



Asked and Answered

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ALLOWANCE TO OFFSET PREMIUM & ADMINISTRATIVE FEE

AIP QUESTION

With the language updated in the 2018 Basic Provisions are AIPs only allowed to withhold premium & admin fees from prevented planting/harvest losses prior to billing date if in agreement with the insured. Is this correct even in the case where we may be paying out a final claim on a policy? This seems to open up unnecessary potential risk for both the AIP & possibly the insured in regards to unpaid premium.

Slide from the Claims Manager update below for reference.

Life of Policy, Cancel. & Termination

- § 2(e)(2) Added:
 - Allowance to offset Premium & Admin. Fee from Indemnity or PP payment prior to Premium Billing Date
 - Insured & AIP must agree

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(e) Any amount due to us for any policy authorized under the Act will be offset from any indemnity or prevented planting payment due you for this or any other crop insured with us under the authority of the Act.

(1) Even if your claim has not yet been paid, you must still pay the premium and administrative fee on or before the termination date for you to remain eligible for insurance.

(2) If you and we agree, your premium and administrative fees can be offset from any indemnity or prevented planting payment due you even if it is prior to the billing date of the premium and administrative fees.

(3) If we offset any amount due us from an indemnity or prevented planting payment owed to you, the date of payment for the purpose of determining whether you have a delinquent debt will be the date that you submit the claim for indemnity in accordance with section 14(e) (Your Duties).

RMA RESPONSE

We have consulted with the Policy Branch in regard to your question. The following is their response:

The new provisions allow the AIP to contact the policyholder and inquire as to whether the policyholder would agree to have the "unbilled" administrative fees and premium offset from the remaining amount of the loss. Therefore, with the policyholder's consent, the premium and administrative fees can be offset from any prevented planting claim or indemnity due to the insured if it is prior to the billing date.

HEMP AND CROP INSURANCE

AIP QUESTION

Could you give us an update if you are aware of any RMA initiative that might allow HEMP to be insured for the 2018 growing season?

Found this article recently.

Question – If a grower, grows hemp will that affect my federal crop insurance and have the subsidy taken away on all his crops insured?

Found this but will confirm with RMA.

<https://www.farmforum.net/2018/02/15/hemp-farmers-advocate-for-legislation-to-have-crop-insurance/>

RMA RESPONSE

There is currently no individual or area crop policy that covers hemp. Currently, RMA is precluded from offering insurance for hemp under whole-farm or another comprehensive policy by the provisions statute and regulations, including the Food Security Act of 1985. Any act of Congress modifying such provisions to allow offering insurance for hemp would not take effect for the 2018 crop year because legally binding contract change dates have passed for the majority of insurable crops.

Question – If a grower, grows hemp will that affect my federal crop insurance and have the subsidy taken away on all his crops insured?

Response -

Hemp is subject to enforcement action under the federal Controlled Substance Act, as amended at 21 USC 801. Therefore, federal enforcement of this act subjects the producer to arrest and conviction for cultivation of marijuana thus compromising his crop insurance eligibility. If the producer becomes convicted “planting, cultivating, growing, producing, harvesting, or storing a controlled substance” in any crop year, that producer would be ineligible during the crop year of conviction and the four succeeding crop years to participate in any program administered under the Act (i.e., all other reinsured crop insurance programs).

A producer growing hemp who also has MPCl policies is only at risk if they are convicted of “planting, cultivating, growing, producing, harvesting, or storing a controlled substance” in any crop year. It is up to the state and federal law enforcement agencies with respect to whether they will bring charges against anyone planting, cultivating, growing, producing, harvesting, or storing a controlled substance. In sum, the person is only ineligible after a conviction and that is outside of the Department’s purview.

Additionally, it appears that bill HR3530 has been introduced and not yet passed.

PREVENTED PLANTING ONION TYPE ELIGIBILITY

AIP QUESTION

Could you please clarify the language below to me as it is being presented to us in a different interpretation than my own and I don't want to get wires crossed.

It is my interpretation that the language below is only to be utilized in determining the production guarantee (per acre) for onions in the current crop year. You sum all types of onions, to determine the total number of acres of onions (regardless of color) to determine the production guarantee per acre. I agree with that.

Insurance Availability

You must provide written verification of acreage data from the acreage reports previously recorded for crop insurance purposes, or from the Farm Service Agency or the Extension Service, to the company representative by the time of application if you are a new insured or by the sales closing date if you are a carry-over insured. If your acreage of insurable onion types in this county for the current crop year exceeds 125 percent of the greatest number of acres of insurable onion types that you produced in this county for any one of the three previous crop years, your production guarantee (per acre) for the current crop year will be reduced as follows:

(a) Multiply the greatest number of acres of insurable onion types that you produced in this county in any one of the three previous crop years by 1.25;

(b) Divide the result by the number of acres of insurable onion types produced by you in this county in the current crop year; and

(c) Multiply the resulting factor (not to exceed 1.0) by the production guarantee (per acre) for the current crop year.

For purposes of this statement, a new producer is a producer who has never grown onions in this county. If you are a new producer or if you have not grown commercial onions in one of the last three years and your acreage of insurable onion types in this county for the current crop year exceeds five acres, your production guarantee (per acre) for the current crop year will be reduced as follows:

(a) Divide five acres by the number of acres of insurable onion types produced by you in this county in the current crop year; and

(b) Multiply the resulting factor (not to exceed 1.0) by the production guarantee (per acre) for the current crop year.

All production from your total acreage of insurable onion types produced in this county in the current crop year will be counted in the event of a loss. This limitation will not apply to an acreage increase of five or less acres. This applies to all acreage in the county for the crop year.

The interpretation I don't agree with is that this is to be used to say that an onion is an onion in regards to determining prevented planting eligibility. Per the prevented planting handbook you are limited to the history that you have produced by each type of onion (red, yellow, white). The SPOI language below doesn't reference pp eligibility, only production guarantee. I would reference 84 B Example 3 from the 2018 PP Handbook for my basis for this interpretation.

INFORMATION IN QUESTION

Above is the SPOI statement that provides guidance on insurance availability. The highlighted portion above states that the greatest number of acres of insurable onion types will be used to determine availability. That means you can use the greatest number of acres whether they were yellow, red, or white or a combination of the three in a single year in order to determine how many acres of insurance your customer is eligible for. In our eyes, an onion is an onion regardless of color and once the amount of insurance availability is determined, an insured can split those acres up to any type they choose.

RMA RESPONSE

The Special Provision statement is utilized for calculating the production guarantee and is based on total onion acreage (sum of types).

Individual crop types must be considered separately when determining eligible acres for prevented planting purposes.

WFRP-COMMODITY CODE QUESTION

AIP QUESTION

In the actuarial, Fresh Market Peppers commodity code 405 shows Y for underlying MPCl Policy. The only available underlying MPCl Policy is for Bell Peppers. The producer is growing specialty peppers in addition to bell peppers, with distinctly different liabilities and marketing avenues and they are not insurable under an MPCl policy. This would be able to qualify for an additional commodity of “other” since Fresh Market Peppers really means Bell Peppers, correct?

RMA RESPONSE

The commodity code for Fresh Market Peppers under WFRP includes all Fresh Market Peppers. The producer would list each variety on a separate line (using CC 0405) of the FOR.

If the producer has a Peppers Fresh Market (0083) policy, he would receive the insured revenue adjustment within his WFRP policy.

WFRP-HUSBAND AND WIFE HAVING SEPARATE SCHEDULE F'S BUT FILING JOINTLY

AIP QUESTION

I have a question pertaining to an husband & wife situation. They both file separate schedule F's but file jointly for taxes. He wants a WFRP and she does NOT. Can the agent write an individual policy for him ONLY or does it have to be spousal because they file jointly for taxes? How does the agent write it if the spouse can't be separated? Sorry, the entity types are not clear when writing the WFRP....

NCIS RESPONSE

I believe 21(1)(d) of the handbook answers the question. Seems that you have a spousal joint venture.

21 Eligibility

(1) To be considered eligible for a WFRP policy, the insured must:

(d) have a Schedule F, or Substitute Schedule F that covers 100 percent of their farm operation. **A tax entity which reports a fractional share of farming activity conducted by a partnership, corporation or any other "joint venture" does not qualify for WFRP coverage on the fractional share of farming activity.** However, a tax entity may still qualify for WFRP coverage on a fractional share of a commodity in which they have an insurable interest.

The information in the entity section of the GSH is applicable to WFRP and the following information on joint ventures, especially the last two sentences of what I included below should provide guidance in this situation.

254 Joint Ventures

This person type, which includes co-ownerships and joint operations, is similar to a short-term partnership in which parties of two or more persons jointly engage in the farming operation. Generally, each person contributes land, labor, or machinery; share in the expenses and divide profits in terms of their invested interest. Like a partnership, this person type can involve any type of business transaction, and the persons involved can be individuals, groups of individuals, companies, or corporations. However, unlike the partnership person type, no person(s) is authorized to bind any other person(s) to any business transaction. **Spousal joint ventures are not recognized for crop insurance purposes. A spousal joint ventures must be reported as an individual operating as a business policy.**

Open the attached IRS publication 225 for some information on spousal joint ventures from an IRS perspective. Simply search for the term "joint venture." I will also seek input from RMA.

RMA RESPONSE

We agree that the scenario presented would not be allowed under the provisions of the policy. The insured must be the tax filer and the Schedule F must cover 100% of the farm revenue.