

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Noninsured Crop Disaster Assistance
Program for 2001 and Subsequent Years
1-NAP (Revision 1)**

Amendment 46

Approved by: Acting Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 29 A has been amended to specify that Federal agencies, State and local governments, and political subdivisions of those entities are **not** eligible for benefits under NAP.

Subparagraph 37 A has been amended to clarify that under the rules of misrepresentation, scheme, or device, producers shall **not** be eligible to receive NAP benefits as specified in subparagraph 37 C.

Subparagraphs 194 D and 194.5 D have been amended to clarify determining loss on forage intended for mechanical harvest that is grazed only.

Subparagraph 1008 C has been amended to provide instructions for answering forage questions on Forage Question Screen MHACWDOB for 2008 and 2009 crop years.

Page Control Chart		
TC	Text	Exhibit
	2-21, 2-22 2-35, 2-36 4-108.5, 4-108.6 4-108.15, 4-108.16 10-268.5, 10-268.6 (add) 10-269, 10-270	

29 Eligible Producer

A Definition of Producer

[7 CFR 718.2] A producer is an owner, landlord, tenant, or sharecropper who:

- shares in the risk of producing the crop
- is entitled to share in the crop available for marketing from the farm or would have shared had the crop been produced.

Notes: Landowners, landlords, tenants, contract growers, or anyone else not having both a share of the risk and a valid claim of share ownership of a crop are ineligible for NAP.

--The Food, Conservation, and Energy Act of 2008 specified that for crop year 2009 and subsequent crop years, Federal agencies, State and local governments, and any political subdivisions or agencies thereof will no longer be eligible to receive NAP benefits.--

B Verifying Producer Eligibility

COC shall take whatever action is necessary to ensure that payments are proper and are for producers suffering the claimed loss of the crop. The producer must be able to show, with verifiable evidence, that the producer had a valid ownership share interest in the commodity produced and control of the crop acreage on which the commodity was grown at the time of the disaster, which is the basis for the application for payment. One of the following shall be obtained as determined by COC:

- copies of signed written leases
- copies of signed rental agreements
- copies of other legal documents showing land ownership or control
- statement signed by landowner that producer had control of the acreage
- statement signed by operator or producer that producer had control of the acreage on a farm.

Note: If a written lease is not available as verifiable evidence that a producer had interest in the commodity produced, or had control of the crop acreage where the commodity was grown at the time of natural disaster requiring a signed statement by the operator or producer, other acceptable alternative documentation in lieu of a signed statement may include CCC-578 or producer print, which have the appropriate information (that is, farm tract, field, crop, share) as certified by the operator. If this document is presented as evidence, COC shall review, verify the validity, and document their determination in the COC minutes. This shall be done on a case-by-case basis only when the verifiable evidence listed in this subparagraph is not available. Neither CCC-509 nor CCC-502 is acceptable as verifiable evidence.

29 Eligible Producer (Continued)**B Verifying Producer Eligibility (Continued)**

Exception: For Federal- and State-owned leased forage only copies of signed written leases, rental agreements, or other legal documents may be considered. See subparagraph 192 C for additional information on the eligibility of leased acreage intended for grazing.

Leases, rental agreements, and any other written statements documenting verbal agreements shall be reviewed on a case-by-case basis. The review must determine the amount of interest and risk in the production for the lessor and lessee. Apply the specific case circumstances to the determination of eligible producer.

When reviewing case circumstances, evaluate what lease or rental arrangement existed between parties before the natural disaster. The lease or rental arrangement existing before the date of disaster shall be used to determine eligible producer. Any negotiation, agreement, or performance of parties to a rental or lease arrangement after date of disaster shall have no bearing on the question of eligible producer.

--Applicants certifying to having a valid claim to a share of NAP payment are subject to spot check. If agreements or contracts are discovered that show a grower did not have a valid claim to a share of a crop for which NAP assistance was claimed, the NAP payment must be refunded.--

Payment shall be denied if COC is not satisfied that payments claimed by producers are proper.

C Certification by Producers

Producers signing CCC-576:

- Part B, certify to the accuracy of all information contained in CCC-576, items 8 through 20, and acknowledge receipt of a copy of the notice's filing
- Part G, certify and agree to the statement contained in Part G, information provided on the entire form, and apply for payment according to paragraph 502.

30 Highly Erodible Land and Wetland Conservation Compliance**A Producer Requirements**

[7 CFR 1437.15] Producers must comply with the provisions of conservation compliance, according to 6-CP [7 CFR Part 12], to be eligible for NAP payment.

36 Unacceptable, Incorrect, or False Records and Certifications (Continued)**B Questionable Records or Certifications**

See:

- paragraph 37 for misrepresentation, scheme, or device
- paragraph 39 for tolerance on NAP acreage or production.

37 Misrepresentation, Scheme, or Device**A Determining Misrepresentation, Scheme, or Device**

[7 CFR 1437.15] Any producer determined by COC to 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 shall **not** be eligible to receive benefits under NAP as specified in subparagraph C. If a producer employed any practice for the--* purpose of causing or attempting to cause CCC to make a payment that otherwise would not have been made, COC shall impose a sanction according to subparagraph C.

Scheme and device may include, but is not limited to, 1 of the following:

- concealing any information have a bearing on the application of the program provisions
- submitting false information to CCC or any STC or COC
- creating fictitious entities for the purpose of concealing the interest of a person in the farming operation.

B Application of Sanctions

Sanctions will apply to the specific producer and all other interests the producer has and other entities or joint ventures for all crops, all units in all administrative counties, and all States.

37 Misrepresentation, Scheme, or Device (Continued)**C Sanctions**

COC shall, upon determination of a violation according to subparagraph A:

- determine the producer ineligible for a NAP payment for the crop year of the violation plus 2 subsequent crop years
- demand a refund of all amounts paid by CCC to the producer, applicable to the crop year in which the violation occurred, with applicable interest
- *--assess liquidated damages according to paragraph 38.--*

D Liability

[7 CFR 1437.15] The liability of any producer for any payment or refund which is determined to be due CCC is in addition to any other liability of this producer under any civil or criminal fraud statute or any other statute or provision of law.

All producers on a unit receiving NAP payments are jointly and severally liable to repay unearned payments.

194 Mechanically Harvested Forage for “Other Than Seed” Provisions (Continued)

D Determining Loss on Forage Intended for Forage (Continued)

<p>IF acreage reported as intended to be mechanically harvested for forage is...</p>	<p>AND the producer...</p>	<p>THEN the loss shall be determined based on...</p>
<p>abandoned or destroyed (acreage is not mechanically harvested for forage or grazed)</p>	<ul style="list-style-type: none"> • timely files CCC-576, according to paragraph 401 • before abandoning or destroying the acreage, establishes representative sample areas according to subparagraph 427 B • within 15 calendar days of placement, informs County Office of the location of the sample areas for appraisal and spot check purposes • at the end of the normal harvest date, and before the first freeze, requests an appraisal of the sample areas be completed <p>Note: See subparagraph C for COC responsibilities.</p>	<p>difference between:</p> <ul style="list-style-type: none"> • expected production (calculated using producer’s approved yield) • total appraised production. <p>Note: The appraisal of forage must include the establishment of a secure area to determine potential forage production</p>
<p>*--for 2007 or prior crop years,--* grazed only (acreage is not mechanically harvested in any manner)</p>	<ul style="list-style-type: none"> • timely files CCC-576, according to paragraph 401 • notifies the administrative County Office of the actual use of the forage when an application for payment is filed 	<p>*--AUD by determining the percent of loss using 1 of the methods provided in subparagraph 195 I for grazed forage.--*</p> <p>Note: Losses determined on AUD value will not be used for APH purposes.</p>
<p>*--for 2008 and succeeding crop years, grazed only (acreage is not mechanically harvested in any manner)</p>	<p>timely files CCC-576, according to paragraph 401</p>	<p>provisions in subparagraph E.--*</p>

***--194 Mechanically Harvested Forage for “Other Than Seed” Provisions (Continued)**

E Determining Loss on Forage Acreage Intended for Forage That Is Grazed Only

Alfalfa, alfalfa mixture, and other hay forage acreage certified on FSA-578 as intended to be mechanically harvested for forage shall always be considered mechanically harvested acreage for crop definition purposes regardless of actual method of harvest.

Producers **shall not revise** the certified intended use of acreage reported on FSA-578. However, the actual use of the acreage, such as grazing, abandoned, or destroyed, will impact how a loss is determined on the acreage. See 2-CP for reporting acreage and “intended uses”.

Losses on forage acreage that were intended to be mechanically harvested for forage, but were grazed only, shall be determined according to the following table.

IF the producer...	THEN the loss shall be determined based on...
<p>provides County Office with acceptable and verifiable records for both of the following:</p> <ul style="list-style-type: none"> • the acreage for which CCC-576 is filed was planted to the same forage type and intended use for which a loss is being claimed for at least 3 out of 5 years before the year in which a loss is being claimed • evidence of forage production from the forage acreage being claimed for at least 3 of the 5 years before the year in which a loss is being claimed <p>Note: See subparagraph F for acceptable and verifiable evidence of acreage and forage production.</p>	<p>an appraisal of the specific acreage, provided the producer:</p> <ul style="list-style-type: none"> • timely files CCC-576, according to paragraph 401 • before grazing occurs: <ul style="list-style-type: none"> • establishes representative sample areas according to subparagraph 427 B • informs County Office within 15 calendar days of placement and location of the sample areas for appraisal and spot check purposes • a field visit is conducted by LA or County Office representative to determine if the representative sample areas have been established according to FCIC-25150; available at www.rma.usda.gov/FTP/Publications/directives/25000/PDF/06_25150.pdf <p>Notes: Failure to establish representative sample areas according to FCIC-25150 before grazing occurs will result in the percent of loss being determined on an AUD value according to subparagraph 195 I for grazed forage.</p> <ul style="list-style-type: none"> • at the end of the normal harvest date, and before the first freeze, requests that an appraisal of the sample areas be completed.

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194.5 Mechanically Harvested Forage for Seed Provisions (Continued)

D Determining Loss on Forage Intended for Seed (Continued)

IF acreage reported as intended to be mechanically harvested for seed is...	AND the producer...	THEN the loss shall be determined based on...
<p>abandoned or destroyed (acreage is not mechanically harvested in any manner or grazed)</p>	<ul style="list-style-type: none"> • timely files CCC-576 for seed, according to paragraph 401 • before abandoning or destroying the acreage, establishes representative sample areas according to subparagraph 427 B • within 15 calendar days of placement, informs County Office of the location of the sample areas for appraisal and spot check purposes • at the end of the normal harvest date for seed, and before the first freeze, requests an appraisal of the sample areas be completed <p>Note: See subparagraph C for COC responsibilities.</p>	<p>difference between:</p> <ul style="list-style-type: none"> • expected production (calculated using producer’s approved yield) • total appraised production. <p>Note: The appraisal of forage for seed must include the establishment of a secure area to determine potential forage production for seed.</p>
<p>*--for 2007 or prior crop years, grazed--* only (acreage is not mechanically harvested in any manner)</p>	<ul style="list-style-type: none"> • timely files CCC-576 * * *, according to paragraph 401 • notifies the administrative County Office of the actual use of the forage when an application for payment is filed 	<p>*--AUD by determining the percent of loss using 1 of the methods provided in subparagraph 195 I for grazed forage.--*</p> <p>Note: Losses determined on AUD value will not be used for APH purposes.</p>
<p>*--for 2008 and succeeding crop years, grazed only (acreage is not mechanically harvested in any manner)</p>	<p>timely files CCC-576, according to paragraph 401</p>	<p>provisions in subparagraph E.--*</p>

***--194.5 Mechanically Harvested Forage for Seed Provisions (Continued)**

E Determining Loss on Forage Acreage Intended for Seed That Is Grazed Only

Alfalfa, alfalfa mixture, and other hay forage acreage certified on FSA-578 as intended to be mechanically harvested for seed, shall **always** be considered mechanically harvested acreage for crop definition purposes regardless of actual method of harvest.

Producers **shall not revise** the certified intended use of acreage reported on FSA-578. However, the actual use of the acreage, such as grazing, abandoned, or destroyed, will impact how a loss is determined on the acreage. See 2-CP for reporting acreage and “intended uses”.--*

1008 Forage Question Screen MHACWD0B (Continued)

C Action

*--Use the following table for 2009 and preceding crop years to determine how questions should be answered on Screen MHACWD0B.

Note: All questions are defaulted to “N”. Only 1 question can be answered with “Y”.

IF “Y” is answered to the question...	AND...	THEN...
<p>“Were all acres of this crop mechanically harvested?”</p>	<p>the production for this crop was 100 percent harvested based on its intended use or abandoned</p> <hr/> <p>for 2008 and 2009 crop years only, all acreage that was intended to be mechanically harvested as forage or seed that was grazed only met the history requirements for determining the loss based on the intended method of mechanical harvest according to subparagraph 194 E or 194.5 E</p> <hr/> <p>for 2008 and 2009 crop years only, some of the acreage was 100 percent grazed and some was 100 percent mechanically harvested, and the acreage that was grazed met the history requirements for determining the loss based on the intended method of mechanical harvest according to subparagraph 194 E or 194.5 E</p>	<p>Load Acres/Production Screen MHACWD01 will be displayed. Load data according to paragraph 1012.</p> <p>Notes:</p> <p>Loss shall be determined for acreage that is grazed only in crop years 2008 and 2009 for which the history requirements have been met according to subparagraph 194 E or 194.5 E, based on the intended method of mechanical harvest only if the producer:</p> <ul style="list-style-type: none"> • timely files CCC-576 for the intended method of mechanical harvest • before grazing occurs: <ul style="list-style-type: none"> • establishes representative sample areas according to subparagraph 427 B • within 15 calendar days of placement, informs the County Office of the location of the sample areas for appraisal and spot check purposes • at the end of the normal harvest date for the intended method of mechanical harvest, and before the first freeze, requests an appraisal of the sample areas be completed.

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1008 Forage Question Screen MHACWD0B (Continued)

C Action (Continued)

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IF "Y" is answered to the question...	AND...	THEN...
<p>"Were all acres of this crop mechanically harvested?" (Continued)</p>		<p>Loss for acreage intended for mechanical harvest that is grazed only in 2007 and prior crop years, or that is grazed only in 2008 and 2009 crop years for which the history requirements in subparagraph 194 E or 194.5 E have not been met, shall be determined based on an AUD value by determining the percent of loss using 1 of the methods provided in subparagraph 195 I for grazed forage.</p>
<p>"Were all acres of this crop only grazed?"</p>	<p>for 2007 and prior crop years, 100 percent of the acreage was grazed instead of being mechanically harvested as intended for 2008 and 2009 crop years only, the acreage that was intended to be mechanically harvested as forage or seed was grazed only, 100 percent of the acreage was grazed instead of being mechanically harvested as intended, and the history requirements for determining the loss based on the intended method of mechanical harvest was not met according to subparagraph 194 E or 194.5 E</p>	<p>Forage Intended for Grazing Screen MHACWD03 will be displayed. Load data according to paragraph 1013.</p>
<p>"Were some of the acres for this crop mechanically harvested and some grazed?"</p>	<p>for 2007 and prior crop years, some of the acreage was 100 percent grazed and some was 100 percent mechanically harvested as intended for 2008 and 2008 crop years only, some of the acreage was 100 percent grazed for which the history requirements were not met for determining the loss based on the intended method of mechanical harvest according to subparagraph 194 E or 194.5 E, and some was 100 percent mechanically harvested as intended</p>	<p>Load Acres/Production Screen MHACWD01 will be displayed. Actual acreage that was mechanically harvested shall be loaded according to paragraph 1012. PRESS "Enter" to continue once data is loaded. Forage Intended for Grazing Screen MHACWD03 will be displayed. Actual acreage that was grazed shall be loaded according to paragraph 1013.</p>

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1009 Date of Loss Selection Screen MHACWL01**A Overview**

Screen MHACWL01 is only applicable when either of the following applies:

- crop that is considered a value loss crop is selected

Note: See subparagraph 1011 A for a list of value loss crops.

- yield-based crop in a tropical region is selected.

Notes: Tropical region 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 State of Micronesia, and the Republic of Palau).

Perennial crops cannot have multiple loss dates; however, Screen MHACWL01 will be displayed for all yield-based crops. County Offices shall ensure that only 1 date of loss is entered on Screen MHACWL01 for perennial crops.

The purpose of Screen MHACWL01 is to identify and load multiple losses, in the automated system, for the same crop during the crop year. To keep records unique in the automated system, the date of loss must be selected.

The following dates will be displayed on Screen MHACWL01 for each crop and crop type in the pay grouping that had CCC-576 filed and approved by COC:

- disaster event beginning date
- disaster event ending date
- date loss was apparent
- COC approval date.

1009 Date of Loss Selection Screen MHACWL01 (Continued)

B Example of Screen MHACWL01

The following is an example of Screen MHACWL01.

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2002 NAP           107-C TULARE           Selection           MHACWL01
Date of Loss Selection Screen           Version: AE51  09/04/2002 08:56 Term F5
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Producer JOE VARGAS                               Unit 000266
Pay Crop/Type 3002 001  Plnt Pd 01

      Place an 'X' before desired Date of Loss for processing.

          Disaster      Disaster      Loss      Loss
          Beginning     Ending     Apparent  Approved
11/22/2001 11/22/2001 11/22/2001 12/12/2001
12/02/2001 12/02/2001 12/05/2001 01/25/2002
07/04/2002 07/04/2002 07/04/2002 08/01/2002

Enter=Continue  Cmd4=Previous Screen  Cmd7=End
    
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