



INFORMATIONAL MEMORANDUM: IS-11-009

United States
Department of
Agriculture

Farm and Foreign
Agricultural
Services

Risk
Management
Agency

1400
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: Michael A. Alston /s/ *Michael A. Alston* 7/28/2011
Deputy Administrator for Insurance Services

SUBJECT: Claims Alert – Eligible Acreage for Prevented Planting

BACKGROUND:

Recent media reports have helped publicize the Risk Management Agency’s (RMA) actuarial filing of a 2012 crop year Special Provisions (SP) statement concerning acreage physically available for planting. If acreage is not physically available for planting, such acreage is not eligible for prevented planting coverage.

Beginning with the **2012 crop year**, a statement in the SP provides a basic definition of acreage physically available for planting and examples regarding when acreage is not considered physically available for planting. One of the items listed requires that an insured crop be grown and harvested on the acreage in at least one of the four most recent crop years in order to be considered physically available for planting. All other policy provisions must also be met. The states of Iowa, Minnesota, Montana, North Dakota and South Dakota will be affected by the change.

While Federal crop insurance provides prevented planting coverage for weather events occurring within the insurance period, coverage is not provided for events occurring outside the insurance period. Many farmers have benefited from prevented planting coverage during this wet spring. However, acreage flooded due to weather events occurring outside the insurance period, such as rains in previous crop years which leave wet conditions on the land continuously, is not eligible for prevented planting coverage.

The Federal Crop Insurance Act (Act) provides coverage for distinct periods of time based upon the occurrence of the cause of loss and the date the policyholder purchased a crop insurance policy. Acreage that continues to be flooded due to prior weather events beyond the two year period provided in the statute for carryover policyholders is not eligible for continued prevented planting payments because under normal weather conditions it remains indefinitely flooded or too wet to plant, throughout the final and late planting period. Section 17 of the (11-BR) Common Crop Insurance Policy Basic Provisions (Basic Provisions) addresses this statutory limitation:



“(a) Unless limited by the policy provisions, a prevented planting payment may be made to you for eligible acreage if:

- (1) You are prevented from planting the insured crop on insurable acreage by an insured cause of loss that occurs:
 - (i) On or after the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or
 - (ii) For any subsequent crop year, on or after the sales closing date for the previous crop year for the insured crop in the county, provided insurance has been in force continuously since that date. Cancellation for the purpose of transferring the policy to a different insurance provider for the subsequent crop year will not be considered a break in continuity for the purpose of the preceding sentence;”

Section 17(f)(8) of the Basic Provisions also limits the number of eligible prevented planting acres to only those acres available for planting:

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

- (8) That exceeds the number of eligible acres physically available for planting;”

Additional clarification is found in Section F (1) of the 2011 Prevented Planting Loss Adjustment Standards Handbook (FCIC 25370) (PP LASH):

“F. Eligible Acres

- (1) Acreage eligible for PP must:
 - a. Be insurable
 - b. Be available for planting. Available for planting means land is free of trees, rocky outcropping, 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:

- 4 Acreage that has or recently had marsh vegetation; (e.g., cattails, bulrushes, and pondweeds), coarse emergent plants, or submerged aquatics or;
- 5 Acreage that has any other condition, as determined by the AIP, that would prevent the proper and timely planting of the crop when weather and other conditions are normal for the area in which the acreage is located. For example, acreage that in normal weather patterns is too wet to plant in the spring may be dry enough to till or plant and even insure a crop in the fall. Such acreage would not be available for planting a spring crop even though such acreage may have been tilled, planted, and/or insured the previous fall.”

ACTION:

Prevented planting payments may only be approved when there is an insured cause of loss that occurs during the insurance period that prevented producers from planting the insured crop on eligible acres. Acreage that is not considered physically available for planting according to section 17(f)(8) of the Basic Provisions and as clarified in FCIC-issued procedure, or does not otherwise comply with policy provisions, is not considered eligible acreage for prevented planting coverage. 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 is not considered physically available for planting. Therefore, prevented planting coverage is not provided because the reason the acreage could not be planted was due to normal amounts of precipitation, which is not an insured cause of loss.

The Approved Insurance Provider (AIP) 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. AIPs are reminded that the Special Provisions statement filed for the 2012 crop year does not apply to the 2011 crop year.

If you have questions, please contact your respective RMA Regional Office.

DISPOSAL DATE:

December 31, 2011.