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7 CFR Ch. IV (1-1-01 Edition)

1. This option must be submitted to us on or before the final date for accepting applications for each crop year in which you wish to insure apples under this option.

2. You must have an apple policy and the Apple Fresh Fruit Option B in force.

3. You must insure all the acreage of apples in the county to which the Apple Fresh Fruit Option B applies and in which you have a share.

4. In addition to the causes of loss specified in paragraph 1.a. of the Apple Crop Insurance policy, excess sun is an insurable cause of loss.

5. In lieu of sections 9.e.(1), 9.e.(2), 17.l, and 17.q. of the Apple Policy, the total production to be counted for a unit must include all harvested and appraised production. Harvested apple production which, due solely to excessive sun or along with hail damage, does not grade 80 percent U.S. Fancy or better, in accordance with applicable USDA Standards, will be adjusted as follows:

a. Production with 21 thru 40 percent not grading U.S. Fancy or better due solely to excessive sun or along with hail damage will be reduced 2 percent for each percent in excess of 20 percent. The difference between the reduced production and the total production will be considered cull production.

b. Production with 41 thru 50 percent not grading U.S. Fancy or better due solely to excessive sun or along with hail damage will be reduced 40 percent plus an additional 3 percent for each percent in excess of 40 percent. The difference between the reduced production and the total production will be considered cull production.

c. Production with 51 thru 64 percent not grading U.S. Fancy or better due solely to excessive sun or along with hail damage will be reduced 70 percent plus an additional 2 percent for each percent in excess of 50 percent. The difference between the reduced production and the total production will be considered cull production.

d. Production with 65 percent or more not grading U.S. Fancy or better due solely to excessive sun or along with hail damage will be considered 100 percent cull production.

Fifteen (15) percent of all cull production, will be counted as production.

6. The premium for this sunburn option will be established by the actuarial table.

7. All provisions of the apple policy and the Fresh Fruit Option-B not in conflict with this option are applicable.

8. All determinations under this option will be made by us.

9. a. *Excessive sun* is defined as the exposure of the unharvested apples to direct or indirect sun sufficient to cause the apples to grade less than U.S. Fancy due to sunburn.

b. *Sunburn* is defined in accordance with applicable U.S.D.A. Standards.

Insured's Signature _____

Date _____

Corporation representative's Signature and Code Number _____

Date _____

[53 FR 46846, Nov. 21, 1988; 54 FR 11935, Mar. 23, 1989]

PART 406—NURSERY CROP INSURANCE REGULATIONS

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

SOURCE: 54 FR 3412, Jan. 24, 1989, unless otherwise noted.

§ 406.1 Availability of nursery crop insurance.

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

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(b) The insurance is offered through two methods. First, the Corporation offers the contract contained in this part directly to the insured through Agents of the Corporation. Those contracts are specifically identified as being offered by the Federal Crop Insurance Corporation. Second, companies reinsured by the Corporation (hereinafter "Reinsured companies") offer contracts containing substantially the same terms and conditions as the contract set out in this part.

(c) No person may have in force more than one contract on the same crop for the crop year, whether insured by the Corporation or insured by a Reinsured company.

(d) If a person has more than one contract under the Act outstanding on the same crop for the same crop year, all such contracts will be voided for that crop year but the person will still be liable for the premium on all contracts unless the person can show to the satisfaction of the Corporation that the multiple contract insurance was inadvertent and without the fault of the insured.

(e) If the multiple contract insurance is shown to be inadvertent and without the fault of the insured, the contract with the earliest application will be valid and all other contracts on that crop for that crop year will be cancelled. No liability for indemnity or premium will attach to the contracts so cancelled.

(f) The person must repay all amounts received in violation of this section with interest at the rate contained in the contract for delinquent premiums.

(g) An insured whose contract with the Corporation or with a Reinsured company under the Act has been terminated because of violation of the terms of the contract is not eligible to obtain multi-peril crop insurance under the Act with the Corporation or with a Reinsured company unless the insured can show that the default in the prior contract was cured prior to the sales closing date of the contract applied for or unless the insured can show that the termination was improper and should not result in subsequent ineligibility.

(h) All applicants for insurance under the Act must advise the agent, in writ-

ing, at the time of application, of any previous applications for a Contract under the Act and the present status of the applications or contracts.

§ 406.2 Premium rates, amounts of insurance, and coverage levels at which indemnities shall be computed.

(a) The Manager shall establish premium rates, amounts of insurance, and coverage levels, for the insured crop 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 from among those contained in the actuarial table for the crop year.

§ 406.3 OMB control numbers.

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

§ 406.4 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.

§ 406.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the nursery 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 or a Reinsured company:

(1) Is indebted to the Corporation or a Reinsured company 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