

§ 1437.502

7 CFR Ch. XIV (1-1-11 Edition)

Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau).

(2) *2006 and subsequent crops* means those crops in the ground on or after January 1, 2006.

(3) *Covered tropical crops* means those crops and commodities in the tropical region governed by this subpart, those being all crops and commodities in the tropical region that are otherwise eligible for generating a benefit claim under this part, except for value-loss crops as defined elsewhere in this part.

(c) The Deputy Administrator may adjust requirements for assistance so as to provide a fair transition from previous rules for crop covered by this subpart to those provisions which are provided for in this subpart.

§ 1437.502 Coverage periods and fees for covered tropical crops.

(a) The crop year for all covered tropical crops is the calendar year (January 1 through December 31 beginning in 2006 through subsequent years).

(b) The application closing date for all covered tropical crops is December 1 of the calendar year before the applicable crop year.

(c) For covered tropical crops, per county per crop year, a maximum service fee of \$100.00 is required of the producer for coverage of:

(1) With respect to annual and biennial crops, all plantings of the same crop planted during the crop year, as determined by CCC.

(2) With respect to perennial crops, all acreage of the crop existing during the crop year, as determined by CCC.

(d)(1) Multiple planting periods and final planting dates are not applicable for covered tropical crops. However, nothing in this section shall prohibit assigning different production expectations to different fields.

(2) The coverage period for perennial and other crops covered by this subpart begins on January 1 of the relevant crop year and ends on December 31 of that year.

§ 1437.503 Covered losses and record-keeping requirements for covered tropical crops.

(a) Prevented planting coverage is not available for covered tropical

crops, other than in Hawaii and Puerto Rico, except as approved by the Deputy Administrator in special cases.

(b) Except in Hawaii and Puerto Rico, or as otherwise approved by the Deputy Administrator in individual cases, eligible causes of loss for covered tropical crops will only include hurricanes, typhoons, and named tropical storms.

(c) Producers who have applied for coverage on covered tropical crops must maintain for the full coverage period contemporaneous records. Contemporaneous records are those created at the time of planting and harvesting of the crop for which the application for coverage is filed. In this regard:

(1) Producers may be selected on a random or targeted basis for compliance review with this requirement and any other requirements that may apply to this program.

(2) A failure to maintain acceptable contemporaneous records throughout the crop year may be treated by CCC as grounds of ineligibility for benefits under this part.

§ 1437.504 Notice of loss for covered tropical crops.

(a) The provisions of § 1437.10(c) regarding late filed notice of loss do not apply to covered tropical crops.

(b) Where a notice of loss for covered tropical crops is provided according to § 1437.10, producers must provide records maintained according to § 1437.503(c) of the:

(1) Number of acres or other basis of measurement, as applicable, of the crop from which production could be achieved existing on the day the eligible natural disaster occurred or, for prolonged natural disasters, such as a drought and similar damage where applicable, existing on the day the notice of loss is filed.

(2) Amount, including zero, as applicable, of production harvested, before or after the disaster, from those crop plantings (damaged or undamaged) which were in existence on the farm at the time of the disaster including production from the covered plantings (in existence at the time of the loss event) that may occur after the loss event even when, to the extent provided for

in paragraph (c) of this section, the harvest occurs after the end of the crop year. Crop acreage of the covered crop that is in existence at the time of the loss event that can be harvested after the eligible natural disaster must be harvested, or continue to be harvested, and the harvested acres and production reported to FSA according to this subpart, except that for perennial crops the requirement ends with the end of the crop year. For non-perennial crops the obligation to harvest ends with the end of the life-cycle for the plantings that were in existence at the time of the loss event. In this regard:

(i) Except as otherwise determined by FSA, such production, before or after the loss event, will be taken into account in computing eligibilities.

(ii) Production that must be reported under paragraph (b)(2)(i) of this section includes, except in the case of perennial plants, all production irrespective of whether the production occurs in the same crop year.

(iii) For perennial plants, only production in the same crop year must be reported.

(iv) All production that must be reported for covered tropical crops will, except as specified by the Deputy Administrator, be taken into account in the loss determinations made under this part. The producer is obligated to maximize that production. That is, harvesting and other production activities for the plants in the ground at the time of the disaster must be undertaken or continue to be undertaken, to the maximum extent possible, for the full reporting period, that being the period for which production could count against a loss as indicated in this subpart.

(3) Failure to keep sufficient records to allow the computations provided for in this subpart is grounds for denial of the claim.

(c) Producers with coverage of a covered tropical crop for a crop year must, by the earlier of 90 calendar days after the crop year ends or the date a notice of loss is filed, file a certified report setting out the:

(1) Collective acres of the crop acreage planted or in the ground during the crop year.

(2) Total production harvested from the crop acreage for the full crop year in the case of a perennial plant and for the full life of the plants for other crops.

(d) With respect to the report required in paragraph (c) of this section:

(1) If a report is filed before the end of the crop year, an updated crop report must be filed within 90 calendar days from the end of the crop year to supplement the original report;

(2) If the report is for any annual or biennial crops where production continued or could have continued beyond the period covered in the reports otherwise filed under this section, an additional report of production must be filed within 30 days of the end of the last countable production for the covered crop or 30 days after the last date on which such production could have been obtained, whichever is later.

(3) A failure to file an adequate report where a report is required by this section may result in the producer being treated as having a zero yield capability for the crop year involved for purposes of constructing a crop history. Alternatively, the Deputy Administrator may assign another sanction for that failure. In addition to other sanctions as may apply, a failure to file such reports may be grounds for denial of a claim. The Deputy Administrator may adjust crop histories as determined appropriate to create, to the extent practicable, an appropriate crop history for loss computation purposes.

(4) Such reports as are provided for in this subsection must be filed for every crop year for which there is coverage, irrespective of whether a claim is filed for that year.

(e) Unless otherwise specified by the Deputy Administrator, appraisals are not required of crop acreage for covered tropical crops on Guam, Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(f) All crop acreage for covered tropical crops for which a notice of loss is filed must not be destroyed until authorized by CCC.