

the crop year, whether insured by the Corporation or insured by a company which is reinsured by the Corporation. 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. 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. The person must repay all amounts received in violation of this section with interest at the rate contained in the contract for delinquent premiums.

An insured whose contract with the Corporation or with a Company reinsured by the Corporation 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 company reinsured by the Corporation 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. All applicants for insurance under the Act must advise the agent, in writing at the time of application, of any previous applications for a Contract under the Act and the present status of the applications or contracts.

**§ 456.2 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 macadamia trees 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 set by the actuarial table for the crop year.

**§ 456.3 OMB control numbers.**

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

**§ 456.4 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.

**§ 456.5 Good faith reliance on misrepresentation.**

Notwithstanding any other provision of the macadamia tree 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 other 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

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as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

### § 456.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation (or by a Company reinsured by the Corporation) of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the macadamia tree crop as provided in the policy. The contract shall consist of the application, the policy and the county actuarial table. This contract is not continuous. Application must be made annually for the macadamia tree contract on or prior to the sales closing date established by the actuarial table. The forms referred to in the contract are available at the applicable service offices.

### § 456.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation must be made by any person to cover such person's share in the macadamia tree crop as landlord or owner-operator if the person wishes to participate in the program. The application must be submitted to the Corporation (or the Company reinsured by the Corporation) at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of any application or applications in any county upon its determination that the insurance risk is excessive. The Manager of the Corporation is authorized in any crop year to extend the sales 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) A contract in the form provided for in this subpart will be in effect as a macadamia tree contract applicable for

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one year. A new application must be submitted for each subsequent crop year.

(d) The application is found at subpart D of part 400, General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Macadamia Tree Crop Insurance Policy for the 1988 through 1997 crop years are as follows:

### MACADAMIA TREE CROP INSURANCE POLICY

(This is not a continuous contract. Refer to Section 15)

*Agreement to Insure:* We will 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 damage to macadamia trees resulting from the following causes occurring within the insurance period:

- (1) Fire;
- (2) Volcanic eruption; or
- (3) Wind;

Unless those causes are excepted, excluded, or limited by this policy or the actuarial table.

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

- (1) Fire, where weeds and other forms of undergrowth have not been controlled or tree pruning debris has not been removed from the grove;
- (2) The neglect, mismanagement, or wrongdoing by you, any member of your household, your tenants, or employees;
- (3) The failure to follow recognized good macadamia nut orchard practices; or
- (4) Any cause not specified in subsection 1.a. as an insured cause of loss.

#### 2. Crop, Acreage, and Share Insured

a. The crop insured will be all macadamia trees grown for the production of macadamia nuts on insurable acreage which has been annually inspected and accepted by us and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be all macadamia tree acreage designated as insurable by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord or owner-operator in the insured macadamia trees at the time insurance attaches.