Final Agency Determination: 294

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Subject: A request dated March 18, 2020, was sent to the Risk Management Agency (RMA) requesting a Final Agency Determination for the 2017 crop year regarding the interpretation of section 10(c) of the 2017 Coarse Grains Crop Provisions, published at 7 C.F.R. §457.113(10)(c). This request is pursuant to 7 C.F.R. § 400, subpart X.

Background:

10. Duties in the Event of Damage or Loss

> (c) If you will harvest any acreage in a manner other than as you reported it for coverage (e.g., you reported planting it to harvest as grain but will harvest the acreage for silage, or you reported planting it to harvest as silage but will harvest the acreage for grain), you must notify us before harvest begins. Failure to timely provide notice will result in production to count determined in accordance with section 11(c)(1)(i)(E).

Interpretation Submitted

The requestor interprets section 7 C.F.R. §457.113(10)(c) to mean that the producer must decide the method of harvest at the time of harvest, not at the time of the sales closing date for the purchase of crop insurance or the acreage reporting date. At the time of insuring crops for coverage in the spring and filing acreage reporting forms, the producer simply chooses the level of protection for the crop, notwithstanding the producer may intend to harvest the crop in a particular manner.

If the producer decides to harvest the crop in a manner other than what it was insured as, then, pursuant to 7 C.F.R. §457.113(10)(c), the producer must notify the insurance agency before harvest begins to avoid any penalties. As long as the producer makes the insurance agency aware of any plan to harvest a crop in a manner other than what it was insured as, then the producer will not incur any

penalties, and it is up to the insurance agency to settle a claim with respect to the alternative method of harvest.

In the case of corn, a producer who plants corn may elect to insure it with revenue or yield protection, irrespective of any intended method of harvest. Should the producer elect to insure the corn as grain with revenue protection and, at the time of harvest, decide to chop it as silage, then, pursuant to 7 C.F.R. § 457.113(10)(c), he must notify the insurance agency to avoid any penalties (and vice versa should the producer insure the corn as silage and decide to harvest it as grain).

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The insured must select the plan of insurance and level of protection by the sales closing date. By the acreage reporting date, the producer must report the type/practice, including intended use, that was planted in accordance with the policy and requirements for the county.

For corn only, if the actuarial documents for the county provide a premium rate for both grain and silage, all insurable acreage will be insured as the type or types reported by the producer on or before the acreage reporting date.

After the acreage reporting date, if the producer decides to harvest the crop in a manner other than what it was insured as, the producer must notify the approved insurance provider (AIP) before harvest begins to allow the AIP to inspect and appraise the crop, and obtain written consent from the AIP to put the insured crop to another use.

In accordance with 7 C.F.R. § 400.766(b)(2), this Final Agency Determination is binding on all participants in the Federal crop insurance program for the crop years the policy provisions are in effect. Any appeal of this decision must be in accordance with 7 C.F.R. § 400.766(b)(5).

Date of Issue: April 20, 2020

[1]This FAD revised April 20, 2020, to clarify the insurability of corn in instances where the actuarial documents in the county provide a premium rate for both grain and silage.