

INFORMATIONAL MEMORANDUM: COM–20-003

DATE July 31, 2020

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

FROM: Heather Manzano, Deputy Administrator for Compliance /s/ Heather Manzano
7/31/2020

SUBJECT: 1st crop CCIP / 2nd crop RIVI - Annual Forage Double Cropping

Background

Compliance has identified instances of 1st crop/2nd crop potential abuse where agents have misapplied differences in double cropping requirements under the Common Crop Insurance Basic Provisions (CCIP Basic Provisions) and Rainfall and Vegetation Index Plan Common Policy (20-RI/VI) in their sales and marketing practices. Specifically, we found several instances where agents placed policies for the same policyholder with two different Approved Insurance Providers (AIPs) to avoid detection. We found policyholders insured cotton acreage under CCIP Basic Provisions and subsequently insured an annual forage crop on the same acreage in the same crop year under 20-RI/VI (i.e., corn for silage planted and insured under an Annual Forage (AF) policy following a failed cotton crop insured under the CCIP Basic Provisions, both Spring seeded crops). AIPs may have erroneously paid full indemnities for both the cotton and annual forage crop losses when double cropping these crops together may not be a generally recognized practice in the area by agricultural experts. Producers insuring cotton under CCIP Basic Provisions are required to provide written notice to each insurance provider that a second crop has been planted on acreage on which the producer had a first insured crop with a different AIP.

20-RI/VI, Section 6(g)(4) states, in part, "We will not insure any acreage...where you have failed to follow good farming practices for the insured crop." If the AIP determines that it is not a good farming practice to plant a second crop following a first crop on the same acreage in the same crop year, then a policyholder may be able to receive a full indemnity due to an insurable loss on the first insured crop but may not be eligible for a full indemnity on the second insured crop. In addition, the policyholder may be responsible for 100% of the premium on the second crop insured under the different plan of insurance and with a different AIP from the AIP who insured the first crop.

20-RI/VI, Section 1 defines "Good Farming Practices" to mean the production methods utilized to produce or manage the insured crop and allow it to make normal progress toward maturity, and are those generally recognized by agricultural experts or organic agricultural experts, as applicable, for the area. "Generally recognized" means when agricultural experts or organic agricultural experts are aware of the production method and there is no genuine dispute regarding whether the production method allows the crop to make normal progress toward maturity.

20-RI/VI, section 6(i)(4) states in the event a second crop is planted and insured with a different insurance provider, or planted and insured by a different person, you must provide written notice to each insurance provider that a second crop was planted. The CCIP Basic Provisions section 9(viii)(B), states in part, in the event a second crop is planted and insured with a different insurance provider, or planted and insured by a different person, you must provide written notice to each insurance provider that a second crop was planted on acreage on which you had a first insured crop.

CCIP Basic Provisions, section 15(h)(7) states that with respect to double cropped acreage for which one of the crops you have double cropped is insured under a plan of insurance not covered under these Basic Provisions, each insured crop must follow its own Basic Provisions, Crop Provisions, and Special Provisions to determine if the double cropping requirements have been met. If the double cropping requirements in the applicable Basic Provisions, Crop Provisions, or Special Provisions have not been met for each insured crop, section 15(e) of these Basic Provisions applies. For example, if the AIP determines that Annual Forage (AF) Crop Provisions (20-RI-AF) double cropping requirements are not met, then the CCIP Basic Provisions, section 15(e) would apply.

CCIP Basic Provisions, section 15(e) states, in relevant part, that you may elect to plant and insure a second crop on the same acreage for harvest in the same crop year (you will pay the full premium and, if there is an insurable loss to the second crop, receive the full amount of indemnity that may be due for the second crop... and 1) Collect an indemnity payment that is 35% of the insurable loss for the first insured crop; 2) be responsible for premium that is 35% of the premium that you would otherwise owe for the first insured crop; and 3) if the second insured crop does not suffer an insurable loss: collect an indemnity payment for the other 65% if insurable loss that was not previously paid...and be responsible for the remainder of the premium for the first insured crop that you did not pay.

20-RI/VI, section 6(k) states an insured may receive a full indemnity for the first insured crop when a second insured crop, regardless of whether or not the second crop is insured or sustains an insurable loss, if each of four conditions are met. However, the fourth condition is not applicable to crops insured under the AF Crop Provisions (20-RI-AF). Instead, policyholders insuring crops under AF are subject to the remaining three conditions: 1) It is a practice that is generally recognized by agricultural experts, or organic agricultural experts for the area to plant two or more crops for harvest in the same crop year; 2) The second crop is customarily planted after the first insured crop for harvest on the same acreage in the same crop year in the area; and 3) Additional coverage offered under the authority of the Federal Crop Insurance Act is available in the county on the two or more crops that are double cropped.¹

Action

AIPs should remind their policyholders that in the event a second crop is planted and insured with a different insurance provider, or planted and insured by a different person, the policyholder must provide written notice to each insurance provider that a second crop was planted on acreage on which the policyholder had a first insured crop. AIPs should also remind policyholders that it is the policyholder's responsibility to provide evidence of the production methods utilized to produce or manage the insured crop and allow it to make normal progress toward maturity, and are those production methods generally recognized by agricultural experts or organic agricultural experts, as applicable, for the area including double cropping practices in accordance with 20-RI/VI.

Further, AIPs should remind policyholders and agents that the AF Crop Provisions modify 20-RI/VI by excluding only the record keeping requirement for double cropping. In order for the insured annual forage crop to meet the double cropping requirement, the remaining conditions must be met including but not limited to the following conditions: 1) it is a practice that is generally recognized by agricultural experts or organic agricultural experts for the area to plant two or more crops for harvest in the same crop year; and 2) the second crop is customarily planted after the first crop for harvest on the same acreage in the same crop year in the area. For example, regionally it is a generally recognized double cropping practice to plant wheat followed by soybeans.

RMA has not identified an instance of double cropping involving two spring seeded crops such as cotton followed by corn for silage. If the AIP determines that AF Crop Provisions (20-RI-AF) double cropping requirements are not met, then the CCIP Basic Provisions, section 15(e) would apply and a full indemnity on both the

first crop and second crop is not authorized.

DISPOSAL DATE:

Until modified or rescinded

¹ Section 4(e) of the Annual Forage (AF) Crop Provisions states Sections 6(k)(4) and 6(l) of the Basic Provisions are not applicable to these crop provisions.