

## [Final Agency Determination: FAD-238](#)

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**Subject:** Request dated May 11, 2015, to the Risk Management Agency (RMA) requesting a Final Agency Determination for the 2014 crop year of section 17(e)(iii)(A)-(B) of the Common Crop Insurance Basic Provisions (Basic Provisions), published at 7 C.F.C 457.8. This request is pursuant to 7 C.F.R. § 400, subpart X.

### **Background:**

Section 17(e) of the Basic Provisions states, in relevant part:

#### **17. Prevented Planting.**

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(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 as follows:

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(iii) For any crop that must be contracted with a processor to be insured:

(A) The number of eligible acres will be:

(1) The number of acres of the crop specified in the processor contract, if the contract specifies a number of acres contracted for the crop year;

(2) The result of dividing the quantity of production stated in the processor contract by your approved yield, if the processor contract specifies a quantity of production that will be accepted (for the purposes of establishing the number of prevented planting acres, any reductions applied to the transitional yield for failure to certify acreage and production for four prior years will not be used); or

(3) Notwithstanding sections 17(e)(1)(iii)(A)(1) and (2), 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.

(B) 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, we will determine the number of eligible acres based on the number of acres or amount of production you had contracted in the county in the previous crop year. 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 year, the price election will be based on the contract price in place for the previous crop year. If you did not have a processor contract in place for the previous crop year, you will not have any eligible prevented planting acreage for the applicable processor crop. The total eligible prevented planting acres in all counties cannot exceed the total number of acres or amount of production contracted in all counties in the previous crop year.

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### **Interpretation Submitted**

The requestor interprets section 17(e)(iii)(A)-(B) of the Basic Provisions to mean that for any crop that must be contracted with a processor to be eligible for insurance, the number of prevented planting eligible acres will be determined based on the number of acres or amount of production the insured has contracted in the county for the current crop year or had contracted in the county in the previous crop year

unless the insured did not have a processor contract in the previous crop year, in which case the insured will not have any eligible prevented planting acreage for the applicable processor crop.

The requestor also interprets this provision to prohibit the insured from rolling to acres of another crop when the only crop that was prevented from planting requires a processor contract. Furthermore, the total eligible prevented planting acres in all counties cannot exceed the total number of acres or amount of production contracted in all counties in the previous crop year.

### **Final Agency Determination**

The Federal Crop Insurance Corporation (FCIC) agrees, in part, with the requestor's interpretation. FCIC agrees with the requestor's interpretation of how the number of prevented planting eligible acres will be determined. FCIC also agrees that the total eligible prevented planting acres in all counties cannot exceed the total number of acres or amount of production contracted in all counties in the previous crop year.

FCIC agrees in part with the requestor's interpretation that this provision prohibits the use of another crop's acreage when the only crop that was prevented from planting requires a processor contract. If this was the only crop insured in the county then the producer would not be eligible for prevented planting. However, if the producer has insured other crops in the county, then the producer is eligible for prevented planting on those crops, but not the processing crop. If the producer does not have an adequate base of eligible prevented planting acreage for the crop other than the processing crop, as determined in accordance with section 17(e)(1), the policy allows for the use of eligible prevented planting acreage from another remaining crop insured for the current crop year within the county. Acres can be used for a crop in the county that does not require a processing contract. The crop acres first used will be the insured crop that has a per-acre prevented planting payment most similar (closest) to the per-acre prevented planting payment for the crop that was prevented from being planted.

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

**Date of Issue:** July 31, 2015