGATED PRACTICE GUIDELINES

In accordance with the instructions in the CIH, AIPs are to provide a copy of the Irrigated Practice Guidelines to all insureds for whom the irrigated practice may apply. These guidelines identify factors that are to be considered in determining the acreage that can be reported and insured under an irrigated practice for planted acreage, perennial acreage and prevented planting under an irrigated practice. The guidelines that are specific to prevented planting are found in 2 below. These same guidelines are to be used by the adjuster to verify the reported information.

#### 1 IRRIGATED PRACTICE GUIDELINES FOR PLANTED OR PERENNIAL CROP ACREAGE

The following guidelines are provided to enable insureds to properly report planted or perennial crop acreage to be insured under the irrigated practice in order to receive maximum protection under their crop insurance contract. It is very important that these guidelines be utilized to document whether, at the time insurance attaches, there is a REASONABLE EXPECTATION of receiving adequate water to carry out a good irrigation practice for the acreage reported under the irrigated practice.

A. **Definitions.** The following definitions are provided to facilitate a uniform understanding of the standards and guidelines for the irrigated practice for planted or perennial crop acreage.

- (1) **Acreage Insurable under the Irrigated Practice.** Insurable acreage for which the insured can demonstrate, to the insurer's satisfaction, that adequate facilities and water existed, at the time insurance attached\*, to carry out a good irrigation practice for the insured crop.

\* The insured is responsible for demonstrating that, at the time insurance attached, there was a REASONABLE EXPECTATION of receiving adequate water to carry out a good irrigation practice on acreage insured under the irrigated practice.

- (2) **Reasonable Expectation, at the Time Coverage Begins, of Receiving Adequate Water to Carry Out a Good Irrigation Practice.** If the insured knew or had reason to know that the amount of his/her irrigation water may be reduced before coverage begins, no reasonable expectation exists.
- (3) **Adequacy of Water.** The determination of the adequacy of water will be based upon: (a) the water available (at the time insurance attaches) from the irrigation water supply, soil moisture levels, and, as applicable, snowpack storage levels; AND (b) supplementary precipitation which would normally be received, after insurance attaches, during the period that a good irrigation practice is normally carried out. Consideration will also be given to the factors identified in subparagraph 1 B below, including the legal entitlement or rights to water.
- (4) **Good Irrigation Practice.** Application of adequate water in an acceptable manner, at the proper times to allow production of a normal crop, which is often identified as the approved Actual Production History (APH) yield for crops under APH.

## EXHIBIT 1

### IRRIGATED PRACTICE GUIDELINES (Continued)

- (5) **Irrigation Water Supply.** The water source and means for supplying irrigation water, without regard to the equipment or facilities. This includes the water source AND dams, canals, ditches, pipelines, etc., which contain the water for movement from the source to the acreage and (a) are not under the control of the insured or (b) routinely deliver water to acreage in addition to that which is owned or operated by the insured. It DOES NOT INCLUDE any irrigation equipment or facilities.
- (6) **Irrigation Equipment and Facilities.** The physical resources, other than water, used to regulate the flow of water from a water source to the acreage. This includes pumps, valves, sprinkler heads, and other control devices. It also includes pipes or pipelines which (a) are under the control of the insured or (b) routinely deliver water only to acreage, which is owned or operated by the insured. A center pivot system is considered irrigation equipment and facilities.
- (7) **Adequacy of Irrigation Facilities.** Irrigation facilities are considered adequate if it is determined that, at the time insurance attaches to planted or perennial acreage, they will be available and usable at the times needed and have the capacity to timely deliver water in sufficient quantities to carry out a good irrigation practice for the acreage insured under the irrigated practice.
- (8) **Water Source.** The source from which water is made available. This includes wells, lakes, reservoirs, streams, aquifers, etc.

#### **B. Reporting Requirements Under Irrigated Practice**

- (1) **Failure of acreage** to qualify for insurance under the irrigated practice will result in such acreage being insured under a practice other than irrigated. If no other appropriate practice is available for the acreage, insurance will not be considered to have attached on the acreage.
- (2) **Failure to carry out a GOOD IRRIGATION PRACTICE** on acreage properly insured under the irrigated practice will result in an appraisal for uninsured causes against such acreage, unless the failure was caused by unavoidable failure of the irrigation water supply after insurance attached, or failure or breakdown of the irrigation equipment or facilities due to an insured cause of loss provided all reasonable efforts to restore the irrigation equipment facilities to proper working order within a reasonable amount of time was taken by the insured, unless the AIP determine it is not practical to do so. (Cost will not be considered when determining whether it is practical to restore the equipment or facilities).
- (3) **For loss purposes**, insureds are required to keep their production records separate for acreage insured under the irrigated practice, acreage insured under a practice other than irrigated (or with no practice applicable), and uninsured acreage.
- (4) **Insureds are expected to be prepared** to provide documentation of the factors, which were considered in reporting acreage to be insured under the irrigated practice.

## EXHIBIT 1

### IRRIGATED PRACTICE GUIDELINES (Continued)

- (5) **Factors to consider in determining planted or perennial crop acreage** to be reported and insured under an irrigated practice include, but are not limited to:
- (a) **Water source history**, trends, and forecasting reliability;
  - (b) **Supplemental water supply availability and usage** (including return flow);
  - (c) **Pumping plant efficiency** and capacity;
  - (d) **Water distribution uniformity**; and flexibility of the system or district;
  - (e) **Water requirements** (amount and timing) of all crops to be irrigated;
  - (f) **Water rights** (primary, secondary, urban versus agricultural use, etc.);
  - (g) **Contingency plans** available to handle water shortages;
  - (h) **Acres to be irrigated**, amount of water to be applied, and expected yield;
  - (i) **Ownership of water** (state or federal versus landowner);
  - (j) **Use of meters** and other measuring devices or methods;
  - (k) **Soil types**, soil moisture levels, and pre-plant irrigation needs;
  - (l) **Water conserving** methods, devices, and plans utilized;
  - (m) **Past crop planting history**, trends, and recommended local practices;
  - (n) **Prudent activities and practices** utilized by non-insured producers;
  - (o) **Irrigation water supply** (both quantity and quality) and facilities;
  - (p) **Recommendations from** local County Extension Service (CES) or National Resource Conservation Service (NRCS) (and other sources recognized by CES or NRCS to be an expert in this area), regarding irrigation and crop production; and
  - (q) **Information the insured knew (or should have known)**, and when the insured knew (or should have known) such information.

The AIP will use the above, and any other appropriate factors necessary, to verify whether acreage was properly reported under the irrigated practice. Insureds who need assistance in determining the proper acreage to report for insurance under an irrigated practice should contact their crop insurance agent for information and assistance.

## EXHIBIT 1

### IRRIGATED PRACTICE GUIDELINES (Continued)

#### 2 IRRIGATED PRACTICE GUIDELINES FOR PREVENTED PLANTING COVERAGE

Under the prevented planting provisions in the Basic Provisions and applicable crop provisions, insureds may be able to receive a prevented planting payment for acreage historically grown under an irrigated practice if there is not a reasonable expectation of having adequate water (due to an insured cause of loss occurring in the prevented planting insurance period) on the final planting date (or within the late planting period if the insured elects to try to plant the crop) to carry out an irrigated practice, provided all other prevented planting provisions have been met.

##### A. Additional Definitions

- (1) **Reasonable Expectation (Probability).** If the insured knew or had reason to know that his/her water may be reduced or cut off during the irrigation season by the time frames stated above, then no reasonable expectation exists.
- (2) **Irrigation Water Supply.** (See 1 A (5) of this Exhibit for definition).
- (3) **Water Source.** (See 1 A (8) of this Exhibit for definition).

**B. Prevented planting payments** may be allowed when an insured peril that occurs on or after the applicable sales closing date [see below] causes failure of the irrigation supply, and all other requirements for prevented planting have been met.

- (1) For carryover insureds, the sales closing date for the previous crop year.
- (2) For new insureds, the sales closing date for the current crop year.

**C. Acreage historically grown** under an irrigated practice for which the insured had no reasonable expectation of having adequate irrigation water by the final planting date (or within the late planting period, if applicable), may be eligible for an irrigated prevented planting payment even if the acreage could have been planted with a non-irrigated practice and the producer elects not to plant.

**D. Insureds are expected to be prepared** to provide documentation of the factors that were considered in reporting that there was no reasonable expectation of receiving adequate irrigation water for the acreage reported as prevented planting under an irrigated practice.

## EXHIBIT 2

### Final Agency Determination: FAD-008

**Subject:** Section 17(d)(1) of the Basic Provisions, pursuant to 7 C.F.R. part 400, subpart X.

#### Background

On June 5, 2001, the Risk Management Agency was asked for a final agency determination for the 2000 and 2001 crop years, on Section 17(d)(1) of the Basic Provisions, 7 C.F.R. § 457.8, which states:

(d) Drought or failure of the irrigation water supply will be considered to be an insurable cause of loss for the purposes of prevented planting only if on the final planting date (or within the late planting period if you elect to try to plant the crop):

(1) For non-irrigated acreage, the area that is prevented from being planted has insufficient soil moisture for germination of seed and progress toward crop maturity due to a prolonged period of dry weather. Prolonged precipitation deficiencies must be verifiable using information collected by sources whose business it is to record and study weather, including, but not limited to, local weather reporting stations of the National Weather Service; or . . .

#### Interpretation Submitted

1. Once insufficient soil moisture has been verified, a prolonged period of dry weather is automatically assumed.

A. If, due to dry conditions, a National Resources and Conservation Service (NRCS) advisory has been issued and is in effect on the final planting date (or the late planting period), indicating that soils should not be disturbed in order to guard against wind erosion, "insufficient" will be adequately verified. Prevented planting due to drought will be considered payable provided all other policy provisions are met and, the following:

a. The advisory must encompass the area where the affected insured unit is located, as determined by the provider.

b. The claims representative must verify and document that conditions on the insured unit are consistent with conditions in the area described by the NRCS issuance, that drought conditions are general in the surrounding area, and other producers with similar characteristics are prevented from planting.

B. In the absence of NRCS evidence as cited in "A" above, and provided all other policy provisions are met, prevented planting due to drought will be considered payable and sufficiently verified in accordance with the following documentation:

## EXHIBIT 2

### FAD-008 (Continued)

- a. Soil moisture will be considered inadequate if:
  - i. Local reporting stations of the National Weather Service (NWS) documentation exists that establishes, to the providers satisfaction, inadequate rainfall occurred during the 'soil bank' period to provide sufficient germinating moisture at the final planting date (or within the Late Planting Period), and
  - ii. Claims representative observations will be considered sufficient to confirm (provided the claim is annotated accordingly) that conditions on the insured unit are consistent with:
    - NWS indications,
    - Drought conditions are general in the surrounding area,
    - Other producers with similar characteristics are prevented from planting, and
  - iii. At least one documentation source, acceptable to the insurance provider, establishes conditions on the insured unit are consistent with i and ii above. Documentation sources may include but are not limited to:
    - Local rainfall records (local weatherman, farm records, etc.)
    - Anecdotal documentation (such as newspaper reports)
    - Written opinion from the Cooperative State Education and Extension Service (CSREES) stating that there was insufficient soil moisture for germination of seed and progress toward crop maturity
    - Soil moisture indices document demonstrating that conditions in the general area (region) are extremely dry (e.g. Palmer, Crop Moisture Index, etc.)

2. Determinations are based upon soil moisture at the final planting date or within the late planting period, as applicable, without regard to the rainfall that may subsequently fall, or be expected to fall, on the insured acreage.

3. A determination to pay prevented planting due to drought for one producer does not preclude accepting another producer's planted acreage for insurance when both are located in the same area and have similar characteristics.

### **Final Agency Determination**

The interpretation submitted by the requestor is not in accordance with the terms of the policy. Under section 17(d)(1) and the definition of "prevented planting" in the Basic Provisions, to qualify for prevented planting due to drought, the acreage must (1) have insufficient soil moisture for germination of seed and progress toward crop maturity; (2) have a prolonged period of dry weather that is general to the area; and (3) be located in an area where other producers with acreage with similar characteristics are also prevented from planting their crop. Each of these elements must be proven separately.

## EXHIBIT 2

### FAD-008 (Continued)

Therefore, the requestor's conclusion that once insufficient moisture has been verified, a prolonged period of dry weather is automatically assumed is incorrect. Reinsured companies must obtain evidence of the prolonged period of dry weather. Under section 17(d)(1) of the Basic Provisions, such evidence must be obtained from a source whose business it is to record and study weather, such as the National Weather Service (NWS).

Further, the requestor states that if a NRCS advisory has been issued, insufficient soil moisture will be adequately verified. Section 17(d)(1) of the Basic Provisions states that there must be insufficient moisture for the germination of the seed and to allow the crop to reach maturity. Unless the NRCS advisory specifically states that the soil is too dry for the germination or production of the crop, it cannot be used to verify these elements.

The requestor also alleges that if NRCS evidence is not available, prevented planting will be considered sufficiently verified if local reporting stations of the NWS have documentation that inadequate rainfall occurred during the period preceding the normal planting period in which moisture is normally accumulated in the soil profile to provide sufficient germinating moisture. The question of the amount of rainfall needed to permit sufficient soil moisture to allow germination and crop production is determined by experts based on the crop, area in which it is grown, and other relevant factors. Once this amount is known, reinsured companies can use NWS data in the area to determine whether there was adequate rainfall to provide sufficient soil moisture.

Additionally, the requestor claims that documentation sources may include local rainfall records from local weather forecasters and farm records, newspaper reports, written opinions from CSREES, and soil moisture indices. Depending on the element sought to be verified, these sources may or may not be acceptable. If the reinsured company is seeking to verify that soil moisture was insufficient for germination, as stated above, once the amount of rainfall needed for germination and production is known, local NWS data may be used. Further, the soil moisture indices may be adequate evidence. The U.S. Drought Monitor should generally show severe drought or worse (D2, D3, or D4) on the final planting date or during the late planting period. However, the reinsured company must still verify that the insured acreage experienced the same drought conditions or level of rainfall.

However, as stated above, to verify whether the dry weather has been prolonged, section 17(d)(1) of the Basic Provisions explicitly states that only records from a source whose business it is to record and study the weather may be used. Therefore, NWS records or records of other entities that record and study weather, such as universities that record and study the weather, may be used. However, farm records, written opinions from CSREES, and the soil moisture indices cannot be used because these sources are not in the business of recording and studying weather. Certain anecdotal information may be used, such as reports from local weather forecasters, since their business is to record and study weather. Reinsured companies need to obtain the source data of such reports. Newspaper reports should not be used.

## EXHIBIT 2

### FAD-008 (Continued)

The requestor is correct that the reinsured companies must verify that drought conditions are general to the surrounding area and producers with acreage with similar characteristics are prevented from planting. Local NWS rainfall data or soil moisture indices should be used to determine the area affected by the drought and whether the insured acreage falls within that area.

The requestor is correct that determinations of prevented planting are based on the soil moisture at the final planting date or within the late planting period, regardless of whether rain subsequently falls or is expected to fall.

Lastly, the requestor states that a determination to pay a prevented planting claim for one producer does not preclude accepting another producer's planted acreage for insurance when both are located in the same area and the acreage has similar characteristics. This is not correct. One of the elements to be established is that other producers in the area with acreage with similar characteristics were also prevented from planting. If producers with acreage in the area with similar characteristics are able to plant, prevented planting claims should not be paid.

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.

Date of Issue: August 9, 2001



## EXHIBIT 3

### Final Agency Determination: FAD-012

#### Subject: Definition of "Prevented Planting" under 7 C.F.R. § 457.8

#### Background

On January 18, 2002, the Risk Management Agency (RMA) was asked for a final agency determination for the 2001 and succeeding crop years, regarding the interpretation of the definition of "prevented planting" contained in section 1 of the Basic Provisions. The request is pursuant to 7 C.F.R. part 400, subpart X. The portion of the definition of "prevented planting" contained in section 1 of the Basic Provisions pertinent to the request reads as follows:

Prevented Planting - Failure to plant the insured crop . . . by the final planting date designated in the Special Provisions for the insured crop in the county. . . You must have been prevented from planting the insured crop due to an insured cause of loss that is general in the surrounding area and that prevents other producers from planting acreage with similar characteristics.

#### Interpretation Submitted

The requestor's interpretation of the definition is as follows:

1. In FAD-008, which interpreted section 17(d)(1) of the Basic Provisions, RMA stated that to qualify for a prevented planting payment due to drought that acreage had to be in an area where other producers with acreage with similar characteristics were also prevented from planting their crop. The requestor considers this statement to constitute an interpretation of the definition of "prevented planting" that is applicable to all prevented planting claims regardless of the specific cause of loss.
2. Because the term "area," as used in the definition of prevented planting, is subject to multiple reasonable interpretations, the requestor considers the term to be vague and ambiguous. Therefore, in arbitration, an arbitrator is likely to interpret "area" in favor of the policyholder. Nonetheless, the requestor believes that "area" is not amenable to a one-size-fits-all definition or bright line test. Rather, what constitutes an "area" will vary on a case-by-case basis. In this connection, the requestor regards all acreage sharing similar characteristics as constituting an area.
3. With respect to the meaning of "acreage with similar characteristics," the requestor considers parcels of land to have similar characteristics if such land, for example, has comparable geography, topography, soil types, exposure to the elements, and suffers from the same cause of loss. Whether the acreage is insured and the ownership of the acreage are, in the requestor's opinion, irrelevant to determining the existence of similar characteristics.

## EXHIBIT 3

### FAD-012 (Continued)

4. The requestor believes that evaluation of a policyholder's prevented planting claim is based simply on whether the farmer physically could plant the crop by the final planting date, assuming that planting the crop does not constitute a poor farming practice. Economic and business related factors, such as, the existence of insurance, the level of coverage, and outstanding loan obligations, are not relevant to the question of whether a policyholder was prevented from planting.

### Final Agency Determination

1. RMA agrees that to qualify for a prevented planting payment due to any insured cause of loss, the acreage must be located in an area where other producers with acreage with similar characteristics are also prevented from planting their crop. This requirement is in the definition of "prevented planting" in the Basic Provisions of the policy.
2. RMA agrees that the term "area" is subject to multiple reasonable interpretations, and the determination of "area" may vary from case to case. However, RMA believes that the area must be defined by the cause of loss. For example, all acreage that has been affected by a flood or drought would be included in the area. Once this area is defined, acreage with similar characteristics within the area would be compared to determine whether producers are prevented from planting.
3. RMA also agrees that acreage would be considered to have similar characteristics if it had comparable geography, topography, soil types and the same weather conditions and exposure. RMA agrees that ownership of the acreage or whether it is insured should not be considered when determining whether acreage has similar characteristics.
4. RMA does not fully agree with the requestor's interpretation provided in paragraph 4 above. In some cases, such as drought, it may be physically possible to plant the acreage even though soil moisture and weather conditions are such that there is insufficient soil moisture for germination of seed and progress toward crop maturity due to a prolonged period of dry weather. The decision by some producers to plant in conditions where the crop could not germinate and make normal progress toward maturity may not preclude other producers in the area with acreage with similar characteristics from receiving prevented planting payments. A determination would need to be made whether planting in dry conditions constitutes a poor farming practice, which would not be insurable under the terms of the policy. If planting would constitute a poor farming practice, producers in the area with acreage with similar characteristics could receive prevented planting payments. RMA agrees that factors such as existence of insurance, level of insurance coverage, or the financial position of the producer should not be considered when evaluating whether a producer was prevented from planting.

## **EXHIBIT 3**

### **FAD-012 (Continued)**

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 2001 and succeeding crop years.

Date of Issue: February 27, 2002

## EXHIBIT 4

### Final Agency Determination: FAD-023

**Subject:** Request dated September 2, 2003, for Final Agency Determination of section 15(f)(2)(ii) of the Common Crop Insurance Policy Basic Provisions (Basic Provisions), published as a Final Rule on June 25, 2003, 68 Fed. Reg. 37697, applicable for the 2004 and subsequent crop years, unless such provisions are revised. This request was submitted pursuant to 7 C.F.R. part 400, subpart X.

### Background

Section 15(f)(2)(ii) of the Basic Provisions states:

#### 15. Production Included in Determining an Indemnity and Payment Reductions.

(f) With respect to acreage where you were prevented from planting the first insured crop in the crop year, except in the case of double cropping described in section 15(h): . . .

(2) If a second crop is planted on the same acreage for harvest in the same crop year (you will pay the full premium and, if there is an insurable loss to the second crop, receive the full amount of indemnity that may be due for the second crop, regardless of whether there is a subsequent crop planted on the same acreage) and: . . .

(ii) Be responsible for a premium for the first insured crop that is commensurate with the amount of the prevented planting payment paid for the first insured crop.

### Interpretation Submitted

The term "commensurate" in section 15(f)(2)(ii) is interpreted to mean 35 percent as it relates to the percent of the payment for the first insured crop, which means 35 percent of the premium due, and not the percent of liability. The requestor of the FAD states ". . . if an insured plants and insures a second crop and receives a full indemnity on that second crop, the insured is liable on the second crop for the full premium and on the first crop for a premium that is 35 percent of the full premium."

### Final Agency Determination

The Federal Crop Insurance Corporation agrees that the use of the term "commensurate" means 35 percent of the producer-paid premium for the first insured crop is applicable when the prevented planting payment for the first insured crop is 35 percent of the prevented planting guarantee. However, your interpretation creates the impression that the reduction in the prevented planting payment and premium for the first crop only applies if the second crop is

## **EXHIBIT 4**

### **FAD-023 (Continued)**

insured and receives a full indemnity. This is not correct. Unlike section 508A(a) of the Federal Crop Insurance Act (Act) that refers to the consequences if there is no loss to the second crop, section 508A(b) of the Act, relating to prevented planting, contains no similar provision. Therefore, the reduction in the prevented planting to 35 percent of the prevented planting guarantee and in the premium to 35 percent of the producer-paid premium is applicable whenever the producer plants a second crop on acreage that had been prevented from being planted. It is immaterial whether the second crop is insured or has a loss.

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 2004 and subsequent crop years, unless such provisions are revised.

***Date of Issue: November 24, 2003***

## EXHIBIT 5

### Final Agency Determination: FAD-025

**Subject:** Request dated October 7, 2003, for a Final Agency Determination for the 2004 crop year, regarding the interpretation of section 17(f)(4)(ii) of the Common Crop Insurance Policy Basic Provisions, published at 7 C.F.R. 457.8

### Background

Section 17(f)(4)(ii) of the Basic Provisions states:

17. Prevented Planting.

(f) Regardless of the number of eligible acres determined in section 17(e), prevented planting coverage will not be provided for any acreage:

(4) On which the insured crop is prevented from being planted, if you or any other person receives a prevented planting payment for any crop for the same acreage in the same crop year, excluding share arrangements, unless:

(ii) You provide records acceptable to us of acreage and production that show you have double cropped acreage in at least two of the last four crop years in which the first insured crop was planted, or that show the applicable acreage was double cropped in at least two of the last four crop years in which the first insured crop was grown on it; and

### Interpretation Submitted

The requestor interpreted section 17(f)(4)(ii) to mean that past double-cropping must be proven either by acceptable records demonstrating that the insured person double cropped any acreage in 2 of the last 4 years or, that the insured person double cropped the specific subject acreage in 2 of the last 4 years. The requestor provided an example in which a producer has acceptable records of double-cropping in county X, and stated that the producer could use those county X records to qualify acreage in county Y, even though the land in county Y had not been double cropped in the past.

### Final Agency Determination

The Federal Crop Insurance Corporation (FCIC) does not agree with the interpretation provided. Section 17(f)(4)(ii) requires the insured person to provide acceptable records demonstrating that (1) the specific insured person has double cropped acreage on which insurance is to attach in at least 2 of the last 4 years in which the first insured crop was planted; or (2) the insured person or any other person has double cropped the same physical acreage that is in question in at least 2 of the last 4 years in which the first insured crop was planted. However, crop insurance policies are

## EXHIBIT 5

### FAD-025 (Continued)

established, rated, and administered on an individual county basis. Therefore, a producer cannot use records of double cropping in one county to qualify in another. The provision permits use of another person's records to allow acreage to qualify as having a double-cropped history so that situations in which the insured person has not farmed the specific acreage in question for the last 4 crop years can be considered. The fact that it may be appropriate to double crop in one county does not necessarily indicate that it is appropriate to double crop in another. The purpose behind this provision is to permit double prevented planting payments in that situation where the producer was genuinely preventive planting the crops. This can only be determined on a one county or area basis.

In accordance with 7 C.F.R. § 400.765(c), this constitutes the Final Agency Determination and is binding for the 2004 crop year on all participants in the Federal crop insurance program.

*Date of Issue:* December 31, 2003

## EXHIBIT 6

### Final Agency Determination: FAD-031

**Subject:** Request dated April 15, 2004, for Final Agency Determination for the 2004 crop year, regarding the interpretation of section 17(e)(1)(i)(A) of the Common Crop Insurance Policy Basic Provisions (Basic Provisions) (7 C.F.R. 457.8) pursuant to 7 C.F.R. part 400, subpart X.

### Background

Section 17(e)(1)(i)(A) of the Basic Provisions states, in part:

#### 17. Prevented Planting.

(e) The maximum number of acres that may be eligible for a prevented planting payment for any crop will be determined as follows:

(1) The total number of acres eligible for prevented planting coverage for all crops cannot exceed the number of acres of cropland in your farming operation for the crop year, unless you are eligible for prevented planting coverage on double cropped acreage in accordance with section 17(f)(4). The eligible acres for each insured crop will be determined in accordance with the following table.

(A) The maximum number of acres certified for APH purposes or reported for insurance for the crop in any one of the 4 most recent crop years (not including reported prevented planting acreage that was planted to a second crop unless you meet the double cropping requirements in section 17(f)(4)).

### Interpretation Submitted

1. The requestor interpreted the phrase “reported for insurance” in section 17(e)(1)(i)(A) as meaning only the reported acres that are determined to be insurable eligible acres in the applicable crop year, and not the number of acres identified by the insured on the acreage report. The requestor provided an example in which an insured reported 300 acres of onions and claimed prevented planting on all acreage. However, the maximum acres of onions in the insured’s four-year Actual Production History (APH) database was 200 acres. Accordingly, in 2003, the insured received a prevented planting payment for only 200 acres of onions. The remaining 100-acre balance rolled to another crop that had remaining eligibility for prevented planting, and the insured received a prevented planting payment on that other crop. Subsequently, in 2004, the insured submitted an acreage report that again reported 300 acres of onions and again claimed prevented planting on all 300 acres.
2. In the above scenario you interpret section 17(e)(1)(i)(A) to provide that 200 acres is the maximum number of onion acres eligible for prevented planting coverage in 2004. You also state that although the insured reported 300 acres of onions for insurance purposes,



## EXHIBIT 6

### FAD-031 (Continued)

3. the insured's APH database shows a maximum of only 200 acres of onions, and, in this case, the APH database takes precedence over the total acres reported on the acreage report. Further, you state that any onion acres that exceed 200 acres are to be allocated to other crops in accordance with applicable RMA procedures.

### Final Agency Determination

The Federal Crop Insurance Corporation (FCIC) agrees, in the scenario presented above, that a prevented planting payment for onions could only be made for 200 acres in 2004. Section 6 (Report of Acreage) of the Basic Provisions requires the producer to report insured acreage. Under the example provided, for the 2003 crop year, the policy requires the 300 acres of prevented planting onions to be reduced to 200 acres and the 200 acres would be considered to be the number of acres reported for insurance purposes. Therefore, for the 2004 crop year, the maximum number of acres certified for APH purposes or reported for insurance for the crop in the most recent 4 years would be unchanged for the 2003 crop year or 200 acres in the example. The amount of acres reported on the acreage report would have to be reduced to this amount. FCIC agrees any qualifying acreage in excess of the 200 eligible onion acres would be allocated to other crops with remaining eligible prevented planting acreage in accordance with section 17(h) of the Basic Provisions.

In accordance with 7 CFR 400.765 (c) this constitutes the Final Agency Determination and is binding on all participants in the Federal crop insurance program for the 2004 and subsequent crop years, unless such provisions are revised.

*Date of Issue:* June 14, 2004

## EXHIBIT 7

### Final Agency Determination: FAD-036-R

**Subject:** This issuance replaces FAD-036 placed on the RMA website on December 1, 2004.

The revised issuance is needed to correct the final agency determination regarding the planting of a cover crop prior to the end of the late planting period (final planting date if no late planting period is applicable) and harvesting a crop for grain, seed, etc. when it was previously designated as only being a cover crop. The original version of FAD-036 stated that if a cover crop was planted prior to the end of the late planting period (final planting date if no late planting period is applicable), no prevented planting coverage is provided. This is clearly not in accordance with section 17(f)(5)(i) of the Common Crop Insurance Policy Basic Provisions (Basic Provisions), which allows prevented planting coverage when a cover crop is planted in this time frame. The original request dated August 16, 2004, requested a Final Agency Determination for the 2004 and succeeding crop years regarding the interpretation of section 15(f)(2) and 17(f)(5)(i) of the Basic Provisions, published at 7 C.F.R. 457.8. This request was submitted pursuant to 7 C.F.R. part 400, subpart X.

#### Background

Section 15(f)(2) of the Basic Provisions states, as here pertinent:

##### 15. Production Included in Determining an Indemnity and Payment Reductions.

(f) With respect to acreage where you were prevented from planting the first insured crop in the crop year, except in the case of double cropping described in section 15(h):

(2) If a second crop is planted on the same acreage for harvest in the same crop year (you will pay the full premium and, if there is an insurable loss to the second crop, receive the full amount of indemnity that may be due for the second crop, regardless of whether there is a subsequent crop planted on the same acreage) and:

(i) Provided the second crop is not planted on or before the final planting date or during the late planting period (as applicable) for the first insured crop, you may collect a prevented planting payment that is 35 percent of the prevented planting payment for the first insured crop; and

Section 17(f)(5)(i) of the Basic Provisions states:

##### 17. Prevented Planting.

(f) Regardless of the number of eligible acres determined in section 17(e), prevented planting coverage will not be provided for any acreage:

(5) On which the insured crop is prevented from being planted, if:

(i) Any crop is planted within or prior to the late planting period or on or prior to the final planting date if no late planting period is applicable, unless you meet the double cropping requirements in section 17(f)(4), or unless the crop planted was a cover crop; or

## EXHIBIT 7

### FAD-036-R (Continued)

#### Interpretation Submitted

The requestor interprets section 17(f)(5)(i) to mean that acreage is not eligible for prevented planting coverage if a crop is planted during the late planting period, if applicable, or prior to the final planting date unless the crop planted was a cover crop.

The requestor interprets section 15(f)(2)(i) to mean that if, after being prevented from planting a first insured crop, an insured plants a second crop the prevented planting payment on the first insured crop is reduced to 35 percent provided the second crop is not planted on or before the final planting date or during the late planting period. The requestor understands this to mean that an insured who submits a prevented planting claim may not plant a second crop, including a cover crop, for harvest before the final planting date or during the late planting period without forfeiting a prevented planting payment for the first insured crop.

The request further stated that in conjunction with one another the two policy sections mean that if an insured submits a prevented planting claim on a first insured crop, and plants a cover crop on or before the final planting date or during the late planting period and ultimately hays, grazes or otherwise harvests it, then the insured is not entitled to a prevented planting payment for the first insured crop.

#### Final Agency Determination

The Federal Crop Insurance Corporation (FCIC) agrees in part with the interpretation. Section 17(f)(5)(i) involves the insurability of acreage for prevented planting coverage. Section 15 involves the amount of a prevented planting payment for eligible prevented planting acreage. FCIC also agrees that section 15(f)(2)(i) provides for a 65 percent reduction in a prevented planting payment, except in the case of double cropping, when a second crop is planted after the end of the late planting period (final planting date if no late planting period is applicable) for a first insured crop that was prevented from being planted. Section 15(g)(3) clarifies that this reduction also applies when a cover crop is hayed or grazed on the same acreage in the same crop year after the late planting period (or after the final planting date if a late planting period is not applicable) for the insured crop that was prevented from being planted.

However, the reduction in the prevented planting payment for haying or grazing a cover crop only applies if the cover crop is hayed or grazed in the same crop year. FCIC has determined that since harvest is generally completed by November 1, cover or volunteer crops hayed or grazed after that date would not be considered harvested in the same crop year. Therefore, the prevented planting payment is not reduced if a cover crop is hayed or grazed on or after November 1 of the crop year in which the insured crop was prevented from being planted.

Section 17(f)(5)(ii) states no prevented planting payment coverage is available for an insured crop if any volunteer or cover crop is hayed, grazed or otherwise harvested within or prior to the late planting period or on or prior to the final planting date if no late planting period is applicable for the insured crop.

In conjunction, these provisions mean:

## EXHIBIT 7

### FAD-036-R (Continued)

1. If a cover crop is planted prior to the end of the late planting period (final planting date if no late planting period is applicable) for an insured crop that is prevented from being planted, prevented planting coverage may be provided for the insured crop.
2. If a cover crop is hayed or grazed prior to the end of the late planting period (final planting date if no late planting period is applicable) for an insured crop that is prevented from being planted, no prevented planting coverage is available.
3. If a cover crop is planted after the late planting period (final planting date if no late planting period is applicable) for an insured crop that is prevented from being planted, but is not hayed or grazed prior to November 1, the prevented planting payment will not be reduced.
4. If a cover crop is hayed or grazed after the late planting period (final planting date if no late planting period is applicable) for an insured crop that is prevented from being planted and prior to November 1 of the crop year, the prevented planting payment will be reduced by 65 percent.
5. If a cover crop is hayed or grazed after November 1 of the crop year in which an insured crop is prevented from being planted, the prevented planting payment will not be reduced.
6. A crop harvested for grain, seed, etc. is presumed not to have been grown for conservation or soil improvement purposes and the policy provisions for second crops or crops planted prior to the end of the late planting period, as applicable, will apply.

In accordance with 7 CFR 400.765 (c) this constitutes the Final Agency Determination and is binding on all participants in the Federal crop insurance program for the 2004 and subsequent crop years, unless such provisions are revised.

*Date of Issue:* December 14, 2004

## EXHIBIT 8

### Final Agency Determination: FAD-039

**Subject:** Request dated November 5, 2004, for a Final Agency Determination for the 2004 and succeeding crop years regarding the interpretation of section 17(h)(2) of the Basic Provisions, published at 7 C.F.R. 457.8. This request was submitted pursuant to 7 C.F.R. part 400, subpart X

#### Background

Section 17(h)(2) of the Basic Provisions (applicable for the 2005 crop year for crops with a contract change date on or after August 31, 2004) states:

#### 17. Prevented Planting.

\* \* \* \* \*

(h) If you are prevented from planting a crop for which you do not have an adequate base of eligible prevented planting acreage, as determined in accordance with section 17(e)(1), your prevented planting production guarantee or amount of insurance, premium, and prevented planting payment will be based on the crops insured for the current crop year, for which you have remaining eligible prevented planting acreage. The crops used for this purpose will be those that result in a prevented planting payment most similar to the prevented planting payment that would have been made for the crop that was prevented from being planted.

(1) \* \* \*

(2) Prevented planting coverage will be allowed as specified in this section (17(h)) only if the crop that was prevented from being planted meets all policy provisions, except for having an adequate base of eligible prevented planting acreage. Payment may be made based on crops other than those that were prevented from being planted even though other policy provisions, including but not limited to, processor contract and rotation requirements, have not been met for the crop on which payment is being based. *However, if you were prevented from planting any non-irrigated crop acreage and you do not have any remaining eligible acreage for that crop and you do not have any other crop remaining with eligible acres under a non-irrigated practice, no prevented planting payment will be made for the acreage.*

(emphasis added)

#### Interpretation Submitted

The requestor interprets the italicized portion of section 17(h)(2) to mean a prevented planting payment can not be made on non-irrigated crop acreage if the insured person does not have remaining eligible acres for that non-irrigated crop or any other non-irrigated crop. In other words, a prevented planting payment for a non-irrigated crop may not be based on an irrigated crop.

## EXHIBIT 8

### FAD-039 (Continued)

The requestor provided an example in which an insured claims prevented planting on non-irrigated corn but does not have remaining eligible acreage for non-irrigated corn and the insured's only remaining eligible acres are for irrigated corn or another irrigated crop. The requestor states that in this situation no prevented planting payment can be made for the non-irrigated corn. The requestor further states that to be entitled to a prevented planting payment in this scenario, the insured must have eligible acres for a non-irrigated crop.

#### Final Agency Determination

The Federal Crop Insurance Corporation (FCIC) can not provide an interpretation for the 2004 crop year as requested because the specific provision in question is effective only for crop policies with contract change dates on or after August 31, 2004. The following interpretation is provided for crops with a contract change date on or after this date:

FCIC agrees a prevented planting payment can not be made when a producer has no remaining eligible acres for the crop that is prevented from being planted or for other crops. However, in the example provided, FCIC does not agree a payment could not be made for non-irrigated corn acreage when there are remaining eligible acres for corn on an irrigated basis. Based on the example provided, it appears the requestor may be misinterpreting the manner in which eligible crop acres are determined.

Section 17(e)(1)(i)(A) of the Basic Provisions states eligible acres for an insured crop (corn in the example provided) is the maximum number of acres certified for APH purposes, or insured acres reported for corn in any one of the four most recent crop years (not including reported prevented planting acreage that was planted to a second crop unless double cropping requirements are met). This provision has no limitations based on practice. Therefore, eligible acres on a crop basis includes both irrigated and non-irrigated acreage. For example, if a producer has 50 acres of non-irrigated corn and 50 acres of irrigated corn in one of the past four crop years, the producer would have 100 eligible corn acres. However, because of the limitation contained in section 17(f)(10) of the Basic Provisions regarding irrigated practices, there would be only 50 eligible corn irrigated acres.

The italicized portion of section 17(h)(2) means payment for non-irrigated acreage can not be based on an irrigated practice. For example, as stated above, if there is a history of 50 acres of non-irrigated corn acreage and 50 acres of irrigated corn acreage, the producer has 100 acres eligible for a prevented planting payment based on corn. If a producer is prevented from planting corn on 150 non-irrigated acres, the prevented planting payment would be based on 100 acres of non-irrigated corn and 50 acres of another insured non-irrigated crop (whichever non-irrigated crop provides the most similar payment amount to the insured crop) with remaining eligible acres under a non-irrigated practice. If there are no remaining eligible acres for other crops with a non-irrigated production guarantee, no prevented planting payment will be made for the remaining 50 acres.

## **EXHIBIT 8**

### **FAD-039 (Continued)**

In accordance with 7 CFR 400.765 (c) this constitutes the Final Agency Determination and is binding on all participants in the Federal crop insurance program for the 2005 crop year for crops with a contract change date on or after August 31, 2004 and for subsequent crop years, unless such provisions are revised. Any appeal of this decision must be in accordance with 7 C.F.R. 400.768(g).

*Date of Issue:* February 11, 2005

## EXHIBIT 9

### Final Agency Determination: FAD-040

**Subject:** Request dated November 16, 2004, requesting a Final Agency Determination for the 2004 crop year, regarding the interpretation of section 17(e)(1)(i)(A) of the Common Crop Insurance Policy Basic Provisions (Basic Provisions), published at 7 C.F.R. 457.8. This request is pursuant to 7 C.F.R. part 400, subpart X.

#### Background

Section 17(e)(1)(i)(A) of the Basic Provisions states, as here pertinent:

17. Prevented Planting.

\* \* \* \* \*

(e) The maximum number of acres that may be eligible for a prevented planting payment for any crop will be determined as follows:

(1) The total number of acres eligible for prevented planting coverage for all crops cannot exceed the number of acres of cropland in your farming operation for the crop year, unless you are eligible for prevented planting coverage on double cropped acreage in accordance with section 17(f)(4). The eligible acres for each insured crop will be determined in accordance with the following table.

Eligible acres if, in any of the 4 most recent crop years, you have planted any crop in the county for which prevented planting insurance was available or have received a prevented planting insurance guarantee

(i) The crop is not required to be contracted with a processor to be insured:

(A) The maximum number of acres certified for APH purposes or reported for insurance for the crop in any one of the 4 most recent crop years (not including reported prevented planting acreage that was planted to a second crop unless you meet the double cropping requirements in section 17(f)(4)). The number of acres determined above for a crop may be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the total cropland acres that you farmed in the previous year, provided that you submit proof to us that for the current crop year you have purchased or leased additional land or that acreage will be released from any USDA program which prohibits harvest of a crop. Such acreage must have been purchased, leased, or released from the USDA program, in time to plant it for the current crop year using good farming practices. No cause of loss that will or could prevent planting may be evident at the time the acreage is purchased, leased, or released from the USDA program.

\* \* \* \* \*

The requestor indicated that the specific question posed by this request is related to the increase of the number of acres eligible for prevented planting ("prevented planting database") by virtue



## EXHIBIT 9

### FAD-040 (Continued)

of the added land ratio discussed in the policy provisions quoted above. Specifically, the requestor asks whether an increase in non-irrigated acreage in the current crop year can be used to increase the prevented planting database for a crop insured under an irrigated practice if that crop is not insurable in the county under a non-irrigated practice. The requestor provided the following example:

Assume an insured has only 300.0 acres of irrigated potatoes in his or her 4-year prevented planting database. The insured had 300.0 acres in his or her farming operation the prior year, all of which were capable of being irrigated and on which the insured raised irrigated potatoes.

For the current crop year, the insured retains the 300 irrigated acres and also adds another 600 acres to his or her farming operation. None of the added 600.0 acres are capable of being irrigated. The insured intended to raise non-irrigated wheat on the new acreage.

In accordance with section 17(e)(1)(i)(A), the "added land" ratio would be 3.0 (900 acres divided by 300 acres). Potatoes are not insurable in this county under a non-irrigated practice.

**The requestor also stated that the following provisions contained in section 17(f)(10) of the Basic Provisions may arguably be applicable:**

17. Prevented Planting.

\* \* \* \* \*

(f) Regardless of the number of eligible acres determined in section 17(e), prevented planting coverage will not be provided for any acreage:

(10) Based on an irrigated practice production guarantee or amount of insurance unless adequate irrigation facilities were in place to carry out an irrigated practice on the acreage prior to the insured cause of loss that prevented you from planting. Acreage with an irrigated practice production guarantee will be limited to the number of acres allowed for that practice under sections 17(e) and (f);

### **Interpretation Submitted**

The requestor interprets the above policy provisions to mean only that an insured cannot apply for a prevented planting payment for a crop based on an irrigated practice if adequate irrigation facilities are not in place on the land claimed to have been prevented from planting. For instance, an insured is not allowed to claim prevented planting potatoes on an irrigated basis if the land on which he or she intended to plant the potatoes lacks adequate irrigation facilities. The requestor does not believe section 17(f)(10) has any application to the establishment of the maximum number of acres eligible for prevented planting coverage determined in accordance with section 17(e)(1)(i)(A).

The requestor also stated that section 17(e)(1)(i)(A) speaks only to crops and total cropland acres and does not in any way reference to or make any distinction based on a practice such as irrigated or non-irrigated. Based on the policy language, the requestor does not believe there is

## EXHIBIT 9

### FAD-040 (Continued)

any basis which would prevent the application of the "added land" ratio to an irrigated practice in this instance." Therefore, the requestor's interpretation is that the added land ratio (based on an increase of non-irrigated acreage) should be used to increase a crop's irrigated prevented planting database in instances where the crop is not insurable under a non-irrigated practice.

### Final Agency Determination

The Federal Crop Insurance Corporation (FCIC) disagrees with the requested interpretation. The requestor is correct that section 17(e)(1) of the Basic Provisions would permit a total of 900 acres to be eligible for prevented planting. However, once the total number of eligible acres is determined, there must be a determination of the eligible acres for each "insured crop."

Based on the scenario presented by the requestor, the insured crop is limited to irrigated potatoes because non-irrigated potatoes are not insurable in the county. Therefore, there must be a determination of how many acres of irrigated potatoes are eligible for prevented planting.

Contrary to the assertion of the requestor, section 17(f)(10) of the Basic Provisions is applicable in making this determination. Section 17(f)(10) states that acreage with a irrigated production guarantee will be limited to the number of acres allowed **for that practice** under sections 17(e) and (f). This means the database is limited to the acreage eligible for the practice. With respect to an irrigated practice, under section 17(f)(10), the prevented planting acreage is limited to the number of acres where there is adequate irrigation facilities in place to carry out an irrigated practice.

In the scenario presented by the requestor, the producer only has irrigation facilities for 300 of the 900 acres. Therefore, the number of acres eligible for prevented planting under an irrigated practice would be limited to 300 acres.

The request asked that the Final Agency Determination explicitly provide that the decision is applicable to the provisions of Crop Revenue Coverage (04-CRC-Basic) and Revenue Assurance (04-RA) since the language is identical or nearly identical. Even though 7 C.F.R. part 400, subpart X is only applicable to provisions of the Federal Crop Insurance Act and the regulations promulgated thereunder, and the CRC and RA have not yet been codified in the C.F.R., to the extent these provisions are identical or nearly identical, the Final Agency Determination applies accordingly to assure consistent, uniform, and equitable treatment to all producers insured under the same policy provisions.

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 2004 crop year. Any appeal of this decision must be in accordance with 7 C.F.R. 400.768(g).

*Date of Issue:* February 14, 2005

## EXHIBIT 10

### Final Agency Determination: FAD-048

**Subject:** Request dated February 7, 2005, requesting a Final Agency Determination for the 2005 crop year (for crops with a contract change date of August 31, 2004, or later) and subsequent crop years, regarding the interpretation of sections 6(d)(2) and (3) of the Common Crop Insurance Policy Basic Provisions (Basic Provisions), published at 7 C.F.R. 457.8. This request is pursuant to 7 C.F.R. part 400, subpart X.

#### Background

Sections 6(d)(2) and (3) of the Basic Provisions state, as here pertinent:

6. Report of Acreage.

\* \* \*

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

\* \* \*

(2) For prevented planting acreage reported on the acreage report, you cannot revise any information pertaining to the prevented planting acreage after the report is initially submitted to us without our consent (Consent may only be provided when information on the acreage report is clearly transposed or you provide adequate evidence that we or someone from USDA have committed an error regarding the information on your acreage report);

(3) For prevented planting acreage not reported on the acreage report, you cannot revise your acreage report to add prevented planting acreage;

#### Interpretation Submitted

The requestor stated that the term “consent” and the accompanying parenthetical apply to section 6(d)(2) and not to section 6(d)(3). The requestor stated this means an approved insurance provider may, under certain circumstances, consent to a revision of the acreage report after it is initially submitted by the insured. However, because of the absence of the “consent” language in section 6(d)(3), an approved insurance provider may not consent to a revision to the acreage report that “adds prevented planting acreage.” When read in conjunction with one another, section 6(d)(2) and (3) permit an approved insurance provider to consent only to revisions of the acreage report that decrease the number of prevented planting acres.

The requestor also included the following example. An insured farms 100 acres, 50 acres that are low-lying and 50 acres that are slightly elevated. The insured submits an acreage report that identifies only 50 acres of prevented planting (the low-lying acreage), as the insured still intends to plant the other 50 acres that are slightly elevated. However, it is too wet to plant the other 50 acres and, before the acreage reporting date, the insured submits a revised acreage report showing all 100 acres as prevented planting.

The requestor stated that, under this scenario, they interpret section 6(d)(3) to preclude an approved insurance provider from accepting the revised acreage report because it increases the

## EXHIBIT 10

### FAD-048 (Continued)

prevented planting acreage, even though the insured submitted such revision prior to the acreage reporting date. They believe that section 6(d)(3) is an absolute prohibition against revising an acreage report to add prevented planting acres.

### Final Agency Determination

The Federal Crop Insurance Corporation (FCIC) disagrees with the interpretations of sections 6(d)(2) and (3).

The requestor is correct that provisions contained in section 6(d)(2) mean that once an insured initially submits any prevented planting acreage on the acreage report, the insured cannot revise that acreage without the approved insurance provider's consent, even if such revision is requested by the insured on or before the acreage reporting date. For example, if an insured initially submitted an acreage report listing 25 acres of prevented planting wheat and later discovered that another crop would have given him or her a greater prevented planting payment amount, the insured cannot not revise the 25 acres that were initially reported as prevented planting wheat and change them to another crop that would provide a greater prevented planting payment amount.

However, FCIC disagrees with the requestor's interpretation that, when read in conjunction with one another, sections 6(d)(2) and (3) permit the approved insurance provider to consent only to revisions of the acreage report that decrease the number of prevented planting acres. If the producer reports prevented planting acres but, because of a transposition error or error by a USDA employee, the number of prevented planting acres was misreported on the acreage report, section 6(d)(3) is not applicable. If there is a transposition or error by a USDA employee, the prevented planting acreage must be considered to have been reported on the acreage report. Therefore, under this scenario, section 6(d)(2) would permit consent to increase the prevented planting acreage.

Further, just as the consent provisions are only applicable to section 6(d)(2) because similar language was not included in section 6(d)(3), the phrase "initially submitted" only applies to section 6(d)(2) because similar language is not included in section 6(d)(3). This means for the purposes of section 6(d)(2), it does not matter when the acreage report was filed, no revision can be made after it was initially filed without consent. This also means that under section 6(d)(3) and under section 6(a), which allows prevented planting acreage to be reported on or prior to the acreage reporting date, the insured is not prohibited from revising the acreage report to add prevented planting acreage up until the acreage reporting date. Therefore, in the scenario presented by the requestor, the insured would be allowed to revise the acreage report up until the acreage reporting date to add the 50 acres that were not reported on the initial acreage report submitted.

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 2005 crop year (for crops with a contract change date of August 31, 2004 or later) and succeeding crop years. Any appeal of this decision must be in accordance with 7 C.F.R. 400.768(g).

*Date of Issue:* May 3, 2005

## EXHIBIT 11

### Final Agency Determination: FAD-051

**Subject:** Request dated April 15, 2005, requesting a Final Agency Determination for the 2004 crop year regarding the interpretation of section 17(e)(1) of the Common Crop Insurance Policy Basic Provisions (Basic Provisions), published at 7 C.F.R. 457.8. This request is pursuant to 7 C.F.R. part 400, subpart X.

#### Background

Section 17(e)(1) of the Basic Provisions states, as here pertinent:

Section 17. Prevented Planting

\*\*\*

(e) The maximum number of acres that may be eligible for a prevented planting payment for any crop will be determined as follows:

(1) The total number of acres eligible for prevented planting coverage for all crops cannot exceed the number of acres of cropland in your farming operation for the crop year, unless you are eligible for prevented planting coverage on double cropped acreage in accordance with section 17(f)(4). The eligible acres for each insured crop will be determined in accordance with the following table....

\*\*\*\*\*

#### Interpretation Submitted

The requestor interprets section 17(e)(1) of the Basic Provisions to mean that prevented planting acres reported by an insured may not be used to determine the number of acres for which a successor insured may be "eligible" for prevented planting. The requestor believes that procedure contained in section 4C(12) of the 2004 Crop Insurance Handbook (CIH) does not permit a transfer of prevented planting acres.

Section 4C(12) of the 2004, CIH provides, in pertinent part:

Transfer of APH Data. If an insured has an approved APH yield and turns the operation or some of the operation, over to another person/entity who has participated (managed, performed the physical activities necessary to produce the crop, or received a share of the crop) in the operation and establishment of the approved APH (actual production history) yield, the Insurance Provider may approve transferring all the years of APH yield history (not including non-actual yields and assigned yields which break continuity of records for this purpose) for the acreage being transferred to the person/entity taking over the operation....

## EXHIBIT 11

### FAD-051 (Continued)

The requestor provided an example to explain the context of the interpretation as follows:

In 2002, insured A, a partnership, submits an acreage report for 300 acres of prevented planting for cotton. Insured B, a partner in insured A, assumed control of the farming operation in 2004 and transferred actual production history.

In 2004, insured B, submitted an acreage report claiming cotton was prevented from being planted on 300 acres. Insured B had no history of prevented planting in the subject county.

For purposes of determining the prevented planting payment, if any, due insured B under section 17 of the Basic Provisions, the requestor believes the maximum number of acres for which insured B may be eligible for a prevented planting payment should not consider the prevented planting acres claimed by insured A, because Section 4(C)(12) of the 2004 CIH does not permit such records to transfer to a successor in interest.

### Final Agency Determination

The Federal Crop Insurance Corporation (FCIC) does not fully agree with the interpretation as submitted. Section 17(e)(1) of the Basic Provisions clearly states that the total number of acres that may be eligible for prevented planting is the "number of acres of cropland in your farming operation". Under this provision it is immaterial how the insured acquired the acreage or whether it had a previous history of prevented planting. If the acreage qualifies as cropland and is included in the insured's farming operation, it may be included in the total number of acres eligible for prevented planting.

The actual amount of eligible acreage for each insured crop is determined by the table in section 17(e)(1) of the Basic Provisions. This means that under the example provided by the submitter, for the 2004 crop year, the total number of acres of insured B's that are eligible for prevented planting is 300 acres because they are now in his farming operation. However, the determination of how many of those 300 acres are actually eligible for a prevented planting payment for cotton is determined in accordance with the table in section 17(e)(1).

FCIC agrees that the 2002 prevented planting acreage of insured A could not be used to establish the eligible prevented planting acreage for the cotton under the table in section 17(e)(1) because such history would not transfer to insured B. However, if cotton was planted in any of the last four years by insured A on the 300 acres, then the acreage would be eligible for prevented planting for cotton for the 2004 crop year for insured B because that history would transfer.

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 2004 crop year. Any appeal of this decision must be in accordance with 7 C.F.R. 400.768(g).

*Date of Issue:* July 13, 2005

## EXHIBIT 12

### Final Agency Determination: FAD-052

**Subject:** Request dated May 23, 2005, requesting a Final Agency Determination for the 2004 and subsequent crop years regarding the interpretation of section 17(e)(1)(i) of the Common Crop Insurance Policy (CCIP) Basic Provisions (Basic Provisions), published at 7 C.F.R. 457.8. This request is pursuant to 7 C.F.R. part 400, subpart X.

#### Background

In the prefatory note of the Basic Provisions, the CCIP states: "Throughout this policy, 'you' and 'your' refer to the named insured shown on the accepted application."

Section 17(e)(1)(i) of the Basic Provisions states, as here pertinent:

#### Section 17. Prevented Planting

\*\*\*

(e) \*\*\*

(1) \*\*\* The eligible acres for each insured crop will be determined in accordance with the following table.

Type of Crop	Eligible acres if, in any of the 4 most recent crop years, you have planted any crop in the county for which prevented planting insurance was available or have received a prevented planting insurance guarantee	Eligible acres if, in any of the 4 most recent crop years, you have not planted any crop in the county for which prevented planting insurance was available or have not received a prevented planting insurance guarantee
(i) The crop is not required to be contracted with a processor to be insured	(A) The maximum number of acres certified for APH purposes, or insured acres reported, for the crop in any one of the 4 most recent crop years (not including reported prevented planting acreage that was planted to a second crop unless you meet the double cropping requirements in section 17(f)(4)...	(B) The number of acres specified on your intended acreage report which is submitted to us by the sales closing date for all crops you insure for the crop year and that is accepted by us...

\*\*\*\*\*

#### Interpretation Submitted

For purposes of determining whether to apply subsection (A) or subsection (B), the requestor interprets the term "you" in section 17(e)(1)(i) of the Basic Provisions to refer to the current named policyholder, as opposed to any prior insured entity even if that entity was made up of at least one person that had a substantial beneficial interest in the current named policyholder and the prior entity qualified the named policyholder to receive the actual production history (APH)

## EXHIBIT 12

### FAD-052 (Continued)

of the previously insured entity. The requestor states that the reference to "you" means it can only consider whether the current named policyholder "planted any crop in the county for which prevented planting insurance was available . . ."

The requestor provided an example to explain the context of the interpretation as follows:

In 2003, A Farms, which had been a policyholder and had received prevented planting payments, is dissolved. In 2004, a new entity, B Farms, is formed. All Actual Production History (APH) and loss experience was transferred from A Farms to B Farms because at least one person who had a substantial beneficial interest in A Farms also has a substantial beneficial interest in B Farms. In 2004, B Farms submits a prevented planting claim. Moreover, to satisfy the requirement of planting in the county or receiving a prevented planting insurance guarantee "in any of the 4 most recent crop years," B Farms submits a prevented planting payment received by A Farms in one of the 4 most recent crop years. In light of A Farms' planting and prevented planting history, B Farms claims it is subject to section 17(e)(1)(i)(A). The requestor disagrees.

Based on its interpretation of "you," the requestor does not believe that subsection 17(e)(1)(i)(A) applies to B Farms because B Farms never had planted a crop or received a prevented planting insurance guarantee in the county. The fact that B Farms borrowed the production and loss history of A Farms does not change the fact that B Farms had not planted any crop or received a prevented planting insurance guarantee in the county in the most recent 4 crop years. Therefore, for purposes of adjusting B Farms' prevented planting claim, the requestor must apply subsection 17(e)(1)(i)(B) and an intended acreage report is required to establish B Farms' prevented planting acreage.

### Final Agency Determination

The Federal Crop Insurance Corporation (FCIC) agrees in part with the interpretation. FCIC agrees that the term "you" in section 17(e)(1)(i) refers to the current policyholder (the named insured on the accepted application). In the requestor's example, this would mean "you" would refer to B Farms, the current policyholder.

However, FCIC does not agree that "you" can be read as narrowly as the requestor has suggested. To accept such an interpretation would permit producers to constantly change entities to avoid the use of their production histories or qualify for new producer status. The policy must recognize that entities are made up of individuals who make the actual decisions, pay the premium, and receive the benefits of indemnities paid. To do otherwise would introduce significant program vulnerability to waste and abuse.

This interpretation is supported by section 4C(8)(e) of the Crop Insurance Handbook, which states that if an entity is dissolved and a new entity is formed, FCIC requires that the new entity report the production history of the old entity if any person within the entity would qualify as a successor-in-interest. In addition, section 6C of the Crop Insurance Handbook states that if an insured received a share of the insured crop's production or was a member or substantial beneficial interest of a person that received a share of the insured crop's production, that insured is considered to have produced the crop that crop year in the county in which it was produced.



## EXHIBIT 12

### FAD-052 (Continued)

Since FCIC requires the successor entities to assume the actual yields of the previous entities and considers the entity's members to have produced the crops for the purpose of determining actual production history and new producer status, FCIC cannot claim that these APH requirements do not apply for the purpose of determining whether the successor entity previously produced the crop under section 17(e)(1)(i).

Accordingly, in the example provided, the maximum number of acres eligible for prevented planting for B Farms would be determined based on the number of planted acres contained in B Farms' APH database in accordance with section 17(e)(1)(i)(A).

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 2004 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 16, 2005

