ASKED AND ANSWERED

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A World Of Information

National Crop Insurance Services

March 2017 Edition

QUESTION 17-33

ALFALFA SEED

AIP QUESTION

Could you please help us clarify the following situation? This is Imperial County, CA.

We currently have a grower that insured 1902.2 acres of alfalfa seed for 2016. As part of his normal farming practice to promote growth and initiate seed production he applied the cultural method of "clipback" on his 2016 acreage. The by-product of the "clipback" was bailed and sold as is his normal practice as well as the practice for that county. The 2016 (15-0107) policy provisions Section 7 c (5) state that we will not insure any crop that "Is utilized for any purpose during the crop year other than for seed production, unless otherwise specified in the Special Provisions." In the 2016 Special Provisions for alfalfa seed in Imperial County there is no additional information regarding "clipback"

In the 2017 Alfalfa Seed Special Provisions for Imperial County only the following statement has been added: *5 "For the established stand practice in accordance with Section 7 (c) (5) of the Crop Provisions, the cultural method known as "clipback" must occur prior to April 15 to be insurable. Clipback" is defined as cutting or clipping, chopping or sheep grazing used to initiate seed production. The "clipback" by-product can be used for other purposes and does not affect the insurability of the alfalfa seed crop."

We are looking for direction as to whether the addition of the statement in the 2017 Special Provisions is a clarification that the method of "clipback" does not fall under Section 7 (c) (5) and is therefore the crop is not deemed to be utilized for another purpose during the crop year. Or is the addition of this language actually changing the requirement of the policy? If in fact this statement is merely used to clarify "clipback" would our insured then be insurable for the 2016 crop year or would he be uninsurable for 2016 but insurable for 2017?

NCIS TO AIP

My belief is that the acreage is insurable for both 2016 and 2017. The absence of the added SP statement in 2016 doesn't mean the practice of "clipback" would render the acreage uninsurable because good farming practice provisions would still be applicable. To not "clipback" acreage intended to produce seed could be considered not following recommended good farming practices if conditions warrant clipping back. My understanding of clipping alfalfa stems (no pun intended) from years where clipping alfalfa was allowed to promote growth for forage production policies.

To address selling the clippings and whether that constitutes another use, I don't see that it does. If they are truly clipping back, the quality and quantity of the clippings probably are not that good and to leave the clippings on the field would not be a good thing either (invite disease, etc.).

If the clipping back didn't occur within timeframes recommended by ag experts (before the SP statement was added) and the purpose of waiting was to maximize the amount of forage, then that certainly would be using the acreage for another purpose.

RMA RESPONSE

As this special provision was not in place for the 2016 crop year, it falls back to the crop provisions. Therefore, it is insurable in 2017 but not in 2016.

ADDITIONAL RMA RESPONSE

We have had internal discussions on this matter and have changed our stance on clipback in regards to the 2016 crop year. For 2016, we acknowledge that clipback may be considered a good farming practice and that it does not violate the policy provisions in Section 7 (c)(5), provided:

- The AIP determines the insured followed good farming practices
- There is negligible or no benefit resulting from proceeds of the clipback
- The clipback occurred prior to April 15 for established stands.

QUESTION 17-47

NEW PRODUCER AND CATEGORY C

AIP QUESTION

Does the highlighted language below mean… that New Producer procedures do not apply to Category C crops because the NP procedures are located in the Category B specific section of the CIH?

Part 18 Category C Crops
Section 1 General Information

1801 Background

A perennial crop is a plant, bush, tree, or vine crop that has a life span of more than one year. The productivity of most perennial crops follows a similar pattern: Establishment, productive capability is zero as the plant is established and growth begins; Development, once a certain stage of growth is reached (maturity of the perennial crop), production begins and productive capability increases until some maximum level is achieved; Maintenance – maximum productive capability remains relatively constant for a period of years; and Decline – productivity begins to decline as age, disease, etc. reduce the plant's productive capacity.

In commercial situations the plant is often kept in production for some period of time after the onset of decline because the cost of replacement, e.g., costs of new stock and replanting, no production during the establishment stage, etc., exceeds the value of the lost production.

Eventually, the decline in production becomes so great that it is more profitable to replace the aged tree, vine or bush. Additionally, some perennial crop productivity varies by crop and region, P/T/TMA/Other Characteristics and density and may remain fairly constant after maturity.

The productivity of perennial crops may also be influenced by the insured's production choices. Examples may include variables such as location; climate; soil; practices or production methods such as rootstock selection, planting pattern, density, pruning, which includes method and pattern, fertilization, weed control, crop thinning, pest control, insecticide, pollinators, use of bees, disease control, fungicide and frost control, grafting, dehorning/ buckhorning/ stumping, acreage thinning, and interplanting new similar or different varieties of the same or other crops.

There is often significant inter-relatedness among the factors (i.e., the efficacy of any one factor is a function of other factors), and many are influenced by timing and frequency. Thus, the procedure for the underwriting of perennial crops must consider these factors when determining coverage.

Other parts of the CIH apply unless a Category C exception is provided (e.g., Category B only applies to Category B crops, thus does not apply to Category C).

NCIS RESPONSE

That's essentially correct, in that the New Producer procedures we think of are in 2017 CIH Part 17 Section 5, and Part 17 is specific to Category B crop procedures. Category C crop procedures are in Part 18, including Para. 1861, titled "Added Land/New Producers". The procedures are different for Category C perennial crops, as stated in 1861A: "New producers or carryover insureds who have recently added land by recently purchasing or leasing perennial crop acreage which meets policy requirements may use the prior producer's records, whether or not that producer continues to share in the crop…"

[Note: I've included the initial question and answer from early February and then consolidated the subsequent e-mail correspondence that provided more specifics regarding their situation.]

AIP is asking if Category C perennial crops can use the 100% New Producer T-Yield and, if not (if it applies only to Category B crops since it is in 2017 CIH Part 17), how they can complete the APH database(s) for a perennial crop with no prior records available. They have an insured who bought a vineyard but did not/cannot get records from the previous owner. Their data processing system will not accept the "NP" 100% T-Yield for this policy, presumably because that is only in Category B APH procedures. **Agree Category C does not allow new producers, if this is the only acreage of the crop – the insured would receive 65% T-Yields for not providing the prior production records.**

The Category C procedures in the 2017 CIH do not appear to account for this situation of a perennial crop insured with no records when the crop (in this case, grapes) has minimum production requirements for insurability. Under 2017 CIH Para. 1856A [under "APH Database Establishment Methods"] says to use 65% T-Yield when there are no actual/assigned yields "For new insureds who have produced the insured crop…", but this insured has not previously produced the insured crop and does not have the prior history from the previous operator. And the Exception indicates use of 65% T-Yield is "Not authorized when the CP contains minimum production requirements for insurability. The insured must provide records substantiating that the production minimums were met …" **This is in the CIH because minimum production must be reported to show the policy requirements were met.**

2017 CIH Para. 1861 provides some New Producer procedure for Category C crops, which presumably is why the "New Producer" definition in 2017 GSH Exhibit 1B is not specific only to Category B crops, though the Category C procedure does not include anything connected to the definition's limitation of not producing the insured crop in the county for more than two APH crop years (which is also in CIH Para. 1731 for Category B crops). Para. 1861 says only that the New Producer "…may use the prior producer's records, whether or not that producer continues to share in the crop, when acceptable hard copy records of acreage and production, or claim records are submitted to the AIP by the PRD." **But in this case, the previous producer's records were not made available. We state new producer and state how it works, it is not the same as Cat B and it is only referenced in name only which goes on to say use the prior producers records or you will get the variable T-Yield.**

So would this be considered an "unusual case" for which an RO Determined Yield could be requested [2017 CIH Para. 1881E(7)]? **No – procedure states these must be authorized by RMA, there is no such authorization.**

[Excerpts from 2017 CIH Part 17 (Category B crops) & Part 18 (Category C crops)]

1731 New Producer Qualifications

To be a new producer, the insured must not have produced the insured crop in the county for more than two APH crop years.

…

1735 Approved APH Yield Determination

If the insured qualifies as a new producer, the approved APH yield must be determined using the method below for which the insured qualifies.

A. New Producers Who Have Not Produced the Crop Previously in the County

(1) If no production records are available due to not planting the insured crop, the applicable T-Yield (100 percent) is the approved APH yield.

…

1856 APH Database Establishment Methods

…

A. No Actual or Assigned Yields

For new insureds who have produced the insured crop and do not provide acceptable production reports for the acreage in the insured’s current operation by the PRD, approved APH yields are calculated by multiplying the applicable T-Yield(s) by 65 percent for the entire crop policy.

Exception: Not authorized when the CP contains minimum production requirements for insurability. The insured must provide records substantiating that the production minimums were met and us the records to complete APH.

…

1861 Added Land/New Producers

A. New Producers or Carryover Insureds

New producers or carryover insureds who have recently added land by recently purchasing or leasing perennial crop acreage which meets policy requirements may use the prior producer's records, whether or not that producer continues to share in the crop, when acceptable hard copy records of acreage and production, or claim records are submitted to the AIP by the PRD.

…

1881 Situations for a RO Determined Yield Request

A RO Determined Yield may be requested, see also Exh. 22, for the following situations.

…

E. Unusual Cases

Unusual cases submitted to the RO must mark the "other" box on the RO Determined Yield Request form. Unusual cases include:

…

(7) Other situations authorized by RMA in policy or procedure.

Use special case indicator "PB" for APH databases identified by any of these unusual cases described above.

QUESTION 17-52

TRANSITIONAL ORGANIC WITH NO PLAN

AIP QUESTION

I have not had to work with a farmer transitioning to organic without a plan in place and want to make sure I am interpreting this correctly.

Based on these statements I found in the Handbooks, it appears to me that we use the insureds conventional database but adjust the approved yield to the lower of the current approved yield or transitional t-yield. In our case, we would have to use the transitional t-yield. Am I interpreting this correctly?

Second question - In the event of a loss since we are using a conventional database, would we count lost production due to not using a conventional farming practice against him? I would think if we are reducing his approved APH to what can be expected for the transitional practice, we would pay the claim even if it was due to transitional farming methods.

XXXX has a an insured working with Ohio Valley that does not provide any documentation until the ground becomes certified. He would like to pick up this insured because it will be approximately 2,000 acres but we need to make sure we are handling this correctly.

[2017 CIH Para. 1702P, 2nd paragraph & P(1)]

1702 Methods to Establish an APH Database (Continued)

P. APH Database Requirements for Acreage in Transition without an Organic Plan (Continued)

When there is a change in production methods, the insured must report the change in production methods to the AIP. If the different production method is likely to result in a yield lower than the than the production method upon which the approved APH yield is based, the approved APH yield will be reduced to reflect the different production method. (See Para. 1575 for procedures to reduce approved APH yield due to different production methods). Any production from acreage transitioning without an organic plan will be included in the APH database for conventional acreage.

(1) Beginning with the 2017 crop year, analysis databases are no longer used to determine whether the conventional approved APH yield should be reduced when conventional acreage is being transitioned without an organic plan. Procedures to reduce the approved APH yield due to different production methods must be used (see Para. 1575). When other APH databases do not exist for acreage transitioning without a plan, the approved APH yield for the conventional APH database is reduced to the lower of the conventional APH database approved APH yield or the applicable T-Yield for the transitional practice.

[2017 GSH Para. 872B]

and production unit(s) that is part of the organic farming operation.

B. Transitional Acreage Requirements

Insureds converting their conventional acreage or transitional acreage to certified organic acreage must have, on the date the acreage is reported, an organic plan and written documentation from a certifying agent indicating an organic plan is in effect.

Although an organic plan and written documentation from a certifying agent indicating an organic plan is in effect is required for crop insurance purposes, the NOP does not consider transitional acreage as certified organic. The organic plan must:

(1) identify the acreage that is in transition for organic certification;
(2) list crops grown on the acreage during the 36-month transitioning period; and
(3) include all other acreage; e.g., conventional acreage in the farming operation.

An insured must give notification regarding the application of a prohibited substance or drift as specified in Para. 872A.

[2017 GSH Para. 871B(1)]

B. When Organic Practices Do Not Apply

The insured does not qualify for:

(1) acreage transitioned to certified organic acreage without an organic plan, or written documentation from a certifying agent indicating an organic plan is in effect, as specified in the BP.

In this situation:

(a) the same policy terms and conditions for conventional practices will apply;

(b) appraisals for production lost due to uninsured causes may apply for not following weed or disease control measures or GFP recommended for conventional practices; and

(c) adjustments to the APH database for the conventional practices may be warranted due to a change in practice. APH database considerations can be found in CIH Exh. 11; or

NCIS RESPONSE

For the first question, the answer appears to be in the last sentence of 2017 CIH Para. 1702P(1) [end of the first snapshot in your e-mail]. Based on your e-mail, the insured must not have "…other APH databases… for acreage transitioning without a plan…" so "…the approved APH yield for the conventional APH database is reduced to the lower of the conventional APH database approved APH yield or the applicable T-Yield for the transitional practice" [the latter is indicated in your case]. The first paragraph of CIH Para. 1702P [not included in the snapshot] also states that "…If the insured does have not an organic certificate or written documentation, the acreage cannot be insured under the organic practice and must be insured under the conventional practice…" [complete paragraph copied below].

2017 CIH Para. 1702P, 1st paragraph]:

P. APH Database Requirements for Acreage in Transition without an Organic Plan

For acreage transitioning to organic, the insured must have an organic certificate, or written documentation from a certifying agent, indicating an organic plan is in effect. If the insured does have not an organic certificate or written documentation, the acreage cannot be insured under the organic practice and must be insured under the conventional practice (See GSH Part 8 Section 4). This is considered a change in production method.

…

[This is followed by what's in the first snapshot]

I checked with one of my colleagues on the second question of what to do in the event of a loss. Based on 2017 GSH Para. 871B(1)(b) [toward the end of the last snapshot], which mentions the possibility that "appraisals for production lost due to uninsured causes may apply…", we would answer Yes, you would count lost production due to not using a conventional farming practice.

QUESTION 17-53

WFRP-COTTON AND COTTON SEED

QUESTION 16-117 IS A REFERENCE FOR THIS QUESTION

AIP QUESTION

When running a quote for WFRP is cotton seed considered a separate commodity and what value are we to choose from the drop down?

RMA RESPONSE

The cotton and cottonseed would be insurable and listed separately on the Farm Operation Report. However the seed would be listed with the same commodity code as the cotton and using the seed expected value, adjusted for any value-added and post-production costs.

AIP RESPONSE

One more thing just to confirm. Because Cotton Seed is going to be using the same commodity code, if the only commodity the producer has is cotton and cotton seed, they will not be eligible for WFR because of the diversification rule. Correct.

RMA RESPONSE

If cotton is the only commodity code used and there is a revenue plan available for cotton in the county in which the insured is applying, then you are correct; this producer would not be eligible for WFRP.

Section 3(c)(4)

AIP RESPONSE

It has come to our attention that some other AIP's and agencies are interpreting that cotton seed is considered a separate commodity by selecting "Other Crops" as the commodity type. Therefore giving them 2 different commodities.

I wanted to bring this to your attention as we want to make 100% certain that in counties that producers with Revenue Protection available for their cotton are not be eligible for the WFRP policy if all they have in their operation is cotton and cotton seed.

We are using this email to show our customers we have validated the information with RMA.

ADDITIONAL AIP RESPONSE

Just following up on this as if the decision is to allow Other Crops for cotton seed, our agent wants the opportunity to sell the policy by SCD.

RMA RESPONSE

RMA maintains that Cotton and Cotton Seed must be listed with the same commodity code, but can be listed as separate commodities on the Farm Operation Report.

AIP RESPONSE

FYI, our agents are aware of other AIP/agents selling this product inaccurately.