

Commodity Credit Corporation, USDA

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(b) Such payment reduction shall be applied after imposition of applicable per person payment limitation as provided in §1416.6.

Subpart F—Tropical Fruit Disaster Program

§ 1416.500 Applicability.

This subpart sets forth the terms and conditions applicable to the Tropical Fruit Disaster Program.

§ 1416.501 Definitions.

Tropical Fruit means carambola, longan, lychee, and mangos for disaster program purposes.

§ 1416.502 Eligibility requirements.

(a) Eligible Tropical Fruit producers must have incurred 50 percent or greater loss in commercial production.

(b) Only those acres of the four eligible fruits located in Tier I or II as designated under §1416.2 shall be considered for payment under this subpart.

§ 1416.503 Application process.

(a) Producers wishing to receive benefits must submit a completed application and report of acreage identifying the geographic location and number of acres in the disaster-affected area to their local FSA Service Center at the time an application for payment is being filed as provided in §1416.5. Applications will not be accepted after such date as announced by FSA. Applications for assistance are available at local FSA Service Centers.

(b) Applicants must certify and provide adequate proof that the losses and expenses incurred to eligible tropical fruit crops were a direct result of the applicable disaster, as set forth in §1416.2.

§ 1416.504 Payment calculation.

(a) Payments are calculated by multiplying the number of affected acres by the payment rate times the producer's share of the crop. The payment rate for insured or NAP covered tropical fruit is a flat rate of \$5000 per acre. The rate for uninsured or acreage without NAP coverage is \$4750 per acre. The total payment is subject to the limitations in §1416.6.

(b) In addition to the prohibition in §1416.6(g), producers cannot receive duplicate benefits under this subpart and subpart H of this part, Hurricane TAP, for the same loss.

§ 1416.505 Availability of funds.

(a) In the event that the total amount of eligible claims submitted by eligible tropical fruit producers under this subpart and subparts D, E, and G exceeds \$95 million, each payment to an eligible tropical fruit producer shall be reduced by a uniform national percentage, as determined by CCC.

(b) Such payment reduction shall be applied after imposition of applicable per person payment limitation as provided in §1416.6.

Subpart G—Nursery Disaster Program

§ 1416.600 Applicability.

This subpart sets forth the terms and conditions applicable to the Nursery Disaster Program.

§ 1416.601 Eligibility requirements.

(a) Commercial ornamental nursery and fernery producers are eligible for assistance for inventory losses for each nursery or fernery operation and clean-up costs. For a nursery to be considered a commercial nursery, it must be certified by the appropriate state agency. Eligible producers include producers of the following types of nursery stock and such stock as announced by CCC:

(1) Deciduous shrubs, broadleaf evergreens, coniferous evergreens, shade and flowering trees.

(2) Stock for use as propagation in a commercial ornamental nursery operation.

(3) Fruit or nut seedlings grown for sale as seed stock for commercial orchard operations growing fruit or nuts.

(b) Eligible nursery inventory does not include:

(1) Edible varieties.

(2) Plants produced for reforestation purposes or for the purpose of producing a crop for which RMA does not provide insurance, or for which CCC does not provide assistance under NAP.

(c) Losses will be determined on an individual-nursery basis. Production

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loss from one nursery will not be offset by production from another nursery operated by the same applicant.

§ 1416.602 Application process.

(a) Producers wishing to receive benefits must submit a completed application and report of acreage identifying the geographic location, number of acres in the disaster-affected area, the inventory value before the hurricane, and the inventory value after the hurricane to their local FSA Service Center at the time an application for payment is being filed as provided in §1416.5. The value of the inventory is the producer's wholesale price list, less the maximum customer discount they provide, not to exceed the prices in RMA's "Eligible Plant List and Price Schedule."

(b) Applicants must certify and provide adequate proof that the losses and expenses incurred to eligible nursery crops were a direct result of the applicable hurricane during the disaster period.

§ 1416.603 Payment calculations.

(a) Payments are calculated by multiplying the difference between the beginning and ending inventory value times 25 percent times the producer's share of the loss. The payment for production loss is subject to the payment limitation and AGI provisions.

(b) Producers are also eligible for a payment of \$250 per acre for debris removal and associated costs from hurricane damage if they can document that these costs were equal to or greater than \$250 per acre. None of the payment for cleanup is subject to the payment limitation and AGI provisions.

(c) In addition to the prohibition of §1416.6(g), producers cannot receive duplicate benefits under this subpart and subpart H of this part, the Hurricane TAP, for the same loss.

§ 1416.604 Availability of funds.

(a) In the event that the total amount of eligible claims submitted by eligible nursery producers under this subpart and subparts D, E, and F exceeds \$95 million, each payment to an eligible nursery producer shall be reduced by a uniform national percentage, as determined by CCC.

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(b) Such payment reduction shall be applied after imposition of applicable per person payment limitation as provided in §1416.6.

Subpart H—2005 Hurricane Tree Assistance Program

§ 1416.700 Applicability.

This subpart sets forth the terms and conditions applicable to the 2005 Hurricane Tree Assistance Program (TAP) for losses in eligible counties as defined according to §1416.2.

§ 1416.701 Definitions.

Application means the "2005 Hurricane Tree Assistance Program" Application form.

Fruit tree means a woody perennial plant having a single main trunk, commonly exceeding 10 feet in height and usually devoid of branches below, but bearing a head of branches and foliage or crown of leaves at the summit that is grown for the production of an annual crop, including nuts, for commercial market for human consumption.

Stand means a contiguous acreage of the same crop of trees (including Christmas trees, ornamental trees, nursery trees, and potted trees), bushes (including shrubs), or vines.

§ 1416.702 Eligible producers and stands.

(a) An eligible producer means an individual, or legal entity, including an Indian tribe as defined under the Indian Self-Determination and Education Assistance Act; an Indian organization or entity chartered under the Indian Reorganization Act; a tribal organization as defined under the Indian Self-Determination Education and Assistance Act; or, an economic enterprise as defined under the Indian Financing Act of 1974, which owns a tree, bushes, or vine.

(b) An eligible stand must:

- (1) Be physically located in an eligible county;
- (2) Have been impacted during an eligible disaster as set forth in §1416.2; and
- (3) Be grown for commercial use.