



United States  
Department of  
Agriculture

Risk  
Management  
Agency

1400 Independence  
Avenue, SW  
Stop 0801  
Washington, DC  
20250-0801

**INFORMATIONAL MEMORANDUM: IS-07-002**

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

**FROM:** William J. Murphy /s/ *William J. Murphy* 2/22/2007  
Deputy Administrator  
for Insurance Services

**SUBJECT:** CLAIMS ALERT - Destroying Cotton Stalks Prior to Loss Adjustment  
Inspection

**BACKGROUND:**

The Risk Management Agency (RMA) has received reports indicating that certain insured's destroyed their cotton stalks and left no visible residue of cotton during the 2006 crop year. Reports also indicate that some approved insurance providers (AIPs) are settling claims for indemnification based on optional units without requiring cotton stalks to remain intact for verification purposes. These violations of FCIC-issued procedure appear to be most prevalent in the Deep Southern States.

Reports are that insureds have harvested their cotton, destroyed the cotton stalks with a bush-hog and plowed or disked the acreage, and then turn in a Notice of Loss to the AIP for indemnification. In addition, AIPs are accepting the delivered weight on the ginning tickets as the valid Production to Count on the unit even though nothing is left in the field for verification purposes. Without any cotton stalks left in the field for validating the delivered weight or for comparing the field(s) to the insured's other units or other cotton acreage in the surrounding area, the potential to shift production between units is unduly increased.

RMA recognizes producers must make management decisions that include when to harvest a crop and rotational land preparation for the subsequent crop year. However, insured cotton growers have contractual obligations under the Cotton Crop Provisions, 7 C.F.R. §457.104, and the AIPs have contractual obligations under the Standard Reinsurance Agreement (SRA) to adhere to crop provisions and loss adjustment procedures administered under the Federal Crop Insurance program. RMA has not authorized any change to the "Duties in the Event of Damage or Loss" section of the Cotton Crop Provisions.



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

An Equal Opportunity Employer

The following Cotton Crop Provisions apply to the 2006 crop year:

...

**9. Duties in the Event of Damage or Loss**

(a) In addition to your duties under section 14 (Duties in you put the acreage to another use or the Event of Damage or Loss) of the Basic Provisions, in the event of damage or loss:

- (1) **The cotton stalks must remain intact for our inspection;** and
- (2) If you initially discover damage to the insured crop within 15 days of harvest, or during the harvest, you must leave representative samples of the unharvested crop in the field for our inspection. The samples must be at least 10 feet wide and extend the entire length of each field in the unit.

(b) The stalks must not be destroyed, and required samples must not be harvested, until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed and written notice of probable loss given to us.

**10. Settlement of Claim**

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production:

- (1) For any optional unit, we will combine all optional units for which acceptable records of production were not provided;
- (2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

...

(c) The total production (pounds) to count from all insurable acreage on the unit will include:

(1) All appraised production as follows: (i) Not less than the production guarantee for acreage:

...

(E) On which the cotton stalks are destroyed, in violation of section 9;

...

Notice of loss requirements in the Common Crop Insurance Policy Basic Provisions, 7 C.F.R. 457.8, section 14 (Basic Provisions):

Your Duties—

(a) In case of damage to any insured crop you must:

...

(2) Give us notice within 72 hours of your initial discovery (but not later than 15 days after the end of the insurance period) by unit, for each insured crop.

Notice of loss requirements for Crop Revenue Coverage (CRC) Insurance Policy Basic Provisions, section 15 (CRC Basic Provisions):

Your Duties:

(a) In case of damage to any insured crop you must:

- ...
- (2) Give us notice within 72 hours of your initial discovery of damage (but not later than 15 days after the end of the insurance period), by unit, for each insured crop.
- ...
- (5) Give us notice of your expected revenue loss not later than 45 days after the date the Harvest Price is released.

The producer's notice of loss given to the AIP later than the stated in the crop insurance policy is considered a delayed notice of loss which will require additional documentation according to the Loss Adjustment Manual (LAM) Standards Handbook, FCIC 25010, and may result in the denial of a crop insurance indemnity unless all loss determinations are verified by the AIP.

**ACTION:**

AIPs must follow the Basic Provisions, Cotton Crop Provisions and Cotton Loss Adjustment Standards Handbook FCIC 25090 and LAM procedures and ensure that cotton insureds are being properly informed of the requirements to leave cotton stalks intact and to leave representative samples of unharvested cotton when applicable. AIPs must ensure crop insurance indemnities are accurate for each unit and that only claims for the **unavoidable losses of production** due to insured causes of loss occurring during the insurance period are paid.

Any known or discovered failure to follow any policy or procedures issued by FCIC will result in appropriate administrative action being taken as outlined in current SRA.

**DISPOSAL DATE:**

This memorandum will expire when all 2006 cotton claims are settled.