

removed from the unit after our appraisal, we will conduct an additional appraisal that will be used to determine your production.

(2) Failure to give timely notice that production will be sold by direct marketing will result in an appraised production to count of not less than the production guarantee per acre if such failure results in an inability to make an accurate appraisal.

(b) If you intend to claim an indemnity on any unit, you must notify us 15 days prior to the beginning of harvest or immediately if damage is discovered during harvest so that we may inspect the damaged production.

(1) You must not destroy the damaged crop until after we have given you written consent to do so.

(2) If you fail to meet the requirements of this subsection, and such failure results in our inability to inspect the damaged production, we may consider all such production to be undamaged and include it as production to count.

#### 11. Settlement of Claim.

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

(1) For any optional unit, we will combine all optional units for which acceptable production records were not provided; or

(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.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage for each type, if applicable, by its respective production guarantee;

(2) Multiplying each result in section 11(b)(1) by the respective price election for each type, if applicable;

(3) Totaling the results in section 11(b)(2);

(4) Multiplying the total production to be counted (see section 11(c)) by type, if applicable, by the respective price election;

(5) Totaling the results in section 11(b)(4);

(6) Subtracting the results in section 11(b)(5) from the results in section 11(b)(3); and

(7) Multiplying the result in section 11(b)(6) by your share.

For example:

You have a 100 percent share in 50 acres of early variety A in the unit, with a guarantee

of 140 bushels per acre and a price election of \$16.00 per bushel. You are only able to harvest 6,000 bushels due to an insured cause of loss. Your indemnity would be calculated as follows:

(1) 50 acres × 140 bushels = 7,000 bushel guarantee;

(2) 7,000 bushels × \$16.00 price election = \$112,000.00 value of guarantee;

(4) 6,000 bushels × \$16.00 price election = \$96,000.00 value of production to count;

(6) \$112,000.00 – \$96,000.00 = \$16,000 loss; and

(7) \$16,000 × 100 percent = \$16,000 indemnity.

(c) The total production 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:

(A) That is abandoned;

(B) That is sold by direct marketing if you fail to meet the requirements contained in section 10 of these Crop Provisions;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide production records that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production;

(iv) Potential production on insured acreage that you intend to abandon or no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end. If you do not agree with our appraisal, we may defer the claim only if you agree to continue to care for the crop. We will then make another appraisal when you notify us of further damage or that harvest is general in the area unless you harvested the crop, in which case we will use the harvested production. If you do not continue to adequately care for the crop, our appraisal made prior to deferring the claim will be used to determine the production to count; and

(2) All harvested production from the insurable acreage.

#### 12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions are not applicable.

[75 FR 15607, Mar. 30, 2010]

**PART 458 [RESERVED]**