

List of Subjects in 7 CFR Part 400

Administrative practice and procedures, Claims, Crop insurance, Penalties.

Final Rule

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

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

1. The authority citation for 7 CFR part 400 continues to read as follows:

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

2. Section 400.169 is revised to read as follows:

§ 400.169 Disputes.

(a) If the company believes that the Corporation has taken an action that is not in accordance with the provisions of the Standard Reinsurance Agreement or any reinsurance agreement with FCIC, except compliance issues, it may request the Deputy Administrator of Insurance Services to make a final administrative determination addressing the disputed action. The Deputy Administrator of Insurance Services will render the final administrative determination of the Corporation with respect to the applicable actions. All requests for a final administrative determination must be in writing and submitted within 45 days after receipt after the disputed action.

(b) With respect to compliance matters, the Compliance Field Office renders an initial finding, permits the company to respond, and then issues a final finding. If the company believes that the Compliance Field Office's final finding is not in accordance with the applicable laws, regulations, custom or practice of the insurance industry, or FCIC approved policy and procedure, it may request, the Deputy Administrator of Compliance to make a final administrative determination addressing the disputed final finding. The Deputy Administrator of Compliance will render the final administrative determination of the Corporation with respect to these issues. All requests for a final administrative determination must be in writing and submitted within 45 days after receipt of the final finding.

(c) A company may also request reconsideration by the Deputy Administrator of Insurance Services of a decision of the Corporation rendered under any Corporation bulletin or directive which bulletin or directive does not interpret, explain, or restrict the terms of the reinsurance agreement.

The company, if it disputes the Corporation's determination, must request a reconsideration of that determination in writing, within 45 days of the receipt of the determination. The determinations of the Deputy Administrator will be final and binding on the company. Such determinations will not be appealable to the Board of Contract Appeals.

(d) Appealable final administrative determinations of the Corporation under paragraph (a) or (b) of this section may be appealed to the Board of Contract Appeals in accordance with the provisions of subtitle A, part 24 of title 7 of the Code of Federal Regulations.

Signed in Washington, D.C., on January 18, 2000.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

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DEPARTMENT OF AGRICULTURE**Federal Crop Insurance Corporation****7 CFR Part 457****Common Crop Insurance Regulations; Forage Production Crop Provisions; and Forage Seeding Crop 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 forage production and forage seeding. The intended effect of this action is to provide policy changes to better meet the needs of the insured. The changes will be effective for the 2001 and subsequent crop years.

EFFECTIVE DATE: This rule is effective February 24, 2000.

FOR FURTHER INFORMATION CONTACT: Richard Brayton, Insurance Management Specialist, 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 12866

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

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by the Office of Management and Budget (OMB) under control number 0563-0053 through April 30, 2001.

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 the UMRA.

Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. 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. Additionally, the regulation does not require any action on the part of small entities than is required on the part of large entities. The amount of work required of the insurance companies will not increase because the information used to determine eligibility must already be collected under the present policy. No additional work is required as a result of this action on the part of either the insured or the insurance companies. 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.

National Performance Review

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

Background

On Thursday, August 26, 1999, FCIC published a notice of proposed rulemaking in the **Federal Register** at 64 FR 46599-46603 to revise 7 CFR 457.117, Forage Production Crop Insurance Provisions, 457.151 Forage Seeding Crop Insurance Provisions, and to delete 457.127 Forage Production Winter Coverage Endorsement, effective for the 2001 and succeeding crop years.

Following publication of the proposed rule on August 26, 1999, the public was afforded 30 days to submit written comments and opinions. A total of 8 comments were received from 2 reinsured companies, a Pennsylvania consulting firm, and the Pennsylvania State Secretary of Agriculture. The forage production comments received and FCIC's responses are as follows:

Comment: A reinsured company stated the provisions still contains a reference to the Winter Coverage Endorsement in section 7(c).

Response: FCIC has deleted the references.

Comment: A reinsured company recommended that optional units should not be available for forage producers because production records will need to be kept separate and, with multiple cuttings throughout the season, the insured would have to store or keep

production records by optional units if a loss occurs.

Response: Producers are not required to obtain optional units. Offering optional units to forage producers will likely increase participation in the crop insurance program because there are some producers that feel it is worth the effort to maintain separate records, to get the additional benefit of optional units. Therefore, no change has been made.

Comment: A reinsured company asked whether the underwriting report is still required?

Response: The farmer certification and underwriting report is still required.

Comment: Reinsured companies, a Pennsylvania consulting firm, and the Pennsylvania Secretary of Agriculture expressed concern that forage production coverage should be raised to the level of other crop programs by providing quality adjustment provisions as in other crop insurance programs.

Response: It is important to provide quality protection to forage producers. However, at this time, FCIC has not been able to obtain the necessary data to offer coverage nor have the rates been established to cover the additional risks that may affect the quality of the forage. This would be a significant change that will likely result in higher premiums. FCIC will continue its effort to provide quality adjustment. Therefore, no change has been made.

Forage seeding comments and FCIC's responses are as follows:

Comment: A reinsured company stated that Wisconsin was omitted from the cancellation and termination dates list in section 5 of the proposed rule.

Response: FCIC has added Wisconsin.

Comment: A reinsured company recommended extending the forage seeding deadline in Wisconsin. They stated that a number of producers are seeding forage later than May and obtaining a successful stand. The Special Provisions lists May as deadline for seeding forage.

Response: FCIC welcomes producer data that helps to establish the appropriate seeding deadline for the various areas. However, it is too late to consider this information for the 2001 crop year. FCIC will consider this information for future changes in the deadlines. Therefore, no change has been made.

In addition to the changes described above, FCIC has made the following changes to the Forage Production Crop Provisions:

1. Section 1—Removed the definition of "crop year" from the final rule. The current regulation contains a more accurate definition of "crop year."

2. Section 7(a)(4) and (5)—Removed these provisions from the final rule because section 7(a)(5) was duplicative with section 7(a)(1) and section 7(a)(4) was inconsistent with section 7(a)(2) which stated that the insurance attaches for Lassen, Modoc, Mono, Shasta and Siskiyou Counties on April 15.

List of Subjects in 7 CFR Part 457

Crop insurance, Forage production, Forage seeding, Reporting and recordkeeping requirements.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends the Common Crop Insurance Regulations (7 CFR part 457) by amending 7 CFR 457.117, for the 2001 and succeeding crop years, 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 457.117 as follows:

Revise the heading and introductory text;

b. In section 1 of the crop insurance provisions delete the definitions of "fall planted" and "spring planted," add definitions of "direct marketing" and "windrow" and revise the definition of "cutting;"

c. In the crop insurance provisions delete section 2 and redesignate sections 3 through 12 as 2 through 11;

d. In the crop insurance provisions revise newly designated sections 4, 5, 6(a), 7(a), 7(b) introductory text and 7(b)(6), 8(b), 9, and 10(a); and

e. In the crop insurance provisions add examples (1) and (2) in section 10(b); all to read as follows:

§ 457.117 Forage production crop insurance provisions.

The Forage Production Crop Insurance Provisions for the 2001 and succeeding crop years are as follows:

* * * * *

1. Definitions.

* * * * *

Cutting. The severance of the forage plant from its roots.

Direct marketing. Sale of the forage crop directly to consumers without the intervention of an intermediary such as a wholesaler, shipper, buyer, or broker. An example of direct marketing is selling directly to other producers.

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Windrow. Forage that is cut and placed in a row.

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4. Cancellation and Termination Dates.

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are:

State	Cancellation/termination date
California, Nevada and Utah	October 31;
All other states	September 30.

5. Report of Acreage.

In lieu of the provisions of section 6(a) of the Basic Provisions, a report of all insured acreage of forage production must be submitted on or before each forage production acreage reporting date specified in the Special Provisions.

6. Insured Crop.

(a) In accordance with section 8 of the Basic Provisions, the crop insured will be all the forage in the county for which a premium rate is provided by the actuarial documents:

(1) In which you have a share; and

(2) That is grown during one or more years after the year of establishment.

* * * * *

7. Insurance Period.

In lieu of the provisions of section 11 of the Basic Provisions:

(a) Insurance attaches on acreage with an adequate stand for the calendar year following the year of establishment for:

(1) All California counties except Lassen, Modoc, Mono, Shasta and Siskiyou—December 1;

(2) Lassen, Modoc, Mono, Shasta and Siskiyou Counties California, Colorado, Idaho, Nebraska, Nevada, Oregon, Utah and Washington—April 15;

(3) Iowa, Minnesota, Montana, New Hampshire, New York, North Dakota, Pennsylvania, Wisconsin, Wyoming, and all other states—May 22;

(b) Insurance ends at the earliest of:

(6) The following dates of the crop year:

(i) California counties of Lassen, Modoc, Mono, Shasta and Siskiyou, and all other states—October 15;

(ii) The last day of the 12th month after the insured crop initially planted in all California counties except Lassen, Modoc, Mono, Shasta and Siskiyou.

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8. Causes of Loss.

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(b) In addition to the causes of loss specifically excluded in section 12 of the Basic Provisions, we will not insure against damage of loss of production

that occurs after removal from the windrow.

9. Duties in the event of Damage or Loss.

In addition to the requirements of section 14 of the Basic Provisions, the following will apply:

(a) You must notify us within 3 days of the date harvest should have started if the insured crop will not be harvested;

(b) You must notify us at least 15 days before any production from any unit will be sold by direct marketing unless you have records verifying that the forage was direct marketed. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal;

(c) If you intend to claim an indemnity on any unit, you must notify us at least 15 days prior to the beginning of harvest if you previously gave notice in accordance with section 14 of the Basic Provisions so that we may inspect the damaged production. You must not destroy the damaged crop until after we have given you written consent to do so. If you fail to meet the requirements of this section, and such failure results in our inability to inspect the damaged production, all such production will be considered undamaged and will be included as production to count; and

(d) You must notify us at least 5 days before grazing of insured forage begins so we can conduct an appraisal to determine production to count. Failure to give timely notice that the acreage will be grazed will result in an appraised amount of production to count of not less than the production guarantee per acre.

10. Settlement of Claim.

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional units, we will combine all optional units for which such production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) * * *

(7) * * *

Example 1

Assume you have a 100 percent share in 100 acres of type A forage in the unit, with a guarantee of 3.0 tons per acre and a price election of \$65.00 per ton. Due to adverse weather you were only able

to harvest 50.0 tons. Your indemnity would be calculated as follows:

1. 100 acres type A × 3 tons = 300 ton guarantee;

2 & 3. 300 tons × \$65 price election = \$19,500 total value guarantee;

4 & 5. 50 tons production to count × \$65 price election = \$3,250 total value of production to count;

6. \$19,500 value guarantee—\$3,250 = \$16,250 loss; and

7. \$16,250 × 100 percent share = \$16,250 indemnity payment.

Example 2

Assume you also have a 100 percent share in 100 acres of type B forage in the same unit, with a guarantee of 1.0 ton per acre and a price election of \$50.00 per ton. Due to adverse weather you were only able to harvest 5.0 tons. Your total indemnity for forage production for both types A and B in the same unit would be calculated as follows:

1. 100 acres × 3 tons = 300 ton guarantee for type A; and 100 acres × 1 ton = 100 ton guarantee for type B;

2. 300 ton guarantee × \$65 price election = \$19,500 total value of the guarantee for type A; and 100 ton guarantee × \$50 price election = \$5,000 total value of the guarantee for type B;

3. \$19,500 + \$5,000 = \$24,500 total value of the guarantee;

4. 50 tons × \$65 price election = \$3,250 total value of production to count for type A; and 5 tons × \$50 price election = \$250 total value of production to count for type B;

5. \$3,250 + \$250 = \$3,500 total value of production to count for types A and B;

6. \$24,500—\$3,500 = \$21,000 loss; and

7. \$21,000 loss × 100 percent share = \$21,000 indemnity payment.

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3. Section 457.127 is removed and reserved.

4. Amend 457.151 as follows:

a. Revise the introductory text;

b. In the crop insurance provisions revise the definition in section 1 of “harvest”;

c. In the crop insurance provisions redesignate sections 6 through 13 as 7 through 14;

d. In the crop insurance provisions revise section 5 and redesignated sections 7(b), 8, 11 introductory text, 11(a), 11(b), 13(a)(3);

e. In the crop insurance provisions add a new section 6 and an example to redesignated section 13(a)(3); all to read as follows:

§ 457.151 Forage seeding crop insurance provisions.

The Forage Seeding Crop Insurance Provisions for the 2001 and succeeding crop years are as follows:

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1. Definitions.

* * * * *

Harvest. Severance of the forage plant from its roots. Acreage that is only grazed will not be considered harvested.

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5. Cancellation and Termination Dates.

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are:

State and county	Cancellation/termination dates
California, Nevada, New Hampshire, New York, Pennsylvania and Vermont.	July 31.
Montana, Minnesota, North Dakota, South Dakota, Wisconsin and Wyoming.	March 15.

6. Report of Acreage.

In lieu of the provisions of section 6(a) of the Basic Provisions, a report of all insured acreage of forage seeding must be submitted on or before each forage seeding acreage report date specified in the Special Provisions.

7. Insured Crop.

* * * * *

(b) That is planted during the current crop year, or replanted during the calendar year following planting, to establish a normal stand of forage;

* * * * *

8. Insurable Acreage.

In addition to the provisions of section 9 of the Basic Provisions:

(a) In California counties Lassen, Modoc, Mono, Shasta, Siskiyou and all other states, any acreage of the insured crop damaged before the final planting date, to the extent that such acreage has less than 75 percent of a normal stand, must be replanted unless we agree that it is not practical to replant; and

(b) In California, unless otherwise specified in the Special Provisions, any acreage of the insured crop damaged anytime during the crop year to the extent that such acreage has less than 75 percent of a normal stand must be replanted unless it cannot be replanted and reach a normal stand within the insurance period.

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11. Replanting Payment.

In lieu of the provisions contained in section 13 of the Basic Provisions:

(a) A replanting payment is allowed if:

(1) In California, unless specified otherwise in the Special Provisions, acreage planted to the insured crop is damaged by an insurable cause of loss occurring within the insurance period to the extent that less than 75 percent of a normal stand remains and the crop can reach maturity before the end of the insurance period;

(2) In Lassen, Modoc, Mono, Shasta, Siskiyou Counties, California, and all other states:

(i) A replanting payment is allowed only whenever the Special Provisions designate both fall and spring final planting dates;

(ii) The insured fall planted acreage is damaged by an insurable cause of loss to the extent that less than 75 percent of a normal stand remains;

(iii) It is practical to replant;

(iv) We give written consent to replant; and

(v) Such acreage is replanted the following spring by the spring planting date.

(b) The amount of the replanting payment will be equal to 50 percent of the amount of indemnity determined in accordance with section 13 unless otherwise specified in the Special Provisions.

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13. Settlement of Claim.

(a) * * *

(3) Multiplying the total acres with an established stand for the insured acreage of each type and practice in the unit by the amount of insurance for the applicable type and practice;

Example

Assume you have 100 percent share in 30 acres of type A forage in the unit, with an amount of insurance of \$100.00 per acre. At the time of loss, the following findings are established: 10 acres had a remaining stand of 75 percent or greater. You also have 20 acres of type B forage in the unit, with an amount of insurance of \$90.00 per acre. 10 acres had with a remaining stand of 75 percent or greater. Your indemnity would be calculated as follows:

1. 30 acres × \$100.00 = \$3,000 amount of insurance for type A;
- 20 acres × \$90.00 = \$1,800 amount of insurance for type B;
2. \$3,000 + \$1,800 = \$4,800 total amount of insurance;
3. 10 acres with 75% stand or greater × \$100 = \$1,000 production to count for type A;
- 10 acres with 75% stand or greater × \$90 = \$900 production to count for type B;
4. \$1,000+\$900 = \$1,900 total production to count;

5. \$4,800 – \$1,900 = \$2,900 loss;
6. \$2,900×100 percent share = \$2,900 indemnity payment.

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Signed in Washington, DC, on January 18, 2000.

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

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FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R–1057]

Bank Holding Companies and Change in Bank Control

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim rule with request for public comments.

SUMMARY: The Board of Governors of the Federal Reserve System is adopting on an interim basis effective March 11, 2000, and soliciting comment on a rule that establishes procedures for bank holding companies as well as foreign banks that operate a branch, agency, or commercial lending company in the United States to elect to become financial holding companies. The interim rule includes amended definitions of terms in existing Subpart A that are applicable to the new Subpart. The Board is promulgating this rule to implement provisions of the recently enacted Gramm-Leach-Bliley Act that enable bank holding companies and foreign banks that meet applicable statutory requirements to become financial holding companies and thereby engage in a broader range of financial and other activities than are permissible for bank holding companies.

The new Subpart sets forth the procedures by which bank holding companies and foreign banks may submit to the Board an election to become a financial holding company and describes the period in which the Board will act on financial holding company elections. This Subpart also enumerates the criteria that bank holding companies and foreign banks must meet in order to qualify as a financial holding company. In addition, the newly added sections set forth the limitations that the Board will apply to financial holding companies that fail to maintain compliance with applicable capital, management, and CRA criteria.