

CORN SEED SETTLEMENT PROGRAM CLAIMS PROCESSING PROCEDURE			
Number	CPP-5	Effective Date	4/8/19
Subject	Average County Yield Determination		

**1. Defined Terms.** All capitalized terms used and not expressly defined in this Claims Processing Procedure (“CPP”) shall have the meanings attributed to them in the Agrisure Viptera/Duracade Class Settlement Agreement, executed on February 26<sup>th</sup>, 2018 (“Settlement Agreement”).

**2. Purpose of this CPP.** Settlement Agreement § 2.15.1 requires the Claims Administrator to convert a Producer Class Member’s, i.e., a member of Subclass 1 or 2, acreage to bushels by multiplying the acreage by the average county yield as reported by the United States Department of Agriculture’s National Agricultural Statistics Service (“NASS”). If the county where the acreage is located does not report an average county yield in the NASS data, the Claims Administrator must determine the nearest average county yield available. This CPP establishes the rules for determining average county yield.

**3. NASS Website.** To implement Settlement Agreement § 2.15.1, the Claims Administrator must download the publicly available average county yield data (“NASS Data”) from the NASS website, <https://quickstats.nass.usda.gov/>, using the following search criteria:

- (a) Sector: Crops
- (b) Group: Field Crops
- (c) Commodity: Corn
- (d) Category: Yield
- (e) Data Item: Corn, Grain – Yield Measured in BU/Acre
- (f) Domain: Total
- (g) Geographic Level: County
- (h) State: Select All
- (i) Ag District: Select All
- (j) County: Select All
- (k) Year: 2017, 2016, 2015, 2014, 2013
- (l) Period Type: Annual
- (m) Period: Year

**4. Irrigated vs. Non-Irrigated.** The NASS Data displays three values for average county yield: (1) Irrigated; (2) Non-Irrigated; and (3) Regular. As memorialized in FAQ C.15 on the Settlement Website, the Settlement Program will not distinguish between Irrigated and Non-Irrigated for purposes of calculating Compensable Recovery Quantity. Therefore, the Claims Administrator will use the values denoted as Regular average county yield for each county and Marketing Year when determining a Producer Class Member’s Compensable Recovery Quantity.

**5. NASS Data Available for Claimed Marketing Year.** If the result of the NASS Data search described above returns an average county yield for a county and Marketing Year claimed by the Producer Class Member, then the Claims Administrator will use the matching average county yield from the NASS Data to determine the bushels generated by the Producer Class Member for that Marketing Year.

**6. NASS Data Unavailable for Claimed Marketing Year.** When the NASS Data does not contain an average county yield for the county and Marketing Year claimed by a Producer Class Member, the Claims Administrator must determine the nearest average county yield available. The Claims Administrator will determine the nearest average county yield as follows:

- (a) Adjacent Counties with NASS Data Available. If one or more counties that border the claimed county (“Adjacent Counties”) has NASS Data for the claimed Marketing Year, the Claims Administrator will use the average of the average county yields for the Adjacent Counties which have NASS Data for the claimed Marketing Year.
- (b) No Adjacent County. If the claimed county does not have an Adjacent County with NASS Data for the claimed Marketing Year, the Claims Administrator will identify the county with NASS Data for the claimed Marketing Year which is closest to the claimed county and use the average county yield of that county. The Claims Administrator will identify the closest county to the claimed county by measuring from county seat to county seat.

**7. Engagement of an Expert.** The Parties to the Settlement authorize the Claims Administrator to contract with a consulting company that will provide technical and analytical support services to assist the Claims Administrator in determining average county yield. Specifically, the company will assist with using Geographic Information Systems (“GIS”) to determine the nearest average county yield when NASS data is unavailable for a claimed county. Before retaining the services of a consulting company, the Parties and the Claims Administrator should determine that it will be more efficient and cost-effective to the Settlement Program to engage the company.

**8. Duration of this CPP.** This CPP shall apply to all Producer Class Members and may be modified, overruled, replaced or terminated by Order of the United States District Court for the District of Kansas.