



## **Final Agency Determination: FAD-310**

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**Subject:** A request dated February 4, 2022, submitted to the Risk Management Agency (RMA) for a final agency determination for the 2020 crop year of section 17(d)(1)(ii)(A) of the Common Crop Insurance Policy (CCIP) Basic Provisions, published at 7 C.F.R. §457.8. This request is pursuant to 7 C.F.R. § 400, Subpart X.

### **Reference:**

The 2020 CCIP Basic Provisions state, in relevant part:

### **17. Prevented Planting**

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*(d) Prevented planting coverage will be provided against:*

*(1) Drought, failure of the irrigation water supply, failure or breakdown of irrigation equipment or facilities, or the inability to prepare the land for irrigation using your established irrigation method, due to an insured cause of loss only if, on the final planting date (or within the late planting period if you elect to try to plant the crop), you provide documentation acceptable to us to establish:*

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*(ii) For irrigated acreage:*

*(A) Due to an insured cause of loss, there is not a reasonable expectation of having adequate water to carry out an irrigated practice or you are unable to prepare the land for irrigation using your established irrigation method:*

*(1) If you knew or had reason to know on the final planting date or during the late planting period that your water will be reduced, no reasonable expectation exists; and*

*(2) Available water resources will be verified using information from State Departments of Water Resources, U.S. Bureau of Reclamation, Natural Resources Conservation Service or other sources whose business includes collection of water data or regulation of water resources; or*

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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:*

*(i) If you have planted any crop in the county for which prevented planting insurance was available (you will be considered to have planted if your APH database contains actual planted acres) or have received a prevented planting insurance guarantee in any one or more of the four most recent crop years, and the insured crop is not required to be contracted with a processor to be insured:*

*(A) The number of eligible acres will be the maximum number of acres certified for APH purposes, or insured acres reported, for the crop in any one of the four 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)).*

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

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*(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);*

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Other applicable reference:

FAD-234 (issued on April 29, 2015)

*The request, dated February 25, 2015, was for an agency determination for the 2014 crop year regarding the interpretation of section 17(e) of the CCIP Basic Provisions, published at 7 C.F.R. § 457.8. The determination states, in part:*

*FCIC insurance offers are established on a county basis.*

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*Further, the Basic Provisions defines an insured crop as the crop in the county for which coverage is available under your policy as shown on the application accepted by us. Insurance for each agricultural commodity in each county will constitute a separate policy. When the insured wants to plant and insure crops in two or more counties, he or she must obtain separate and distinct policies for each county.*

*Section 17 of the Basic Provisions establishes prevented planting eligible acres on a policy basis and therefore, the AIP must determine the number of eligible acres for each county in accordance with section 17(e) of the Basic Provisions.*

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**Interpretation Submitted**

The requestor interprets section 17(d)(1)(ii)(A) of the CCIP Basic Provisions to include good farming and irrigation practices as factors of consideration in a policyholder's reasonable expectation of having adequate water to carry out an irrigated practice when a single allocation of irrigation water is for use in multiple counties.

### **Final Agency Determination**

FCIC disagrees with the requestor's interpretation of section 17(d)(1)(ii)(A) of the CCIP Basic Provisions. For prevented planting coverage, farm management decisions by the policyholder are not considered in the determination for whether a reasonable expectation of adequate water exists in the county.

As stated in FAD-234, FCIC insurance offers are established on a county basis. Insurance for each agricultural commodity in each county will constitute a separate policy. The number of eligible prevented planting acres for the irrigated practice must be determined for each policy, in accordance with sections 17(e) and 17(f) of the CCIP Basic Provisions. If the total amount of water allocated to a policyholder is for use in multiple counties and the total allocation is reduced, the number of irrigated acres eligible for prevented planting would be reduced in each county according to the amount of water prorated to each county.

The insured would have a reasonable expectation of receiving the prorated water allocation for each county. Any farm management decision by the policyholder related to diverting the prorated water allocation is not considered an insurable cause of loss.

In accordance with 7 C.F.R. § 400.766(b)(2), this FAD 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. § 400.766(b)(5).

**Date of Issue:** April 14, 2022