



United States of Agriculture
Farm and Foreign Agriculture Services
Risk Management Agency

BULLETIN NO.: MGR-01-017

TO: All Reinsured Companies
All Risk Management Agency Field Offices
All Other Interested Parties

FROM: Phyllis W. Honor /s/ Phyllis W. Honor 6-20-01
Acting Administrator

SUBJECT: Irrigation Issues

BACKGROUND:

Many areas of the United States are currently experiencing preliminary signs of an impending drought that could have a significant impact on the availability of irrigation water. Many states are considering emergency measures due to water and snow-pack levels that are near record lows.

The Risk Management Agency (RMA) has received numerous questions regarding reports of pending water shortages and how this might impact insureds' crop insurance coverage. It is essential that all insurance providers administer the program consistently to ensure equal treatment for insureds under similar circumstances.

When the insured knows or has reason to know that the supply of irrigation water may be reduced on or before coverage begins, the policy states that only that acreage for which there exists adequate facilities and water is insurable under an irrigated practice. Therefore, insureds must make decisions to plant fewer acres, plant and insure acreage for which adequate water is not available under a non-irrigated practice (if available), or report acreage as prevented planting (if prevented planting is available for the crop), provided that all prevented planting policy provisions have been met. In addition, other issues have surfaced.



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The Risk Management Agency Administers and Oversees

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In accordance with the “Causes of Loss” section in the individual crop provisions, failure of the irrigation water supply is covered only to the extent that the failure was due to an insured cause of loss that occurs within the insurance period.

ACTION:

Under the terms of the policy, the burden is on the insured to show that any prevented planting or loss on planted (or perennial) acreage is caused by an insured cause of loss. This includes failure of the irrigation water supply. Insureds must show that such failure was caused by an insured cause of loss.

Under established procedures, insurance providers must verify and document that any failure of the irrigation water supply is due to an insured cause of loss before making any prevented planting payment or paying an indemnity. The FCIC-25010 *Loss Adjustment Manual (LAM)* contains the irrigation guidelines and the FCIC-14010 *Guidelines and Expectations for Delivery of the Federal Crop Insurance Program* contains the requirements for irrigation practice field inspections.

Below are guidelines to assist insurance providers in adjusting prevented planting and other claims based on failure of the irrigation water supply. FCIC will reinsure all claims that are in conformance with these guidelines.

I. Failure of the Irrigation Water Supply

1. New or carryover (those with 2000 crop year policies) policyholders that knew or should have known prior to the time that insurance attached that the water supply may be reduced before coverage begins or will be reduced or cut off during the irrigation season have no reasonable expectation of adequate irrigation water. Therefore, under the terms of the policy, any planted (or perennial) acreage is not insurable under an irrigated practice.
2. If the insured has no reasonable expectation of adequate irrigation water for all or a portion of the acreage at the time insurance attaches, the amount of planted irrigated acreage reported on the acreage report must be reduced to the amount for which there is an adequate irrigation water supply.
3. Acreage for which the insured had no reasonable expectation of adequate irrigation water at the time of planting (or on the calendar date for the beginning of the insurance period for perennial crops) must be reported as non-irrigated acreage, or uninsurable acreage if a “non-irrigated practice” is not available.

4. Carryover policyholders with acreage for which the insured had no reasonable expectation of adequate irrigation water on the final planting date (or within the late planting period, if applicable) due to an insurable cause of loss that occurred within the insurance period, may report such acreage as prevented from planting, provided that all other requirements for prevented planting have been met.
5. New policyholders are only eligible for prevented planting payments if the insured cause of loss that caused the failure of the irrigation water supply occurred after the sales closing date for the current crop year and all other requirements for prevented planting have been met.
6. Acreage historically grown under an irrigated practice for which the insured had no reasonable expectation of adequate irrigation water on the final planting date (or within the late planting period, if applicable) may be eligible for an irrigated prevented planting payment even if the acreage could have been planted with a non-irrigated practice and the producer elected not to plant.
7. For crops that must be contracted with a processor to be insured, if processors cancel or do not provide contracts, or reduce the contracted acreage or production from what would have otherwise been allowed, solely because of failure of the insured's irrigation water supply, insurance providers may elect to determine the number of eligible prevented planting acres based on the greatest amount of acres or production contracted in the county in any of the four most recent crop years. The total eligible prevented planting acres in all counties for the insured cannot exceed the total amount of acreage or production contracted in all counties in any one of the four most recent crop years. If the applicable crop policy requires the price election to be based on a contract price, and a contract is not in force for the current year, the price election may be based on the contract price in place for other producers who have contracts with the processor the insured would normally contract with for the current year. If the processor does not have any contracts in place for the current year, the price contained in the producer's processor contract for the crop year immediately preceding the current crop year may be used.
8. Insurability of any termination or reduction of production on perennial plants as a result of the failure of the irrigation water supply is determined in accordance with paragraph 40 K (7) of the LAM.

II. Electricity Buy-back Programs or Water Rights Buy-back Programs

1. Any reduction in the water supply due to participation in an electricity buy-back program or the sale of water under a water buy-back program (either before or after insurance attaches) is **not** considered an insurable cause of loss under the policy. However, if an insured cause of loss reduces the amount of irrigation water available, then subsequent participation in an electricity buy-back program (relative to the amount of water reduced by an insured cause of loss) will not reduce the insured loss.
2. Insureds that elect to participate in electricity buy-back programs or water right buy-back programs that result in a reduction of the irrigation supply before insurance attaches may not insure any acreage affected by this reduction in the irrigation water supply as an irrigated practice or receive a prevented planting payment on an irrigated basis for such acreage.
3. Insureds that elect to participate in electricity buy-back programs or water right buy-back programs that result in a reduction of the irrigation supply after insurance attaches may not receive an indemnity related to the reduction in the irrigation water supply.
4. In those cases where an insured cause of loss reduced the irrigation water supply for a portion of the insured's acreage and the insured elects to participate in the electricity buy-back programs or water right buy-back programs, the insurance provider must separately determine the amount of acreage for which an insured cause reduced the irrigation water supply and the amount of acreage for which participation in the electricity buy-back programs or water right buy-back programs caused the reduced irrigation water supply. The insured may still be eligible for a prevented planting payment or indemnity, as applicable, on the acreage where an insured cause of loss reduced the irrigation water supply, provided that all other requirements in the policy have been met.

III. Environmental Diversions

Decreased water allocation resulting from the diversion of water for environmental or other reasons is not an insurable cause of loss unless the diversion is made necessary due to an insured cause of loss.

IV. Increased Costs for Water, Electricity, Fuel, Etc.

1. Increased costs for water, electricity, fuel, etc., from sources historically used by the insured are not considered insurable causes of loss under the policy. Any acreage for which the irrigation water supply has been reduced by the insured before insurance attached because of such increased costs is not insurable under an irrigated practice and

no prevented planting payment or indemnity may be made. Irrigation water that is reduced after insurance attaches because of increased costs is an uninsured cause of loss.

2. Conversely, the availability of high-cost water or electricity from a non-historical source will not be considered a reason to deny an otherwise payable claim.

DISPOSAL DATE:

This Manager's Bulletin is for the purpose of transmitting information, and the expiration date is December 31, 2001.