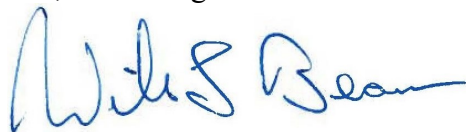


UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Wildfires and Hurricanes Indemnity Program+ 2-WHIP	Amendment 5
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Approved by: Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 30 E has been amended to add a second example of eligible causes of loss.

Subparagraph 31 B has been amended to clarify information about verifying producer eligibility.

Subparagraph 32 B has been amended to:

- remove an incorrect reference to 2019 insured crops
- clarify that tobacco grown in a county where insurance is not available is not eligible for WHIP+.

Subparagraph 33 A has been amended to clarify linkage examples 5 and 6 and remove examples 7 and 8.

Page Control Chart		
TC	Text	Exhibit
	2-3, 2-4 2-7, 2-8 2-11, 2-12 2-15 through 2-18	

30 WHIP+ Eligibility (Continued)

E Other Eligible Causes of Loss

Other eligible causes of loss are defined in 1-NAP (Rev. 2) and include:

- damaging weather, including but **not** limited to drought, hail, excessive moisture, freeze, excessive wind, insufficient chill hours, or any combination thereof
- adverse natural occurrences, such as earthquake, flood, volcanic eruption, or any combination thereof
- related conditions, including but **not** limited to heat, insect infestation, disease, or insufficient chill hours that occur because of an adverse natural occurrence or damaging weather.

Note: Damaging weather or adverse natural occurrence **must** have occurred for a related condition to be an eligible cause of loss.

***--Example 1:** A 100-acre unit is affected by excessive rain and high winds. An eligible crop suffered flood damage on 50 acres. The remaining 50 acres of the unit were affected by hurricane (qualifying loss). Since part of the unit was affected by a qualifying disaster (hurricane), the remaining 50 acres of the unit for all crops within the pay code, pay crop grouping are eligible based on the other eligible cause of loss.

Example 2: A producer has a unit of strawberries consisting of multiple fields across the county. A tornado (qualifying disaster event) damages one side of the county, which destroys the strawberry fields in that area. Because the strawberries had a loss due to a qualifying disaster event (tornado) all acreage of strawberries in the unit are considered for WHIP+. There may be fields not affected by the tornado but affected by another eligible cause of loss, such as excessive moisture, that must be considered when calculating a potential WHIP+ payment for the unit.--*

30 WHIP+ Eligibility (Continued)**F Ineligible Causes of Loss**

Ineligible causes of loss include losses that are **not** the result of an eligible disaster, including but not limited to, the following:

- drifting herbicides
- failure to reseed or replant to the same crop in the county before the final planting date
- losses during storage
- losses initiated after harvest or because of conditions occurring outside the applicable crop year growing season
- losses **not** the result of disaster
- losses to crops not intended for harvest in the applicable crop year
- lack of good farming practices
- wildlife.

Note: Wildlife damage is considered an eligible cause of loss for insureds but not for NAP coverage or uninsured participants.

G Assigning Production for Ineligible Causes of Loss

COC will assign production according to paragraph 113 for the ineligible portion of the loss if the loss was not entirely because of an eligible cause.

31 Producer Eligibility (Continued)**B Verifying Producer Eligibility (Continued)**

COC will review on a case-by-case basis, leases, rental agreements, and other written statements documenting verbal agreements, the review **must** determine the amount of interest and risk in the production for the lessor or lessee. For a crop grown under contract, 1 of the following must be obtained, as determined by COC:

- copies of signed written leases or written agreements
- copies of signed rental agreements
- copies of other legal documents showing land ownership or control
- statement signed by landowner that producer had control of the acreage
- statement signed by operator or producer that producer had control of the acreage on a farm.

Note: Provided lease or rental arrangements must exist before the date of disaster and be reviewed by COC. Any negotiation, agreement, or performance of parties to a rental or lease arrangement after the date of disaster will have no bearing on the question of eligible producer.

If there is any question that the documentation submitted does not clearly authorize the representative to sign, the County Office will forward a copy of the application form signed by the representative together with a copy of the documentation submitted in support of the signature to the Regional Attorney.

If an application involving a deceased individual or closed estate is determined to have been signed by an authorized individual:

- payments will be issued using the TIN of the eligible individual or individual's estate, as applicable
- payments may be issued in the name of the heirs, based on OGC's determination, according to 1-CM.

31 Producer Eligibility (Continued)

B Verifying Producer Eligibility (Continued)

If a producer is a general partnership or joint venture that was dissolved, all members of the general partnership or joint venture at the time of dissolution, or their representatives must sign the application and required forms.

Note: Only 1 application will be submitted for the partnership or joint venture; however, all members must sign the application.

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31 **Producer Eligibility (Continued)****F RMA Exemptions**

RMA has exemptions that allow a person to insure another person's interest in the crop. When verifying producer eligibility (ownership share and risk in the crop) these exemptions apply to WHIP+.

An individual/entity cannot claim to have an interest in land/crop to FSA and claim to have the same interest in the same land/crop as a different individual/entity to RMA unless 1 of the following RMA exemptions is met:

- **Husband/Wife** - Either spouse may insure all interest in the crop under 1 policy. A husband and wife have an interest in each other; therefore, a spouse can insure all of the land interests of the other spouse, unless proven to be legally separated.
- **Landlord/Tenant** - Either the landlord or tenant may insure both parties' share with the permission of the other party.
- **Revocable Trust** - An individual beneficiary's or grantor's TIN is used to insure the entire interest of the revocable trust.
- **Joint Venture** - If EIN has been established for a joint venture, it must be used and reported to RMA. However, if the joint venture does **not** have EIN, 1 of the member's TIN is used to insure the entire interest of the joint venture with all members agreeing and signing the policy.
- **Doing Business As (DBA)** – A producer with a TIN for DBA with only the individual as sole proprietor can insure using either the DBA's TIN or the individual's TIN. If the DBA has SBI other than the individual, then the DBA is not eligible for the exception.
- **Transfer of Coverage and Right to an indemnity** – A producer's share is insured under a policy purchase by another individual that transfers the insurance coverage to the producer. The original insured individual (transferor) transfers the insurance coverage to another person (transferee).

Note: This does not include name, TIN, or entity structure differences.

Exception: Marital or legal name changes.

For any of the RMA exemptions to be met, the producer must be listed as an SBI on the crop insurance policy (unless SBI is less than 10 percent).

32 Crop Eligibility

A Eligible Crop

Eligible crops include the following:

- crops for which Federal crop insurance is available
- crops eligible for NAP according to 1-NAP (Rev. 2).

Note: Exhibit 11 contains RMA data from the WHIP Information Report to assist with completing a WHIP+ application for insured crops.

Eligible crops are crops that are planted or prevented from being planted, according to 2-CP, with the intent of harvest.

Note: There are some restrictions on 2019 insured crops according to paragraph 91.

B Ineligible Crops

Ineligible crops include crops intended for grazing, and volunteer crops as defined in 2-CP, subparagraph 39 A.

*--Tobacco grown in a county where insurance is **not** available is not eligible for WHIP+.--*

33 Linkage Requirement (Continued)**A Rule (Continued)**

If the linkage requirement is not met, the producer will be required to refund benefits for the crop, plus interest.

The linkage requirement applies to the producer's interest in the crop (specifically receiving benefits) in the county where the crop was physically planted or prevented planted.

If an applicant or entity quits farming, dissolves, or a member leaves an entity and now farms under a different TIN, linkage can be met for the applicant if the majority share of the persons receiving a WHIP+ payment met linkage.

Producers must complete FSA-895 at the time of application acknowledging the crop insurance and/or NAP linkage requirement.

See Exhibit 5 for completion instructions and an example of FSA-895.

Example 1:

Administrative County A covers 2 physical counties (County A and County B). An approved applicant physically grew an uninsured commodity only in County A during the disaster year. Crop insurance linkage applies to County A. The producer is not required to purchase crop insurance for County B.

Example 2:

Administrative County A covers 2 physical counties (County A and County B). An approved applicant physically grew an uninsured commodity in both counties. Crop insurance linkage applies to both County A and County B.

Example 3:

An approved applicant grew an uninsured commodity in County A, and also grew the same commodity in County B during the disaster year. County A and County B are separate administrative counties. The producer received assistance for a loss only in County A. Crop insurance linkage applies to County A.

33 Linkage Requirement (Continued)

A Rule (Continued)

Example 4:

Q. What happens if the applicant or entity quits farming?

A producer applied for WHIP+ and received a benefit in 2019 for a loss on his insured cotton in the 2018 crop year. WHIP+ policy requires that the producer is required to purchase crop insurance for the next 2 available crops years. However, before the next available closing date to purchase insurance, the producer retires from farming. Since the producer will no longer be farming, he will not have to meet the linkage requirement.

Example 5:

Q. What happens if an entity dissolves completely?

ABC Farms, LLC incurred a loss in 2018 on its insured peanut crop due to a hurricane. The entity applied for WHIP+ and received a benefit. WHIP+ policy requires ABC Farms, LLC *--to purchase crop insurance for the next 2 available crops years. The definition of 2 consecutive crop years is 2022 and 2023 for all crops. ABC Farms, LLC obtains insurance coverage for the 2022 crop year. At the end of the harvest season in 2022, the members decide to dissolve the entity. ABC Farms, LLC will no longer be in existence and is not required to purchase insurance for peanuts in 2023 for linkage purposes.--*

Example 6:

Q. How do we handle a member of an entity that leaves the entity and now farms on their own using a different TIN?

ABCD Farms, LLC consisted of 4 members with each having a 25 percent share of ownership in the entity. The entity incurred a loss in 2018 on its insured corn crop due to a hurricane and received a WHIP+ benefit in 2019. In 2020, member A decides to leave the entity and farm as an individual for 2021. The remaining members continue to *--operate the entity. The entity is required to meet linkage for 2022 and 2023. The former member A, farming as an individual, is not required to obtain insurance coverage for ABCD Farms, LLC's linkage requirement.--*

* * *

33 Linkage Requirement (Continued)**B Linkage Within a Pay Group**

Linkage will apply to each crop, type, intended use, and planting period, if applicable, listed on the approved application.

Example 1:

If dry edible kidney, navy, and pinto beans are in the same pay group, but the producer only grew navy and pinto beans during the disaster year, then linkage would:

- apply to navy and pinto beans
- **not** apply to kidney beans.

However, the producer may have to purchase a dry edible bean policy to obtain coverage on navy and pinto beans. That policy may also cover kidney beans since it is part of the same RMA crop policy, even though linkage would not be applicable to that type.

Example 2:

If there are 3 planting periods established for a crop and the producer experiences a loss during planting period 3, linkage will apply only to planting period 3.

If a producer planted a crop in planting period 2 and planting period 3 but only received WHIP+ benefits for the crop planted in planting period 3, linkage would only apply to the crop in planting period 3.

