United States Department of Agriculture
Farm and Foreign Agricultural Services
Risk Management Agency

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BULLETIN NO.: MGR-04-002

TO: All Reinsured Companies
All Risk Management Agency Field Offices
All Other Interested Parties

FROM: Ross J. Davidson, Jr. */s/Ross J. Davidson, Jr.*
Administrator

SUBJECT: First and Second Crop Issues and Guidelines

BACKGROUND:

Several first and second crop issues or questions have been raised regarding double insurance and the related prevented planting provisions, required by the Agricultural Risk Protection Act of 2000 and contained in the new 2004 Common Crop Insurance Policy Basic Provisions.

ACTION:

To assure consistent administration of the 2004 double insurance and prevented planting provisions, the Risk Management Agency is issuing the attached guidelines for insurance providers use.

DISPOSAL DATE:

This bulletin is for transmitting information and will remain in effect until December 31, 2004.

1400 Independence Ave., SW $ Stop 0801$ Washington, DC 20250-0805

The Risk Management Agency Administers and Oversees
All Programs Authorized Under the Federal Crop Insurance Corporation

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FIRST AND SECOND CROP GUIDELINES

I. Election to not insure second crop acreage:

A. The election to not insure second crop acreage following first insured crop acreage subject to the 65 percent reduction is made on a first insured crop unit basis. If a policyholder has multiple units of the first insured crop, the election to insure second crop acreage is made separately for each of the first insured crop units and applies to all acreage in the unit unless double cropping provisions apply in which case the second crop acreage meeting the double cropping history requirements must be insured.

B. If a second crop will be planted after first insured crop acreage is harvested, the election to not insure the second crop acreage must be made the earlier of the acreage reporting date for the second crop or when the claim is signed by the policyholder for the first insured crop.

C. Policyholders must be permitted to elect not to insure second crop acreage even if it is not certain the first insured crop unit will have an indemnity due (for example: under the Group Risk Plan (GRP), it may not be known whether there is an insurable GRP loss until well after the second crop is planted). The provision allowing the policyholder not to insure second crop acreage is designed to protect any first insured crop indemnity from required reductions when a second crop is insured. Therefore, to allow policyholders to protect a potential indemnity for a first insured crop, the policyholder must be permitted to make this election before knowing the first crop's loss outcome.

D. When a portion of a first insured crop unit's acreage is appraised at less than the guarantee and released to plant a second crop, a policyholder must be permitted to elect not to insure the second crop acreage even when it is not known there will be a loss on the first insured crop unit.

E. Insurance providers should make policyholders aware that a policyholder's election not to insure acreage of a second crop may affect any linkage requirement for Farm Service Agency (FSA) program participation. Disaster payments are administered by FSA and they will determine the impact of not insuring a second crop. GRP and AGR are acceptable for meeting any linkage requirements.

F. When a policyholder elects to not insure second crop acreage, the acreage and production from such acreage is not included for actual production history purposes for subsequent years except when it is commingled with production from insured acreage (see the Crop Insurance Handbook (CIH) for procedures regarding commingled production).

II. Indemnities for first insured crop:

A. When the entire unit of first insured crop acreage fails and the policyholder indicates they will plant and insure a second crop, the insurance provider must reduce the indemnity payment and premium of the first crop to 35 percent of the amount of indemnity and premium that would otherwise be due. If the second crop: 1) is not planted; 2) is planted to a crop that is not insured; or 3) does not have an insurable loss, the policyholder may request to receive the remaining indemnity payment on the first insured crop. However, if the policyholder does not request such payment, the insurance provider should contact the policyholder for follow-up to determine the status of any second crop. For most situations, this should be done on or before the billing date for the first insured crop.

B. If the policyholder certifies there is no second crop loss on the first insured crop unit, or the insurance provider otherwise verifies there is no second crop loss, then the remainder (65 percent) of the first crop indemnity must be paid to the policyholder and, if the entire premium is not offset by the indemnity, a bill for the remaining premium sent. Payment of the indemnity should be made in accordance with the 30-day provisions in the policy, unless the insurance provider is unable to verify whether a loss occurred to the second crop. It is the policyholder's responsibility to provide sufficient documentation to the insurance provider.

C. The policyholder does not have the option to avoid payment of the additional premium for the first insured crop by refusing the remaining 65 percent of the indemnity owed for the first crop.

D. Insurance providers may make payment of the additional indemnity before announcement of the harvest price for revenue plans of insurance or they may choose to wait until after the announcement to avoid making two additional payments.

III. Options regarding acceptance or payment of indemnities:

A. Policyholders may elect not to accept the second crop claim payment up until the time they cash the second crop claim payment check, if one was issued. Cashing the check indicates acceptance of the second crop indemnity.

B. If an insured second crop suffers an insurable loss, insurance providers must adjust the loss on the second crop (after receiving notice) and give the policyholder the option to accept or reject the second crop indemnity. It is possible for the policyholder to decline any second crop loss indemnity without the insurance provider conducting loss adjustment. If the second crop is insured with a different insurance provider, the insurance provider for the first insured crop may use claim documents from the other insurance provider to show there was a loss for the second crop acreage. It is the policyholder's responsibility to obtain copies of such documentation and provide it to the insurance provider for the first insured crop.

C. If the policyholder elects to reject the second crop indemnity, premium for the second crop is still owed and should be offset from the remaining indemnity owed for the first insured crop if it is insured with the same insurance provider or should be billed if the insurance providers for the first insured crop and second crop are different.

D. Insurance providers may elect whether or not loss adjusters will calculate indemnity payments for policyholders to assist them in determining whether to accept a reduced first crop indemnity or to decline a second crop indemnity.

E. If a policyholder rejects the second crop indemnity, insurance providers shall use normal procedures to show claim closure with an indemnity due but rejected by the policyholder. Second crop indemnities must be rejected on a unit basis except where double cropping history is applicable to a portion of the acreage in the unit in which case the producer can accept the loss payment for acreage eligible for the double-cropping exemption and reject the loss on acreage not eligible for the exemption.

F. Insurance providers do not have the option of denying the additional first crop indemnity when no indemnity is paid for second crop acreage if all policy provisions are met. Insurance providers should handle late notices of loss in accordance with current policy and procedures.

IV. First insured crop premium:

A. The insurance provider may not bill the remaining premium for the first insured crop until it is known whether or not there is an indemnity payment for the second crop acreage.

FIRST AND SECOND CROP GUIDELINES

B. If additional premium is due and there are not at least 30 days between billing and the termination date, the policy cannot be terminated for the next crop year. In this case, the policyholder would be terminated only if the additional amount due is not paid by the termination date for the next crop year. For example, if the termination date is September 30, 2004, and the insurance provider bills the policyholder on or after September 2, 2004, the policy would not be terminated for failure to pay the additional premium until September 30, 2005. However, after due process, if the account is not paid by that date, the policyholder will be placed on the Ineligible Tracking System (ITS) and coverage for crops with a termination date subsequent to the time the debt became delinquent would be terminated. For example, coverage for crops with a March 15, 2005 termination date would be terminated for the 2005 crop year if the debt were not paid by March 15, 2005.

V. Prevented planting:

A. If a volunteer or cover crop is hayed, grazed or otherwise harvested from the claimed prevented planting (PP) acreage after the applicable final planting or late planting date, the PP payment will be limited to 35 percent of the regular PP guarantee. A cover crop or volunteer crop may be hayed or grazed on or after November 1 which generally would be when crops in the area would normally be harvested without a reduction in the prevented planting payment.

B. Insurance providers shall use the yield descriptors shown in the CIH to indicate yields assigned for prevented planting acreage.

VI. Miscellaneous issues:

A. Forage production and other insured perennial crops are considered a first insured crop. The definition of “first insured crop” in the Basic Provisions is "With respect to a single crop year and any specific crop acreage, the first instance an agricultural commodity is planted for harvest or prevented from being planted and is insured under the authority of the Act." Although forage and other perennial crops may not be planted each year, they are the first insured crop.

B. If a policyholder plants and insures skip-row cotton and it fails and grain sorghum is planted in the rows that were not planted to cotton, the grain sorghum is still considered the second crop for this acreage.

C. Those records acceptable for loss adjustment purposes are acceptable as documentation for separate production from acreage that is and is not planted to a second crop.