

Final Agency Determination: FAD-235

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Subject: Request dated May 15, 2015, to the Risk Management Agency (RMA) requesting a Final Agency Determination for the 2013 crop year of section 17(e)(1)(i)(A) of the Common Crop Insurance 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:

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 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)).

(2) Any eligible acreage determined in accordance with section 17(e)(1) will be reduced by subtracting the number of acres of the crop (insured and uninsured) that are timely and late planted, including acreage specified in section 16(b).

Interpretation Submitted

The requestor interprets section 17(e)(1)(i)(A) of the Basic Provisions to mean the highest number of eligible acres will be the maximum number of acres certified for crop insurance actual production history (APH) purposes, by way of a Production and Yield Report submitted by the policyholder to an Approved Insurance Provider (AIP), or insured acres reported for insurance, for the crop in any one of the four most recent crop years. Furthermore, the highest number of acres eligible for prevented planting coverage shall be determined based on the number of acres certified for APH purposes or the number of acres reported for insurance that are insurable less any acres actually planted. Additionally, policyholders with actual planted acres in their APH database are not eligible to file an intended acreage report.

By way of example, assume that a policyholder planted 50 acres of corn in 2012. The same policyholder plants 25 acres of corn in 2013 and claims that he/she was prevented from planting 75 acres of corn in 2013. The policyholder's maximum eligible corn acres for a prevented planting payment in 2013 are 25 acres (the 50 acres in the policyholder's APH database less the 25 acres actually planted in 2013).

Final Agency Determination

Federal Crop Insurance Corporation (FCIC) agrees with the requestor's interpretation. FAD-214 published on April 8, 2014, further addressed this topic and provides: "Consistent with FAD-120 published on RMA's website on July 15, 2010, if a policyholder met all eligibility requirements for a prevented planting payment in one or more of the four previous crop years, the number of insured prevented planting acres reported on the acreage report in one of the previous four crop years may be

used when determining the maximum number of acres for the current crop year. Additionally, the number of acres eligible for prevented planting coverage must be determined based on the maximum number of acres certified for APH purposes, or “insured” acres reported. Policyholders report on the acreage report both insured and uninsured acreage, and only the insured acreage is used.”

Section 17(e)(2) of the Basic Provisions is also clear that the maximum eligible acreage established in accordance with section 17(e)(1) will be reduced by the number of acreage planted in the crop year. Therefore, the example is correct the maximum eligible acreage is 50 from the 2012 crop year but the number of acres eligible for prevented planting for the 2013 crop year must be reduced by the 25 acres planted in 2013, leaving 25 eligible prevented planting acres.

The AIP may use acceptable Production and Yield Reports submitted by a policyholder provided they contain the required information from the policyholder’s APH database, including actual planted acres or evidence that the insured has received a prevented planting insurance guarantee, and other required information in accordance with section 17(e)(1) of the Basic Provisions, to determine eligible prevented planting acreage.

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: June 4, 2015