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Commonwealth of Puerto Rico
Department of Agriculture
FARM INSURANCE OF PUERTO RICO
San Juan, Puerto Rico

"RULES AND REGULATIONS FOR TOBACCO CROP INSURANCE AGAINST SQUALL, DROUGHT, HAIL, FLOOD AND FIRE HAZARDS"

Article I- Definitions

For the purpose of these Rules and Regulations the following terms shall mean the following:

(a) Farm Insurance of Puerto Rico- means the Office of the Department of Agriculture of Puerto Rico authorized to engage in the agricultural insurance and reinsurance business, pursuant to the provisions of Act Number 12 of December 12, 1966.

(b) Disaster- any of the hazards designated as: squall, hail, flood, drought and fire, in accordance with the following definitions:

(1) Squall- means any winds causing damages or losses to a tobacco crop.

(2) Hail- frozen rain which precipitates violently from the clouds in the form of pellets of varying size, causing damages or losses to a tobacco crop.

(3) Drought- lack of rainfall below normal, causing damages or losses to a tobacco crop.

(4) Flood- excessive rainfall above normal, covering fields having insured tobacco plantations and causing damages or losses to the tobacco crops.

(5) Fire- consumption by the effect of flames caused on any material or agent set into flames fortuitously, including flames produced by acts of nature, such as lightning, thunderbolt, etc., causing damages or losses to tobacco crops.

(c) Hundredth-weight of Tobacco- the unit to be used to determine the insurable amount of a tobacco crop. Such amount may include any fraction of a hundredth-weight.

(d) Crop- the estimated number of hundredth-weights to be produced by a tobacco plantation having at least 30 days since planted and for which an insurance policy is applied and issued by Farm Insurance of Puerto Rico. This term also includes the tobacco produced while in the curing process within a shed, the yield of which is still considered an estimate.

(e) Salvaged Crop- the estimated number of hundredth-weights of tobacco

remaining in the plants or in the shed after the occurrence of the disaster; and also, in case the plants are not ready for harvest, the production potential of each plant remaining in an apparent condition of producing or of continuing to produce tobacco after the disaster on the basis of the production estimate made by Farm Insurance of Puerto Rico.

(f) Recovered Crop- the estimated number of hundredth-weights of tobacco harvested after the occurrence of the disaster.

(g) Harvested Crop- the estimated number of hundredth-weights of tobacco harvested before or after the occurrence of the disaster.

Article II - Applications

(a) Applications for Tobacco Crop Insurance may be obtained in the Central Office of Farm Insurance of Puerto Rico, or in any office of the State or federal agricultural agencies established in Puerto Rico. The same shall be filled out in cuadruplicate by the applicant, who shall return the original and two copies, duly signed, to the Central Office of Farm Insurance of Puerto Rico.

(b) A separate application shall be submitted for each farm having a tobacco crop to be insured, except when the farms abut on each other and the applicant may have an interest in the tobacco crops on each farm.

(c) The applicant must be the owner, co-owner, administrator, judicial administrator, trustee or testamentary executor, usufructuary, lessee, mandatary, or any other person having legal possession of the farm and some insurable interest in the tobacco crop.

(d) The applicant may protect the interest of his creditor under an agricultural loan contract, by requesting in the application that the policy be issued in favor of both, the applicant and such creditor.

(e) Prior to the approval of any application or at any time thereafter, Farm Insurance of Puerto Rico may send an inspector to verify the data therein set forth.

(f) As soon as an official report is issued by the Weather Bureau Office in Puerto Rico of the United States Department of Commerce relating to the existence of a hurricane within latitudes 11° and 22° North, and longitudes 55° and 69° West, Farm Insurance of Puerto Rico shall only consider those applications which, together with corresponding

premiums, are found thereupon in its post office box or are received at the Central Office prior to the precise moment of such official report.

Only in such cases, the respective applications shall be considered approved, subject to any investigation that Farm Insurance of Puerto Rico may make thereafter, whether or not the hurricane strikes, to determine the reasonableness of the amount of the crop for which insurance was applied for, as provided in subdivision (a) of Article VIII of these Rules and Regulations. In such cases, should a hurricane occur, no crop shall be considered insured for a greater amount than the one constituting the average of tobacco production in the farm during the last three years, as may be verified by Farm Insurance of Puerto Rico by any adequate means. If the insurance were applied for a greater amount, the same shall be considered granted only for the amount resulting from said average and the Assured shall be refunded for any excess premium paid. If the farm has no record of production for the last three years, the one for the last two years shall be used, and in default thereof, the one for the last year.

Such applications and premiums as may be in transit at the time of the official report of the Weather Bureau Office shall be considered after it is officially reported by said Office that the hurricane is out of the area covered by the aforementioned latitudes and longitudes.

Article III - Premiums Rates and Valuation of Tobacco Crops

(a) Before the beginning of any year for which insurance is to be offered, the Secretary of Agriculture shall establish and make known the premium rate for tobacco crop insurance, and the valuation of a hundredth-weight of tobacco for insurance purposes. Such valuation shall be determined according to the amount established annually for purposes of price support for tobacco, and for pignoration thereof, by the Commodity Credit Corporation of the Agricultural Stabilization and Conservation Service of the Department of Agriculture of the United States.

(b) The valuation of a tobacco crop per cuerda shall be determined according to the farmer's own estimate of production for the year in which the insurance is applied for, stated in hundredth-weights, based on the number of plants planted. Farm Insurance of Puerto Rico may order an inspection of the crop in order to determine the amount insured or to be insured.

(c) No claim of loss or damage shall be paid, where the liquidated average of the tobacco delivered is tantamount to the amount established for purposes of price support for tobacco, and for pignoration thereof, by the Commodity Credit Corporation of the Agricultural Stabilization and Conservation Service of the Department of Agriculture of the United States.

Article IV - Tobacco Crop to be Insured

(a) Only those crops of tobacco plantations having not less than thirty (30) days since planted and not less than 3,000 plants per half a cuerda shall be insured.

(b) Such tobacco crops or portions thereof as the applicant desires may be insured; provided that in order to insure any part of any crop, the portion to be insured must be of at least half a cuerda, and must be on a piece of land easily indentifiable or distinguishable from any other portion not insured, either by the different age of the plants or by being separated from the portion not insured, by permanent landmarks or boundaries, such as highways, public roads, canyons, rivers, streams, creeks, hills, etc.

(c) The crop must be of recommended varieties. The plantation must be healthy and cultivated following recommended agronomical methods. The spacing of the plants must be acceptable to Farm Insurance of Puerto Rico.

(d) The crop of any plantation uncared for is not acceptable for insurance.

(e) In order that a crop be insurable within a tobacco curing shed, the latter must be sturdily constructed and roofed with galzanized iron, free from leaks or drips.

Article V - Risk and Limits of Liability

(a) In Crop Insurance, the tobacco crop is insured while forming part of the plantation, against damages or losses caused by a disaster in excess of fifteen percent (15%) of the crop insured.

(b) In case the tobacco plants are not ready for harvest at the time of occurrence of the disaster, the production potential of each plant destroyed by the disaster is also insured, on the basis of the estimate that may be made by Farm Insurance of Puerto Rico, less fifteen percent (15%) of said estimate.

(c) A crop within a tobacco curing shed is also insured against the said

damages or losses exceeding fifteen percent (15%) of the insured crop.

Article VI - Losses Excluded

The insurance policy shall not cover the following:

(a) Such damages or losses as may have been caused by events other than those covered by the insurance, and resulting in a reduction of the plantation or crop before the disaster.

(b) This insurance does not cover any damage or loss occuring during transportation of the tobacco to a tobacco curing shed nor that necessary for delivery thereof to the dealer or cooperative processing the same.

(c) Damages or losses not exceeding fifteen percent (15%) of the total insured value.

Article VII - Inspection of the Crop

(a) The report to be rendered on a crop to be insured shall comprise all information deemed pertinent by Farm Insurance of Puerto Rico.

(b) Farm Insurance of Puerto Rico shall prepare a sketch of the farm or farms whereon the crop sought to be insured may be located. In said sketch the following data shall be indicated: rivers, streams, creeks, highways, municipal roads, as well as any road used by the public and private roads of any type within the farm, pastures, localization of the farmer's house and other farm buildings, if any, giving the cardinal point to which the house faces, as well as the location of the land planted to tobacco, indicating the number of cuerdas thereon, the number of plants, the approximated age of the plantation at the time of the application and the estimated production.

(c) Farm Insurance of Puerto Rico may, at its option, approve any application for insurance, with or without a previous inspection. It may also make an inspection at any time after issuance of a policy. If upon inspection it is determined that the tobacco to be produced is less than the amount for which insurance was applied for, the policy shall be issued for the amount resulting from its own estimate and applicant shall be refunded the excess premium paid. In the event that the policy has already been issued, the amount insured shall be reduced to conform with the estimate made by Farm Insurance of Puerto Rico and the Assured shall be refunded the excess premium paid, deduct-

ing therefrom the proportional part corresponding to the time the policy covered the higher amount.

The adjustment reducing the amount of the insurance shall be effective immediately after Farm Insurance of Puerto Rico sends by registered mail, return receipt requested, or by ordinary mail, return receipt requested, the corresponding endorsement to the policy.

Article VIII - Premium payment and Existence of Insurance Contract

(a) No tobacco crop insurance contract shall exist between applicant and Farm Insurance of Puerto Rico until the Central Office of Farm Insurance of Puerto Rico at San Juan has approved the application submitted and received the corresponding premium, except as provided in Article II (f) of these Rules and Regulations, and in subdivision (b) of this Article.

(b) Whenever payment of premiums is to be financed by the Farm Credit Corporation or by any Program or Dependency of the Department of Agriculture, the tobacco crop shall be considered insured immediately after said Corporation, Program or Dependency officially notifies in writing to the Office of Farm Insurance of Puerto Rico that the loan applied for such purposes has been approved.

(c) Cash payments shall only be accepted at the Central Office of Farm Insurance of Puerto Rico at San Juan. Any other form of payment of premiums must be made by postal money order, telegraphic money order or check issued to the order of the Secretary of the Treasury of Puerto Rico.

(d) The Receiving Officer of Farm Insurance of Puerto Rico at San Juan, shall issue official receipts acknowledging all payments made.

Article IX - False or Inaccurate Statements - Uncancelable Insurance

Any false statement made to Farm Insurance of Puerto Rico shall render the policy null and void, except where Farm Insurance of Puerto Rico considers that such false statement has not been made on a substantial fact to the insurance. In such case it shall be understood that insurance never existed and applicant shall only be entitled to a refund of the premium paid.

The insurance policy covering a tobacco crop shall not be cancelable by the Assured, and it can only be canceled by the Office of Farm Insurance of Puerto Rico when the policy was issued to cover a crop not insurable according to Article IV of these Rules and Regulations because the facts establishing the

necessary requisites were falsified.

Article X - Other Insurance

Considering that the purpose of the insurance is to offer protection against loss or damage of a tobacco crop because of a disaster, and that the means of doing speculative business by contracting other insurances on the same tobacco crop with different insurers should not be permitted, Farm Insurance of Puerto Rico shall not insure any tobacco crop already covered by any other insurance against the same disaster.

If applicant fails to inform in his application the fact that his crop is already covered by other insurance against any disaster covered by this insurance, or if he fails to inform that he has taken other insurance against such disaster on the same crop after issuance of the policy by Farm Insurance of Puerto Rico, it shall be understood that he has incurred in a false statement, and the provisions of Article IX of these Rules and Regulations shall apply from the date on which the second insurance was taken. If the Assured furnishes such information in time, the policy applied for shall not be issued, or the one issued shall be cancelled as of the date of issuance of the other policy subsequently taken on the same crop. In cancelling such policy, Farm Insurance of Puerto Rico, shall refund to the Assured the premium paid, deducting therefrom the proportional part corresponding to the time during which the policy was effective.

Article XI - Term and Effectiveness of the Insurance

A crop insurance policy shall be effective from the date of issuance up to June 30 of the year following that of the date of issuance, or up to the time when the crop is completely harvested and while in the curing process within a shed, prior to delivery thereof to the trader, whichever occurs first.

Article XII - Assignment of Policies

Any Assured may request from Farm Insurance of Puerto Rico an assignment of his policy so that losses or damages be payable by Farm Insurance of Puerto Rico to any natural or juridical person designated by him. Such assignment may be made for the total amount of the losses or damages, or for a specific amount thereof. When an assignment for the payment of losses or damages is requested without specifying whether the same is total or for a specific amount, payment shall be made jointly to the Assured and the assignee and shall be forwarded to the latter.

Article XIII - Method of Computing Losses

a- To determine the amount to be paid as losses or damages, the amount received by the farmer as a result of the sale of the crop shall be deducted from 85% of the total amount insured. Such determination shall be based on the liquidation sheet prepared for the farmer by the dealer or cooperative.

b- In case of losses, occurring prior to delivery of the insured tobacco crop to a dealer for liquidation, such losses shall be determined on the basis of incurred costs, as already established in actuarial tables prepared by the Office of Farm Insurance of Puerto Rico, indicating such costs by stages. Said actuarial tables shall form part of the application for insurance, which in turn shall form part of the policy to be issued. Compensation for such losses shall also be subject to the deduction of 15% of the total amount insured.

Article XIV - Post-Loss Statement by the Assured

1- The Assured who feels that he has suffered compensable losses or damages because of a disaster, shall submit to the Central Office of Farm Insurance of Puerto Rico a Post-Loss Statement on crop, duly filled out, within the fifteen (15) days, following the occurrence of the disaster in a form to be provided by Farm Insurance of Puerto Rico to the Assured together with his policy or with a copy thereof. Should the Assured fail to receive such form or lose the same, it shall be his duty to obtain another one in the Regional Office of Agricultural Services nearest to him or in any other office of the Department of Agriculture in his area, or by requesting the same directly from the Central Office of Farm Insurance of Puerto Rico. The Assured may also give such notice immediately after the occurrence of the disaster by letter or telegram, but even when notice is so given, nothing shall exempt the Assured from the obligation to send said Post-Loss Statement, duly filled out, within said term in the official form referred to.

2- The Assured shall submit to Farm Insurance of Puerto Rico the Post-Loss Statement on Tobacco Crop referred to in subdivision 1 of this Article, setting forth the following data:

(a) Name of Assured.

(b) Policy Number.

(c) Kind of disaster and date and hour of the occurrence thereof.

(d) Area of the plantation before the disaster.

(e) Number of plants destroyed by the disaster, number of plants left in the plantation and capable of producing or of further producing tobacco.

(f) Number of hundredth-weight of tobacco lost due to other causes before the disaster.

(g) Number of hundredth-weight of tobacco that may be harvested and used.

(h) Number of hundredth-weight of tobacco remaining in the plants.

(i) Number of hundredth-weight of tobacco sold and/or delivered to cooperatives and other dealers before and after the disaster.

(j) Boundaries at the time of the disaster of the farm or farms where the insured crop is located, and of any other farm or farms belonging to, or in possession of the Assured, having uninsured tobacco crops.

(k) Date of the Post-Loss Statement.

(l) Mention of any other policy covering the damaged crop, stating its number, date, name of insurance company, and amount insured.

(m) Any other information relating to the insured tobacco plantation and/or crop deemed necessary or convenient by Farm Insurance of Puerto Rico.

Article XV - Post-Loss Report

As soon as possible after receipt at the Central Office of Farm Insurance of Puerto Rico of the Post-Loss Statement signed by the Assured or his authorized representative, Farm Insurance of Puerto Rico shall make any inspections deemed necessary of the insured tobacco crop to determine the damage or losses caused by the disaster and whether the same are compensable in conformity with these Rules and Regulations.

Article XVI - Records

The Assured shall be obligated to keep a complete and accurate record of the harvesting of the insured crop or crops, and shall make said record available to Farm Insurance of Puerto Rico at any time, upon request.

Article XVII - Arbitration

In the event of dispute between the Assured and Farm Insurance of Puerto Rico with respect to the amount of losses or damages, the same shall be submitted to arbitration, independently of any other matter. The Assured shall designate his arbitrator and shall give written notice of such fact to Farm Insurance of Puerto Rico within a period of ten (10) days from the date on which Farm Insurance of Puerto Rico may have given written notice to the Assured of the results of the Post-Loss inspection of the farm, and Farm Insurance of Puerto Rico shall designate its arbitrator and shall give written notice of such fact to the Assured within a period of ten (10) days from the date on which the Assured may

have notified Farm Insurance of Puerto Rico of the appointment of his arbitrator. If the Assured omits or refuses to designate his arbitrator within the aforesaid term, it shall be understood as a waiver of his claim.

Before starting arbitration of the dispute, the two arbitrators thus appointed shall appoint in writing a third arbitrator. If ten (10) days elapse, counting from the date on which Farm Insurance of Puerto Rico notifies the Assured of the appointment of its arbitrator, and a third arbitrator is not agreed upon by the two arbitrators previously appointed, either of the parties shall be at liberty to petition for the appointment of the third arbitrator by that part of the Superior Court of Puerto Rico in whose territorial jurisdiction the party may reside, following the procedure established for the case contemplated by subdivision (b) of Section 5 of Act Number 376, approved on May 8, 1951.

Immediately after the designation of the third arbitrator, the arbitrators of both parties shall hold a first meeting to which the former shall not attend. If no agreement is reached in said first attempt to arbitrate, the third arbitrator shall be present at all other meetings to arbitrate and shall decide any points of disagreement between the other two arbitrators on the matter submitted to arbitration.

Each party shall pay the fees and expenses of the arbitrator it may have appointed, and both parties shall pay, in equal parts, the fees and expenses of the third arbitrator.

The decision of a majority of the three arbitrators shall be considered as final, enforceable and unappealable by both parties, and shall be unassailable except for causes provided in law. The determination of losses or damages through arbitration, as above stated, is a condition precedent to claim compensation of losses or damages under the policy.

Article XVIII - Alienation of Farms

(a) The Assured shall immediately notify Farm Insurance of Puerto Rico of any sale or conveyance of the farm or portion thereof, covered by a policy issued by Farm Insurance of Puerto Rico.

(b) At the request of the Assured, Farm Insurance of Puerto Rico shall transfer the policy to the new owner through an endorsement signed by its Director. The new owner shall be subrogated in the same rights, duties and liabilities appertaining to the previous owner.

(c) If the sale or conveyance involves a portion or portions of the farm, Farm Insurance of Puerto Rico shall cancel the policy and issue new policies on

the basis of new applications made by each owner. The premium already collected shall be applied to the new policies issued.

(d) Farm Insurance of Puerto Rico shall not make reimbursement of premiums already collected in cases of sales of farms, or portions thereof, having tobacco crops covered by its insurance, nor in any other case not covered by the provisions of these Rules and Regulations, since the policy is considered uncancelable.

Article XIX - Strict compliance of conditions

Failure of the Assured to comply strictly with the terms and conditions specified in the insurance contract shall be sufficient cause to release Farm Insurance of Puerto Rico from all liability.

Article XX - Experimental Insurance

Farm Insurance of Puerto Rico shall offer this type of insurance experimentally, and may limit the same to a determined sector or area, but the experimental stage shall be for a term not exceeding five (5) years.

Article XXI - Legal Authority and Effectiveness

Before the promulgation of these Rules and Regulations, the corresponding publics hearings were held on December 1, 3, 5, 1969.

These Rules and Regulations are promulgated with force of law by the Secretary of Agriculture of Puerto Rico, in accordance with the powers and authority vested in him by Act Number 12, approved on December 12, 1966.

The same shall take effect thirty days after the filing of the original and two copies of their Spanish and English texts in the Office of the Secretary of State of Puerto Rico, pursuant to the provisions of Act Number 112, approved on June 30, 1957, as amended, but a dispensation shall be requested from the Honorable Governor of Puerto Rico for the immediate effectiveness thereof.

Approved at Santurce, Puerto Rico, this 30th days of January 1970.

LUIS RIVERA BRENES
Secretary of Agriculture