

5. PP PAYMENT REDUCTION DUE TO SECOND CROP, COVER CROP, OR VOLUNTEER CROP

In accordance with the Agricultural Risk Protection Act of 2000, Section 508a of the Federal Crop Insurance Act was amended and subsequently the Basic Provisions were amended to limit prevented planting payments when a second crop is planted on the same acreage in the same crop year, except as allowed for acreage that qualifies for double-cropped acreage, as defined in the Basic Provisions.

A. FIRST INSURED CROP PREVENTED FROM BEING PLANTED AND SECOND CROP

(1) Definitions.

- (a) First Insured Crop** – With respect to a single crop year and any specific crop acreage, the first instance that an agricultural commodity is planted for harvest or prevented from being planted and is insured under the authority of the Act. For example, if winter wheat that is not insured is planted on acreage that is later planted to soybeans that are insured, the first insured crop would be soybeans. If the winter wheat was insured, it would be the first insured crop.
- (b) Second Crop** – With respect to a single crop year, the next occurrence of planting any agricultural commodity for harvest following a first insured crop on the same acreage. The second crop may be the same or a different agricultural commodity as the first insured crop, except the term does not include a replanted crop. A cover crop, planted after a first insured crop (for PP after the FPD for the PP crop (LPP, if applicable)) and planted for the purpose of haying, grazing, or otherwise harvesting in any manner; or that is hayed or grazed prior to November 1 (which generally would be when crops in the area would normally be harvested), or otherwise harvested at any time, is considered a second crop. A cover crop that is covered by FSA's noninsured crop disaster assistance program (NAP) or receives other USDA benefits associated with forage crops will be considered as planted for the purpose of haying, grazing, or otherwise harvesting. A crop meeting the conditions stated herein will be considered to be a second crop regardless of whether or not it is insured. Notwithstanding the references to haying and grazing as harvesting as stated within the Basic Provisions and above, for the purpose of determining the end of the insurance period, harvest of the crop will be as defined in the applicable crop provisions.

CLARIFICATION of "A cover crop that is covered by FSA's noninsured crop disaster assistance program NAP . . ." as stated in the definition above:

"Covered" means the producer has NAP coverage for the crop planted on the PP acreage. FSA has clarified that crops intended for cover crops cannot be covered under NAP. Insureds must certify to the usage of the crop when they certify their acres at FSA. If their acres are certified as a cover crop (i.e., not haying, grazing, or otherwise harvesting), such acreage is ineligible for coverage under NAP. If the producer has signed the crop up for NAP and certifies the acreage at FSA as intended for haying, grazing or harvest; then it would be: (1) covered under NAP and would be considered a second crop, and (2) the (first insured crop) PP payment is limited to

35%. Even if the crop planted on the PP acreage has NAP coverage in effect and it is never grazed, hayed, or harvested; it is still considered a second crop because NAP coverage is in effect.

(2) Cover Crop and/or Volunteer Crop

- (a) If a cover crop is planted prior to the end of the LPP (on or prior to the FPD if no LPP is applicable) for an insured crop that is prevented from being planted, PP coverage may be provided for the insured crop, unless (c) applies. **Example:** The insured plants a cover crop in the fall of 2012, terminates the cover crop prior to the final planting date for 2013 corn (and prior to any crop stage or date specified in SP, if applicable), but subsequently is prevented from planting 2013 corn. The insured would be eligible for PP corn provided all other PP requirements are met.
- (b) The cover crop may be the crop prevented from planting (e.g., wheat), and may still retain eligibility for a PP payment, provided it is planted at the seeding rate recommended by agricultural experts for the cover crop (and is not planted for harvest as grain). **Example:** the insured was prevented from planting wheat by the FPD, but prior to the end of the LPP, the insured plants wheat as a cover crop to prevent soil erosion (seeding rate, fertilization, etc., consistent for a wheat cover crop) and does not hay, graze or otherwise harvest the cover crop.
- (c) If a cover crop or volunteer crop is hayed or grazed or otherwise harvested within or prior to the end of the LPP (on or prior to the FPD if no LPP is applicable) for an insured crop that is prevented from being planted, no PP coverage is available.
- (d) If a cover crop is planted after the end of the LPP (FPD if no LPP is applicable) for an insured crop that is prevented from being planted, but is not hayed or grazed prior to November 1, the PP payment will not be reduced.
- (e) If a cover crop or volunteer crop is hayed or grazed after the end of the LPP (FPD if no LPP is applicable) for an insured crop that is prevented from being planted and prior to November 1 of the crop year, the PP payment will be reduced by 65 percent.
- (f) If a cover crop or volunteer crop is hayed or grazed after November 1 of the crop year in which an insured crop is prevented from being planted, the PP payment will not be reduced.
- (g) A crop harvested for grain, seed, etc., is presumed not to have been grown for conservation or soil improvement purposes and the policy provisions for second crops or crops planted prior to the end of the LPP, as applicable, will apply.

EXAMPLE 1: Wheat is planted as a cover crop within or PRIOR to the end of the LPP (or on or prior to the FPD date if no LPP is applicable) of the crop being claimed as PP and is subsequently harvested for grain, seed, etc., (at any time), no PP payment can be made. If there is an active wheat policy

and wheat is planted as a cover crop (verified that the seeding rate, fertilizer rate, etc., is consistent for a cover crop) and then is harvested as grain, seed, etc., the wheat acreage cannot be added to the acreage report as insurable acreage. Even though the wheat was harvested, the acreage is uninsurable since the Small Grains Crop Provisions require wheat to be planted for harvest as grain in order to be insurable as is the case with most grain crops.

EXAMPLE 2: If wheat is planted as a cover crop (verified that the seeding rate, fertilizer rate, etc., is consistent for a cover crop) **AFTER the end of the LPP** (FPD if no LPP is applicable) of the crop being claimed as PP and is subsequently harvested for grain, seed, etc., the PP payment is reduced by 65 percent. If the cover crop planted is wheat and is subsequently harvested as grain or seed and an active wheat policy exists, it cannot be added to the acreage report for the same reason stated in Example 1 above.

(3) If the insured is prevented from planting the first insured crop in the crop year (except in the case of double cropping, as described in subsection C below), the following applies:

(a) Insured's Options:

- 1 **Not plant a second crop** on the same acreage for harvest in the same crop year and collect 100 percent of the PP payment for the acreage, provided no other party plants a second crop on this acreage. Refer to subsection 5 B below.
- 2 **Plant a second crop** on the same acreage for harvest in the same crop year. (A cover crop or volunteer crop may be considered a second crop. Refer to subsection 4 K and 5 A (1) (b) above.) (For PP, the second crop does not have to be insured or suffer a loss before the PP payment for the first insured crop (PP acreage) is reduced to 35%. Also, if a second crop is planted by someone else, the PP payment will be reduced as stated in subsection B below.) When a second crop is planted and the insured does not qualify for double cropping (refer to subsection C below), the following will apply:
 - a The insured will receive 100 percent of an indemnity that may be due for the second crop and 35 percent of the PP payment for the acreage of the first insured crop provided the second crop is not planted on or before the FPD or during the LPP (as applicable) for the first insured crop.
 - b The insured is responsible for a premium for the first insured crop of PP acreage that is commensurate with the amount of the PP payment paid for the first insured crop; i.e., 35%.
 - c The insured is responsible for paying the full premium for the second crop acreage, if the second crop is an insured crop. If second crop planted acreage follows first insured crop of PP acreage, it must be reported as insured acreage if it meets all insurability requirements for the crop. When PP acreage is the first insured crop, the insured does not have the option to not insure second crop acreage that is insurable if there is an active policy in the county for the crop.

d Subsequent crops planted will not affect the indemnity of second crop acreage.

B. ADDITIONAL INFORMATION REGARDING REDUCTION IN PP PAYMENTS DUE TO SECOND CROP, COVER CROP, OR VOLUNTEER CROP

In addition to the insured planting a second crop (or cover crop when the cover crop is not considered a second crop; see section 5 A (1) above), except in the case of double cropping as described in subsection C below, the following applies:

- (1) If another person plants a second crop on any of the PP acreage (first insured crop) after the LPP (FPD if the LPP is not applicable) for the PP crop, then the PP payment will be 35% of the PP payment due for such acreage.
- (2) If a volunteer crop or cover crop is hayed or grazed (by insured or another person) from the PP acreage (first insured crop), AFTER the LPP (or after the FPD if a LPP is not applicable) for the PP crop but prior to November 1, the insured is limited to only 35% of the PP payment for such acreage.
- (3) When a cover crop planted prior to the FPD (or prior to the end of the LPP, if LPP is applicable) is hayed or grazed, refer to 5 A (1) (c) above.
- (4) The PP payment will be limited to 35% of the PP payment due if a cover crop or volunteer crop is swathed or windrowed after the end of the LPP (FPD if no LPP is applicable), but prior to November 1. (If swathed or windrowed prior to the end of the LPP (on or prior to FPD, if no LPP is applicable), no PP payment will be made.)
- (5) First insured crop acreage (PP acreage) cash rented
 - (a) If the insured receives or will receive cash rent for use of the PP acreage (first insured crop), the insured is limited to only 35% of the PP payment due for such acreage.
 - (b) Cash rent, as used in this subsection means cash renting for agricultural use (growing a crop, haying, grazing, etc.) This does not apply when the acreage is cash rented for a non-agricultural use; e.g., hunting.
 - (c) A crop planted, following first insured crop PP acreage, by the person cash renting the acreage is considered the second crop for both the person having the first insured crop and for the person that cash rented the acreage and planted a crop on this acreage.
 - (d) If the first insured crop acreage (PP acreage) is not owned by the insured of the first insured crop acreage and the PP acreage is cash leased by the landlord to another person, the PP payment is limited to 35% of the PP payment due, if after the LPP (FPD if no LPP applies) for the PP crop, the other person cash renting the acreage:
 - 1 Plants a second crop on the PP acreage;
 - 2 Hays or grazes a cover crop or volunteer crop from the PP acreage prior to November 1; or

6. PREMIUM

- (1) The premium for PP is based upon the original per-acre production guarantee for timely planted acreage, less any premium for acreage deleted (by a revised acreage report) that was not eligible for PP coverage. If the premium amount for acreage that the insured is required to pay (gross premium less FCIC subsidy) for PP acreage exceeds the liability on such acreage, no premium will be due (coverage will not be provided for those acres and no PP payment will be paid for such acreage). For premium reduction when the first insured crop is prevented from being planted, and a second crop is subsequently planted or other actions taken on the PP acreage that requires reduction of the first insured crop PP payment, refer to Section 5.
- (2) When there is a Hail and Fire Exclusion in effect for a crop, premium is not reduced on acreage of the crop eligible for PP.

7. ACREAGE REPORTING

The acreage report is the primary tool for establishing the liability for all timely planted, LP and PP acres.

A. INSURED'S RESPONSIBILITIES

- (1) On or before the acreage reporting date, report all timely planted, LP, and PP acreage along with any information required to complete an accurate initial acreage report (also see subsection E below for acreage reporting dates).
- (2) Report the correct unit number in which the PP acres (fields) of the insured crop are physically located. The correctly reported acreage may be revised by the AIP when remaining eligible acres from another unit or crop must be used to make the PP payment as stated in Section 4 F (8) (b).
- (3) Report any change in status of any PP acreage, including but not limited to the following changes:
 - (a) The insured certified a second crop would not be planted but it was subsequently planted (by the insured or any other person; e.g., by person to whom the insured (or landlord, if insured is the tenant rather than owner of the acreage) cash rented the acreage);
 - (b) The insured initially stated a second crop would be planted, but it was **never** planted on the PP acreage. The AIP verifies this to be true;
 - (c) The insured initially certified that the volunteer crop or cover crop would not be hayed or grazed, but the insured subsequently hayed or grazed the crop after the LPP (FPD if no LPP is applicable) for the PP crop but prior to November 1; or

- (d) A volunteer or cover crop is harvested for other than haying or grazing at any time after the LPP (FPD if no LPP is applicable) for the PP crop (even after November 1). The PP payment for the first insured crop (PP) acreage is reduced to 35% of the PP payment if the cover crop WAS NOT planted within or prior to the LPP for the crop claimed as PP. If the cover crop was planted within or prior to the end of the LPP for the crop claimed as PP, no PP payment is allowed.
- (4) Identify on the acreage report (or on an attachment) all uninsurable and ineligible PP acreage and the factors used in that determination. Factors used to determine uninsurable and ineligible acreage include, but are not limited to the following:
 - (a) Acreage planted for an uninsurable use (e.g., planted for pasture, etc.),
 - (b) Adjustment of reported acreage due to eligible PP acreage limitations,
 - (c) A volunteer or cover crop on the PP acreage (first insured crop) is hayed, grazed, or otherwise harvested prior to or within the LPP (prior to or on the FPD if no LPP is applicable) for the PP crop, etc.
- (5) A revised acreage report must be prepared by the agent as needed. See subsection I below for revised acreage report examples.
- (6) Acreage planted to the insured crop after the LPP (after the FPD for crops that do not have a LPP) must be reported appropriately as insured or uninsured acreage and must include the date planted.

B. AIP's RESPONSIBILITIES

The AIP is responsible for assuring:

- (1) Before processing a PP payment, the adjuster and/or another person contracted or employed by the AIP who is a certified loss adjuster (in accordance with the SRA) and who does not have a conflict of interest performing loss adjustment duties, has verified that all PP eligibility requirements have been met for the acreage claimed as PP.
- (2) Retaining documentation of notification and any actions taken for adjuster verification and review.
- (3) Inform insureds that actions subsequent to the first insured crop (PP acreage) may reduce or negate their PP payment (actions by the insured or someone else). Refer to Section 5 for information regarding reduction or disqualification of PP payments.

C. LOSS ADJUSTER'S RESPONSIBILITIES

When completing a claim for a PP payment, verify eligible PP acreage, whether all other PP requirements have been met, and whether the correct PP guarantee has been reported and processed.

E. PREVENTED FROM PLANTING - NOT ENOUGH ELIGIBLE ACREAGE FOR THE CROP

For crops prevented from planting for which the insured does not have an adequate base of eligible PP acreage, the AIP will use acreage from another crop insured for the current crop year for which the insured has remaining eligible PP acreage. Refer to subsection 4 F (8) for details.

- (1) If the PP payment will be made under another crop(s)/unit(s) rather than under the crop/unit that was prevented from planting:
 - (a) The number of acres payable under that unit is not limited to the number of physical number of acres in that unit. For example:
 - Insured claimed 200 acres of PP corn but did not have any remaining eligible corn acres, but the insured had 200 acres of soybeans remaining eligible PP acres.
 - Soybeans unit 0001-0001OU would result in the closest PP payment and would also result in a lesser PP payment than the corn PP payment would.
 - The 200 acres of corn claimed as PP would be paid as PP soybeans, unit 0001-0001OU, even though there is only 100 cropland acres available for planting in soybeans, unit 0001-0001OU.
 - (b) The share used will be the share from the crop unit on which the acreage was prevented from planting (qualifying unit). Refer to example in (7) (a), Example 1 below.
 - (c) Acreage reports will also be revised to show PP acreage that will be used to pay the PP acreage for the qualifying crop/unit (i.e., the crop/unit prevented from planting).
 - (d) Prepare the claim form for the PP payment for each crop unit that eligible PP acreage was used to pay the PP claim for the qualifying unit acreage, document the crop, unit number, and legal description of the qualifying crop/unit (i.e., the crop/unit prevented from planting).
- (2) In counties having both a fall and spring FPDs for barley, oats, and wheat, remaining eligible acres are based on the total of all barley, oats or wheat types; however, any PP payment is based on the spring type only. If the insured does not have an APH database for a spring type, then one must be created to make the PP payment.
- (3) When the insured has multiple types in his/her 4-year PP history, and the insured claims more acres for a type(s)/crop than the insured has remaining eligible acres for the types/crop claimed as PP, refer to Examples 2 and 3 in subparagraph (10) below.
- (4) When the insured has irrigated and non-irrigated acreage (or only irrigated acres) in his/her APH databases and there are more irrigated acres claimed for the crop prevented from planting than the insured has history in his/her 4-year PP history for the crop, refer to Examples 6 and 7 in subparagraph (10) below. Also, the examples indicate when the

D. APH FOR PP ACREAGE

- (1) PP acreage upon which the PP payment was not limited to 35% (i.e., a second crop was not planted (second crop as defined in the Basic Provisions) within the same crop year) will NOT be included in APH records when there are planted and PP acres within the same unit; e.g., 100 acres PP and 200 acres planted within the same unit - only the 200 planted acres will be reported on the APH record for the unit. If none of the acreage for the unit was planted, it will be considered a zero-planted year for APH record purposes. However, if the PP payment is limited to 35% (i.e., a second crop is planted on the PP acreage (second crop as defined in the Basic Provisions) within the same crop year and the insured acreage does not qualify for double cropping), the insured will receive a yield equal to 60 percent of the approved yield for the first insured crop PP acreage to calculate the insured's average yield for subsequent crop years on this acreage.
- (2) The first insured crop PP acreage's APH yield will be impacted for the crop that was prevented from being planted, even when the PP payment may have been based on another crop. For example: The insured met all policy requirements for a PP payment for corn but did not have any remaining PP acres for corn but did for soybeans. So, the PP payment is based on soybeans. If a second crop is planted, the corn APH yield will be impacted.

E. INDEMNITY AND/OR PP PAYMENT DETERMINATIONS

- (1) Planted Acreage (timely or LP)
 - (a) Any harvested or appraised production from the insured crop, regardless of when planted, will be counted against the unit guarantee for timely and/or LP acreage UNLESS it is production from acreage that was planted for an uninsured use, planted on uninsurable land, and/or planted after the LPP and is not insurable - (Refer to Part 5 of the LAM regarding Late Planting Coverage, and section 4 C (5)(b) in this handbook). If the crop was planted for an originally insured use (e.g., corn for grain) and:
 - 1 Harvested for such use, the production will be counted on that basis (bushels of grain).
 - 2 Subsequently put to another use, an appraisal must be made on the basis of the original intended use. If notice was not given prior to destruction of the crop or harvest for another use, not less than the appropriate guarantee will be assessed on such acreage.
 - (b) Production from uninsured acreage of the insured crop MUST be kept separate or it will be considered production to count for the insured acreage.

(2) PP Acreage

The guarantees for timely, LP, and PP acreage are determined separately. Production from planted acreage (timely and LP) is not counted against the PP guarantee.