

Step (1) Determine the remaining amount of insurance;  $\$100,000 - \$33,600 = \$66,400$ ;

Step (2) Determine the under-report factor;  $\$66,400 \div \$83,000 = .800$ ;

Step (3) Determine the occurrence deductible;  $\$25,000 - \$12,000 = \$13,000$ ;

Step (4) Calculate the difference between unit value before loss and unit value after loss;  $\$65,000 - \$0.00 = \$65,000$ ;

Step (5) Result of step 4 multiplied by the underreport factor (step 2);  $\$65,000 \times .800 = \$52,000$ ;

Step (6) Result of step 5 minus the occurrence deductible;  $\$52,000 - \$13,000 = \$39,000$ ;

Step (7) Result of step 6 multiplied by your share;  $\$39,000 \times 1.000 = \$39,000$  indemnity payment.

[82 FR 61135, Dec. 27, 2017, as amended at 83 FR 16767, Apr. 17, 2018]

## PARTS 458–459 [RESERVED]

### PART 460—ADDITIONAL DISASTER PAYMENTS

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#### Subpart C—[Reserved]

AUTHORITY: 7 U.S.C. 1506(i) and 1506(o); and Division N of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260).

### Subpart A—Prevented Planting Supplemental Disaster Payments

#### § 460.1 Applicability.

This subpart specifies the terms and conditions of prevented planting supplemental disaster payments. Prevented planting supplemental disaster payments provide additional compensation to producers prevented from planting crops insured under crop insurance policy reinsured by the Federal Crop Insurance Corporation (FCIC) due to disaster related conditions. Prevented planting supplemental disaster payments are applicable to 2019 crop year crops prevented from planting in 2019, as determined by the Risk Management Agency (RMA).

#### § 460.2 Definitions.

*Approved Insurance Provider (AIP)* means a legal entity which has entered into a reinsurance agreement with FCIC for the applicable reinsurance year and is authorized to sell and service policies or plans of insurance under the Federal Crop Insurance Act.

*Assignment of Indemnity* means a transfer of crop insurance policy rights whereby a policyholder assigns rights to an indemnity payment for the crop year to creditors or other persons to whom they have a financial debt or other pecuniary obligation.

*Crop insurance policy* means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

*Crop year* means the period within which the insured crop is normally grown and is designated by the calendar year in which the insured crop is normally harvested.

*Federal Crop Insurance Act* means the legal authority codified in 7 U.S.C. 1501–1524.

*Final planting date* means the latest date, established by RMA for each insurable crop, by which the crop must initially be planted in order to be insured for the full production guarantee or amount of insurance per acre.

*FCIC* means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA that administers the Federal crop insurance program.

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*FSA* means the Farm Service Agency.

*Insured crop* means a crop for which the participant has purchased a crop insurance policy from an AIP.

*NAP* means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and part 1437 of this title and administered by FSA.

*Person* has the same meaning as defined in § 457.8(1) of this title.

*Prevent plant base factor* means the value announced by the Secretary used to calculate the payment for crops covered under a plan of insurance that is not a revenue protection plan of insurance, or is a revenue protection plan of insurance with the harvest price exclusion elected.

*Prevent plant revenue factor* means value announced by the Secretary used to calculate the payment for crops covered under a plan of insurance that provides revenue protection unless the harvest price exclusion is elected for that crop.

*Prevented planting* means the inability to plant an insured crop with proper equipment during the planting period as a result of an insured cause of loss, as determined by the AIP.

*Prevented planting payment* means a payment made under a crop insurance policy to compensate the policyholder when they are prevented from planting an insured crop.

*Qualifying prevented planting payment* means a prevented planting payment made under a crop insurance policy that qualifies for a prevented planting supplemental disaster payment, as specified in this subpart.

*Revenue protection* has the same meaning as defined in § 457.8(1) of this title.

*Second crop* has the same meaning as defined in § 457.8(1) of this title.

#### § 460.3 Eligibility and qualifying causes of loss.

(a) To be eligible for a payment under this subpart, the participant must be a person that is eligible to receive Federal benefits and has purchased a crop insurance policy for the insured crop from an AIP.

(1) Participants will be eligible to receive a payment in this subpart only if

they were prevented from planting an insured crop due to a qualifying cause of loss, as further specified in this subpart.

(2) A person is not eligible to receive benefits in this subpart if at any time that person is determined to be ineligible for crop insurance.

(b) Insured crops that are eligible for a payment under this subpart are those crops for which the final planting date for the 2019 crop year crop insurance policy is in the 2019 calendar year, as specified by the Administrator.

(1) For insured crops with more than one final planting date in the county, only those types or practices with a final planting date in the 2019 calendar year are eligible for payment under this subpart.

(2) Participants who are in violation of Highly Erodible Land or Wetlands Conservation (16 U.S.C. 3811–12, 3821) for Federal crop insurance are not eligible for payment under this subpart.

(c) A prevented planting payment will only be considered a qualifying prevented planting payment if the participant is prevented from planting the insured crop due to one of the following causes of loss:

- (1) Excess precipitation;
- (2) Flood;
- (3) Cold wet weather;
- (4) Storm surge;
- (5) Tornado;
- (6) Volcanic activity; and
- (7) Tropical depression, hurricane, or cyclone.

(d) A prevented planting payment received for failure to plant due to any cause not included in paragraph (c) of this section is not considered a qualifying prevented planting payment for the purpose of this subpart.

#### § 460.4 Calculating prevented planting supplemental disaster payments.

(a) For insured crops covered under a crop insurance policy with a revenue protection plan of insurance that does not have the harvest price exclusion elected, the payment under this subpart for each insured crop will be calculated by summing the qualifying prevented planting payments for that insured crop and multiplying the total by the prevent plant revenue factor.

(b) For all other insured crops, the payment under this subpart for each insured crop will be calculated by summing the qualifying prevented planting payments for that insured crop and multiplying the total by the prevent plant base factor.

(c) If a qualifying prevented planting payment is reduced for any reason, such as the participant planting a second crop, the payment under this subpart will be based on the amount of the qualifying prevented planting payment after any such reduction.

**§ 460.5 Timing and issuance of payments and payment limitations.**

(a) The payment under this subpart will be issued, for each crop, to the same person or persons that received the qualifying prevented planting payment for that crop:

(1) If the insured has an assignment of indemnity in effect on the insured crop, the payment under this subpart will be made jointly in the name of the insured and all applicable assignees.

(2) In cases where there has been a death, disappearance, judicially declared incompetence, or dissolution of any insured person any payment under this subpart will be paid to the person or persons determined to be entitled to the qualifying prevented planting payment.

(b) Any payments under this subpart will be made by USDA in a manner and at a time determined by the Administrator.

(c) The total amount of payments received for prevented planting supplemental disaster payments under this subpart, applicable crop insurance policy indemnities, NAP payments, and any other applicable disaster relief payment will not exceed 90 percent of the loss as determined by the Secretary.

(d) The payment limitations stated in 7 CFR 760.1507 are not applicable to prevented planting supplemental disaster payments.

**§ 460.6 Adjusted prevented planting supplemental disaster payments and repayment.**

(a) In the event that any payment under this subpart is determined to be incorrect due to a change in a quali-

fyng prevented planting payment, erroneous information, or a miscalculation, the payment will be recalculated until October 9, 2020, unless otherwise specified by the Administrator. After that date, the payment under this subpart will be final except in cases of fraud, scheme, or device, or failure to purchase crop insurance as specified in § 460.8.

(b) In the event that the qualifying prevented planting payment is adjusted after payment under this subpart has been issued and that adjustment results in:

(1) A higher qualifying prevented planting payment, the amount of payment will be increased to the amount determined to be correct; or

(2) A lower qualifying prevented planting payment, the amount of payment will be decreased to the amount determined to be correct and the participant will be required to repay, with interest if applicable, any excess payment already received.

(c) All persons with a financial interest in the person receiving payments under this subpart are jointly and severally liable for any refund, including related charges, which is determined to be due.

(d) Interest will accrue at the annual rate of 1.25 percent simple interest per calendar month. Interest will start to accrue on the first day of the month following the notification of the amount to be refunded, provided that a minimum of 30 days has passed from the date the notification was issued.

**§ 460.7 Requirement to purchase crop insurance.**

(a) For the first 2 consecutive crop years after receiving a payment under this subpart:

(1) A participant who receives a payment under this subpart for prevented planting for a crop in a county must obtain crop insurance for all acres planted to that crop in that county; or

(2) If crop insurance is no longer available for the crop in that county, the participant must obtain NAP coverage if available for the applicable crop year. A participant will only be considered to have obtained NAP coverage for the purposes of this section if the participant paid the NAP service

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fee and any premium by the applicable deadline and complied with all program requirements.

(b) If a participant fails to obtain crop insurance or NAP coverage as required in paragraph (a) of this section, the participant must reimburse the full amount of the payment under this subpart received for the applicable crop, plus interest calculated from the date of disbursement.

### Subpart B—Pandemic Cover Crop Program

SOURCE: 87 FR 7929, Feb. 12, 2022, unless otherwise noted.

#### § 460.8 Applicability.

(a) This subpart specifies the terms and conditions of the Pandemic Cover Crop Program (PCCP).

(b) For the 2022 crop year, PCCP premium support is available to eligible producers for eligible insured acres on a crop insurance policy for a first insured crop on which the producer planted a qualifying cover crop after June 15, 2021, of the 2021 crop year, or during the 2022 crop year.

(1) For the 2022 crop year, in states administering a cover crop program providing premium subsidy under an active Memorandum of Understanding (MOU) with RMA, as authorized by section 508(c)(8) of the Federal Crop Insurance Act, insured acres qualifying for a state premium subsidy amount are eligible for a matching amount under PCCP.

(2) For the 2022 crop year, additional PCCP premium support is available to eligible producers for eligible Whole Farm Revenue Protection (WFRP) acres on which the producer planted a qualifying cover crop after June 15, 2021, of the 2021 crop year, or during the 2022 crop year.

#### § 460.9 Definitions.

*Approved Insurance Provider (AIP)* means a legal entity that has entered into a reinsurance agreement with the Federal Crop Insurance Corporation (FCIC) for the applicable reinsurance year and is authorized to sell and service policies or plans of insurance under the Federal Crop Insurance Act.

*Crop insurance policy* means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

*Crop year* means the period within which the insured crop is normally grown and is designated by the calendar year in which the insured crop is normally harvested.

*Eligible insured acres* means insured acres on which the producer planted a qualifying cover crop after June 15, 2021, during the 2021 crop year, or during the 2022 crop year, as reported on the Farm Service Agency's (FSA) common land unit(s) (CLU) to FSA via a completed and signed Form 578-Report of Acreage on or before March 15, 2022, or May 31, 2022, for 2022 crop year qualifying cover crops planted after March 15, 2022, which may be prior to FSA's acreage reporting date, and reported the same CLU(s) on their crop insurance acreage report by the applicable Federal crop insurance acreage reporting date for a 2022 crop year crop insurance policy for a first insured crop.

*Eligible WFRP acres* means acres on which a person with a 2022 crop year WFRP policy planted a qualifying cover crop after June 15, 2021, during the 2021 crop year, or during the 2022 crop year, as reported on the CLU(s) to FSA via a completed and signed Form 578-Report of Acreage on or before March 15, 2022, or May 31, 2022, for 2022 crop year qualifying cover crops planted after March 15, 2022, which may be prior to FSA's acreage reporting date.

*Eligible producer* means a producer meeting all of the eligibility requirements for PCCP.

*FCIC* means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA that administers the Federal crop insurance program.

*First insured crop* means, 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 Federal Crop Insurance Act.

*FSA* means the Farm Service Agency, USDA.

*FSA Common Land Unit (CLU)* means the smallest unit of land that has a

permanent, contiguous boundary, common land cover and land management, common owner, and common producer association.

*Insured acres* means the participant's share of insurable acreage that is insured in accordance with a crop insurance policy purchased from an AIP.

*Insured crop* means a crop for which the participant has purchased a crop insurance policy from an AIP.

*MOU* means Memorandum of Understanding.

*PCCP* means Pandemic Cover Crop Program.

*Person* means a person as defined in 7 CFR 457.8(1).

*Qualifying cover crop* means any of the four types of cover crops:

- (1) Cereals and other grasses;
- (2) Legumes;
- (3) Brassicas; and
- (4) Other non-legume broadleaves, and mixtures of two or more cover crop species planted at the same time. An insured crop is not considered a qualifying cover crop.

*RMA* means the Risk Management Agency, USDA.

*USDA* means United States Department of Agriculture.

*WFRP* means Whole Farm Revenue Protection.

[87 FR 7929, Feb. 12, 2022, as amended at 87 FR 15839, Mar. 21, 2022]

#### § 460.10 Eligibility.

(a) For the 2022 crop year, to be eligible for premium support under PCCP, the participant must be a person who is eligible to receive Federal benefits and who has purchased a crop insurance policy for a first insured crop from an AIP for insured acres on which the participant planted a qualifying cover crop after June 15, 2021, during the 2021 crop year, or during the 2022 crop year.

(1) Cover crops must be specifically reported to FSA via the Form-578 with the corresponding crop code.

(2) Potential participants that are uncertain of whether their cover crop was reported to the FSA are encouraged to contact their local FSA county office (<http://farmers.gov/service-locator>).

(3) Only acreage reports that are filed or amended prior to March 15, 2022, (or May 31, 2022, for 2022 crop year quali-

ifying cover crops planted after March 15, 2022), will be considered for PCCP.

(b) Participants who are in violation of Highly Erodible Land or Wetlands Conservation (16 U.S.C. 3811, 3812, and 3821) are not eligible to receive benefits under PCCP.

(c) A person is not eligible to receive benefits under PCCP if at any time that person is determined to be ineligible for crop insurance.

(d) Supplemental Coverage Option, Enhanced Coverage Option, Post-Application Coverage Endorsement, and Hurricane Insurance Protection—Wind Index policies or endorsements are not eligible for PCCP.

(e) Stacked Income Protection Plan (STAX) and Margin Protection (MP) policies are only eligible for PCCP when insured as a standalone policy. STAX and MP endorsements to underlying policies are not eligible for PCCP.

[87 FR 7929, Feb. 12, 2022, as amended at 87 FR 15839, Mar. 21, 2022]

#### § 460.11 Calculating PCCP amounts for first insured crops.

(a) For the 2022 crop year, for eligible insured acres covered under a crop insurance policy for a first insured crop, the amount of premium support under PCCP for each insured acre will be \$5, calculated on a CLU basis, with a maximum equal to the amount of premium owed by the insured.

(b) For the 2022 crop year, in states administering a cover crop program providing premium subsidy under an active MOU with RMA, as authorized by Section 508(c)(8) of the Federal Crop Insurance Act, insured acres qualifying for a state premium subsidy amount are eligible for a matching amount under PCCP, calculated on a CLU basis, which may be in addition to the amount in paragraph (a) of this section.

(1) The matching amount under PCCP per insured acre will be equal to the state contribution per insured acre on a CLU basis.

(2) The matching amount under PCCP per insured acre will be limited by the amount of premium owed by the insured on a CLU basis. If limited, the state contribution amount and matching PCCP amount will be reduced proportionately on a CLU basis.

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(c) Amounts under PCCP are limited to the full amount of premium owed by the insured for the eligible insured acres on a CLU basis. If the full amount under PCCP would result in a negative premium balance for the insured on a CLU basis, PCCP amounts will be limited to the full amount of premium owed on a CLU basis, with the amount calculated in paragraph (b) of this section being applied first and the amount calculated in paragraph (a) of this section being applied second.

(1) In cases where insureds are eligible for both paragraphs (a) and (b) of this section, and premium owed on a CLU basis is less than the amount in paragraph (b) of this section, the state contribution amount and matching PCCP amount in paragraph (b) of this section will be reduced proportionally on a CLU basis, and there will be no PCCP premium support amount applied in paragraph (a) of this section.

(2) In cases where insureds are eligible for both paragraphs (a) and (b) of this section, and premium owed on a CLU basis is greater than the amount in paragraph (b) of this section but less than the sum of the amounts in paragraphs (a) and (b) of this section, there will be no reduction to the state contribution amount and matching PCCP amount in paragraph (b) of this section, and the PCCP premium support amount in paragraph (a) of this section will be reduced.

(d) If the eligible insured acres are adjusted or revised for any reason, such as an overreporting of insured acres, the amount under PCCP will be based on the eligible insured acres after any such amendment.

**§ 460.12 Calculating PCCP amounts for WFRP.**

(a) For the 2022 crop year, for eligible WFRP acres, the amount of premium support under PCCP for each acre will be \$5, with a maximum equal to the amount of WFRP premium owed by the insured.

(b) PCCP amounts for WFRP are limited to the full amount of premium owed by the insured for the WFRP policy. If the full amount under PCCP

would result in a negative premium balance for the insured, PCCP amounts will be limited to the full amount of premium owed.

(c) If the eligible WFRP acres are adjusted or revised for any reason, such as an overreporting of planted cover crop acres, the amount under PCCP will be based on the eligible WFRP acres after any such amendment.

**§ 460.13 Accounting for PCCP amounts.**

(a) The amount under PCCP will not be paid directly to eligible producers. FCIC and AIPs will account for the amount when calculating total producer premium due. AIPs will adjust participant bills accordingly. All bills follow the same terms and conditions specified in the crop insurance policy, regardless of PCCP amounts.

(b) PCCP premium support will be provided via premium billing adjustments by the applicable RMA premium billing date for the insured crop.

(c) PCCP premium support is available both for eligible insured acres and for eligible WFRP acres associated with the same planted acreage of qualifying cover crops.

(d) The payment limitations in 7 CFR 760.1507 are not applicable to PCCP.

(e) RMA will obtain cover crop records from FSA and determine eligibility such that eligible producers do not need to take any additional specific action through their crop insurance agent to enroll in the PCCP.

(1) In the event that any PCCP amount is determined to be incorrect, the amount will be recalculated until the 2022 reinsurance year annual settlement date of October 6, 2023, unless otherwise specified by the RMA Administrator.

(2) After October 6, 2023, the amount will be final except in cases of misrepresentation, fraud, scheme, or device.

**Subpart C—[Reserved]**

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