



United States
Department of
Agriculture

Risk
Management
Agency

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BULLETIN NO: MGR-08-008

TO: All Approved Insurance Providers
All Risk Management Agency Field Offices
All Other Interested Parties

FROM: Eldon Gould /s/ *Eldon Gould* 6/4/2008
Administrator

SUBJECT: Correction of Named Insureds

BACKGROUND:

The Risk Management Agency (RMA) has received concerns regarding loss of coverage to persons bearing a risk of financial loss due to their inadvertent failure to report the correct named insured.

The Basic Provisions state “you” and “your” refer to the named insured shown on the accepted application. Section 1 of the Basic Provisions defines “insured” as the named person as shown on the application accepted by us. This term does not extend to any other person having a share or interest in the crop (for example, a partnership, landlord, or any other person) unless specifically indicated on the accepted application. Section 1 of the Basic Provisions defines “person”, in part, as an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State. Section 1 of the Basic Provisions defines “share”, in part, as your percentage of interest in the insured crop as an owner, operator, or tenant at the time insurance attaches. The administrative regulations contained in 7 CFR part 400, subpart T define “insurable interest” as the value of the producer’s interest in the crop at risk from an insured cause of loss occurring during the insurance period. The maximum indemnity payable to the producer may not exceed the indemnity due on the producer’s insurable interest at the time of loss or the beginning of harvest.

Section 10(a) of the Basic Provisions provides “insurance will attach only to the share of the person completing the application and will not extend to any other person having a share in the crop...” requiring the named insured be the person with the insurable interest in the crop. For example, if an individual is the sole shareholder/owner of a corporation and the corporation has the insurable share of the crop (i.e., the corporation owns/rents land, buys inputs for the crop and markets the crop), the named insured must be the corporation, not the individual.

Situations have arisen where the named insured is not the person with the insurable interest in the crop, yet the named insured does bear financial risk of the crop. For example, an individual may incorrectly obtain a policy in the individual’s name when a corporation (wholly owned by the individual) actually has the insurable interest in the



crop. The individual does have a direct financial interest in the crop due to being the sole owner of the corporation. Additionally, the individual may have formed the corporation several years ago, failed to change the name on the insurance policy to the corporation but complied with every other term of the policy, including payment of premium, until the discrepancy in the named insured and associated identification number is discovered at loss time or during a compliance review. In this instance, whether the policy is in the corporation's name or the individual's name, there would be no difference in unit structure, approved yields, production guarantees, premium rates, indemnities, etc.

ACTION:

When the following criteria are met, approved insurance providers (AIPs) may grant relief to correct the named insured and the associated identification number in those limited situations as described below:

- A. The following conditions must be met:
- 1) The named insured is required under current policy provisions and procedures to be reported as a substantial beneficial interest (SBI) holder in the person who is the correct named insured, or conversely the person who is the correct named insured must previously have been reported as a SBI holder for the person with the policy;
 - 2) The named insured can prove they are the owner, shareholder or member of the person who is the correct named insured, or the person who is the correct named insured is the owner, shareholder or member of the named insured;
 - 3) If the correct named insured also participates in any FSA program, the AIP must verify the correct named insured is also contained in FSA information. If the correct named insured does not reconcile, the policy cannot be corrected until the FSA information is corrected unless the policy or FCIC issued procedures provide otherwise (e.g., FSA information shows the entity as a joint venture, but FCIC procedures allow an individual to insure their share of a joint venture when 100 percent of the joint venture is not insured, or FSA shows a husband and wife, but FCIC procedures provide for an individual policy with the spouse shown as having a substantial beneficial interest).
 - 4) There is no evidence of fraudulent or material misrepresentation;
 - 5) The Actual Production History (APH) records, approved yields, production guarantees, unit structure, premium rates, indemnities, coverage level, etc. is maintained when the named insured is corrected (i.e. APH history must not have been lost or altered, production guarantees, unit structures, etc. must not have been altered);

- 6) The person who is the correct named insured is eligible for insurance;
- 7) The reported identification number matches the reported named insured (e.g., an individual reported their correct social security number on the policy; however, the correct named insured is a corporation wholly owned by the individual);
- 8) Such discovery is made for the 2006 or subsequent crop years.

Exception: If all members of a partnership reported their respective share of the partnership under their individual policies, the error may be corrected by establishing a policy for the partnership (with the appropriate acreage, unit structure, etc., and reducing the individual policies by the acreage and share that is not theirs as individuals, but rather is the partnership's) for the next crop year.

AND

- 9) If this authority is used to grant relief, then this bulletin must be referenced as part of the documentation for AIP's determination to grant relief and maintained in producer's file.

B. Correction of the named insured is limited to the following situations if the criteria in A. above are met:

- 1) A corporation or LLC, wholly owned by an individual, owns the insurable crop, but the crop insurance policy is in the individual's name. In this case, the individual's policy would be discontinued for the current crop year and a policy for the corporation or LLC would be provided.
- 2) An individual owns the insurable crop, but the crop insurance policy is in the name of a corporation or LLC, wholly owned by the individual. If the individual is reported as a SBI to the corporation or LLC, the corporation's or LLC's policy could be corrected for the current crop year to reflect the individual.
- 3) A farm is a partnership made up of individuals and each of the individuals has insured their share of the partnership under their separate individual policies. The individuals' separate policies would be continued for the current crop year, and a new policy for the partnership provided for the next crop year. If the individual producers also have a separate insurable share in acreage that is not a part of the partnership, that acreage would continue to be insured under the separate individual policy(s).
- 4) A corporation, LLC, joint operation/joint venture/co-owner, partnership or trust, wholly owned or granted by an individual and spouse, owns the

insurable crop, but the crop insurance policy is in the individual's name with spouse listed as a SBI. In this case, the individual's policy would be discontinued for the current crop year and a policy for the corporation, LLC, joint operation/joint venture/co-owner, partnership or trust would be provided.

- 5) An individual and spouse own the insurable crop, but the crop insurance policy is in the name of a corporation, LLC, joint operation/joint venture/co-owner, partnership or trust, wholly owned by the individual and spouse. If the individual and spouse are reported as a SBI to the corporation, LLC, joint operation/joint venture/co-owner, partnership or trust, the corporation's, LLC's, joint operation/joint venture/co-owner's, partnership's or trust's policy could be corrected for the current crop year to reflect the individual with spouse reported as SBI.

DISPOSAL DATE:

This bulletin will remain in effect until incorporated into RMA procedure or is otherwise revised or rescinded.