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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

Common Crop Insurance Regulations; Grape Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of grapes. The intended effect of this action is to provide policy changes to better meet the needs of the insured by adding provisions that allow grape producers in Idaho, Oregon, and Washington to select one price election and one coverage level for each varietal group specified in the Special Provisions and provide year-round coverage in California, Idaho, Mississippi, Oregon, Texas, and Washington for insureds with no break in coverage from the prior crop year to be effective for the 2000 and subsequent crop year.

EFFECTIVE DATE: June 9, 1999.

FOR FURTHER INFORMATION CONTACT: Stephen Hoy, Insurance Management Specialist, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO, 64131, telephone (816) 926-7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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).

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by the Office of Management and Budget (OMB) under control number 0563-0053 through April 30, 2001.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions 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.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. The amount of work required of the insurance companies will not increase because the information used to determine eligibility must already be collected under the present policy. No additional work is required as a result of this action on the part of either the insured or the insurance companies. Additionally, the regulation does not require any action on the part of small entities than is required on the part of large entities. 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.

Federal Assistance Program

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

Executive Order 12372

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.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. 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 published at 7 CFR part 11 must be exhausted before any action for judicial review of any determination made by FCIC may be brought.

Environmental Evaluation

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

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicate regulations and improve those that remain in force.

Background

On Wednesday, September 2, 1998, FCIC published a notice of proposed rulemaking in the **Federal Register** at 63 FR 46706-46708 to revise 7 CFR 457.138, Grape Crop Insurance Provisions, effective for the 2000 and succeeding crop years.

Following publication of the proposed rule, the public was afforded 30 days to submit written comments and opinions. A total of six comments were received from an insurance service organization, two reinsured companies, a producer association, and a representative of a producer association. The producer association and one reinsured company concurred with the proposed changes

made to the regulation. The comments received and FCIC's responses are as follows:

Comment: An insurance service organization suggested issuing an amendatory endorsement, rather than reissuing the entire Grape Crop Provisions, to minimize cost for companies that provide insurance for grapes.

Response: The crop insurance policy is contractual in nature and the subject matter is complicated and difficult to read and understand. Use of an amendatory endorsement attached to a complicated policy, part of which is no longer in effect, may cause confusion and misunderstanding. This is especially true if a major change, such as a provision for year-round coverage, is made to the policy. FCIC has been attempting to construct crop insurance policies that are easier to understand by using common terms, provisions, and policy format. Reissuing a complete policy when major changes are made is necessary to achieve this goal.

Comment: A reinsured company questioned whether rates will reflect the increased exposure resulting from the extended coverage and suggested that they should.

Response: FCIC will determine if the extended insurance period results in additional risk not reflected in the current premium rate structure for grapes. Premium rates will be adjusted to reflect any increased risk.

Comment: A reinsured company suggested that an insured would have nothing to lose by applying for increased coverage prior to the sales closing date but following a cause of loss that could or would reduce the yield of the insured crop. The commenter questioned how the provision will be administered and objected to the proposed changes if expenses for delivery of the program will increase. The commenter also questioned when coverage would begin for a newly written policy.

Response: Under the terms of the policy, if the potential exists for grape yields to be affected, the coverage level or ratio of the price election to the maximum price election cannot be increased by the insured. All grape producers are required to annually complete a worksheet to certify if damage (e.g., disease, hail, freeze) occurred to the vines or if cultural practices used will reduce the insured's crop production from previous levels. Agents will also be able to access weather and crop information; therefore, insurance providers should be able to determine if damage exists.

The extended period of coverage for grapes is during the period of dormancy when the risk of loss is generally low, especially in California where winter damage is minimal. FCIC believes that occurrences of insured causes of loss during the extended period of coverage will be infrequent; therefore, expenses resulting from administration of the additional coverage should be minimal. Coverage for new insureds will not attach until the day following the sales closing date unless the application is received on or within 8 days prior to the sales closing date. Insurance will then attach on the 10th day after the properly completed application is received in the crop insurance provider's office, unless the acreage is inspected during the 10 day period and does not meet insurability requirements. For existing policies, coverage will begin with the 2000 crop year and will not provide coverage retroactively to cover the uninsured period in the 1999 crop year.

Comment: A representative of a producer association recommended that, in addition to the proposed changes, sections 2 and 3 of the Grape Crop Provisions be revised to permit grape producers in the State of Oregon to: (1) Establish basic units by variety; (2) establish optional units only if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement; (3) select only one price election and coverage level for each grape variety in the county specified in the Special Provisions; and (4) apply for a written agreement to establish a price election if the Special Provisions do not provide a price election for a specific variety that is insured.

Response: Revising the Grape Crop Provisions to provide coverage by variety in the State of Oregon requires extensive, detailed production and price information data on the varieties produced. This coverage is available in California because detailed data is available by crush district from the California Department of Food and Agriculture. FCIC is revising the Grape Crop Provisions to allow grape producers in Idaho, Oregon, and Washington to select one coverage level and one price election for each varietal group designated in the Special Provisions because it has obtained sufficient data. Currently, FCIC has access to only limited statewide data from the National Agriculture and Statistic Service on grape varieties produced in Oregon. Additional data on grape variety production, acreage, price, and critical temperatures in each county or district are necessary to provide coverage and price elections based on

grape varieties in Oregon. If data are available, FCIC will work with grape producers in Oregon and other states to determine if different coverage and price elections can be provided by grape variety.

In addition to the changes described above and minor editorial changes, FCIC has made the following change to the Grape Crop Provisions:

Section 3—Amended section 3(f) of the proposed rule for clarification. The phrase "after coverage begins" that followed "* * * you may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election we offer. * * *" was removed. The phrase is unnecessary and may cause confusion.

List of Subjects in 7 CFR Part 457

Crop insurance, Grape.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends the Common Crop Insurance Regulations (7 CFR part 457) by amending 7 CFR 457.138, for the 2000 and succeeding crop years, to read as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. Section 457.138 is revised by amending the introductory text to read as follows:

§ 457.138 Grape crop insurance provisions.

The grape crop insurance provisions for the 2000 and succeeding crop years are as follows:

* * * * *

3. In § 457.138, sections 3(b) and 3(c) are revised and a new section 3(f) is added at the end of section 3 to read as follows:

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

* * * * *

(b) In Idaho, Oregon, and Washington, you may select only one price election and coverage level for each grape varietal group specified in the Special Provisions.

(c) In all states except California, Idaho, Oregon, and Washington, you may select only one price election and coverage level for all the grapes in the county insured under this policy unless the Special Provisions provide different price elections by varietal group, in which case you may select one price

election for each varietal group designated in the Special Provisions. The price elections you choose for each varietal group must have the same percentage relationship to the maximum price offered by us for each varietal group. For example, if you choose 100 percent of the maximum price election for one varietal group, you must also choose 100 percent of the maximum price election for all other varietal groups.

* * * * *

(f) In California, Idaho, Mississippi, Oregon, Texas, and Washington, you may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election we offer if a cause of loss that could or would reduce the yield of the insured crop is evident prior to the time that you request the increase.

4. In § 457.138, section 9(a)(2) is redesignated as 9(a)(3) and a new section 9(a)(2) is added to read as follows:

9. Insurance Period.

(a) * * *

(1) * * *

(2) In California, Idaho, Mississippi, Oregon, Texas, and Washington, for each subsequent crop year that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring to a different insurance provider for a subsequent crop year will not be considered a break in continuous coverage.

* * * * *

Signed in Washington, DC on April 6, 1999.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 99-11595 Filed 5-7-99; 8:45 am]

BILLING CODE 3410-08-P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1430

RIN 0560-AF67

Dairy Market Loss Assistance Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule sets forth the regulations for the Dairy Market Loss Assistance Program as authorized by the Agriculture, Rural Development, Food and Drug Administration, and Related

Agencies Appropriations Act, 1999 ("the 1999 Act"). Eligible dairy producers may receive a direct payment on the first 26,000 hundredweight (cwt) of milk marketed commercially during the 1997 or 1998 calendar year. The payment per cwt will depend upon the amount of the eligible milk production under the program. This action is designed to provide immediate financial assistance to producers of dairy operations who recently experienced a severe decline in the price received for their milk.

DATES: Effective May 7, 1999.

FOR FURTHER INFORMATION CONTACT: Raellen Erickson, Program Specialist, Farm Service Agency (FSA), USDA, STOP 0512, 1400 Independence Avenue, SW, Washington, D.C. 20250-0512; telephone: (202) 720-7320.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is in conformance with Executive Order 12866 and has been determined to be significant and therefore has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. Before any legal action may be brought regarding determinations of this rule, the administrative appeal provisions set forth at 7 CFR part 780 must be exhausted.

Executive Order 12372

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 3014, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates subject to the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act and Notice and Comment

Section 1133 of the 1999 Act exempts this rulemaking from notice and comment, from the Paperwork Reduction Act, and provides that the provisions of 5 U.S.C. 808 which allow exemption from layovers for Congressional review shall be applied. Accordingly this rule and its information collection requirements are made effective immediately in accordance with these provisions. Because of the foregoing provisions and because this rule provides needed time-sensitive relief, delay in completing this rule would be contrary to the public interest.

Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions 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.

Background

Section 1111, Market Loss Assistance, of the 1999 Act (Pub. L. 105-277, 112 Stat. 2681) directs the Secretary of Agriculture to provide \$200 million in assistance to dairy producers. Section 1131 of the 1999 Act provides that the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation (CCC) to carry out the program. The program will be administered by the Farm Service Agency (FSA).

The estimated 116,000 dairy operations in the United States account for about \$22.86 billion in milk production annually. The Basic Formula Price (BFP), which is the price that the Federal Milk Marketing Order system sets for milk used in manufacturing and is the price mover for fluid milk, exceeded previous record highs in July, August, October, November, and December 1998. The 1998 BFP averaged