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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;

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(2) Summarizing all the production evidence;

(3) Accounting for the total amount of unit production for the crop, whether or not records reflect this production; and

(4) Providing the information in a manner that can be easily understood by the county committee.

(c) In determining production under this section the producer must supply acceptable production records to substantiate production to the county committee. If the eligible crop was sold or otherwise disposed of through commercial channels, acceptable production records include: commercial receipts; settlement sheets; warehouse ledger sheets; or load summaries; appraisal information from a loss adjuster acceptable to CCC. If the eligible crop was farm-stored, sold, fed to livestock, or disposed of in means other than commercial channels, acceptable production records include: truck scale tickets; appraisal information from a loss adjuster acceptable to CCC; contemporaneous diaries; or other documentary evidence, such as contemporaneous measurements.

(d) Producers must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment. The failure to report the existence of any guaranteed contract or similar arrangement or agreement shall be considered as providing false information to CCC.

§ 1478.14 Determination of production.

(a) Production under this part shall include all harvested production, unharvested appraised production and assigned production for the total planted acreage of the crop on the unit.

(b) The harvested production of eligible crop acreage harvested more than once in a crop year shall include the total harvested production from all these harvests.

(c) If a crop is appraised and subsequently harvested, the actual harvested production shall be used to determine benefits.

(d) For all crops eligible for loan deficiency payments or marketing assistance loans with an intended use of grain but harvested as silage, ensilage,

cabbage, hay, cracked, rolled, or crimped, production will be adjusted based on a whole grain equivalent as established by CCC.

(e) For crops with an established yield and market price for multiple intended uses, a value will be calculated for each use; with

(1) The intended use or uses for disaster purposes based on historical production and acreage evidence provided by the producer; and

(2) The eligible acres for each use and the calculation of the disaster payment will be determined by the county committee according to instruction issued by the Deputy Administrator.

(f) For crops sold in a market that is not a recognized market for the crop with no established county average yield and market price, 60 percent of the salvage value received will be deducted from the disaster payment.

(g) If a producer has an arrangement, agreement, or contract for guaranteed payment for production (as opposed to production based on delivery), the production to count shall be the greater of the actual production or the guaranteed payment converted to production as determined by CCC.

(h) Production that is commingled between units before it was a matter of record and cannot be separated by using records or other means acceptable to CCC shall be prorated to each respective by CCC. Commingled production may be attributed to the applicable unit, if the producer made the unit production of a commodity a matter of record before commingling and does any of the following, as applicable:

(1) Provides copies of verifiable documents showing that production of the commodity was purchased, acquired, or otherwise obtained from beyond the unit;

(2) Had the production measured in a manner acceptable to the county committee; or

(3) Had the current year's production appraised in a manner acceptable to the county committee.

(i) The county committee shall assign production for the unit when the county committee determines that: