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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

RIN 0563-AB29

General Crop Insurance Regulations; Florida Citrus Endorsement

AGENCY: Federal Crop Insurance Corporation, Agriculture.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation ("FCIC") hereby amends the Florida Citrus Endorsement that supplements the General Crop Insurance Policy. The intended effect of this interim rule is to require that the insured crop unit suffer at least a fifty percent (50%) average percent of damage before an indemnity would be due for any catastrophic risk protection policy.

DATES: This rule is effective on June 6, 1995. Written comments, data, and opinions on this rule will be accepted until close of business August 7, 1995 and will be considered when the rule is to be made final.

ADDRESSES: Written comments, data, and opinion on this interim rule should be sent to Diana Moslak, Regulatory and Procedural Development Staff, Federal Crop Insurance Corporation, United States Department of Agriculture (USDA), Washington, DC 20250. Hand or messenger delivery may be made to Suite 500, 2101 L Street, NW., Washington, DC. Written comments will be available for public inspection and copying in the Office of the Manager, 2101 L Street, NW., 5th Floor, Washington, DC, during regular business hours, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Diana Moslak, Federal Crop Insurance Corporation, United States Department of Agriculture, Washington, DC 20250. Telephone (202) 254-8314.

SUPPLEMENTARY INFORMATION: This action has been reviewed under United States Department of Agriculture ("USDA") procedures established by Executive Order 12866 and Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is May 1, 2000.

This rule has been determined to be "not significant" for the purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget ("OMB").

The information collection requirements contained in these regulations (7 CFR part 401) were previously approved by OMB pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. §§ 3501, *et seq.*), under OMB control numbers 0563-0001, 0563-0003, 0563-0009, 0563-0014, 0563-0029 and 0563-0036. The amendments set forth in this rule do not revise the content or alter the frequency of reporting for any of the forms cleared under the above-referenced dockets. Public reporting burden for the collection of information is estimated to range from 15 to 90 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implication to warrant the preparation of a Federalism Assessment. The policy and procedure contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

This regulation will not have a significant impact on a substantial number of small entities. This action neither increases nor decreases the paperwork burden on the insured farmer and the reinsured company. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. § 605) and no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance Under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsection 2(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions located at 7 CFR part 400, subpart J or as promulgated by the National Appeals Division, whichever is applicable, must be exhausted before any judicial action may be brought regarding the provisions of this regulation.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

This interim rule implements the catastrophic risk protection plan of insurance mandated by amendments to the Federal Crop Insurance Act by the Federal Crop Insurance Reform Act of 1994 into the Florida Citrus endorsement.

List of Subjects in 7 CFR Part 401

Crop insurance, Florida Citrus Endorsement.

Interim Rule

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the General Crop Insurance Regulations (7 CFR part 401), effective for the 1996 and succeeding crop years, to read as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR part 401 is revised to read as follows:

Authority: 7 U.S.C. 1506(1).

2. Section 401.143 is amended by revising subsection 9.a., paragraphs (2)

and (3) and adding paragraph (4) to read as follows:

§ 401.143 Florida citrus endorsement.

* * * *

9. Claim for Indemnity

a. * * *

(1) * * *

(2) For limited and additional coverages, by multiplying the result in excess of 10 percent (e.g., $45\% - 10\% = 35\%$ payable), times the amount of insurance for the unit (the amount of insurance for the unit is determined by multiplying the insured acreage on the unit times the applicable amount of insurance per acre); or

(3) For catastrophic risk protection coverage, the result in excess of 50 percent divided by 50 percent (e.g. if the insured's average percent of damage is 75%; the percentage of the guarantee payable is 50 percent, $(75\% - 50\%) / 50\% = 50\%$); if the insured's average percent of damage is 60 percent, the percentage of the guarantee payable is 20 percent, $(60\% - 50\%) / 50\% = 20\%$ times the amount of insurance for the unit. The amount of insurance for the unit is determined by multiplying the insured acreage on the unit times the applicable amount of insurance per acre. For any average percentage of damage less than 50%, the insured is not eligible for an indemnity payment; and

(4) Multiplying the product obtained in (2) above for limited and additional coverage, or the product obtained in (3) above for catastrophic risk protection, by your share.

* * * *

Done in Washington DC, on May 24, 1995.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 95-13747 Filed 6-5-95; 8:45 am]

BILLING CODE 3410-08-P

Agricultural Marketing Service

7 CFR Part 947

[Docket No. FV95-947-1IFR]

Oregon-California Potatoes; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 947 for the 1995-96 fiscal period. Authorization of this budget enables the Oregon-California Potato

Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective July 1, 1995, through June 30, 1996. Comments received by July 6, 1995, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, FAX 202-720-5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918, or Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503-326-2724.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 114 and Order No. 947, both as amended (7 CFR part 947), regulating the handling of Irish potatoes grown in Oregon-California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order now in effect Oregon-California potato handlers are subject to assessments. Funds to administer the Oregon-California potato order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes during the 1995-96 fiscal period, which begins July 1, 1995, and ends June 30, 1996. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 550 producers of Oregon-California potatoes under this marketing order, and approximately 40 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of Oregon-California potato producers and handlers may be classified as small entities.

The budget of expenses for the 1995-96 fiscal period was prepared by the Oregon-California Potato Committee, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Committee are producers and handlers of Oregon-California potatoes. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and