

# Rules and Regulations

Federal Register

Vol. 65, No. 127

Friday, June 30, 2000

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## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Parts 402, 407, and 457

RIN 0563-AB81

#### **Catastrophic Risk Protection Endorsement; Regulations for the 1999 and Subsequent Reinsurance Years; Group Risk Plan of Insurance Regulations for the 2000 and Succeeding Crop Years, and the Common Crop Insurance Regulations; Basic Provisions**

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

**ACTION:** Interim rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) amends the Catastrophic Risk Protection Endorsement (7 CFR part 402), the Group Risk Plan of Insurance Regulations (7 CFR part 407), and the Common Crop Insurance Regulations, Basic Provisions (7 CFR part 457) to revise those provisions affected by the changes in the administrative fees and subsidies and the substitution of yields in the producer's actual production history mandated by the Agricultural Risk Protection Act of 2000.

**EFFECTIVE DATE:** This rule is effective June 28, 2000. Written comments and opinions on this rule will be accepted until the close of business August 29, 2000 and will be considered when the rule is to be made final.

**ADDRESSES:** Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO.

Comments titled "Administrative Fees Due to Legislation" may be sent via the Internet to DirectorPDD@rm.fcic.usda.gov. A copy

of each response will be available for public inspection and copying from 7:00 a.m. to 4:30 p.m., CDT, Monday through Friday, except holidays, at the above address.

**FOR FURTHER INFORMATION CONTACT:** For further information and a copy of the Cost Benefit Analysis, contact Louise Narber, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926-7730.

#### **SUPPLEMENTARY INFORMATION:**

##### **Executive Order 12866**

This rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, is subject to review by the Office of Management and Budget (OMB).

##### **Cost Benefit Analysis**

In accordance with section 6(a)(3)(D) of Executive Order 12866, the Office of Information and Regulatory Affairs, OMB, has been notified Congress has specified that the changes made by this rule are to be effective for the 2001 crop year and that to make this rule effective for the 2001 crop year fall planted crops, this rule must be published by the June 30, 2000, contract change date. A preliminary Cost-Benefit Analysis has been done and is available to interested parties at the Kansas City address above. In summary, the Cost Benefit Analysis found that the benefits provided outweigh associated costs. The crop insurance policy changes contained in this rule are required under the Agricultural Risk Protection Act of 2000. The analysis finds that the increases in the administrative fees for the catastrophic risk protection level of coverage from \$60 per crop per county to \$100 per crop per county, for additional coverage from \$20 per crop per county to \$30 per crop per county, and for limited coverage from \$50 per crop per county, not to exceed \$200 per county, and \$600 for all counties, to \$30 per crop per county with no limits may modestly increase the costs to producers but they will also reduce the overall costs of the program to taxpayers. The analysis also finds that giving producers the option of replacing certain yields in their actual production history (APH) with 60 percent of the transitional yield for the county will result in greater

coverage for producers that have been hardest hit by disasters. Based on the cost benefit analysis and the requirements of the Agricultural Risk Protection Act of 2000, FCIC finds this regulation is in the best interest of the overall crop insurance program.

#### **Small Business Regulatory Enforcement Fairness Act of 1996**

This rule has been designated by the Office of Information and Regulatory Affairs, OMB, as a major rule under the Small Business Regulatory Enforcement Fairness Act of 1996 (Small Business Act). Pursuant to section 808(2), the Manager of FCIC has determined that there is good cause for making this rule effective less than 60 days after submission of the rule to each House of Congress and to the Comptroller General. Congress has specified that the changes made by this rule are to be effective for the 2001 crop year. To be effective for 2001 crop year fall planted crops, the changes must be effective by the June 30, 2000, contract change date. Failure to implement this rule by the June 30 contract change date will result in the disparate treatment of producers with 2001 crop year crops. Therefore, delay of the implementation of this rule to comply with the notice and public procedure requirements of the Small Business Act would be contrary to the public interest.

#### **Paperwork Reduction Act of 1995**

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information for this rule have been previously approved by OMB under control number 0563-0053 through April 30, 2001. The amendments set forth in this rule do not revise the content or alter the frequency of reporting for any of the forms or information collections cleared under the above-referenced docket.

#### **Unfunded Mandates Reform Act of 1995**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) 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 mandates (under the regulatory provisions of title II of UMRA) for State, local, and tribal governments or the private sector.

Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

#### Executive Order 13132

The provisions contained in this rule will not have a substantial direct effect on States, the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, consultation with the States is not required.

#### Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. The regulation does not require any more action on the part of the small entities than is required on the part of large entities. 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. 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 of any determination made by FCIC may be brought.

#### Environmental Evaluation

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

#### Background

This interim rule implements the changes to the crop insurance policies

mandated by the Agricultural Risk Protection Act of 2000. The Agricultural Risk Protection Act of 2000 requires the provisions to be implemented for the 2001 and subsequent crop years. Crop insurance policies with a contract change date prior to the effective date of this rule will not be affected by these provisions. Crop insurance policies with a contract change date on or after the effective date of this rule will receive insurance under the terms of their policy as revised by this rule. Since the changes to the policy made by this rule are required by statute, and the changes must be made by the June 30, 2000, contract change date to be fully implemented for the 2001 crop year, it is contrary to the public interest to publish this rule for notice and comment prior to making the rule effective. However, comments are solicited for 60 days after the date of publication in the **Federal Register** and will be considered by FCIC before this rule is made final.

1. FCIC amends the Catastrophic Risk Protection Endorsement to revise the definition of "approved yield" to allow for the substitution of 60 percent of the transitional yield, change the administrative fee from \$60 to \$100, revise the requirement that the producer pay the administrative fee, and remove all references to limited coverage because, as a result of changes to the subsidy levels and administrative fee, there is no longer a distinction between limited and additional coverage.

2. FCIC amends the Group Risk Plan of Insurance Basic Provisions to remove all references to limited coverage because, as a result of changes to the subsidy levels and administrative fee, there is no longer a distinction between limited and additional coverage; revise the definition of "additional coverage" to incorporate limited coverage; change the administrative fee from \$60 to \$100 for catastrophic risk protection coverage, remove all references to administrative fees for limited coverage, change the administrative fee from \$20 to \$30 for all coverages in excess of catastrophic risk protection; and revise the requirement that the producer pay the administrative fee.

3. FCIC amends the Common Crop Insurance Regulations, Basic Provisions to remove all references to limited coverage because, as a result of changes to the subsidy levels and administrative fee, there is no longer a distinction between limited and additional coverage; revise the definition of "additional coverage" to incorporate limited coverage and the definition of "approved yield" to allow for the substitution of 60 percent of the

transitional yield; remove all references to administrative fees for limited coverage, and change the administrative fee from \$20 to \$30 for all coverages in excess of catastrophic risk protection; and revise the requirement that the producer pay the administrative fee.

#### List of Subjects in 7 CFR Parts 402, 407, and 457

Catastrophic risk protection endorsement, Insurance provisions.

#### Interim Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR parts 402, 407, and 457 as follows:

#### PART 402—CATASTROPHIC RISK PROTECTION ENDORSEMENT

1. The authority citation for 7 CFR part 402 continues to read as follows:

**Authority:** 7 U.S.C. 1506(1), 1506(p).

2. Amend part 402 to revise the part heading as set forth above;

3. Amend § 402.4 as follows:

a. Revise the introductory text of the Catastrophic Risk Protection Endorsement;

b. Amend section 1 of the Catastrophic Risk Protection Endorsement by revising the definition of "approved yield;"

c. Amend section 6 of the Catastrophic Risk Protection Endorsement to revise the introductory text of paragraph (b) and paragraph (b)(1);

d. Amend section 7(a) of the Catastrophic Risk Protection Endorsement by deleting the words "limited or" from the first and last sentence and removing the phrase "unless the maximum administrative fee would be exceeded" from the last sentence.

#### § 402.4 Catastrophic Risk Protection Endorsement Provisions.

The Catastrophic Risk Protection Endorsement Provisions for the 2001 and succeeding crop years are as follows:

\* \* \* \* \*

#### 1. Definitions

\* \* \* \* \*

*Approved yield.* The amount of production per acre computed in accordance with FCIC's actual production history program (7 CFR part 400, subpart G) or for crops not included under 7 CFR part 400, subpart G, the yield used to determine the guarantee in accordance with the Crop Provisions or the Special Provisions, and any adjustments elected in

accordance with section 36 of the Basic Provisions.

\* \* \* \* \*  
6. Annual Premium and Administrative Fees  
\* \* \* \* \*

(b) In return for catastrophic risk protection coverage, you must pay an administrative fee to the insurance provider within 30 days after you have been billed by us, unless otherwise specified in 7 CFR part 400 (You will be billed by the date stated in the Special Provisions);

(1) The administrative fee owed is \$100 for each crop in the county.  
\* \* \* \* \*

**PART 407—GROUP RISK PLAN OF INSURANCE REGULATIONS FOR THE 2001 AND SUCCEEDING CROP YEARS**

1. The authority citation for 7 CFR part 407 continues to read as follows:

**Authority:** 7 U.S.C. 1506(1), 1506(p).

2. Amend part 407 to revise the part heading as set forth above;

3. Amend § 407.9 as follows:

a. Revise the introductory text;

b. Amend the seventh introductory paragraph of Group Risk Plan Common Policy by removing the words, “limited or”;

c. Revise the definition of “additional coverage” in section 1 of the “Group Risk Plan of Insurance Basic Provisions”;

d. Amend section 1 of the Group Risk Plan of Insurance Basic Provisions by removing the definition of “limited coverage”;

e. Amend section 1 of the Group Risk Plan of Insurance Basic Provisions by removing the phrase “as limited and maximum amounts per acre” from the definition of “subsidy”;

f. Amend section 4(a) of the Group Risk Plan of Insurance Basic Provisions by removing the words “limited and” from the second sentence.

g. Amend section 5(a) of the Group Risk Plan of Insurance Basic Provisions by removing the words “limited and” from the second sentence.

h. Revise the introductory text of section 8(a) and paragraph 8(a)(1) of the Group Risk Plan of Insurance Basic Provisions;

i. Revise sections 8(b) and (c) of the Group Risk Plan of Insurance Basic Provisions;

j. Amend section 8(d) of the Group Risk Plan of Insurance Basic Provisions by removing the words “limited and”;

k. Amend section 8(e) of the Group Risk Plan of Insurance Basic Provisions by removing “, limited,”; and

l. Amend the example (after section 20 of the Group Risk Plan of Insurance

Basic Provisions) by removing the last sentence of the first paragraph and the word “limited” from the second sentence of the third paragraph.

The revised paragraphs read as follows:

**§ 407.9 Group risk plan common policy.**

The provisions of the Group Risk Plan Common Policy for the 2001 and succeeding crop years are as follows:  
\* \* \* \* \*

Group Risk Plan of Insurance Basic Provisions

1. Definitions.

\* \* \* \* \*  
*Additional coverage.* For GRP, an amount of protection greater than catastrophic risk protection. The protection is on a per acre basis as specified in the actuarial documents for the crop, practice, and type.  
\* \* \* \* \*

8. Administrative Fees and Annual Premium

(a) If you obtain a catastrophic risk protection GRP policy, you will pay an administrative fee, unless otherwise specified in 7 CFR part 400:

(1) Of \$100 per crop per county;

(b) If you obtain an additional coverage GRP policy, you will pay an administrative fee:

(1) Of \$30 per crop per county;

(2) Payable to the insurance provider on the billing date for the crop.

(c) Limited resource farmers as defined in 7 CFR 457.8 may apply for a waiver of administrative fees.  
\* \* \* \* \*

**PART 457—COMMON CROP INSURANCE REGULATIONS**

1. The authority citation for 7 CFR part 457 continues to read as follows:

**Authority:** 7 U.S.C. 1506(1), 1506(p).

2. Amend § 457.8 in the Common Crop Insurance Policy under Terms and Conditions, Basic Provisions to:

a. Revise the definitions of “Additional coverage” and “Approved yield” in section 1 of the Basic Provisions;

b. Amend section 1 of the Basic Provisions by deleting, “limited,” from the definition of “administrative fee”;

c. Amend section 1 of the Basic Provisions by deleting the definition of “Limited coverage”;

d. Amend section 2(i) of the Basic Provisions by deleting, “ limited,”;

e. Amend the introductory text of section 3(f) of the Basic Provisions by deleting, “limited”;

f. Amend section 3(f)(1) of the Basic Provisions by removing “a limited

coverage policy” and adding in its place “an additional coverage policy”;

g. Amend section 3(f)(2) of the Basic Provisions by removing “limited or” (three times) and revising “policies” to read “policy”;

h. Revise section 7(e)(1) of the Basic Provisions;

i. Remove sections 7(e)(2) and 7 (e)(6) of the Basic Provisions and redesignate paragraphs (e)(3) through (5) as (e)(2) through (4).

j. Amend redesignated section 7(e)(4) of the Basic Provisions by removing the phrase “for limited coverage”;

k. Amend section 17(g) of the Basic Provisions by replacing “a limited or” with “an”; and

l. Amend section 35(a) of the Basic Provisions by replacing “a limited or” with “an”.

m. Add a new section 36 of the Basic Provisions.

The revised and added paragraphs read as follows:

**§ 457.8 The application and policy.**

\* \* \* \* \*  
Terms and Conditions  
Basic Provisions

1. Definitions.

\* \* \* \* \*  
*Additional coverage.* A level of coverage greater than catastrophic risk protection.  
\* \* \* \* \*

*Approved yield.* The actual production history (APH) yield determined in accordance with 7 CFR part 400, subpart G, including any adjustments elected under section 36.  
\* \* \* \* \*

7. Annual Premium and Administrative Fees

(e) \*-\*-\*

(1) You, unless otherwise authorized in 7 CFR part 400, must pay an administrative fee each crop year of \$30 per crop per county for all levels of coverage in excess of catastrophic risk protection.  
\* \* \* \* \*

36. Substitution of Yields.

You may elect to exclude actual yields used to calculate the APH yield that are less than 60 percent of the applicable transitional yield (T-yield), as defined in 7 CFR 400.52. Each excluded actual yield will be replaced with a yield equal to 60 percent of the applicable T-yield for the county. The replacement yields will be used in the same manner as actual yields for the purpose of calculating the APH yield. Premium rates for approved yields that are adjusted under this section will be

based on the producer's yield prior to replacing the actual yields or such other basis as determined appropriate by FCIC.

Signed in Washington, D.C., on June 27, 2000.

**Kenneth D. Ackerman,**  
Manager, Federal Crop Insurance Corporation.

[FR Doc. 00-16583 Filed 6-28-00; 10:03 am]

BILLING CODE 3410-08-P

## FARM CREDIT ADMINISTRATION

### 12 CFR Parts 612 and 614

RIN 3052-AB95

#### Standards of Conduct; Loan Policies and Operations

**AGENCY:** Farm Credit Administration (FCA).

**ACTION:** Direct final rule with opportunity to comment.

**SUMMARY:** The FCA is rewriting its Standards of Conduct regulations in plain language so that they are easier to understand. This direct final rule does not change the requirements of the existing regulations.

**DATES:** Unless we receive significant adverse comment by July 31, 2000, these regulations will be effective 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. The FCA will publish a document in the **Federal Register** to establish the actual effective date. If we receive significant adverse comment on an amendment, paragraph, or section of this rule, and that provision can be addressed separately from the rest of the rule, we will withdraw that amendment, paragraph, or section and adopt as final those provisions of the rule that are not the subject of a significant adverse comment. In that case, we will tell you how we expect to continue with rulemaking on the provisions that were the subject of a significant adverse comment.

**ADDRESSES:** You may send comments by electronic mail to "reg-comm@fca.gov" or through the Pending Regulations section of our Web site at "www.fca.gov." You may also send comments to Patricia W. DiMuzio, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 or by fax to (703) 734-5784. You may review copies of all comments we receive in the Office of Policy and Analysis, Farm Credit Administration.

**FOR FURTHER INFORMATION CONTACT:**  
Dale Aultman, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TDD (703) 883-4444,  
or

Howard Rubin, Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

#### SUPPLEMENTARY INFORMATION:

##### I. Objective

The objective of our proposed amendment is to rewrite the Standards of Conduct regulations to make them easier for the Farm Credit System (System) to understand and to better explain our expectations for high standards of honesty and integrity. We are also amending one of our other regulations so it correctly references our Standards of Conduct regulations.

##### II. Background

###### A. Reasons for Plain Language

We are amending these regulations so you can read and understand them easily. We are guided by a Presidential memorandum dated June 1, 1998, requiring the Federal Government's writing to be in plain language. Eventually we will rewrite all of our regulations in plain language.

###### B. Public Comments

On August 18, 1998, we published a notice in the **Federal Register** that asked you to identify existing regulations and policies that impose unnecessary burdens on the System. See 63 FR 44176. We received comments from four Farm Credit banks, a jointly managed production credit association/Federal land credit association, and the Farm Credit Council on Standards of Conduct issues. Most of the commenters asked that we rewrite the Standards of Conduct regulations in plain language. This direct final rule addresses their request and clarifies our regulations. Director, officer, and employee requirements are now in individual subparts so those persons can find the regulations that apply to them more easily. In addition, we clarify our existing regulations stating that directors, officers, and employees may be subject to civil money penalties and suspensions if they violate their duties.

One Farm Credit Bank asked that we remove our prohibition against Farm Credit bank or agricultural credit bank (collectively, bank) officers also working at an association affiliated with that bank. We are not removing this

prohibition because persons serving in a dual role may not be able to meet the goals and fiduciary duties of both the bank and association.

One bank asked that officers and employees be allowed to act as real estate agents and insurance sales agents when not working at the System institution. The bank did note that those employees must not be allowed to transact business with directors, other officers or employees, borrowers, or loan applicants. We are not removing these prohibitions because System institutions have a direct or indirect involvement in many real estate transactions and also sell insurance. This involvement could cause actual conflicts of interest. Even if there is not an actual conflict of interest, System institutions must avoid the appearance of a conflict of interest that could result if their officers or employees sold real estate or insurance.

Another bank asked that System employees without supervisory or decision-making authorities be exempt from disclosure requirements. The preamble to our Standards of Conduct rule published in the **Federal Register** on May 13, 1994, stated that System institution boards may exempt employees from disclosures when they have a substantial degree of supervision and a low level of responsibility. See 59 FR 24893. We have rewritten our regulation to include this guidance.

##### III. Direct Final Rule

We are amending these regulations by a direct final rulemaking. The Administrative Procedure Act, 5 U.S.C. 551-59, *et seq.* (APA), supports direct final rulemaking, which allows Federal agencies to enact noncontroversial regulations more quickly, without the usual notice and comment period. This process lets us develop, review, and publish a final rule quickly and gives the public an opportunity to comment or object.

In a direct final rulemaking, we tell you the rule will become effective on a specified date unless we receive significant adverse comment during the comment period. If we receive significant adverse comment on an amendment, paragraph, or section of this rule, and that provision can be addressed separately from the rest of the rule, we will withdraw that amendment, paragraph, or section and adopt as final those provisions of the rule that are not the subject of a significant adverse comment. In that case, we will tell you how we expect to continue with rulemaking on the provisions that were the subject of a significant adverse comment.