

Materials Prepared for

**Federation of Southern Cooperatives**

**Epes, Alabama**

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# **Noninsured Crop Disaster Assistance Program (NAP)**

by Karen R. Krub



**FARMERS' LEGAL  
ACTION GROUP,  
INCORPORATED**

Farmers' Legal Action Group, Inc.  
360 North Robert Street, Suite 500  
Saint Paul, Minnesota 55101-1589

Phone: 651.223.5400

Fax: 651.223.5335

Email: [lawyers@flaginc.org](mailto:lawyers@flaginc.org)

Web site: [www.flaginc.org](http://www.flaginc.org)

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CAUTION: These materials are for training purposes only. To learn the details about any certain point, refer to the applicable statute, regulations, handbooks, and policy notices.

## **Noninsured Crop Disaster Assistance Program (NAP)**

The purpose of the Noninsured Crop Disaster Assistance Program (NAP) is to provide crop loss assistance to producers for crops not eligible for crop insurance. NAP provides a level of protection equal to catastrophic risk (CAT) coverage for these uninsurable crops—guaranteeing 50% of historical yield at 55% of expected market price. No higher levels of coverage are available.

NAP is administered by the Farm Service Agency (FSA) under regulations published in Title 7, Part 1437, of the Code of Federal Regulations (CFR). In addition to these regulations, local FSA offices use a program handbook containing policy guidance and detailed procedures. The current handbook for NAP is “Noninsured Crop Disaster Assistance Program for 2001 and Subsequent Years,” 1-NAP (Revision 1). Producers can request a copy of this handbook from their local FSA office. It is also available on the Internet at [www.fsa.usda.gov/Internet/FSA\\_File/1-nap\\_r01\\_a48.pdf](http://www.fsa.usda.gov/Internet/FSA_File/1-nap_r01_a48.pdf).

### **I. When NAP Coverage Is Required to Receive Other Disaster Assistance**

Congress has adopted various measures over the past several years attempting to ensure that producers who can participate in NAP will do so, rather than remaining without any crop loss coverage at all. For the most part, this encouragement to participate in NAP has been some form of “linkage,” where eligibility for another desired benefit is tied to full participation in NAP or federal crop insurance, to the extent they are available.

For example, most of the new disaster assistance programs created by the 2008 Farm Bill include a strict linkage requirement.<sup>1</sup> This means that, in general, a producer must have

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<sup>1</sup> 7 C.F.R. § 760.104.

obtained crop insurance or NAP coverage for affected crops in order to be eligible for disaster loss payments under the new *Supplemental Revenue Assistance Payment Program*; the new *Livestock Forage Disaster Program*; the new *Tree Assistance Program*; and the new *Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program*.

#### **A. Waivers of Linkage Requirement under the 2008 Farm Bill for Socially Disadvantaged, Limited Resource, or Beginning Farmers or Ranchers**

FSA may waive the requirement that the producer have obtained crop insurance or NAP coverage in the case of producers who meet the definition of socially disadvantaged, limited resource, or beginning farmers or ranchers.<sup>2</sup> If such a waiver is granted, FSA may provide disaster assistance at a level that it determines to be equitable and appropriate.

Limited resource producers may also request a waiver of the administrative fee required for NAP coverage or catastrophic crop insurance.<sup>3</sup> By requesting a waiver of the fee before the application closing date or sales closing date, the limited resource producer may actually participate in the programs, rather than receive a waiver of the duty to do so.

#### **B. Equitable Relief from Linkage Requirement under the 2008 Farm Bill**

The 2008 Farm Bill also authorizes FSA to provide equitable relief on a case-by-case basis to producers who unintentionally fail to satisfy the requirement to obtain crop insurance or NAP coverage on affected crops.<sup>4</sup> However, producers should never assume that they would be granted equitable relief.

## **II. NAP Eligibility Requirements**

Several types of eligibility rules apply to NAP. First, the **specific crop** must be eligible for assistance under NAP. Second, the particular **reason for crop loss** must be covered under NAP. Third, the **producer** must be eligible for NAP benefits. Fourth, the **land on which the crop is growing** must be eligible for NAP coverage. Each of these requirements is discussed in turn.

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<sup>2</sup> 7 C.F.R. § 760.107.

<sup>3</sup> 7 C.F.R. § 1437.6(d).

<sup>4</sup> 7 C.F.R. § 760.106.

## **A. Crops Eligible for NAP Coverage**

### **1. General Requirements**

In general, in order to qualify for NAP coverage, the crop must meet all three of the following requirements.<sup>5</sup>

- a. The crop must be a commercial crop or other agricultural commodity.
- b. Generally, the crop must be produced for food or fiber.
- c. Catastrophic (CAT) crop insurance coverage is not available in the area for the crop.

Several exceptions to these general requirements either expand or limit crop eligibility under NAP.

### **2. Crops Specifically Made Eligible for NAP<sup>6</sup>**

- a. Crops produced for livestock consumption.
- b. Floriculture—includes field-grown flowers and propagation stock.
- c. Ornamental nursery crops.
- d. Turfgrass sod.
- e. Christmas trees.
- f. Seed crops commercially produced for sale as seed stock for crops eligible for NAP.
- g. Aquaculture—includes species raised for human consumption, species raised as feed for fish which are themselves then for human consumption, and ornamental fish.
- h. Sea grasses and sea oats.
- i. Industrial crops specifically designated by USDA.

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<sup>5</sup> 7 C.F.R. § 1437.4.

<sup>6</sup> 7 C.F.R. § 1437.4(b).

### 3. *No Livestock Coverage*

Although livestock technically meets the three general requirements for NAP eligibility, the NAP statute and regulations provide that livestock and their by-products are not covered under NAP.<sup>7</sup>

### 4. *Special Rule for Forage Crops*

For a forage crop to be eligible for NAP coverage, the land must generally be covered with mature grass or other vegetation (such as small grains) that is produced using acceptable farming, pasture, and range management practices that sustain the quality and quantity of grass or vegetation.<sup>8</sup> The grass or other vegetation should be suitable for grazing or mechanical harvest to feed livestock in a commercial operation. Forage produced on federal or state lands is eligible for NAP coverage.

Different types or varieties of forage crops may be defined by FSA as separate crops according to the intended method of harvest, whether mechanical or grazed.<sup>9</sup> Grazed forage may further be divided as warm season and cool season forage. To the extent that the types or varieties of mechanically harvested forage are demonstrated to have significant differences in value, they may be further divided based upon the commodity used as forage. Each of the crops on a specific acreage of wheat, barley, oats, triticale, or rye intended for use as forage shall be considered a separate small grain crop, distinct from each other small grain crop intended for forage, as well as distinct from other forage commodities and other intended uses of the small grain crops.<sup>10</sup>

## B. Eligible Crop Losses

### 1. *Caused by Natural Disaster*

In order to be eligible for NAP, the producer's crop loss must be caused by a **natural disaster** that occurs before or during harvest. For NAP, this means:<sup>11</sup>

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<sup>7</sup> 7 C.F.R. § 1437.4(b)(1).

<sup>8</sup> 7 C.F.R. § 1437.401(a).

<sup>9</sup> 7 C.F.R. § 1437.12(f).

<sup>10</sup> 7 C.F.R. § 1437.401(e).

<sup>11</sup> 7 C.F.R. § 1437.9.

- a. Damaging weather, including, but not limited to, drought, hail, excessive moisture, freeze, tornado, hurricane, excessive wind, or any combination of these events.
- b. An “adverse natural occurrence,” such as an earthquake, flood, or volcanic eruption.
- c. “Related conditions,” including heat, insect infestation, or disease, when these conditions result from an adverse natural occurrence or damaging weather. Such conditions must occur before or during harvest and must directly cause, accelerate, or exacerbate the destruction or deterioration of an eligible crop.

## 2. *Specifically Excluded Causes of Crop Loss*

Losses are not covered under NAP if they are caused by the producer or could have been prevented by the producer. Specifically excluded from coverage are losses caused by the following.

- a. Neglect or malfeasance by the producer.<sup>12</sup>
- b. Failure to reseed the crop if it is practical and customary to do so.
- c. Failure to follow good farming practices, as defined by USDA. “Good farming practices” are the cultural practices generally used for the crop to make normal progress toward maturity and produce at least the approved yield.
- d. Damage caused by water from a dam or reservoir if the land on which the crop was grown is covered by a related easement.
- e. Failure of an irrigation system.
- f. Inadequate irrigation resources at the beginning of the crop year. (This exclusion does not apply to tree crops and perennials.)
- g. With respect to a nursery crop, failure to provide a controlled environment or exercise good practices.
- h. Quarantine.<sup>13</sup>

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<sup>12</sup> 7 C.F.R. § 1437.9(e).

- i. Drifting herbicide.
- j. Failure of the crop to mature in time for a specific market.
- k. Wildlife damage.
- l. Prevented planting resulting from chemical or herbicide residue.

## **C. Producer Eligibility for NAP Benefits**

### **1. General Eligibility Requirements**

- a. No more than \$500,000 in gross nonfarm income in the three tax years preceding the most recently completed tax year.<sup>14</sup>
- b. No violation of USDA's highly erodible land and wetland conservation provisions, that is, Swampbuster and Sodbuster.<sup>15</sup>
- c. No crop insurance fraud in the past five years.<sup>16</sup>
- d. No conviction for production of a controlled substance in the past five years.<sup>17</sup>

### **2. Reporting and Record Retention Requirements**

To be eligible for NAP benefits, producers must file acreage and production reports every year at the local FSA office by the deadline for such reports.<sup>18</sup>

Producers must retain, for a minimum of three years, records of the acreage, production, and yields for each crop for which an application for NAP coverage is filed.

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<sup>13</sup> NAP Handbook, page 2-4.5, para. 21.5B (June 12, 2007).

<sup>14</sup> 7 C.F.R. § 1400.500(b).

<sup>15</sup> 7 C.F.R. § 1437.15(a).

<sup>16</sup> 7 C.F.R. §§ 718.11(a)(2), 1405.8(a)(2).

<sup>17</sup> 7 C.F.R. § 1437.15.

<sup>18</sup> 7 U.S.C. § 7333(b)(2).



The **acreage report** must identify:

- a. All acreage of the crop in the county in which the producer has a share.
- b. Crop type.
- c. Farming practices to be used.
- d. Intended use of the crop.
- e. Planting date.

An acreage report filed after the deadline may still be considered timely, and NAP coverage may be available, if the crop or identifiable crop residue is still in the field when the report is filed.

On or before the NAP acreage reporting date for the crop for the next crop year, the producer must file a **production report** certifying the production, acreage yields, and harvest date for each harvested crop for which an application for NAP coverage was filed.

#### **D. Land Eligible for NAP Coverage**

Native sod acreage of more than five acres that is tilled for production of an annual agricultural crop for the first time after May 22, 2008, is not eligible for NAP coverage during the first five crop years of planting.<sup>19</sup> “Native sod” is defined as land that has never been tilled on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing.

### **III. Obtaining NAP Coverage**

#### **A. Pre-Planting Application**

In order to participate in NAP, producers are required to file an application for NAP coverage (Form CCC-471) in the local FSA office for the county where their acreage is located.<sup>20</sup> The application must be filed no later than the application closing date for that area, as established by the FSA state committee.

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<sup>19</sup> 7 U.S.C. § 7333(a).

<sup>20</sup> 7 C.F.R. § 1437.6(a). NAP Handbook, page 2-8, para. 23.A (June 1, 2009).

## **B. NAP Service Fee**

Producers are required to pay a nonrefundable service fee to receive coverage under NAP.<sup>21</sup>

### **1. Fee Limits**

The total service fee required is based on how many different crops the producer has and in how many counties. The service fee for NAP coverage is \$250 per crop per administrative county, up to a maximum of \$750 per administrative county per year and \$1,875 per producer per year.

### **2. Fee Waiver for Limited Resource Farmers**

The requirement to pay a service fee for NAP coverage may be waived for limited resource farmers.<sup>22</sup> The waiver is not automatic. It must be requested by the producer no later than the date the application for coverage is submitted. The producer must maintain records for the two preceding tax years to provide evidence of eligibility for a waiver if needed.

The NAP regulations use the definition of “limited resource farmer” applicable to the federal crop insurance programs.

Under the current definition, a producer will qualify as a limited resource farmer if he or she: (1) has “direct or indirect” gross farm sales of \$116,800 or less in each of the previous two years; and (2) has a total household income at or below the national poverty level for a family of four, or less than 50% of county median household income in each of the previous two years.

## **C. Continuous NAP Coverage**

The NAP coverage application (CCC-471) provides continuous NAP coverage. This means that once an initial coverage application has been filed, no new CCC-471 needs to be filed in following years so long as the producer continues to pay the service fee before the application closing date for each crop year.<sup>23</sup> However, producers must file a new application in order to change crop shares or to add or delete crops.

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<sup>21</sup> 7 C.F.R. § 1437.6(b).

<sup>22</sup> 7 C.F.R. § 1437.6(d).

<sup>23</sup> NAP Handbook, page 2-12, para. 23.E (June 1, 2009).

Local FSA offices are supposed to notify producers at least 60 days before the first application closing date of what service fees are due based on the producers' previous crop year coverage. The notice should also remind producers of the deadline for payment of the service fee.

#### **IV. Calculating Losses Under NAP**

##### **A. Establishing Approved Yield**

The first step in determining whether a producer's individual loss is large enough to qualify for NAP coverage is to find the producer's approved yield.

The NAP program provisions do not incorporate all of the crop insurance provisions for establishing a producer's expected yield for a crop, but the same general principles are used.<sup>24</sup>

1. Approved yield for NAP is the average of at least four and at most 10 consecutive years of the producer's actual production history for the crop.
2. If production history is unavailable, adjusted T-yields will be used to establish the producer's initial approved yield.

Also called "county expected yields," T-yields are averages of yields in the county for the five consecutive crop years immediately preceding the previous crop year. For example, for the 2009 crop year, the base period would be 2003-2007. The T-yield may be adjusted for different farming and cultural practices.

3. If a producer's actual yield for a disaster year is less than 65% of the T-yield, the producer may substitute 65% of the T-yield when calculating the average.

##### **B. Establishing Actual Yield**

NAP benefits are based on the difference between a producer's approved yield and the disaster-year actual yield. There are a few important considerations involved in determining a producer's actual yield for this purpose.

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<sup>24</sup> 7 C.F.R. § 1437.102.

### **1. Entire Unit Used to Calculate Yield Loss**

Production from the producer's entire unit must be used to determine whether the producer's yield is low enough to qualify for a NAP payment.<sup>25</sup>

Identifying a producer's unit can be confusing. It is also very important for NAP eligibility. For example, if a producer suffered a very large loss in one field but did better with the same crop in a different field, and both fields were in the same unit, it might mean that the producer would not qualify for NAP. If the fields were in separate units, it might mean that the loss in the first field would qualify for NAP.

In general, a unit is created in one of three ways:<sup>26</sup>

- a. All acreage of an eligible crop in an administrative county in which the producer has a **100% crop share**. This includes land that the producer owned and farmed as well as any land that the same producer rents for cash, for a fixed commodity payment, or for other consideration or payment that does not give the landlord a share in the crop.

For example, if a producer owned land and grew a crop on his or her land, and also rented land from two different landlords—each for cash—and grew the same crop on all of this land, all of these fields together would be a single unit.

- b. Where interest in a crop is **split between a particular landlord and tenant**, a unit is created from all of the acreage in the administrative county that is owned by one person and operated by the other person.

If a producer rents several fields in a county from the same landlord and grows the same crop on each field, those fields together would be one unit. On the other hand, a single producer could have several units of the same crop—one with each landlord from whom the producer is renting land on a share basis.

- c. When a person **rents out land on a share basis**, that person is eligible to obtain NAP coverage for his or her share of the crop. The unit for NAP coverage will be all acreage owned by that person in the county

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<sup>25</sup> 7 C.F.R. §§ 1437.8, 1437.102(a).

<sup>26</sup> 7 C.F.R. § 1437.8(b).

that is rented out to a single tenant and on which the same crop is raised. Acreage rented out on a share basis to a different tenant will represent a separate unit.

## 2. *Quality Losses Generally Not Taken Into Account*

The quantity of a producer's yield is not reduced for quality considerations unless the production has a zero value.<sup>27</sup>

## 3. *Providing Proof of Actual Yield*

Producers are required to provide documentary evidence of production by no later than the acreage reporting date for the crop year following the crop year they file an application for payment.<sup>28</sup>

FSA has somewhat strict standards regarding the type of records that are acceptable to support a producer's yield certification.

If the crop was sold or otherwise **disposed of through commercial channels**, records acceptable to FSA may include "reliable" or "verifiable":<sup>29</sup>

- a. Commercial receipts,
- b. Settlement sheets,
- c. Warehouse ledger sheets, or
- d. Load summaries.

**Verifiable** records of production are records provided by the producer that can be verified by FSA through an independent source.<sup>30</sup> Verifiable records must be dated, must show the disposition of the crop production including quantity and price, must be seasonal or crop specific for crops produced more than once in a calendar year, and must be provided with the producer's certification of production in support of any application for payment and whenever a record of production is otherwise required by FSA.

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<sup>27</sup> 7 C.F.R. § 1437.9(b).

<sup>28</sup> 7 C.F.R. § 1437.7(a).

<sup>29</sup> 7 C.F.R. § 1437.7(a)(1).

<sup>30</sup> NAP Handbook, page 6-3, para. 322.C (Jan. 24, 2003) and page 6-4, paras. 322.C and 322.D (May 31, 2001).

If verifiable records are not available, FSA may accept **reliable** records—such as copies of receipts, income ledgers, deposit slips, register tapes, invoices, or pick records—that support the producer’s application but are not backed by an independent source.<sup>31</sup>

If the crop has been **disposed of through noncommercial channels**—for example, by feeding to livestock—other verifiable or reliable records may be used to support the information provided by the producer.<sup>32</sup> Examples of acceptable documentary evidence include truck scale tickets and contemporaneous measurements or diaries.

### **C. Prevented Planting Coverage—Based on Unplanted Acreage**

“Prevented planting” means the producer was unable to plant a crop with proper equipment during the planting period for the crop or commodity as a result of an eligible cause of loss. Production losses due to prevented planting are eligible for NAP assistance.<sup>33</sup> The benefits for the unplanted acreage will be based in part on the producer’s approved yield for that acreage.

#### **1. *Intended to Plant a Crop—But Was Prevented***

In general, the producer must show the 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.<sup>34</sup>

The producer may be required to prove that the resources to plant, grow, and harvest the intended crop were available to the producer.

#### **2. *Timing of Natural Disaster for Prevented Planting***

For the prevented planting losses to be eligible for NAP, the timing of the natural disaster is important. It must have occurred: (1) after a previous

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<sup>31</sup> NAP Handbook, page 6-3, para. 322.C (Jan. 24, 2003) and page 6-4, paras. 322.C and 322.D (May 31, 2001).

<sup>32</sup> 7 C.F.R. § 1437.7(a)(2).

<sup>33</sup> 7 C.F.R. § 1437.201(b)(1).

<sup>34</sup> 7 C.F.R. § 718.103(c)(1); NAP Handbook, page 2-16.4, para. 25.4.B (Jan. 16, 2007).

planting period for the crop year, and (2) before the final planting date for the crop year in which a request for NAP payment is made.<sup>35</sup>

## V. NAP Coverage Triggers

To be eligible for NAP benefits, a producer must have a catastrophic crop loss. This can occur through one of five ways.

- A. Due to eligible conditions, the producer was prevented from planting more than 35% of the crop.<sup>36</sup>
- B. Due to eligible crop losses, the producer experienced a loss of more than 50% of approved yield.<sup>37</sup>
- C. Due to eligible crop losses, the producer experienced a loss of more than 50% of the expected animal unit days for a pasture or forage crop.<sup>38</sup>
- D. For value-loss crops, due to eligible crop losses the producer experienced a loss of more than 50% of the pre-disaster value of the crop.<sup>39</sup>
- E. For crops that are not value-loss crops, due to eligible crop losses the producer's quality loss is such as leave the production with zero value.

## VI. The Amount Paid on the Loss

Payments under NAP are based on the producer's loss percentage and a market price percentage.

### A. Extent to Which Producer's Loss Exceeded Trigger Level

Payments are made on production losses exceeding the trigger levels set out above. The trigger level acts both to determine eligibility for NAP and to determine the benefits paid. For example, only if a producer's yield loss exceeds 50% of approved

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<sup>35</sup> 7 C.F.R. § 718.103(a)(1), (2).

<sup>36</sup> 7 C.F.R. § 1437.201(b)(1).

<sup>37</sup> 7 C.F.R. § 1437.9(a).

<sup>38</sup> 7 C.F.R. § 1437.403(h).

<sup>39</sup> 7 C.F.R. § 1437.302(a).

yield will he or she be eligible for NAP. If the producer is eligible, payments will only be made on the amount of the yield loss that is greater than 50%.

Like other individual production losses, the 50% forage loss requirement is both an initial eligibility test and the baseline loss for NAP assistance. NAP payments will only be available for the amount of forage loss exceeding 50% of expected AUDs (Animal Unit Days). For example, a producer who suffers a 40% loss in yield or AUD would not be eligible for any NAP benefits. However, a producer who suffers a 60% loss may be eligible for NAP benefits since the loss is greater than 50%. Payment to this producer would be based on 10% of the approved or assigned yield or AUD, that is, the amount of loss greater than 50%.

While NAP payments for forage crops that are mechanically harvested may be determined using the 50% yield calculation, NAP assistance is also available for lost forage on acreage that is predominantly grazed if the loss is greater than 50% of the producer's expected carrying capacity, as expressed in AUDs. Grazing loss may be determined based on the percentage of loss for similar mechanically harvested forage crops on the same farm or similar farms in the area. In the absence of such evidence, CCC may determine a collective percentage of loss for the region based upon at least two independent assessments.

### **B. Price—Based on a Percentage of Average Market Price**

NAP benefits are calculated at 55% of what USDA calls the average market price.<sup>40</sup> The average market price is expressed as a certain dollar amount per ton, bushel, or whatever unit of measure is appropriate for the crop. The price is set by USDA on a harvested basis and is based in part on historical data. It does not take into account any transportation, storage, processing, marketing, or other post-harvest costs.

### **C. Adjustments for Nonincurred Expenses**

NAP payment rates are adjusted for crops that are produced with significant and variable expenses that are not incurred because the crop was either not planted or not harvested due to the disaster.<sup>41</sup>

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<sup>40</sup> 7 C.F.R. § 1437.11(a).

<sup>41</sup> 7 C.F.R. § 1437.11(c), (d).



#### **D. \$100,000 Per Person Annual Limitation on NAP Benefits**

No person may receive NAP payments in excess of \$100,000 per crop year, regardless of the level of loss incurred.<sup>42</sup>

#### **E. Producer's Share of NAP Benefits the Same as Producer's Crop Share**

The producer's share of the crop is the same as the producer's share of the NAP benefits. For example, if a producer had a 50% share in the crop, the producer would be entitled to 50% of the NAP benefits available for the loss.

#### **F. How to Calculate Loss Benefits**

The regulations spell out how to calculate NAP benefits step-by-step.<sup>43</sup>

##### **1. Benefits Calculation for Low Yield**

When the producer has sustained a loss in yield in excess of 50% of the producer's approved yield for the crop, the NAP low yield payment will be determined by the following calculation.

- **Step One:** Multiply the producer's total eligible acreage planted to the eligible crop by the producer's share.
- **Step Two:** Multiply the result in Step One by 50% of the approved yield per acre of the crop.
- **Step Three:** Multiply net production on the total eligible acreage by the producer's share.
- **Step Four:** Subtract the product of Step Three from the product of Step Two.
- **Step Five:** Determine the final payment price by multiplying the average market price by any applicable payment factors, and then multiply by 55%.
- **Step Six:** Multiply the result in Step Four by the final payment price determined in Step Five.

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<sup>42</sup> 7 C.F.R. § 1437.14(a).

<sup>43</sup> 7 C.F.R. pt. 1437, subpts. B-E.

- **Step Seven:** Multiply the value of salvage and secondary use of the crop by the producer's share.
- **Step Eight:** Subtract the amount from Step Seven from the result in Step Six.

## 2. *Benefits Calculation for Losses of Grazed Forage*

When the producer has suffered more than a 50% loss of forage on acreage reported to CCC as intended to be grazed, the NAP grazed forage payment calculation is made in the following way.

- **Step One:** Multiply the eligible acreage by the producer's share.
- **Step Two:** Divide the result from Step One by the carrying capacity established for the specific acreage.
- **Step Three:** Multiply the result from Step Two by the number of days established as the grazing period.
- **Step Four:** Add any adjustments to AUD for forage management and maintenance practices to the result from Step Three.
- **Step Five:** Multiply the result from Step Four by the applicable percentage of loss determined by CCC.
- **Step Six:** Multiply the amount of AUD lost to other causes by the producer's share.
- **Step Seven:** Subtract the result in Step Six from the result in Step Five.
- **Step Eight:** Multiply the result in Step Four by 50%.
- **Step Nine:** Subtract the result in Step Eight from the result in Step Seven. (If the result is zero or a negative number, no NAP assistance will be available.)
- **Step Ten:** Determine the final payment price by multiplying the AUD value (including any adjustments) by 55%.
- **Step Eleven:** Multiply the result in Step Nine by the result in Step Ten.

## 3. *Benefits Calculation for Prevented Planting*

When the producer has been unable to plant at least 35% of the acreage intended for the eligible crop, the NAP prevented planting payment calculation is made in the following way.

- **Step One:** Add the total acres planted and prevented from being planted.

- **Step Two:** Multiply the result in Step One by 35%.
- **Step Three:** Subtract the result in Step Two from the total prevented planted acres.
- **Step Four:** Multiply the producer's share by the result from Step Three.
- **Step Five:** Multiply the result from Step Four by the approved yield.
- **Step Six:** Multiply the producer's share by the assigned production.
- **Step Seven:** Subtract the result from Step Six from the result in Step Five.
- **Step Eight:** Determine the final payment price for the producer for the crop by multiplying the average market price by any applicable payment factors, and then multiply by 55%.
- **Step Nine:** Multiply the result in Step Seven by the result in Step Eight.

#### **4. *Benefits Calculation for Value Losses***

When the producer has sustained a loss in value in excess of 50% of the pre-disaster value of the crop, the NAP value loss payment will be determined by the following calculation.

- **Step One:** Multiply the field market value of the crop before the disaster by 50%.
- **Step Two:** Subtract the sum of the field market value after the disaster and the value of ineligible causes of loss from the result in Step One.
- **Step Three:** Multiply the result from Step Two by the producer's share.
- **Step Four:** Multiply the result from Step Three by 55% plus whatever factors are deemed appropriate to reflect savings from nonharvesting of damaged crop, or other factors as determined by CCC.
- **Step Five:** Multiply the salvage value by the producer's share.
- **Step Six:** Subtract the result from Step Five from the result of Step Four.

## **VII. Collecting NAP Benefits**

There are certain steps a producer must be sure to follow when claiming NAP benefits. If these are not followed, the producer may be found ineligible for the benefits even if all of the loss requirements have been met.

### **A. Reporting the Crop Loss: In General, Within 15 Days After Loss**

In general, a producer must give FSA notice of any crop loss within 15 calendar days after damage to the crop. The notice must be filed at the local FSA office serving the county where the producer's crop is located.

For yield loss claims and allowable value loss, a notice of loss must be filed the earlier of: (1) 15 calendar days after the damaging weather or adverse natural occurrence, or date loss of the crop or commodity becomes apparent; and (2) 15 calendar days after the normal harvest date.<sup>44</sup>

For prevented planting coverage, the producer must give notice within 15 calendar days after the final planting date.<sup>45</sup>

At the discretion of FSA, a notice filed beyond the 15 days allowed may be considered to be timely filed if FSA has the opportunity to verify the information on the notice of loss by inspecting the specific acreage or crop involved, and to determine, based on the inspection, that an eligible cause of loss caused the claimed damage or loss.<sup>46</sup>

### **B. Applying for NAP Benefits**

In addition to reporting the crop loss, the producer must also apply for NAP benefits.

#### **1. *Deadline to Apply for Benefits***

Producers must file an application for NAP benefits on the proper FSA form with the local FSA office prior to the **earlier** of:

- a. the date the producer files an application for coverage for the crop for the subsequent crop year; or
- b. the application closing date for the crop for the subsequent crop year.<sup>47</sup>

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<sup>44</sup> 7 C.F.R. § 1437.10(a)(2).

<sup>45</sup> 7 C.F.R. § 1437.10(a)(1).

<sup>46</sup> 7 C.F.R. § 1437.10(c).

<sup>47</sup> 7 C.F.R. § 1437.10(g).

**2. *If the Crop Is Not Harvested—Crop Left Intact Until Appraised or Released***

If the producer chooses not to harvest the crop, all eligible acres for which the producer intends to make a NAP application must be left intact until they have been appraised and released by an FCIC- or CCC-approved loss adjuster.<sup>48</sup> The appraisal and release must be requested prior to the destruction or abandonment of the crop acreage, or no later than the normal harvest date.

**3. *If the Crop Is Harvested—Documentary Evidence***

If the producer harvests the damaged crop, FSA requires the producer to notify the local office within 15 days after the harvest is completed and to provide documentary evidence of the crop production.<sup>49</sup> This may mean leaving a representative sample of the crop unharvested for inspection by a loss adjuster. The required documentary evidence must be filed no later than the acreage reporting date for the crop in the subsequent crop year.

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<sup>48</sup> 7 C.F.R. § 1437.10(d).

<sup>49</sup> 7 C.F.R. § 1437.7(a), (b)(1).