

## Commodity Credit Corporation, USDA

## § 1416.6

*Owner* means one who had legal ownership of the trees, bushes, vines, or livestock for which benefits are being requested under subparts B through H, on the day such plant or livestock perished or suffered losses due to an eligible hurricane.

*Tier* means the geographic bands of damage generally correlating to the severity of damage caused by the maximum sustained winds of the applicable hurricanes.

*Tree* means a tree (including a Christmas tree, ornamental tree, nursery tree, and potted tree).

*Vine* means a perennial plant grown under normal conditions from which an annual fruit crop is produced for commercial market for human consumption, such as grape, kiwi, or passion fruit that has a flexible stem supported by climbing, twining, or creeping along a surface.

### § 1416.5 Application for payment.

(a) A producer who applies for any program under subparts B through H of this part shall submit an application and required supporting documentation to the county FSA office serving the county where the eligible loss occurred; or in the case of LCP, where the eligible livestock were physically located on the applicable date.

(b) The application must be filed during the application period announced by the Deputy Administrator.

(c) Payments may be made for eligible losses suffered by an eligible producer who is now deceased or is a dissolved entity if a representative who currently has authority to enter into a contract for the producer signs the application for payment. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application for payment.

(d) Data furnished by the applicant will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, without all required data program benefits will not be approved or provided.

(e) A minor child shall be eligible to apply for program benefits so long as all eligibility requirements are met and one of the following conditions exists:

(1) The right of majority has been conferred upon the minor by court proceedings or statute;

(2) A guardian has been appointed to manage the minor's property, and the applicable program documents are executed by the guardian; or

(3) A bond is furnished under which a surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

### § 1416.6 Limitations on payments and other benefits.

(a) A producer may receive no more than \$80,000 under LCP, subpart B of this part.

(b) A producer may receive no more than \$80,000 under LIP-II, subpart C of this part.

(c) A single producer may receive no more than \$80,000 total combined payments from subpart D of this part, the Citrus Disaster Program, subpart E of this part, the Fruit and Vegetable Program, subpart F of this part, the Tropical Fruit Program, and subpart G of this part, the Nursery Program.

(d) Limits per person for payments made under subpart I of this part for Catfish Grants will be \$80,000 per producer. This limit shall be enforced by the State administering the grant program.

(e) An individual or entity whose adjusted gross income is in excess of \$2.5 million, as determined under part 1400 of this title, shall not be eligible to receive benefits under this part, except for TAP and Catfish Grants.

(f) As a condition to receive benefits under this part, a producer must have been in compliance with the provisions of parts 12 and 718 of this title for the 2005 crop year and must not otherwise be barred from receiving benefits under any law.

(g) An individual or entity determined to be a foreign person under part 1400 of this title shall not be eligible to receive benefits under this part.

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(h) In addition to limitations provided in each subpart of this part, producers cannot receive duplicate benefits under this part and any other Federal programs for the same loss, including but not limited to the following:

(1) Crop insurance indemnity payments under 7 CFR Part 400;

(2) The Noninsured Crop Disaster Assistance Program, part 1437 of this chapter;

(3) Part 701 of this title, the Emergency Conservation Program;

(4) The Hurricane Indemnity Program, subpart C of part 760 of this title.

(i) An applicant's actual loss or actual costs incurred because of losses due to an eligible hurricane must equal or exceed the benefit requested under this part.

### § 1416.7 Insurance requirements.

For the Citrus, Fruit and Vegetable, Tropical Fruit and Nursery Disaster Programs:

(a) Payment rates for producers who did not have crop insurance or coverage under the Noninsured Crop Disaster Assistance Program (NAP) will be 5 percent less than the rates received by producers who did have crop insurance or NAP coverage.

(b) Eligible producers who elected to not purchase crop insurance on an insurable crop, or to sign up for NAP that was available on an uninsurable crop for which benefits are received under these programs, must purchase such coverage for the next available coverage period in the form of:

(1) Crop insurance that is, at a minimum, at least at the catastrophic level on that crop, although producers required to purchase a citrus policy may purchase a fruit or tree policy; or

(2) NAP coverage.

(c) If a producer who is required to purchase crop insurance or NAP for the applicable year fails to do so, the producer must refund any disaster payment made under these programs. Required refunds will be serviced as a claim under part 1403 of this chapter.

### § 1416.8 Appeals.

The appeal regulations set forth at parts 11 and 780 of this title apply to determinations made pursuant to subparts B through H of this part.

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### § 1416.9 Offsets, assignments, and debt settlement.

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof to any producer shall be made without regard to questions of title under State law and without regard to any claim or lien against the commodity, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings found at parts 792 and 1403 of this title apply to payments made under subparts B through H of this part.

(b) Any producer entitled to any payment may assign any payments in accordance with regulations governing the assignment of payments found at part 1404 of this chapter.

### § 1416.10 Records and inspections thereof.

Producers receiving payments under the programs in subparts B through H or any other person who furnishes information for the purposes of enabling such producer to receive a payment under subparts B through H of this part shall maintain any books, records, and accounts supporting any information so furnished for 3 years following the end of the year during which the application for payment was filed. Producers receiving payments or any other person who furnishes such information to CCC shall permit authorized representatives of USDA and the General Accounting Office during regular business hours to inspect, examine, and to allow such persons to make copies of such books or records, and to enter upon, inspect and verify all applicable livestock and acreage in which the applicant has an interest for the purpose of confirming the accuracy of the information provided by the applicant.

### § 1416.11 Refunds; joint and several liability.

In the event there is a failure to comply with any term, requirement, or condition for payment or assistance arising under subparts B through H of this part, and if any refund of a payment to CCC shall otherwise become due in connection with this part, all