

	Producers with insurance or NAP coverage	Producers without insurance or NAP coverage
Tier I .....	\$1,500	\$1,425
Tier II .....	1,000	950
Tier III .....	600	570
Tier IV .....	100	95

(b) The percentages of the payment for citrus crops that are subject to the payment limitation and AGI provisions are:

- Tier I—55 percent
- Tier II—60 percent
- Tier III—64 percent
- Tier IV—0 percent

(c) The percentages of the payment for citrus crops that are not subject to the payment limitation and AGI provisions are:

- Tier I—45 percent
- Tier II—40 percent
- Tier III—36 percent
- Tier IV—100 percent

**§ 1416.305 Availability of funds.**

(a) In the event that the total amount of eligible claims submitted by eligible citrus producers under this subpart and subparts E, F, and G of this part exceeds \$95 million, each payment to an eligible citrus 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 E—Fruit and Vegetable Disaster Program**

**§ 1416.400 Applicability.**

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

**§ 1416.401 Definitions.**

*Other than plasticulture* means conventional row-cropped fruits and vegetables, and those crops that are double cropped on a previous crop's or season's plastic.

*Plasticulture* means production practices where the soil has been bedded, fumigated, fertilized, an irrigation sys-

tem installed, and covered with plastic mulch.

*Specialty crop* means any commercially grown fruit or vegetable eligible for crop insurance or NAP coverage.

**§ 1416.402 Eligible fruit and vegetable producers.**

(a) Producers of fruits and vegetables utilizing “plasticulture”, and “other than plasticulture” production practices are eligible for assistance. Producer must be an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing the crop and is entitled to share in the crop available for marketing from the farm or would have shared had the crop been produced. Payments will be made on a per-acre basis, and are based on tiers and the severity of destruction as specified for citrus crops and the type of production practice.

(b) Producers must have at least a 35 percent loss in production, or a 15 percent or more associated crop damage. Producers must also document that the necessary materials and procedures were followed to produce vegetables using plasticulture or other than plasticulture.

(c)(1) Fruit and vegetable producers will be reimbursed on a per-acre basis for eligible acreage. Payment will be based on the severity of destruction as determined by the paths of the storms and damage estimates developed by CCC. Estimates take into account levels of loss generally correlating to the severity of damage caused by maximum sustained winds of the applicable hurricanes. The levels of damage that will determine payment rates are as follows:

- Tier I—75 percent or greater crop and/or yield loss
- Tier II—50 to 74 percent crop and/or yield loss
- Tier III—35 to 49 percent crop and/or yield loss

**§ 1416.403**

**7 CFR Ch. XIV (1–1–10 Edition)**

Tier IV—15 percent or more crop and/or field damage

(2) Fruit and vegetable producers who suffered crop production losses and associated crop damage, including related cleanup, must provide to CCC a certified statement on a CCC approved form of the level of destruction, the number of the disaster affected acres, and the geographic location of the losses.

(d) If the actual level of loss is greater than the tier associated with the location of the acreage, the applicant may submit documentation to CCC to request the acreage be placed in the next lower-numbered tier which represents a greater level of loss and a higher payment rate.

(e) If the actual level of loss is less than the tier associated with the location of the acreage, the producer shall certify to the lower loss level on the application and a lower payment rate will be used by CCC based upon the tier rate associated with the lower loss level.

**§ 1416.403 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 according to §1416.5.

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

**§ 1416.404 Payment calculations.**

(a) Payments will be calculated by multiplying the number of net acres in each tier times the applicable payment rate, as determined by CCC, times the producer's share of the loss. The number of net acres is determined by subtracting drainage ditches, canals, and other such land uses from the planted fruit and vegetable acres. The following table provides the applicable payment rates for producers with crop insurance or NAP coverage and those without coverage:

	Producers with insurance or NAP coverage		Producers without insurance or NAP coverage	
	Plasticulture	Other than plasticulture	Plasticulture	Other than plasticulture
Tier I .....	\$3,750	\$1,125	\$3,560	\$1,070
Tier II .....	2,500	750	2,375	710
Tier III .....	1,500	450	1,425	425
Tier IV .....	250	75	235	70

(b) The percentage of the payment for fruit and vegetable crops that are subject to the payment limitation and AGI provisions are:

- Tier I—94.6667 percent
- Tier II—94 percent
- Tier III—93.3333 percent
- Tier IV—0 percent

(c) The percentage of the payment for fruit and vegetable crops that are not subject to the payment limitation and AGI provisions are:

- Tier I—5.3333 percent
- Tier II—6 percent
- Tier III—6.6667 percent
- Tier IV—0 percent

(d) In addition to the prohibition in §1416.6(g) a producer may not receive duplicate benefits under this subpart and subpart H of this part, the 2005 Hurricanes Tree Assistance Program.

**§ 1416.405 Availability of funds.**

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