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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401 and 406

General Crop Insurance Regulations; Various Endorsements; Nursery Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation ("FCIC") hereby amends the crop insurance provisions of the wheat endorsement, the winter coverage option for wheat, the barley endorsement, the winter coverage option for barley, the oat endorsement, the rye endorsement, the corn endorsement, the corn silage option, the grain sorghum endorsement, the flaxseed endorsement, the soybean endorsement, the cotton endorsement, the ELS cotton endorsement, the sunflower seed crop endorsement, the fig endorsement, and the malting barley option of 7 CFR part 401, General Crop Insurance Regulations, to restrict their application effective for the 1995 and succeeding crop years. The crop insurance provisions of the sugarcane endorsement of 7 CFR part 401, General Crop Insurance Regulations are also amended to restrict their application effective for the 1996 and succeeding crop years. The FCIC further amends the crop insurance provisions of the nursery crop insurance regulations of 7 CFR part 406 to restrict their application effective for the 1996 and succeeding crop years. These sections and 7 CFR part 406 have been replaced by policy provisions added to the Common Crop Insurance Regulations located at 7 CFR part 457.

EFFECTIVE DATE: November 13, 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 does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures.

This rule has been determined to be exempt for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget ("OMB"). Since this rule relates solely to internal agency management, and will have no effect on the public, this rule is exempt from regulatory review under Executive Order 12866, and good cause is shown for publishing this rule as a final rule without the customary opportunity for notice and comment.

In accordance with the Paperwork Reduction Act of 1985 (44 U.S.C. chapter 35), no information collection or record-keeping requirements are found in this rule.

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 does not increase the paperwork burden on the insured producer or 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. 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.

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

The intended effect of this rule is to provide a standard set of policy provisions and a master policy for insuring most of the crops insured under the provisions of the Federal Crop Insurance Act, as amended, to substantially reduce: (1) The time involved for future amendment or revision of policy provisions; (2) the necessity of the repeated policy review process; and (3) the volume of paperwork processed by the FCIC, the Consolidated Farm Service Agency ("CFSA"), and the reinsured insurance companies.

The sections restricted by this rule include: the wheat endorsement, the winter coverage option for wheat, the barley endorsement, the winter coverage option for barley, the oat endorsement, the rye endorsement, the corn endorsement, the corn silage option, the grain sorghum endorsement, the flaxseed endorsement, the soybean endorsement, the cotton endorsement, the ELS cotton endorsement, the sunflower seed endorsement, the malting barley option, the fig endorsement, the nursery crop insurance regulations, and the sugarcane endorsement. These crop insurance policies have been replaced by the small grains crop insurance provisions, the winter wheat coverage option, the malting barley option, the

cotton crop insurance provisions, the ELS cotton crop insurance provisions, the coarse grains crop insurance provisions, the sunflower seed crop insurance provisions, the fig crop insurance provisions, the nursery crop insurance provisions and the nursery frost, freeze, and cold damage exclusion option, and the sugarcane crop insurance provisions located at 7 CFR 457.101, 457.102, 457.103, 457.104, 457.105, 457.108, 457.110, 457.113, 457.114, 457.115, and 457.116. Such policy provisions, as endorsements to the General Crop Insurance Regulations, are no longer effective for the 1995 and succeeding crop years (1996 and succeeding crop years for the nursery crop insurance provisions and the sugarcane endorsement). FCIC will later publish a regulation to remove and reserve these sections and part.

List of Subjects

7 CFR Part 401

Crop insurance, barley, corn, corn silage, cotton, ELS cotton, fig, flaxseed, grain sorghum, oat, rye, soybean, sugarcane, sunflower seed, and wheat.

7 CFR Part 406

Crop insurance, nursery.

Final 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 parts 401 and 406) 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(l).

2. The introductory text of § 401.101 is revised to read as follows:

§ 401.101 Wheat endorsement.

The provisions of the Wheat Crop Insurance Endorsement for the 1988 through the 1994 crop years are as follows:

* * * * *

3. Section 401.102 is amended by revising the introductory text and the undesignated paragraph immediately following the listing of counties under SOUTH DAKOTA to read as follows:

§ 401.102 The winter coverage option for wheat.

The Winter Coverage Option for wheat is available in the following counties and states beginning in the 1988 through 1994 crop years:

* * * * *

The provisions of the Winter Coverage Option for Wheat for the 1988 through 1994 crop years are as follows:

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4. The introductory text of § 401.103 is revised to read as follows:

§ 401.103 Barley endorsement.

The provisions of the Barley Crop Insurance Endorsement for the 1988 through the 1994 crop years are as follows:

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5. Section 401.104 is amended by revising the second undesignated paragraph to read as follows:

§ 401.104 Winter coverage option for barley.

* * * * *

The provisions of the Winter Coverage Option for Barley for the 1988 through 1994 crop years are as follows:

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6. The introductory text of § 401.105 is revised to read as follows:

§ 401.105 Oat endorsement.

The provisions of the Oat Crop Insurance Endorsement for the 1988 through 1994 crop years are as follows:

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7. The introductory text of § 401.106 is revised to read as follows:

§ 401.106 Rye endorsement.

The provisions of the Rye Crop Insurance Endorsement for the 1988 through 1994 crop years are as follows:

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8. The introductory text of § 401.111 is revised to read as follows:

§ 401.111 Corn endorsement.

The provisions of the Corn Crop Insurance Endorsement for the 1988 through 1994 crop years are as follows:

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9. Section 401.112 is amended by revising the introductory text and the undesignated paragraph immediately following the *Corn Silage Option* chart to read as follows:

§ 401.112 Corn silage option.

The provisions of the Corn Silage Crop Insurance Option to the Corn Crop Insurance Endorsement for the 1988 through 1994 crop years are as follows:

* * * * *

Upon our approval, this amendment is applicable for the 1988 through 1994 crop years.

* * * * *

10. The introductory text of § 401.113 is revised to read as follows:

§ 401.113 Grain sorghum endorsement.

The provisions of the Grain Sorghum Crop Insurance Endorsement for the 1988 through 1994 crop years are as follows:

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11. The introductory text of § 401.116 is revised to read as follows:

§ 401.116 Flaxseed endorsement.

The provisions of the Flaxseed Crop Insurance Endorsement for the 1988 through 1994 crop years are as follows:

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12. The introductory text of § 401.117 is revised to read as follows:

§ 401.117 Soybean endorsement.

The provisions of the Soybean Crop Insurance Endorsement for the 1988 through 1994 crop years are as follows:

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13. The introductory text of § 401.119 is revised to read as follows:

§ 401.119 Cotton endorsement.

The provisions of the Cotton Crop Insurance Endorsement for the 1990 through 1994 crop years are as follows:

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14. The introductory text of § 401.121 is revised to read as follows:

§ 401.121 ELS cotton endorsement.

The provisions of the ELS Cotton Crop Insurance Endorsement for the 1990 through 1994 crop years are as follows:

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15. The introductory text of § 401.124 is revised to read as follows:

§ 401.124 Sunflower seed crop endorsement.

The provisions of the Sunflower Seed Crop Insurance Endorsement for the 1988 through 1994 crop years are as follows:

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16. The introductory text of § 401.125 is revised to read as follows:

§ 401.125 Fig endorsement.

The provisions of the Fig Crop Insurance Endorsement for the 1988 through 1994 crop years are as follows:

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17. The introductory text of § 401.133 is revised to read as follows:

§ 401.133 Sugarcane endorsement.

The provisions of the Sugarcane Crop Insurance Endorsement for the 1991 through 1995 crop years are as follows:

* * * * *

18. The introductory text of § 401.135 is revised to read as follows:

§ 401.135 Malting barley option.

The provisions of the Malting Barley Option for the 1989 through 1994 crop years are as follows:

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PART 406—[AMENDED]

19. The authority citation for 7 CFR part 406 is revised to read as follows:

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

20. Section 406.7 is amended by revising the introductory text of paragraph (d) of the Nursery Crop Insurance Regulations to read as follows:

§ 406.7 The application and policy.

* * * * *

(d) The application for the 1989 through 1995 crop years is found at subpart D of part 400, General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Nursery Crop Insurance Policy for the 1989 through 1995 crop years are as follows:

* * * * *

Done in Washington, DC, on November 2, 1995.

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

[FR Doc. 95-27875 Filed 11-9-95; 8:45 am]

BILLING CODE 3410-FA-P

Agricultural Marketing Service**7 CFR Part 915**

[Docket No. FV95-915-1FIR]

Avocados Grown in South Florida; Revision of Grade Requirements for Certain Florida Avocados

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule without change, the provisions of an interim final rule which revised grade requirements for fresh Florida avocados shipped in certain containers to destinations within the production area in Florida. The marketing order regulates the handling of avocados grown in South Florida and is administered locally by the Florida Avocado Administrative Committee (committee). This rule enables Florida growers and handlers to market a larger percentage of their crop in the production area, in response to demand.

EFFECTIVE DATE: December 13, 1995.

FOR FURTHER INFORMATION CONTACT: Aleck Jonas, Marketing Specialist,

Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883-2276; telephone: 813-299-4770; or Caroline C. Thorpe, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-8139.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 915 (7 CFR Part 915), regulating the handling of avocados grown in South Florida, hereinafter referred to as the order. The order is 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 is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This 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 608c(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. A 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 a 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 requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action 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 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 65 handlers of avocados who are subject to regulation under the marketing order and approximately 95 producers of avocados in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. The majority of handlers and producers of South Florida avocados may be classified as small entities.

An interim final rule was issued on August 11, 1995, and published in the Federal Register (60 FR 42770, August 17, 1995), with an effective date of August 17, 1995. That rule provided a 30-day comment period which ended September 18, 1995. No comments were received.

This rule finalizes an interim final rule which revised the order's rules and regulations by removing all grade requirements for fresh avocados shipped to destinations within the production area in Florida packed in containers other than those authorized under § 915.305. The committee met July 12, 1995, and unanimously recommended this action.

Sections 915.50 and 915.52 provide the authority for the committee to recommend various regulations and modifications, suspension, or termination of regulations to the Secretary. Section 915.306 of the regulations specifies grade, pack, and container marking regulations for fresh shipments of avocados grown in Florida. Currently § 915.306 of the order specifies that all fresh Florida avocados must grade at least U.S. No. 2, when shipped in any container.

This rule revises § 915.306 by removing all grade requirements for fresh avocados shipped to destinations within the Florida production area packed in containers other than those authorized under § 915.305. Section 915.306 was amended through a proposed rule published at 56 FR 4953 on February 7, 1991, and finalized at 56 FR 36079 on July 31, 1991. That amendment established a minimum grade requirement of U.S. No. 2 and container marking and sealing requirements for Florida avocados handled to points within the production area (South Florida). This rule was established prior to Hurricane Andrew when avocados were plentiful. Shipments of poorer quality avocados to the markets within the production area