

**§ 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.