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(2) Any commercial crop planted and grown for livestock consumption, including but not limited to grain and forage crops; except for the 2001 and preceding crop years assistance for forage produced on Federal- and State-owned lands is available only for seed-ed forage.

(3) Any commercial crop grown for fiber, excluding trees grown for wood, paper, or pulp products; and

(4) Any commercial production of:

(i) Aquacultural species (including ornamental fish);

(ii) Floricultural crops;

(iii) Ornamental nursery plants;

(iv) Christmas tree crops;

(v) Turfgrass sod;

(vi) Industrial crops;

(vii) Seed crops, including propaga-tion stock such as non-ornamental seedlings, sets, cuttings, rootstock, and others, as determined by CCC; and

(viii) Sea grass and sea oats.

[67 FR 12448, Mar. 19, 2002, as amended at 67 FR 62324, Oct. 7, 2002; 71 FR 13742, Mar. 17, 2006]

§ 1437.5 Coverage period.

(a) The coverage period is the time during which coverage is available against loss of production of the eligi-ble crop as a result of natural disaster.

(b) The coverage period for annual crops, including annual forage crops, begins the later of 30 calendar days after the date the application for cov-erage is filed; or the date the crop is planted, not to exceed the late planting period; and ends on the earlier of the date harvest is complete; the normal harvest date of the crop in the area; the date the crop is abandoned; or the date the crop is destroyed.

(c) Except as otherwise specified in this part, the coverage period for bien-nial and perennial crops begins 30 cal-endar days after the application clos-ing date; and ends as determined by CCC.

(d) Except as otherwise specified in this part, the coverage period for value loss crops, including ornamental nurs-ery, aquaculture, Christmas tree crops, ginseng, and turfgrass sod; and other eligible crops, including floriculture and mushrooms begins 30 calendar days after the application closing date; and

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ends the last day of the crop year, as determined by CCC.

(e) The coverage period for honey be-gins 30 calendar days after the applica-tion closing date and ends the last day of the crop year, as determined by CCC.

(f) The coverage period for maple sap begins 30 calendar days after the appli-cation closing date and ends on the earlier of the date harvest is complete; or the normal harvest date.

(g) For biennial and perennial forage crops the coverage period begins the later of 30 calendar days after the ap-plication closing date; for first year seedings, the date the crop was plant-ed; or the date following the normal harvest date. The coverage ends on the normal harvest date of the subsequent year.

[67 FR 12448, Mar. 19, 2002, as amended at 71 FR 13742, Mar. 17, 2006]

§ 1437.6 Application for coverage and service fee.

(a) With respect to each crop, com-modity, or acreage, producers must file an application for coverage under this part in the administrative county FSA office no later than the application closing date.

(b) The service fee must be paid at the time of the application. The service fee is \$100 per crop per administrative county, up to \$300 per producer per ad-ministrative county, but not to exceed \$900 per producer.

(c) The service fee will be applied per administrative county by crop defini-tion and planting period, as determined by CCC.

(d) Limited resource farmers may re-quest that the service fee be waived and must request such a waiver prior to, or at the same time the application for coverage is filed. For this purpose, a “limited resource farmer” shall be given the meaning assigned by 7 CFR 457.8.

[67 FR 12448, Mar. 19, 2002, as amended at 71 FR 13742, Mar. 17, 2006]

§ 1437.7 Records.

(a) Producers must maintain records of crop acreage, acreage yields, and production for the crop for which an application for coverage is filed in ac-cordance with § 1437.5. For those crops

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or commodities for which it is impractical, as determined by CCC, to maintain crop acreage, yields or production, producers must maintain records, in addition to the available records required by this section, as may be required in subparts C, D and E, of this part. Producers must retain records of the production and acreage yield for a minimum of 3 years for each crop for which an application for coverage is filed in accordance with §1437.6. Producers may be selected on a random or targeted basis and be required to provide records acceptable to CCC to support the certification provided. For each harvested crop for which producers file an application for payment in accordance with §1437.10, producers 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 database used to calculate an approved yield for the current crop year must be certified by the producer 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 actual production history database for the calculation of subsequent approved yield calculations if accompanied by acceptable records of production as determined by CCC. Records of production acceptable to CCC may include:

(1) Commercial receipts, settlement sheets, warehouse ledger sheets, or load summaries if the eligible crop was sold or otherwise disposed of through commercial channels provided the records are reliable or verifiable as determined by CCC; and

(2) Such documentary evidence such as contemporaneous measurements, truck scale tickets, and contemporaneous diaries, as is necessary in order to verify the information provided if the eligible crop has been fed to livestock, or otherwise disposed of other

than through commercial channels, provided the records are reliable or verifiable as determined by CCC.

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

(1) Producers of hand-harvested crops 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, the producer shall not destroy the crop residue until the crop acreage is released by an FCIC- or CCC-qualified loss adjustor. Producers may, at their expense, request that an appraisal by certified FCIC or CCC loss adjusters of hand-harvested crop acreage be completed during non-loss crop years in order to maintain accurate actual production history.

(2) Producers 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 or FCIC loss adjustor, as determined by CCC. Except, crop acreage may be released by an authorized CCC representative for acceptable gleaning operations, as determined by CCC, when producers and gleaners agree to provide acceptable records, as determined by CCC, of the quantity of the crop gleaned.

(c) Producers must provide verifiable evidence, as determined by CCC, of:

(1) An interest in the commodity produced or control of the crop acreage on which the commodity was grown at the time of disaster; and

(2) The authority of the applicable individual to execute program documents.

(d) Reports of acreage planted or intended but prevented from being planted must be provided to CCC at the administrative FSA office for the acreage no later than the date specified by CCC for each crop and location. Reports of acreage filed beyond the date specified by CCC for the crop and location may, however, be considered timely filed if all the provisions of 7 CFR 718.103 are

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met. In the case of a crop-share arrangement, all producers will be bound by the acreage report filed by the landowner or operator unless the producer files a separate acreage report prior to the date specified by CCC for the crop and location. Reports of acreage planted or intended and prevented from being planted must include all of the following information:

- (1) Number of acres of the eligible crop in the administrative county (for each planting in the event of multiple planting) in which the producer has a share;
- (2) Zero acres planted when the producer's crop for which an application for coverage was filed, is not planted;
- (3) The producer's share of the eligible crop at the time an application for coverage was filed;
- (4) The FSA farm serial number;
- (5) The identity of the crop, practices, intended uses, and for forage crops, the predominant species or type and variety of the vegetation;
- (6) The identity of all producers sharing in the crop;
- (7) The date the crop was planted or planting was completed, including the age of the perennial crops; and
- (8) The acreage intended but prevented from being planted.

(e) Producers receiving a guaranteed payment for planted acreage, as opposed to receiving a payment only upon delivery of the production must provide documentation of any written or verbal contract or arrangement with the buyer to CCC. Net production, as determined by CCC, may be adjusted upward by the amount of production corresponding to the amount of the contract payment received.

(f) Producers must provide documentation of any salvage value received by or made available for the quantity of the crop or commodity that cannot be marketed or sold in any market, as determined by CCC and any value received by or made available for a secondary use of the crop or commodity.

(g) Producers requesting payment under this part must maintain records which substantiate gross revenue for the tax year preceding the crop year for which coverage is requested.

(h) Producers requesting a waiver of service fees as a limited resource producer must maintain records which substantiate annual gross income for the two tax years preceding the crop year for which coverage is requested.

[67 FR 12448, Mar. 19, 2002, as amended at 71 FR 13742, Mar. 17, 2006]

§ 1437.8 Unit definition.

(a) The unit identifies the interest of the producer in the administrative county on the basis of the unique relationship of the owner to one or more operators. The unit is the foundation for all determinations of acreage, production, value, AUD, approved yields, requisite losses, payments, and other program requirements.

(b) Separate and distinct units are:

- (1) One-hundred percent interest as owner/operator;
- (2) Less than one-hundred percent interest as owner or operator; or
- (3) Less than one-hundred percent interest, as owner or operator in an inverse relationship.

[71 FR 13743, Mar. 17, 2006]

§ 1437.9 Causes of loss.

(a) To be eligible for benefits under this part, an eligible cause of loss must result in:

- (1) A loss of production greater than 50 percent of the approved yield in accordance with subpart B of this part;
- (2) Prevented planting of greater than 35 percent of the intended crop acreage according to subpart C of this part;
- (3) A value loss of greater than 50 percent of the pre-disaster value according to subpart D of this part, or
- (4) An AUD loss of greater than 50 percent of the expected AUD according to subpart E of this part.

(b) The quantity of the crop or commodity will not be reduced for any quality consideration unless a zero value is established.

(c) Eligible causes of loss include:

- (1) Damaging weather occurring before or during harvest, including but not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, excessive wind, or any combination thereof;