

**§ 1477.208**

**7 CFR Ch. XIV (1-1-01 Edition)**

will be adjusted according to instructions issued by the Deputy Administrator. County committees may, with state committee concurrence, establish county average quality adjustment factors according to procedures issued by the Deputy Administrator.

(g) Quality adjustments for cotton shall be based on the difference between:

(1) The loan rate applicable to the crop and producer determined according to part 1427 of this chapter; and

(2) The adjusted county loan rate. The adjusted county rate is the county loan rate adjusted for the 4-year county average historical quality premium or discount, in accordance with instructions issued by the Deputy Administrator.

(h) Quality adjustments for quota peanuts shall for unused quota be based on the difference between the adjusted sales price and the quota price. The adjusted sales price is the quota price minus discounts for quality, regardless of the actual sales price received. Adjustments for other peanuts may be made as determined appropriate by the Deputy Administrator.

(i) Quality adjustments for sugar beets shall be based on sugar content. The 1998 actual production for the producer shall be adjusted upward or downward to account for sugar content according to instructions issued by the Deputy Administrator.

(j) Quality adjustments for tobacco shall be based on the difference between the sales price and the support price.

(k) Quality adjustments for crops with multiple market uses such as fresh, processed and juice, shall be applied based on the difference between the producer's historical marketing percentage of each market use compared to the actual percentage for 1998, as determined in accordance with instructions issued by the Deputy Administrator.

(l) Quality adjustments for aflatoxin shall be based on the aflatoxin level. The producer must provide the County Office with proof a price reduction because of aflatoxin. The aflatoxin level must be 20 parts per billion or more before a quality adjustment will be made. The quality adjustment factor applied

to affected production is .50 if the production is marketable. If the production is unmarketable due to aflatoxin levels of at least 20 parts per billion, production will be adjusted to zero. Any value received will be considered salvage.

(m) Any quantity of the crop determined to be salvage will not be considered production. Salvage values shall be factored by .60 for insured and non-insurable commodities and .65 for uninsured commodities.

(n) Quality adjustments do not apply to value loss crops.

(o) Quality adjustments shall not apply to: hay, honey, maple sap, turfgrass sod, crops marketed for a use other than an intended use for which there is not an established county price or yield.

**§ 1477.208 1999 crop losses.**

(a) Producers have the option to receive benefits on 1999 crop rather than 1998 loss when both the following apply:

(1) The 1999 crop was affected by disaster-related conditions that occurred in calendar year 1998; and

(2) Harvest for the 1999 crop would normally begin in calendar year 1998.

(b) Producers may elect to use the 1999 crop for 1998 single-year CLDAP benefits only.

**§ 1477.209 Value loss crops.**

(a) Special provisions to assess losses and calculate disaster assistance under this subpart apply to the following crops and such other crops as may be identified in instructions issued by the Deputy Administrator: ornamental nursery; Christmas trees; ginseng root; and aquaculture, including ornamental fish.

(b) Disaster benefits under this subpart are calculated based on the loss of value at the time of disaster, as provided by instructions issued by the Deputy Administrator.

(c) For aquaculture, disaster benefits under this subpart for aquacultural species are limited to those aquacultural species which were placed in the aquacultural facility by the producer. Disaster benefits under this subpart shall not be made available for aquacultural species that are growing

naturally in the aquaculture facility. Disaster benefits under this subpart are limited to aquacultural species that were planted or seeded on property owned or leased by the producer where that land has readily identifiable boundaries, and over which the producer has total control of the waterbed and the ground under the waterbed. Producers who only have control over a column of water will not be eligible for disaster benefits under this subpart.

(d) For ornamental nursery crops, disaster benefits under this subpart are limited to ornamental nursery crops that were grown in a container or controlled environment for commercial sale on property owned or leased by the producer, and cared for and managed using good nursery growing practices. Indigenous crops are not eligible for benefits under this subpart.

(e) For Christmas trees, disaster benefits under this subpart are limited to losses which exceed 35 percent of the value of the Christmas trees present at the time of the disaster. Christmas tree producers seeking disaster assistance under this subpart must provide acreage data, dates of plantings and the quantity of trees planted on each date.

#### § 1477.210 Other specialty crops.

(a) Other special provisions to assess losses and calculate disaster assistance under this subpart apply to the following crops and such other crops as may be identified in instructions issued by the Deputy Administrator: turfgrass sod, honey and maple sap.

(b) For turfgrass sod, disaster benefits under this subpart are limited to turfgrass sod which would have matured and been harvested during 1998, when a disaster caused in excess of 35 percent of the expected production to die.

(c) For honey, disaster benefits under this subpart are limited to table and nontable honey produced commercially for human consumption. For calculating benefits, all honey is considered a single crop, regardless of type or variety of floral source or intended use.

(d) For maple sap, disaster benefits under this subpart are limited to maple sap produced on private property in a controlled environment by a commercial operator for sale as sap or syrup.

The maple sap must be produced from trees that are: located on land the producer controls by ownership or lease; managed for production of maple sap; and are at least 30 years old and 12 inches in diameter.

#### Subpart C—Multi-Year Crop Loss Disaster Assistance Program

##### § 1477.300 Multi-year crop losses.

(a) The disaster benefits under this subpart, the 1998 Crop Loss Disaster Assistance Program Multi-year Losses, will be equal to 25 percent of the producer's previous loss payments for the qualifying losses if the producer received:

(1) Crop insurance indemnity payments for crop losses on insured crops under the RMA-administered program, excluding replanting or raisin reconditioning payments; or

(2) Payments from the Non-insured Crop Disaster Assistance Program for multi-year crop losses, including any 1994 ad hoc disaster payment of a non-insurable crop.

(b) In order to receive benefits under this subpart, the producer must have received (a)(1) or (a)(2) in at least 3 of the 5 crop years running from 1994 through 1998 and only such losses shall be considered qualifying losses for purposes of paragraph (a) of this section.

(c) For multi-year eligibility based on crop insurance indemnity payments, RMA will determine the producers that meet the eligibility requirements along with indemnity amounts and pass the data to FSA.

(d) For NAP multi-year eligibility, FSA will determine eligible producers. Because the multi-year payments are based on payments previously received, area loss provisions apply.

(e) For purposes of paragraph (a) of this section, the "Federal loss payments" shall only be those payments which were received for qualifying losses under the programs identified in paragraphs (a)(1) and (a)(2) of this section. In addition, benefits under this part will be permitted only where the qualifying losses were suffered by the identical producers, as determined