



United States
Department of
Agriculture

Risk
Management
Agency

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INFORMATIONAL MEMORANDUM PM-07-047

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

FROM: Tim B. Witt /s/*Tim B. Witt*
Deputy Administrator

SUBJECT: Clarification to the Nursery Crop Insurance Provisions, the Nursery Underwriting Guide (Underwriting Guide) and the Nursery Loss Adjustment Standards Handbook (LASH)

Several issues have been raised by Approved Insurance Providers (AIPs) regarding the Nursery Crop Insurance Provisions, Underwriting Guide and LASH. The issues and applicable clarifications are as follows:

Issue 1: The Missing Sizes Special Provisions of Insurance (SPOI) statement for 2008 gives an example of what price is used when there is one plant at the nearest size to the damaged plant. What price is used when there are two plants at the nearest size to the damaged plant?

The Missing Sizes SPOI says the following:

“If at time of loss it is determined that the size of a damaged plant is not listed in the nursery catalog or price list, but the genus, species, subspecies, variety or cultivar is listed in the nursery catalog or price list, the wholesale price for the missing plant will be determined using the lower of the price determined from the calculation below or the price in the EPL/PPS:

- a) Divide the price from the catalog or price list *for the plant at the nearest size* to the damaged plant by the price in the EPL/PPS for the same-sized plant to determine a proration factor; and
- b) Multiply the EPL/PPS price that corresponds to the size of the damaged plant by the proration factor.

For example: The nursery’s catalog or price list has an *Agastache* ‘Firebird’ listed in a 3-gallon container. At the time of loss, the *Agastache* ‘Firebird’ is growing in a 2-gallon container. The nursery’s catalog price for a 3-gallon *Agastache* ‘Firebird’ is \$12.00; however, a price for a 2-gallon size is not listed. The EPL/PPS 3-gallon *Agastache* ‘Firebird’ price is \$15.00 and the EPL/PPS 2-gallon *Agastache* ‘Firebird’ price is \$9.00. The wholesale price will be \$7.20 (\$12 catalog price/\$15 EPL/PPS price = .80 proration factor X \$9.00 EPL/PPS price).”



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For example, the insured lists a 1-gallon and 3-gallon *Agastache* 'Firebird.' The *Agastache* 'Firebird' is damaged in a 2-gallon container but there is no price listed in the catalog for the

Agastache 'Firebird' in a 2-gallon container.

The EPL/PPS shows the 2-gallon at \$9.00.

The insured's catalog shows the 1-gallon at \$6.00 and the 3-gallon at \$12.00.

The EPL/PPS shows the 1-gallon at \$7.00 and the 3-gallon at \$15.00.

Clarification 1: When there are two sizes that are "at the nearest size" to the damaged plant, use the following calculation:

- (i) Add the two equally-distant prices from the catalog.
- (ii) Add the two equally-distant prices from the EPL/PPS.
- (iii) Divide the sum of the two prices from the catalog or price list for the plant at the nearest sizes to the damaged plant by the sum of the two prices in the EPL/PPS for the same-sized plant to determine a proration factor; and
- (iv) Multiply the EPL/PPS price corresponding to the size of the damaged plant by the proration factor.

Using the example given: The nursery's catalog has an *Agastache* 'Firebird' listed in a 1-gallon and in a 3-gallon container. At the time of loss, the *Agastache* 'Firebird' is growing in a 2-gallon container. The nursery's catalog lists a price for a 1-gallon *Agastache* 'Firebird' at \$6.00 and a price for a 3-gallon *Agastache* 'Firebird' at \$12.00. However a price for a 2-gallon *Agastache* 'Firebird' is not listed. The EPL/PPS 1-gallon *Agastache* 'Firebird' is \$7.00, the EPL/PPS 2-gallon *Agastache* 'Firebird' price is \$9.00, and the 3-gallon *Agastache* 'Firebird' price is \$15.00. The wholesale price will be \$7.36 ($(\$6.00 + \$12.00) = \18.00 catalog price / $(\$7.00 + \$15.00) = \$22.00$ EPL/PPS price = .818 proration factor X \$9.00 EPL/PPS price = \$7.36).

The Missing Sizes SPOI was not in effect for the 2007 crop year. Therefore, for the 2007 crop year, if the size of the damaged plant is not listed in the catalog or price list, then the price used for that size will be the price for the same size listed in the EPL/PPS.

Issue 2: In what instances are the AIPs allowed to revise the Plant Inventory Value Report (PIVR) downward if it is discovered the inventory value has been over-reported?

Clarification 2: Section 13 D of the 2007 and 2008 Underwriting Guide allows downward revisions on the PIVR to 1) decrease values for plants damaged before acceptance of the application or before insurance attaches for carryover policies; 2) decrease the values for plants with deferred damage when the amount of damage to the plants could not be determined at the time of the pre-acceptance inspection and insurance is denied or value reduced for such plants; 3) decrease the values for plants with deferred

damage when the amount of damage to the plants could not be determined during a loss inspection from a previous crop year; 4) delete uninsurable plants; and 5) correct clerical errors. Additionally, in the case of a loss, the insured's indemnity will be based on the FMV-A, which is the value of the inventory immediately prior to the loss, rather than the inventory reported on the PIVR.

Issue 3: The Risk Management Agency (RMA) was given the following scenario: a policyholder has 100 acres, only five of which were damaged. The loss adjuster completed the claim on the five acres and, instead of accounting for each plant in the remaining 95 acres, relied on the inventory value reported on the PIVR as field market value A (FMV-A). Is the loss adjuster allowed to work the claim on the damaged acres or must the claim be worked on the entire nursery, regardless if there is no damage on the remaining acres?

Clarification 3: The loss adjuster must work the claim on the basic unit(s) that comprises the damaged plants. Because nursery inventories fluctuate on a day-to-day basis, it is not possible for the loss adjuster to determine FMV-A using the inventory value reported on the PIVR at the time insurance attaches, because FMV-A must represent the value of undamaged insurable plants in the basic unit immediately prior to the occurrence of any loss. Therefore, as provided in section 7 D(1) of the 2006 Nursery LASH, which was reissued for the 2007 crop year, an inventory (including the number of plants, plant prices, and the amount of plant damage) of the damaged and undamaged plants in the damaged basic unit must be conducted by the loss adjuster at loss time to determine the amount of the loss.

DISPOSAL DATE:

This memorandum expires when incorporated into the Underwriting Guide and LASH.