USDA Risk Management Agency
U.S. DEPARTMENT OF AGRICULTURE

MGR-24-006 Emergency Procedures for Crops Damaged by Hurricane Helene and Continuing Impacts from Hurricane Debby

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Date

October 3, 2024

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 Helene and Continuing Impacts from Hurricane Debby

BACKGROUND:

Hurricane Helene caused catastrophic damage in Alabama, Florida, Georgia, Kentucky, North Carolina, Ohio, South Carolina, Tennessee, Virginia, and West Virginia. There are also continuing impacts from Hurricane Debby in Florida, Georgia, North Carolina, and South Carolina. The Risk Management Agency (RMA) recognizes the need for authorizing emergency procedures to streamline certain determinations to accelerate the adjustment of losses and issuance of indemnity payments to crop insurance policyholders in impacted areas.

The local infrastructure for normal day-to-day activities has and will continue to be disrupted as recovery progresses. Due to the interruption of communication capability and the limited ability to travel in the impacted areas, many policyholders may be unable to communicate with their agents to purchase or make changes to their crop insurance policy or report losses within the Common Crop Insurance Policy, Basic Provisions (BP) 72-hour requirement.

Additionally, many policyholders may be unable to respond timely to premium billing and payment for Federally-Reinsured Policies. Section 24 of the BP and the Special Provisions state that interest will accrue starting the first day of the month, following issuance of the notice of premium due by the Approved Insurance Provider (AIP), provided that a minimum of 30 days have passed from the premium billing date.

Please note that RMA employees in the Jackson, Raleigh, and Valdosta Regional Offices (ROs) may have been impacted by the storm. Please feel free to contact them if you have questions in your region, but if you experience difficulty in contacting an RO, please contact the RMA Loss Adjustment Standards Branch at rma.lam@usda.gov.

ACTION:

RMA authorizes the use of these emergency procedures for all counties in Alabama, Florida, Georgia, Kentucky, North Carolina, Ohio, South Carolina, Tennessee, Virginia, and West Virginia impacted by Hurricanes Debby and/or Helene.

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 would 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 efficiency of AIP services and determinations:

(1) If an AIP elects to use these emergency flexibilities, AIPs must record that these flexibilities were applied per MGR-24-006.

(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-24-006.”

(3) In lieu of the 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 damage from Hurricanes Debby and/or Helene do not require completion of the special report normally required by the LAM. Instead, document such in the narrative of the PW.

(4) For Livestock Risk Protection, in lieu of the requirements to report livestock death within 72 hours after the insured’s knowledge of the livestock's death, RMA authorizes AIPs to consider individual circumstances in accepting delayed notices after the insured’s knowledge of the livestock’s death.

(5) 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 appears 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 Federal Crop Insurance Corporation (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.

(6) For crops (other than Nursery) 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 (5) 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 it will never be harvested. It does not apply in cases where the policyholder chooses not to harvest marketable production.

(7) In cases where the policyholder 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 (5) above).

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

(8) When written consent is required per the Crop Provisions (CP), 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 record 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, Paragraph 731) 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 Subparagraph 1002H(4) and Paragraph 1008 of the LAM on Zero Market Value (ZMV) Production and Flooded Crops.

(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 Food and Drug Administration (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, 2024, 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 Cotton: 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 1002H 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, 2024, unless an extension is granted by my AIP. I understand that if any portion of my ZMV production is salvaged (sold, ginned, fed, etc.), I will notify my AIP immediately; resulting in a corrected claim and 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 Hurricanes Debby and/or Helene, 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 Subparagraph 20(C)(3)(b) of the 2024 Nursery Crop Insurance Underwriting Guide (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 in order 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 Hurricanes Debby and/or Helene, 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 CP, to determine the approved sales value for 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 Tobacco:

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

(b) Loss of electrical power from Hurricanes Debby and/or Helene 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.

(14) For Livestock Gross Margin, RMA authorizes AIPs to count any livestock death because of Hurricanes Debby and/or Helene as actual target marketing for the purposes of the "85% rule" and be counted as marketed for the purposes of calculating the market factor.

(15) For crops resulting in a total uninsurable loss due to Hurricanes Debby and/or Helene with no access to supporting production evidence (farm management records such as field harvest records, weight of production, bin measurements, etc.), AIPs may allow producers to elect to apply the UUF/Third-Party procedures in

Paragraph 1236 and Part 13 of the Crop Insurance Handbook (FCIC-18010-1) for Actual Production History purposes.

(16) For crops damaged due to Hurricanes Debby and/or Helene, RMA ROs may issue new or revised Underwriting Guides to provide authority to the AIPs to determine approved yields in lieu of requesting RO Determined Yields; waive Perennial Crop Pre-Acceptance Inspection Reports (PAIRs) or extend the due date for PAIRs when excessive PAIRs are triggered by a regional issue; and/or provide additional guidance for information needed on certain types of RO Determined Yields.

(17) RMA uses targeted data mining to identify policyholders who are exempt from $200,000 reviews. However, given the potential for widespread loss due to Hurricanes Debby and/or Helene, Compliance will monitor claims over $200,000 and if needed will provide relief on the review requirement found in Appendix IV of the SRA.

(18) For the September 30, 2024, SCD, AIPs may accept insureds' requests to change coverage or apply for insurance if the request was sent via letter or electronically via email or text by the SCD. If the insured sent their request in such a manner, they will be required to follow up with a signed application or policy change form no later than October 31st. This procedure does not extend the SCD.

(19) Notifications may be sent electronically between the policyholder and their AIP/agent. Policyholders may select policy elections or provide policy-related information over the phone or by electronic methods by Sales Closing Date (SCD), Production Reporting Date (PRD), and Acreage Reporting Date (ARD). 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 PRD, ARD, or SCD 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.

(20) For crops with a September 30, 2024, termination date, AIPs may allow policyholders to pay any outstanding premium, fees, and associated interest by November 30, 2024, without losing eligibility for the subsequent crop year, provided

the policyholder meets all other eligibility requirements, complies with the terms of the policy, and there is no evidence of misrepresentation or fraud. If a policyholder fails to pay their debt or execute a written payment agreement by November 30, 2024, they will become ineligible to purchase crop insurance for the 2025 crop year, effective on the September 30, 2024, termination date. These crop insurance programs include for 2024 crop year: barley, canola, controlled environment, NVS, oats, potatoes, rye, triticale, and wheat, and for the 2023 crop year: sugarcane.

(a) In addition to 7 CFR part 400 (Subpart U), the BP, and the requirements contained in the General Standards Handbook (Part 7, Late Payment of Debt) (FCIC-18190), the AIP is delegated the authority, by the Administrator, to reinstate a policy meeting the conditions above, provided the policyholder meets all other eligibility requirements, complies with the terms of the policy, pays the outstanding debt in full or executes a written payment agreement by November 30, 2024.

(b) For all policyholders utilizing these emergency procedures, AIPs must transmit to the Ineligibility Tracking System (ITS) with the Ineligible Transaction Code of "49" (Debt Satisfied - Emergency Relief) for the policyholder and all applicable substantial beneficial interests.

(c) For additional guidance regarding the AIP processing with the ITS, please contact Dena Prindle or Jason Albright, Product Analysis and Accounting Division at (816) 823-3818.

(21) AIPs are authorized to provide additional time for policyholders impacted by Hurricanes Debby and/or Helene to make payment of premium and administrative fees. Interest accrual on premium payments and administrative fees, as noted above, will be waived for an additional 60 days of the scheduled payment due date on policies with premium billing dates between October 1, 2024, and November 30, 2024. AIPs will begin to accrue interest after the additional 60-day period for unpaid premium and administrative fees. AIPs should attempt to notify potentially affected policyholders of said relief.

(22) To assist the AIPs and provide relief from the requirements of the SRA and Livestock Price Reinsurance Agreement that all uncollected premium be paid to the FCIC, RMA will also defer collection of any unpaid producer premium and administrative fees and waive all associated interest from AIPs accordingly

beginning with the November monthly accounting reports.

(23) AIPs are also authorized to provide additional time for policyholders to make payment for Written Payment Agreements due between October 1, 2024, and November 30, 2024. Payments may be extended up to 60 days of the scheduled payment due date and considered a timely payment. Such extension of time will not be considered a modification of the Written Payment Agreement, and the AIP may waive any additional interest for the payment during this 60-day period.

(24) In accordance with section 18(e)(1) of the BP, AIPs are reminded that policyholders may be able to submit a request for a written agreement after the SCD, but on or before the ARD, if they are able to demonstrate the physical inability to submit the request (or required additional documentation) on or before the SCD.

RMA will continue to monitor the situation and issue additional emergency procedures, if necessary.

DISPOSAL DATE:
December 31, 2024