

SMOKE TAIN INSURANCE – FREQUENTLY ASKED QUESTIONS

As wildfires again threaten communities in California and beyond, many grape growers have faced a difficult harvest made even more challenging by the fast-moving fires and smoke that has filled the region. Even for the vineyards that have been spared from the ravages of fire, extreme smoke conditions can taint the grapes.

As a general recommendation, **producers who believe their crop has been impacted by fire, smoke or excessive heat should file a crop insurance claim with their crop insurance agent.** To provide further guidance for our customers and other grape growers, we have compiled some of the most common questions about smoke taint and crop insurance.

You can reference the information below when talking to your crop insurance agent about filing a claim.

Please note: This material is for informational purposes only and cannot be relied on to replace your own judgment or that of the risk management professionals you work with, in assessing the accuracy or relevance of the information to your own operations.

Are losses from resulting conditions of wildfire, such as smoke taint, an insurable cause of loss?

Yes, this is an insurable cause of loss for certain crops including wine grapes.

What is a notice of damage and when do I need to contact my agent?

All policyholders who believe their crop has been impacted should contact their insurance agent immediately upon recognizing potential impact and open a notice of damage.

A notice of damage is to be filed by the policyholder **within 72 hours** of the policyholder's initial discovery of damage, but not later than 15 days after the end of the insurance period (for wine grapes in California, harvest or November 10th, whichever occurs earlier).

What happens next after I file a notice of damage?

After the insurance provider receives notice of damage, it will be processed and, if necessary, a loss adjuster will be sent to inspect the damaged crop and gather information concerning the damage. If the policyholder wishes to destroy or not harvest the crop, the loss adjuster will gather the necessary information, conduct an appraisal to establish the crop's remaining value and complete any forms needed.

If the crop has been harvested or will not be harvested by the end of the insurance period, and the policyholder wishes to file a claim for indemnity, the loss adjuster will gather the appropriate information and assist the policyholder in filing the claim for indemnity. It is the policyholder's responsibility to establish the time, location, cause and amount of any loss.

How do I know if my grapes are eligible for a crop insurance claim?

There are three criteria used to determine if wine grapes have been tainted by smoke. At least one of these criteria must be met to be eligible for a crop insurance claim.

1. The fruit is rejected prior to harvest.

You will need to obtain a smoke taint test from a lab. You will also need a rejection letter from the winery stating what fruit is being rejected and the reason (smoke taint due to multiple wildfires, etc.). You will be assessed a harvest fee for unharvested fruit. That fee will vary based on the county; the fee in Sonoma County is \$200/ton.

2. Fruit is harvested and then juice needs to be disposed of.

You still need the smoke taint test prior to harvest, weigh tags and a rejection letter from the winery. The winery will need to keep that juice separate and the insurance company has the right to witness disposal. We will need to notify the company where and when the disposal will take place. **If the juice is mixed and loses its identity, it is no longer covered.**

3. Fruit is harvested and made into wine, but the price is reduced due to smoke.

You may be eligible for payment based on the Quality Adjustment Calculation. This will depend on how many tons are harvested and the price. A smoke taint test is still needed prior to harvest accompanied by a letter from the winery.

All crop insurance policyholders are encouraged to open a notice of damage and get a smoke taint test completed as soon as possible. Due to the broad impact of wildfires across multiple growing regions, laboratories have become backlogged and many are experiencing delays in returning test results.

I opened a claim in early September and do not expect to harvest for another three weeks. Fermentation will take another 5-7 days, and this may extend us beyond the 60-day period related to the notice of damage. Do we need to extend our notice of damage?

No. The 60-day period is the deadline to file a late notice of damage. If you have filed a notice of damage, you are within the qualifying period and do not need to extend it.

I don't have crop insurance. What are my options?

In 2017, 2018 and 2019 the USDA announced disaster assistance programs (WHIP and WHIP+). These programs offered assistance to agricultural producers impacted by Wildfire, Hurricane and other natural disasters. A program for 2020 losses has not been announced as of 9/29/2020.

Visit the USDA Disaster Resource Center for more information: www.usda.gov/topics/disaster

I picked one block of grapes and the winery asked us to wait to pick the rest. Now I have heat damage. Do I have a claim?

All types of damage should be reported as they occur. Heat is a covered cause of loss. It will be up to the adjuster to determine if the heat damage occurred within the normal growing season.

Is there a price per ton reduction if the crop is unharvested?

Yes. There is a \$200 per ton harvest fee assessed for unharvested fruit as specified in the Grape Special Provisions of your policy.

Could a winery reject or make a price reduction after the wine is in barrels?

Yes, this is possible. Know that you will have to wait to collect from your claim until a final determination of smoke taint is made. We recommend that you have a discussion with the winery and understand that your claim will not be paid until the final determination on quality is complete.

What happens if we crush and the wine becomes unmarketable?

You may be able to recoup losses through a quality adjustment calculation. To qualify for this type of claim, the new price must be at least 25% lower than the crop insurance established price or current market price, whichever is

lower. This is not your contracted price, but the crop insurance established price or current market price for the grape variety as evidenced by the adjuster.

Can a grower's insurance policy cover a winery's costs if the wine needs to be disposed of?

No. Crop insurance will not cover the winery's costs to dispose of the wine. Insurance only covers the fruit that came off the vine. Please note, an insurance representative will likely need to witness the disposal.

What is the test level required to validate a smoke taint claim?

The Risk Management Agency (RMA) defines "any elevated level" of guaiacol or 4-methylguaiacol eligible for a smoke taint claim. Most laboratory instruments cannot detect below 0.5 parts per billion (ppb) to confirm smoke taint damage. If your test results return "not detectable" or <0.5 ppb you may wish to complete a micro-ferment and test for elevated compounds in the juice.

Are lab tests required to document losses due to smoke-taint? Does the lab test have to be from a third party?

The Grape Crop Provisions do not provide coverage for the inability to market the grapes for any reason other than actual physical damage from an insurable cause of loss. Therefore, lab tests are required to validate that the loss is from smoke that was due to a "wildfire" as the result of an insured COL and not due to market-related conditions. Lab tests must be performed by an independent lab, accredited lab, or other credible source (e.g., winery lab with the resources to perform such a test) and be approved by the Approved Insurance Provider (AIP).

Documentation must indicate the location of the field, the results of the test (may be attached), the lab name, and any accreditations that would indicate the lab/chemist was qualified to perform the appropriate test, such as by the Alcohol and Tobacco Tax and Trade Bureau.

Due the widespread nature of the wildfire smoke, approved local labs have been struggling to keep up with demand for testing. For a partial list of labs that test for smoke taint, please visit our Smoke Taint Information page: www.agloan.com/smoke-taint-information-for-wine-producers

What if a lab will not take my samples because they can't keep up with demand?

Unfortunately, this has been an issue for some wine growers who need to have samples tested. Producers who are refused by a lab should seek out another facility that conducts smoke taint testing and that is approved by the AIP. With smoke taint, the damage is not visible to the naked eye, so a lab test is essential.

If a winery wants to reduce my contract price after fermentation, do I need test results to warrant the price reduction? Does the reduction need to be approved by the crop insurance company? My crop insurance is at contract price, so will the insurance cover the difference between the new price and the contracted price?

That is what we call a quality adjustment. To qualify for this type of claim, the new price must be at least 25% lower than the crop insurance established price or current market price. This is not your contracted price, but the crop insurance established price or current market price for the grape variety.

If you have a pre-harvest sample that is at least 0.5 ppb, then you will not need further testing. If your test results came back "not detectable" or <0.5 ppb, then you will need a subsequent test on the wine. The winery will need to explain their reason for the reduced price in a formal letter indicating the variety and amount of fruit. Your claim will be paid at your contracted price as indicated on your summary of coverage.

If we are a grower and the labs are not able to return test results for smoke taint until November, what is the best way to ensure that we are following protocol with crop insurance?

First, make sure to submit a pre-harvest sample. The second step is to notify your agent and open a notice of damage. Those are the two most important things that you need to do.

There are a limited number of labs approved to handle smoke taint testing. Talk to your agent if you are not certain a lab is approved, and get samples sent in as soon as possible. If you are waiting for test results before you harvest and the fruit begins to deteriorate, you may run into issues with crop insurance. In this case, it is important to get an appraisal done if the fruit is ready to harvest. Be sure that you are asking for the appraisal when the fruit is ripe and ready to pick.

Contact a Risk Management Specialist

Shannon Antonini and Emily Carvajal are experienced risk management specialists for the wine industry and are based in Petaluma, CA. To open a notice of damage, please contact our Northern California Risk Management Team at 707-766-8498, santonini@agloan.com or ecarvajal@agloan.com.