

FLORIDA—Continued

Osceola Polk
Palm Beach St. Lucie
Pasco Seminole

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] M. R. PETERSON,
Manager, Federal
Crop Insurance Corporation.

[FR Doc. 75-30307 Filed 11-10-75; 8:45 am]

PART 413—TEXAS CITRUS CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR CITRUS CROP INSURANCE; 1976 CROP

Pursuant to authority contained in § 413.20 of the above-identified regulations, the following counties have been designated for citrus crop insurance for the 1976 crop year.

TEXAS

Cameron Willacy
Hidalgo

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] M. R. PETERSON,
Manager, Federal
Crop Insurance Corporation.

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CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 728—WHEAT

Wheat Program for Crop Years 1975-1977

On May 20, 1974, a notice of proposed rulemaking regarding determinations with respect to the 1975 crop of wheat was published in the FEDERAL REGISTER (39 FR 17767). Interested persons were invited to submit written data, views, and recommendations regarding the determinations within 30 days. The comments and recommendations received have been duly considered.

This subpart, which is issued pursuant to the Agricultural Act of 1949, as amended by the Agricultural Act of 1970, Public Law 91-524, 84 Stat. 1358, and by the Agriculture and Consumer Protection Act of 1973, Public Law 93-86, 87 Stat. 224, and Public Law 93-228, 87 Stat. 944, supersedes for the crop years 1975-1977 the regulations governing the Wheat Program for crop years 1974-1977, 39 FR 26707, as amended. This subpart, which incorporates the provisions of the existing regulations with the following principal changes, sets forth the conditions under which wheat producers may qualify for program benefits:

(1) No intention to participate in the program is filed. Producers report disasters when they occur, report crop acreages as necessary for program administration, and apply for any applicable payments.

(2) All acreage planted to wheat is defined as wheat acreage and considered to be nonconserving. There is provision for excluding part of the acreage for low yield disaster payment purposes, in such instances as when the acreage is planted solely for pasture, or nonfeed use, or is in excess of the allotment and is timely destroyed without feed benefit.

(3) Allotments are adjusted for low yield payment purposes to reflect underplanting and the substitution of wheat for feed grains.

(4) Wheat payments are computed separately from feed grain and upland cotton payments.

(5) Disaster payments are made for wheat only when wheat has suffered a production loss and are computed on the bushels lost.

Subpart—Wheat Program for Crop Years 1975-1977

- Sec. 728.1 General.
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- 728.6 Apportionment of the 1975-1977 State allotments of wheat among their respective counties.
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- 728.19 Successors-in-interest.
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- 728.22 Appeals.
- 728.23 Performance based upon advice or action of county or State committee.
- 728.24 Supervisory authority of State committee.
- 728.25 Delegation of authority.

AUTHORITY: Sec. 107, 87 Stat. 224 (7 U.S.C. 1445a); sec. 379c, 87 Stat. 227 (7 U.S.C. 1379c); sec. 375(b), 52 Stat. 66 (7 U.S.C. 1375 (b))

Subpart—Wheat Program for Crop Years 1975-1977

§ 728.1 General.

(a) The regulations in this subpart provide terms and conditions for the wheat program for the 1975 through 1977 crops of wheat, respectively, under which producers on farms for which an allotment is established may qualify for payments authorized under the program.

(b) Producers who meet the eligibility requirements in § 728.13(c) may qualify for payments.

(c) In accordance with section 101 of the Agricultural Act of 1970, as amended, and the regulations in Part 795 of this

chapter, as amended, the total amount of payments which a person shall be entitled to receive annually under the wheat program, the feed grain program, and the upland cotton program shall not exceed \$20,000.

(d) In accordance with the regulations in Part 796 of this chapter, payments are prohibited to program participants who harvest or knowingly permit to be harvested for illegal use marihuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by them.

(e) The program is applicable throughout the United States except Alaska and Hawaii.

§ 728.2 Definitions.

In the regulations in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meaning assigned to them herein unless the content or subject matter otherwise requires.

(a) "Annual nonconserving crop" means any annual crop intended for harvest or utilized in any feed form, except for the following:

(1) Grasses regardless of use, including sweet sorghum, millet, and sudan grass.

(2) Legumes, other than peas or beans produced for seed, grain, or processing.

(3) Immature small grains (other than wheat or barley) destroyed by any means or used for other than grain.

(b) "Cropland Adjustment Program" (herein called CAP) means the program authorized under Title VI of the Food and Agriculture Act of 1965, as amended, Part 751 of this chapter, as amended.

(c) "Cropland Conversion Program" (herein called CCP) means the program authorized under section 16(e) of the Soil Conservation and Domestic Allotment Act, as amended, Part 751 of this chapter, as amended.

(d) "Current year" means the calendar year in which the wheat crop with respect to which payment may be made under this subpart would normally be harvested.

(e) "Feed Grain Program" means the program authorized under Title V of the Agricultural Act of 1970, Part 775 of this chapter, as amended.

(f) "Upland Cotton Program" means the program authorized under Title VI of the Agricultural Act of 1970, Part 722 of this chapter, as amended.

(g) "Wheat acreage" means:

(1) Any acreage planted to wheat, and any acreage of volunteer wheat which is harvested as grain.

(2) Any acreage devoted to a mixture of crops if the county committee determines that the predominant crop is wheat and such acreage meets the requirements of paragraph (g) (1) of this section as being wheat acreage.

(h) "Wheat planted and considered planted acreage" means the wheat acreage as defined in paragraph (g) of this section and:

(1) Any acreage which the county committee determines was not planted to wheat because of drought, flood, or

other natural disaster or condition beyond the control of the operator;

(2) Any acreage credited as wheat (except for new farms) under the provisions of Part 719 of this chapter, as amended;

(3) Any acreage which is planted and considered planted to feed grains under Part 775 of this chapter, as amended, in excess of the allotment and which is not credited to cotton: *Provided*, That feed grains in excess of the allotment shall not be considered as planted to wheat for purposes of § 728.7(b) (4) (iii);

(4) Any acreage which is planted and considered planted to cotton under Part 722 of this chapter, as amended, in excess of the allotment and which is not credited to feed grains: *Provided*, That cotton in excess of the allotment shall not be considered as planted to wheat for purposes of § 728.7(b) (4) (iii);

(5) Any other acreage which is planted to annual nonconserving crops or which the county committee determines was not planted because of drought, flood, or other natural disaster or condition beyond the control of the operator, excluding acreage of allotment crops within the applicable allotment and which is not credited to cotton or feed grains: *Provided*, That such nonconserving crops shall not be considered as planted to wheat for purposes of § 728.7(b) (4) (iii); and

(6) An acreage (except for new farms) equal to the amount that the wheat allotment is reduced for the current year as provided in § 728.7(c) (2).

(i) In the regulations in this subpart and in all instructions, forms, and documents in connection therewith, all other words and phrases shall have the meanings assigned to them in the regulations governing reconstitution of farms and allotments, Part 719 of this chapter, as amended.

§ 728.3 Administration.

(a) The program will be administered under the general supervision of the Administrator, Agricultural Stabilization and Conservation Service (ASCS), and shall be carried out in the field by Agricultural Stabilization and Conservation State and county committees (herein called "State and county committees") and the ASCS Data Systems Field Office.

(b) State and county committees, the ASCS Data Systems Field Office, and representatives and employees thereof do not have authority to modify or waive any of the provisions of the regulations in this subpart, as amended or supplemented.

§ 728.4 1975 national wheat allotment.

NOTE: The 1975 wheat allotment is set out in 39 FR 13869.

§ 728.4a 1976 national wheat allotment.

NOTE: The 1976 wheat allotment is set out in 40 FR 16831.

§ 728.4b 1977 national wheat allotment [Reserved]

[To be issued as an amendment to this subpart.]

§ 728.5 Apportionment of the 1975-1977 national wheat allotments among the several States.

The national allotment of wheat is distributed each year on a pro rata basis to the States on the basis of each State's allotment for the preceding year, adjusted for (a) the administrative transfer of farms between States, (b) decreases resulting from farms no longer engaged in agricultural production, farms dropped from the eminent domain pool, farms losing allotment for failure to plant, and farms voluntarily relinquishing their allotment, and (c) established crop-rotation practices in the States of Colorado, Oregon, Utah, and Washington. State allotments are available for inspection in State and county ASCS offices.

§ 728.6 Apportionment of the 1975-1977 State allotments of wheat among their respective counties.

The State allotment for wheat, less reserves for new farms, appeals and corrections, is apportioned each year among the counties in the State on the basis of each county's allotment for the preceding year, adjusted for:

(a) The administrative transfer of farms between counties,

(b) Acreage allocated to new farms from the State reserve,

(c) Acreage removed from farms no longer engaged in agricultural production, farms dropped from eminent domain pool, farms losing allotment for failure to plant, and farms voluntarily relinquishing their allotment, and

(d) Such other relevant factors as determined necessary by the State committee to establish a fair and equitable apportionment base for the county. County allotments are available for inspection in the county ASCS office.

§ 728.7 Farm wheat allotment.

(a) *How obtained*. Except as otherwise provided in this section, the farm wheat allotments for each crop of wheat shall be determined by the county committee by apportioning the county wheat allotment among farms in the county on the basis of the farm wheat allotment for the preceding crop, adjusted to reflect established crop-rotation practices and such other factors as the Deputy Administrator determines should be considered for the purpose of establishing a fair and equitable allotment. Allotments determined as set forth in this paragraph shall be approved by a representative of the State committee.

(b) *New farm allotment*—(1) *Written application*. Each year, the county committee, with the approval of the State committee, shall establish a wheat allotment (herein called "new farm allotment") for each eligible farm for which an allotment is requested in writing by July 1 of the year immediately preceding the current year in the winter wheat area, and by February 15 of the current year in the spring wheat area. The spring wheat area shall include any area where spring wheat is normally grown,

even though winter wheat is also grown in such area. Each request shall be made by the farm owner or operator on Form MQ-25, Application for New Farm or Producer Allotment or Quota, which shall contain statements as to location and identification of the farm, name and address of the farm operator, and other data necessary to enable the county committee to determine whether the conditions of eligibility prescribed in paragraph (b) (2) of this section have been met.

(2) *Eligibility requirements for owner or operator*. Eligibility for a new farm allotment shall be conditioned upon the following:

(i) *Allotment for farm*. The farm does not otherwise qualify for a wheat allotment.

(ii) *Interest in another farm*. Neither the farm owner nor the farm operator owns, has an ownership interest in, or operates any other farm in the United States for which a wheat allotment is established for the current year.

(iii) *Previous experience*. The applicant has produced wheat in any year prior to the year for which the request is made for a new farm allotment.

(iv) *Availability of equipment and facilities*. The operator has adequate equipment and other facilities readily available for the successful production of the crop on the farm.

(v) *Income requirement*. The operator expects to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products from farming.

(a) *Computing operator's income*. The following shall be considered in computing operator's income:

(1) *Income from farming*. Income from farming shall include the estimated return from the production of the requested allotment and from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s), but shall exclude payments authorized under the wheat program.

(2) *Income from nonfarming*. Nonfarming income shall include but shall not be limited to salaries, commissions, pensions, social security payments and unemployment compensation.

(3) *Spouse's income*. The spouse's farm and nonfarm income shall be used in the computation.

(b) *Operator a partnership*. If the operator is a partnership, each partner must expect to obtain more than 50 percent of his current year income from farming.

(c) *Operator a corporation*. If the operator is a corporation, it must have no major corporate purpose other than ownership or operation of the farm. Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(d) *Special provision for low-income farmers*. The county committee may

waive the income provisions in this section provided the county committee determines that the farm operator's income, from both farm and nonfarm sources, will not provide a reasonable standard of living for the operator and his family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that such determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making such determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family farm income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(3) *Eligibility requirements for the farm.* The eligibility requirements for a new farm allotment for the farm are as follows:

(i) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for wheat production, and continuous production must not result in an undue erosion hazard.

(ii) *Allotment reduced to zero at the farm owner's request.* At least 3 years must have elapsed from the date the farm wheat allotment is reduced to zero at the farm owner's request, as authorized in paragraph (c) of this section, to the date the request for a new farm allotment is considered.

(iii) *Eminent domain.* A farm which includes land acquired by an agency having the right of eminent domain for which the entire wheat allotment was pooled pursuant to Part 719 of this chapter, as amended, which is subsequently returned to agricultural production, shall not be eligible for a new farm allotment for a period of 3 years from the date the former owner was displaced.

(iv) *Entire allotment designated by owner for a reconstitution.* A farm which includes land which has no allotment because the owner did not designate an allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter, as amended, shall not be eligible for a new farm allotment for a period of 3 years beginning with the year in which the reconstitution became effective.

(4) *Limitations.* (i) *Wheat acreage planned.* The county committee shall limit the wheat allotment to the smaller of the allotment requested or the wheat acreage planned for the farm for the first year to which the allotment would be applicable.

(ii) *Reserve.* The total new farm wheat allotments approved in a State in the current year shall not exceed a reserve established by the State committee of not more than 1 percent of the total wheat allotments for all farms in the State. No part of that 1 percent shall be allocated to a farm to reflect new cropland brought into production after November 30, 1970.

(iii) *Current year wheat acreage.* Notwithstanding any other provision of this subpart, if the wheat planted and considered planted acreage for the year a new farm allotment is established is less than 90 percent of the allotment, the allotment for such year shall be reduced to the acreage planted and considered planted to wheat and payments computed on the basis of such reduced allotment.

(5) *Cancellation of new farm allotment for misrepresentation.* If a new farm allotment is established and it is later determined by the county committee that the applicant unknowingly furnished incomplete or inaccurate information the allotment shall be cancelled effective for the next crop year. If it is determined that the applicant knowingly furnished incomplete or inaccurate information and the State committee concurs in the county committee determination, the allotment shall be cancelled as of the date issued.

(c) *Reduced allotments.* Notwithstanding any other provisions of this subpart, wheat allotments shall be reduced as follows:

(1) *Permanent reductions.*

(i) The allotment shall be reduced:

(a) To the extent requested in writing by the farm owner not later than the date established by the State committee, and

(b) To the extent acreage of cropland on the farm is permanently removed from agricultural production, as determined by the county committee.

(ii) If the current year's wheat planted and considered planted acreage is less than 90 percent of the allotment, the allotment for the succeeding year shall be reduced by the percentage by which the planted and considered planted acreage is less than the allotment for the current year, but such reduction shall not exceed 20 percent of the allotment. If the wheat planted and considered planted acreage is zero for three consecutive years, the allotment shall be reduced to zero. However, no allotment shall be reduced or lost through failure to plant if all producers elect by September 1 of the current year to limit the acres for deficiency payment to the wheat planted and considered planted acreage as provided in § 728.15(f).

(2) *Reductions for current year.* The following reductions shall be made by reducing the smallest allotment first and continuing in order of the size of the allotment, unless the operator requests in writing that the reduction be in a different order.

(i) Reduce feed grain, wheat, and upland cotton allotments each year to the extent the sum of allotments for all commodities exceeds the cropland for the farm.

(ii) Reduce feed grain and wheat allotments each year to the extent the sum of feed grain and wheat allotments exceeds the cropland which, under normal conditions, could reasonably be expected to produce an allotment crop.

(iii) In the case of a farm participating in the CAP or CCP, reduce feed grain, wheat, and upland cotton allotments that are not partially or completely di-

verted under the CAP or CCP, to the extent they total more than the number of acres of nonconserving crops permitted under the CAP or CCP.

§ 728.8 County yields.

County yields for the current year are determined for each wheat-producing county in the United States except for counties in Alaska and Hawaii, and New Hampshire, for which no apparent need for such yields exists. The county yield for the current year was determined on the basis of the average yields per harvested acre of wheat for the county for the five-year period immediately preceding the year in which such county yield was determined. Such yield is determined by the Statistical Reporting Service and adjusted as applicable for abnormal weather conditions affecting such yields, for trends in yields, and for any significant changes in production practices. The county yields for the current year are available for inspection in the county ASCS office.

§ 728.9 Farm yields.

(a) *Determining yields.* The per acre farm yield shall be the county yield, adjusted to reflect the farm productivity for the commodity and established in accordance with instructions issued by the Deputy Administrator.

(b) *Provable yields.* Notwithstanding the provisions of paragraph (a) of this section, if reliable records of the actual yield in bushels per acre on the farm for each of the five years immediately preceding the year in which the yield is determined are available to the county committee, the yield established for the farm shall not be less than the average of such yields, with such adjustment as determined necessary to provide a fair and equitable yield. If the actual yield in any one of the five years immediately preceding the year in which the yield is determined is less than two-thirds of the average of the actual yields for the other four years, the operator or other affected producer furnishes a signed and dated statement that the low yield is the result of a natural disaster, and the county committee makes no determination that something other than a natural disaster caused the yield to be low, 93 percent of the average for the other four years shall be used in lieu of the average for the five years in establishing a yield. The operator or other affected producer shall report current year wheat acreage by filing a Report of Acreage (herein called "Form 580") if the foregoing provisions are to apply to any program year for which the five year period includes the current year.

(c) *Yield reduction.* For the purpose determining eligibility for and amount of low yield payment as provided in § 728.17 (b), the established yield for the farm shall be reduced in accordance with instructions issued by the Deputy Administrator to reflect any reduction in the current year yield which is due to causes other than a natural disaster or condition beyond the control of the producer, such as a change in farming practices.

§ 728.10 Payment rates.

Payment rates shall be established separately for deficiency payments and for disaster payments.

(a) *Deficiency payment rates.* The per bushel deficiency payment rate for each crop of wheat shall be the amount by which the higher of

(1) The national weighted average market price received by farmers for wheat during the first five months of the marketing year for such crop beginning July 1 or

(2) The national average loan rate established for such crop is less than the established price of \$2.05 per bushel in the case of the 1975 crop, \$2.05 per bushel adjusted to reflect any change during the calendar year 1975 in the index of prices paid by farmers for production items, interest, taxes, and wage rates in the case of the 1976 crop, and the established price for the 1976 crop adjusted to reflect any change during the calendar year 1976 in such index in the case of the 1977 crop: *Provided*, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in:

(i) The national average yield per acre of wheat for the three calendar years preceding the year for which the determination is made, over

(ii) The national average yield per acre of wheat for the three calendar years preceding the year previous to the one for which the determination is made.

(b) *Disaster payment rates.* The per bushel disaster payment rate shall be equal to the larger of the deficiency payment rate or one-third of the established price. The disaster payment rate for the 1975 program year is \$.68 per bushel.

§ 728.11 Notice of allotments and yields.

Each operator interested in the wheat crop on a farm for which a wheat allotment is established shall be notified in writing of the allotment and established yield per acre: *Provided*, That the notice shall not be mailed to any producer who has filed a written request that he not be furnished the notice but it shall be filed with the producer's request in the county office. The producer may withdraw his request at any time; however, during the period a request is in effect, the producer shall be considered as having been timely and correctly notified of the contents of this notice. Such notices will be on Form ASCS-476, Notice of Allotments and Yields (therein called "Form 476").

§ 728.12 Reconstitution of farms.

Farms shall be reconstituted and wheat allotments established therefor in accordance with Part 719 of this chapter as amended. Yields for farms which are reconstituted after yields are originally established shall be determined as follows:

(a) *Combination.* Multiply the allotment by the yield for each parent farm, and divide the sum of the results for all parent farms by the sum of allotments on the parent farms.

(b) *Division.* Determine a yield in accordance with § 728.9. The weighted average yields for all the farms resulting from the division are limited to the yield for the parent farm, except for rounding.

§ 728.13 Requirements for program participation.

(a) *General.* A person is eligible for the program if he is a producer on a farm which meets the requirements of paragraph (b) of this section and he fulfills the requirements of paragraph (c) of this section.

(b) *Farm requirements.* (1) For disaster payments, a Form 580 and an Application for Disaster Credit (herein called "Form 574") shall be filed by the operator of an eligible farm with the office of the county committee having jurisdiction over the county where the farm is located. He shall also file a Record of Acreages, Production, and Disposition (herein called "Form 658") when the information thereon is needed for program determinations. These forms shall be filed within the period authorized by the Deputy Administrator.

(2) In the case of any farm participating in the CAP or CCP, the acreage of wheat and other nonconserving crops shall not exceed the number of acres of nonconserving crops permitted under the CAP or CCP.

(3) Land owned by the Federal Government shall be ineligible for participation in the program if it is occupied without a lease, permit, or other right of possession.

(4) Producers on a farm acquired for future development for purposes other than agricultural production shall not be eligible for participation in the program, unless the county committee determines that the farm is actively engaged in the production of crops for harvest other than hay, sod, ornamentals, or timber.

(c) *Producer eligibility requirements.*

(1) The producer must be a person who as landowner, landlord, tenant, or sharecropper, shares in the wheat produced in the current year (or the proceeds therefrom) on a farm meeting the requirements of paragraph (b) of this section or would have shared if wheat had been produced on such farm in the current year.

(2) A minor will be eligible to participate in the program only if:

(i) The right of majority has been conferred on him by court proceedings;

(ii) A guardian has been appointed to manage his property and the applicable documents are signed by the guardian; or

(iii) A bond is furnished under which a surety guarantees to protect the Commodity Credit Corporation from any loss incurred for which the minor would be liable had he been an adult. Notwithstanding the foregoing, payment may be made to a minor after December 31 of the current year upon a determination by the county committee that the minor has met the requirements of the program.

§ 728.14 Determination of compliance.

(a) Determination of the acreage devoted to wheat and other annual non-

conserving crops shall be made in accordance with Part 718 of this chapter, as amended.

(b) A representative of the county committee or the State committee or any authorized representative of the Secretary shall have the right at any reasonable time to enter a farm, concerning which representations have been made on any forms filed under the program, in order to measure the acreage planted to wheat and other annual nonconserving crops, to examine any records pertaining thereto, and otherwise to determine the accuracy of a producer's representation and the performance of his obligations under the program.

§ 728.15 General payment provisions.

(a) *Issuance.* Payments of any amounts due the producers on a farm shall be made only after they sign an Application for Payment (herein called "Form 516"), and the payments are approved by the county committee or by an authorized representative thereof. A Form 516 signed after May 1 of the year following the current year shall not be accepted by the county committee unless prior approval of the State committee is obtained.

(b) *Failure to fully comply.* Except as otherwise provided herein and in Part 791 of this chapter, as amended, payment shall not be made for a farm or to a producer when there is failure to comply fully with the regulations contained in this subpart, and in Part 718 of this chapter.

(c) *Payment due producer.* Subject to the provisions of the payment limitation regulations in Part 795 of this chapter, as amended, the total earned payment due each eligible producer under the program shall be determined by multiplying the total earned payment for the farm by the producer's share of such payment.

(d) *Payment declined.* If a producer declines to accept all or any part of his share of the payment computed for a farm in accordance with the provisions of this section, such payment or portions thereof shall not become available for any other producer on the farm.

(e) *Idle farms.* Producers on a farm not used for the commercial production of crops or livestock on cropland, or from which only sod, ornamentals, or timber are harvested, shall not be eligible for program payments when the wheat allotment is preserved with vegetative cover as authorized by the regulations in Part 719 of this chapter, as amended.

(f) *Allotment protection.* Producers otherwise eligible for payment may elect by September 1 of the current year to limit the acres for deficiency payment to the wheat planted and considered planted acreage in order to protect the wheat allotment from reduction due to failure to plant.

(g) *Unearned payments.* Payments to any producer which exceed the total payment he earns under the program with respect to any farm shall be refunded to the Commodity Credit Corporation and, if for any reason such earned payment is zero, he shall pay interest at the rate of 6 percent per annum on the amount of the refund from the issue

dates of the sight drafts to the date the payments are refunded. The provisions of the foregoing sentence requiring the payment of interest when no payment is earned shall not apply if the producer earns any feed grain or upland cotton payments for the farm or receives an unearned payment through no fault of his.

§ 728.16 Deficiency payments.

(a) Deficiency payments shall be terminated by multiplying the allotment by the farm yield established as provided in § 728.9 and by the per bushel rate determined in accordance with § 728.10 (a); *Provided*, That no deficiency payment shall be made for any part of the allotment times the yield for which a disaster payment is made.

(b) Deficiency payments will be made to producers as soon as practicable after December 1 of the current year.

§ 728.17 Disaster payments.

Producers may qualify for disaster payments only when the county committee determines that prevented planting or a low yield as hereinafter described in this section occurs because of drought, flood, or other natural disaster or condition beyond the control of the producer. Disaster payments shall be made as soon as practicable after the disaster is reported, the extent of crop loss is determined, and payment is approved.

(a) *Prevented planting.* (1) The acreage for prevented planting payments shall be determined by grouping the farm's wheat and feed grain allotments together and shall equal the smaller of:

(i) The acreage of annual nonconserving crops the producer is prevented from planting, or

(ii) The amount that the sum of feed grain and wheat allotments exceeds the total acreage of annual nonconserving crops, excluding acreage within the applicable allotment of commodities other than feed grains and wheat, acreage disregarded for low yield purposes according to paragraph (b) (1) (i) thru (iii) of this section, and failed upland cotton acreage which could have been replanted but was not.

(2) Prevented planting payments shall be determined by:

(i) Crediting the acreage for payment first to the underplanting of the allotment for the crop with the highest per acre payment rate and continuing in order of the size of the payment rate, but limiting the acreage credited to feed grains to the total feed grain underplanting.

(ii) Reducing the acreage otherwise credited to each crop by the acreage of that crop disregarded for low yield purposes according to paragraph (b) (1) (i) thru (iii) of this section.

(iii) Multiplying the acreage credited to each feed grain by the applicable yield established as provided in § 775.9 and by the applicable per bushel rate determined in accordance with § 775.10 (b).

(b) *Low yields.* (1) For the purpose of determining eligibility for low yield payments and the total acreage on which such payments will be made, the "dis-

aster allotment" for wheat means the effective allotment for wheat adjusted downward to the extent it is underplanted or adjusted upward to the extent it is overplanted as a substitute for underplanted feed grain allotment established for the farm: *Provided*, That such adjustment shall disregard

(i) Barley or wheat acreage designated solely for grazing or non-feed use in accordance with instructions issued by the Deputy Administrator, (ii) failed feed grain or wheat acreage which could have been replanted but was not, (iii) barley or wheat acreage planted to a variety bred to produce no grain, and (iv) feed grain or wheat acreage designated solely for wildlife use in accordance with instructions issued by the Deputy Administrator.

(2) For low yield payment purposes, the county committee shall disregard the production from the disregarded acreage as well as production from acreage in excess of the disaster allotment which is mechanically destroyed without feed benefit prior to the time most of the wheat in the area has headed.

(3) A farm shall not be deemed to have suffered a loss which qualifies it for a low yield payment unless the current year production of wheat is less than the disaster allotment multiplied by the yield established as provided in § 728.9 and by a factor determined by dividing the 10-year average county yield by the county yield referred to in § 728.8 and multiplying the result by two-thirds: *Provided*, That if county yields are available for less than 10 years the factor shall be based on the number of years available. No county factor shall exceed 0.6667. A farm may qualify for a low yield payment even though it does not qualify under the foregoing provision if (i) the provisions of § 728.9 (c) do not result in a reduction in the established yield and (ii) the current year production is less than two-thirds of what the production would be if computed by multiplying the disaster allotment by one of the following:

(i) The smaller of the yield established as provided in § 728.9 or the actual unadjusted average yield for the preceding five years.

(ii) The yield established as provided in § 728.9 and:

(a) There is convincing proof that the loss was due to a sudden and identifiable destruction of the crop.

(b) Part of the acreage is substantially unaffected by the disaster, all of which averages at least two-thirds of the established yield, and the county committee determines that but for the disaster the per acre yield for the farm would have been at least two-thirds of the established yield, and

(c) Payment is approved in writing by a representative of the State committee.

(4) The wheat production from acreage not harvested shall be appraised and added to the actual production for the purpose of determining eligibility for and amount of low yield payments, in accordance with instructions issued by the Deputy Administrator.

(5) Any wheat acreage destroyed without opportunity for appraisal for which the production was not excluded in paragraph (b) (2) of this section shall be charged with the larger of the established yield or the per acre yield from the harvested acres.

(6) Low yield payments shall be determined by multiplying the disaster allotment by the yield established as provided in § 728.9, subtracting the determined production therefrom, and multiplying the result by the applicable per bushel rate determined in accordance with § 728.10 (b).

§ 728.18 Division of payments and additional provisions relating to tenants and sharecroppers.

The regulations relating to the division of payments and additional provisions relating to tenants and sharecroppers are set forth in Part 794 of this chapter, as amended.

§ 728.19 Successors-in-interest.

(a) In the case of the death, incompetency, or disappearance of any producer whose name appears on Form 516, the payment due him shall be made to his successor as determined in accordance with the regulations in Part 707 of this chapter, as amended.

(b) When any person who had an interest as a producer of wheat or would have had an interest as a producer if wheat had been produced (herein called "predecessor") is succeeded on the farm by another producer (herein called "successor") after Form 516 has been filed, the payment to the predecessor and successor shall be divided between them on such basis as they agree is fair and equitable. If such persons are unable to agree to a division of the payment, a fair and equitable division shall be determined by the county committee.

(c) In any case where any payment due any successor producer has previously been paid to the producer who filed Form 516, such payment shall not be paid to the successor producer unless it is recovered from the producer to whom it has been paid or payment is authorized by the Deputy Administrator.

§ 728.20 Misrepresentation and scheme or device.

(a) A producer who is determined by the county committee or the State committee to have erroneously represented any fact affecting a program determination shall not be entitled to payments under the program for the farm with respect to which the representation was made and shall refund to the Commodity Credit Corporation the payments received by him with respect to such farm.

(b) A producer who is determined by the State committee, or the county committee with the approval of the State committee, to have knowingly (1) adopted any scheme or device which tends to defeat the purpose of the program, (2) made any fraudulent representation, or (3) misrepresented any fact affecting a program determination shall not be entitled to payments for any farm under the program and shall refund to the

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Commodity Credit Corporation all payments received by him with respect to the program.

(c) The provisions of this section shall be applicable in addition to any liability under criminal and civil fraud statutes.

§ 728.21 Setoffs and assignments.

(a) *Producer indebtedness.* The regulations issued by the Secretary governing setoffs and withholdings, Part 13 of this chapter, as amended, shall be applicable to this program.

(b) *Assignments.* Payments may be assigned only to the Farmers Home Administration in accordance with instructions issued by the Deputy Administrator.

§ 728.22 Appeals.

A producer may obtain reconsideration and review of determinations made under this subpart in accordance with the Appeal Regulations, Part 780 of this chapter, as amended.

§ 728.23 Performance based upon advice or action of county or State committee.

The provisions of Part 790 of this chapter, as amended, relating to performance based upon action or advice of an authorized representative of the Secretary shall be applicable to this subpart.

§ 728.24 Supervisory authority of State committee.

The State committee may take any action required by these regulations which has not been taken by the county committee. The State committee may also (a) correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with the regulations of this subpart, or (b) require a county committee to withhold taking any action which is not in accordance with the regulations of this subpart.

§ 728.25 Delegation of authority.

No delegation herein to a State or county committee shall preclude the Administrator, ASCS, or his designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

Effective date. It is essential that the foregoing regulations governing the Wheat Program for Crop Years 1975-1977 be made effective as soon as possible. It is hereby found and determined that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Accordingly, these regulations shall become effective November 11, 1975.

Signed at Washington, D.C., on November 3, 1975.

E. J. PERSON,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FB Doc.75-30378 Filed 11-10-75;8:45 am]

SUBCHAPTER C—SPECIAL PROGRAMS

PART 775—FEED GRAINS

Feed Grain Program for Crop Years 1975-1977

On July 17, 1974, a notice of proposed rulemaking regarding determinations with respect to the 1975 crop of feed grains was published in the FEDERAL REGISTER (39 FR 26159). Interested persons were invited to submit written data, views, and recommendations regarding the determinations within 30 days. The comments and recommendations received have been duly considered.

This subpart, which is issued pursuant to the Agricultural Act of 1949, as amended by the Agricultural Act of 1970, Public Law 91-524, 84 Stat. 1358, and by the Agriculture and Consumer Protection Act of 1973 Public Law 93-86, 87 Stat. 230, and Public Law 93-228, 87 Stat. 944, supersedes for the crop years 1975-1977 the regulations governing the Feed Grain Program for Crop Years 1974-1977, FR 25633, as amended. This subpart, which incorporates the provisions of the existing regulations with the following principal changes, sets forth the conditions under which feed grain producers may qualify for program benefits:

(1) No intention to participate in the program is filed. Producers report disasters when they occur, report crop acreages as necessary for program administration, and apply for any applicable payments.

(2) All acreage planted to feed grains is defined as feed grain acreage and considered to be nonconserving. There is provision for excluding part of the acreage for low yield disaster payment purposes in such instances as when the acreage is planted solely for pasture or nonfeed use or is in excess of the allotment and is timely destroyed without feed benefit.

(3) Allotments are adjusted for low yield payment purposes to reflect underplanting and the substitution of feed grains for wheat.

(4) Feed grain payments are computed separately from wheat and upland cotton payments.

(5) Disaster payments are made for feed grains only when feed grains in total have suffered a production loss and are computed on the bushels lost.

Subpart—Feed Grain Program for Crop Years 1975-1977

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Authority: The provisions of this subpart issued under sec. 105, 87 Stat. 230, 7 U.S.C. 1441 note.

§ 775.1 General.

(a) The regulations in this subpart provide terms and conditions for the feed grain programs for the 1975 through 1977 crops of feed grains, respectively, under which producers on farms for which an allotment is established for corn, grain sorghum, or barley (herein called "feed grains") may qualify for payments authorized under the program.

(b) Producers who meet the eligibility requirements in § 775.13(c) may qualify for payments.

(c) In accordance with section 101 of the Agricultural Act of 1970, as amended, and the regulations in Part 795 of this chapter, as amended, the total amount of payments which a person shall be entitled to receive annually under the feed grain program, the wheat program, and the upland cotton program shall not exceed \$20,000.

(d) In accordance with the regulations in Part 796 of this chapter, payments are prohibited to program participants who harvest or knowingly permit to be harvested for illegal use marijuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by them.

(e) The program is applicable throughout the United States except Alaska and Hawaii.

§ 775.2 Definitions.

In the regulations in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meaning assigned to them herein unless the content or subject matter otherwise requires.

(a) "Annual nonconserving crop" means any annual crop intended for harvest or utilized in any feed form except for the following:

(1) Grasses, regardless of use, including sweet sorghum, millet, and sudan grass.

(2) Legumes, other than peas or beans produced for seed, grain, or processing.

(3) Immature small grains (other than barley or wheat) destroyed by any means or used for other than grain.

(b) "Barley acreage" means:

(1) Any acreage planted to barley, and any acreage of volunteer barley which is harvested as grain.

(2) Any acreage devoted to a mixture of crops if the county committee determines that the predominant crop is barley and such acreage meets the requirements of subparagraph (1) of this paragraph as being barley acreage.

(c) "Corn acreage" means:

(1) Any acreage planted to field corn or sterile high-sugar corn.

(2) Any acreage devoted to a mixture of crops if the county committee determines that the predominant crop is corn and such acreage meets the requirements of subparagraph (1) of this paragraph as being corn acreage.

(d) "Conservation Reserve Program" (herein called CRP) means the program authorized under the Soil Bank Act, as amended, Part 750 of this chapter, as amended.

(e) "Cropland Adjustment Program" (herein called CAP) means the program authorized under Title VI of the Food and Agriculture Act of 1965, as amended, Part 751 of this chapter, as amended.

(f) "Cropland Conversion Program" (herein called CCP) means the program authorized under section 16(e) of the Soil Conservation and Domestic Allotment Act, as amended, Part 751 of this chapter, as amended.

(g) "Current year" means the calendar year in which the feed grain crop with respect to which payment may be made under this subpart would normally be harvested.

(h) "Feed grain acreage" means the sum of the corn, grain sorghum, and barley acreages on the farm.

(i) "Feed grain planted and considered planted acreage" means the sum of the corn, grain sorghum, and barley acreages as defined in paragraphs (b), (c), and (j) of this section, and:

(1) Any acreage which the county committee determines was not planted to feed grains because of drought, flood, or other natural disaster or condition beyond the control of the operator;

(2) Any acreage credited as feed grain acreage (except for new farms) under the provisions of Part 719 of this chapter, as amended;

(3) Any acreage which is planted and considered planted to wheat under Part 728 of this chapter, as amended, in excess of the allotment and which is not credited to cotton: *Provided*, That wheat in excess of the allotment shall not be considered as planted to feed grains for purposes of § 775.7(d)(4)(iii);

(4) Any acreage which is planted and considered planted to cotton under Part 722 of this chapter as amended, in excess of the allotment and which is not credited to wheat: *Provided*, That cotton in excess of the allotment shall not be considered as planted to feed grains for purposes of § 775.7(d)(4)(iii);

(5) Any other acreage which is planted to annual nonconserving crops or which the county committee determines was not planted because of drought, flood, or

other natural disaster or condition beyond the control of the operator, excluding acreage of allotment crops within the applicable allotment, and which is not credited to cotton or wheat: *Provided*, That such nonconserving crops shall not be considered as planted to feed grains for purposes of § 775.7(d)(iii); and

(6) An acreage (except for new farms) equal to the amount that a feed grain allotment is reduced for the current year as provided in § 775.7(e)(2).

(j) "Grain sorghum acreage" means:

(1) Any acreage planted to grain sorghums of a feed grain or dual purpose variety (including any cross which, at all stages of growth, has most of the characteristics of a feed grain or dual purpose variety).

(2) Any acreage devoted to a mixture of crops if the county committee determines that the predominant crop is grain sorghums and such acreage meets the requirements of subparagraph (1) of this paragraph as being grain sorghum acreage.

(k) "Great Plains Conservation Program" means the program authorized under section 16(b) of the Soil Conservation and Domestic Allotment Act, as amended, Part 601 of this title, as amended.

(l) "Total feed grain allotment" means the sum of the feed grain allotments established for corn, grain sorghums, and barley for the farm, except that each allotment shall be excluded that is partially or completely diverted under the CAP or CCP.

(m) "Upland Cotton Program" means the program authorized under Title VI of the Agricultural Act of 1970, Part 722 of this chapter, as amended.

(n) "Wheat Program" means the program authorized under Title IV of the Agricultural Act of 1970, Part 728 of this chapter, as amended.

(o) In the regulations in this subpart and in all instructions, forms and documents in connection therewith, all other words and phrases shall have the meanings assigned to them in the regulations governing reconstitution of farms and allotments, Part 719 of this chapter, as amended.

§ 775.3 Administration.

(a) The program will be administered under the general supervision of the Administrator, Agricultural Stabilization and Conservation Service (ASCS), and shall be carried out in the field by Agricultural Stabilization and Conservation State and county committees (herein called "State and county committees") and the ASCS Data Systems Field Office.

(b) State and county committees, the ASCS Data Systems Field Office, and representatives and employees thereof do not have authority to modify or waive any of the provisions of the regulations in this subpart, as amended or supplemented.

§ 775.4 1975 national feed grain allotment.

The 1975 national feed grain allotments are set out in 39 FR 44403.

§ 775.4a 1976 national feed grain allotment [Reserved]

[To be issued as an amendment to this subpart.]

§ 775.4b 1977 national feed grain allotment [Reserved]

[To be issued as an amendment to this subpart.]

§ 775.5 Establishment of the 1975-1977 State feed grain allotments.

The 1975-1977 State feed grain allotments are established each year by apportioning the national feed grain allotment to the States on the basis of each State's feed grain allotment established for the preceding year, adjusted for (a) the administrative transfer of farms between States, (b) decreases resulting from farms no longer engaged in agricultural production, farms dropped from the eminent domain pool, farms losing allotment for failure to plant, and farms voluntarily relinquishing their allotment, and (c) increases resulting from acreage allocated to old feed grain farms from the national feed grain pool. State feed grain allotments are available for inspection in State and county ASCS offices.

§ 775.6 Establishment of the 1975-1977 county feed grain allotments.

The 1975-1977 county feed grain allotments are established each year by apportioning each State's feed grain allotment (less reserves of not to exceed 1 per centum of the State feed grain allotment for new farms and reserves for appeals and corrections) among the counties in the State on the basis of each county's feed grain allotment established for the preceding year, adjusted for (a) the administrative transfer of farms between counties, (b) acreage allocated to new farms from the State reserve, (c) acreage removed from farms no longer engaged in agricultural production, farms dropped from the eminent domain pool, farms losing allotment for failure to plant, and farms voluntarily relinquishing their allotment, and (d) such other relevant factors as determined necessary by the State committee to establish a fair and equitable apportionment base for the county. County feed grain allotments are available for inspection in the county ASCS offices.

§ 775.7 Farm feed grain allotment.

(a) *How obtained.* Except as otherwise provided in this section, the farm allotment for each crop of the commodities—corn, grain sorghums, and barley—shall be the average of the 1959 and 1960 acreages of the commodity produced on the farm, based upon information available to the county committee, as adjusted by the county committee to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, and topography. On farms with recognized history or irrigated and nonirrigated feed grain acreage in the base period for establishing yields, the allotment

for each applicable commodity shall be established separately for the irrigated acreage and for the nonirrigated acreage. Separate allotments for irrigated acreage and for nonirrigated acreage shall not be established for farms where irrigation is used only in drier years. Allotments determined as set forth in this paragraph shall be approved by a representative of the State committee.

(b) *Adjustment authorized by Administrator.* The Administrator, ASCS, may, upon request of the State committee, authorize the State committee to adjust any feed grain allotment for farms within the State to the extent necessary to establish fair and equitable feed grain allotments within such State.

(c) *Farms with no 1959 and 1960 history.* A farm shall not qualify for payments under the program if there was no feed grain acreage on the farm in 1959 and 1960 unless (1) cropland on the farm was in the conservation reserve program or the great plains conservation program during one or both of the years 1959 and 1960 and either the conservation reserve program contract or the great plains conservation program contract is no longer in effect for all or part of such land, (2) one or more feed grains were grown in 1957 or 1958 and a feed grain allotment was established in accordance with § 775.212(c)(2) of the 1963 feed grain program regulations, or (3) a new farm allotment is established for the current year in accordance with paragraph (d) of this section or in a previous year under a comparable provision of the feed grain program regulations.

(d) *New farm allotment.*—(1) *Written application.* Each year, the county committee, with the approval of the State committee, shall establish a feed grain allotment (herein called "new farm allotment") for each eligible farm for which an allotment is requested in writing by February 15 of the current year. Each request shall be made by the farm owner or operator on Form MQ-25, Application for New Farm or Producer Allotment or Quota, which shall contain statements as to location and identification of the farm, name and address of the farm operator, and other data necessary to enable the county committee to determine whether the conditions of eligibility prescribed in paragraph (d)(2) of this section have been met.

(2) *Eligibility requirements for owner or operator.* Eligibility for a new farm allotment shall be conditioned upon the following:

(i) *Allotment for farm.* The farm does not otherwise qualify for a feed grain allotment.

(ii) *Interest in another farm.* Neither the farm owner nor the farm operator owns, has an ownership interest in, or operates any other farm in the United States for which a feed grain allotment is established for the current year.

(iii) *Availability of equipment and facilities.* The operator has adequate equipment and other facilities readily available for the successful production of the crop on the farm.

(iv) *Income requirement.* The operator expects to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products from farming.

(a) *Computing operator's income.* The following shall be considered in computing operator's income:

(1) *Income from farming.* Income from farming shall include the estimated return from the production of the requested allotment and from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s), but shall exclude payments authorized under the feed grain program.

(2) *Income from nonfarming.* Non-farming income shall include but shall not be limited to salaries, commissions, pensions, social security payments and unemployment compensation.

(3) *Spouse's income.* The spouse's farm and nonfarm income shall be used in the computation.

(b) *Operator a partnership.* If the operator is a partnership, each partner must expect to obtain more than 50 percent of his current year income from farming.

(c) *Operator a corporation.* If the operator is a corporation, it must have no major corporate purpose other than ownership or operation of the farm. Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(d) *Special provision for low-income farmers.* The county committee may waive the income provisions in this section provided the county committee determines that the farm operator's income, from both farm and nonfarm sources, will not provide a reasonable standard of living for the operator and his family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that such determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making such determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family farm income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(3) *Eligibility requirements for the farm.* The eligibility requirements for a new farm allotment for the farm are as follows:

(i) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for the production of the commodity, and continuous production must not result in an undue erosion hazard.

(ii) *Allotment reduced to zero at the farm owner's request.* At least 3 years must have elapsed from the date the farm feed grain allotment is reduced to zero at the farm owner's request, as authorized in paragraph (e) of this section, to the date the request for a new farm allotment is considered.

(iii) *Eminent domain.* A farm which includes land acquired by an agency having the right of eminent domain for which the total feed grain allotment was pooled pursuant to Part 719 of this chapter, as amended, which is subsequently returned to agricultural production, shall not be eligible for a new farm allotment for a period of 3 years from the date the former owner was displaced.

(iv) *Entire allotment designated by owner for a reconstitution.* A farm which includes land which has no allotment because the owner did not designate an allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter, as amended, shall not be eligible for a new farm allotment for a period of 3 years beginning with the year in which the reconstitution became effective.

(4) *Limitations.*—(i) *Feed grain acreage planned.* The county committee shall limit the new feed grain allotment to the smaller of the allotment requested or the feed grain acreage planned for the farm for the first year to which the allotment would be applicable.

(ii) *Reserve.* The total new farm feed grain allotments approved in a State in the current year shall not exceed a reserve established by the State committee of not more than 1 percent of the total feed grain allotments for all farms in the State. No part of that 1 percent shall be allocated to a farm to reflect new cropland brought into production after November 30, 1970.

(iii) *Current year feed grain acreage.* Notwithstanding any other provision of this subpart, if the feed grain planted and considered planted acreage for the year a new farm allotment is established is less than 90 percent of the allotment, the allotment for such year shall be reduced to the acreage planted and considered planted to feed grains and payments computed on the basis of such reduced allotment. Allotments by commodities for the succeeding year shall be established in proportion to the acreage devoted to each feed grain in the prior year.

(5) *Cancellation of new farm allotment for misrepresentation.* If a new farm allotment is established and it is later determined by the county committee that the applicant unknowingly furnished incomplete or inaccurate information the allotment shall be canceled effective for the next crop year. If it is determined that the applicant knowingly furnished incomplete or inaccurate information and the State committee concurs in the county committee determination, the allotment shall be canceled as of the date issued.

(e) *Reduced allotments.* Notwithstanding any other provisions of this

subpart, feed grain allotments shall be reduced as follows:

(1) *Permanent reductions.* (i) The allotment shall be reduced:

(A) To the extent requested in writing by the farm owner not later than the date established by the State committee, and

(B) To the extent acreage of cropland on the farm is permanently removed from agricultural production, as determined by the county committee.

(ii) If the current year's feed grain planted and considered planted acreage is less than 90 percent of the total feed grain allotment, the feed grain allotment for the succeeding year shall be reduced by the percentage by which the planted and considered planted acreage is less than the total feed grain allotment for the current year, but such reduction shall not exceed 20 percent of the total feed grain allotment. In making any such reduction, commodity allotments shall be reduced proportionately. If the feed grain planted and considered planted acreage is zero for three consecutive years, the total feed grain allotment shall be reduced to zero. However, no feed grain allotment shall be reduced or lost through failure to plant if all producers elect by September 1 of the current year to limit the acres for deficiency payment to the feed grain planted and considered planted acreage as provided in § 775.15 (f).

(2) *Reductions for current year.* The following reductions shall be made by reducing the smallest allotment first and continuing in order of the size of the allotment, unless the operator requests in writing that the reduction be in a different order.

(i) Reduce feed grain, wheat, and upland cotton allotments each year to the extent the sum of allotments for all commodities exceeds the cropland for the farm.

(ii) Reduce feed grain and wheat allotments each year to the extent the sum of feed grain and wheat allotments exceeds the cropland which, under normal conditions, could reasonably be expected to produce an allotment crop.

(iii) In the case of a farm participating in the CAP or CCP, reduce feed grain, wheat, and upland cotton allotments that are not partially or completely diverted under the CAP or CCP to the extent they total more than the number of acres of nonconserving crops permitted under the CAP or CCP.

(f) *National pool.* Allotments eliminated from farms under the provisions of paragraph (e) of this section and acreage removed from the eminent domain pool pursuant to Part 719 of this chapter, as amended, shall be placed in a national pool for distribution and adjustments in accordance with instructions issued by the Deputy Administrator.

§ 775.8 County yields.

County yields for the current year are determined for each feed grain producing county in the United States, except for counties in Alaska and Hawaii. They are determined on the basis of the yields

established for the county for the preceding crop with such adjustments as are determined necessary to provide fair and equitable yields. The county yields for the current year are available for inspection in the county ASCS office.

§ 775.9 Farm yields.

(a) *Determining yields.* The per acre farm yield for corn, grain sorghums, and barley shall be the county yield for the commodity, adjusted to reflect the farm productivity for the commodity and established in accordance with instructions issued by the Deputy Administrator.

(b) *Yield reduction.* For the purpose of determining eligibility for and amount of low yield payment as provided in § 775.17(b), the established yield for the farm shall be reduced in accordance with instructions issued by the Deputy Administrator to reflect any reduction in the current year yield which is due to causes other than a natural disaster or condition beyond the control of the producer, such as a change in farming practices.

§ 775.10 Payment rates.

Payment rates shall be established separately for deficiency payments and for disaster payments.

(a) *Deficiency payment rates.* The per bushel deficiency payment rate for each crop of corn shall be the amount by which the higher of (1) the national weighted average market price received by farmers for corn during the first five months of the marketing year for such crop beginning October 1 or (2) the national average loan rate established for such crop is less than the established price of \$1.38 per bushel in the case of the 1975 crop, \$1.38 per bushel adjusted to reflect any change during the calendar year 1975 in the index of prices paid by farmers for production items, interest, taxes, and wage rates in the case of the 1976 crop, and the established price for the 1976 crop adjusted to reflect any change during the calendar year 1976 in such index in the case of the 1977 crop; *Provided*, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of feed grains for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of feed grains for the three calendar years preceding the year previous to the one for which the determination is made. Per bushel rates shall be established in like manner for grain sorghum and barley based on marketing years beginning October 1 for grain sorghum and July 1 for barley, and on prices established each program year. The established prices for the 1975 program year are \$1.31 per bushel for grain sorghum and \$1.13 per bushel for barley.

(b) *Disaster payment rates.* The per bushel disaster payment rate for each feed grain shall be equal to the larger of the deficiency payment rate or one-third of the established price. Disaster pay-

ment rates for the 1975 program year are \$1.46 per bushel for corn, \$1.44 per bushel for grain sorghums, and \$1.38 per bushel for barley.

§ 775.11 Notice of allotments and yields.

Each operator interested in the feed grain crop on a farm for which a feed grain allotment is established shall be notified in writing of the allotment and established yield per acre for corn, grain sorghums, and barley, as applicable: *Provided*, That the notice shall not be mailed to any producer who has filed a written request that he not be furnished the notice but it shall be filed with the producer's request in the county office. The producer may withdraw his request at any time; however, during the period a request is in effect, the producer shall be considered as having been timely and correctly notified of the contents of this notice. Such notices will be on Form ASCS-476, Notice of Allotments and Yields, (herein called "Form 476").

§ 775.12 Reconstitution of farms.

Farms shall be reconstituted and feed grain allotments established therefor in accordance with Part 719 of this chapter, as amended. Yields for farms which are reconstituted after yields are originally established shall be determined as follows:

(a) *Combination.* Multiply the commodity allotment by the yield for each parent farm, and divide the sum of the results for all parent farms by the sum of allotments for the commodity on the parent farms.

(b) *Division.* Determine a yield in accordance with § 775.9. The weighted average yields for all the farms resulting from the division are limited to the yield for the parent farm, except for rounding.

§ 775.13 Requirements for program participation.

(a) *General.* A person is eligible for the program if he is a producer on a farm which meets the requirements of paragraph (b) of this section and he fulfills the requirements of paragraph (c) of this section.

(b) *Farm requirements.* (1) For disaster payments, a Report of Acreage (herein called "Form 580") and an Application for Disaster Credit (herein called "Form 574") shall be filed by the operator of an eligible farm with the office of the county committee having jurisdiction over the county where the farm is located. He shall also file a Record of Acreages, Production and Disposition (herein called "Form 658") when the information thereon is needed for program determinations. These forms shall be filed within the period authorized by the Deputy Administrator.

(2) In the case of any farm participating in the CAP or CCP, the acreage of feed grains and other nonconserving crops shall not exceed the number of acres of nonconserving crops permitted under the CAP or CCP.

(3) Land owned by the Federal Government shall be ineligible for participation in the program if it is occupied without a lease, permit, or other right of possession.

(4) Producers on a farm acquired for future development for purposes other than agricultural production shall not be eligible for participation in the program, unless the county committee determines that the farm is actively engaged in the production of crops for harvest other than hay, sod, ornamentals, or timber.

(c) *Producer eligibility requirements.*

(1) The producer must be a person who as landowner, landlord, tenant, or share-cropper shares in the corn, grain sorghums, or barley produced in the current year (or the proceeds therefrom) on a farm meeting the requirements of paragraph (b) of this section or would have shared in one or more of these commodities if feed grains had been produced on such farm in the current year.

(2) A minor will be eligible to participate in the program only if (i) the right of majority has been conferred on him by court proceedings; (ii) a guardian has been appointed to manage his property and the applicable documents are signed by the guardian; or (iii) a bond is furnished under which a surety guarantees to protect the Commodity Credit Corporation from any loss incurred for which the minor would be liable had he been an adult. Notwithstanding the foregoing, payment may be made to a minor after December 31 of the current year upon a determination by the county committee that the minor has met the requirements of the program.

§ 775.14 *Determination of compliance.*

(a) Determination of the acreage devoted to feed grains and other annual nonconserving crops shall be made in accordance with Part 718 of this chapter, as amended.

(b) A representative of the county committee or the State committee or any authorized representative of the Secretary shall have the right at any reasonable time to enter a farm, concerning which representations have been made on any forms filed under the program, in order to measure the acreage planted to feed grains and other annual nonconserving crops, to examine any records pertaining thereto, and otherwise to determine the accuracy of a producer's representation and the performance of his obligations under the program.

§ 775.15 *General payment provisions.*

(a) *Issuance.* Payments of any amounts due the producers on a farm shall be made only after they sign an Application for Payment (herein called "Form 516"), and the payments are approved by the county committee or by an authorized representative thereof. A Form 516 signed after May 1 of the year following the current year shall not be accepted by the county committee unless prior approval of the State committee is obtained.

(b) *Failure to fully comply.* Except as otherwise provided herein and in Part 791 of this chapter, as amended, payment shall not be made for a farm or to a producer when there is failure to comply fully with the regulations contained in this subpart, and in Part 718 of this chapter.

(c) *Payment due producer.* Subject to the provisions of the payment limitation regulations in Part 795 of this chapter, as amended, the total earned payment due each eligible producer under the program shall be determined by multiplying the total earned payment for the farm by the producer's share of such payment.

(d) *Payment declined.* If a producer declines to accept all or any part of his share of the payment computed for a farm in accordance with the provisions of this section, such payment or portions thereof shall not become available for any other producer on the farm.

(e) *Idle farms.* Producers on a farm not used for the commercial production of crops or livestock on cropland, or from which only sod, ornamentals, or timber are harvested, shall not be eligible for program payments when the feed grain allotment is preserved with vegetative cover as authorized by the regulations in Part 719 of this chapter, as amended.

(f) *Allotment protection.* Producers otherwise eligible for payment may elect by September 1 of the current year to limit the acres for deficiency payment to the feed grain planted and considered planted acreage in order to protect the feed grain allotment from reduction due to failure to plant. The acres of each feed grain on which payment will be made shall be proportionate to the allotment for each such feed grain.

(g) *Unearned payments.* Payments to any producer which exceed the total payment he earns under the program with respect to any farm shall be refunded to the Commodity Credit Corporation, and, if for any reason such earned payment is zero, he shall pay interest at the rate of 6 percent per annum on the amount of the refund from the issue dates of the sight drafts to the date the payments are refunded. The provisions of the foregoing sentence requiring the payment of interest when no payment is earned shall not apply if the producer earns any wheat or upland cotton payments for the farm or receives an unearned payment through no fault of his own.

§ 775.16 *Deficiency payments.*

(a) Deficiency payments shall be determined by multiplying the allotment for each commodity by the applicable farm yield established as provided in § 775.9 and by the applicable per bushel rate determined in accordance with § 775.10(a); *Provided*, That no deficiency payment shall be made for any part of the allotment times the yield for which a disaster payment is made.

(b) Deficiency payments will be made to producers as soon as practicable after March 1 following the current year.

§ 775.17 *Disaster payments.*

Producers may qualify for disaster payments only when the county committee determines that prevented planting or a low yield as hereinafter described in this section occurs because of drought, flood, or other natural disaster or condition beyond the control of the

producer. Disaster payments shall be made as soon as practicable after the disaster is reported, the extent of the crop loss is determined, and payment is approved.

(a) *Prevented planting.* (1) The acreage for prevented planting payments shall be determined by grouping the farm's feed grain and wheat allotments together and shall equal the smaller of:

(i) the acreage of annual nonconserving crops the producer is prevented from planting; or

(ii) the amount that the sum of feed grain and wheat allotments exceeds the total acreage of annual nonconserving crops, excluding acreage within the applicable allotment of commodities other than feed grains and wheat, acreage disregarded for low yield purposes according to paragraph (b)(1)(i) thru (iii) of this section, and failed upland cotton acreage which could have been replanted but was not.

(2) Prevented planting payments shall be determined by:

(i) Crediting the acreage for payment first to the underplanting of the allotment for the crop with the highest per acre payment rate and continuing in order of the size of the payment rate, but limiting the acreage credited to feed grains to the total feed grain underplanting.

(ii) Reducing the acreage otherwise credited to each crop by the acreage of that crop disregarded for low yield purposes according to paragraph (b)(1)(i) thru (iii) of this section.

(iii) Multiplying the acreage credited to each feed grain by the applicable yield established as provided in § 775.9 and by the applicable per bushel rate determined in accordance with § 775.10(b).

(b) *Low Yields.* (1) For the purpose of determining eligibility for low yield payments and the total acreage on which such payments will be made, the "disaster allotment" for each feed grain means the effective allotment for such feed grain adjusted downward to the extent it is underplanted or adjusted upward to the extent it is overplanted as a substitute for an underplanted feed grain or wheat allotment established for the farm; *Provided*, That such adjustment shall disregard:

(i) Barley or wheat acreage designated solely for grazing or nonfeed use in accordance with instructions issued by the Deputy Administrator,

(ii) Failed feed grain or wheat acreage which could have been replanted but was not,

(iii) Barley or wheat acreage planted to a variety bred to produce no grain, and

(iv) Feed grain or wheat acreage designated solely for wildlife use in accordance with instructions issued by the Deputy Administrator.

(2) For low yield payment purposes, the county committee shall disregard the production from the disregarded acreage as well as production from acreage in excess of the disaster allotment which is mechanically destroyed without feed benefit prior to the time most of the crop in the area has reached the following stage of growth:

- (i) *Barley, Headed.*
- (ii) *Corn, Ear shoots begin to emerge.*
- (iii) *Grain Sorghum, Early boot stage.*

(3) A farm shall not be deemed to have suffered a loss which qualifies it for a low yield payment unless the current year production of feed grains totals less than the disaster allotments multiplied by the applicable yields established as provided in § 775.9 and by a factor determined by dividing the 10-year average county yield by the county yield referred to in § 775.8 and multiplying the result by two-thirds: *Provided*, That if county yields are available for less than 10 years the factor shall be based on the number of years available. No county factor shall exceed 0.6667. A farm may qualify for a low yield payment even though it does not qualify under the foregoing provision if (1) the provisions of § 775.9(b) do not result in a reduction in the established yield and (ii) the current year production is less than two-thirds of what the production would be if computed by multiplying the disaster allotment by one of the following:

(a) The smaller of the applicable yield established as provided in § 775.9 or the actual unadjusted average yield for the preceding five years.

(b) The applicable yield established as provided in § 775.9 and:

(1) There is convincing proof that the loss was due to a sudden and identifiable destruction of the crop.

(2) Part of the acreage is substantially unaffected by the disaster, all of which averages at least two-thirds of the established yield, and the county committee determines that but for the disaster the per acre yield for the farm would have been at least two-thirds of the established yield, and

(3) Payment is approved in writing by a representative of the State committee.

(4) The feed grain production from acreage not harvested shall be appraised and added to the actual production for the purpose of determining eligibility for and amount of low yield payments, in accordance with instructions issued by the Deputy Administrator.

(5) Any feed grain acreage destroyed without opportunity for appraisal for which the production was not excluded in paragraph (b) (2) of this section shall be charged with the larger of the established yield or the per acre yield from the harvested acres.

(6) Low yield payments shall be determined for each feed grain by multiplying the disaster allotment by the applicable yield established as provided in § 775.9, subtracting the determined production therefrom, and multiplying the result by the applicable per bushel rate determined in accordance with § 775.10

(b) : *Provided*, That any production of a feed grain in excess of its disaster allotment times established yield shall reduce the bushels for payment by the same amount for another feed grain, beginning first with the feed grain with underproduction that has the highest per bushel payment rate.

§ 775.18 Division of payments and additional provisions relating to tenants and sharecroppers.

The regulations relating to the division of payments and additional provisions relating to tenants and sharecroppers are set forth in Part 794 of this chapter, as amended.

§ 775.19 Successors-in-interest.

(a) In the case of the death, incompetency, or disappearance of any producer whose name appears on Form 516, the payment due him shall be made to his successor as determined in accordance with the regulations in Part 707 of this chapter, as amended.

(b) When any person who had an interest as a producer of feed grains or would have had an interest as a producer if feed grains had been planted (herein called "predecessor") is succeeded on the farm by another producer (herein called "successor") after Form 516 has been filed, the payment to the predecessor and successor shall be divided between them on such basis as they agree is fair and equitable. If such persons are unable to agree to a division of the payment, a fair and equitable division shall be determined by the county committee.

(c) In any case where any payment due any successor producer has previously been paid to the producer who filed Form 516, such payment shall not be paid to the successor producer unless it is recovered from the producer to whom it has been paid or payment is authorized by the Deputy Administrator.

§ 775.20 Misrepresentation and scheme or device.

(a) A producer who is determined by the county committee or the State committee to have erroneously represented any fact affecting a program determination shall not be entitled to payments under the program for the farm with respect to which the representation was made and shall refund to the Commodity Credit Corporation the payments received by him with respect to such farm.

(b) A producer who is determined by the State committee or the county committee with the approval of the State committee, to have knowingly (1) adopted any scheme or device which tends to defeat the purpose of the program, (2) made any fraudulent representation, or (3) misrepresented any fact affecting a program determination shall not be entitled to payments for any farm under the program and shall refund to the Commodity Credit Corporation all payments received by him with respect to the program.

(c) The provisions of this section shall be applicable in addition to any liability under criminal and civil fraud statutes.

§ 775.21 Setoffs and assignments.

(a) *Producer indebtedness.* The regulations issued by the Secretary governing setoffs and withholdings, Part 13 of this chapter, as amended, shall be applicable to this program.

(b) *Assignments.* Payments may be assigned only to the Farmers Home Administration in accordance with instructions issued by the Deputy Administrator.

§ 775.22 Appeals.

A producer may obtain reconsideration and review of determinations made under this subpart in accordance with the Appeal Regulations, Part 780 of this chapter, as amended.

§ 775.23 Performance based upon advice or action of county or State committee.

The provisions of Part 790 of this chapter, as amended, relating to performance based upon action or advice of an authorized representative of the Secretary shall be applicable to this subpart.

§ 775.24 Supervisory authority of State committee.

The State committee may take any action required by these regulations which has not been taken by the county committee. The State committee may also (a) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with the regulations of this subpart, or (b) Require a county committee to withhold taking any action which is not in accordance with the regulations of this subpart.

§ 775.25 Delegation of authority.

No delegation herein to a State or county committee shall preclude the Administrator, ASCS, or his designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

Effective date. It is essential that the foregoing regulations governing the Feed Grain Program for Crop Years 1975-77 be made effective as soon as possible. It is hereby found and determined that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Accordingly, these regulations shall become effective November 11, 1975.

Signed at Washington, D.C. on November 3, 1975.

E. J. PERSON,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 75-30377 Filed 11-10-75; 8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Docket No. AO-267-A8]

PART 911—HANDLING OF LIMES GROWN IN FLORIDA

Order Amending Order

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and

in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and each previously issued amendment thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed amendment of the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida.

Upon the basis of the record it is found that:

(1) The marketing agreement and order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The marketing agreement and order, as amended, and as hereby further amended, regulate the handling of limes grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The marketing agreement and order, as amended, and as hereby further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of limes grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of limes grown in the production area as defined in the marketing agreement and order, as amended, and as hereby further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Determinations.* It is hereby determined that:

(1) The "Marketing Agreement, as Amended, Regulating the Handling of Limes Grown in Florida" upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping limes covered by the said order, as amended, and as hereby further amended) who, during the period April 1, 1974, through March 31, 1975, handled

not less than 50 percent of the volume of such limes covered by the said order, as amended, and as hereby further amended, and

(2) The issuance of this amendatory order, amending the aforesaid order, as amended, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the period April 1, 1974, through March 31, 1975 (which has been deemed to be a representative period), have been engaged within the production area, in the production of limes for market, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of limes grown in Florida, shall be in conformity to and in compliance with the terms and conditions of the said order, as amended, and as hereby further amended, as follows:

1. Revise paragraphs (b) (1), (2), and (3) of § 911.22 *Nomination* to read as follows:

§ 911.22 *Nomination.*

(b) *Successor members.* (1) The committee shall hold or cause to be held a meeting or meetings of growers and handlers in each district to designate nominees for successor members and alternate members of the committee, or the committee may conduct nominations by mail in District 2 in a manner recommended by the committee and approved by the Secretary. Such nominations shall be submitted to the Secretary by the committee not later than February 15 of each year. The committee shall prescribe procedural rules, not inconsistent with the provisions of this section, for the conduct of nominations.

(2) Only growers may participate in the nomination and election of nominees for grower members and their alternates. Each grower shall be entitled to cast only one vote for each nominee to be elected in the district in which he produces limes. No grower shall participate in the election of nominees in more than one district in any one fiscal year.

(3) Only handlers may participate in the nomination and election of nominees for handler members and their alternates. Each handler shall be entitled to cast only one vote for each nominee to be elected in the district in which he handles limes, which vote shall be weighted by the volume of limes shipped by such handler during the immediately preceding twelve month period January through December. No handler shall participate in the election of nominees in more than one district in any one fiscal year.

2. Revise § 911.41(b) *Assessments* to read as follows:

§ 911.41 *Assessments.*

(b) The Secretary shall fix the rate of assessment not in excess of 20 cents per 55 pounds of fruit to be paid by each such person. At any time during or after a fiscal year, the Secretary may, subject to the limitations in this paragraph, increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expense which may be incurred. Such increase shall be applied to all fruit handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance.

3. Revise § 911.45 *Marketing research and development* to read as follows:

§ 911.45 *Production research, marketing research and development.*

The committee may, with the approval of the Secretary, establish or provide for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of limes. Such projects may provide for any form of marketing promotion, including paid advertising. The expenses of such projects shall be paid from funds collected pursuant to the applicable provisions of § 911.41.

4. Amend § 911.48 *Issuance of regulation* as follows:

Renumber paragraphs (a) (3), (a) (4), and (a) (5), as paragraphs (a) (4), (a) (5), and (a) (6), and insert a new paragraph (a) (3) to read as follows:

§ 911.48 *Issuance of regulation.*

(a) * * *

(3) Limit the shipment of the total quantity of limes by prohibiting the shipment thereof: *Provided*, That no such prohibition shall be effective during any fiscal period other than for four periods not exceeding six days each immediately prior to, including, or following July 4, Labor Day, Thanksgiving Day, and Christmas Day.

5. Revise § 911.57 *Overshipments* to read as follows:

§ 911.57 *Overshipments.*

During any week for which the Secretary has fixed the total quantity of limes which may be handled, any person who has received an allotment including any handler who received zero allotment computed pursuant to §§ 911.55 and 911.56 may handle, in addition to the total allotment available to him, an amount of limes equal to 50 bushels or two percent of such total allotment, whichever is the greater, except that during two weeks of each regulatory period any handler may overship his total allotment by more than such amount: *Provided*, That such overship-

ment shall not exceed an amount equal to 10 percent of such total allotment; *And provided, further*, That each handler who intends to so overship notifies the committee of his intended overshipment no later than the close of business on Thursday during the week of such intended overshipment.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: December 22, 1975.

Signed at Washington, D.C., on November 5, 1975.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc. 75-30311 Filed 11-10-75; 8:45 am]

[Docket No. AO-254-A7]

PART 915—HANDLING OF AVOCADOS GROWN IN SOUTH FLORIDA

Order Amending Order

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and each previously issued amendment thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon a proposed amendment of the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida.

Upon the basis of the record it is found that:

(1) The marketing agreement and order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The marketing agreement and order, as amended, and as hereby further amended, regulate the handling of avocados grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The marketing agreement and order, as amended, and as hereby further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the

production area would not effectively carry out the declared policy of the act;

(4) The marketing agreement and order prescribe, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the difference in the production and marketing of avocados grown in the production area; and

(5) All handling of avocados grown in the production area as defined in the marketing agreement and order, as amended, and as hereby further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Determinations.* It is hereby determined that:

(1) The "Marketing Agreement, as Amended, Regulating the Handling of Avocados Grown in South Florida" upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping avocados covered by the said order, as amended, and as hereby further amended) who, during the period April 1, 1974, through March 31, 1975, handled not less than 50 percent of the volume of such avocados covered by the said order, as amended, and as hereby further amended, and

(2) The issuance of this amendatory order, amending the aforesaid order, as amended, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the period April 1, 1974, through March 31, 1975 (which has been deemed to be a representative period), have been engaged within the production area, in the production of avocados for market, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of avocados grown in South Florida, shall be in conformity to and in compliance with the terms and conditions of the said order, as amended, and as hereby further amended, as follows:

1. Revise paragraphs (b) (1), (2) and (3) of § 915.22 *Nomination* to read as follows:

§ 915.22 *Nomination.*

(b) *Successor members.* (1) The committee shall hold or cause to be held a meeting or meetings of growers and handlers in each district to designate nominees for successor members and alternate members of the committee; or the committee not later than February 15 mail in District 2 in a manner recommended by the committee and approved by the Secretary. Such nominations shall be submitted to the Secretary by the committee not later than February 15

of each year. The committee shall prescribe procedural rules, not inconsistent with the provisions of this section, for the conduct of nomination.

(2) Only growers may participate in the nomination and election of nominees for grower members and their alternates. Each grower shall be entitled to cast only one vote for each nominee to be elected in the district in which he produced avocados. No grower shall participate in the election of nominees in more than one district in any one fiscal year.

(3) Only handlers may participate in the nomination and election of nominees for handler members and their alternates. Each handler shall be entitled to cast only one vote for each nominee to be elected in the district in which he handles avocados, which vote shall be weighted by the volume of avocados shipped by such handler during the immediately preceding twelve month period January through December. No handler shall participate in the election of nominees in more than one district in any one fiscal year.

2. Amend § 915.41(b) *Assessments* to read as follows:

§ 915.41 *Assessments.*

(b) The Secretary shall fix the rate of assessment not in excess of 20 cents per 55 pounds of fruit to be paid by each such person. At any time during or after a fiscal year, the Secretary may, subject to the limitation in this paragraph, increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expense which may be incurred. Such increase shall be applied to all fruit handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance.

3. Revise § 915.45 *Marketing research and development* to read as follows:

§ 915.45 *Production research, marketing research and development.*

The committee may, with the approval of the Secretary, establish or provide for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of avocados. Such projects may provide for any form of marketing promotion, including paid advertising. The expenses of such projects shall be paid from funds collected pursuant to the applicable provisions of § 915.41.

4. The following new section is added immediately following § 911.45:

§ 915.49 *Marketing policy.*

Each season prior to making any recommendations pursuant to § 915.50, the committee shall submit to the Secretary a report setting forth its marketing policy for the ensuing season. Such marketing policy report shall contain information relative to (a) the estimated total production of avocados within the

production area; (b) the expected general quality and maturity of avocados in the production area and in competing areas; (c) the expected demand conditions for avocados in different market outlets; (d) the expected shipments of avocados produced in the production area and competing areas; (e) supplies of competing commodities; (f) trend and level of consumer income; (g) other factors having a bearing on the marketing of avocados; and (h) the type of regulations expected to be recommended during the season. In the event it becomes advisable, because of changes in the supply and demand situation for avocados, to modify substantially such marketing policy, the committee shall submit to the Secretary a revised marketing policy report setting forth the information prescribed in this section. The committee shall publicly announce the contents of each marketing policy report and copies thereof shall be maintained in the offices of the committee where they shall be available for examination by growers and handlers.

5. Amend § 915.51 *Issuance of regulations* as follows:

Renumber paragraphs (a) (3), (a) (4), and (a) (5) as paragraphs (a) (4), (a) (5), and (a) (6), and insert a new paragraph (a) (3) to read as follows:

§ 915.51 *Issuance of regulations.*

(a) * * *

(3) Limit the shipment of the total quantity of avocados by prohibiting the shipment thereof: *Provided*, That no such prohibition shall be effective during any fiscal period, other than for four periods not exceeding six days each immediately prior to, including, or following July 4, Labor Day, Thanksgiving Day, and Christmas Day.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: December 22, 1975.

Signed at Washington, D.C., on November 5, 1975.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc. 75-30312 Filed 11-10-75; 8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

[CCC Grain Price Support Regulations, 1970 and Subsequent Crops Grain Sorghum Supplement, Amendment 4]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1970 and Subsequent Crops Grain Sorghum Loan and Purchase Program

ADJUSTMENT IN SUPPORT RATES FOR SHIPMENT

The regulations issued by the Commodity Credit Corporation (CCC), published in the FEDERAL REGISTER at 35 FR 10745, as amended, containing provisions

for price support loans and purchases applicable to the 1970 and subsequent crops grain sorghum are further amended as follows:

1. Section 1421.214(d) is revised to delete "at not to exceed the USGA rates", to read as follows:

§ 1421.214 *Warehouse receipts.*

(d) **LIENS.** Warehouse receipts and sorghum represented thereby stored in an approved warehouse operating under the Uniform Grain Storage Agreement (UGSA) may be subject to liens only for warehouse handling charges. However, in no event shall a warehouseman be entitled to satisfy the lien by sale of the sorghum when CCC is holder of the warehouse receipt.

2. Since storage is no longer on a uniform-rate basis, it is desirable to delete all references to USGA rates and insert "truck receiving and rail loading-out charges in effect for the shipping warehouse". Accordingly § 1421.218(b) is revised to read as follows, and § 1421.218(c) (2) is revised to increase the add-on rate for grain stored within the switching limits of designated terminal markets, to read as follows:

§ 1421.218 *Support rates.*

(b) *Basic support rates for warehouse-stored grain sorghum received by rail or utilizing combination barge-rail rates—*

(1) *When shipped by rail and stored in-transit at interior locations.* The applicable basic support rate for warehouse-storage loans on grain sorghum which was received by rail and stored in an approved warehouse at other than a port terminal market shall be determined by adding to the basic support rate established for the county from which the grain sorghum was shipped, the amount of freight charges per hundred weight actually paid in and an amount equal to the truck receiving and rail loading-out charges in effect for the shipping warehouse, computed on a hundredweight basis to the nearest one-half cent. The freight rate paid into the storage point shall not exceed the lowest rate which will permit the storage intransit privilege and protect the lowest single car rate applying from origin through point of storage to a terminal market designated in paragraph (c) (2) of this section that would be used in commercial channels of trade. If the grain sorghum is stored in an approved warehouse at a transit point which takes a penalty by reason of backhaul or out-of-line movement when destined to a designated terminal market that would be used in commercial channels of trade, such penalty or cost by reason of such movement shall be deducted from the support rates as determined in this paragraph.

(2) *When shipped by rail and stored at designated port terminal market locations.* The applicable basic support rate for warehouse-storage loans on grain sorghum which was received by rail and

stored in an approved warehouse at a port terminal market designated in paragraph (c) (2) (iii) of this section shall be determined by adding to the basic support rate established for the county from which the grain sorghum was shipped, the amount of freight charges per hundredweight actually paid in and an amount equal to the truck receiving and rail loading-out charges in effect for the shipping warehouse computed on a hundredweight basis to the nearest one-half cent. The freight rate paid into the storage point shall not exceed the lowest applicable freight rate to the port terminal market that would be used in commercial channels of trade.

(3) *When shipped utilizing combination barge-rail rates.* The applicable basic support rate for warehouse-storage loans on grain sorghum which was shipped utilizing combination barge-rail freight rates which are published and on file with the Interstate Commerce Commission and stored in an approved warehouse shall be determined by adding to the basic support rate established for the county from which the grain sorghum was shipped, the amount of freight charges per hundredweight actually paid in and an amount equal to the truck receiving and rail loading-out charges in effect for the shipping warehouse, computed on a hundredweight basis to the nearest one-half cent. The freight rate paid into the storage point shall be a rate which will permit the storage intransit privilege and protect the lowest single car or barge freight rate applying from origin point through point of storage to one of the interior or port terminal markets designated in paragraph (c) (2) of this section that would be used in commercial channels of trade. If the grain sorghum is stored in an approved warehouse at a transit point which takes a penalty by reason of backhaul or out-of-line movement when destined to the designated interior or port terminal market that would be used in commercial channels of trade, such penalty or cost by reason of such movement shall be deducted from the support rates as determined in this paragraph.

(4) *When shipped by rail through an unapproved warehouse.* The applicable basic support rate for warehouse storage loans on sorghum which was received by rail, shipped through an unapproved warehouse and stored in an approved warehouse at a terminal market designated in paragraph (c) (2) (iii) of this section shall be determined by adding to the basic support rate established for the county from which the sorghum was shipped, the amount of freight charges per hundredweight actually paid in and truck receiving and rail loading-out charges. The county office shall determine receiving and loading-out charges by obtaining the truck receiving and rail loading-out charges from approved warehouses in the local area from which the sorghum was shipped. An average of these charges shall become the truck receiving and rail loading-out charge to be added on. The freight paid into the storage point shall be the lowest applicable

freight rate to the port terminal market that would be used in commercial channels of trade.

(c) *Basic support rates for warehouse-stored grain sorghum received by truck or nontariff barge.* * * *

(2) *Stored within the switching limits of designated terminal markets.* (1) The applicable basic county support rate for warehouse-storage loans on grain sorghum which was received by truck or by barge not utilizing combination barge-rail freight rates, and stored in an approved warehouse located within the switching limits of a terminal market designated in subdivision (ii) or (iii) of this subparagraph shall be determined by adding 14.25 cents per hundredweight to the basic county support rate established for the county (or city) in which the terminal market is located.

Since grain sorghum is currently being harvested in many parts of the sorghum-producing area and the provisions of this amendment are needed to carry out the loan program more effectively, compliance with the notice of proposed rulemaking would be impractical and contrary to the public interest. Therefore, this amendment is issued without following such procedure.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 105, 401, 63 Stat. 1061, as amended (7 U.S.C. 1411 Note and 1421))

Effective date: November 11, 1975.

Signed at Washington, D.C., on November 3, 1975.

E. J. PERSON,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 75-30379 Filed 11-10-75; 9:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—LOANS PRIMARILY FOR PRODUCTION PURPOSES

[PmHA Instruction 441.1]

PART 1831—OPERATING LOANS

Subpart A—Operating Loan Policies and Authorizations

YOUTH LOAN PROGRAM

On June 5, 1975, there was published in the FEDERAL REGISTER (40 FR 24204) a notice of proposed rulemaking to revise §§ 1831.4(e), 1831.5(h), and 1831.12 (g) of Subpart A of Part 1831, Title 7, Code of Federal Regulations. Interested persons were invited to submit written comments, suggestions or objections regarding the proposed amendment. All comments submitted with respect to the proposed revisions were given due consideration.

As a result of the comments received, certain proposed changes published in the FEDERAL REGISTER notice of proposed rulemaking of June 5, 1975 (40 FR 24204) are being adopted without change, except § 1831.5 was changed to grant an exception to recipients of youth loans from the general eligibility requirement for operating loans that the

recipient must be operating not larger than the equivalent of a family farm as an owner or tenant and § 1831.12 was changed to require a cosigner for all youth loans greater than \$2,500.

Accordingly, with this change the proposed revisions are adopted as set forth below:

Effective date. This revision is effective November 11, 1975.

Dated: November 4, 1975.

It is hereby certified that the economic and inflationary effects of this proposal have been carefully evaluated in accordance with Executive Order 11821.

FRANK W. NAYLOR, Jr.,
Acting Administrator,
Farmers Home Administration.

1. Sections 1831.4(e), 1831.5(h), and 1831.12(g), are revised to read as follows:

§ 1831.4 Definition of a family farm.

(e) *Rural youths.* Applicants who have reached the age of 10 years but have not reached the age of 21 and who do not reside in any area in any city or town which has a population in excess of ten thousand inhabitants.

§ 1831.5 Eligibility requirements.

(h) Loans may be made to rural youths without regard to the requirements of paragraphs (c) and (f) of this section. All youth projects must be recommended by their project advisor. In addition, youths who have not reached their majority, as set forth by State regulations will obtain their parent's or guardian's favorable recommendation for the loan. All recommendations will be in writing and filed with the application in the County Office case file.

§ 1831.12 Security policies.

(g) The security requirements for loans to rural youths will be the same as required for other Operating loans. In addition, all youth loans greater than \$2,500 will be cosigned. In exceptional cases the loan approval official may require a cosigner for loans of \$2,500 and less if he determines such action is necessary to assure repayment of the loan. (7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

[FR Doc. 75-30380 Filed 11-10-75; 8:45 am.]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-NW-36-AD; Amdt. 39-2421]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707-300, -300B, -300C, and -400 Series Airplanes

Amendment 39-2074 (40 FR 3287) AD 75-03-01 requires inspections of the up-

per wing skin splice plate at W.S. 360 on Boeing 707-300, -300B, -300C, and -400 series airplanes, with more than a specified number of landings since new, or since fastener holes were oversized. After issuing Amendment 39-2074, two six foot cracks and a 13 inch crack were found after the required inspections failed to detect these cracks. A telegraphic AD was issued on October 17, 1975, to require a one time inspection in accordance with improved inspection techniques on airplanes with more than the specific hours since new. This telegraphic AD included airplanes previously exempted from Amendment 39-2074 because of fastener hole oversizing. Accordingly, Amendment 39-2074 which requires repetitive inspections of the upper wing skin splice plate is being amended to require the improved inspection techniques on 707-300/400 with 13,000 or more landings since new, on 707-300B with 11,000 or more landings since new and on 707-300C with 8,000 or more landings since new. Airplanes which had fastener holes oversized per Boeing Service Bulletin No. 2510, Part IV will no longer be exempted.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697) § 39.13 of the Federal Aviation Regulations, Amendment 39-2074, AD 75-03-01 is amended by superseding the applicability block, paragraph A and B with the following. Paragraphs C, D, and E of Amendment 39-2074 remain unchanged.

BOEING: Applies to all Boeing Model 707-300, -300B, -300C, and -400 series airplanes listed in Boeing Service Bulletin No. 3157, Revision 4, or later FAA approved revisions upon the accumulation of the following number of landings since new:

Models: 707-300, -400, 13,000 or more landings; 707-300B, 11,000 or more landings; 707-300C, 8,000 or more landings.

Compliance required as indicated. To detect cracks in the upper wing skin splice plate at W.S. 360, accomplish the following:

A. Within the next 50 landings, unless accomplished with the last 350 landings, and at intervals thereafter not to exceed 400 landings, inspect the upper wing splice plate at station 360 in accordance with (1), (2), or (3) below. Special attention should be focused in the area of stringer 11 as it is in the high stressed area of the splice plate. If cracks are found, repair prior to further flight in accordance with paragraph B below.

(1) X-ray inspect per Boeing Service Bulletin No. 3157, Revision 3 and visually inspect the splice plate by removing the aerodynamic sealant between the wing skins from front to rear spar. This inspection method is acceptable for only two successive inspections after the effective date of this amendment.

(2) Low frequency eddy current inspect as specified in Boeing Service Bulletin No. 3157, Revision 4, or later FAA approved revisions.

(3) Inspect in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

B. If cracks are found, repair prior to further flight in accordance with Boeing Serv-