



**United States
Department of
Agriculture**

Farm and Foreign
Agricultural
Services

Risk
Management
Agency

1400 Independence
Avenue, SW
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Washington, DC
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INFORMATIONAL MEMORANDUM: IS-12-004

TO: All Approved Insurance Providers Serving the Prairie Pothole National Priority Area

FROM: Michael A. Alston /s/ *Michael A. Alston* 8/7/2012
Deputy Administrator for Insurance Services

SUBJECT: Claims Advisory - 2012 and Succeeding Crop Years Prevented Planting Eligibility in the Prairie Pothole National Priority Area

BACKGROUND:

The Risk Management Agency (RMA) issued Informational Memorandum IS-12-003 on July 12, 2012, to remind approved insurance providers (AIP) of Federal Crop Insurance Corporation (FCIC) regulations governing prevented planting. Since its issuance, some have alleged that the regulations do not allow payment of prevented planting claims in the Prairie Pothole National Priority Area.

The Federal Crop Insurance Act (Act) provides the following with regard to the timing of losses for prevented planting coverage:

- “(C) **TIMING OF LOSS.**—A crop loss shall be covered by the additional prevented planting coverage if—
- (i) crop insurance policies were obtained for—
 - (I) the crop year the loss was experienced; and
 - (II) the crop year immediately preceding the year of the prevented planting loss; and
 - (ii) the cause of the loss occurred—
 - (I) after the sales closing date for the crop in the crop year immediately preceding the loss; and
 - (II) before the sales closing date for the crop in the year in which the loss is experienced.”

RMA is issuing this Informational Memorandum to replace IS-12-003.

ACTION:

AIPs can make prevented planting payments on all qualifying losses. AIPs must determine, on a case by case basis, acreage that is eligible for prevented planting coverage.



The Risk Management Agency Administers
And Oversees All Programs Authorized Under
The Federal Crop Insurance Corporation

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Section 14(e) of the Common Crop Insurance Basic Provisions (Basic Provisions) provides that it is the policyholder's responsibility to prove the prevented planting loss was due to an insured cause of loss. The policyholder must provide verifiable records acceptable to the AIP that a cause of loss (e.g. above normal precipitation) occurred within the insurance period that prevented planting of the acreage.

Section 17(f) (8) of the Basic Provisions limits prevented planting acreage to acreage that is physically available for planting. Final Agency Determination 110 contains at least one reason why acreage may not be considered to be available for planting, which is "acreage that in normal weather patterns is normally wet throughout the final and late planting period and would only be available to plant in abnormally dry conditions."

If the AIP establishes that the only time the acreage is available for planting is when the area is abnormally dry then the acreage is not eligible for prevented planting. For example, if a producer has a 20 acre "pothole" that has persistently been underwater for a number of years; however, for the 2012 crop year due to abnormally dry weather it became tillable and planted, such acreage is considered not generally available for planting.

DISPOSAL DATE:

December 31, 2012