



PL 108-324 Emergency Programs for Disaster Assistance, 2003-2005

Background

In October 2004, President Bush signed disaster and drought legislation (PL 108-324) that provides more than \$3 billion in financial relief to farmers, ranchers, foresters, and other agricultural producers who incurred losses due to weather conditions in recent years. The legislation funds new and existing programs administered by the U.S. Department of Agriculture's (USDA) Farm Service Agency (FSA). Here are a few highlights:

1. Nationwide, payments will be made to qualifying producers who have suffered crop losses or quality losses because of natural disasters and drought in 2003 or 2004 (producer's choice).
2. The bill also provides relief for livestock feed losses, losses for cottonseed and losses for dairy producers. Funds are also being provided for emergency conservation, orchard and pecan trees, and forestland assistance.
3. Producers affected in 2004 by hurricanes or tropical storms in areas declared as disasters by the President may choose one of three years: either 2003, 2004, or 2005.
4. The technical name of the underlying legislation is the Military Construction Appropriations & Emergency Hurricane Supplemental Appropriations Act, 2005.

5. Producers who receive assistance under the Florida Hurricane Disaster Assistance Program (Section 32) announced by President Bush on Aug. 27, 2004, are not eligible for assistance for the same losses under these programs.

General Information about the Program Enacted

Q: What programs does this assistance include?

A: Programs in this legislation include:

- Crop Disaster Program
 - Nationwide, the producer's choice of qualifying losses for either 2003 or 2004.
 - For producers affected by hurricanes or tropical storms in 2004, the producer's choice of qualifying losses in either 2003, 2004 or 2005.
 - Virginia crop loss for hurricane and tropical storm damage in 2003.
 - North Carolina crop loss for hurricane or tropical storm damage to fruits and vegetables in 2003.
- Dairy payments for production losses and spoilage
- Livestock Assistance Program
- American Indian Livestock Assistance Program
- Payments for sugarcane losses in Florida
- Hawaiian Sugar Transportation
- Tree Assistance Program (TAP) for orchardists, including pecan growers

- Forest Land repair
- Cottonseed Assistance Program
- Emergency Conservation Program

Crop Disaster Program (CDP)

Q: What assistance is authorized for crop losses?

A: The Secretary of Agriculture is authorized to use such sums of funds as are necessary, of the Commodity Credit Corporation, to make emergency financial assistance available to producers on a farm, other than producers of cottonseed or sugar cane, that have incurred qualifying crop or quality losses due to damaging weather or a related condition, as determined by the Secretary for the 2003, 2004, or 2005 crops. The producer is limited to electing only one of the crop years listed. Qualifying crop losses for the 2005 crop are limited to only those losses caused by a hurricane or tropical storm of the 2004 hurricane season in counties declared disaster areas by the President. (See below for additional assistance authorized for losses in Virginia and North Carolina).

Q: What loss thresholds and eligibility requirements will be applied to determine who is eligible for assistance?

A: Producers must have suffered a minimum of a 35-percent crop loss or a 20-percent quality loss. To be eligible for assistance, producers must be in

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compliance with highly erodible land conservation and wetland conservation provisions. In addition, adjusted gross income (AGI) must not exceed \$2.5 million, unless more than 75 percent of the AGI is from farming, ranching and forestry.

Q: What is the per “person” payment limitation and what is the 95-percent cap provision?

A: There is an \$80,000 per “person” payment limitation. Additionally a 95-percent payment cap applies. This means that assistance provided by the Crop Disaster Program to a crop, and the value of the crop that was not lost, together with crop insurance payment made for the same crop, may not exceed 95 percent of what the value of the crop would have been in the absence of the losses, as estimated by the Secretary.

Note: A “person” for payment limitation purposes may be many things, including an individual; a limited liability partnership; a limited liability company; a corporation; a joint stock company; an association; a limited stock company; a limited partnership; an irrevocable trust; a revocable trust together with the grantor of the trust, an estate; a charitable organization; and a State, political subdivision, or agency thereof.

Q: What effect do payments received under the Florida Disaster Programs have on eligibility for CDP payments?

A: Persons that received payments under the Florida Disaster Programs are not eligible for Crop Disaster Assistance

payments for the same loss.

Q: Are producers who did not obtain crop insurance or coverage under the Noninsured Crop Disaster Assistance Program (NAP) eligible?

A: Producers on a farm shall not be eligible for assistance with respect to losses to an insurable commodity or noninsurable commodity if the producers on the farm:

- *In the case of an insurable commodity:* did not obtain a policy or plan of insurance for the insurable commodity for the year in which the loss was incurred.
- *In the case of a noninsurable commodity:* did not file the required paperwork, and pay the administrative fee by the applicable State sales closing date, for the noninsurable commodity under the Noninsured Crop Disaster Assistance Program for the year in which the loss was incurred.

However, the Secretary may waive the crop insurance requirements if the producers enter into a contract with the Secretary under which the producers agree:

- *In the case of an insurable commodity:* to obtain a policy or plan of insurance.) providing additional coverage for the insurable commodity for each of the next 2 crops.
- *In the case of a noninsurable commodity:* to file the required paperwork and pay the administrative fee by

the applicable State filing deadline, for the noninsurable commodity for each of the next 2 crops under the Noninsured Crop Disaster Assistance Program.

Virginia Crop Losses

Q: What provision was made for crop losses in Virginia?

A: For Virginia, an additional \$50 million is available for crop losses. Eligible losses are those resulting from hurricanes, tropical storms, and other weather related disasters that occurred during calendar year 2003.

North Carolina Fruit and Vegetable Losses

Q: What provision was made for fruit and vegetable losses in North Carolina?

A: For North Carolina, an additional \$3 million is available for fruit and vegetable losses resulting from hurricanes, tropical storms and other weather related disasters that occurred during 2003.

Livestock Assistance Program

Q: What assistance is authorized for livestock producers?

A: Funds of the Commodity Credit Corporation, as are necessary, are available for assistance to livestock producers for either 2003 or 2004 losses (as elected by the producer), but not both, in a county that has received a primary disaster designation by the President or the Secretary after January 1, 2003.

Additionally, the Secretary is authorized to make available

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funds to producers for 2003 or 2004 losses in the same counties for the American Indian Livestock Feed Program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001.

In determining the eligibility for or amount of payments for which a producer is eligible under the livestock assistance program, the Secretary shall not penalize a producer who takes actions (recognizing disaster conditions) that reduce the average number of livestock the producer owned for grazing during the production year for which assistance is being provided.

Tree Assistance Program (TAP) for Orchardists

Q: What assistance is available for orchardists who sustained tree losses?

A: The legislation authorizes the use of Commodity Credit Corporation funds, in such sums as are necessary, to provide assistance under the Tree Assistance Program (TAP), established under sections 10201 through 10204 of the Farm Security and Rural Investment Act of 2002, to producers who suffered tree losses during the period beginning on December 1, 2003, and ending on December 31, 2004.

Q: What effect does assistance received under the Florida Disaster Programs have on eligibility for assistance?

A: Persons that received payments under the Florida Disaster Program with respect

to 2004 hurricane crop losses are not eligible to receive TAP payments for the same loss.

Assistance for Eligible Forest Land Owners

Q: Is there any assistance available for forest land owners?

A: The Act makes \$15 million available for providing reimbursement to eligible forestland owners who produce periodic crops of timber from trees for commercial purposes and who have suffered tree losses during the period beginning on December 1, 2003 and ending on December 31, 2004. Reimbursement will be provided under Sections 10203 and 10204 of the Farm Security and Rural Investment Act of 2002.

Private Forest Land (up to 5,000 acres)

Q: What additional assistance is available for private forest landowners?

A: The legislation provides \$10 million, to remain available until expended, to provide assistance to eligible private forest landowners owning not more than 5,000 acres of forest land in counties declared Presidential disaster areas as a result of hurricane, tropical storm, or related events for the purposes of debris removal, replanting of timber, and other such purposes.

Pecan Trees

Q: What additional assistance is authorized for pecan producers?

A: The legislation authorizes \$8.5

million, to remain available until expended, to provide assistance under the Tree Assistance Program to pecan producers, in counties declared a disaster by the President, who suffered tree loss or damage due to damaging weather related to any hurricane or tropical storm of the 2004 hurricane season. The funds are to reimburse producers for costs associated with pruning, rehabilitating, and other related activities as determined by the Secretary.

Emergency Conservation Program (ECP)

Q: What assistance does ECP provide?

A: The ECP provides emergency cost-share assistance to farmers and ranchers to rehabilitate farmland damaged by natural disasters and for carrying out emergency water conservation measures during periods of extreme drought.

Q: What kind of payments will eligible producers receive?

A: ECP program participants may receive up to 75 percent of the cost to implement approved ECP practices, as determined by the county FSA committees.

Note: County FSA committees determine land eligibility based on on-site inspections of damage, taking into account the type and extent of damage. For land to be eligible, the natural disaster must create new conservation problems that, if untreated, would:

- impair or endanger the land;
- materially affect the land's productive capacity;
- represent unusual damage

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which, except for wind erosion, is not the type likely to recur frequently in the same area; and

- be so costly to repair that Federal assistance is or will be required to return the land to productive agricultural use.

Conservation problems existing prior to the applicable disaster are ineligible for ECP assistance.

Q: How much money can a producer get?

A: There is a maximum payment limitation of \$200,000 per person per disaster. Multiple hurricanes are treated as one disaster for ECP payment limitation purposes.

Q: What will participants be able to do under ECP; what practices will they be compensated for?

A: Eligible participants may implement ECP practices such as:

- Removing debris from farmland;
- Repairing or restoring fences; and
- Providing emergency water for livestock in drought situations.

Q: How will these new authorized funds be utilized?

A: The legislation provides \$150 million for the ECP. These funds will be administered as part of the regular ECP program. Farm Service Agency (FSA) county offices have been taking ECP requests for assistance and are issuing payments.

Crop Cottonseed Payment Program

Q: What does the 2004 Crop Cottonseed Payment Program do?

A: Under this legislation, \$10 million in payments are made to producers and first handlers of the 2004 crop of cottonseed located in counties that were declared a disaster area by the President in 2004 due to hurricanes.

Q: Who is eligible for payment?

A: Under this legislation, payments are only made to producers and first handlers of the 2004 crop of cottonseed.

Q: What is cottonseed?

A: Cottonseed is a byproduct of the cotton ginning process that separates cotton lint from the seeds and other gin waste not defined as cotton lint. Cottonseed may be pressed for oil or sold as cattle feed.

Q: What States contain counties that the President declared as disaster areas due to hurricane?

A: According to FEMA, States with counties that were declared major disaster areas due to hurricanes thus far during 2004 are: Florida, Georgia, North Carolina, Mississippi, Alabama, and Louisiana.

Q: How many gins operate in those States?

A: There are gins that operate in all of those States. However, not all gins may be eligible due to their location in the State. The number of gins in each State is: Alabama 47, Florida 3, Georgia

67, Louisiana 99, Mississippi 81, North Carolina 45.

Q: Will gins in counties contiguous to counties that were declared as primary disaster areas by the President be eligible?

A: No

Q: How are payments determined?

A: The applicant's payment quantity will be determined by CCC based on the eligible number of 2004 crop year ginned bales and the cotton lint weight from those bales as submitted on an application. The payment rate will be determined by dividing the \$10 million by the total payment quantity from all applications. Payments will be calculated by multiplying the payment rate times each eligible payment quantity.

Q: When will the 2004 Crop Cottonseed Payment Program begin?

A: Sign-up cannot be conducted until the 2004 crop in applicable counties has been ginned and application data is available. Gins may not complete ginning operations until early 2005.

Q: When will the payments be made?

A: Payments will be made within a reasonable period of time after the approved applicants, payment quantities, and the payment rate are determined.

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Q: How will the payments be made?

A: Payment will be made to approved applicants by direct deposit unless the applicant specifically requests a check.

Payments for Sugarcane

Q: What about relief for sugarcane losses?

A: The legislation provided \$32.8 million for sugarcane losses in Florida to compensate processors and producers for crop and other losses that are related to hurricanes, tropical storms, excessive rains, and floods in Florida during calendar year 2004.

Q: What is the Hawaiian Sugar Transportation Program?

A: The law provides \$7.2 million for an agricultural transportation cooperative in Hawaii that is eligible to participate in the FSA-administered Commodity Loan Program. (This is Hawaii specific—Florida processors are covered under the general processor relief provision.)

Dairy Program

Q: What is the Dairy Program?

A: \$10 million for production losses and spoilage will become available for eligible producers in counties that were declared a disaster area by the President in 2004 due to hurricanes. The details of the program will be announced in the future.

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