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**CCC-471 NAP BP**  
(02-05-09)

U.S. DEPARTMENT OF AGRICULTURE  
Commodity Credit Cooperation

**NONINSURED CROP DISASTER ASSISTANCE**  
**2009 and Subsequent Years**  
**Basic Provisions**

(This is a continuous Application for Coverage. Refer to section 2.)

This Noninsured Crop Disaster Assistance Program (NAP) Application for Coverage is administered by the Commodity Credit Corporation (CCC) under the provisions of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104-127) as amended by the Agricultural Risk Protection Act, 2000 (Act) (7 U.S.C. 1437) and the Food, Conservation and Energy Act, 2008. All provisions of the Application for Coverage and rights and responsibilities of the parties are specifically subject to the Act. The provisions of the Application for Coverage may not be waived or varied in any way by us, or any other contractor or employee of ours or any employee of USDA. We will use the procedures (handbooks, manuals, and notices), as issued by USDA and published on the Farm Service Agency (FSA) website at <http://www.fsa.usda.gov> in the administration of the Application for Coverage, including the adjustment of any loss or claim submitted hereunder.

Throughout this document, "you" and "your" refer to the named participant shown on the accepted application for coverage and "we," "us," and "our" refer to USDA Farm Service Agency providing coverage.

**TERMS AND CONDITIONS**  
**BASIC PROVISIONS**

**1. Definitions.**

**Abandon** – to discontinue care for a crop, to provide care so insignificant as to provide no benefit to the crop, or to fail to harvest in a timely manner.

**Acreage Report** - A report required by section 10 of these Basic Provisions that contains, in addition to other required information, your report of your share of all acreage of an eligible crop in the county.

**Acreage Reporting Date** - The date as established by FSA by which you are required to submit your acreage report according to section 10.

**Act** - Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104-127) as amended by the Agricultural Risk Protection Act, 2000 (Act) (7 U.S.C. 1437) and Food, Conservation, and Energy Act, 2008.

**Actual Production** – the total of the eligible crop unit's harvested production and appraised production, if not accounted for in harvested production.

**Actual Production History (APH)** – the actual production history of the crop for the unit used to determine the approved yield for NAP purposes in accordance with 7 CFR Part 1437.7.

**Actual Yield** - is the total amount of harvested and appraised production on a per planted acre or other basis, as applicable.

**Actuarial Documents** - information regarding crop insurance in the county.

**Added Land** – land which you have not been farming for a share of the crop's production on a unit for more than 2 years.

**Added Practice, Type, or Variety** – a practice, type, or variety of a crop that requires a separate approved yield. If the new practice, type, or variety of a crop does not require a separate approved yield, the production from the new practice, type, or variety of the crop will be included in the current APH for the crop.

**Administrative County Office** – the county FSA office designated to make determinations, handle official records, and issue payments for you in accordance with 7 CFR Part 718.

**Agricultural Commodity** - Any crop or other commodity produced, regardless of whether or not it is insurable.

**Agricultural Experts** - Persons who are employed by the Cooperative State Research, Education and Extension Service or the agricultural departments of universities, or other persons approved by FSA, whose research or occupation is related to the specific crop or practice for which such expertise is sought.

**Animal Unit (AU)** – a standard expression of livestock based on a daily net energy maintenance requirement equal to 13.6 Megacalorie.

**Animal-Unit-Day (AUD)** – an expression of an expected or actual stocking rate for pasture or forage.

**Annual Crop** - An agricultural commodity that normally must be planted each year.

**Application** - The form, CCC-471, required to be completed by you and accepted by us before NAP coverage will commence. This form must be completed and filed in your administrative FSA office not later than the application closing date.

**Application Closing Date** - the last date, as determined by CCC, you can submit CCC-471 for noninsured crops for the specified crop year.

**Appraised Production** – production determined by FSA or an appraiser acceptable to CCC, that was unharvested but which reflected the crop's yield potential at the time of appraisal. For the purpose of APH, appraised production specifically excludes production lost because of ineligible disaster conditions.

**Approved** (for CCC-576) – all requisite forms and information have been submitted and approved according to procedure and crop approval exists for the crop, unit

and disaster which is the basis of the application and approved by COC.

**Approved Yield** - the APH-calculated yield approved by CCC for making NAP payments. The yield represents a unit's expected production on a per planted acre or other basis, as applicable, according to 7 CFR Part 1437.102.

**Aquaculture Facility** – an eligible aquaculture facility is a commercial operation conducted on private property, and in water in a controlled environment according to 7 CFR Part 1437.303.

**Aquacultural Species** –any species of aquatic organism grown as food for human consumption, or fish raised as feed for fish that are consumed by humans or ornamental fish propagated and reared in an aquaculture facility.

**Assigned Production** – the loss of production not related to natural disaster.

**Assigned Yield** –a one-time yield assigned for a crop year in the base period according to 7 CFR Part 1437.102 for which you do not file an acceptable production report by the production reporting date.

**AUD Value** –the dollar value of a daily energy requirement equivalent of 15.7 pounds of corn determined on the basis of the 5-year national average price per pound of corn.

**Average Market Price** –the price or dollar equivalent per bushel, ton, etc., for an eligible crop. An average market price is:

- (a) Used to calculate NAP payments
- (b) On a harvested basis without the inclusion of transportation, storage, processing, packing, marketing, or other post-harvest expenses
- (c) Based, in part, on historical data.

**Average Yield** - the yield, calculated by summing the annual actual, assigned, adjusted or unadjusted transitional yields and dividing the sum by the number of yields contained in the database, prior to any adjustments, including those elected under section 9 or other limitations, according to FSA approved procedures.

**Base Period** - the base period for APH crops is a maximum of ten APH crop years, not calendar years, immediately preceding the crop year for which an approved yield is calculated. For APH data base purposes, APH crop year does not include any year that the crop was any of the following:

- (a) not planted
- (b) prevented from being planted
- (c) not reported as planted or prevented from being planted for any APH crop year after an initial approved yield is calculated.

**Brownout** –a reduction in electric power that affects the unit.

**Bypass Year** –indicates a year that you did not pay the service fee, and no report of acreage was filed.

**Carrying Capacity** – the stocking rate and the number of days that grazing can normally be sustained without detrimental effects on the land resource.

**Catastrophic Coverage (CAT)** – the minimum level of coverage offered by FCIC according to section 508(b) of the Federal Crop Insurance Act.

**Catastrophic Loss** – the result of an eligible cause of loss and as determined by CCC:

- (a) Prevented planting exceeds 35 percent of the intended acres

- (b) The yield loss exceeds 50 percent of the approved yield

- (c) The value loss exceeds 50 percent of the pre-disaster value, or

- (d) AUD loss is greater than 50 percent of the expected AUD.

The quantity will not be reduced for any quality consideration unless a zero value is established.

**Code of Federal Regulations (CFR)** - The codification of general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. Rules published in the Federal Register by FSA are contained in 7 CFR chapter IV. The full text of the CFR is available in electronic format at <http://www.access.gpo.gov/> or a successor website.

**Commodity Credit Corporation (CCC)** – Commodity Credit Corporation is a wholly owned Government corporation within USDA.

**Controlled Environment** – an environment in which everything that can practicably be controlled with structures, facilities, growing media (including but not limited to water, soil, or nutrients) by you, is in fact controlled by you, as determined by industry standards.

**Conventional Farming Practice** - A system or process for producing an agricultural commodity, excluding organic farming practices that is necessary to produce the crop that may be, but is not required to be, generally recognized by agricultural experts for the area to conserve or enhance natural resources and the environment.

**County Committee (COC)** – farmer elected board responsible for Federal farm program delivery and administration at the local level.

**County Expected Yield** – the yield for the administrative county that reflects the average production potential of the crop in the county by practice and intended use.

**Cover Crop** - a crop generally recognized by agricultural experts as agronomically sound for the area for erosion control or other purposes related to conservation or soil improvement.

**Coverage Period** – the time during which coverage is available against loss of production of the eligible crop as a result of natural disaster according to 7 CFR Part 1437.5.

**Crop Year** - the period within which the eligible crop is normally grown, regardless of whether or not it is actually grown, and designated by the calendar year in which the eligible crop is normally harvested.

**Damage** - injury, deterioration, or loss of production of the insured crop due to insured or uninsured causes.

**Days** - Calendar days.

**Delinquent Debt** - a debt owed to an agency of the U.S. Government.

**Double Crop** - producing two or more crops for harvest on the same acreage in the same crop year.

**Eligible Crops** – any commercial agricultural crop or commodity (excluding livestock and their by-products), grown for food or fiber for which CAT is not available in accordance with 7 CFR Part 1437.4 (see section 5).

**Eligible Loss** - damage for which coverage is provided under the terms of your Application for Coverage, and for which you accept a NAP payment.

**Eligible Producer** – according to 7 CFR Part 718.2 is an owner, landlord, tenant, or sharecropper who:

- a. shares in the risk of producing the crop
- b. Is entitled to share in the crop available for marketing from the farm or would have shared had the crop been produced.
- c. Meets the average adjusted gross income provisions in 7 CFR, Part 1400.

**End Use** – the final usage for which the crop/commodity was grown and produced.

**Expected Production** – a unit's expected production for a crop is equal to the smaller of the unit's reported or determined acreage multiplied by the eligible crop unit's approved yield.

**Fiber** – is a slender and greatly elongated natural plant filament, such as cotton, flax, etc., used in manufacturing.

**Final Planting Date** – the last date upon which a normal yield can reasonably be expected or as specified by the County Committee for the covered crop by which the crop must initially be planted in order to be covered for NAP.

**Floriculture** – cut flowers or similar products of annual and perennial flowering plants grown under glass, fiberglass, and other rigid plastics, film plastic, shade cloth, natural shade, other shade, and outdoors in a container or controlled environment for commercial sale.

**Food** – a material consisting essentially of protein, carbohydrates, and fat used in the body to sustain growth, repair, and vital processes including the crops used for the preparation of food.

**Forage Eligible for NAP coverage** – vegetation consisting of annual, biennial, and perennial grasses, legumes, small grains, etc. produced in a commercial operation for animal consumption or for seed for the propagation of forage for animal consumption.

**FSA** - The Farm Service Agency, an agency of the USDA, or a successor agency.

**FSA Farm Serial Number (FSN)** - The number assigned to the farm by the local FSA office.

**Generally Recognized** - When agricultural experts or the organic agricultural industry, as applicable, are aware of the production method or practice and there is no genuine dispute regarding whether the production method or practice allows the crop to make normal progress toward maturity and produce at least the yield used to determine the expected production.

**Good Farming Practices** - The cultural practices generally used to produce a crop and allow it to make normal progress toward maturity and produce at least the yield used to determine the expected production or amount of coverage, including any adjustments for late planted acreage, which are generally recognized by agricultural experts as compatible with agronomic and weather conditions.

**Harvested** – a crop is considered harvested when it is removed from the acreage by hand, mechanically, or by grazing of livestock.

**Harvested Production** – all production of the eligible crop from the unit that can be supported by an acceptable record, including, but not limited to production harvested by hand, mechanically, or by grazing of livestock.

**Industrial Crop** – a commercial crop, or other agricultural commodity used in manufacturing. Industrial crops

include castor beans, chia, crambe, crotalaria, cuphea, guar, guayule, hesperaloe, kenaf, lequerella, meadowfoam, milkweed, plantago, ovato, sesame and other crops specifically designated by CCC.

**Insured Crop** - The crop in the county for which FCIC provides at least CAT coverage.

**Intended Use** – the expected use of the crop/commodity being grown and produced at the beginning of the coverage period.

**Interplanted** - acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the eligible crop.

**Irrigated Practice** - a method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated expected production or amount of coverage on the irrigated acreage planted to the eligible crop.

**Late Planted** - acreage initially planted to the covered crop after the final planting date.

**Late Planting Period** - the period that begins the day after the final planting date for the eligible crop and ends 25 days after the final planting date.

**Limited Resource Farmer** - a person with:

- a. Direct or indirect gross farm sales not more than \$100,000.00 in each of the previous two years (to be increased starting in fiscal year 2004 to adjust for inflation using Prices Paid by Farmer Index as compiled by National Agricultural Statistical Service (NASS)); and
- b. A total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous two years (to be determined annually using Commerce Department data).

**Livestock Forage Producer** – an individual or entity who conducts a commercial livestock enterprise, such as dairy, beef, or poultry.

**Loss of Production** – is the unit's expected production minus net production.

**Misrepresentation, Scheme, or Device** – includes, but is not limited to:

- a. Concealing any information having a bearing on the application of any of the rules governing NAP
- b. Submitting false information to a CCC representative, including, but not limited to, COC, STC, or authorized agent or employee thereof
- c. Creating fictitious entities for the purpose of concealing the interest of a person in a farming operation.

**Multiple Harvested Crop** – a crop that is harvested more than once during the same crop year from the same plant, e.g. alfalfa hay that is cut several times during the crop year.

**Multiple Planted Crop** – a crop planted or prevented from being planted in more than 1 approved planting period in a crop year on different acreage, e.g. snap beans.

**Native Forage** – grass or other vegetation (forage) not meeting the definition of seeded forage.

**Natural Disaster** – damaging weather, an adverse natural occurrence, or related condition such as insect or plant disease infestation.

**Negligence** - the failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

**Net Production** –all harvested, appraised, and assigned production for the unit, also known as the production to count.

**New Producer** – if you have not been engaged in farming for a share of the production of the crop for more than 2 crop years.

**Normal Harvest Date** – the date harvest of the crop is normally completed in the administrative county.

**Offset** - the deduction of a delinquent debt that is made prior to making any payments to you or your assignees.

**Operator** – an individual, entity, or joint operation that is in general control of the farming operation on the farm during the crop year.

**Organic Agricultural Industry** - persons 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 universities, or other persons approved by CCC, whose research or occupation is related to the specific practice for which such expertise is sought.

**Perennial Crop** - a plant, bush, tree or vine crop that has a life span of more than one year.

**Person** - an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State. "Person" does not include the United States Government or any agency thereof.

**Planted Acreage** - land in which seed, plants, or trees have been placed, appropriate for the covered crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice.

**Practical to Replant** - as determined by CCC, replanting the covered crop will allow the crop to attain maturity prior to the calendar date for the end of the coverage period.

**Prevented Planting** – according to 7 CFR Part 718.103 is the inability to plant an eligible crop with proper equipment by the final planting date for the crop because of a natural disaster as determined by CCC (see section 18).

**Production Report** - a written record showing your annual production and used by us to determine your yield for NAP purposes (see section 8). The report contains yield information for previous years, including planted acreage and harvested production. This report must be supported by written verifiable records from a warehouseman or buyer of the eligible crop or by measurement of farm-stored production, or by other records of production approved by us on an individual case basis.

**Repeat Crop** – more than one planting of a commodity planted on the same acreage after the harvesting of the same commodity in the same crop year; e.g. radishes.

**Replacement Yield** – a yield equal to 65 percent of the T-yield that will replace an actual or appraised yield any year in the base period when the actual or appraised yield is less than 65 percent of the T-yield because of a natural disaster.

**Representative Sample** - portions of the eligible crop that must remain in the field for examination and review by our loss adjuster when making a crop appraisal. In certain instances, we may allow you to harvest the crop and require only that samples of the crop residue be left in the field.

**Salvage Value** - the dollar amount or equivalent received by or available to you for the quantity of the commodity that cannot be marketed or sold in any market for which a price or yield is established by CCC. The loss of quality resulting in a commodity becoming salvage must be because of natural disaster.

**Seed Crop** - propagation stock commercially produced for sale as seed stock for eligible crops.

**Seeded Forage** – acreage that is mechanically seeded with grasses or other vegetation at regular intervals, at least every 7 years, according to good farming practices.

**Service Fee** - an amount you must pay for an eligible crop for the crop year or planting period to receive Noninsured Crop Disaster Assistance coverage.

**Share** - Your percentage of interest in the eligible crop as an owner, operator, or tenant at the time of planting or the beginning of the crop year when coverage attaches. However, only for the purpose of determining eligibility for NAP payments, your share will not exceed your share at the earlier of the time of loss or the beginning of harvest.

**Small Grain Forage** –a stand of pure small grain commodity (wheat, barley, oats, triticale, or rye) intended as forage for animal consumption.

**State Committee (STC)** - appointed members of the Farm Service Agency responsible for administering USDA programs and establishing state wide policies to address statewide agribusiness concerns and economic conditions.

**Stocking Rate** – the number of animal units grazing or utilizing specific crop acreage for a specific number of days, expressed as animal unit days (AUDs)

**Substitute Yield** – if you previously participated in NAP before the Agricultural Risk Protection Act, 2000 and reported acreage but no production, you may choose to substitute an assigned or zero credited yield with 65 percent of the T-yield 1 time for all assigned or zero credited yields in the APH data base for 2000 and prior years.

**Sustainable Farming Practice** - a system or process for producing an agricultural commodity, excluding organic farming practices, that is necessary to produce the crop and is generally recognized by agricultural experts for the area to conserve or enhance natural resources and the environment.

**Transitional-Yield (T-yield)** – the yield which is based on the county expected yield of the crop for the crop year and is used on an adjusted or unadjusted basis to calculate the approved yield for crops covered under the NAP when less than four years of actual, assigned, or appraised yields are available in the APH data base.

**Tenant** - a person who rents land from another person for a share of the crop or a share of the proceeds of the crop.

**Timely Planted** - planted on or before the final planting date.

**Tropical Region** – the land south of the Tropic of Cancer (23.5 degrees north latitude) and, for the purposes of

NAP, shall include Hawaii, Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, and the former Trust Territory of the Pacific Islands (the Commonwealth of Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau according to 7 CFR Part 1437.501.

**Type or Variety of a Crop** – a scientifically recognized subspecies of a crop or commodity having a particular characteristic or set of characteristics.

**Unit** – all eligible acreage of the eligible crop in the county on the date coverage begins for the crop year:

- a. In which you have 100 percent crop share; or
- b. Which is owned by one person and operated by another person on a share basis. (Example: If, in addition to the land you own, you rent land from five landlords, three on a crop share basis and two on a cash basis, you would be entitled to four units; one for each crop share lease and one that combines the 2 cash leases and the land you own.)

**USDA** - United States Department of Agriculture.

**Value Loss Crop** – ornamental nursery, Christmas trees, aquaculture, or other crops determined by CCC that because of their unique nature do not lend themselves to yield calculations. Eligibility for a crop categorized a value loss shall be determined based on a loss of value at the time of the disaster, as determined by FSA.

**Void** - when the Application for Coverage is considered not to have existed for a crop year as a result of concealment, fraud or misrepresentation (see section 31).

**Zero Credited Yield** – When an acreage report is filed, but no production report is provided, then a zero yield will be assigned if the APH database already contains an assigned yield (see section 9).

## 2. Life of Application of Coverage, Cancellation, and Termination.

- (a) This is a continuous Application for Coverage and will remain in effect for each crop year following the acceptance of the original application if the nonrefundable service fee is submitted by the application closing date.
- (b) You must have made application for NAP on or before the application closing date for the crop in the county.
- (c) You must be a "person" as defined by FSA to be eligible for NAP coverage.
- (d) Your application for NAP coverage must contain your social security number (SSN) if you are an individual or employer identification number (EIN) if you are a person other than an individual and any other material information required on the application to cover the crop.

**Note:** Applications that do not contain the last four digits of your SSN, EIN, or any of the other information required in section 2(d) are not acceptable and NAP coverage will not be provided;

- (e) After acceptance of the application, you may not cancel this coverage for the initial crop year. Thereafter, the application will continue in force for each succeeding crop year with timely payment of the applicable service fee.
- (f) Either you or we may cancel this application after the initial crop year if either of the following occurs:

- (1) By providing written notice to the other on or before the application closing date, or
  - (2) The service fee is not paid and received in the administrative county office by the application closing date.
- (g) If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the Application for Coverage will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after coverage begins for any crop year, the Application for Coverage will continue in force through the crop year and will terminate at the end of the NAP coverage period. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are covered jointly, death of one of the persons will dissolve the joint entity. Any NAP payment will be paid to the person or persons determined to be beneficially entitled to the NAP payment.
  - (h) When obtaining NAP coverage, you must provide information regarding NAP coverage on any crop previously obtained at any other local FSA office, including the date such coverage was obtained and the amount of the service fee.
  - (i) Any person may sign any document relative to NAP coverage on behalf of any other person covered by such a Application for Coverage, provided that the person has a properly executed power of attorney or such other legally sufficient document authorizing such person to sign on file in the county office before accepting a NAP application or other related documents according to 7 CFR Part 718.9. You are still responsible for the accuracy of all information provided on your behalf and may be subject to the consequences in section 31, and any applicable consequences.
  - (j) If cancellation or termination of NAP coverage occurs for any reason including, but not limited to indebtedness, suspension, debarment, disqualification, cancellation by you or us or violation of the controlled substance provisions of the Food Security Act of 1985, a new application must be filed for the crop. NAP coverage will not be provided if you are ineligible under the contract or under any Federal statute or regulation.

## 3. Coverage Levels and Prices for Determining NAP Payments

- (a) NAP is intended to reduce financial losses that occur when natural disasters cause a catastrophic loss of your eligible crops.
- (b) Notwithstanding any provision contained in any other policy document, NAP coverage will be equal to fifty percent (50%) of the level specified in (c) at fifty-five percent (55%) of the average market price as established by CCC.
- (c) To be eligible for a NAP payment you must have suffered a yield or inventory value loss greater than fifty percent (50%) as the result of an eligible cause of loss as follows:

- (1) For yield-based crops, the loss is calculated based on a yield loss in excess of 50 percent of your approved yield;
- (2) For value loss crops, the loss is calculated based on the loss of value in excess of 50 percent of the total value at the time of disaster;
- (3) For crop acreage intended to be grazed, the loss of AUD in excess of 50 percent of your expected AUD determined on the basis of acreage, carrying capacity, and grazing period;
- (4) For prevent planted acres in excess of 35% of the intended acres to be planted (see sec. 19).

#### 4. Service Fees

- (a) The nonrefundable service fee must be paid to the administrative FSA office by the established application closing date.
  - (b) The administrative fee is \$250 per crop per administrative county; \$750 for you per administrative county, not to exceed a total of \$1875 for you. The service fee is based on:
    - (1) FSA administrative counties
    - (2) Each tax identification number
    - (3) Crop definition according to pay crop/pay type
    - (4) Planting periods.
- (1) The administrative fee provisions of paragraph (b) of this section do not apply if you meet the definition of a limited resource farmer (see section 1).

#### 5. Eligible NAP Crops

- (a) Eligible crops are any commercial agricultural crop (excluding livestock and their by-products), commodity or acreage of a commodity grown for food or fiber for which GRP insurance at the CAT level or individual CAT level coverage is not available.
- (b) NAP assistance will be made available for any commercially produced:
  - (1) Crop grown for food
  - (2) Crop planted and grown for livestock consumption, including, but not limited to, grain and seeded and native forage crops
  - (3) Crop grown for fiber, excluding trees grown for wood, paper, or pulp products
  - (4) Aquacultural species, including ornamental fish
  - (5) Floriculture crops
  - (6) Ornamental nursery
  - (7) Christmas tree crops
  - (8) Turf grass sod
  - (9) Sea oats and sea grass
  - (10) Industrial crops
  - (11) Seed crops where the propagation stock is commercially produced for sale as seed stock for other eligible NAP crop production
  - (12) Seed or unseeded forage on State or Federal lands.

#### 6. Units

- (a) For NAP coverage, a unit will be all eligible acreage of the eligible crop in the county on the date coverage begins for the crop year:
  - (1) In which you have one hundred percent (100%) crop share; or
  - (2) Which is owned by one person and operated by another person on a share basis.

- (b) Further division of the units is not allowed under NAP provisions.

#### 7. Replanting Payment

No replanting payment will be paid whether or not replanting of the crop is required.

#### 8. Report of Production

- (a) You must report production to us for the previous crop year by the subsequent year's acreage reporting date:
  - (1) If you do not provide the required production report, we will assign a yield for the previous crop year. The yield assigned by us will not be more than 75 percent of the yield used by us to determine your coverage for the previous crop year. The production report or assigned yield will be used to compute your approved yield for the purpose of determining your coverage for the current crop year.
  - (2) If you have filed a NAP application for payment for any crop year, the documents signed by you which state the amount of production used to complete the application for payment will be the production report for that year unless otherwise specified by CCC.
  - (3) Appraisals obtained from only a portion of the acreage in a field that remains unharvested after the remainder of the crop within the field has been destroyed or put to another use will not be used to establish your actual yield unless representative samples are required to be left by you.
- (b) It is your responsibility to accurately report all information that is used to determine your approved yield. You must certify to the accuracy of this information on your production report.
  - (1) If you do not have written verifiable records to support the information on your production report, you will receive an assigned yield in accordance with section 9 and according to 7 CFR Part 1437.102 for those crop years for which you do not have such records.
  - (2) If you misreport any material information used to determine your approved yield you will be subject to the provisions regarding misreporting contained in section 31, unless we correct the information because the incorrect information was the result of our error or the error of someone from USDA.

#### 9. Approved Yields

- (a) Approved yields shall be determined using Actual Production History (APH) of not less than 4 previous consecutive crop years and not more than 10 consecutive crop years, which is considered the database.
- (b) You do not have the option of having an approved yield calculated based on a T-yield (the county expected yield) or records of production for previous crop years. The approved yield shall be calculated based on records if acceptable records for the crop are available. Once acreage and production are certified, they are used for approved yield purposes.
- (c) Approved yields are based on an average APH yield of at least 4 and up to 10 consecutive crop years,

which can include the following on a per acre or other basis:

- (1) Actual yield – total quantity harvested and appraised;
  - (2) Replacement yield – equal to 65 percent of the T-yield that replaces the actual or appraised yield any year when the actual or appraised yield is less than 65 percent of the T-yield because of a natural disaster;
  - (3) Assigned yield - a one-time yield assigned for a crop year if you do not file an acceptable production report by the production reporting date. The yield is equal to 75 percent of the approved yield established for the year of assignment. You can have only 1 assigned yield in an APH base period;
  - (4) Zero credited yield – an entry of “0” indicating no acreage or production report indicating that:
    - (i) An application was filed, however, no acreage or production report was filed
    - (ii) An assigned yield already appears in the APH base period, or
    - (iii) Acreage increased by more than 100 percent over any year in the preceding 7 crop years;
  - (5) Substitute yields – if you previously participated in NAP before the Agricultural Risk Protection Act, 2000 and reported acreage but no production, you may choose to substitute an assigned or zero credited yield with 65 percent of the T-yield 1 time for all assigned or zero credited yields in the APH database for 2000 and prior years; and
  - (6) T-yields – an estimated yield equal to the county-expected yield used to calculate your individual approved yield when less than 4 consecutive years of production records are available.
- (d) Once you have elected to exclude an actual yield from the database, the replacement yield will remain in effect until such time as that crop year is no longer included in the database unless this election is cancelled.
- (e) An assigned, zero credited, or substitute yield shall not be considered derived from your production records for the purpose of attaining a higher percentage of T-yield.
- (f) Approved yields may not decrease by more than 10 percent compared to the approved yield for the previous year.
- (g) The basic formula for calculating approved yields is according to this table:

IF...	THEN the current year approved yield will be calculated based on the simple average of...
You certify production, or have any combination of actual, replacement, zero credited, substitute, or assigned yields for 4 – 10 years	Those yield years.
You certify production records for 3 years and	The 3 yield years plus 100 percent of the applicable T-yield for the

there are no zero credited, substitute, or assigned yields in the APH data base	missing year.
You certify production records for 2 years and there are no zero credited, substitute, or assigned yields in the APH data base	The 2 yield years plus 90 percent of the applicable T-yield for the 2 missing years.
You certify production records for 1 year and there are no zero credited, substitute, or assigned yields in the APH data base	The 1 yield year plus 80 percent of the applicable T-yield for the 3 missing years.
There has not previously been an approved yield calculated and there are no production records	65 percent of the applicable T-yield for each of the missing years. <b>Note:</b> 100 percent of the applicable T-yield for each of the missing years if you are a new producer.

**10. Report of Acreage.**

- (a) An annual acreage report must be submitted for each covered crop in the administrative county on or before the acreage reporting date as determined by FSA. Contact your local county office for a list of applicable dates for your area.
- (b) If a covered crop was not grown in the county for the crop year, you must submit an acreage report, on or before the acreage reporting date, so indicating.
- (c) Your acreage report must include the following information, if applicable:
  - (1) All acreage of the crop in the unit (eligible acres and non eligible acres) in which you have a share;
  - (2) Your share at the time coverage begins;
  - (3) The practice;
  - (4) The type; and
  - (5) The date the eligible crop was planted.
- (d) An acreage report can be revised if all of the following apply:
  - (1) The acreage has not already been determined by FSA;
  - (2) Physical evidence is present in the field,
  - (3) You were in compliance with all other program requirements at the reporting date. A revised acreage report submitted after the crop reporting deadline will be treated as a late-filed acreage report.
- (e) Late-filed acreage reports may be accepted as timely filed if all the following apply:
  - (1) Physical existence of the late-filed crop or crop residue for the crop year being reported exists
  - (2) The acreage has not already been determined by FSA
  - (3) You pay the cost of a farm inspection unless FSA determines that failure to report in a timely manner was beyond your control.

- (f) Prevented planting acreage must be reported within 15 days after the final planting date, and you must complete a CCC-576, Part B to establish to the satisfaction of the COC that:
  - (1) The acreage was prevented from being planted as the result of a natural disaster and not a management decision,
  - (2) There was intent to plant the acreage by providing documentation of field preparation, seed purchase, and any other information that shows the acreage could have been planted and harvested under normal weather conditions.
- (g) If there is a difference between reported and determined crop acreage, FSA shall use:
  - (1) The smaller of the reported or determined acreage to calculate the unit's:
    - (i) Expected level of production, and
    - (ii) Total planted and prevented planted acreage, or
  - (2) Determined acreage for APH.
- (h) If the acreage report has been revised in accordance with section 10(d) (1), (2), or (3), the information on the initial acreage report will not be considered misreported for the purposes of section 31.
- (i) We may elect to determine NAP production and program benefits based on the information you submit on the acreage report or upon the factual circumstances we determine to have existed, subject to the provisions contained in section 9.
- (j) If you do not submit an acreage report by the acreage reporting date, or if you fail to report all units, we may elect to determine by unit the covered crop acreage, share, type and practice, or to deny coverage on such units. If we deny coverage for the unreported units, your share of any production from the unreported units will be allocated, for loss purposes only, as production to count to the reported units in proportion to the liability on each reported unit. However, such production will not be allocated to prevented planting acreage or otherwise affect any prevented planting payment.
- (k) You must provide all required reports and you are responsible for the accuracy of all information contained in those reports. You should verify the information is complete and accurate on all such reports prior to submitting them to us. If you submit information that is incomplete or inaccurate this could result in one or all of the following:
  - (1) An application for NAP assistance being denied
  - (2) You could be determined ineligible for NAP assistance on all units or farms
  - (3) You may become liable for fraud or misrepresentation (see section 31).
- (l) Errors in reporting units may be corrected by us at the time of adjusting a loss to reduce our liability and to conform to applicable unit division guidelines.

#### 11. Eligible Acreage.

- (a) Acreage planted to the eligible crop in which you have a share is covered except acreage on which the eligible crop is damaged and it is practical to replant the covered crop, but the eligible crop is not replanted;

- (b) If NAP coverage is provided for an irrigated practice, you must report as irrigated only that acreage for which you have adequate facilities and adequate water, or the reasonable expectation of receiving adequate water at the time coverage begins, to carry out a good irrigation practice. If you knew or had reason to know that your water may be reduced before coverage begins, the crop cannot be reported as irrigated.
- (c) We may restrict the amount of acreage that we will cover to the amount allowed under any acreage limitation program established by the United States Department of Agriculture if we notify you of that restriction prior to the application closing date.

#### 12. Share Covered.

Coverage will only be provided to the person completing the application for coverage and only for your share of the crop and will not extend to any other person having a share in the crop.

#### 13. Coverage Period.

- (a) For **annual crops**:
  - (1) Coverage begins the later of:
    - (i) 30 days after the date we accept your NAP application for coverage (For the purposes of this paragraph, the date of acceptance is the date that you submit a properly executed application for coverage in accordance with section 2) and pay the service fee according to section 4;
    - (ii) The date the crop is planted, not to exceed the final planting date.
  - (2) Coverage ends at the earliest of:
    - (i) The date harvest is complete
    - (ii) The normal harvest date in the area
    - (iii) Abandonment of the crop
    - (iii) Total destruction of the crop
- (b) For **multiple planted crops**:
  - (1) Coverage begins the later of:
    - (i) 30 days after the date we accept your NAP application for coverage
    - (ii) The date the crop is planted within the specific planting period
  - (2) Coverage period ends for the specific planting period, the earlier of:
    - (i) The date harvest is complete
    - (ii) The latest normal harvest date (Note: this date shall correlate with the number of days necessary for the crop to mature
    - (iii) Abandonment of the crop
    - (iv) Destruction of the crop.
- (c) For **perennial crops** (other than those intended as forage)
  - (1) Coverage begins 30 days after the application closing date
  - (2) Ends the earlier of:
    - (i) 10 months from the application closing date
    - (ii) The date harvest is complete
    - (iii) Abandonment of the crop
    - (iv) Total destruction of the crop.
- (d) For **value loss crops** or controlled environment crops, including ornamental nursery, aquaculture, Christmas trees, ginseng, floriculture, mushrooms,



turf grass sod coverage begins October 1 and ends September 30. (Beginning in 2010, coverage for ornamental nursery begins June 1, and ends May 31).

- (f) For **honey** and **tropical region** crops coverage begins January 1 and ends December 31.
- (g) For **maple sap**, coverage
  - (1) Begins the later of
    - (i) 30 days after the application closing date
    - (ii) The date the crop comes out of dormancy
  - (2) Ends on the earlier of either of the following
    - (i) The date harvest is complete
    - (ii) Normal harvest date.
- (h) For **biennial and perennial forage crops** coverage
  - (1) Begins the later of either:
    - (i) 30 days after the application closing date
    - (ii) The date following the normal harvest date of previous crop year.
  - (2) Ends the earlier of:
    - (i) The normal harvest date
    - (j) The date the crop is abandoned or destroyed
  - (3) For grazed forage designated as warm and cool season, the coverage period ends the earlier of:
    - (i) End of the designated grazing period established by the STC
    - (ii) Date the crop is abandoned or destroyed.

#### 14. Cause of Loss.

To qualify for assistance under NAP, production losses or prevented planting must have occurred as a result of an eligible cause of loss. Not all causes of loss are eligible causes of loss for all crops.

- (a) An eligible cause of loss is:
  - (1) Damaging weather, including, but not limited to:
    - (i) Drought
    - (ii) Hail
    - (iii) Excessive moisture
    - (iv) Freeze
    - (v) Tornado
    - (vi) Hurricane
    - (vii) Excessive wind
    - (viii) Any combination thereof
  - (2) Adverse natural occurrence, including but not limited to:
    - (i) Earthquake
    - (ii) Flood
    - (iii) Volcanic eruption
  - (3) A condition related to damaging weather or adverse natural occurrence, including, but not limited to
    - (i) Heat
    - (ii) Insect infestation
    - (iii) Disease
    - (iv) Any combination thereof.
- (b) The damaging weather, adverse natural occurrence, or related condition must occur before or during harvest and directly cause, accelerate, or exacerbate destruction or deterioration of the eligible crop as determined by COC.
- (c) NAP Coverage is provided against only eligible causes of loss. All specified causes of loss must be due to a naturally occurring event. All other causes of loss, including but not limited to the following, are NOT covered:

- (1) Negligence, mismanagement, or wrongdoing by you, any member of your family or household, your tenants, or employees;
- (2) Failure to follow recognized good farming practices for the eligible crop;
- (3) Water contained or released by any governmental, public, or private dam or reservoir project, in an easement exists on the acreage affected for the containment or release of the water;
- (4) Failure or breakdown of the irrigation equipment facilities, unless the failure or breakdown is due to an eligible cause of loss. (If damage is due to an eligible cause of loss, you must make all reasonable efforts to restore the equipment or facilities to proper working order within a reasonable amount of time unless we determine it is not practical to do so. Cost will not be considered when determining whether it is practical to restore the equipment or facilities);
- (5) Failure to carry out a good irrigation practice for the covered crop, if applicable; or
- (6) Any cause of loss that results in damage that is not evident or would not have been evident during the NAP coverage period. Even though we may not inspect the damaged crop until after the end of the NAP coverage period, only damage due to eligible causes that would have been evident during the NAP coverage period will be covered.

#### 15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage.

Your Duties -

- (a) In case of damage to any NAP covered crop at least one producer having a share in the unit must file a notice of loss to CCC in the administrative FSA county office:
  - (1) For prevented planting claims within 15 days after the final planting date
  - (2) For low yield claims and allowable value loss, the earlier of:
    - (i) 15 days after the disaster occurrence, or date of loss or damage to the crop or commodity becomes apparent
    - (ii) 15 days after the normal harvest date.
- (b) For NAP purposes, the notice of loss must be filed for each crop and include:
  - (1) The cause of crop damage
  - (2) Date the disaster occurred and when the damage or loss became apparent
  - (3) A copy of the contract or agreement if a contract or agreement of a guaranteed payment for planted acreage exists.
  - (4) Type of loss that occurred, e.g. prevented planting or low yield
  - (5) Practices used, e.g. irrigated or non-irrigated
  - (6) For prevented planting:
    - (i) Total acreage you intended to plant on the unit
    - (ii) Total acreage you planted on the unit
    - (iii) Whether seed, chemicals, fertilizer, etc. was purchased, delivered, or an arrangement for

- purchase or delivery was made for the intended crop
- (iv) What and when land preparation measures were completed, and
  - (v) What has been done or will be done with the acreage, e.g. abandoned, replanted, etc.
- (7) For low yield
- (i) Total acreage of the crop you planted in the unit
  - (ii) Total acreage of the crop affected
  - (iii) What and when land preparation measures and practices were completed before and after the loss, and
  - (iv) What will be done with the affected crop acreage, e.g. harvested, destroyed, replanted to a different crop, abandoned, etc.
- (8) Any other information requested by a CCC authorized representative.
- (9) The crop acreage that will not be harvested, i.e. abandoned, destroyed, or in the case of forage acreage intended for mechanical harvesting but grazed, must be left intact and you must request a crop appraisal and release of crop acreage by a CCC-approved loss adjustor:
- (i) Prior to destruction or abandonment of the crop acreage; or
  - (ii) No later than the normal harvest date, as determined by the CCC.
- (c) A notice of loss filed beyond the time specified in paragraph (a) of this section may be considered timely filed if, at the discretion of CCC, time permits:
- (1) An authorized CCC representative to verify information on the notice of loss by inspecting the affected acreage or the crop involved
  - (2) COC or an authorized CCC representative the opportunity to determine that eligible disaster conditions caused the damage or loss.
- (d) You must:
- (1) Provide a complete harvesting and marketing record of each eligible crop by unit, including separate records showing the same information for production from any acreage not eligible.
  - (2) Upon our request, or that of any USDA employee authorized to conduct investigations of the NAP program, submit to an examination under oath.
- (e) You must establish the total production or value received for the covered crop on the unit, that any loss of production or value occurred during the NAP coverage period, and that the loss of production or value was directly caused by one or more of the covered causes of loss.
- (f) All notices required in this section must be received by your local FSA office within 15 days.
- (g) It is your duty to prove you have complied with all provisions of the Application for Coverage.
- (1) Failure to comply with the requirements of section 15(c) (Your Duties) will result in denial of your application for payment or prevented planting for the acreage for which the failure occurred. Failure to comply with all other requirements of this section will result in denial of your application for payment or prevented

planting or for which the failure occurred, unless we still have the ability to accurately adjust the loss

- (2) Failure to comply with other sections of the Application for Coverage will subject you to the consequences specified in those sections.

#### Our Duties -

- (a) If you have complied with all the Application for Coverage provisions, we will pay your loss within 30 days after the later of:
  - (1) The COC approval of the application for payment signifying an acceptable notice of loss caused by a natural disaster, and that you have provided all requisite forms, evidence and information to make such a determination
  - (2) Completion of arbitration, reconsideration of determinations regarding good farming practices or any other appeal that results in an award in your favor, unless we exercise our right to appeal such decision;
  - (3) Completion of any investigation by USDA, if applicable, of your current or any past application for payment if no evidence of wrongdoing has been found (If any evidence of wrongdoing has been discovered, the amount of any payment, as a result of such wrongdoing may be offset from any payment owed to you); or
  - (4) The entry of a final judgment by a court of competent jurisdiction.
- (b) In the event we are unable to pay your loss within 30 days, prompt payment interest will begin to accrue from the date payment was due
- (c) We may defer the adjustment of a loss until the amount of loss can be accurately determined. We will not pay for additional damage resulting from your failure to provide sufficient care for the crop during the deferral period.
- (d) We recognize and apply the loss adjustment procedures established or approved by the Federal Crop Insurance Corporation.

#### 16. Production Included in Determining a Payment and Payment Reductions.

- (a) The actual production to be counted for a unit will include all harvested, appraised, and assigned production.
- (b) Appraised production will be used if you are not going to harvest your acreage. If you harvest the crop after the crop has been appraised:
  - (1) You must provide us with the amount of harvested production; and
  - (2) If the harvested production exceeds the appraised production, claims will be adjusted using the harvested production; or
  - (3) If the harvested production is less than the appraised production, and:
    - (i) You harvest after the end of the coverage period, your appraised production will be used to adjust the loss unless you can prove that no additional causes of loss or deterioration of the crop occurred after the end of the coverage period; or

- (ii) You harvest before the end of the coverage period, your harvested production will be used to adjust the loss.

**17. Late Planting.**

Late planting provisions provide reduced coverage for eligible crop acreage planted during the applicable late planting period.

- (a) Crops not planted by the STC-established final planting date because of a natural disaster but planted during the late planting period will not be eligible for prevented planting payments.
- (b) If you are unable to plant the crop by the STC-established final planting date because of natural disaster, you must provide a notice of loss within 15 days of the final planting date to maintain eligibility for prevented planting benefits.
- (c) Production will be assigned for late planted acres based upon the date the crop was planted. See the table below for the level of assigned production.
  - (1) Exception: Late planting provisions do not apply to crops having multiple planting periods, crops with a growing season of 60 days or less, value loss crops, and tropical region crops.
  - (2) These reductions will not apply to the approved yield.

If the crop days to maturity are...	AND if the crop is planted after the STC-established final planting date by...	THEN assign production equal to...
61-120 days	1-5 days	5% of expected production regardless of the day planted
	6-20 days	5% of expected production plus an additional 1% for each day 6 through 20
	21 or more days	50% of expected production
121 days or more	1-5 days	5% of expected production regardless of the day planted
	6-25 days	5% of expected production plus an additional 1% for each day 6 through 25
	26 or more days	50% of expected production

**18. Prevented Planting.**

Prevented planting is the inability to plant an eligible crop with proper equipment during the planting period as a result of an eligible cause of loss, as determined by CCC.

- (a) A prevented planting payment may be made to you for eligible acres if:
  - (1) You were prevented from planting more than 35 percent of the total eligible acreage intended for planting to the eligible crop as a result of a natural disaster, as determined by COC, and
  - (2) The acreage was reported within 15 days after the final planting date, and

- (3) Similarly affected producers in the area have been impacted.
- (b) To be approved for prevented planting,
  - (1) You must show the COC there was an intent to plant the acreage by providing documentation of field preparation, seed purchase and any other information that shows the acreage could have been planted and harvested under normal weather conditions, and
  - (2) The amount of the prevented planted acreage must be consistent with prior years' planting history for the farm.
- (c) Eligible prevented planting acreage will be determined on the basis of your intent to plant the crop acreage and possession of, or access to, resources to plant, grow, and harvest the crop, as applicable.
- (d) Prevented planting credit on acreage that had either a previous or subsequent crop planted on the acreage in the same crop year may be given if all the following conditions are met:
  - (1) There is an established practice of planting two or more crops for harvest on the same acreage in the same crop year;
  - (2) Both crops could have reached maturity and would have been harvested;
  - (3) Both the initial and subsequent planted crops were planted or prevented-planted within the normal planting period for that crop; and
  - (4) Both the initial and subsequent planted crops meet all other eligibility provisions of this part including good farming practices.
- (e) Prevented planting credit will be given to crops where the prevented-planting acreage was affected by drought if all the following conditions are met:
  - (1) On the final planting date for non-irrigated acreage, the area that is prevented from being planted has insufficient soil moisture for seed germination and progress toward crop maturity because of a prolonged period of dry weather; and
  - (2) Prolonged precipitation deficiencies exceeded the D2, D3, or D4 level as determined using the U.S. Drought Monitor; and
  - (3) Verifiable information is collected from sources whose business or purpose it is to record weather conditions, as determined by CCC, and including but not limited to the local weather reporting stations of the U.S. National Weather Service, Bureau of Reclamation, U.S. Army Corps of Engineers, CREES, or NRCS.
- (f) Prevented planting credit shall apply to irrigated crops where the acreage was prevented from being planted due to a lack of water resulting from natural disaster conditions or contamination by saltwater intrusion of an irrigation supply resulting from natural disaster conditions if there was not a reasonable probability of having adequate water to carry out an irrigation practice.
- (g) Acreage ineligible for prevented planting coverage includes, but is not limited to acreage:

- a. Value Loss crops, including, but not limited to, Christmas trees, aquaculture, and ornamental nursery;
  - b. Tree crops and other perennials, unless:
    - (i) You can prove resources unique to the planting of tree crops and other perennials were available to plant, grow, and harvest the crop as determined by CCC; and
    - (ii) CCC has approved the planting period for the crop;
  - c. On which a crop was harvested, hayed, or grazed during the crop year;
  - d. Which planting history or conservation plans indicate would remain fallow for crop rotation purposes;
  - e. Used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by USDA, including the Conservation Reserve and Wetland Reserve Programs; and
  - f. Not planted because of a management decision;
  - g. Which you or any other person received a prevented planting payment for any crop for the same acreage, excluding share arrangements; and
  - h. Planted during the late-planting period.
- (h) An eligible prevented planting payment is calculated according to the following table (**Note:** separate calculations are completed for each crop type and intended use in your unit.)

Step	Action
1	Add the total planted and prevented-planted acres.
2	Multiply the result of step 1 by 0.35.
3	Subtract the result of step 2 from the total prevented planted acres.
4	Multiply your share by the approved yield by the positive result of step 3.
5	Multiply your share by the assigned production, if any.
6	Subtract the result of step 5 from the result of step 4.
7	Multiply the result of step 6 by the final payment price (average market price times 0.55 times prevented planting factor).

**19. Crops as Payment.**

You must not abandon any crop to us. We will not accept any crop as compensation for payments due us.

**20. Reconsideration, Appeal, Mediation, and National Appeals Division.**

- (a) If you disagree with a determination made by an authorized CCC agent, you have the right to request reconsideration, appeal, or mediation according to the following table.

Initial adverse decision made by...	You have the right to...
County FSA Employee	Appeal to COC
COC	Reconsideration, appeal to STC, mediation, and appeal to National Appeals Division (NAD)
State Director (SED)	Reconsideration, mediation, and appeal to NAD

STC	Reconsideration, mediation, and appeal to NAD
National Appeal official	Appeal to NAD

- (b) You may appeal an adverse reconsideration according to the following table:

Initial adverse decision made by	You have the right to...
COC	Appeal to STC, mediation, and appeal to NAD.
SED	Mediation, and appeal to NAD.
STC	

- (c) If you live in a state without a certified mediation program, mediation is available as part of FSA's informal appeal process. To request mediation, you must write to the FSA SED where the administrative county FSA office is located.
- (d) If you live in a state with a certified mediation program, you shall be informed by FSA in writing of the address of the state mediation program where you must submit your written request for mediation. You must also provide a copy of your request for mediation to FSA.
- (e) When requesting mediation, you may be required to pay all or part of the cost of mediation.
- (f) All requests for reconsideration must be made in writing no later than 30 days after you receive notice of a determination.
- (g) If you request mediation, the time frame in which you may file an appeal stops. When mediation closes, the clock restarts and you will have the balance of days remaining in that period to file an appeal.
- (h) If you appeal to NAD, you waive any rights you might have to reconsideration, appeal to FSA, and mediation.
- (i) If you do not timely exercise any of the preceding options, CCC authorized agents will carry out the final decision no later than 30 days after you receive notice of determination.

**21. Records (7 CFR Part 1437.7)**

- (a) For each harvested crop for which you file an application for payment in accordance with 7 CFR Part 1437.10, you must provide documentary evidence acceptable to CCC of production and the date harvest was completed, including production of crops planted after the planting period or late planting period. Such documentary evidence must be provided no later than the acreage reporting date for the crop in the subsequent crop year. Records of a previous crop year's production for inclusion in the actual production history used to calculate an approved yield for the current year must be certified by you no later than the acreage reporting date for the crop in the current crop year. Production data provided after the acreage reporting date in the current crop year for the crop may be included in the APH data base for the calculation of subsequent approved yield calculations if accompanied by acceptable records of production as determined by CCC.

(b) During any crop year that a notice of loss is filed according to this part:

- (1) If you hand-harvest crops, you shall, in addition to providing acceptable production records according to this part, notify the administrative county office that harvest is complete. This notification must be made before deterioration or destruction of the crop residue and within 15 days after harvest is completed. If an appraisal of the crop acreage is determined necessary by CCC, you shall not destroy the crop residue until the crop acreage is released by a CCC qualified loss adjuster. You may, at your expense, request that an appraisal of hand-harvested crop acreage be completed during non-loss crop years in order to maintain accurate APH.
- (2) You shall not allow the gathering (gleaning) of any produce left in the field following normal harvest of the crop acreage until the crop acreage is released by a qualified CCC loss adjuster, as determined by CCC. Crop acreage may be released by an authorized CCC representative for acceptable gleaning operations, as determined by CCC, when you and the gleaners agree to provide acceptable records, as determined by CCC, of the quantity of the crop gleaned.

## **22. Access to NAP Covered Crop and Records, and Record Retention.**

- (a) We and any employee of USDA authorized to investigate or review any matter relating to NAP coverage, have the right to examine the eligible NAP crop and all records related to the eligible NAP crop and any mediation, arbitration or litigation involving the crop as often as reasonably required during the record retention period.
- (b) You must retain, and provide upon our request, or the request of any employee of USDA authorized to investigate or review any matter relating to NAP coverage:
  - (1) Complete records of the planting, replanting, inputs, production, harvesting, and disposition of the eligible NAP crop on each unit for three years after the end of the crop year (this requirement also applies to all such records for acreage that is not covered); and
  - (2) All records used to establish the amount of production you certified on your production reports used to compute your approved yield for three years after the end of the crop year for which you initially certified such records, unless such records have already been provided to us (for example, if your approved yield for the 2009 crop year was based on production records you certified for the 2003 through 2008 crop years, you must retain all such records through the 2012 crop year, unless such records have already been provided to us).
- (c) We, or any employee of USDA authorized to investigate or review any matter relating to NAP coverage, may extend the record retention period

beyond three years by notifying you of such extension in writing.

- (d) By signing the application for NAP coverage authorized under the Act or by continuing NAP coverage for which you have previously applied, you authorize us or USDA, or any person acting for us or USDA, to investigate or review any matter relating to NAP coverage, to obtain records relating to the planting, replanting, inputs, production, harvesting, and disposition of the NAP covered crop from any person who may have custody of such records, including but not limited to, crop insurance agents, other FSA offices, banks, warehouses, gins, cooperatives, marketing associations, and accountants. You must assist in obtaining all records we are authorized to investigate or review matters relating to NAP coverage request from third parties.
- (e) Failure to provide access to the eligible NAP crop or the farm, authorize access to the records maintained by third parties, or assist in obtaining such records will result in a determination that no NAP payment is due for the crop year in which such failure occurred.
- (f) Failure to maintain or provide records will result in:
  - (1) The imposition of an assigned yield in accordance with section 8 for those crop years for which you do not have the required production records to support a certified yield;
  - (2) A determination that no NAP payment is due if you fail to provide records necessary to determine your loss;
  - (3) Assignment of production to the units by us if you fail to maintain separate records for any ineligible acreage; and
  - (4) The imposition of consequences specified in section 31, as applicable.
- (g) If the imposition of an assigned yield under section 22(f) (1) would affect a NAP payment that was paid in a prior crop year, such claim will be adjusted and you will be required to repay any overpaid amounts.

## **23. Transfer of NAP Coverage**

- (a) You may transfer NAP coverage for a crop to another producer before a disaster. Transfer of partial coverage for a crop is not allowed. Transfer of NAP coverage may be used when there is a:
  - (1) Sale of land
  - (2) Transfer of lease
  - (3) New entity formed
  - (4) Change in entity type
  - (5) Change in operator between husband and wife.
- (b) When transfer of NAP coverage to another producer is initiated, the buyer, new lessee, or new entity becomes responsible for meeting all program requirements including eligible producer requirements.
- (c) Transfer of NAP coverage can occur before or after the acreage reporting date. A transfer of NAP coverage shall not be used:
  - (1) After a disaster has occurred
  - (2) Before the application closing date for the crop
  - (3) When estates are closed or entities are dissolved

- (4) When partial share transfers occur between two parties
  - (5) Involving divorce between husband and wife unless the transfer is 100%
  - (6) When land is transferred to another administrative county
  - (7) When the buyer already has coverage for the crop.
- (d) Transfers must be initiated after the application closing date and before the earlier of either the disaster event or end of the coverage period. The end of coverage period is determined as:
- (1) The date harvest is complete
  - (2) The normal harvest date
  - (3) Abandonment of the crop
  - (4) Total destruction of the crop.
- (e) If a loss occurs in the year of the transfer, production must be kept separate and the loss is calculated only on the transferred acreage and production.
- (f) If a high percentage of land is purchased or leased by you and the transferee has an application for coverage filed for the unit that includes the crop, the yield used for determining loss and/or making payments may be adjusted by the COC for that year. The transferee has all rights and responsibilities under the Application for Coverage consistent with the transferee's interest.

#### 24. Miscellaneous Provisions

- (a) You must comply with the provisions of Highly Erodible Land and Wetland Conservation (HELC and WC), according to 7 CFR Part 12, to be eligible for NAP payment.
- (b) If you are convicted of a controlled substance offense, you will be ineligible for NAP benefits according to 7 CFR Part 718.6.
- (c) If FCIC has determined that you have willfully and intentionally provided false or inaccurate information to FCIC or any insurer concerning an insurance plan or policy, you are disqualified from purchasing CAT or receiving NAP benefits for a period not to exceed 2 years. The effective date of the FCIC disqualification notice is the beginning date for the period of NAP ineligibility.
- (d) You are not required to obtain CAT or sign FSA-570, on your insurable crops to be eligible for NAP.

#### 25. Payment and Income Limitations

- (a) Payments to a person or legal entity are:
  - (1) limited to \$100,000 annually;
  - (2) by direct attribution; and
  - (3) subject to average adjusted gross income (AGI) provisions at 7 CFR Part 1400.
- (b) CCC will pay, for up to one year, simple interest on payments to you which are delayed. Interest will be paid on the net amount ultimately found to be due, and will begin accruing on the 31<sup>st</sup> day after the date you sign, date, and submit a properly completed application for payment on the designated form, or the 31<sup>st</sup> day after a disputed application is adjudicated. Interest will be paid unless the reason for failure to timely pay is because you failed to provide information or other material necessary for the

computation of payment, or there was a genuine dispute concerning eligibility for payment.

- (c) Payment limitation rules apply according to 7 CFR Part 1400.

#### 26. Assignment of NAP Payment

You may assign to another party your right to a NAP payment for an eligible loss for the crop year. The assignment must be on our form and will not be effective until approved in writing by us. You will be responsible for requesting NAP payments no later than the subsequent crop year acreage reporting date for the crop following the crop year in which the loss occurred.

#### 27. Guaranteed Payments and Salvage Value

- (a) You must certify whether there has been any arrangement, agreement, or contract for guaranteed payment for production, as opposed to delivery, of any eligible crop for which you file a notice of loss. Failure to report the existence of any guaranteed payment contract or similar agreement shall be considered as providing false information to CCC (see section 31).
- (b) If you have an agreement, as specified in 27(a) to receive a guaranteed payment, your net production shall be adjusted upward by the amount of production corresponding to the amount of the contract guarantee.
- (c) Salvage value is the dollar amount or equivalent received by you when a covered commodity cannot be marketed or sold in any market for which a price or yield is established by CCC. The loss of quality resulting in a commodity becoming salvage must be because of natural disaster.
  - (1) The quantity of a commodity that is damaged and has no dollar or equivalent value for any intended use of the crop for which a price or yield is established by CCC shall be treated as salvage and not be considered production of the crop for any purpose.
  - (2) If the quantity of a commodity qualifying as salvage and not production is marketed, you must provide evidence of this marketing. COC will use the higher of:
    - (i) Any market price available to you for this quantity of the commodity
    - (ii) The dollar amount or equivalent value received for this quantity of the commodity.
  - (3) Salvage value shall:
    - (i) Be deducted from the NAP payment calculated for the affected crop
    - (ii) Not be considered as any type of production of the crop for any purpose, including, but not limited to the determination of whether the unit suffered a requisite loss, APH, and approved yield.

#### 28. Applicability of State and Local Statutes

If the provisions of this document conflict with statutes of the State or locality in which the Application for Coverage is issued, the Application for Coverage provisions will prevail. State and local laws and regulations in conflict with federal statutes, this document, and the applicable regulations, do not apply to the Application for Coverage.

#### 29. Notices, Changes, and Corrections

- (a) All notices required to be given by you must be in writing and received by your administrative FSA office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice. If the date by which you are required to submit a report or notice falls on Saturday, Sunday, or a Federal holiday, or if your administrative office is, for any reason, not open for business on the date you are required to submit such notice or report, such notice or report must be submitted on the next business day.
- (b) All notices and communications required to be sent by us to you will be mailed to the address contained in your records located with your administrative FSA county office. Notice sent to such address will be conclusively presumed to have been received by you. You should advise us immediately of any change of address.
- (c) CCC representatives will notify you in writing of changes to NAP policies and provisions that may materially affect your NAP coverage and/or benefits, such as a crop becoming ineligible for NAP because the crop is now eligible for CAT coverage through FCIC.
- (d) CCC reserves the right to correct all errors arising from entering data or computations related to your NAP application for coverage, APH, and/or NAP payment(s).
- (e) In the event of a conflict between the regulations at 7 CFR Part 1437 and the terms of these Basic Provisions, the regulations will prevail.

**30. Multiple Benefits 7 CFR Part 1437.13.**

- (a) If you are eligible to receive a NAP payment and benefits under any other program administered by the Secretary for the same crop loss, then you must choose whether to receive the other program benefits or the NAP payment, but you shall not be eligible for both. The limitation on multiple benefits prohibits you from being compensated more than once for the same loss.
- (b) The limitation on multiple benefits in 7 CFR Part 1437.13 shall not apply in any respect to the Emergency Loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq).
- (c) The restriction of multiple benefits does not relieve you of the requirement to submit production and acreage reports.

**31. Misrepresentation, Scheme, or Device 7 CFR Part 1437.15**

- (a) If CCC representatives determine you have knowingly misrepresented any fact; adopted, participated in, or benefited from any scheme or device that has the effect of defeating, or is designed to defeat the purpose of NAP, your NAP coverage will be terminated. Scheme and device may include, but is not limited to:
  - (1) Concealing any information from CCC representatives

- (2) Submitting false information to CCC representatives
  - (3) Creating fictitious entities for the purpose of concealing the interest of a person in the farming operation.
- (b) Sanctions will apply to you and all your other interests as a producer and other entities or joint ventures for all crops, all units in all administrative counties, and States. Sanctions imposed by CCC representatives include:
    - (1) Ineligibility for a NAP payment for the crop year of the violation plus 2 subsequent years
    - (2) A refund of all amounts paid by CCC to you or your farming interest
    - (3) Assessing liquidated damages of 25 percent of the projected or received NAP payment for the crop in violation. Liquidated damages are in addition to any refund of program benefits and are not considered a penalty.
  - (c) Your liability for any penalty under this part or for any refund to CCC or related charge shall be in addition to any other liability of you under any civil or criminal fraud statute or any other provision of the law but not limited to: 18 U.S.C. 286, 287, 371, 641, 651, 1001 and 1014; 15 U.S.C. 714M; and 31 U.S.C. 3729