

Final Agency Determination: FAD-323

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Subject: A request dated August 7, 2024, submitted to the Risk Management Agency (RMA) for a Final Agency Determination (FAD) of 7 C.F.R. 457.147 Central and Southern Potato Crop Provisions, Section 12(d)(1)(iii), for the 2021 crop year. This request is pursuant to 7 C.F.R. §400, Subpart X.

Reference:

The relevant policy provisions are:

The 2021 Central and Southern Potato Crop Provisions state, in relevant part:

12. Settlement of Claim

(d) The total production to count (in hundredweight) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(iii) Production lost due to harvest prior to full maturity. Production to count from such acreage will be determined by increasing the amount of harvested production by 2 percent per day for each day the potatoes were harvested prior to the date the potatoes would have reached full maturity. The date the potatoes would have reached full maturity will be considered to be 45 days prior to the calendar date for the end of the insurance period, unless otherwise specified in the Special Provisions. This adjustment will not be made if the potatoes are damaged by an insurable cause of loss, and leaving the crop in the field would either reduce production or decrease quality.

Interpretation Submitted

First Requestor's Interpretation:

The first requestor states that since there is no language in the Special Provisions of Insurance for potatoes in Kern County, California, contrary to Section 12(d)(1)(iii), this section of the Central and Southern Potato Crop Provisions applies and the Approved Insurance Provider (AIP) must apply the 2% per day penalty for each day the potatoes were harvested prior to the date the potatoes would have reached full maturity, which is 45 days prior to the calendar date for the end of the insurance period.

Second Requestor's Interpretation:

The second requestor states if an insured began harvest prior to 45 days before the end of the insurance period, due to an insurable peril, then the penalty in C.F.R. 457.147 Section 12(d)(1)(iii), is not applicable. The second requestor believes that this adjustment [the 2% penalty] will not be made if the potatoes are damaged by an insurable cause of loss, and leaving the crop in the field would either reduce production or decrease quality.

Federal Crop Insurance Corporation Interpretation

FCIC disagrees with both requestors' interpretations. FCIC agrees with the second requestor that the AIP must determine whether the potatoes are damaged by an insurable cause of loss and, because of the insurable cause of loss, leaving the crop in the field would reduce production or decrease quality. However, FCIC disagrees the adjustment would not be made in any case, as the presence of an insurable cause of loss alone is not sufficient to determine whether the 2% adjustment is applicable.

In accordance with 7 C.F.R. § 400.766(b)(2), this FAD 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 Issued: 10/10/2024