



United States
Department of
Agriculture

BULLETIN NO.: MGR-12-003

Foreign and Farm
Agricultural
Services

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

Risk
Management
Agency

FROM: William J. Murphy /s/ *William J. Murphy* 3/8/2012
Administrator

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SUBJECT: Arbitration Filing Process

BACKGROUND:

Section 20(a) of the Common Crop Insurance Policy Basic Provisions (Basic Provisions) states: "If you and we fail to agree on any determination made by us except those specified in section 20(d), the disagreement may be resolved through mediation in accordance with section 20(g). If resolution cannot be resolved through mediation, or you and we do not agree to mediation, the disagreement must be resolved through arbitration in accordance with the rules of the American Arbitration Association (AAA) except as provided in sections 20(c) and (f), and unless rules are established by FCIC for this purpose...."

Many policyholders and approved insurance providers (AIPs) elect to use the AAA to arbitrate their disputes and nothing herein affects their right to do so or the process under which they file a demand for arbitration. However, it was never the intent of FCIC to require the AAA to arbitrate all disputes but the rules of the AAA require that the demand be filed with the AAA and the rules of the AAA are incorporated into the policy by reference, which appear to impose such a restriction. To give policyholders and AIPs the choice of arbitrators, FCIC is establishing these rules to provide an alternative process for filing a demand for arbitration. These rules are solely for the purposes of allowing for the filing of a demand for arbitration with other than the AAA.

ACTION:

If resolution cannot be reached through mediation, or the parties do not agree to mediation, the disagreement must be resolved through arbitration in accordance with the rules of the American Arbitration Association (AAA) and these rules.

1. If the parties elect to use the AAA to arbitrate their dispute, all rules of the AAA not in conflict with section 20 of the Basic Provisions apply to the arbitration proceedings.



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2. If the parties elect not to have AAA arbitrate their dispute:
 - a. Arbitration may be initiated by filing two copies of the demand with the AIP. The demand shall contain a statement of the nature of the dispute, the names and addresses of all parties, any claims and counterclaims, the amount involved, if any, the remedy sought, and the hearing locale requested.
 - b. The AIP shall confirm notice of such filing to the policyholder.
 - c. Each party may nominate up to 5 arbitrators to hear the case. The parties must mutually agree to use one of the nominated arbitrators. If the parties fail to agree on an arbitrator, then the dispute must be filed with the AAA.
 - d. An AIP may provide an answering statement in duplicate to the policyholder within 15 days after confirmation of notice of filing of the demand sent by the policyholder. If a counterclaim is asserted, it shall contain a statement setting forth the nature of the counterclaim, the amount involved, if any, and the remedy sought.
 - e. If no answering statement is filed within the stated time, respondent will be deemed to deny the claim. Failure to file an answering statement shall not operate to delay the arbitration.
 - f. When filing any statement pursuant to this section, the parties are encouraged to provide descriptions of their claims in sufficient detail to make the circumstances of the dispute clear to the arbitrator.
 - g. The AIP will provide a copy of these rules, or cite to the location where they can be found, in all correspondence with their policyholders where a determination is made that may lead to a dispute.
 - h. All other rules of the AAA not in conflict with these rules and section 20 of the Basic Provisions apply to the arbitration proceeding.

DISPOSAL DATE:

This Manager's Bulletin is for the purpose of transmitting information and will expire when rescinded.