

MGR-19-002: Insurability of Hemp Under the Whole-Farm Revenue Protection Plan During the 2019 Crop Year

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Date

February 25, 2019

To

All Approved Insurance Providers

All Risk Management Agency Field Offices

All Other Interested Parties

From

Martin R. Barbre, Administrator /s/ Martin R. Barbre

Subject

Insurability of Hemp Under the Whole-Farm Revenue Protection Plan During the 2019 Crop Year

Background

The Agriculture Improvement Act of 2018 (Farm Bill) altered the legal status of Cannabis sativa L. (cannabis) with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. Specifically, the Farm Bill amended the Controlled Substances Act (CSA) and Agricultural Marketing Act of 1946 (AMA) to address how industrial hemp is to be defined and regulated at the Federal level. Prior to passage of the Farm Bill, any form of cannabis was a controlled substance under the CSA. Even if cannabis meets the technical definition of hemp, production without an approved plan or license is prohibited.

The WFRP policy has several provisions regarding controlled substances:

Controlled substance - Any substance whose manufacture, distribution, or use is federally regulated under the Controlled Substances Act.

3. Qualifying Person Criteria and Insurance Eligibility.

(c) Your farm operation will be ineligible for insurance under this policy and no coverage will be provided if:

(6) Your farm operation includes any revenue from controlled substances.

10. Allowable Revenue.

(b) Allowable revenue specifically excludes:

(9) Revenue from uninsurable commodities, such as, animals for show or sport, timber, forest and forest products, and controlled substances;

17. Your Farm Operation Report.

(c) You must complete a Revised Farm Operation Report by the date specified in section 15 depending on the tax filer type you are.

(2) Your insured revenue, coverage level, commodity count, farm premium rate, and premium will be based on your Revised Farm Operation Report. If your Revised Farm Operation Report shows that:

(v) Your farm operation includes any revenue from controlled substances, your policy will be void and no coverage will be provided; or

36. Controlled Substance.

(c) Controlled substances are not insurable under WFRP and your farm operation will not be eligible for WFRP if you produce any controlled substance, regardless of the legal status of the substance in the state where the commodity will be produced.

Action

Cannabis that qualifies as hemp, as defined in the AMA, is not regulated under the CSA and is not considered a controlled substance for the WFRP program as of the passage of the Farm Bill. Accordingly, production of hemp will not cause a farm operation to be ineligible for WFRP under section 3(c)(6) of the WFRP policy or void the WFRP policy under section 17(c)(2)(v) of the WFRP policy.

However, at the time the 2019 WFRP was issued, cannabis was a controlled substance and was uninsurable by WFRP in accordance with section 36(c) of the WFRP policy. Because cannabis of any kind was an uninsurable commodity at the time the 2019 WFRP policy was published on August 31, 2018, hemp is not insurable under the WFRP program in the 2019 policy year. As with other uninsurable commodities, expected and historical revenue produced by hemp must be excluded from allowable revenue and revenue to count in accordance with section 10(b)(9) of the WFRP policy.

DISPOSAL DATE:

December 31, 2019.