



United States
Department of
Agriculture

BULLETIN NO.: MGR-12-003.1

Farm and Foreign
Agricultural
Services

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

Risk
Management
Agency

FROM: William J. Murphy /s/ *William J. Murphy* 10/4/2012
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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...."

While 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, it was never the intent of the Federal Crop Insurance Corporation (FCIC) to require the AAA to arbitrate all disputes. However, 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.

FCIC is establishing these rules to provide an alternative process for filing a demand for arbitration solely for the purposes of allowing for arbitration with other than the AAA. Nothing in these procedures waives, amends, or modifies any provisions of the Common Crop Insurance Policy Basic Provisions or the deadlines contained therein. This bulletin supersedes previously issued Manager's Bulletin MGR-12-003.

ACTION:

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



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

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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.
2. If all parties elect not to have AAA arbitrate their dispute:
 - a. Arbitration may be initiated by filing a copy of the demand with the AIP. The demand shall clearly state a demand for arbitration and shall contain a statement of the nature of the dispute, including a short statement of facts and identification of the policy provision upon which the policyholder relies, 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 in writing.
 - c. Each party may nominate up to 5 arbitrators to hear the case. The parties must mutually agree to use one or more of the nominated arbitrators. If the parties fail to agree on an arbitrator or another mutually acceptable case management service as an alternative to the AAA, then the policyholder must file a demand with the AAA.
 - d. The 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, the AIP 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. If any party decides to seek removal of a selected arbitrator for cause, that party shall give notice to all other parties, and the claimant(s) shall re-file the arbitration demand with the AAA or another mutually acceptable case management service, at which point the arbitration file shall be transferred to the service for all further proceedings, including disposition of the for cause removal motion.

- 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.
- 3. The alternative procedures set forth above in Paragraph 2 shall be effective for any request for arbitration after the date of issuance of this Bulletin. In addition, the alternative procedures set forth in Paragraph 2 shall apply to all policies sold under the authority of the Federal Crop Insurance Act.

DISPOSAL DATE:

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