



Crop Disaster Program 2005-2007 (Quantity Losses)

Overview

The "U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007" (2007 Act) authorizes the Crop Disaster Program 2005-2007 (CDP). President Bush signed the 2007 Act into law on May 25, 2007. The 2007 Act charges U.S. Department of Agriculture (USDA) with implementing CDP.

On Dec. 26, 2007, President Bush signed the Consolidated Appropriations Act, 2008 (2008 Act), which extends CDP payments to eligible farmers who suffered 2007 crop losses throughout the 2007 crop year.

The USDA Farm Service Agency's (FSA) CDP provides benefits to farmers who suffered losses to the 2005-2007 crops from natural disasters and related conditions. Producers who incurred qualifying losses in 2005, 2006 or 2007 must choose only one year for which to receive benefits. They may receive benefits for multiple crop losses if all were in the same crop year.

When and Where to Apply

Sign-up for quantity losses under CDP began Oct. 15, 2007, at local FSA service centers nationwide.

FSA will announce sign-up for quality losses under CDP as soon as possible.

FSA offices may accept information from producers about quality losses when producers submit applications for quantity losses. However, FSA will only consider quality loss applications complete after FSA announces the quality loss sign-up date and all other information necessary to determine eligibility is received by FSA. Also, FSA will not consider applications completed for any loss, including quantity losses, until a final rule has been issued for this program.

Eligibility

Only producers who obtained crop insurance coverage or coverage under the Noninsured Crop Disaster Assistance Program (NAP) for the year of loss will be eligible for CDP benefits.

Participants must have been in compliance with Highly Erodible Land Conservation and Wetland Conservation provisions for the applicable crop year.

A producer is ineligible to receive CDP payments if the FSA state committee, FSA county committee or an FSA official determines that the producer:

- committed, or attempted to commit, fraud; or
- did not have an ownership share of the crop.

FSA bases each eligible participant's share of a disaster payment

on the participant's ownership entitlement share of the crop or crop proceeds, or, if no crop was produced, the share of the crop the participant would have received if the crop had been produced. If the participant has no ownership share of the crop, the participant is ineligible for assistance under CDP.

Eligible Damaging Conditions

A producer may be eligible for CDP if the crop losses resulted from any of the following:

- damaging weather, such as drought, excessive moisture, hail, freeze, tornado, hurricane, typhoon;
- an adverse natural occurrence, such as earthquake or flood; or
- a condition related to damaging weather or an adverse natural occurrence, such as excessive wind, excessive heat, saltwater intrusion, irrigation water rationing, disease or insect infestation.

Qualifying 2005, 2006 or 2007 Quantity Crop Losses

To receive CDP benefits for quantity losses, the FSA county committee must determine that, because of eligible damaging weather, the producer:

- was prevented from planting a crop;
- sustained a loss in excess of

- 35 percent of the expected production of a crop; or
- sustained a loss in excess of 35 percent of the value for value-loss crops.

Rates and Yields; Calculating Payments

For yield-based crops, FSA calculates CDP payments by multiplying the payment rate established for the crop times 42 percent payment level (set by law) times the loss of production. The loss of production must exceed 35 percent of the expected production of the unit.

For value-loss crops, FSA calculates CDP payments by multiplying the payment rate established for the crop times 42 percent payment level times the loss of value that exceeds 35 percent of the expected production value of the unit.

Payment rates for 2005, 2006 or 2007 year crop losses will be:

- 42 percent of the maximum established USDA Risk Management Agency (RMA) price for insured crops; or
- 42 percent of the state average price for NAP covered crops.

In spite of differences in yield or values, FSA will not establish separate rates or yields for crops with different cultural practices, such as organically or "hydroponically" grown crops.

When calculating a payment for a unit loss, FSA:

- will apply a non-harvested payment factor to crop acreage planted but not harvested;
- will apply a prevented planting factor to any prevented planted acreage eligible for payment; and
- may adjust non-harvested payment factors if costs normally associated with growing the crop are not incurred.

Production Losses, Participant Responsibility

In determining production, participants must supply verifiable and reliable production records to substantiate production to the FSA county committee.

FSA uses RMA loss records for insured crops where available and determined to be accurate.

If RMA loss records are not available, the FSA county committee determines RMA loss records are inaccurate or incomplete or the FSA county committee makes inquiry, participants are then responsible for:

- retaining or providing the best verifiable and reliable production records available for the crop;
- summarizing all the production evidence;
- accounting for the total amount of unit production for the crop, whether or not records reflect this production;
- providing the information in a manner that can be easily understood by the FSA county committee; and
- providing supporting docu-

mentation if the FSA county committee questions the damaging weather event or that all production has been accounted for.

For eligible crops that were sold or otherwise disposed of through commercial channels, production records include: commercial receipts, settlement sheets, warehouse ledger sheets, or load summaries, and appraisal information from a loss adjuster acceptable to FSA. If the eligible crop was farm-stored, sold, fed to livestock or disposed of in means other than commercial channels, production records for these purposes include: third party truck scale tickets, appraisal information from a loss adjuster acceptable to FSA, contemporaneous diaries or other documentary evidence such as contemporaneous measurements.

Determining Production

FSA includes all harvested production, non-harvested appraised production and assigned production for the total planted acreage of the crop unit to determine production under CDP.

The production of eligible crop acreage harvested more than once in a crop year will include the total harvested production.

If a crop is appraised and subsequently harvested as the intended use, FSA will take into account the actual harvested production to determine benefits. FSA will determine whether the evidence of actual production represents

all that could or would have been harvested.

The county committee will assign production for the unit when it determines that:

- the participant failed to provide adequate and acceptable production records;
- the loss to the crop is because of a disaster condition not covered under this program, or circumstances other than natural disaster, and there has not been an accounting of this ineligible cause of loss;
- the participant carries out a practice, such as multiple cropping, that generally results in lower yields than the established historic yields;
- the participant has a contract to receive a guaranteed payment for all or a portion of the crop;
- a crop was late-planted;
- non-harvested acreage was not timely appraised; or
- other appropriate causes exist for such assignment as determined by the FSA Deputy Administrator.

Calculation of Acreage

Acreage is calculated by using the number of insured or NAP-covered acres planted as a crop.

In cases of a repeat crop or multiple-planted crop in more than one planting period, or when multiple cropped acres meet established criteria, then each of these crops may be considered separate crops if the FSA county committee

determines that all of the following conditions are met:

- both the initial and subsequent planted crops were planted with the intent to harvest;
- both the initial and subsequent planted crops were planted within the normal planting period for that crop;
- both the initial and subsequent planted crops meet all other eligibility provisions including good farming practices; and
- each planting could reach maturity if each planting was harvested or would have been harvested.

In cases where there is multiple-cropped acreage, each crop may be eligible for disaster assistance separately if the participant has verifiable records establishing a history of carrying out a successful multiple cropping practice on the specific crops for which assistance is requested.

Participants with multiple-cropped acreage not meeting the criteria must select the crop for which assistance will be requested. If more than one participant has an interest in the multiple cropped acreage, all participants must agree to the crop designated for payment by the end of the CDP application period or no payment will be approved for any crop on the multiple cropped acreage.

Calculation of Prevented Planted Acreage

Prevented-planted acreage will be considered separately from

planted acreage of the same crop. Disaster payments for insured crops for prevented planted acreage shall not be made unless RMA or FSA documentation indicates that the eligible participant received a prevented planting payment under either the NAP- or RMA-administered program.

The participant must prove, to the satisfaction of the FSA county committee, an intent to plant the crop and that their crop could not be planted because of an eligible disaster.

Prevented planted disaster benefits do not apply to:

- acreage not insured or NAP-covered;
- any acreage on which a crop other than a cover crop was harvested, hayed or grazed during the crop year;
- any acreage for which a cash lease payment is received for the use of the acreage the same crop year unless the county committee determines the lease was for haying and grazing rights only and was not a lease for use of the land;
- acreage for which the participant or any other person received a prevented planted payment for any crop for the same acreage, excluding share arrangements; and
- acreage for which the participant cannot provide verifiable proof to the FSA county committee that inputs such as seed, chemicals and fertilizer were available to plant and produce a crop with the ex-

pectation of producing at least a normal yield.

Crop acreage reports that were filed late for prevented planted acreage in previous years shall not be accepted for CDP purposes.

Value Loss Crops

Benefits under CDP are calculated based on the loss of value at the time of the damaging weather or related condition, as determined by FSA.

Value loss crops are nursery, Christmas trees, vegetable sets and root stock (including ginseng root), aquaculture (including ornamental fish), floriculture, mushroom and other such crops as determined appropriate.

For vegetable sets and root stock, benefits are limited to plants grown in a container and controlled environment for use as transplants or root stock by the applicant for commercial sale on property owned or leased by the applicant and managed using good rootstock or fruit and vegetable plant growing practices.

Payment Limitations

The maximum CDP benefits a person may receive is \$80,000. Producers eligible for CDP can also receive benefits under the Livestock Compensation Program 2005-2007.

A participant may receive benefits for crop losses for only one of the 2005, 2006 or 2007 crop years.

Payments will be made not later than 60 days after a producer files completed applications necessary for FSA to determine producer eligibility for benefits.

No participant shall receive CDP benefits in an amount that exceeds 95 percent of the value of the expected production for the relevant period as estimated by the Secretary of Agriculture. The sum of the value of the crop not lost (if any), the CDP payment received and any crop insurance payment or payments received under the NAP for losses to the same crop cannot exceed 95 percent of what the crop's value would have been if there had been no loss.

For More Information

For more information about FSA and its programs, visit your local USDA Service Center or online at: <http://www.fsa.usda.gov>.

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