



United States  
Department of  
Agriculture

Risk  
Management  
Agency

1400 Independence  
Avenue, SW  
Stop 0801  
Washington, DC

**BULLETIN NO.: MGR-05-017.1**

**TO:** All Reinsured Companies  
All Risk Management Agency Field Offices  
All Other Interested Parties

**FROM:** James Callan /s/ Byron E. Anderson for Acting Administrator 10/19/2005

**SUBJECT:** Emergency Loss Procedures for Crops Damaged By Hurricane Rita

**BACKGROUND:**

On September 15, 2005, the Risk Management Agency (RMA) issued BULLETIN NO.: MGR-05-017, which authorized initial emergency loss adjustment procedures for crops damaged from Hurricane Katrina.

On September 24-25, Hurricane Rita damaged crops in some Texas counties as well as in some States and counties affected by Hurricane Katrina. RMA is authorizing emergency loss adjustment procedures that will streamline certain loss determinations on specific crops to accelerate the adjustment of losses and issuance of indemnity payments to crop insurance policyholders in the affected areas.

**ACTION:**

RMA hereby authorizes the use of emergency loss procedures in MGR-05-017 and this bulletin (MGR-05-017.1) to apply to the previously identified States and counties, and to the following Texas counties: Angelina, Brazoria, Chambers, Cherokee, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler and Walker. Application of the emergency procedures is limited to those situations where the catastrophic nature of the losses is such that not authorizing these emergency loss procedures would result in unnecessary delays in processing claims.

The Risk Management Agency Administrators  
And Oversees All Programs Authorized Under  
The Federal Crop Insurance Corporation

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There have been instances in the past where States have passed laws in these emergency situations that appear to affect Federal crop insurance policies. Regulations found at 7 C.F.R. § 400.352(a) state that no State or local governmental body has the authority to promulgate rules or regulations, pass laws, or issues policies or decisions that directly or indirectly affect contracts, or actions authorized by the Federal Crop Insurance Act (Act) unless such authority is specifically authorized by this regulation or by the Federal Crop Insurance Corporation (FCIC). As of this time, FCIC has not granted this authority to any State or local governmental body. Therefore, any State or local laws that conflict with any term of the policy, the regulations published at 7 C.F.R. chapter IV, or the Act are not applicable to Federal crop insurance policies.

RMA authorizes the following emergency procedures, in addition to the emergency procedures previously authorized in BULLETIN NO.: MGR-05-017:

**(1) NURSERY:**

In certain counties, some policyholders received damage from both hurricanes. If the approved insurance provider (AIP) is unable to separately determine the damage resulting from each hurricane, the losses can be aggregated and treated as one occurrence.

However, if separate losses have been determined for one of the hurricanes, any subsequent hurricane must be considered a separate occurrence for the purposes of determining the occurrence deductible.

**(2) COTTON:**

Section 14(a) of the Common Crop Insurance Policy Basic Provisions states in relevant part, "In case of damage to any insured crop you must: (1) Protect the crop from further damage by providing sufficient care; (2) Give us notice within 72 hours of your initial discovery of damage. . ."

In accordance with the Basic Provisions and considering the potential impact of Hurricane Rita, it was clearly a prudent measure for insured producers to move cotton modules to higher ground in an attempt to mitigate their loss if they are able to do so. AIPs, on a case by case basis, may insure policyholders who mitigated their loss by moving cotton modules to land owned or rented by the policyholder as long as the policyholder retains control of the cotton. If producers requested permission to move the cotton modules, the request by the producer to move the module can be considered their notice of loss in accordance with the policy.

**DISPOSAL DATE:**

This Manager's Bulletin will expire on May 31, 2006.