



INFORMATIONAL MEMORANDUM IS-07-007

**United States
Department of
Agriculture**

Risk
Management
Agency

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Independence
Avenue, SW
Stop 0801
Washington, DC
20250-0801

TO: All Approved Insurance Providers
All Risk Management Agency Field Offices
All Other Interested Parties

FROM: William Murphy /s/ *William Murphy* 5/29/2007
Deputy Administrator
for Insurance Services

SUBJECT: Claims Advisory - Eligible Acreage for Prevented Planting

BACKGROUND:

Minnesota, North Dakota, and South Dakota have experienced abnormally dry to moderate drought conditions over the last ten months. The continued dry/drought conditions allowed farmers to perform tillage and/or chemical fallow during the summer or fall in 2006 on acreage that is generally too wet to till and plant (i.e., potholes and low-lying areas). Approved Insurance Providers (AIPs) and the Risk Management Agency (RMA) have been informed that these acres may have been specifically worked up in order to claim spring 2007 prevented planting when normally occurring precipitation fills the potholes and low-lying areas.

The AIPs should remind their agents and inform their policyholders of the following policy provisions and procedure from the 2007 Prevented Planting Loss Adjustment Standards Handbook, FCIC 25370, PAR F.4, which addresses acreage that is generally unavailable for planting:

Common Crop Insurance Policy Basic Provisions, 7 C.F.R. § 457.8:

Section 9. Insurable Acreage.

- (a) Acreage planted to the insured crop in which you have a share is insurable except acreage:
 - (1) 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 you can show that:



- (i) Such acreage was not planted:
 - (A) In at least two of the previous three crop years to comply with any other USDA program;
 - (B) 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
 - (C) Because a perennial tree, vine, or bush crop was grown on the acreage; . . .

Prevented Planting Loss Adjustment Standards Handbook FCIC 25370:

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 or 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) 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. (Emphasis added.)**
- (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.

ACTION:

Prevented planting payments can only be approved when there is an insured cause of loss that occurs during the insurance period that prevents producers from planting an insured crop on eligible acres. Acreage that is not available for planting according to FCIC-issued procedure, or does not otherwise comply with policy provisions, is not considered eligible acreage.

AIPs must independently determine eligible acreage, prevented planting eligibility and payments based on FCIC-issued policies, procedures, information provided by the policyholder, and other

generally available supporting evidence such as weather records, etc. If the producer elects to

report acreage to the Farm Service Agency (FSA), the AIPs may use the FSA acreage report as supporting documentation only and must not rely on the FSA acreage reports as the only evidence supporting or denying a prevented planting claim.

DISPOSAL DATE: December 10, 2007