

*Response:* FCIC does not agree. The intent of prevented planting coverage is to provide coverage for the intended crop for the current crop year. FCIC does not intend to interfere with producers' responses to market signals. Therefore, no change will be made.

*Comment:* Two comments received from the crop insurance industry expressed concern regarding how insurers will police provisions dealing with a substitute crop and recommended clarifying the following issues in the final rule. The comments state that it is difficult if not impossible to determine the crop and acreage originally intended to be planted and that the provisions will provide an opportunity for producers to claim prevented planting on acreage originally intended to be planted to a substitute crop. One of the comments further questioned whether a minor oilseed crop planted by a grower participating in the so called 0/92 program would be considered a substitute crop or not.

*Response:* The acreage reporting provisions rely on the producer to indicate the specific acreage and crop that were prevented from being planted. On the surface these provisions would indicate a significant vulnerability, especially with regard to the substitute crop provisions. However, other provisions, including those that limit maximum eligible acreage and those that reduce eligible acreage by the amount of any timely and late planted acreage substantially reduce this vulnerability. For example, if a producer indicates acreage is prevented from being planted to corn and plants grain sorghum as a substitute crop, any other acreage planted to corn on the farm would reduce the amount of corn acreage eligible for a prevented planting production guarantee. Likewise, the acreage planted to grain sorghum would reduce the amount of any grain sorghum acreage that may have originally been eligible to receive a prevented planting production guarantee. Other provisions that give the insurer the right to require a producer to provide proof that the inputs were available to plant and produce the crop will also reduce vulnerabilities that might otherwise be associated with this coverage. A minor oilseed crop may be considered a substitute crop if it is planted after the originally intended crop was prevented from being planted. Growers qualifying for prevented planting coverage in this situation may qualify for the so called 0/92 program if the minor oilseed can be planted as a substitute crop under that program. Participation in the so called 0/92 program is not required to be

eligible for crop insurance prevented planting benefits.

*Comment:* One comment received from the crop insurance industry expresses concern that the wording that advises the producer of the choice to exclude prevented planting coverage is not prominent enough in the policy. The comment also suggests, concurrent with the final rule, that guidelines meeting Standard Reinsurance Agreement requirements be issued addressing the form "approved by us" that is required to opt out of prevented planting coverage when a substitute crop is planted.

*Response:* Provisions indicating a producer's choice to exclude this coverage are contained in appropriate locations within the policy. On or before the sales closing date for the intended crop, a producer may "opt out" of prevented planting coverage when a substitute crop is planted by entering the appropriate option code on the crop insurance application or contract change form.

*Comment:* One comment received from the crop insurance industry and one comment received from FSA stated that the provision that requires a producer to provide proof that they had the inputs available to plant and produce a crop adds complication to the loss adjustment process and likely adds little to the ability to determine the producer's intent. If the provision is not eliminated, one of the comments recommends issuance, concurrent with the final rule, of procedure addressing what constitutes proof that the inputs were available.

*Response:* Proof that the producer had the available inputs is not mandatory in all cases. Such proof should be required when producers are claiming they are prevented from planting a crop which they have never historically planted or there are other suspicious circumstances. Procedure is being drafted in the loss adjustment handbooks to include what constitutes such proof. Therefore, no change is necessary.

*Comment:* One comment received from FSA indicated that they did not understand why producers would request deleting the prevented planting provisions from a policy.

*Response:* The producers would not have the option of deleting the prevented planting provisions from the policy, instead they would be allowed only to exclude eligibility for that portion of the prevented planting coverage available when a substitute crop is planted in return for a reduction in the premium rate attributed to such coverage.

*Comment:* One comment received from FSA stated that it seems pointless to add a requirement for producers to provide proof that they had inputs available to plant and produce the intended crop because seed and chemical receipts are too easily obtained by persons willing to manipulate FCIC's procedures.

*Response:* FCIC disagrees with the comment. Falsifying such records could subject the producer, seed or chemical distributor to criminal or civil sanctions. Further, inputs such as seed and chemical receipts verify the intentions to plant and produce the insured crop. The producer who provides false documentation is, of course, open to substantial criminal and civil liability. Failure to produce this evidence when requested is cause for FCIC to deny prevented planting coverage. Therefore, no change will be made.

*Comment:* One comment received from the crop insurance industry recommended deletion of the extended insurance period provisions for carry-over insureds. The comment indicated that the current sales closing date of March 15 in an area with normal planting times during April and May makes the likelihood of a prevented planting cause prior to March 15 very remote. If the provision is not deleted, it was recommended that the provision be clarified to address whether or not buying up from the CAT level for 1996 falls under the first year or the subsequent year provisions.

*Response:* The Reform Act requires prevented planting coverage be provided for the period between the sales closing date of the previous crop year and the sales closing date of the current crop year. Therefore, no change will be made.

*Comment:* One comment received from the crop insurance industry recommended that acreage of hybrid seed crops (and any other crop grown under a contract) eligible for prevented planting coverage be limited to the same number of acres under contract for the crop year.

*Response:* FCIC agrees with the comment and has revised the hybrid corn and hybrid sorghum seed crop provisions accordingly.

*Comment:* One comment received from the crop insurance industry recommended clarification of provisions that limit the eligible acreage to the number of acres planted to the insured crop during the previous crop year. Specifically, the comment asked if this provision means the number of acres the producer planted the previous year or the number of acres planted on the land in question; and what happens if the