

MARKET BULLETIN

From	Director, Worldwide Markets (extn 6677)
Date	23 January 2006
Reference	Y3732
Subject	Louisiana: mediation program for claims arising from Hurricanes Katrina and Rita
Subject areas	Personal lines claims for damage to residential property in Louisiana, arising from Hurricanes Katrina and Rita.
Attachments	Appendix: Louisiana Emergency Rule 22: summary of the mediation program
Action points	Managing agents to note requirements and ensure compliance
Deadlines	Immediate

Purpose of bulletin

To notify the market of the introduction of a new mediation program in Louisiana.

Louisiana Emergency Rule 22

The Louisiana Department of Insurance (“the Department”) has put in place an Emergency Rule (“the Rule”) setting up a mediation program for residential claims resulting from Hurricanes Katrina and Rita. The Rule can be found at [Emergency Rule 22](#).

A summary of key provisions of the Rule is set out in the attached appendix.

Managing agents should ensure that any coverholders with whom they work are aware of these provisions and will comply with them, particularly bearing in mind that not every coverholder affected will be located in Louisiana. It should be noted that if an insured requests mediation by contacting a coverholder this could be deemed notification to the insurer. We suggest that managing agents ensure that they are made aware of any such requests immediately, so that they can take appropriate action.

Further information

If you have any queries about this market bulletin, please contact Lloyd's Worldwide Market Services:

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This market bulletin has been sent to active underwriters and to the compliance officers of managing agents and Lloyd's brokers.

Julian James
Director,
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Appendix

Louisiana Emergency Rule 22: summary of the mediation program

Key points of the program include the following:

Insurances covered: Personal lines residential insurance claims resulting from Hurricanes Katrina and Rita in Louisiana. The Rule does not apply to commercial insurance, private passenger motor vehicle insurance or to liability coverage in property insurance policies.

Insurers covered: Insurers providing personal residential property coverage in Louisiana. The Department has informed local counsel that the Rule applies to surplus lines insurers doing business in Louisiana, such as Lloyd's underwriters.

Claims covered: Any Hurricane Katrina or Hurricane Rita claim on which there is a dispute or where the insurer has denied payment. The difference between the parties must be for \$500 or more, unless they agree to mediate over a lesser amount. A claim is not covered if the insurer has reported allegations of fraud to the Department.

Administration of the program: The program is administered by the American Arbitration Association ("the Administrator").

Notification to insureds:

- *All claims* - Insurers shall notify each of their insureds in the state of Louisiana, who has claimed damage to their residential property as a result of either Hurricane Katrina or Hurricane Rita, of their right to mediate the claim settlement. This requirement applies to all claims including any and all instances where cheques have been issued by the insurer to the homeowner.
- *Disputed claims* – The insurer shall mail a notice of the right to mediate disputed claims to the insured within 5 days of the time the insured or the Administrator notifies an insurer of a dispute regarding the insured's claim.
- The Rule gives the language and details that must be included in the notice. The following shall apply:
 - If the insurer has not been notified of a disputed claim prior to the time an insurer notifies the insured that a claim has been denied in whole or in part, the insurer shall mail a notice of the right to mediate disputed claims to the insured in the same mailing as a notice of denial.
 - The insurer is not required to send a notice of the right to mediate disputed claims if a claim is denied because the amount of the claim is less than the insured's deductible.

- The mailing that contains the notice of the right to mediate may include the Department's consumer brochure on mediation (the brochure can found at [Mediation Consumer Brochure](#))

Mediation arrangements:

- Detailed instructions on how the insured is to request mediation, including name, address and phone and fax numbers for requesting mediation through the Administrator are to be included within the notice of the right to mediate disputed claims.
- If an insured requests mediation prior to receipt of the notice of the right to mediation or if the date of the notice cannot be established, the insurer shall be notified by the Administrator of the existence of the dispute prior to the Administrator processing the insured's request for mediation.
- If an insurer receives a request for mediation, the insurer shall fax the request to the Administrator within 3 business days of receipt of the request. Should the Department receive any requests it will forward those requests to the Administrator within 3 business days. The Administrator shall notify the insurer within 48 hours of receipt of requests filed with the Department.

Mediation costs: The insurer is required to pay the costs of the mediation. These are:

- \$525.00 for property located in Orleans, St. Bernard, Plaquemines or Cameron Parishes. \$350.00 for property located in all other parishes.
- Within 5 days of receipt of the request for mediation from the insured or receipt of notice of the request from the Department or immediately after receipt of notice from the Administrator pursuant to Section 4109 that mediation has been requested, whichever occurs first, the insurer shall pay a non-refundable administrative fee, not to exceed \$100.00 as determined by the Department, to the Administrator to defer the expenses of the Administrator and the Department.
- The insurer shall pay \$250.00 to the Administrator for the mediator's fee not later than 5 days prior to the date scheduled for the mediation conference. If the mediation is cancelled for any reason more than 72 hours prior to the scheduled mediation time and date, the insurer shall pay \$75.00 to the Administrator for the mediator's fee instead of \$250.00. No part of the fee shall be refunded to the insurer if the conference is cancelled within 72 hours of the scheduled time.
- Due to the devastation perpetrated on the court systems in Orleans, St. Bernard, Plaquemines and Cameron parishes, mediations related to property located therein will be subject to a surcharge of \$175.00. For mediations related to property in those parishes, the Administrator will collect the additional \$175.00 not later than 5 days prior to the date schedule for the mediation conference.

Mediation conference:

- The Administrator will select a mediator and schedule the mediation conference. The Administrator shall notify each party in writing of the date, time and place of the mediation conference at least 10 days prior to the date of the conference.
- The representative of the insurer attending the conference must bring a copy of the policy and the entire claims file to the conference. The representative of the insurer attending the conference must know the facts and circumstances of the claim and be knowledgeable of the provisions of the policy.
- An insurer will be deemed to have failed to appear if the insurer's representative lacks authority to settle the full amount of the claim or lacks the ability to disburse the settlement amount at the conclusion of the conference.
- Within 5 days of the conclusion of the conference the mediator shall file with the Administrator a mediator's status report indicating whether or not the parties reached a settlement:
 - Mediation is non-binding unless all the parties specifically agree otherwise in writing.
 - If the parties reached a settlement, the mediator shall include a copy of the settlement agreement with the status report.
 - If a settlement is reached, the insured shall have 3 business days within which he or she may rescind any settlement agreement provided that the insured has not cashed or deposited any cheque or draft disbursed to him or her for the disputed matters as a result of the conference.
 - If a settlement agreement is reached and is not rescinded, it shall act as a release of all specific claims that were presented in the conference. Any additional claims under the policy shall be presented as a separate claim.

The Rule also provides "guidelines for the quality repair of residential property at a reasonable and fair price" (Section 4117.) Please refer to the full text of the Rule.