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## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 400

RIN 0563-AB26

#### General Administrative Regulations; Collection and Storage of Social Security Account Numbers and Employer Identification Numbers

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

**SUMMARY:** The regulations contained in this subpart are issued pursuant to the Federal Crop Insurance Act, as amended (FCIA) (7 U.S.C. 1501 *et seq.*). The intended effect of this revision is to comply with the statutory mandate that requires the collection of Social Security Number (SSN) and Employer Identification Number (EIN) information of participating agents, loss adjusters, and policyholders and to establish the procedures to be used by the Federal Crop Insurance Corporation (FCIC) and insurance providers in the collection, use, and storage of documents containing SSN or EIN information.

**EFFECTIVE DATE:** June 26, 1997.

**FOR FURTHER INFORMATION CONTACT:** Bill Smith, Supervisory Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, Mo 64131, telephone (816) 926-7743.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

The Office of Management and Budget (OMB) has determined this rule to be not significant for the purpose of Executive Order 12866, and, therefore, has not been reviewed by OMB.

### Paperwork Reduction Act of 1995

Following publication of the proposed rule, the public was afforded 60 days to submit written comments and opinions on information collection requirements previously approved by OMB under OMB control number 0563-0047, through November 30, 1999. No public comments were received.

### Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandate (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

### Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The policies and procedures contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of Government.

### Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions in the rule will not impact small entities to a greater extent than larger entities. The action does not increase the paperwork burden on the insured producer or the reinsured company. The program is strictly voluntary. This regulation requires only that the participant provide the SSN or EIN. This regulation does not require or impose any requirement on the delivery agent or company that is not already required by the Privacy Act of 1974 (5 U.S.C. 552a). Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

### Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

### Environmental Evaluation

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

### National Performance Review

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

### Background

On Wednesday, January 15, 1997, FCIC published a proposed rule in the **Federal Register** at 62 FR 2052-2055 to amend the General Administrative Regulations (7 CFR part 400, subpart Q). Following publication of that proposed rule, the public was afforded 60 days to submit written comments and opinions. No public comments were received.

In addition to the proposed changes, FCIC is making the following changes to this subpart:

1. Section 400.405 (b) and (c) are being amended to clarify that it is the agent or loss adjuster's SSN which must be provided. The meaning of "premium

subsidy payable" in paragraph (c) is also being clarified.

#### List of Subjects in 7 CFR part 400

Collection and storage of social security account numbers and employer identification numbers, Crop insurance, General administrative regulations.

#### Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR part 400, subpart Q as follows:

#### PART 400—GENERAL ADMINISTRATIVE REGULATIONS

##### Subpart Q—Collection and Storage of Social Security Account Numbers and Employer Identification Numbers

1. The authority citation for 7 CFR part 400, subpart Q, is revised to read as follows:

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

2. Section 400.401 is amended by revising paragraphs (a), (b)(1), (2), (3) and (4) to read as follows:

##### § 400.401 Basis and purpose and applicability.

(a) The regulations contained in this subpart are issued pursuant to the Act to prescribe procedures for the collection, use, and confidentiality of Social Security Numbers (SSN) and Employer Identification Numbers (EIN) and related records.

(b) \* \* \*

(1) All holders of crop insurance policies issued by FCIC under the Act and sold and serviced by local FSA offices.

(2) All holders of crop insurance policies sold by insurance providers and all insurance providers, their contractors and subcontractors, including past and present officers and employees of such companies, their contractors and subcontractors.

(3) Any agent, general agent, or company, or any past or present officer, employee, contractor or subcontractor of such agent, general agent, or company under contract to FCIC or an insurance provider for loss adjustment or any other purpose related to the crop insurance programs insured or reinsured by FCIC; and

(4) All past and present officers, employees, elected officials, contractors, and subcontractors of FCIC and FSA.

3. Section 400.402, is revised to read as follows:

##### § 400.402 Definitions.

*Act*—The Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*).

*Applicant*—A person who has submitted an application for crop insurance coverage under the Act.

*Authorized person*—Any current or past officer, employee, elected official, general agent, contractor, or loss adjuster of FCIC, the insurance provider, or any other government agency whose duties require access to administer the Act.

*Disposition of records*—The act of removing and disposing of records containing a participant's SSN or EIN by FCIC, or the insurance provider.

*FCIC*—The Federal Crop Insurance Corporation of the United States Department of Agriculture or any successor agency.

*FSA*—The Farm Service Agency of the United States Department of Agriculture, or a successor agency.

*Insurance provider*—A private insurance company approved by FCIC, or a local FSA office providing crop insurance coverage to producers participating in any program administered under the Act.

*Past officers and employees*—Any officer or employee of FCIC or the insurance provider who leaves the employ of FCIC or the insurance provider subsequent to the effective date of this rule.

*Person*—An individual, partnership, association, corporation, estate, trust, or other legal entity, and whenever applicable, a state, political subdivision, or an agency of a state.

*Policyholder*—An applicant whose application for insurance under the crop insurance program has been accepted by FCIC or the insurance provider.

*Retrieval of records*—Retrieval of a person's records by that person's SSN or EIN, or name.

*Safeguards*—Methods of security to be employed by FCIC or the insurance provider to protect a participant's SSN or EIN from unlawful disclosure and access.

*Storage*—The secured storing of records kept by FCIC or the insurance provider on computer disks or drives, computer printouts, magnetic tape, index cards, microfiche, microfilm, etc.

*Substantial beneficial interest*—Any person having an interest of at least 10 percent in the applicant or policyholder.

*System of records*—Records established and maintained by FCIC or the insurance provider containing SSN or EIN data, name, address, city and State, applicable policy numbers, and other information related to multiple peril crop insurance policies as required by FCIC, from which information is retrieved by a personal identifier including, but not limited to the SSN, EIN, or name.

4. Section 400.403 is revised to read as follows:

##### § 400.403 Required system of records.

Insurance providers are required to implement a system of records for obtaining, using, and storing documents containing SSN or EIN data before they accept or receive any applications for insurance. This data should include: name; address; city and state; SSN or EIN; and policy numbers which have been used by FCIC or the insurance provider.

5. Section 400.404 is revised to read as follows:

##### § 400.404 Policyholder responsibilities.

(a) The policyholder or applicant for crop insurance must provide a correct SSN or EIN to FCIC or the insurance provider to be eligible for insurance. The SSN or EIN will be used by FCIC and the insurance provider in:

(1) Determining the correct parties to the agreement or contract;

(2) Collecting premiums or other amounts due FCIC or the insurance provider;

(3) Determining the amount of indemnities;

(4) Establishing actuarial data on an individual policyholder basis; and

(5) Determining eligibility for crop insurance program participation or other United States Department of Agriculture benefits.

(b) If the policyholder or applicant for crop insurance does not provide the correct SSN or EIN on the application and other forms where such SSN or EIN is required, FCIC or the reinsured company shall reject the application.

(c) The policyholder or applicant is required to provide to FCIC or the insurance provider, the name and SSN or EIN of any individual or other entity:

(1) holding or acquiring a substantial beneficial interest in such policyholder or applicant; or

(2) having any interest in the policyholder or applicant and receiving separate benefits under another United States Department of Agriculture program as a direct result of such interest.

(d) If a policyholder or applicant is using an EIN for a policy in an individual person's name, the SSN of the policyholder or applicant must also be provided.

##### §§ 400.405 through 400.412 [Redesignated as §§ 400.406 through 400.413].

6. Sections 400.405 through 400.412 are redesignated as sections 400.406 through 400.413, respectively.

Sections 400.405 through 400.412 are redesignated as follows:

Old section	New section
400.405 .....	400.406
400.406 .....	400.407
400.407 .....	400.408
400.408 .....	400.409
400.409 .....	400.410
400.410 .....	400.411
400.411 .....	400.412
400.412 .....	400.413

7. Section 400.405 is added to read as follows:

**§ 400.405 Agent and loss adjuster responsibilities.**

(a) The agent or loss adjuster shall provide his or her correct SSN to FCIC or the insurance provider, whichever is applicable, to be eligible to participate in the crop insurance program. The SSN will be used by FCIC and the insurance provider in establishing a database for the purposes of:

- (1) Identifying agents and loss adjusters on an individual basis;
- (2) Evaluating agents and loss adjusters to determine level of performance;
- (3) Determining eligibility for program participation; and
- (4) Collection of any amount which may be owed by the agent and loss adjuster to the United States.

(b) If the loss adjuster contracting with FCIC to participate in the crop insurance program does not provide his or her correct SSN on forms or contracts where such SSN is required, the loss adjuster's contract will be cancelled effective on the date of refusal and the loss adjuster will be subject to suspension and debarment in accordance with the suspension and debarment regulations of the United States Department of Agriculture.

(c) If the agent or loss adjuster contracting with an insurance provider, who is also a private insurance company, to participate in the crop insurance program does not provide his or her correct SSN on forms or contracts where such SSN is required, the premium subsidy payable for administrative and operating expenses under the Standard Reinsurance Agreement, or any other reinsurance agreement, will not be paid on those policies lacking the correct SSN.

8. Redesignated § 400.406 is revised to read as follows:

**§ 400.406 Insurance provider responsibilities.**

The insurance provider is required to collect and record the SSN or EIN on each application or on any other form required by FCIC.

9. Redesignated § 400.407 is revised to read as follows:

**§ 400.407 Restricted access.**

The Manager, other officer, or employee of FCIC or an authorized person may have access to the SSNs and EINs obtained pursuant to this subpart, only for the purpose of establishing and maintaining a system of records necessary for the effective administration of the Act.

10. Redesignated § 400.408 is revised to read as follows:

**§ 400.408 Safeguards and storage.**

Records must be maintained in secured storage with proper safeguards sufficient to enforce the restricted access provisions of this subpart.

11. Redesignated § 400.411 is amended by revising the introductory text and paragraph (a) to read as follows:

**§ 400.411 Obtaining personal records.**

Policyholders, agents, and loss adjusters in the crop insurance program will be able to review and correct their records as provided by the Privacy Act. Records may be requested by:

- (a) Mailing a signed written request to the headquarters office of FCIC; the FCIC Regional Service Office, or the insurance provider; or

\* \* \* \* \*

12. Redesignated § 400.412 is revised to read as follows:

**§ 400.412 Record retention.**

(a) FCIC or the insurance provider will retain all records of policyholders for a period of not less than 3 years from the date of final action on a policy for the crop year, unless further maintenance of specific records is requested by FCIC. Final actions on insurance policies include conclusion of insurance events, such as the latest of termination of the policy, completion of loss adjustment, or satisfaction of claim.

(b) The statute of limitations for FCIC contract claims may permit litigation to be instituted after the period of record retention. Destruction of records prior to the expiration of the statute of limitations will not provide a defense to any action by FCIC against any private insurance company.

13. Redesignated § 400.413 is revised to read as follows:

**§ 400.413 OMB control numbers.**

The collecting of information requirements in this subpart has been approved by the Office of Management and Budget and assigned OMB control number 0563-0047.

Signed in Washington, D.C., May 16, 1997.

**Kenneth D. Ackerman,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. 97-13498 Filed 5-23-97; 8:45 am]

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**DEPARTMENT OF AGRICULTURE**

**Federal Crop Insurance Corporation**

**7 CFR Parts 401 and 457**

**General Crop Insurance Regulations, Onion Endorsement; and Common Crop Insurance Regulations, Onion Crop Insurance Provisions**

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of onions. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current Onion Endorsement under the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current Onion Endorsement to the 1997 and prior crop years.

**EFFECTIVE DATE:** May 27, 1997.

**FOR FURTHER INFORMATION CONTACT:** Bill Klein, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926-7730.

**SUPPLEMENTARY INFORMATION:**

**Executive Order No. 12866**

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and, therefore, this rule has not been reviewed by OMB.

**Paperwork Reduction Act of 1995**

Following publication of the proposed rule, the public was afforded 60 days to submit written comments on information collection requirements previously approved by OMB under OMB control number 0563-0003 through September 30, 1998. No public comments were received.