

Commodity Credit Corporation, USDA

§ 1437.10

(3) The failure of the producer to follow good farming practices for the commodity and practice;

(4) Water contained or released by any governmental, public, or private dam or reservoir project, if an easement exists on the acreage affected for the containment or release of the water;

(5) Failure or breakdown of irrigation equipment or facilities; or

(6) Except for tree crops and perennials, inadequate irrigation resources at the beginning of the crop year.

(c) A producer of an eligible crop will not receive payments under this part unless the projected average or actual yield for the crop, or an equivalent measurement if yield information is not available, in the area falls below 65 percent of the expected area yield. Once this area, and all other, eligibility requirements have been satisfied:

(1) A reduced yield payment will be made to a producer if the total quantity of the eligible crop that the producer is able to harvest on the unit is less than 50 percent of the approved yield for the crop due to natural disaster reasonably related to the basis for the area designation under §1437.6, factored for the share of the producer for the crop. Production from the entire unit will be used to determine whether the producer qualifies for a payment under this part. The quantity will not be reduced for any quality consideration unless a zero value is established; and

(2) A prevented planting payment under this part will be made if the producer is prevented from planting more than 35 percent of the total eligible acreage intended for planting to the eligible crop. Producers must have intended to plant the crop and prove that they were prevented from planting the crop due to natural disaster reasonably related to the basis for the area designation under §1437.6, and the producer may be required to prove that such producer had the resources available to plant, grow, and harvest the crop, as applicable.

(d) NAP payments under this part for prevented planting will not be available for:

(1) Tree crops and other perennials, unless the producer can prove resources were available to plant, grow, and harvest the crop, as applicable;

(2) Land that planting history or conservation plans indicate would remain fallow for crop rotation purposes; or

(3) Land 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 Program and Wetland Reserve Program.

[61 FR 69005, Dec. 31, 1996, as amended at 62 FR 53932, Oct. 17, 1997]

§ 1437.10 Application for payment and notice of loss.

(a) Any person with a share in the eligible crop who would be entitled to a payment under this part must provide a notice of damage or loss within 15 calendar days after the occurrence of the prevented planting (the end of the planting period) or recognizable damage to the crop. The notice must be filed at the local office serving the area where the producer's unit is located. The farm operator may provide the notice for all producers with an interest in the crop. All producers on a farm will be bound by the operator's filing or failure to file the application for payment unless the individual producers elect to timely file their notice.

(b)(1) Applications for payments under this part must be filed, on Form FCI-74, by the applicant with the local office no later than the first acreage reporting date for the crop in the crop year immediately following the crop year in which the loss occurred.

(2) If the producer chooses not to harvest the crop, all eligible acres and crop units for which the producer intends to make an application for payment must be left intact until the units have been appraised or released by an FCIC or CCC approved loss adjuster.

(3) If the producer harvests the crop, the producer must provide such documentary evidence of crop production as CCC may require which may include leaving representative samples of the crop for inspection.

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(c) Failure to make timely application or to supply the required documentary evidence shall result in the denial of payments under this part.

§ 1437.11 Payments for reduced yields and prevented planting.

In the event that the area loss requirement has been satisfied for the crop and:

(a) The producer has sustained a loss in yield in excess of 50 percent of the producer's approved yield established for the crop, the NAP low yield payment will be determined by:

(1) Multiplying the producer's approved yield by the total eligible acreage planted to the eligible crop;

(2) Multiplying the product of paragraph (a)(1) by 50 percent;

(3) Subtracting the total production from the total eligible acreage from the result in paragraph (a)(2);

(4) Multiplying the product of paragraph (a)(3) by the producer's share of the eligible crop;

(5) Multiplying the result of paragraph (a)(4) by the applicable payment factor in accordance with §1437.5(c); and

(6) Multiplying the result in paragraph (a)(5) by:

(i) For the 1996 through 1998 crop years, 60 percent of the average market price, as determined by CCC, or any comparable coverage, as determined by CCC; or

(ii) For the 1999 and subsequent years, 55 percent of the average market price, as determined by CCC, or any comparable coverage, as determined by CCC; or

(b) The producer has been unable to plant at least 35 percent of the acreage intended for the eligible crop, the NAP payment will be determined by:

(1) Multiplying the producer's acreage intended to be planted to the eligible crop by 35 percent;

(2) Subtracting the result in (b)(1) from the number of eligible prevented planting acres as determined in §1437.9(c)(2);

(3) Multiplying the result of (b)(2) by the producer's share of the eligible crop;

(4) Multiplying the producer's approved yield by the result of (b)(3);

(5) Multiplying the result of (b)(4) by the approved prevented planting payment factor in accordance with §1437.5(c); and

(6) Multiplying the result of (b)(5) by:

(i) For the 1996 through 1998 crop years, 60 percent of the average market price, as determined by CCC, or any comparable coverage, as determined by CCC; or

(ii) For the 1999 and subsequent years, 55 percent of the average market price, as determined by CCC, or any comparable coverage, as determined by CCC.

(c) The producer has sustained a loss of forage determined by CCC to be predominantly grazed in accordance with §1437.7(1), in excess of 50 percent of the producer's expected Animal Unit Day established for the unit, the NAP payment will be determined by:

(1) Dividing the unit acreage for each species or type or variety identified on the unit by the approved carrying capacity and multiplying the result by the corresponding grazing days used as the basis for determination of the carrying capacity, totaling the result for each species or types and varieties.

(2) Multiplying the result of paragraph (c)(1) of this section by 50 percent.

(3) Multiplying the number of animals grazed by the daily allowance of corn according to type and weight range and divide the result by pounds of corn CCC determines is necessary to provide the daily energy requirement for one animal unit.

(4) Multiplying the result of paragraph (c)(3) of this section by the number of days grazing occurred to determine gross actual AUD.

(5) Adding AUD for ineligible causes of loss and incidental mechanically harvested Category 1 forage to the result of paragraph (c)(4) of this section.

(6) Subtracting AUD or equivalent value of supplemental feed fed to the grazing livestock during the crop year from the result of paragraph (c)(5) of this section.

(7) Subtracting the result of paragraph (c)(6) of this section from the result of paragraph (c)(2) of this section. If a zero or negative number results, payment cannot be calculated.