

## ***3<sup>RD</sup> Party Damage/or Unavoidable Uninsured Fire***

### **I. Crop Insurance-MPCI**

#### **UUF/3<sup>rd</sup> Party Damage:**

- Is not an insurable cause of loss.
- No indemnity is paid for these losses.
- No premium adjustments are made for acreage damaged by a UUF or a 3<sup>rd</sup> Party.
- Timely Notice of Loss (NOL) is required.
- Acres and Production from UUF or 3<sup>rd</sup> Party damage may be excluded from the APH database.
- Production from undamaged acreage will be included in the APH database.
- It is considered a year of producing the crop and a year of production reports for continuity when all of the acreage for a crop year within an APH database is damaged by a UUF or a 3<sup>rd</sup> Party.
- The acreage damaged by a UUF or a 3<sup>rd</sup> Party is reported on the acreage report as Insured – UUF or 3<sup>rd</sup> Party damaged acreage in any of the four most recent CYs is used in the determination of the maximum number of eligible PP acres.

### **II. Production**

- . Must keep production separate from Damaged to Non-Damage acres.
- . Filing a timely NOL is considered the insured's request to exclude acreage and production impacted by a UUF or 3<sup>rd</sup> Party damage
- . If Even if a timely NOL is filed, insured can still choose to report production from UUF or 3<sup>rd</sup> Party damaged acres and include it in the APH database.
- . Insured must sign the APH database before the PRO to indicate their choice to not exclude the UUF or 3<sup>rd</sup> Party damaged acreage/production or to Exclude.
- . If NOL is not provided or not provided timely, these procedures are not applicable.
- . The production and acreage from the remaining acreage not damaged by a UUF or a 3<sup>rd</sup> Party is included in the APH database and is used to calculate the approved APH yield.

### **III. If Claim occurs on non-3<sup>rd</sup> Party damage:**

Example – 100 acres of Beans

- 50 acres was 3<sup>rd</sup> party damage (Chemical Drift) Hopefully got paid by farmer that did it or Co-Op .
- The unit has a 50BU APH
- Farmer Purchased 80% coverage = 40 Bu guarantee
- On the non-3<sup>rd</sup> party damage of the 50 acres harvested 35 BU
- The whole unit of beans 100 acres would get paid 5 BU
  - o No matter what the 3<sup>rd</sup> party damage production was.
    - Unless damaged crop produced more than non-damaged crop
- Must keep production separate from Damaged to Non-Damage acres.



## **UNAVOIDABLE UNINSURED FIRE (UUF)/3<sup>RD</sup> PARTY DAMAGE CHANGES TO APH DATABASE FOR 2017 PRODUCTION REPORTING**

A previously released DCIS memo dealt with chemical drift and the effects on Claims and the APH database. RMA has added language to the 2018 Crop Insurance Handbook (CIH) which changes how certain uninsured causes of loss affect the APH database. In particular, damage due to Unavoidable Uninsured Fire (UUF) or a 3<sup>rd</sup> Party. This language can directly affect how damage from a UUF or a 3<sup>rd</sup> Party will impact an insured's APH database, including the reporting of 2017 production. It provides the insured the option of excluding such damaged acreage and production from the APH database.

Para. 1236, Para. 1305D, Para. 1305G and Para. 1306D of the 2018 CIH provide detailed information regarding UUF or 3<sup>rd</sup> Party damage and the option that is now available for insureds.

Several areas of the country have been affected by UUF or 3<sup>rd</sup> Party damage, e.g. chemical drift. As such, we wanted to provide some of the more important details as to the changes in the CIH language. This memo is to provide general guidance, not specific guidelines for all scenarios. There may be individual situations which are not adequately addressed.

### **UUF/3<sup>rd</sup> Party Damage:**

- Is not an insurable cause of loss.
- No indemnity is paid for these losses.
- No premium adjustments are made for acreage damaged by a UUF or a 3<sup>rd</sup> Party.
- Timely Notice of Loss (NOL) is required.
- Acres and Production from UUF or 3<sup>rd</sup> Party damage may be excluded from the APH database.
- Production from undamaged acreage will be included in the APH database.
- It is considered a year of producing the crop and a year of production reports for continuity when all of the acreage for a crop year within an APH database is damaged by a UUF or a 3<sup>rd</sup> Party.
- The acreage damaged by a UUF or a 3<sup>rd</sup> Party is reported on the acreage report as Insured – UUF or 3<sup>rd</sup> Party damaged acreage in any of the four most recent CYs is used in the determination of the maximum number of eligible PP acres.

### **UUF or 3<sup>rd</sup> Party Damage Criteria:**

1. NOL must be filed in accordance with policy and procedures in the LAM.
  - a. Filing a timely NOL is considered the insured's request to exclude acreage and production impacted by a UUF or 3<sup>rd</sup> Party damage.
  - b. If NOL is not provided or not provided timely, these procedures are not applicable.
  - c. For 2017 production reporting only, the timely NOL requirement is waived. However, DCIS must still be able to verify the cause of loss was due to a UUF or 3<sup>rd</sup> Party damage.
    - The burden of proof is on the insured to prove that the cause of loss was due to a UUF or 3<sup>rd</sup> Party damage.
    - No waiver for loss situations. NOL still required.
  - d. Even if a timely NOL is filed, insured can still choose to report production from UUF or 3<sup>rd</sup> Party damaged acres and include it in the APH database.
    - Insured must sign the APH database before the PRD to indicate their choice to **not** exclude the UUF or 3<sup>rd</sup> Party damaged acreage/production.





**UUF or 3<sup>rd</sup> Party Criteria (cont'd):**

2. A total production loss on the damaged acreage is not required.
3. Request must be made the initial year the production from the acreage damaged by a UUF or a 3<sup>rd</sup> Party is reported on the production report by the PRD and continues to apply in subsequent years.
4. Insured can recertify production in a subsequent year to include acreage and production from acreage damaged by a UUF or a 3<sup>rd</sup> Party in the APH database.
5. All acreage and production for the unit/database damaged by a UUF or a 3<sup>rd</sup> Party must be excluded if any is excluded.
6. The production and acreage from the remaining acreage not damaged by a UUF or a 3<sup>rd</sup> Party is included in the APH database and is used to calculate the approved APH yield.

**Production Reporting:**

1. The UUF or 3<sup>rd</sup> Party damaged planted/insurable acres are reported separately from acreage not damaged by a UUF or a 3<sup>rd</sup> Party on the production report.
  - a. Production cannot be commingled with production from undamaged acres.
2. When all of the acreage within an APH database was damaged by a UUF or a 3<sup>rd</sup> Party:
  - a. If the production was completely destroyed on the damaged acreage:
    - i. Report total acres.
    - ii. Report production as Null "0".
    - iii. "0" actual yield is not included in the calculation of average, rate, adjusted or approved APH yield.
  - b. If there is some production from the damaged acreage:
    - i. Report total acres – "0" acres will be shown in the APH database.
    - ii. Report production and identify it as from acreage damaged by a UUF or a 3<sup>rd</sup> Party on the production report – production will show as "0" in the APH database.
    - iii. "0" actual yield is not included in the calculation of average, rate, adjusted or approved APH yield.
3. When part of the acreage within an APH database was damaged:
  - a. Report the UUF or 3<sup>rd</sup> Party damaged planted/insurable acres separately from acreage not damaged by a UUF or a 3<sup>rd</sup> Party on the production report.
  - b. Production cannot be commingled with production from undamaged acres.
  - c. If the production was completely destroyed on the damaged acreage:
    - i. Report damaged acreage on the production report.
    - ii. Report production as "0" – "0" actual yield is not included in the calculation of average, rate, adjusted or approved APH yield.
  - d. If there is some production from the damaged acreage:
    - i. Report damaged acreage and production from such acreage, if any, on the production report – production will show as "0" in the APH database.
    - ii. "0" actual yield is not included in the calculation of average, rate, adjusted or approved APH yield
    - iii. If production from UUF or 3<sup>rd</sup> Party damaged acreage is commingled with production from the acreage not damaged by a UUF or a 3<sup>rd</sup> Party and cannot be reported separately on the production report, the damaged acreage and production must be included in the APH database.





## Diversified Crop Insurance Services

### Example 1:

In May, 2017, Joe Farmer planted 150 acres of non-irrigated corn in unit 0001-0001 (all contained within one APH database).

In July, 50 acres were damaged by spray drift from a neighbor's field.

Joe timely filed a Notice of Loss within 72 hours of initially discovering the damage.

AIP determined the cause of loss was due to 3<sup>rd</sup> Party damage based on info provided by Joe.

Since the requirements for 3<sup>rd</sup> Party damage were met, only the production from the 100 acres undamaged by the spray drift is included in the 2018 and subsequent years' APH database.

2017 APH DATABASE					2018 APH DATABASE			
YEAR	PROD	ACRES	YIELD		YEAR	PROD	ACRES	YIELD
2007	11250	150	A75		2008	11100	150	A74
2008	11100	150	A74		2009	12040	140	A86
2009	12040	140	A86		2010	8450	130	A65
2010	8450	130	A65		2011	12150	150	A81
2011	12150	150	A81		2012	10005	145	A69
2012	10005	145	A69		2013	10950	150	A73
2013	10950	150	A73		2014	12040	146	A64
2014	12040	146	A64		2015	3750	150	A25
2015	3750	150	A25		2016	14250	150	A95
2016	14250	150	A95		2017	8000	100	FA80
APPROVED APH 707/10 = 71					APPROVED APH 712/10 = 71			



### Example 2:

In May, 2017, Sue Rancher planted 100 acres of non-irrigated corn in unit 0001-0001 (all contained within one APH database). In August, sparks from a train started a fire that destroyed the corn on the 100 acres. Sue timely filed a Notice of Loss within 72 hours of the fire. AIP determined the cause of loss was due to a UUF (Unavoidable Uninsured Fire).

The AIP determined the requirements for UUF were met and all of the acreage in the APH database was damaged.

The 2017 crop year is included in the APH database with:

- A null value for production and yield
- The actual number of acres that were planted/insured and subsequently damaged

The 2017 crop year is not included in the calculation of:

- Average yield
- Rate yield
- Adjusted yield
- Approved APH yield

2017 APH DATABASE					2018 APH DATABASE			
YEAR	PROD	ACRES	YIELD		YEAR	PROD	ACRES	YIELD
					2008	11100	150	A74
2008	11100	150	A74		2009	12040	140	A86
2009	12040	140	A86		2010	8450	130	A65
2010	8450	130	A65		2011	12150	150	A81
2011	12150	150	A81		2012	10005	145	A69
2012	10005	145	A69		2013	10950	150	A73
2013	10950	150	A73		2014	12040	146	A64
2014	12040	146	A64		2015	3750	150	A25
2015	3750	150	A25		2016	14250	150	A95
2016	14250	150	A95		2017		100	FD0
APPROVED APH 632/9 = 70					APPROVED APH 632/9 = 70			

If you have questions regarding UUF, 3<sup>rd</sup> Party damage or other uninsured causes of loss, please contact your Regional Office or Regional Claim Manager.