MGR-22-008: Emergency Procedures for Crops Damaged by Hurricane Ian

View PDF

Date

October 11, 2022

To

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

From

Marcia Bunger, Administrator /s/ Marcia Bunger

Subject

Emergency Procedures for Crops Damaged by Hurricane Ian

Background

Hurricane Ian has caused catastrophic damage in Florida, North Carolina, South Carolina, and Virginia. The Risk Management Agency (RMA), in conjunction with Approved Insurance Providers (AIPs), recognizes the need for authorizing emergency procedures to streamline determinations on specific crops and accelerate the adjustment of losses and issuance of indemnity payments to crop insurance policyholders in impacted areas.

Many residents in impacted areas have been evacuated from their homes and some have lost their primary residences due to storm damage. The local infrastructure for normal day-to-day activities has and will continue to be disrupted as recovery progresses. Due to the destruction of communication lines and the limited ability to travel in the impacted areas, many policyholders may be unable to communicate with their agents to report losses within the 72-hour requirement specified in Section 14 of the Common Crop Insurance Policy, Basic Provisions (22.1-BR).

Action

RMA authorizes the use of these emergency procedures for all crops in Florida, North Carolina, South Carolina and Virginia.

Application of these emergency procedures is limited to those situations where the catastrophic nature of the losses due to insured perils is such that not authorizing these emergency procedures will result in unnecessary delays in administering the crop insurance program.

RMA is authorizing the following emergency procedures for AIPs to utilize, on a case-by-case basis, to assist impacted policyholders and increase the efficiency of making loss determinations

(1) If an AIP elects to use these emergency flexibilities, AIPs must record that these flexibilities were applied per MGR-22-008.

(2) For all claims utilizing these emergency loss adjustment procedures, AIPs must:

(a) Submit all information through the Policy Acceptance and Storage System (PASS) for applicable Appendix III to the Standard Reinsurance Agreement (SRA) record type P-21 with a simplified claim flag of “F;” and

(b) Document in each claim folder that these emergency loss adjustment procedures were applied. Record in the narrative of the Production Worksheet (PW): “Emergency Loss Adjustment procedures applied per MGR-22-008.”

(3) In lieu of requirements to report damage within 72 hours, RMA authorizes AIPs to consider individual circumstances in accepting delayed notices of loss in accordance with the Loss Adjustment Manual (LAM) Standards Handbook (FCIC-25010). Delayed notices of loss or delayed claims attributable to the hurricane do not require completion of the special report normally required by the LAM. Instead, document such in the narrative of the PW.

(4) AIPs may use reported acres certified on the acreage report as determined acres for claim purposes, unless:

(a) Acceptable measured acres as defined in the LAM are readily available (e.g., acreage measured during a previous inspection, precision farming records

available, etc.); or

(b) The loss adjuster can make a visual observation at the time of loss adjustment, and it is determined the reported acres certified on the acreage report appear unreasonable. In this case, the acreage must be determined according to LAM procedures. If the loss adjuster is unable to make a visual observation at the time of loss adjustment and the acreage seems excessive compared to historically-reported acreage, then use the acreage from past crop insurance measurements, precision farming records, previous acreage reports, Farm Service Agency (FSA) acreage reports, crop insurance claims, etc., to determine the acreage for the claim.

Note: Current FCIC-issued loss adjustment procedures do not require the use of FSA documents, such as aerial photos, FSA-578, etc., to verify crop acreage or share.

(5) Notifications may be sent electronically between the policyholder and their AIP/agent. Policyholders may provide policy-related information over the phone or by electronic methods to select policy elections by Production Reporting Date (PRD), Acreage Reporting Date (ARD), and Sales Closing Date (SCD). Policyholders and AIP/agents should retain appropriate documentation of the call or electronic communication. This authority also extends to options, endorsements, and other forms with SCD, PRD, or ARD deadlines.

If the policyholder sends their reports in such a manner, they will be required to either sign digitally at the time of their report submission or follow up with a properly signed form(s) no later than 60 calendar days after the initial reporting deadline provided in the actuarial documents.

(6) For crops (other than Nursery and Florida Fruit Tree) destroyed or damaged to the extent they will never be harvested (e.g., unable to mechanically harvest):

(a) On the entire unit:

(i) Complete the PWs, reflecting zero production to count; and

(ii) An appraisal worksheet is not required.

(b) On part of the unit, field, or subfield:

(i) Estimate the acreage in the field or subfield based on the certified acreage from the acreage report (refer to (4) above);

(ii) Complete the PWs, reflecting zero production to count for the destroyed/unharvestable field; and

(iii) An appraisal worksheet is not required on the destroyed/unharvestable acreage.

Note: This procedure only applies in situations where the crop is destroyed or damaged to the extent they will never be harvested. It does not apply in cases where the producer chooses not to harvest marketable fruit.

(7) In cases where the insured has requested to put the acres to another use and the crops are not destroyed on the unit or part of the unit:

(a) A minimum number of three representative samples per unit are required without regard to the size of acreage if the damage is consistent. If there are more than three fields or subfields within the unit, and the damage is consistent, only one representative sample per field or subfield is required. AIPs must notate as such in the narrative of the PW.

(b) Estimate the acreage in the field(s) or subfield(s) based on the certified acreage from the acreage report (refer to (4) above).

(c) Record the harvested or appraised production on the applicable appraisal or PW.

(8) When written consent is required per the Crop Provisions, AIPs may provide verbal consent to policyholders before they move, destroy, sell, or otherwise dispose of damaged crops, plants, or plant material, so that they may care for the remainder of their crop. The AIP may provide verbal consent and follow-up such consent in writing if:

(a) The policyholder provides or the AIP obtains sufficient photographic documentation of the specific crop, plant, or plant material in context to surroundings, to demonstrate the necessity to move or dispose of the material;

(b) The policyholder maintains an inventory of all such damaged crops, plants, and plant material by age, stage, commodity, size, type and practice, as

applicable to the crop that was moved, destroyed, sold, or otherwise disposed of; and

(c) The AIP returns to complete the appraisal and other claim activities and obtains a signed certification form (see LAM, Par. 831) from the policyholder for damaged crops, plants, and plant material that was moved, destroyed, sold, or otherwise disposed of.

(9) For situations where the edible portion of an insured crop has been exposed to flood waters:

(a) Follow procedures found in subparagraphs 1108 and 1102H(3) of the LAM on Flooded Crops and Zero Market Value (ZMV) Production.

(b) During the on-the-farm inspection, AIPs may finalize claims based on policyholder's signed certification that the production will be destroyed. This certification may be included in the narrative of the PW or on a separate certification form. The policyholder must sign and date the certification statement stating:

"I acknowledge my crop has been exposed to flood waters and is considered adulterated in accordance with FDA guidelines and:

(i) All such production will be destroyed in accordance with any applicable method prescribed by State or Federal regulations, as soon as possible but no later than December 31, 2022, unless an extension is granted by my AIP;

(ii) I understand that if any portion of my ZMV production is salvaged (sold, ginned, etc.), I will notify my AIP immediately, and that this will result in a corrected claim and will require repayment of any overpaid indemnity; and

(iii) I understand that I am responsible for maintaining photographic evidence, with the date and location identified, to verify destruction of the production. I understand that I am required to maintain this evidence for three years from the date of destruction."

(10) For situations where cotton has not been exposed to flood water, but is considered unable to be ginned due to an insurable cause of loss:

(a) Follow procedure found in subparagraph 1102H of the LAM on ZMV Production.

(b) The AIP must obtain documentation from the gin stating the cotton is unable to be ginned.

(c) During the on-the-farm inspection, AIPs may finalize claims based on the policyholder's signed certification that the production will not be ginned and will be destroyed. This certification may be included in the narrative of the PW or on a separate certification form. The policyholder must sign and date the certification statement stating:

"I will not attempt to have the cotton ginned and will destroy the production, utilizing a destruction method that will render the cotton unusable, as soon as possible but no later than December 31, 2022, unless an extension is granted by my AIP. I understand that if any portion of my ZMV production is salvaged (sold, ginned, etc.), I will notify my AIP immediately, and that this will result in a corrected claim and will require repayment of any overpaid indemnity."

(11) For Nursery Field Grown and Container (FG&C): In order to timely and accurately adjust nursery claims in all counties affected by Hurricane Ian, the following emergency procedures are approved for determining Field Market Value A (FMV-A) when the reported inventory values appear to be reasonable based on the AIP inspection of the damaged nursery crops. In the event the reported values do not appear to be reasonable, the AIP will not follow the procedures below, but will complete a thorough inventory count of the nursery to establish the correct FMV-A.

(a) The Crop Inventory Value Report (CIVR)/Plant Inventory Value Report (PIVR) that was accepted for coverage, or the most recent revised and accepted CIVR/PIVR, may be used to establish the beginning inventory.

(b) Obtain all records for plants sold, purchased, or propagated from the date of the applicable CIVR/PIVR up to the date of damage. Records must meet the requirements in Par. 20(C)(3)(b) of the Nursery Crop Insurance Standards Handbook (FCIC-24090) to be considered acceptable.

Exception: If an electronic inventory system including, daily inventory software, is utilized by the nursery that tracks inventory (including inventory that has been purchased, propagated, and sold) between the date the CIVR/PIVR was submitted

and the date of damage, information from this system may be considered acceptable records.

(c) The records will be used to determine the inventory prior to the hurricane event to calculate FMV-A and Field Market Value B (FMV-B).

(i) Sold plants will not be included in the determination of FMV-A or FMV-B.

(ii) Purchased and propagated plants will be included in the determination of FMV-A or FMV-B.

(d) Calculate under-report or over-report factors, if applicable.

(12) For Nursery Value Select (NVS): In order to timely and accurately adjust nursery claims in all counties affected by Hurricane Ian, the following emergency procedures are approved for determining pre-loss actual unit value and post-loss damage value when the reported inventory values appear to be reasonable based on the AIP inspection of the damaged nursery crops. In the event the reported inventory values do not appear to be reasonable, the AIP will not follow the procedures below, but will complete a thorough inventory count of the nursery to establish the correct pre-loss actual unit value.

(a) The approved sales value for each specific plant will be used when determining the pre-loss actual unit value and post-loss damage value.

(b) In lieu of the order of precedence in the definition of “approved sales value” in the NVS Crop Provisions, to determine the approved sales value pre-loss actual unit value and post-loss damage value, the AIP uses the insured’s wholesale catalog price for each specific plant multiplied by the difference between 1.00 and the largest percentage discount (calculated as a percentage if the discount is recorded as a dollar amount) that the insured provides to any buyer for any quantity of any specific plant.

(i) If the insured’s catalog does not contain all applicable discounts, the wholesale catalog price for the specific plant will be decreased by 10 percent; and

(ii) Notwithstanding 12(b) herein, discounts will not be applied to prices for plants grown under license from the holder of a patent issued by the US Patent and Trademark Office provided the license specifically establishes the

required sales price.

(iii) A discount stated as a dollar value relative to a specific dollar amount or a range of dollar amounts for a purchase will be converted to a percentage rate by dividing the dollar amount of such discount by the dollar amount to which such discount applies.

(13) For Florida Citrus Fruit Dollar Plan of Insurance:

(a) Due to the amount of immature fruit on the ground, it may not be practical to adjust citrus fruit losses using the ground count method; therefore, AIPs may utilize the hurricane procedures (Par. 22B(3)) contained in the Florida Citrus Fruit Loss Adjustment Standards Handbook (LASH), FCIC-25140.

(b) AIPs that use the hurricane procedures in (a) above to make loss determinations, must use verifiable records from at least the three previous crop years of records and up to five previous crop years of records may be used to determine the average yield (potential production).

Exception: Only in situations where verifiable records (harvest records, claim records, etc.) from at least the three previous years are not available, AIPs can contact the Valdosta Regional Office (RO) at rsoga@usda.gov for an average yield-based NASS value for the citrus commodity and age of the tree. AIPs must verify and document that they are not able to fulfill the certification of verifiable records requirement prior to contacting the Valdosta RO with this request.

(c) The Florida Citrus Fruit Crop Provisions (14-0026), Section 10(e) states: “for citrus fruit insured as fresh, unless otherwise provided in the Special Provisions, any individual citrus fruit not meeting the applicable United States Standards for packing as fresh fruit due to an insured cause of loss will be considered 100 percent damaged, except that the percent of damage for any production sold for an alternative use will be adjusted in accordance with section 10(d)."

(i) The appraisal method entitled “Fresh-fruit Hail-scar Damage Method” will be used for fresh market citrus commodities that suffered hurricane or tropical storm wind scar damage if the insured does not harvest (refer to Par. 22E of the Florida Citrus Fruit LASH).

(ii) If the policyholder harvests the crop as fresh fruit, packing records may be used in lieu of the hail-scar appraisal method to determine production to count.

(iii) If fruit insured as fresh is marketed for juice (including culls from packing the house), adjust the sold production in accordance with section 10(d) of the Florida Citrus Fruit Crop Provisions.

(d) For any harvested citrus crop grown and insured for juice production, harvested fruit processor records may be used in lieu of fruit on-tree appraisals for determinations of percent damage.

(e) In the event that a grove or sub-grove within a unit has fruit blown away by wind and/or carried away by flood, the hurricane procedures should be used. AIPs should establish the potential production prior to the damage occurring using the average production history determined from the insured's verifiable production records of fruit harvested and marketed from at least the previous three crop years of records, and up to five previous crop years of records may be used to establish potential boxes produced per tree prior to damage occurring for only the groves or sub-grove(s) with displaced fruit. Continue to use the ground count procedure for other grove(s) or sub-grove(s) in the unit that do not have displaced fruit.

When using the hurricane procedure in lieu of the ground count method, do not include ground counts with the potential production or harvested fruit.

Example: Insured commodity type is Valencia intended as fresh. Potential production from verifiable records equals two boxes per tree. After determination of pounds of juice per box of harvested production and application of the fresh fruit factor and the test house results, the harvested production was 0.4 boxes per tree. The loss is calculated by subtracting the harvested production from the potential production: two boxes per tree potential production minus 0.4 boxes per tree harvested production equals 1.6 boxes per tree (80% damage).

(f) When the loss adjuster (based on visual observations) determines damage to be consistent the minimum number of representative samples of trees for determining fruit-on-trees is shown on the following table:

Number of Acres	Select
10.0 or less	The lesser of 5 trees or 5% of the number of trees in the orchard (rounded to the nearest whole tree)
10.1 to 100.0	5 trees for the first 10 acres, plus 1 tree per additional 10.0 acres
100.1 or more	14 trees for the first 100 acres, plus 1 tree per additional 100.0 acres

(14) To expedite Florida Fruit Tree (FFT) loss adjustment, the following guidelines are approved to establish a deviation in the appraisal procedure as outlined in Paragraph 26 of the FFT LASH (FCIC-25570). For appraisal deviation purposes, loss adjusters working with policyholders, may designate blocks of damaged, undamaged, and destroyed trees. The following actions are authorized for FFT loss adjustment:

(a) Trees reported and certified on the acreage report prior to the date of loss may be used as the actual number of trees for claim purposes unless:

(i) An alternate, acceptable measure of the number of trees is readily available (e.g., number of trees determined during a previous inspection, insured provides a tree inventory record, etc.); or

(ii) It is determined (based on visual observation at loss adjustment time) that the reported number of trees appears to be unreasonable, in which case, the number of trees must be determined according to LASH procedure.

(b) Blocks of damaged trees require an appraisal worksheet as specified in the LASH.

(c) Blocks of undamaged trees do not require an appraisal worksheet but must be accounted for on the PW as outlined in item (14)(e) below.

(d) Blocks of trees destroyed with no remaining value do not require an appraisal worksheet.

(e) With the signed consent of the policyholder, loss adjusters may show blocks that are undamaged as a separate line item on the PW.

(f) The LASH instructs AIPs to account for the total number of trees in all stage-blocks present in the unit. The AIPs must also calculate the unit value for all claims and the unit deductible for non-occurrence loss option claims. In addition to the instructions for completing Section I of the PW, authority is granted to modify the PW instructions with the following replacements: “C. Undamaged trees in the unit” to allow undamaged trees to be accounted for on the PW and to add “D. trees totally destroyed.” Section I of the PW should be completed following the instructions in the Handbook with the following exceptions:

(i) Item A: Field ID: The grove identification symbol for the block of undamaged trees;

(ii) Item C: Enter the number of undamaged trees in the agreed upon block of trees;

(iii) Item D: Enter the number of trees totally destroyed in the agreed upon block of trees; and

(iv) Item L: % Damage: Enter “1.00” if there is no damage to the block. Enter “0.00” if the block is destroyed.

(15) For tobacco:

(a) AIPs discretion to waive the stalk inspection on a case-by-case basis.

(b) Loss of electrical power from Hurricane Ian to curing barns is an insurable cause of loss.

(c) At the time of loss adjustment, estimate the number of pounds of tobacco damaged by power outages or flooding in the curing barn or on-farm storage facility that has zero value and cannot be properly weighed.

(d) For production that the loss adjuster certifies is destroyed and has no value, use a certification statement in the narrative of the PW to waive the requirement to witness the destruction of the damaged tobacco.

(16) For crops resulting in a total uninsurable loss due to Hurricane Ian and no access to supporting production evidence (farm management records such as field harvest records, weight of production, bin or module measurements, etc.), AIPs may allow producers to elect to apply the UUF/3rd Party procedures in paragraph 1236

and Part 13 of the Crop Insurance Handbook (FCIC-18010) for APH purposes.

(17) In Crop Year 2019, RMA began using a targeted data mining approach to identify $200,000 reviews that are exempt. This resulted in a significant reduction in the number of reviews conducted. However, given the potential for widespread loss due to Hurricane Ian, Compliance will continue to monitor claims over $200,000 and if the level of claims in excess of $200,000 rises above 5% of all claims within the state, RMA may provide relief on the review requirement found in Appendix IV of the SRA.

RMA, working with AIPs, will issue additional emergency procedures as deemed necessary.

DISPOSAL DATE:
December 31, 2022