

CCC-894 Appendix
(03-13-07)

U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

**APPENDIX TO FORM CCC-894, HURRICANE ASSISTANCE PAYMENT
APPLICATION AND CERTIFICATION FOR LOUISIANA SUGARCANE PROCESSORS
2005 Louisiana Sugarcane Hurricane Disaster Assistance Program (2005 Program)**

NOTE: The authority for collecting the following information is Pub. L. 108.7. This authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

1 APPLICABILITY

This notice sets forth terms and conditions under which the Commodity Credit Corporation (CCC) will make payments to eligible Louisiana sugarcane processors and producers for 2005-crop (Fiscal Year 2006) hurricane-related sugarcane losses.

2 DEFINITIONS

- A. Commercially Recoverable Sugar (CRS) Final Settlement Payment Pounds.** Equals the product of the actual weight and actual polarity of sugar made divided by 96.
- B. Farm.** The acreage identified under one FSA Farm Serial Number.
- C. Farm Operator.** An individual, entity or joint operation which is determined by the FSA County Committee to be in general control of the farming operation on all ownership tracts of a farm during the program year.
- D. FSA.** The Farm Service Agency.
- E. Ownership Tract.** A subset of the acreage of a farm associated with a separate ownership interest.
- F. Producer.** An owner, operator, landlord, or tenant who receives a payment or shares in the payment a sugarcane processor makes for delivery of sugarcane.
- G. Split-Shippers.** Farm operators who deliver their harvested cane to more than one sugarcane processor during a given crop year.
- H. Sugarcane Processor.** A person or entity who produces raw cane sugar by commercially processing sugarcane and has an allocation under the sugar marketing allotment program. The sugarcane processor is the 2005 Program applicant.

3 APPLICANT ELIGIBILITY REQUIREMENTS

Applicants must meet all the following requirements to be eligible for payments under the 2005 Program:

- A.** Be a sugarcane processor located in Louisiana.
- B.** Be eligible to obtain a loan under section 156(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(a)).
- C.** Submit the application according to the requirements and deadlines of this notice.

4 AGGREGATE AMOUNT OF ASSISTANCE

Total compensation shall equal \$40 million.

5 2005-CROP SUGAR LOSS

A. Loss will be measured for each ownership tract by the following formula:

Loss = [(sugar per acre (base year); not to exceed 12,000 lbs.) minus sugar per acre (2005 crop)] x ownership tract acres in 2005.

B. The base year for figuring losses will be the year elected by the farm operator under the 2003 Hurricane Assistance Program (2003 Program).

(1) Exceptions:

- (a) If the farm operator did not select a base year for the 2003 Program, he must select either 1999, 2000 or 2001.
- (b) If a new entity was formed and 50 percent or more of the members were individuals or members of the previous operation, the new farm operator will use the previously selected base year. If more than 1 member of the new entity had a base year yield, these yields will be weighted for computation of the new base year yield.
- (c) If a person assumes the operation of an ownership tract from a family member, the new farm operator will use the base year previously selected by his family member. A family member is defined as "an individual to whom another member in the farming operation is related as lineal ancestor, lineal descendent, or sibling, including spouses of those family members who do not make a significant contribution to the farming operation themselves. The term "family member" shall include: great grandparent; grandparent; parent; child, including legally adopted children; grandchild, great grandchild; sibling of the family members in the farming operation; spouse of family members, if the family member does not make a significant contribution of active personal labor or active personal management to the farming operation as an individual".

(2) Producers have until December 21, 2006, to select a base year.

(3) Ownership tract acreage must have been FSA-certified for the production of sugar or seed in 2005 to be eligible for disaster reimbursement.

(4) The same base year will be used for all ownership tracts with the same farm operator. If some ownership tracts (cannot be ALL ownership tracts) had no production in the base year, the State yield will be used.

(5) Ownership tracts with production in the base year and no FSA-certified acres will require the farm operator to:

- (a) Pick a different base year; or
- (b) Make this ownership tract ineligible for disaster benefits.

(6) Ownership tracts with FSA-certified acreage and no production in the base year will require the farm operator to:

- (a) Pick a different base year; or
- (b) Make this ownership tract ineligible for disaster benefits.

C. Sugar per acre for each ownership tract is calculated as:

- (1) The CRS Final Settlement Payment Pounds from sugarcane processor records for the applicable year divided by
- (2) The ownership tract's total cane acres identified in the FSA Certified Acreage Report for the same year.

D. The 1999 average state yield will be applied to any eligible ownership tract that produced sugarcane in the 2005 crop year but did not have production history in 1999, 2000 or 2001, other than the exceptions in paragraphs 5B(1) (a) and (b) above.

E. In the case of split-shippers, total FSA-certified acres will be prorated to each mill based on pounds of sugar each mill produced. For mills that did not identify sugar produced by ownership tract at time of delivery, the total production will be prorated to each ownership tract based on total FSA-certified acres.

- F. Farm operators have until January 22, 2007, to certify ownership tract sugar losses on their farms.
- G. Applicants must submit a CCC-prescribed form certifying the sugarcane processor's crop loss and producer-only loss calculations to CCC, no later than February 5, 2007.
 - (1) No late-filed applications will be accepted.
 - (2) All eligible farm operators must certify the loss calculations included in the application.

6 ELIGIBLE 2005-CROP OWNERSHIP TRACT SUGAR LOSSES

- A. Ownership tract sugar losses are eligible if the ownership tract's 2005-crop sugar percentage loss is equal to or greater than 20 percent.
- B. The 2005-crop sugar percentage loss for an ownership tract is defined as: $[1 - (\text{sugar per acre (2005 crop)} / \text{sugar per acre (base year)})] \times 100$. The eligible ownership tract sugar losses are defined as losses equal to 20 percent or greater.

7 PRODUCER ONLY LOSS ELIGIBILITY

- A. Plant or stubble loss acreage: Eligible acres will be those acres suffering complete destruction of 2006-crop stubble or 2006-crop plant cane caused by the result of saltwater flooding due to tidal surge included in the acreage delineated on maps provided by LSU. Acres of sugarcane and plant cane lost or destroyed, including cane abandoned, prior to August 29, 2005, are not eligible for payment under this portion of the program. Acreage destroyed and/or reported as failed (planted but not harvested) to FSA after July 15, 2006, (FSA's final acreage reporting date) will not be eligible for payment under this portion of the program.
- B. Saltwater intrusion acreage: Eligible acres will be those acres damaged as a result of saltwater intrusion due to tidal surge as included in the acreage delineated on maps provided by LSU, excluding any acreage qualifying for payment under paragraph 7A above.
- C. Wind damage and additional harvest cost acreage: Eligible 2005-crop acres will be those acres harvested for sugarcane as reported to FSA in 2005.

8 PAYMENT CALCULATIONS

- A. 2005-crop sugar loss: An applicant's payment will equal the total eligible ownership tract sugar losses for its producers divided by the sum of the total eligible tract sugar losses for all sugarcane processors in Louisiana multiplied by the \$29 million allocated for crop losses. If the computed total of all 2005-crop eligible ownership tract sugar losses across all eligible sugarcane processors is less than \$29 million, a factor will be applied to make this total exactly \$29 million.
- B. Producer-only losses.
 - (1) Plant or stubble loss acreage: \$366 per acre.
 - (2) Saltwater intrusion acreage: \$100 per acre.
 - (3) Wind damage and additional harvest cost: \$12 per acre, except:
 - (a) If payments (1) plus (2) plus (3) above exceed \$10 million in aggregate, the harvest cost payment will be reduced by the overage, and
 - (b) If payments under (1) and (2) plus (3) are less than \$10 million in aggregate, the harvest cost payment will be increased by the underage.

9 RESERVE

A reserve of \$1 million will be held pending the resolution of appeals provided in paragraph 15, on page 4. The residual, if any, after appeal payments will be distributed to sugarcane processors, to be shared with producers as in paragraph 10A, on page 4.

10 PAYMENTS TO AFFECTED PRODUCERS

- A. Crop loss: Applicants must share their sugar loss payments with affected producers according to the percentage shares for dividing net revenue as stated in their 2005 farm processor/producer contracts that govern the delivery of sugarcane.
- B. Payments must be made to producers within 15 days of the date initial payments were made to applicants.
- C. Producers receiving mill payments are responsible for sharing payments with landowners according to their lease arrangements.

11 CONTRACT LIABILITY

All sugarcane processors and associated farm operators receiving a share of the total hurricane assistance payment are jointly and severally liable for program violations and resulting repayments, if applicable.

12 MISREPRESENTATION, SCHEME, OR DEVICE

A person shall be ineligible to receive assistance under this notice and be subject to such other remedies as law may allow if the FSA State or county committee, or any other FSA official with authority to do so, determines that such person has:

- A. Adopted a scheme or other device that tends to defeat the purpose of the program operated under this notice,
- B. Made any fraudulent representation regarding this program, or
- C. Misrepresented any fact affecting a program determination.

13 CREDITOR LIENS AND CLAIMS; AND CCC OFFSETS AND WITHHOLDINGS

- A. Any benefit or portion thereof due any person under this program shall be allowed without regard to questions of title under State law and without regard to any claim or lien in favor of any person, except agencies of the U.S. Government.
- B. CCC may offset or withhold any amount due CCC in accordance with the provisions of the regulations at 7 CFR part 1403 or successor regulations as designated by the Department.

14 ADMINISTRATION

When circumstances beyond the applicant's control preclude compliance, the county committee may request the Louisiana FSA State Executive Director to grant relief. In such cases, except for statutory requirements, the Louisiana FSA State Executive Director may, in order to more equitably accomplish this notice's goals, waive or modify deadlines if the failure to meet such deadlines does not adversely affect program operation. All program payments will be subject to review.

15 APPEALS

Regulations at 7 CFR part 11 apply to this notice. CCC is not involved in resolving disputes between processors and producers.

NOTE: *The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a). The authority for requesting the following information is the Agricultural Assistance Act of 2003, (Pub. L. 108-7) and regulations at 7 CFR Part 1427.1105. The information will be used to determine eligibility to receive payment and to determine payment amounts. Furnishing the requested data is voluntary; however, without it, we will be unable to establish your level of program payment. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided.*

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