

Unsealed Shingles

21. "Unsealed shingles" for the purposes of this Order are shingles that are partially or totally unsealed but do not exhibit visible creases, cracks, rips, or tears.
22. TWIA and TFPA agree that a sealed shingle that becomes unsealed by a covered windstorm constitutes "direct physical loss" under the TWIA and TFPA policies in effect.
23. TWIA and TFPA agree to implement adjuster and examiner training and issue clarifications in the claims manual and policyholder communications concerning unsealed shingles consistent with their agreement in Finding of Fact 22, providing explicitly that a shingle unsealed by windstorm is covered damage, and that the claims adjuster should investigate and report any evidence of the cause of the unsealing. TWIA and TFPA agree to implement a program of policyholder education regarding unsealed shingles.
24. TWIA and TFPA agree to, within 120 days from the date of this Order, perform the following search for claims in which the insured presented a claim on unsealed shingles and TWIA or TFPA denied the claim using what the 1/4/2011 Amended Proposal for Decision finds are ambiguous denial letters²: Identification of such claims will be accomplished by using each company's existing search capabilities to search electronically using keywords "lifted," "unsealed," "unadhered" or "unglued" or any hyphenated version of any of these words. Searches will be run against the examiner's outgoing correspondence that can be searched across all Hurricane Ike claim files on an automated basis. This paragraph excludes all claims in which (1) a lawsuit or SOAH contested case, other than SOAH Docket Nos. 454-09-6187.C and 454-11-3677.C, was filed, or (2) a demand letter or letter of representation has been received by TWIA or TFPA from an attorney or public adjuster, or (3) that has been settled by release, class action settlement, or appraisal award. Because the parties agree that there are bona fide disputes over determinations of causation, and the reasonableness of related claim denial correspondence, TDI, TWIA and TFPA stipulate that determinations made under this paragraph are not intended as an admission of a statutory or contractual liability, but are merely for settlement purposes only.
 - A. In the event TFPA's existing search capabilities do not enable an electronic search against outgoing correspondence across all Hurricane Ike claim files on an automated basis, TDI and TFPA agree to confer and attempt to reach an

² The Amended Proposal for Decision identifies these letters in PFD Findings of Fact 62-64 as correspondence from claims staff that either directly quoted or substantively paralleled portions of Reggie Warren 2/2/2009 memorandum without clearly distinguishing between the concepts of causation and damage.