

AGRICULTURAL CROP LOSS PROGRAM

SECTION 5.9B.(a) Agricultural Crop Loss Program. – The Agricultural Crop Loss Program (Program) is established within the Department of Agriculture and Consumer Services (Department). The Program shall be used to provide financial assistance to farmers affected by Tropical Storm Fred. The Department shall not use funds for administrative purposes. The Program shall expire on November 1, 2026. To be eligible for financial assistance for losses of agricultural commodities, a person must satisfy all of the following criteria:

- (1) The person experienced a verifiable loss of agricultural commodities as a result of Tropical Storm Fred, and the person's farm is located in a North Carolina county listed in subsection (b) of Section 5.9A of this act.
- (2) The agricultural commodity was planted but not harvested on or before August 17, 2021, or, for aquaculture commodities, the commodities were being raised on or before August 17, 2021.

SECTION 5.9B.(b) Verification of Loss. – A person seeking financial assistance for losses of agricultural commodities under the Program shall submit to the Department a Form 578 on file with the USDA Farm Service Agency or a form provided by the Department for reporting acreage or plantings of crops not typically reported on Form 578, along with any other documentation deemed appropriate by the Department, on or before December 10, 2021. For nursery crops, fruit-bearing trees and bushes, and specialty crops where the survival level is not immediately known, the Department may extend this deadline to May 1, 2022, upon written request by the person received on or before December 10, 2021, and upon approval by the Department. A person receiving assistance under this Program must provide a signed affidavit, under penalty of perjury, certifying that each fact of the loss presented by the person is accurate.

SECTION 5.9B.(c) Eligibility. – To be eligible for financial assistance for losses of livestock or poultry, a person must first qualify for and receive payment through the USDA Livestock Indemnity Program and be a participant in a livestock or poultry indemnity program administered by the USDA Farm Service Agency.

SECTION 5.9B.(d) Documentation. – A person seeking financial assistance for losses of livestock or poultry shall submit documentation of loss and indemnity received from the USDA Livestock Indemnity Program, along with any other documentation deemed appropriate by the Department, to the Department on or before December 10, 2021. The Department may extend this deadline to March 1, 2022, upon written request by the person received on or before December 10, 2021, and upon approval by the Department. A person receiving assistance under this Program must provide a signed affidavit, under penalty of perjury, certifying that each fact of the loss presented by the person is accurate.

SECTION 5.9B.(e) Criteria. – The Department shall administer the financial assistance program authorized by this section in accordance with the following criteria:

- (1) In determining the payment calculation for agricultural commodities, the Department shall use a formula based on acreage, county loss estimates, USDA National Agricultural Statistics Service averages, and any other measure the Department deems appropriate. Funds shall be distributed based on county averages for yields and State averages for price. Calculations shall be based on county or State averages in price, whichever the Department determines is appropriate.

(2) The payment calculation for livestock and poultry shall be based on twelve and one-half percent (12.5%) of the total loss reported to the USDA Livestock Indemnity Program.

(3) The Department shall gather all claim information, except from those applicants granted a deadline extension, no later than December 10, 2021. The Department shall, as closely as possible, estimate the amount of the funds needed to be held in reserve for payments related to losses of livestock, poultry, nursery, bush, tree, and specialty crops for which losses will not be fully known or calculated. The Department shall set aside funds as it deems appropriate based on the estimated percentage of these losses.

(4) Payments made under this Program shall be made to the person who filed the Form 578 or Department form for claims related to agricultural commodity losses or the person who received payment from the USDA Livestock Indemnity Program for claims related to livestock or poultry losses.

SECTION 5.9B.(f) Audit. – The Department may audit the financial and other records of each recipient of funds in order to ensure that the funds are used in accordance with the requirements of this Program. The Department may require any documentation or proof it considers necessary to efficiently administer this Program, including the ownership structure of each entity and the social security numbers of each owner. In order to verify losses, the Department may require the submission of dated, signed, and continuous records. These records may include, but are not limited to, commercial receipts, settlement sheets, warehouse ledger sheets, pick records, load summaries, contemporaneous measurements, truck scale tickets, contemporaneous diaries, appraisals, ledgers of income, income statements of deposit slips, cash register tape, invoices for custom harvesting, u-pick records, and insurance documents.

SECTION 5.9B.(g) Expenditure of Awarded Funds. – Awarded funds shall be used for agricultural production expenses and recovery of losses due to the impacts of Tropical Storm Fred. The Department shall develop guidelines and procedures to ensure that funds are expended for the purposes allowed by this section and may require any documentation it determines necessary to verify the appropriate use of financial assistance awards, including receipts. All distributed funds are subject to federal and State income tax.

SECTION 5.9B.(h) Refund of Award. – If the Department determines that a person who received financial assistance provided inaccurate information, then the person shall refund the entire amount of the financial assistance. If the person does not refund the appropriate amount, the North Carolina Department of Revenue shall collect the money from the person pursuant to G.S. 105-242.

SECTION 5.9B.(i) Definitions. – For purposes of this section, the following definitions apply:

(1) Agricultural commodity. – Apples, barley, corn, cotton, dry peas, flax, forage, freezing and canning peas, grain sorghum, grapes, hay, industrial hemp, native grass, nursery crops, nuts, oats, peanuts, potatoes, rye, soybeans, sunflowers, sweet corn, tobacco, tomatoes, wheat, specialty crops and other fruits and vegetables, and aquacultural species propagated or reared in a controlled or selected environment. An agricultural commodity does not include stored grain.

(2) Livestock. – Cattle, sheep, swine, goats, farmed cervids, and bison. Livestock shall include horses, mules, or other equines only if they are used for production of agricultural commodities.

(3) Person. – Any individual, trust, estate, partnership, receiver, association, company, limited liability company, corporation, or other entity or group.

(4) Poultry. – Chickens, quail, or turkeys.

SECTION 5.9B.(j) Program Reporting Requirement. – The Department shall submit a report to the Fiscal Research Division on April 1, 2022, and every six months thereafter until all funds are expended, containing, at a minimum, all of the following data:

(1) The number of applicants by agricultural commodity, livestock, or poultry and the county in which the person incurred the verified loss.

(2) The number and amount of grants awarded by agricultural commodity, livestock, or poultry.

(3) The geographic distribution of the grants awarded.

(4) The total amount of funding available to the Program, the total amount encumbered, and the total amount disbursed to date.

(5) Any refunds made to the Program pursuant to subsection (h) of this section. SECTION 5.9B.(k) Reversion. – Any funds allocated to the Program not expended or encumbered by November 1, 2026, shall revert to the Disaster Relief and Mitigation Fund in accordance with Section 5.9A(e) of this act.