

For: State and County Offices

2008 Buy-In and 2009 NAP Refunds

Approved by: Deputy Administrator, Farm Programs



1 Overview

A Background

The Food, Conservation, and Energy Act of 2008 (2008 Act), Pub. L. 110-246, was enacted June 18, 2008. The 2008 Act created several new disaster programs under the title, “Supplemental Agricultural Disaster Assistance”. To be eligible for the new disaster programs, producers were required to obtain a policy or plan of insurance or NAP for any crop grazed, planted, or intended to be planted for harvest.

Since the enactment of Pub L. 110-246, a technical correction, Pub. L. 110-398 amended the Risk Management Purchase Requirement (RMPR).

B Purpose

The purpose of this notice is to:

- identify RMPR changes
- provide procedure for refunding fees because of RMPR changes.

2 RMPR Changes

A Overview

Pub. L. 110-398 amended the 2008 Act to allow producers to opt out of purchasing crop insurance and/or NAP coverage in the following situations:

- crops intended for grazing
- De Minimis.

If producers that have crops intended for grazing or De Minimis, purchased buy-in, they may be eligible for a refund of the 2008 buy-in fee or 2009 NAP administrative fee. Eligibility for refunds will be determined on a case-by-case basis.

| | |
|----------------------|--|
| Disposal Date | Distribution |
| May 1, 2009 | State Offices; State Offices relay to County Offices |

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2 RMPR Changes (Continued)

B Grazing

Pub L. 110-398 amended the 2008 Act, to **no** longer require producers to obtain a policy or plan of insurance or NAP coverage for crops intended for grazing to be eligible for Supplemental Revenue Assistance Program (SURE), Emergency Assistance Program for Livestock, Honey Bees, and Farm-raised Fish (ELAP), or TAP.

Note: If the producer accepts the refund for grazing, the producer will **not** be eligible for LFP for the grazing crop for which the refund is requested.

C De Minimis

According to Pub. L 110-398, at the option of an eligible producer on a farm, the producer may elect to waive RMPR on a crop:

- that is **not** economically significant
- for which the NAP fee exceeds 10 percent of the value of NAP coverage.

Note: De Minimis only applies to SURE. If the producer elects to designate a crop as a De Minimis crop, the producer is **no** longer eligible for ELAP or TAP. Also, the crop will **not** have a SURE guarantee and revenue calculated.

D Economic Significance

Economic significance means any crop that contributed, or is expected to contribute, 5 percent or more of the total expected value of all crops grown by the producer.

Notes: Since Farm Bill training in early October, the definition of economic significance has been **revised** from 10 percent to 5 percent.

Crop economic significance determinations are based on crop, type, and intended use, and includes **all** acreage regardless of planting periods.

Example: Producer A has 10 acres of Bibb lettuce planted with an intended use of Fresh in planting period 1. Producer has also planted 15 acres of Bibb lettuce with an intended use of Fresh in planting period 2. Crop economic significance is determined on **all** 25 acres.

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3 Buy-In Fee Refunds

A Grazing Refunds

A producer may choose a refund of the 2008 buy-in fee for a crop intended for grazing because of the technical corrections outlined in subparagraph 2 B.

Note: If the producer requests a refund of the 2008 buy-in fee for the crop intended for grazing, and then applies for 2008 LFP, the crop intended for grazing acreage covered by the buy-in is **not** eligible for 2008 LFP.

B De Minimis Refunds

If a producer elects De Minimis on a crop because of the technical corrections outlined in subparagraph 2 C, the producer may be eligible for a refund.

Note: If the producer requests a refund for a crop designated as De Minimis, that crop will **not** count in the guarantee or revenue calculations.

C Determining Eligible Refunds

When applying for buy-in, producers were **required** to complete CCC-752 for insurable crops and CCC-753 for NAP crops. The following table will provide the steps in determining eligible refunds.

| Step | Action |
|------|--|
| 1 | Determine the number of crops covered by CCC-752 or CCC-753. |
| 2 | Determine the producer's eligibility to receive a refund, based on the applicable buy-in fee paid by the producer and the number of crops listed on CCC-752 or CCC-753, as applicable. |
| 3 | Line through the crops to be cancelled, if an eligible refund is determined. |
| 4 | Recalculate the amount of buy-in fees for the crops remaining. |
| 5 | Refund difference, if applicable. |

It was recommended that all crops the producer grows be listed on CCC-752 or CCC-753, as applicable. If the producer only listed 3 crops on CCC-752/CCC-753 and paid \$300, but 1 of the 3 crops was intended for grazing, and the producer has other crops, the producer will **not** be eligible for a refund.

Note: Producers will be **ineligible** for a refund because the producer indicated they had more than 3 crops and the exact number of crops is unknown.

In these situations, the County Office **must** review the buy-in CCC-752 or CCC-753 to determine if all crops are listed. If all crops are **not** listed, then the producer **must** revise CCC-752/CCC-753 to include **all** crops.

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3 Buy-In Fee Refunds (Continued)

C Determining Eligible Refunds (Continued)

Example 1: Producer A has **all** crops insured, initiates CCC-753 on mixed forage for intended forage. Producer elects the mixed forage crop as De Minimis. The producer is eligible for a refund of the NAP buy-in fee.

Example 2: Producer B has purchased CAT coverage for 1 crop for \$100. The producer grows 3 additional insurable crops, but according to Notice DAP-285, subparagraph 4 D is only required to list 2 crops on CCC-752 and pay \$200. If 1 of the crops listed on CCC-752 is a grazing crop and the producer requested a refund for the grazing crop, the producer is **not** eligible for a refund because the producer has other crops that are **not** listed on CCC-752, but are covered under the buy-in option.

Example 3: Producer C grows 8 insurable crops for which crop insurance was **not** obtained. Producer C only listed 3 crops on CCC-752 and paid \$300 in buy-in fees. The producer has now requested a refund for crops intended for grazing. A grazing crop is 1 of the 3 crops listed on CCC-752. Since the producer has crops that are **not** listed on CCC-752, the producer is **not** eligible for a refund.

Example 4: Producer D has paid CAT fees and NAP fees, but **no** buy-in fees. Since the producer did **not** pay buy-in fees, the producer is **not** eligible for a refund.

Note: Notice DAP-285, subparagraph 4 D provides additional procedure for listing crops on CCC-752's and CCC-753's.

D Refunding Buy-In Fees

When processing buy-in refunds, County Offices shall do the following:

- determine the producer's eligibility to receive a buy-in refund, based on steps taken in subparagraph C
- on CCC-752 or CCC-753, line through the crops to be cancelled, **if buy-in refund is approved**
- annotate the following acknowledgement statement on CCC-752 or CCC-753, block 12, "I understand by receiving the buy-in refund, I am affecting SURE, LFP, ELAP, and TAP eligibility"
- have the producer sign and date the acknowledgement statement.

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4 2009 NAP Administrative Service Fee Refunds

A Overview

NAP service fees are non-refundable as outlined in 1-NAP, paragraph 24. Service fees are for administrative services and time spent processing CCC-471's.

B 2009 NAP Service Fee Refund Exception

There will be an exception for producers who purchased NAP coverage solely for SURE eligibility purposes. The exception is limited to producers who elect to waive RMPR on a crop designated De Minimis as described in subparagraph 2 C.

C Determining Eligibility for Service Fee Refunds

All crops intended for grazing are **not** eligible for 2009 NAP service fee refunds because of the following reasons:

- NAP coverage is being provided
- producers have maximized their eligibility for 2009 LFP.

Producers who purchased NAP coverage at \$100 per crop are **not** eligible for NAP service fee refunds because they did **not** purchase NAP in response to RMPR in the 2008 Act.

Service fee refunds shall be limited to eligible producers who paid \$250 per crop for NAP coverage and elect to designate 1 or more crops De Minimis for SURE for crop year 2009.

When processing service fee refunds, County Offices shall do the following.

| Step | Action |
|------|---|
| 1 | Print CCC-471, listing all crops elected and covered for the producer. |
| 2 | Determine the producer's eligibility to receive a refund, based on the applicable service fee paid by the producer and the number of crops listed on CCC-471. |
| 3 | Line through the crops, intended use, and planting period of the crops to be cancelled, as listed on CCC-471, blocks 8, 9, 10, if an eligible refund is determined. |
| 4 | Recalculate the amount of service fees due for the crops remaining. |
| 5 | Determine if any refund is due by comparing the amount of fees previously paid compared to the amount of fees due after crops are removed because of De Minimis elections. |

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4 2009 NAP Administrative Service Fee Refunds (Continued)

C Determining Eligibility for Service Fee Refunds (Continued)

Example 1: Producer **A** elected **5 crops** and paid a **\$750** service fee. The producer requests to cancel summer squash because of the De Minimis election for the summer squash according to subparagraph 2 C, and asks for a service fee refund.

The County Office will print CCC-471, listing **all** the crops elected by the producer for verification. In this example, producer **A**, will receive **no refund**, since after cancelling the crop, the producer will have a balance of **4 crops** that require a total service fee of **\$750**.

Example 2: Producer **B** elected **3 crops** for NAP coverage and paid a **\$750** service fee. The producer requests to cancel winter wheat because of the De Minimis election for the winter wheat according to subparagraph 2 C, and asks for a service fee refund.

The County Office shall print CCC-471, listing **all** the crops elected by the producer for verification. In this example, the producer shall receive a refund of **\$250** after cancelling the winter wheat, as the total service fee due is now **\$500** for **2 crops**.

Example 3: Producer **C** elected **2 crops** for NAP coverage and paid a **\$500** service fee. Because of concerns for the De Minimis provisions, the producer requests to cancel coverage for native grass for grazing and ask for a service fee refund.

In this example, producer **C** will **not** receive a **refund** for the native grass for grazing; crops for grazing are **not** eligible for NAP service fee refund because of the following:

- reasons stated in this subparagraph
- the producer has maximized his/her eligibility for 2009 LFP for that crop.

Example 4: Producer **D** elected **2 crops** and paid a service fee of **\$200**. The producer requests to cancel coverage for watermelon crop and asks for a service fee refund.

Producer **D** will **not** receive a **refund** for the watermelon crop because the producer purchased NAP coverage at \$100 per crop for 2009 NAP; and is **not** eligible for a NAP service fee refund because it was **not** purchased in response to RMPR in the 2008 Act.

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4 2009 NAP Administrative Service Fee Refunds (Continued)

D NAP Service Fee Refunds

When refunding service fees, County Offices shall:

- annotate the following acknowledgement statement on the CCC-471, block 11, “I understand by receiving the refund, I am foregoing NAP coverage and affecting SURE, LFP, ELAP, and TAP eligibility”
- have the producer sign and date the acknowledgement statement in CCC-471, block 11
- refund service fee difference if applicable.

5 Processing Refunds

A County Office Action

County Offices shall contact the State Office if a refund is due.

B State Office Action

State Offices shall use the applicable refund guide that was e-mailed to SED’s for buy-in and NAP corrections.

Notes: The following documents about correcting buy-in fees were e-mailed to SED’s September 18, 2008:

- CAT/NAP Buy-In Reference Guide
- Excel authorization calculators.

Revised pages for the CAT/NAP Buy-In Reference Guide were e-mailed to SED’s October 2, 2008.

The following documents about correcting NAP fees were e-mailed to SED’s November 13, 2008:

- NAP Reference Guide
- Excel authorization calculators.