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crop revenue to FSA together with any supporting documentation to verify information entered on the application. Verifiable documentation is preferred. If verifiable documentation is not available, FSA will accept reliable documentation, if determined to be acceptable by the FSA county committee.

(b) If supporting documentation is not presented to the county FSA office requesting the information within 30 calendar days of the request, producers will be determined ineligible for OFF Program benefits.

(c) The producer must maintain any existing books, records, and accounts supporting any information furnished in an approved OFF Program application for 3 years following the end of the year during which the application for payment was filed.

(d) The producer must permit authorized representatives of the Department of Agriculture and the General Accounting Office, during regular business hours, to inspect, examine, and make copies of such books, records, and accounts.

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Any producer who is dissatisfied with a determination made pursuant to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations in 7 CFR parts 11 and 780.

PART 759—DISASTER DESIGNATIONS AND NOTIFICATIONS

Sec.

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AUTHORITY: 5 U.S.C. 301, 7 U.S.C. 1961 and 1989.

SOURCE: 77 FR 41254, July 13, 2012, unless otherwise noted.

§ 759.1 Administration.

(a) This part will be administered under the general supervision and direction of the Administrator, Farm Service Agency (FSA).

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(b) FSA representatives do not have authority to modify or waive any of the provisions of the regulations of this part as amended or supplemented.

(c) The Administrator will take any action required by the regulations of this part that the Administrator determines has not already been taken. The Administrator will also:

(1) Correct or require correction of any action taken that is not in accordance with the regulations of this part; or

(2) Require withholding taking any action that is not in accordance with this part.

(d) No provision or delegation in these regulations will preclude the Administrator or a designee or other such person, from determining any question arising under this part, or from reversing or modifying any determination made under this part.

(e) Absent a delegation to the contrary, this part will be administered by the Deputy Administrator for Farm Programs of FSA on behalf of the Administrator of FSA or the Secretary, but nothing in this part will inhibit the ability of the Administrator of FSA or the person holding the equivalent position in the event of a reorganization to delegate the functions of DAFFP under these regulations to another person. Likewise, nothing shall inhibit the ability of the Secretary to reassign any duties with respect to the designations of disasters under this part.

§ 759.2 Purpose.

(a) This part specifies the types of incidents that can result in an area being determined a disaster area, which under other regulations makes qualified farmers in such areas eligible for Emergency loans (EM) or eligible for such other assistance that may be available, based on Secretarial disaster designations. Nothing in this part overrides provision of those regulations that govern the actual administration and availability of the disaster assistance regulations.

(b) This part specifies the responsibility of the County Emergency Board (CEB), State Emergency Board (SEB), and the State Executive Director (SED) in regard to Secretarial Designations with regards to disasters. It also

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addresses matters relating to the handling of a Presidential declaration of disaster or the imposition of a USDA quarantine by the Secretary with respect to triggering the availability of EM loans.

§ 759.3 Abbreviations and definitions.

(a) *Abbreviations.* The following abbreviations apply to this part.

CEB means the County Emergency Board.

CED means the County Executive Director.

DAFP means the Deputy Administrator for Farm Programs of the Farm Service Agency.

EM means Emergency loan administered under 7 CFR part 764.

FSA means the Farm Service Agency.

LAR means the Loss Assessment Report.

SEB means the State Emergency Board.

SED means the State Executive Director.

USDA means the United States Department of Agriculture.

(b) *Definitions.* The following definitions apply to this part.

Administrator means the Administrator of FSA.

Contiguous county is used in reference to a primary county as defined in this section. A contiguous county is any county whose boundary touches at any point with that of the primary county. For programs other than the EM Program, disaster assistance regulations will specify whether benefits will be available only in the primary counties or also in the contiguous counties. For the EM Program that issue is addressed in § 759.6, unless specified otherwise in the disaster assistance regulations for other programs or in § 759.6 for the EM Program, only the “primary” county will be considered the qualifying “disaster county.” Therefore, if the disaster assistance regulations specify that they cover the disaster area and contiguous counties, then the only eligible counties would be the primary county and those contiguous to that county. Coverage would not include coverage of those counties that are in turn contiguous to those counties that are contiguous to the primary county.

County is used when referring to a geographical area, a local administrative subdivision of a State or a similar political subdivision of the United States generally considered to be in county usage, for example, it includes an area referred to as a “county” or “parish.” Except where otherwise specified, the use of the term county or similar political subdivision is for administrative purposes only.

CEB is comprised of the representatives of several USDA agencies that have responsibilities for reporting the occurrence of, and assessing the damage caused by, a natural disaster, and for requesting approval in declaring a county a disaster area.

CED is the person in charge of administering the local FSA county office for a particular county.

Disaster area is the county or counties declared or designated as a disaster area as a result of natural disaster related losses. The disaster area only includes the primary counties, but benefits may be available in the counties contiguous to the primary county if so provided by the disaster assistance regulations or, in the case of the EM Program, in § 759.6.

LAR is a loss assessment report prepared by the CEB relating to the State and county where the potential disaster occurred and for which county or counties the CEB is responsible. The LAR includes as applicable, but is not limited to, starting and ending dates of the disaster, crop year affected, type of disaster incident, area of county affected by disaster; total number of farms affected, crop loss or pasture loss data associated with the applicable disaster (or both types of losses), livestock destroyed, and other property losses.

Natural disaster is a disaster in which unusual and adverse weather conditions or other natural phenomena have substantially affected farmers by causing severe physical losses, severe production losses, or both.

Primary county is a county determined to be a disaster area.

Presidential declaration is a declaration of a disaster by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-2) requiring Federal

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emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety, or to avert or lessen the threat of a disaster.

Production losses (severe) within a county are those in which there has been a reduction county-wide of at least a 30 percent or more loss of production of at least one crop in the county.

SEB means the State Emergency Board which is comprised of the representatives of several USDA agencies having emergency program responsibilities at the State level. The board is required to respond to emergencies and carry out the Secretary's emergency preparedness responsibilities.

SED is the person who serves as the Chairperson of the USDA SEB in each State, is responsible for providing the leadership and coordination for all USDA emergency programs at the State level, and is subject to the supervision of DAFP.

Severe physical losses means, for the purpose of determining an Administrator's declaration of physical loss, losses that consist of severe damage to, or destruction of: Physical farm property including farmland (except sheet erosion); structures on the land including, but not limited to, building, fences, dams; machinery, equipment, supplies, and tools; livestock, livestock products, poultry and poultry products; harvested crops and stored crops.

Substantially affected when used to refer to producers and to the relationship of a particular producer to a particular disaster means a producer who has sustained qualifying physical or production losses, as defined in this section, as a result of the natural disaster.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners that is produced on a weekly basis to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center.

United States means each of the several States, the Commonwealth of

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Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Extension of disaster assistance, following a disaster designation, to insular areas of the United States not covered by this definition of "United States" will be only as authorized by law, and as determined by the Administrator on behalf of the Secretary to be appropriate.

§ 759.5 Secretarial disaster area determination and notification process.

(a) *U.S. Drought Monitor*. With respect to drought and without requiring an LAR:

(1) If any portion of a county is physically located in an area with a Drought Monitor Intensity Classification value of D3 (drought-extreme) or higher during any part of the growing season of the crops affected by the disaster in the county, then the county will be designated a disaster area by the Secretary.

(2) If any portion of a county meets the threshold Drought Monitor Intensity Classification value of D2 (drought-severe) for at least 8 consecutive weeks during the growing season of affected crops, then the county will be designated a disaster area by the Secretary.

(b) *CEB and SEB recommendations*. In instances where counties have been impacted by a disaster but the county has not been designated a disaster area under the provisions of paragraph (a) of this section, CEB will make a disaster designation recommendation request to SEB when a disaster has resulted in severe production losses. The determination of the sufficiency of the production losses will be governed by the provisions in paragraph (c) of this section. The CEB may make such efforts as are needed to identify counties that have been impacted and had such production losses. A farmer, Indian Tribal Council, or local governing body may initiate the process by reporting production losses or drought conditions to CEB and suggesting that there be a recommendation in favor of designating a county as a disaster area. Recommendations by a CEB in favor of a disaster designation by a CEB under

this paragraph are subject to the following:

(1) A LAR is required as part of a CEB disaster designation request. CEB will submit a disaster designation request with a LAR to SEB for review and recommendation for approval by the Secretary. CEB's written request and SEB recommendation must be submitted within three months of the last day of the occurrence of a natural disaster.

(2) If SEB determines a qualifying natural disaster and loss have occurred, SEB will forward the recommendation to the Administrator. The natural disaster may include drought conditions that were not sufficiently severe to meet the criteria in paragraph (a) of this section. Since the U.S. Drought Monitor tracks only drought conditions, not specifically agricultural losses resulting from those conditions, it is possible for a drought that does not meet the criteria in paragraph (a) of this section to result in production losses that constitute a natural disaster.

(3) The Secretary or the Secretary's designee will make disaster area determinations. The Secretary may delegate the authority to the SED. In such case, the SED will act on behalf of the Secretary, subject to review by DAFP as may be appropriate and consistent with the delegation. The delegation of authority to the SED may be revoked by the authority making that delegation or by other authorized person. In all cases, DAFP may reverse any SED determination made in accordance with this section unless the delegation to the SED specifies that such review is not allowed.

(c) *Eligible production losses.* For purposes of making determinations under paragraph (b) of this section, in order for an area to be declared a disaster area under paragraph (b) of this section based on production losses, the county must have had production losses of 30 percent of at least one crop in the county as the result of a natural disaster.

(d) *Discretionary exception to production losses for designating a county as a disaster county.* For purposes of the EM program only, unless otherwise specified in the designation, a county may

be designated by DAFP as a designated disaster county even though the conditions specified in paragraphs (a) through (c) of this section are not present so long as the disaster has otherwise produced such significant production losses, or other such extenuating circumstances so as to justify, in the opinion of the Secretary, the designation of a county as a disaster area. In making this determination, the Secretary may consider all relevant factors including such factors as the nature and extent of production losses; the number of farmers who have sustained qualifying production losses; the number of farmers that other lenders in the county indicate they will not be in position to provide emergency financing; whether the losses will cause undue hardship to a certain segment of farmers in the county; whether damage to particular crops has resulted in undue hardship; whether other Federal or State benefit programs, which are being made available due to the same disaster, will consequently lessen undue hardship and the demand for EM; and any other factors considered relevant.

§ 759.6 EM to be made available.

(a) For purposes of the EM Program under part 764, subpart I, of this chapter, a county will be considered an eligible disaster area as designated by FSA for coverage of the EM Program as follows:

(1) *Secretarial designations.* When production losses meet the requirements in § 759.5 and the county has been designated as a disaster area for that reason, or when the discretionary exception to production losses for EM under § 759.5(d) has been exercised, the primary and contiguous counties will be areas in which otherwise eligible producers can receive EM loans.

(2) *Physical loss notification.* When only qualifying physical losses occur, the SED will submit a request to the FSA Administrator to make a determination that a natural disaster has occurred in a county, resulting in severe physical losses. If the FSA Administrator determines that such a natural disaster has occurred, then EM can be made available to eligible farmers for physical losses only in the primary

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county (the county that was the subject of that determination) and the counties contiguous to that county.

(3) *USDA quarantine.* Any quarantine imposed by the Secretary of Agriculture under the Plant Protection Act or the animal quarantine laws, as defined in section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990, automatically authorizes EM for production and physical losses resulting from the quarantine in a primary county (the county in which the quarantine was in force) and (where the quarantine effects extend beyond that county) the counties contiguous to that primary county.

(4) *Presidential declaration.* Whenever the President declares a Major Disaster Declaration or an Emergency Declaration, FSA will make EM available to eligible applicants in declared and contiguous counties, provided:

(i) The Presidential declaration is not solely for Category A or Category B Public Assistance or Hazard Mitigation Grant Assistance, and

(ii) The Presidential Major Disaster declaration is for losses due to severe, general disaster conditions including but not limited to conditions such as flood, hurricane, or earthquake.

(b) [Reserved]

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