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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.

ACTION: Final 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 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.

EFFECTIVE DATE: December 5, 1995.

FOR FURTHER INFORMATION CONTACT:

Diana Moslak, Regulatory and Procedural Development Staff, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 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 "exempt" 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 1995 (44 U.S.C. chapter 35) under OMB control numbers 0563-0003, 0563-0014, and 0563-0016. 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 mentioned dockets. The public reporting burden for the collection of information is estimated to range from 10 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 policies and procedures 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 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 subsections (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 promulgated by the National Appeals Division under Pub. L. No. 103-354

must be exhausted before judicial action may be brought.

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

On Tuesday, June 6, 1995, FCIC published an interim rule in the Federal Register at 60 FR 29749, to amend the Florida Citrus Endorsement by revising the Catastrophic Risk Protection (CAT) loss adjustment provisions contained in section 9 of the endorsement.

Following publication of the interim rule, the public was afforded 60 days to submit written comments, data, and opinions. The comments received and FCIC responses are as follows:

Comment: One comment received from an insurance company maintains that the rule is incomplete because it only addresses the loss adjustment deductible aspect of the program and does not address the dollar amount of insurance.

Response: FCIC revised Section 9 (Claim for Indemnity) because the language did not conform with the requirements of Section 508(b) of the Federal Crop Insurance Reform Act (Act) of 1994 which states that CAT shall offer a producer coverage for a 50 percent loss of yield. Under the Florida Citrus Endorsement, loss payments began once the damage exceeded 10 percent. FCIC added language to bring Section 9 in compliance with the Act. This language only addresses the 50 percent deductible. The dollar amount of insurance for CAT coverage, as determined by FCIC, is stipulated in the actuarial table. Therefore, FCIC has addressed the dollar amount of insurance for CAT coverage and the formula used to determine CAT coverage indemnities will not be changed.

Comment: One comment received from an insurance company stated that the rule was not necessary because the same result could be achieved by multiplying the maximum value FCIC assigns to a given variety of citrus by 50%, then multiplying this product by 60%.

Response: FCIC disagrees with the comment. The determination of an appropriate CAT dollar amount of

insurance is a separate issue from establishing the amount of loss that must be sustained before an indemnity is due.

Comment: One comment received from an insurance company suggested that the Act specifically addresses CAT coverage for production based programs but leaves discretion as to how to apply CAT to dollar amount of insurance crops.

Response: The Act stipulates that CAT coverage shall offer a producer coverage for a 50 percent loss in yield on an individual basis, indemnified at 60 percent of the expected market price, or comparable coverage (as determined by the Corporation). For dollar amount of insurance crops like Florida Citrus, the CAT dollar amount of insurance is stated in the actuarial table. The 50% loss threshold for CAT is not discretionary and applies to dollar amount of insurance crops.

Comment: One comment received from an insurance company suggested that changing the loss calculation for CAT represents a material change in the program and essentially creates a second Florida Citrus program.

Response: Changing the Florida Citrus CAT loss calculation did not create another program. CAT coverage was a new insurance coverage level that was required to be implemented by the Act. The change explains how CAT losses will be calculated.

Comment: One comment received from an insurance company stated their belief that CAT payment values are far short of 60% of the market value called for in the Act. Consequently, loss guidelines which result in a CAT producer being indemnified once they have sustained a loss greater than 10% helped to compensate for the insufficient CAT dollar amount of coverage.

Response: FCIC believes that it would be inappropriate to compensate for a perceived insufficient dollar amount of coverage by manipulating loss calculations, since it would violate crop loss guidelines established in the Act.

Comment: One comment received from an insurance company suggested that the rule change would not reduce paperwork nor simplify the program and could cost more money to administer since agents would have two quoting systems.

Response: FCIC disagrees with this comment. The rule change is not expected to either increase or decrease paperwork. The change does not create two quoting systems, it only informs the CAT policyholder how a claim for indemnity is calculated for this new coverage level.

Comment: One comment received from an insurance company suggested that the rule will spread confusion and bad will among their growers and creates additional work for companies and agents who are already "undercompensated" for CAT.

Response: The Act mandates guidelines for implementing CAT coverage and FCIC does not have the liberty to deviate from the guidelines. Therefore, Florida citrus producers with CAT policies will be treated the same as CAT policyholders of other crops.

Comment: One comment received from an insurance company stated that while they believed the rule change was required to bring the program in compliance with legislation, the change was made well after the April 15, 1995 contract change date, and thus it was inappropriate to implement it for the 1996 crop year.

Response: FCIC's position is that CAT was implemented when the interim rules, Catastrophic Risk Protection Endorsement and Subpart T-Regulations for Implementation, were published in the Federal Register on January 6, 1995. The Florida Citrus interim rule was a continuation of implementing CAT. Implementing legislation (the Act) takes precedence over a crop policy's contract change date.

Comment: One comment received from an insurance company stated that the only changes allowable after the April 15, 1995 contract change date would be a liberalization which would benefit the policyholders, as described in section 11 of the General Provisions of the MPC Policy. Furthermore a 500% increase in the CAT policy deductible does not qualify as a liberalization.

Response: Implementing legislation takes precedence over a crop policy's contract change date. CAT insureds who sustain a complete loss of their Florida citrus can realize 100% of their CAT coverage, while under the previous loss calculation, based on 10% deductible, they would have received only 90% of their CAT coverage.

List of Subjects in 7 CFR Part 401

Crop insurance, Florida citrus.
Final Rule

Accordingly, 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 adopts as a final rule, the interim rule as published at 60 FR 29749 on June 6, 1995.

Done in Washington, DC, on November 29, 1995.

Kenneth D. Ackerman,
Manager, Federal Crop Insurance
Corporation.

[FR Doc. 95-29570 Filed 12-4-95; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 140

Debt Collection Through Offset

AGENCY: Small Business Administration.
ACTION: Final rule.

SUMMARY: In response to President Clinton's regulatory review directive, the Small Business Administration has completed a page-by-page and line-by-line review of its regulations. As a result, SBA is proposing to clarify and streamline its regulations, revising or eliminating any duplicative, outdated, inconsistent, or confusing provisions. This rule reorganizes all of Part 140 covering agency debt collection, clarifying it and making it easier to use through the use of "plain language." It also amends the Part by removing redundant provisions and applying, where permitted by applicable statute, uniform procedural rights to all debt collection procedures. The name of the regulation has been changed from simply Debt Collection to Debt Collection Through Offset. There are no substantive changes.

EFFECTIVE DATE: This rule is effective January 4, 1996.

FOR FURTHER INFORMATION CONTACT: Cheri Wolff, Chief Counsel for General Litigation, Office of General Counsel, at (202) 205-6643.

SUPPLEMENTARY INFORMATION: 13 CFR Part 140 establishes procedures for the collection of debts owed to SBA. This rule reorganizes the entire Part, clarifying it and making it easier to use. Where permitted by relevant statute, it also amends Part 140 to give all debtors similar procedural rights.

Currently, Part 140 does not give all debtors the same procedural rights. Where a salary deduction or administrative offset procedure is used, debtors have thirty days to present evidence in response to SBA's notice of intent to collect a debt. On the other hand, where the deduction from income tax refund procedure is used, debtors are given sixty days to present evidence in response to SBA's notice. The rule eliminates this distinction and provides all debtors with the same procedural rights. All debtors will be given sixty days to present their relevant evidence.