

21. Notwithstanding the terms of the crop insurance policy and any contract for crop insurance under the provisions of this part, coverage under the terms of such crop insurance policy will be effective subject to the availability of appropriations.

[50 FR 43648, Oct. 29, 1985, as amended at 51 FR 29205-29207, Aug. 15, 1986; 51 FR 45296, Dec. 18, 1986; 52 FR 3214, Feb. 3, 1987; 52 FR 6775, Mar. 5, 1987; 54 FR 24320, June 7, 1989; 55 FR 35888, Sept. 4, 1990; 62 FR 39923, July 25, 1997]

PART 404 [RESERVED]

PART 405—APPLE CROP INSURANCE REGULATIONS FOR THE 1986 THROUGH THE 1998 CROP YEARS

Sec.

- 405.1 Availability of apple crop insurance.
- 405.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
- 405.3 OMB control numbers.
- 405.4 Creditors.
- 405.5 Good faith reliance on misrepresentation.
- 405.6 The contract.
- 405.7 The application and policy.
- 405.8 Apple fresh fruit option.
- 405.9 Apple sunburn option.

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

SOURCE: 50 FR 43655, Oct. 29, 1985, unless otherwise noted.

§ 405.1 Availability of apple crop insurance.

Insurance shall be offered under the provisions of this subpart on apples in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 405.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for apples which will be included in the actuarial table on file in the applicable service

offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 405.3 OMB control numbers.

The OMB control numbers are contained in subpart H of part 400, title 7 CFR.

§ 405.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 405.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the apple insurance contract, whenever: (a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than \$100,000.00, finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take their erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Application for

Federal Crop Insurance Corporation, USDA

§ 405.7

relief under this section must be submitted to the Corporation in writing.

§ 405.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the apple crop as provided in the policy. The contract shall consist of the application, the policy, the Fresh Fruit Option, if applicable, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 405.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the apple crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the FEDERAL REGISTER upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1986 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of an apple contract issued under such prior regulations, without the filing of a new application.

(d) The application is found at subpart D of part 400, General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Apple Insurance Policy for the 1986 through 1998 crop years are as follows:

DEPARTMENT OF AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

Apple Crop Insurance Policy

(This is a continuous contract. Refer to section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of Loss

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

- (1) Drought;
- (2) Freeze;
- (3) Frost;
- (4) Wind;
- (5) Hail;
- (6) Fire;
- (7) Earthquake;
- (8) Volcanic eruption;
- (9) Fruit-set failure; or

(10) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after insurance attaches;

unless those causes are expected, excluded, or limited by the actuarial table or section 9e(4).

b. We will not insure against any loss of production due to:

- (1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;
- (2) The failure to follow recognized good apple management practices;
- (3) The failure or breakdown of irrigation equipment or facilities;
- (4) The failure to follow good apple irrigation practices;
- (5) The impoundment of water by any governmental, public or private dam or reservoir project; or
- (6) Any cause not specified in section 1a as an insured loss.

2. Crop, Acreage, and Share Insured

a. The crop insured will be a variety of apples established as adopted to the area, which is located on insured acreage and for