

14 regarding the notice requirements, record keeping for any acreage subject to indemnity reduction when a second crop is planted, and timing of payments. When more than one insurance company is involved, and the insured elects to insure a second crop, it would be the responsibility of the company insuring the first crop to pay the reduced indemnity and collect the reduced premium for the first crop and to revise the indemnity and premium if there is no loss to the second crop. The proposed provisions allow a producer to elect whether or not they want insurance on second crop acreage because a full payment for a first crop can often exceed the total of a reduced indemnity payment on the first crop and a full indemnity payment on the second crop. For example, a producer who loses a cotton crop and would receive an indemnity of \$1,000 but elects to plant grain sorghum on the same acreage, with a liability of \$500, would only collect \$350 for the cotton and even if there was a total loss to the grain sorghum, the producer would only collect \$850 for the crop year, instead of \$1000 they could have collected if they had not planted or insured the second crop. FCIC has clarified sections 15(e) and (f) to specify that there is no impact on the premium or indemnity for second crop acreage even when the second crop suffers a loss or a subsequent crop is planted on the same acreage. Section 108 of ARPA requires the 35 percent payment, which equates to a 65 percent reduction. Therefore, both percentages are used to determine the indemnities for the first crop when the second crop is planted and does not sustain an insurable loss. No change can be made in these percentages. FCIC agrees administration of the new rules may require some extra work when adjustments to the claim are needed because a second crop is planted. FCIC also agrees that for prevented planting acreage, an additional loss adjustment is needed when a second crop is planted. FCIC agrees that additional work is required to determine the effects of planting a second crop. However, since ARPA requires these provisions, no changes can be made.

Comment: A commenter suggested the provisions proposed in section 15(f) be modified to treat prevented planting claims in a similar manner as non-emergence claims. The commenter stated knowing weather related situations can change, they believe a producer who files a prevented planting claim should be able to keep 100 percent of the indemnity if the situation changes and the producer is later able

to plant a second crop on the acreage that they be allowed to keep the prevented planting indemnity if they elect not to insure the second crop. They believe the so-called "black dirt" policy currently in place prevents growers from making good management decisions and capitalizing on what can often be rapidly changed growing conditions, even when they are willing to take the risk on themselves. The commenter recommended the proposed rules be stricken until such time as a comprehensive review of prevented planting rules can be completed and a coherent set of recommendations in this regard can be put forth.

Response: FCIC not accept these suggestions. Section 108 of ARPA mandates a reduction in prevented planting payments for first crops anytime a second crop is planted on the same acreage, except in the case of double-cropping. Unlike the provisions regarding a second crop planted on acreage planted to a first crop on the same acreage, which only requires the reduction when the second crop is insured and suffers an insurable loss, ARPA mandates such reduction to the prevented planting payment regardless of whether the second crop is insured. Therefore, no change can be made.

Comment: A commenter stated the provisions proposed in section 15(h) seem to conflict with the definition of "cover crop."

Response: The double-cropping requirements cannot be met if a cover crop is a second crop and is hayed, grazed or otherwise harvested. ARPA requires, for the purpose of proving double-cropping, that both crops be insurable. Cover crops are not insurable. Therefore, no changes can be made.

Comment: A commenter asked what is meant by "insurance offered under the authority of the Act" in section 15(h)(3). In other words, does the insurance simply have to be offered for the two crops, or do the specific crop types, practices, etc., have to be included in the actuarial table for the county.

Response: "Insurance offered under the authority of the Act" means that the policy is reinsured by FCIC. Private hail policies or other types of crop insurance policies that are not reinsured by FCIC are not offered under the authority of the Act. Further, insurance must be offered for the specific crop types, practices, etc., in order to meet double-cropping requirements. If the actuarial documents do not include the specific crop types, practices, etc., insurance is not offered under the authority of the Act, unless insurance was provided by a written agreement approved by FCIC.

Comment: A commenter stated that the provisions proposed in section 17(c) may present computer systems problems.

Response: FCIC agrees and appropriate changes will be made in data systems to accommodate situations in which premium reductions are required. No change has been made.

Comment: A few commenters thought the language in section 17(f)(4) is confusing, in part due to the use of like terms in different ways than they have been used in other sections. They asked whether they should interpret the language proposed to remove the requirement that the same acreage be prevented. One of the commenters suggested language be added to identify the second crop and require that records must be on the same physical location.

Response: FCIC incorporated the double cropping provisions from ARPA. However, for the purposes of readability, FCIC simply changed the wording to fit within the existing text. Therefore, the terms are being used in the same manner as stated in other policy provisions. Section 108 of ARPA allows a producer to rotate the acreage they double crop and does not restrict the producer from qualifying for benefits associated with double cropping on specific acreage they have not double cropped in the past. Therefore, the provisions do not require the same physical acreage to be prevented from being planted as has been double cropped in the past. No change has been made.

Comment: A commenter asked, regarding the provisions proposed in section 17(f)(4)(i), whether the insurance provider, FCIC or some other entity would determine whether or not a practice is an "established practice." The commenter further asked whether FCIC is the determining agency, and what procedures must the insured or the insurance provider follow to obtain such a determination.

Response: It is the insurance providers responsibility to determine whether it is an established practice to plant the second crop for harvest following harvest of the first insured crop based upon whether such practice is generally recognized by agricultural experts or the organic agricultural industry for the area. FCIC will not be determining whether the practice is established in the area. However, there may still be issues regarding whether the practice qualifies as a good farming practice even if it is established in the area. In such cases, FCIC may be requested to make a determination. But this is only after the initial determination of whether the practice is