



United States  
Department of  
Agriculture

Risk  
Management  
Agency

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**BULLETIN NO.: MGR-05-007**

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

**FROM:** Ross J. Davidson, Jr. /s/ *Ross J. Davidson, Jr.* 5/5/2005  
Administrator

**SUBJECT:** Sugar Beet Actual Production History (APH) Adjustments

**BACKGROUND:**

Approved insurance providers have asked for confirmation that Actual Production History (APH) for each of the 2001 through 2005 crop years be adjusted, resulting from the settlement entered into with insured producers who were part of the 2000 crop year sugar beet litigation case (Anderson Farms, et. al. v. Fireman's Fund Ins. Co., D. Minn. Court File No. 01-CV-1637). Although not a party to the settlement, the Risk Management Agency (RMA) understands that the terms of the settlement provided for all insured producers who were part of the suit to receive full indemnification of their claimed losses, pursuant to the terms and conditions of the Basic Provisions of the Common Crop Insurance Policy (Basic Provisions) (99-BR) and Sugar Beet Crop Provisions (98-039).

Section 1 of the Basic Provisions specifies that the "production guarantee" is "the number of pounds, bushels, tons, cartons, or other applicable units of measure determined by multiplying the approved yield per acre by the coverage level percentage you elect."

In accordance with section 1 of the Basic Provisions, the "approved yield" is "the yield determined in accordance with 7 CFR part 400, subpart (G)." In accordance with 7 C.F.R. § 400.52, the "approved yield" is determined by "the sum of yearly actual, assigned, and adjusted or unadjusted transitional or determined yields divided by the number of yields contained in the database. The database may contain up to 10 consecutive crop years of actual or assigned yields. At least four yields will always exist in the database."

In accordance with 7 C.F.R. § 400.53, production reports must be filed each year by the production reporting date and contain "an accurate account of planted acreage for annual crops or insured acreage for perennial crops, as well as harvested and appraised production by unit." This is supported by section 3(c) of the Basic Provisions. Further, section 3(c)(2) of the Basic Provisions states "If you have filed a claim for any crop year, the documents signed by you which state the amount of production used to complete the claim for indemnity will be the production for that year unless otherwise specified by FCIC." This is supported by the definition of "production report" in 7 C.F.R. § 400.52, which states "information contained in a claim for indemnity is considered a production report for the crop year for which the claim was filed."



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The preamble of the Basic Provisions also states “The provisions of the policy are published in the Federal Register and codified in chapter IV of title 7 of the Code of Federal Regulations (CFR) under the Federal Register Act (44 U.S.C. 1501 et seq.), and may not be waived or varied in any way by the crop insurance agent or any other agent or employee of FCIC or the company.”

Section 6B(2) and Section 9C(4)(b) of the FCIC 18010 Crop Insurance Handbook provide procedures consistent with the Basic Provisions that clearly indicates a claim for indemnity is considered a production report and that the production from a claim for indemnity must be used for APH purposes. Section 9C(4)(b)2 states, “Use production from the Claim for Indemnity if production reported by the insured does not correspond to the production on the claim for indemnity.”

Based on the Basic Provisions, if a claim is filed for a crop year, the production that is the basis for such claim becomes the production reported for that crop year and must be used in the calculation of subsequent approved yields and guarantees. The policy, applicable regulations and procedures make no distinction between the types of claims filed or how they are resolved. Whether settled by the approved insurance provider or through arbitration or litigation, the production contained on the claim is the production reported for the applicable crop year when determining the APH, approved yields, and guarantees.

With respect to the requirements of the Standard Reinsurance Agreement (SRA), approved insurance providers are required to comply with the terms of the policy and procedures issued by RMA, including those cited above. The SRA requires approved insurance providers to properly apply the applicable policy provisions and procedures for all crop years. For any adjustments made, approved insurance providers must report to RMA policy revisions for any underpayment or overpayment in accordance with the SRA.

To assist insurance providers with any policies transferred to their company after the 2000 crop year, they may contact Craig Rice, Director St. Paul Regional Office at (651) 290-3304 or [craig.rice@rma.usda.gov](mailto:craig.rice@rma.usda.gov) to request 2000 crop year claim for indemnity production to count.

**Disposal Date:**

This bulletin is for transmitting information and will remain in effect until December 31, 2005.