March 13, 2023

United States Department of Agriculture
Farm Service Agency
Commodity Credit Corporation
Zach Ducheneaux, Administrator
1400 Independence Ave, SW
STOP 0510
Washington, DC 20250-0522
{FR Doc. USDA-2021-0012}

RE: Pandemic Assistance Programs and Agricultural Disaster Programs

Dear Mr. Ducheneaux:

The National Cotton Council (NCC) appreciates the opportunity to comment on the Farm Service Agency (FSA)'s final rulemaking on implementation of the Emergency Relief Program (ERP) Phase 2 and Pandemic Assistance Program.

The NCC is the central organization of the United States cotton industry. Its members include producers, ginners, cottonseed processors and merchandizers, merchants, cooperatives, warehousers and textile manufactures. A majority of the industry is concentrated in 17 cotton-producing states stretching from California to Virginia. U.S cotton producers cultivate between 9 and 12 million acres of cotton, with production averaging 12 to 18 million 480-lb bales annually. The downstream manufactures of cotton apparel and home furnishings are in virtually every state. Farms and businesses directly involved in the production, distribution and processing of cotton employ more than 125,000 workers and produce direct business revenue of more than $21 billion. Annual cotton production is valued at more than $5.5 billion at the farm gate, the point at which the producer markets the crop. Accounting for the ripple effect of cotton through the broader economy, direct and indirect employment surpasses 280,000 workers with economic activity of almost $100 million. In addition to the cotton fiber, cottonseed products are used for livestock feed and cottonseed oil are used as an ingredient in food products, as well as being a premium cooking oil.

Since 2017, Congress has further compensated producers based upon the coverage level of their underlying crop insurance for crop losses related to hurricanes, droughts, floods, excessive heat and moisture, and other disaster related incidents through first the Wildfire Hurricane Indemnity Program (WHIP) (+) and now the Emergency Relief Program.

The WHIP program was launched in 2017 to cover crop losses related to disasters from hurricanes and wildfires. The program was then expanded for 2018 and 2019 to encompass additional disaster related losses. While the foundational structure of WHIP+ was well founded, a tedious and time-consuming application process delayed payments upward of 12 to 18 months after the date of loss.

Due to stakeholder feedback, FSA restructured WHIP+ by announcing the Emergency Relief Program (ERP) to cover crop losses due to eligible disasters for calendar years 2020 and 2021 through two phases. ERP Phase 1 was administered by leveraging existing Federal Crop Insurance Data as the basis for calculating initial payments. Phase 2 was intended to fill additional assistance gaps and coverage eligible producers who did not participate in existing risk management programs or may have suffered "shallow losses" within the deductible of a crop insurance policy.

The improvements made from WHIP+ to ERP Phase 1 were notable and much appreciated. FSA simplified the delivery of disaster benefits by mailing pre-filled applications to producers whose crop insurance data was already on file with the Risk Management Agency due to a previous crop insurance indemnity. If the claim was caused by an eligible ERP disaster event, the grower took the application to their local FSA Service Center where the payment was processed. Producers received payments in a timely manner while also reducing the application burden on county FSA employees.

Unfortunately, ERP Phase 2 and the Pandemic Assistance Revenue Program (PARP) has taken a much different and more cumbersome approach. ERP Phase 2 only provides payments if the producer's gross income for 2020 or 2021 drops below 70% of the 2018 or 2019 gross income. While the applications are self-certified, producers will often be forced to provide personal tax information to FSA employees to determine eligibility. Providing such personal information can be uncomfortable for many growers and should not be a requirement to justify eligibility. Tax records are also not an accurate method to gauge crop losses. Most producers utilize cash accounting which can often reflect an inaccurate picture of crop revenues and losses.

The announcement of PARP was welcome news to Extra Long Staple Cotton (ELS) producers who were left out of the Coronavirus Food Assistance Program (CFAP) 1. ELS, unlike Upland cotton, is not traded on a futures market which makes it difficult to compile transparent pricing information.

The COVID-19 pandemic resulted in a significant loss in demand for ELS cotton. The U.S. Census Bureau reported a $44 billion loss in sales from March-May 2020 leading to a decline of $0.08 per pound, or 7.2% between January-April 2020 which would have met the 5% threshold to qualify for CFAP 1. However, the new revenue format for PARP will exclude most ELS producers while a format similar to ERP Phase 1 which pays on individual crop losses would have provided greater benefits.

NCC understands the difficulty FSA faces in administering a program with limited available funding. However, an approach that elevated the insurance deductible such as the method used in WHIP+ and ERP Phase 1 with a reduced payment factor would be preferred. This would allow growers who fell just short of eligibility for ERP Phase 1 to have qualified for a benefit.

As USDA begins the rollout and signup for ERP Phase 1 for the 2022 crop losses, it is critical that the same structure be utilized as Phase 1 for the 2020 and 2021 losses.   At the end of 2022, Congress provided $3.4 billion for agricultural disaster through a fiscal year 2023 omnibus spending package. While the assistance was welcome, it will only cover one-third of the need identified by USDA. This limitation on funding should not induce FSA to revert to the gross revenue provisions of ERP Phase 2. We urge FSA to utilize the ERP Phase 1 format for 2022 disasters with necessary factors applied based upon available funding.

Thank you for the opportunity to provide input and comments on behalf of the NCC.

Sincerely,

Gary Adams
President and CEO