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Here We Go Again, Ad Hoc Disaster Aid¹²

The Administration recently announced a 2009 crop year ad hoc disaster assistance program that only applies to upland cotton, rice, soybeans and sweet potatoes. Wheat, corn and other crops are not eligible for disaster assistance. Farms with claims must be located in Secretarially-designated primary disaster counties due to high precipitation or moisture conditions in 2009. The disaster program will not include contiguous counties. The ad hoc disaster program only covers the perils of excess moisture and flood. It does not cover the perils of drought, freeze, hail, wind, etc. Also any SURE payments will reduce any ad hoc disaster payments.

Eligible farmers must show at least a five percent yield loss in 2009 and they will receive a payment based on a pre-determined payment rate multiplied by the actual planted (or prevented planted) acres that they have on file with the Farm Service Agency (FSA).

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Payment rates per acre for eligible producers with a 5% Yield Loss:

Long Grain Rice	\$31.93
Medium/Short Grain Rice	\$52.46
Soybeans	\$15.62
Sweet Potatoes	\$155.41
Upland Cotton	\$17.70

There is also assistance for poultry producers who lost their contract because of the bankruptcy of an integrator and aquaculture for high feed costs. The dollar amount for these two programs is very “small” so assistance will be limited.

The Administration argues that ad hoc disaster assistance was necessary in the South because farmers don’t buy crop insurance. Therefore, SURE will not provided protection either. The Administration has argued that farmers in the Corn Belt and Great Plains are covered under SURE so there was no need for ad hoc disaster aid. However, there will be farmers in the Corn Belt and Great Plains where most of the crop insurance is sold but who will not benefit from SURE because of some fine technical points.

It wasn’t just the South where SURE failed to deliver. “Down in the weeds”, SURE’s biggest problem is that many of SURE provisions were not final at the time farmers had to make the decision on the type and level of crop insurance purchased. For example winter wheat farmers made their crop insurance purchase decision in the fall of 2007 for the 2008 winter wheat crop. FSA first worked on the ACRE implementation rules before working on SURE. Therefore, over a period of 2 years or more, farmers made several decisions on crop insurance type and coverage level without knowing the final SURE rules.

When the decisions were made by farmers to purchase crop insurance in 2008 and 2009 it was not clear about the amount and type of crop insurance coverage needed to meet the SURE requirements or if they could meet the *de minimus* test and not need crop insurance. For example, a farmer who paid the NAP fee on hay located in Kansas but he had less than 10 acres of hay in Nebraska and the FSA office thought it was *de minimus* in Nebraska so he did not pay the \$250 NAP fee in Nebraska. However, USDA ruled he needed to pay the NAP fee in both states, and he was denied a SURE payment. Farmers who did pay the NAP fee but later found out that the crop would have meet the *de minimus* test would have been better off without the NAP coverage because that low coverage level pulled down their whole farm SURE coverage on their insured crops. SURE worked best if the farm only had wheat and sorghum or corn and soybeans versus a diversified farm.

Very few farmers in Kansas purchased Group Risk Plan (GRP) or the Group Risk Income Protection (GRIP) policies that are based on county yields rather than individual proven farm yields. But there were a “large” number of those contracts

sold in the Corn Belt; most were GRIP policies but there were also GRP policies sold.

For example, in 2008 the Risk Management Agency (RMA) set the expected county yield for GRP and GRIP in Boone County, Iowa at 168.2 bushels. The “effective price” was \$3.75 for GRP times 168.2 bushels times 1.5 equals \$946.13. When farmers purchased GRP they were offered coverage up to \$946.13 per acre and a coverage level from 70% to 90%. Unless farmers know how the guarantee was set they never see the \$3.75 price election and probably didn’t know the expected yield was 168.2 bushels either because they are provided a trigger yield that is based on the percent coverage level purchased. The other unusual thing about GRIP and GRP is that it is a disappearing deductible, so if the county yield were zero, all coverage levels from 70% to 90% would pay the same; i.e. 100% of the “expected” revenue of \$946.13 in this example. County yield is never zero is the reason that most people don’t pick out this little twist, but those county yields are lot closer to zero in the Great Plains than in the Corn Belt.

The GRP insured farmers’ argument is they purchased the full \$946.13 of coverage that was offered. But FSA cut their coverage to \$630.75 ($\3.75×168.2 bushels) for SURE calculations. Had farmers been given the equivalent APH price of \$4.75, their coverage for SURE calculations would have been \$798.95 ($\4.75×168.2 bushels) that is still below the actual coverage purchased of \$946.13.

By contrast the “effective price” was \$5.40 for GRIP times 168.2 bushels times 1.5 equals \$1,362.42. When farmers purchased GRIP in Boone County, Iowa they were offered coverage up to \$1,362.42 and a coverage level from 70% to 90%. The \$5.40 price used to set GRIP coverage is the same price used to set the Revenue Assurance (RA) and Crop Revenue Coverage (CRC) guarantee.

Some farmers with GRIP have argued they should have a price of \$8.10 ($1.5 \times \5.40) used for the SURE calculation. The Law does not tell USDA how to calculate SURE payments for GRIP or GRP insured farmers, it only says they are to receive the “equivalent” of the APH insured farmers. The GRIP insured farmers have a very weak argument based on the Law, because they did receive the equivalent price of \$5.40 in CRC/RA for the purpose of calculating their SURE payments. Also GRIP losses are adjusted on a less risky county yield while APH based contracts are adjusted on a more risky farm level yield. This is the justification for elimination of the 1.5 factor and one would have to conclude that FSA correctly interpreted the Law.

The GRP buyers had a price of $\$3.75 \times 1.5$ equal to \$5.625 but that too would overstate the SURE coverage. However, the equivalent APH price is \$4.75 not the \$3.75 price that FSA used for SURE calculations. This interpretation of the Law by FSA would clearly be in the “gray” area.

At the time there was criticism of RMA for setting the 2008 GRP price election below the market, but RMA argued that because of the 1.5 factor farmers could effectively purchase higher price levels so there was no need to change the internal GRP price. It is unlikely that any of these farmers expected the below market GRP price would impact their SURE payment. In fact the final SURE implementation rules were unknown until at least two years after they purchased GRP. The use of the \$3.75 price lowered the coverage under SURE and the reason some GRP insured farmers are being asked to repay some or all of their SURE payments. This has not been reported in Kansas but excess moisture losses in Iowa is the cause of loss for GRP insured farmers and the ad hoc disaster program will not cover the loss and neither will SURE.

If the SURE rules had been final and public prior to the deadline for the purchase of 2008 and 2009 crop insurance, there were a number of farmers who would not have purchased GRP and others would have done something different with NAP crops. The farmer with 10 acres of hay in Nebraska should have either grazed the hay or cash rented the hay to another farmer, rather than bale it or paid the NAP fee.

In the past, RMA has set price elections that make no sense and the 2008 GRP price election is hard to defend. In the new Common Crop Insurance Policy (CCIP), the same price election will be used by all of the products and will be set by the market. This is a great argument for using futures to set the price elections rather than “cash”, so that below market price elections are not used to set future coverages with unintended consequences.

SURE covers only losses prior to **September 30, 2011**. SURE will cover the winter wheat crop through harvest but many farmers will not have their corn, sorghum and soybeans harvested before September 30, 2011, when their SURE coverage terminates.

The SURE approach versus ad hoc disaster aid will likely provide a major debate in the next Congress. Changing rules and programs makes disaster programs more risky and difficult for farmers to make risk management decisions. One could argue these changing disaster programs add to the risk bore by farmers. Crop insurance has been a more stable program and the insurance agent is there to help farmers understand their alternatives. Also agents can call on their insurance company for technical answers. In addition farmers have more legal recourses when dealing with an insurance agent or insurance company over a disagreement.