

## § 407.1

407.16 Group risk plan for soybean.  
407.17 Group risk plan for wheat.

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

SOURCE: 64 FR 30219, June 7, 1999, unless otherwise noted.

### § 407.1 Applicability.

The provisions of this part are applicable only to those crops and crop years for which a Crop Provision is contained in this part.

### § 407.2 Availability of Federal crop insurance.

(a) Insurance shall be offered under the provisions of this part on the insured crop in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, (7 U.S.C. 1501 *et seq.*) (the Act). The crops and counties shall be designated by the Manager of the Federal Crop Insurance Corporation (FCIC) from those approved by the Board of Directors of FCIC.

(b) The insurance will be offered through companies reinsured by FCIC under the same terms and conditions as the contract contained in this part. These contracts are clearly identified as being reinsured by FCIC. Additionally, the contract contained in this part may be offered directly to producers through agents of the United States Department of Agriculture. Those contracts are specifically identified as being offered by FCIC.

(c) No person may have in force more than one insurance policy issued or reinsured by FCIC on the same crop for the same crop year, in the same county, unless specifically approved in writing by FCIC.

(d) If a person has more than one contract under the Act outstanding on the same crop for the same crop year, in the same county, that have not been properly approved by FCIC, all such contracts shall be voided for that crop year and the person will be liable for the premium on all contracts, unless the person can show to the satisfaction of FCIC that the multiple contracts of insurance were inadvertent and without the fault of the person.

(e) If the unapproved multiple contracts of insurance are shown to be inadvertent, and without the fault of the insured, the contract with the earliest

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application will be valid and all other contracts on that crop in the county for that crop year will be canceled. No liability for indemnity or premium will attach to the contracts so canceled.

(f) The person must repay all amounts received in violation of this section with interest at the rate contained in the contract (see § 407.8, paragraph 21).

(g) A person whose contract with FCIC or with a company reinsured by FCIC under the Act has been terminated because of violation of the terms of the contract is not eligible to obtain crop insurance under the Act with FCIC or with a company reinsured by FCIC unless the person can show that the termination was improper and should not result in subsequent ineligibility.

(h) All applicants for insurance under the Act must advise the insurance provider, in writing at the time of application, of any previous applications for insurance or contracts of insurance under the Act within the last 5 years and the present status of any such applications or insurance.

### § 407.3 Premium rates, amounts of protection, and coverage levels.

(a) The Manager of FCIC shall establish premium rates, amounts of protection, and coverage levels for the insured crop that will be included in the actuarial documents on file in the insurance provider's office. Premium rates, amounts of protection, and coverage levels may be changed from year to year.

(b) At the time the application for insurance is made, the person must elect an amount of protection and a coverage level from among those contained in the actuarial documents for the crop year.

### § 407.4 OMB control numbers.

The information collection activity associated with this rule has been previously approved by the Office of Management and Budget (OMB) under control number 0563-0053.

### § 407.5 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution,

bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

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

(a) Notwithstanding any other provision of the crop insurance contract, an insured shall be granted relief to the extent of the insured's detrimental reliance or the extent of the policy benefits, whichever is less, under the following conditions:

(1) The person has entered into a contract of crop insurance under this part;

(2) A representative of FCIC made a misrepresentation or other erroneous action or advice;

(3) Such error concerned provisions of the insurance contract not contained in the Group Risk Plan of Insurance Basic Provisions, the Crop Provisions, the Federal Crop Insurance Act, or the regulations contained in this chapter;

(4) As a result of the error, the insured:

(i) Is indebted for additional premiums; or

(ii) Has suffered a loss to a crop which is not insured or for which the person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(5) The Manager finds that:

(i) A representative of FCIC made such misrepresentation or took other erroneous action or gave erroneous advice;

(ii) The person reasonably and in good faith relied on such misrepresentation, erroneous action or advice to the person's detriment; and

(iii) To require the payment of the additional premiums or to deny such person's entitlement to the indemnity would not be fair and equitable.

(b) For FCIC Policies only, requests for relief under this section must be submitted to FCIC in writing. FCIC's reviewing officers must refer such application for relief to the Manager of FCIC for determination as to whether to grant relief. FCIC's reviewing offi-

cers do not have authority to grant relief under this section.

(c) For Reinsured Policies only, requests for relief under this section must be submitted to the reinsured company in writing. The reinsured companies shall use arbitration, in accordance with the rules of the American Arbitration Association, under contracts for insurance issued by them under the Act to grant relief under the same terms and conditions as contained in this section or may establish procedures to administratively handle relief in accordance with this section. Granting relief under this section does not absolve the reinsured company from liability to FCIC for unauthorized acts of its agents.

**§ 407.7 The contract.**

The insurance contract shall become effective upon the acceptance by FCIC or the reinsured company of a complete, duly executed application for insurance on a form prescribed or approved by FCIC. The contract shall consist of the accepted application, Group Risk Plan of Insurance Basic Provisions, Crop Provisions, Special Provisions, Actuarial Table, and any amendments, endorsements, or options thereto. Changes made in the contract shall not affect its continuity from year to year. Except as may be allowed under § 407.6, and at the sole discretion of the Corporation, no indemnity shall be paid unless the person complies with all terms and conditions of the contract. The forms required under this part and by the contract are available at the office of the insurance provider, or the local FSA office, if applicable.

**§ 407.8 The application and policy.**

(a) Application for insurance, on a form prescribed or approved by FCIC, must be made by any person who wishes to participate in the program in order to cover such person's share in the insured crop as landlord, owner-operator, tenant, or other crop ownership interest. No other person's interest in the crop may be insured under the application. The application must be submitted to the insurance provider on or before the applicable sales closing date on file in the insurance provider's local office.