



United States
Department of
Agriculture

Risk
Management
Agency

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Washington, DC
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INFORMATIONAL MEMORANDUM

TO: All Reinsured Companies

FROM: David C. Hatch /s/ *Heyward Baker* for 3/28/2005
Acting Deputy Administrator, Insurance Services Division

SUBJECT: Asian Soybean Rust (ASR) Press Release and Questions and Answers

BACKGROUND:

Since ASR has been found in the United States, a variety of concerns have arisen from producers of soybeans and other legumes asking whether crop insurance will cover losses linked to the disease. The Risk Management Agency (RMA), has issued information about ASR and Federal crop insurance coverage on our Website www.rma.usda.gov, beginning July 2004 and will continue to update the site as necessary.

The disease is an insured peril under the Federal crop insurance program. However, as with all crop insurance policies and plans of insurance, farmers must use good farming practices to ensure that in the event of any naturally occurring disease outbreak, such as ASR, they will be eligible for an indemnity based on the full amount of loss. If good farming practices are not followed, production attributed to the failure to follow good farming practices is assessed, resulting in a reduction in the indemnity due the insured. If crops become infected, RMA recommends that insured producers document the date of discovery of the disease, any recommendations received from agricultural experts, and actions taken regarding the application of appropriate control measures. RMA will issue more detailed guidelines regarding good farming practice determinations and documentation requirements in the near future.

It is critical that all soybean crop insurance policyholders understand the position of the RMA and the Federal crop insurance program in regards to providing crop insurance coverage to soybean crops potentially affected by ASR. As with all matters related to the crop insurance policy, the primary responsibility to communicate such information to policyholders rests with the Approved Insurance Provider (AIP). In addition, RMA intends to continue to post information on the RMA Website and supplement and complement AIP communications on ASR through a variety of external parties.



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

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ACTION:

Attached is a press release and a list of questions and answers to help facilitate understanding of the issue. This information is not intended to address every situation that might occur in the field but should serve as an assurance that in most situations, when the policyholder has followed good farming practices as defined in the crop insurance policy, protection against yield losses resulting from ASR will be provided.

Please immediately distribute this information in a manner necessary to reach all affected policyholders and confirm with Heyward Baker, Director of the Risk Management Services Division at Heyward.Baker@rma.usda.gov when the information is distributed to all soybean policyholders.

RMA will continue to monitor issues associated with ASR working closely with other USDA and government agencies, University and Extension personnel, agricultural experts, and the AIPs and will provide additional guidance and information as necessary.

DISPOSAL:

This memorandum is for the purpose of transmitting/updating information and the disposal date is December 31, 2005.

Attachment (2):

cc: All Risk Management Field Offices
All Other Interested Parties

Attachment 1

James Callan (202) 720-8812
Shirley Pugh (202) 690-0437

FARMERS URGED TO DISCUSS SOYBEAN RUST CONCERNS WITH THEIR LOCAL AG EXTENSION EXPERTS AND CROP INSURANCE AGENT

WASHINGTON, March 24, 2005 –USDA’s Risk Management Agency (RMA) today encouraged insured producers concerned about the impact of Asian soybean rust to use good farming practices by seeking and following recommendations of agricultural experts to control soybean rust. Further, RMA recommends the insured producer document the advice received and actions taken to combat this disease.

“We encourage all producers to talk to their crop insurance agent to understand and comply with the terms of their crop insurance policy to ensure they will be adequately prepared to meet the challenges presented by this disease,” said RMA Administrator Ross J. Davidson, Jr. “While the disease is an insured peril under the Federal crop insurance program, damage due to the insufficient or improper application of available disease control measures is not.”

Under the terms of the Common Crop Insurance Policy, a practice is considered a good farming practice if agricultural experts agree that the production method used will allow the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee.

Failure to purchase and apply adequate control measures due to economic reasons is not an insurable cause of loss. Producers must be knowledgeable of any pending outbreaks and the control methods recommended by local agricultural experts, such as extension agents and certified crop consultants, used in their area to combat the disease.

Appropriate treatment may vary from timing of application (pre- or post-discovery of the disease), frequency, and choice of chemical or other determining factors. If crops become infected, RMA recommends that insured producers document the date of discovery of the disease, any recommendations received from agricultural experts, and actions taken regarding the application of appropriate control measures.

It is the approved insurance providers’ responsibility to verify that losses are unavoidable due to naturally occurring events. That includes verifying producers followed good farming practices or that chemicals or application equipment were not available or natural events (e.g., excessive moisture) precluded access to the crop to timely apply the recommended treatments.

As with all crop insurance policies and plans of insurance, farmers must use good farming practices. This insures that in the event of any naturally occurring disease outbreaks, such as soybean rust, producers will be eligible for an indemnity based on the full amount of the loss. If good farming practices are not followed, production attributed to the failure to follow good farming practices is assessed, resulting in a reduction in the indemnity.

Insured producers should follow developments as to the identification and spread of Asian soybean rust disease and continue to stay informed and updated concerning appropriate treatments that may apply to their situation. Producers can find the latest information on the spread of Asian soybean rust from local experts and from USDA's website at www.usda.gov/soybeanrust.

Information about Asian soybean rust control measures may be obtained from local chemical dealers, crop consultants, and plant pathologists in agriculture departments of State governments, universities, and USDA's Cooperative State Research, Education and Extension Service who are familiar with the risks of exposure to this disease.

For more information regarding good farming practices and crop insurance protection against Asian soybean rust, please see the crop policies area on the RMA website at <http://www.rma.usda.gov>

Attachment 2

Questions and Answers

1. RMA has issued a guidance about the need for producers to follow good farming practices when controlling Asian soybean rust and complying with Federal crop insurance policy provisions. Has RMA defined these good farming practices?

The definition of “good farming practices” is located in the Common Crop Insurance Policy Basic Provisions. Further, the terms referenced in the definition of good farming practices have also been defined for further clarity. To determine whether a disease control measure is a good farming practice, four questions must be answered by the agricultural expert -- whether the recommended disease control measures will:

- (1) Allow the insured crop to make normal progress toward maturity;
- (2) Produce at least the yield used to determine the production guarantee or amount of insurance, including any adjustments for late planted acreage;
- (3) Not reduce or adversely affect the yield if it is applied or not applied to the insured crop; and
- (4) Be generally recognized for the area or contained in the organic plan, as applicable.

If an answer to any of the above stated questions is negative, the disease control measure would not be considered a good farming practice.

2. Who should be considered the local agricultural expert regarding providing guidance in following good farming management practices?

Agricultural experts currently approved by RMA include plant pathologists who are employed by the Cooperative State Research, Education and Extension Service, the agricultural departments of States and universities, and certified crop consultants. Other persons may be qualified if their research or occupation is related to the specific crop or practice for which such expertise is sought. To obtain approval for such persons contact RMA’s Deputy Administrator for Insurance Services at USDA/RMA/Deputy Administrator for Insurance Services/Stop 0805, 1400 Independence Avenue SW., Washington, DC 20250–0805.

Websites such as www.ces.ncsu.edu/depts/pp/soybeanrust/index.htm, www.aphis.gov, www.soygrowers.com, www.stopsoybeanrust.com, www.soybeanrustinfo.com, www.usda.gov/soybeanrust, and www.epa.gov, may also contain helpful information about ASR treatments.

3. What are the obligations of the producer in dealing with this issue?

Producers are responsible to keep informed of Asian soybean rust outbreaks in their area and act appropriately to prevent or eradicate the outbreak. This includes frequently scouting their fields and documenting their findings. Just as with virtually all other diseases, soybean producers should consult an agricultural expert when Asian soybean rust becomes a threat in their area.

Producers must also follow recommendations from local agricultural experts to control or prevent the disease.

4. Some concerns regard the availability of fungicides to fight the disease. What will happen if there are not enough chemicals to properly treat soybean fields infected by Asian soybean rust?

The producer must make all efforts to obtain the recommended fungicides. If a producer is unable to obtain the needed fungicides prior to or during the time periods when such application is required, losses resulting from an Asian soybean rust infestation will be covered. Producers should document the circumstances and results of their efforts to obtain fungicides.

5. Considering the number of producers affected and the fact that many producers do not own their own applicators, will coverage be provided in the event there are not enough applicators to apply needed fungicides?

As with the availability of fungicides, the producer must make all efforts to obtain applicators. However, if the producer is unable to apply fungicides timely and at recommended levels because applicators are not available for use, losses resulting from an Asian soybean rust infestation will be covered.

6. What are the recommended applications for organic soybean producers?

Organic soybean producers should consult with their local organic agricultural industry person to determine recommended applications. The organic agricultural industry persons currently approved by RMA include plant pathologists who are employed by the following organizations: Appropriate Technology Transfer for Rural Areas, Sustainable Agriculture Research and Education or the Cooperative State Research, Education and Extension Service, the agricultural departments of States and universities, and certified crop consultants.

7. How will the Federal crop insurance program respond if recommended organic applications do not work against Asian soybean rust?

Organic production practices approved by a certifying agent are considered good farming practices and soybean producers are required to follow such good farming practices and the recommendations of the local organic agricultural industry persons. Organic producers are not required to do anything that may endanger their organic certification.

If the losses are unavoidable due to naturally occurring events and producers follow organic good farming practices, then Asian soybean rust is an insured cause of loss.

8. What are the chances that these organically approved applications will work against Asian soybean rust?

Only local organic agricultural industry persons are qualified to respond and such persons should be consulted.

9. What if the cost of chemicals or organic materials outweighs the benefits? Once I plant the crop, isn't it still insurable?

Economics are not a consideration in determining if good farming practices have been used. If rust infects or threatens an insured's soybean crop, to be eligible for the full amount of coverage, producers must apply the recommended applications and follow good farming practices regardless of cost. Failure to follow the recommendations of the agricultural expert or local organic agricultural industry persons because the producer does not want to or cannot afford to incur the costs associated with following the recommendations, because the costs associated with following such recommendations is greater than the value of the crop, or because the producer is unable to obtain financing is not considered a good farming practice.

If a producer chooses not to properly care for the crop, the crop is still insured. However, the losses associated with the decision to not care for the crop would be considered damage caused by uninsured causes and the production loss associated with such uninsured causes would be considered in the determination of production to count, resulting in a reduction in the indemnity.

For example if an application of disease control measures would prevent further losses of 5 bushels per acre, and the producer elects to not treat the crop, then crop insurance may cover other losses except that 5 bushels.

10. What if there is a control measure listed for Asian soybean rust in the organic plan and a newly approved control measure becomes available? Can the plan be amended?

Yes. The organic plan may be amended to include additional measures, should the need occur. Organic producers would need to contact their certifying agency. Consult the Organic Materials Review Institute at www.omri.org, or the USDA-National Organic Program at www.ams.usda.gov/nop, or, in the case of the Iowa Department of Agriculture and Land Stewardship (organic certification program), at www.agriculture.state.ia.us.

11. Should producers document their management practices?

It is strongly recommended that producers document their actions including any advice or opinions from agricultural experts or organic agricultural industry person and any actions taken in response to such advice or opinion. Acceptable documentation includes, but is not limited to, the following:

1. Data from local weather stations;
2. Published anecdotal records such as newspaper and magazine articles;
3. Farm Service Agency reports;
4. Written recommendations from extension agents or other agricultural experts (see crop insurance policy for a listing of qualified persons);
5. Printed information from Federal, state, university or extension official websites;
6. Other published information (facts sheets, bulletins, newsletters, etc) from:
 - A. Land grant universities;
 - B. Cooperative extension service; or
 - C. Independent third parties such as farm advisors or certified crop consultants.
7. Contemporaneous records of planting, spraying, scouting, harvesting and any other applicable farm practices such as journals, logs, etc. that contain the date the practice occurred and how it was carried out;
8. Contemporaneous journals, logs or notes of persons contacts, the date, and the information provided;
9. Chemical labels and brochures; and
10. Other records as determined necessary by the crop insurance company or RMA.

Unpublished documentation may be subject to verification.

12. To whom should producers go to for further information?

Producers that could be impacted by Asian soybean rust should talk with their chemical suppliers, certified crop consultants, and plant pathologists in agriculture departments of State governments, universities, and USDA's Cooperative State Research, Education and Extension Service who are familiar with the risks of exposure to this disease.

Producers should direct crop insurance questions to crop insurance agents and agronomic questions regarding production methods to local agriculture experts and organic agricultural industry persons.