

Commodity Credit Corporation, USDA

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what it considers to be the best information available including but not limited to: Extension Service; Natural Resources Conservation Service; aerial photography; rainfall data; and general knowledge of losses due to flooding.

(c) If the county Committee makes an affirmative determination under paragraph (a) of this section, the producer with the affected acreage shall be considered an "eligible producer" for purposes of this part.

(d) For purposes of setting rental rates for calculations required to be made elsewhere in this part the county committee shall use the established rental rates for Harney County, for cropland and pasture-land. These rates shall be reviewed by the State Committee and may be equal to the estimated 5-year average rental rates for all such land of each type in the county. The State Committee may take into account rates established for the Conservation Reserve Program operated under 7 CFR part 1410 and ensure, subject to paragraph (e) of this section, that the rates are comparable. The Deputy Administrator shall review and may adjust the rates for reasonableness and consistency.

(e) Except as provided by the Deputy Administrator, rental rates shall be established based on NASS data, if available for 1999.

§ 1479.6 Loss criteria.

(a)(1) The flooded land for which a producer requests benefits must be within the physical boundary of Harney County, Oregon.

(b) To be eligible for benefits under this subpart, a producer in Harney County and contiguous counties must have a tract of land that meets all the following criteria:

(1) The land is cropland or pasture land intended to be used for the production of feed for livestock (hay, grazing, or feed grain production) or other agricultural use in CY 1999 and one of the years 1994 through 1998;

(2) The land, for calendar year 1999, was inaccessible or unable to be used for crop production, grazing, or haying, or the production was unusable because of flooding;

(3) The land has been owned, leased or under a binding cash lease by the producer for crop year 1999;

(4) The land is a contiguous parcel of land with an area equal to one acre or more;

(5) The land actually produced a crop, or was used for pasture, during or after the 1990 crop year.

(c) On the CCC-454 producers shall be required to certify on each farm the number of flooded cropland and non-cropland acres for the farm in 1999.

(d) All determinations as to the amount of land eligible for enrollment and compensation under this subpart are subject to approval by the county committee.

(e) The county committee may use any available documentation to make the determinations under paragraphs (b) and (c) of this section, including but not limited to: maps, acreage reports, slides, precipitation data, water table levels and disaster reports.

§ 1479.7 Producer eligibility.

(a) Producers in Harney County will be eligible to receive benefits under this part only if they have suffered 1999-crop losses of eligible crops as a result of flooding.

(b) Payments made for losses suffered by eligible producers under this subpart shall be subject to the provisions of §§1478.4 through 1478.12 of this chapter, and their successor regulations, except as otherwise provided in this subpart.

(c) No person as defined and determined under part 1400 of this chapter may receive more than \$40,000 under this subpart.

(d) No person as defined and determined under part 1400 of this chapter will be eligible for payment under this subpart if that person's annual gross receipts for the 1998 tax year were in excess of \$2.5 million. That determination shall be made in the manner provided for in §1478.6 of this chapter.

(e) The following entities are not eligible for benefits under this subpart:

(1) State or local governments or subdivisions thereof; or

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(2) Any individual or entity who is a foreign person as determined in accordance with the provisions of §1400.501 and §1400.502 of this chapter.

[65 FR 36583, June 8, 2000; 65 FR 47841, Aug. 4, 2000]

§ 1479.8 Calculation of assistance.

(a) The unadjusted value of this emergency assistance determined with respect to the flooded land in Harney County for each producer shall not exceed the amount obtained by adding paragraphs (b) and (c) of this section.

(b) For each eligible producer with respect to the applicable qualifying cropland, the number of qualifying acres will be multiplied by the established local payment rate for cropland, as determined by the county Committee in accordance with instructions of the Deputy Administrator.

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(c) For each eligible producer with respect to the applicable qualifying pastureland or other land that does not meet the FSA definition of “cropland,” the number of qualifying acres will be multiplied by the established payment rate for “non-cropland” acres.

§ 1479.9 Availability of funds; payments.

In the event that the total amount of claims submitted under this subpart exceeds the \$1.09 million appropriated for the program provided for in this part, payments otherwise calculated under §1478.8 shall be reduced by a uniform percentage to allow for a proration of claims within the appropriated amount. Such payment reductions shall be after the imposition of applicable payment limitation provisions. Applications for payment must be submitted by the time and in the manner specified by the Deputy Administrator.