



INFORMATIONAL MEMORANDUM: OK 011-001

September 22, 2011

TO: All Reinsured Companies Operating in Texas, Oklahoma, or
New Mexico
All Other Interested Parties

FROM: Debra Bouziden, Director

SUBJECT: 2012 Fall Planting Considerations during Extended Drought Conditions
throughout Texas, Oklahoma, and New Mexico

ISSUE:

The 2012 fall crop planting season is upon us and a large portion of the area in which fall wheat and canola can be planted is still under extraordinary drought conditions. Questions and concerns have recently been expressed about existing policy and procedural applications as they apply to specific issues directly related to this drought. This memorandum is being issued in response to some of those issues based on current conditions as they may impact fall or spring crop planting decisions but also to provide information in order to avoid unintended consequences for spring crop insurability.

BACKGROUND:

The 2011 drought which began last fall in much of the region persists throughout Texas, south central/western Oklahoma and eastern New Mexico. Extended forecasts from National Weather Service (NWS) predict no significant change in current weather patterns which may continue through next spring. As such, there is a strong likelihood for inadequate soil moisture for seed germination or emergence prior to, during, and after the fall planting season. The following information is being provided to assist in planting decisions as they relate to specific program requirements applicable to current and/or extended drought forecasts.

Prevented Planting Requirements

With issuance of the 2011 Common Crop Insurance Policy Basic Provisions (11-BR) (Basic Provisions) in April of 2010, *newly enacted* language in Section 17. Prevented Planting, at paragraphs (d), (1) (i) and (ii) now provides prevented planting coverage for drought and other insured causes not previously allowed because of an insured's "*failure to plant when other producers in the area were planting*".



Section 17 (d) paragraph (1) now states prevented planting coverage *will be* provided against; **a)** drought, **b)** failure of the irrigation water supply, **c)** failure or breakdown of irrigation equipment or facilities, or **d)** the inability to prepare the land for irrigation using an insured's established irrigation method, when these conditions affect non-irrigated or irrigated acreage as shown below:

- Non Irrigated Acreage:

With drought as the cause of loss on non-irrigated acreage, coverage will be provided, without regard to the insured's failure to plant when other producers in the area were planting, **only if** on the final planting date or within the late planting period (if the insured elects to try to plant the crop), the insured can provide documentation acceptable to the Approved Insurance Provider (AIP) to establish:

The area that is prevented from being planted has insufficient soil moisture for germination of seed or progress toward crop maturity due to a prolonged period of dry weather. The documentation for a prolonged period of dry weather must be verifiable using information collected by sources whose business it is to record and study the weather, including, but not limited to, local weather reporting stations of the National Weather Service.

- Irrigated Acreage:

For prevented planting due to an insured cause of loss on irrigated acreage, coverage is provided without regard to the insured's failure to plant when other producers in the area were planting, only if on the final planting date or within the late planting period, the insured can provide documentation acceptable to the AIP as stated in Section 17 (d)(1) (ii) of the Basic Provisions for; failure of the irrigation water supply, failure or breakdown of irrigation equipment or facilities, or the inability to prepare the land for irrigation using an insured's established irrigation method.

Section 17 (d) (2) states, for causes of loss other than drought, the prevented planting insurability restriction for "*failure to plant when other producers in the area were planting*" still applies.

1st Insured Crop / 2nd Crop Requirements

The 1st insured crop / 2nd crop provisions of the Basic Provisions do apply to fall seeded canola/wheat and the dry seeding of winter wheat throughout the region can be a common practice in drought years. However, this practice is less common in canola since most of canola has only been grown within the past 5 or 6 years with mostly adequate moisture at planting.

As a cautionary reminder, once a 1st insured crop and a 2nd crop payment election is made on the same acreage, any subsequently planted crop on the same acreage in the same crop year might not be insurable. Accordingly, if the 1st insured crop and 2nd crop is canola and wheat, any subsequently planted spring crop like corn, cotton, or grain sorghum on the same acreage

during the same crop year would not be insurable as per the terms and conditions at Section 9. Insurable Acreage, contained in the Basic Provisions, unless:

- It is a practice that is generally recognized by agricultural experts for the area to plant three or more crops for harvest on the same acreage in the same crop year;
- The insured provides acceptable records that they have produced and harvested the insured crop following two other crop harvested on the same acreage in the same crop year in at least two of the last four years in which the insured produced the insured crop; or
- The applicable acreage has had three or more crops produced and harvested on it in the same crop year in at least two of the last four years in which the insured crop was grown on the acreage; and
- Additional coverage insurance provided under the authority of the Act is offered for the third or subsequent crop in the same crop year.

Non Emerged Seed Requirements

With regard to the dry seeding of fall canola or wheat under the current drought conditions, if the fall seeded crop fails to emerge and the insured requests the acreage be put to another use, (i.e., plant wheat on insured canola acreage from which the canola seed did not emerge) be advised, the instructions for deferred appraisal in paragraph 85 C of the FCIC-25010 Loss Adjustment Manual (LAM) Standards Handbook which allows for the release of non-emerged spring seeded crop acreage, not earlier than 8 days after the end of the late planting period, **do not** apply to fall planted crops.

With the dry seeding of wheat, planted acreage would normally not be released for other use until such time as the seed germinates or emerges, and is subsequently damaged by an insured cause. It is not uncommon under extended dry conditions after planting for emergence to be delayed late into the fall or early winter before adequate moisture is received to establish a stand. If a stand is established and the crop goes dormant, appraisals are typically delayed until late winter or early spring when the plants resume an active growth stage and adjusters are able to distinguish between live and dead plants/tillers. Exceptions are allowed for the release of some of this acreage any time after planting in the case of emergency tillage where strip tilling becomes necessary to control erosion.

Likewise, with the dry seeding of fall canola or wheat, as long as the seed remains in a dry seedbed it cannot initiate germination until it receives adequate moisture. As previously stated, during an extended period of dry weather it may be some time before the seed receives enough moisture to germinate and produce a seedling. Until that happens, the seed is still considered viable and there would be no insurable cause of loss to trigger an appraisal by which the insured canola or wheat acreage may be released for another use. In such cases, any requested appraisal for non-emerged canola or wheat seed in a dry seedbed, must be deferred until such time as an insurable cause of loss damages the seed, seedlings, or emerged

plants. However, the emergency tillage exception mentioned in the previous paragraph for wheat also applies to canola.

As an additional precaution, if dry seeded fall canola should be released before the seed germinates or any damage has occurred and the same acreage is subsequently planted to wheat without destroying the non-germinated canola seed, producers should be aware neither crop would be insurable under the definition for and insurability restrictions applicable to interplanted acreage in the Basic Provisions.

Conservation Compliance Requirements

Lastly, with the outlook for the drought conditions extending through next spring, RMA advises all AIP's and other interested parties to consult with local Ag Experts (i.e. – NRCS, Agri Life Extension, Cooperative Extension Offices, etc.) for recommendations and guidance on the dry seeding of crops in their particular area.

ACTION:

Policyholders are encouraged to contact their AIP to discuss and consider RMA approved policies and related procedures relative to any of the considerations discussed above as they apply to their particular situations. Likewise, local Ag Experts (i.e. – NRCS, Agri Life Extension, Cooperative Extension offices, etc.) should be consulted for advice and guidance on conservation issues and recommended farming practices as they apply to the extended drought conditions.

DISPOSAL DATE:

December 31, 2011