

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 457

RIN 0563-AC12

### Common Crop Insurance Regulations, Millet Crop Insurance Provisions

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

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) proposes to amend the Common Crop Insurance Regulations, Millet Crop Insurance Provisions to remove the reduction in indemnity for any unharvested millet acreage to better meet the needs of insured producers. The changes will apply for the 2008 and succeeding crop years.

**DATES:** Written comments and opinions on this proposed rule will be accepted until close of business February 26, 2007, and will be considered when the rule is to be made final.

**ADDRESSES:** Interested persons are invited to submit comments, titled "Millet Crop Provisions", by any of the following methods:

- *By Mail to:* Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO 64133-4676.

- *E-mail:* [DirectorPDD@rma.usda.gov](mailto:DirectorPDD@rma.usda.gov).
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

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

**FOR FURTHER INFORMATION CONTACT:** Erin Reid, Risk Management Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, at the Kansas

City, MO, address listed above, telephone (816) 926-7730.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

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

##### Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563-0053 through November 30, 2007.

##### E-Government Act Compliance

FCIC is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

##### 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 the 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

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

##### Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small

entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

##### 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 proposed 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. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

## Environmental Evaluation

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

## Background

FCIC proposes to amend 7 CFR part 457 Common Crop Insurance Regulations by amending § 457.165 Millet crop insurance provisions, to be effective for the 2008 and succeeding crop years.

Currently, the Millet Crop Provisions specify if the millet crop is not swathed and not harvested, the amount of the indemnity payable is reduced 30 percent to reflect those costs not incurred by the producer. In addition, if the millet crop is swathed but not harvested the amount of the indemnity payable is reduced by 15 percent to reflect those costs not incurred by the producer. Historically, millet prices have been very volatile throughout the growing season. The reduction in indemnity payment was designed to provide an incentive for producers to harvest the millet crop regardless of the millet price and avoid the potential for producers to shift losses to the crop insurance policy because the value of the crop insurance exceeded the value of the crop.

The indemnity reduction for unharvested millet acreage has resulted in some insured millet producers choosing to harvest the millet crop when little or no potential production to count exists to avoid the reduced indemnity payment. FCIC has reviewed the situation and has determined that the disadvantage to producers who suffer legitimate losses from the reduction of the indemnity outweighs the potential for the shifting of losses to crop insurance. Accurate appraisals should ensure that producers are only paid for legitimate losses and receive the appropriate amount of indemnity.

As a result of this change, premium rates will have to be increased because the amount of indemnity actually paid will increase and the premium is based on these anticipated losses. These premium rate increases were discussed with millet producers, who indicated a willingness to pay the projected 8–10 percent premium rate increase to remove the unharvested acreage indemnity reduction. The projected premium rate increase may be revised depending upon the experience of the proposed change.

The proposed changes are as follows:

Section 7—FCIC proposes to revise the end of the insurance period dates and to use only one date rather than dual dates. Only one date is necessary for the end of the insurance period for each group of states because of the removal of the unharvested acreage indemnity reduction.

Section 8—In section 8(h), FCIC is proposing to clarify failure of the irrigation water supply that occurs during the insurance period is a covered cause of loss if such failure is due to a cause of loss specified in the Crop Provisions. This makes the Millet Crop Provisions consistent with other Crop Provisions and ensures that only named perils are covered under the policy.

Section 10—FCIC proposes to remove section 10(f) to eliminate the reduction in indemnity for unharvested millet acreage and remove any references to that subsection. FCIC is also proposing to amend the example to correct plural terms to singular and singular terms to plural where necessary.

Section 11—FCIC proposes to amend sections 11(a) and (b) to change the references from “percent” to “percent per day”. Previously the provisions could have been interpreted that the guarantee would be reduced one percent total for the first ten days and three percent total for the following ten days. This makes the provisions consistent with other Crop Provisions.

Section 12—FCIC proposes to amend the second sentence to refer to additional levels of coverage to be consistent with other Crop Provisions.

## List of Subjects in 7 CFR Part 457

Crop insurance, Millet, Reporting and recordkeeping requirements.

## Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 457 to read as follows:

## 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 § 457.165 as follows:

A. Revise the introductory text.

B. Revise section 7.

C. Revise section 8(h).

D. Amend section 10(b)(4) by removing the phrase “and any adjustment from section 10(f)”.

E. Amend paragraph (2) of the example in section 10(b) by removing the phrase “1,500 bushels” and adding the phrase “1,500 bushel” in its place.

F. Amend paragraph (3) of the example in section 10(b) by removing

the phrase “700 bushel” and adding the phrase “700 bushels” in its place.

G. Amend section 10(d)(4)(iii) by removing the semicolon at the end of the current text and adding a period in its place.

H. Remove section 10(f).

I. Amend section 11(a) by adding the phrase “per day” after the phrase “One percent”.

J. Amend section 11(b) by adding the phrase “per day” after the phrase “Three percent”.

K. Amend section 12 by removing the phrase “an additional coverage level” and adding the phrase “additional levels of coverage” in its place.

The revised text reads as follows:

## § 457.165 Millet crop insurance provisions.

The millet crop insurance provisions for the 2008 and succeeding crop years are as follows:

\* \* \* \* \*

### 7. Insurance Period

In accordance with section 11 of the Basic Provisions, the calendar date for the end of insurance period is the date immediately following planting (unless otherwise specified in the Special Provisions) as follows:

(a) October 10 for North Dakota, South Dakota, and Wyoming; and

(b) October 31 for all other states.

### 8. Causes of Loss

\* \* \* \* \*

(h) Failure of the irrigation water supply due to a cause of loss specified in sections 8(a) through (g) that also occurs during the insurance period.

\* \* \* \* \*

Signed in Washington, DC, on December 14, 2006.

**Eldon Gould,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. E6–22002 Filed 12–26–06; 8:45 am]

**BILLING CODE 3410–08–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2006–26685; Directorate Identifier 2006–NM–200–AD]

RIN 2120–AA64

#### Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).