

§ 1478.12

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been lost to normal mortality but for the disaster.

(c) Calculation of benefits under this part for ornamental nursery stock shall not include losses:

- (1) Caused by a failure of power supply or brownouts;
- (2) Caused by the inability to market nursery stock as a result of quarantine, boycott, or refusal of a buyer to accept production;
- (3) Caused by fire;
- (4) Affecting crops where weeds and other forms of undergrowth in the vicinity of the nursery stock have not been controlled; or
- (5) Caused by the collapse or failure of buildings or structures.

(d) Calculation of benefits under this part for honey where the honey production by colonies or bees was diminished, shall not include losses:

- (1) Where the inability to extract was due to the unavailability of equipment; the collapse or failure of equipment or apparatus used in the honey operation;
- (2) Resulting from improper storage of honey;
- (3) To honey production because of bee feeding;
- (4) Caused by the application of chemicals;
- (5) Caused by theft, fire, or vandalism;
- (6) Caused by the movement of bees by the producer or any other person; or
- (7) Due to disease or pest infestation of the colonies.

§ 1478.12 Calculating rates and yields.

(a) Payment rates for 1999 year crop losses shall be:

- (1) 65 percent of the maximum established RMA price for insured crops;
- (2) 65 percent of the State average price for noninsurable crops;
- (3) 60 percent of the maximum established RMA price for uninsured crops; and
- (4) 65 percent of the established practice rate for damage to eligible trees.

(b) Disaster benefits under this part for losses to crops other than trees shall be made in an amount determined by multiplying the loss of production in excess of 35 percent of the expected production by the applicable payment rate established according to paragraph (a) of this section.

(c) Disaster benefits under this part for losses of trees shall be made in an amount determined by multiplying the quantity of acres or number of trees in a practice approved by the county committee as authorized by the Deputy Administrator, by the payment rate established according to paragraph (a) of this section.

(d) Separate payment rates and yields for the same crop may be established by the county committee as authorized by the Deputy Administrator, when there is supporting data from NASS or other sources approved by CCC that show there is a significant difference in yield or value based on a distinct and separate end use of the crop. In spite of differences in yield or values, separate rates or yields shall not be established for crops with different cultural practices, such as organically or hydroponically grown.

(e) Each eligible producer's share of a disaster payment shall be based on the producer's share of the crop or crop proceeds, or, if no crop was produced, the share the producer would have received if the crop had been produced. In cases where crop insurance provides for a landlord/tenant to insure the tenant/landlord's share according to part 457 of this title, disaster payments will be issued on the same basis.

(f) When calculating a payment for a unit loss:

- (1) The unharvested payment factor shall be applied to crop acreage planted but not harvested; and
- (2) The prevented planting factor shall be applied to any prevented planted acreage eligible for payment.

(g) Production from all end uses of a multi-use crop or all secondary uses for multiple market crops will be calculated separately and summarized together.

§ 1478.13 Production losses, producer responsibility.

(a) Where available, RMA loss records will be used for insured crops.

(b) If RMA loss records are not available, producers are responsible for:

- (1) Retaining or providing, when required, the best verifiable or reliable production records available for the crop;