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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

[Doc. No. 8021S]

Common Crop Insurance Regulations (Single Policy)

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) adds a new part 457 in chapter IV of title 7 of the Code of Federal Regulations (CFR), effective for the 1991 and succeeding crop years, to contain one common set of crop insurance regulations and a common policy of insurance applicable to all such regulations now contained in 7 CFR chapter IV which will be applicable to all crop insurance policies sold by FCIC, or sold by private insurance companies and reinsured by FCIC under the provisions of a Standard Reinsurance Agreement when appropriate crop provisions are published.

The intended effect of this rule is to provide a standard set of regulations and a master policy for insuring most crops authorized under the provisions of the Federal Crop Insurance Act, as amended, that will: (1) Provide a common set of crop insurance regulations and terminology between FCIC and private insurance companies under a Standard Reinsurance Agreement; (2) substantially reduce the time involved in amendment or revision; and (3) eliminate the necessity of repetitious review process thus substantially reducing the volume of paperwork processed by FCIC.

EFFECTIVE DATE: January 14, 1991.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulations 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1995.

David W. Gabriel, Acting Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant economic impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

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

This program is not subject to the provisions of Executive Order 12372 which requires 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.

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.

FCIC hereby adds one set of regulations containing one Common Policy of insurance applicable to all crops now contained in 7 CFR part 401, or in a separate part of chapter IV, and which will be applicable to crop insurance policies sold by FCIC, or sold by private insurance companies and reinsured by FCIC. These regulations will insure that all recipients of the Federal program are treated equally through commonality of policy provisions.

As revisions on individual policies are necessary, FCIC will publish a "crop provision" which will contain the language of the policy unique to that crop, and any exceptions to the common policy language necessary for that crop.

When a crop provision is published as a section of part 457, effective for a subsequent crop year, the present policy contained in 7 CFR part 401, or in a separate part of chapter IV, will be revoked at the end of the crop year then in effect and later removed and reserved.

Certain portions of the Common Policy, by virtue of the differences between FCIC policies and Reinsured policies, with respect to Federal jurisdiction, appeals vs. arbitration, and collection of amounts due (Federal off-set vs. systems of collection used by private insurance companies), are not identical. For this reason, and in the applicable paragraphs, the Common Policy is published with FCIC policies in the left column of Reinsured Policies in the right column. Where a commonality of language exists, the provisions are not separated and are jointly applicable

On Wednesday, February 7, 1990, FCIC published a notice of proposed rulemaking in the **Federal Register** at 55 FR 4382, to contain one common set of crop insurance regulations and a common policy of insurance applicable to all such regulations now contained in 7 CFR chapter IV which will be applicable to all crop insurance policies sold by FCIC, or sold by private insurance companies and reinsured by FCIC under the provisions of a Standard Reinsurance Agreement, when appropriate crop provisions are published.

In addition, the notice of proposed rulemaking clarified FCIC's long standing position on the preemption of inconsistent State laws and regulations.

The rule published at 55 FR 4382 proposed to add a new part 499 in chapter IV of title 7 of the Code of Federal Regulations. This would have resulted in 7 CFR parts 457 through 498 open and unassigned and perhaps have caused confusion. In reviewing the rule, FCIC decided to add a new part 457 instead of part 499 to contain this final rule, in order to maintain correct numerical sequence and avoid the possibility of confusion. FCIC has advised the CFR Unit of the **Federal Register** of its decision to use part 457 in this final rule and to leave part 499 unassigned. The final rule herein is structured as 7 CFR part 457.

The public was given until March 9, 1990, to submit written comments, data, and opinions on the proposed rule. Comments were received from individual State Commissioners of Insurance for California, Illinois, Iowa, Massachusetts, Michigan, Minnesota, North Dakota, and Virginia, and a collective statement on behalf of State Commissioners of Insurance from the National Association of Insurance Commissioners in Washington, DC; the National Association of Crop Insurance Agents (NACIA); 12 reinsured companies; 5 law firms representing insurance associations; the Office of Inspector General, United States Department of Agriculture; the Florida Fruit and Vegetable Association; 4 divisions within FCIC; and one private citizen.

In view of the volume and nature of responses received, the preponderance of which addressed the issue of Federal preemption, FCIC determined to make final that portion of the notice of proposed rulemaking dealing with the issues involved in Federal preemption and to establish such rule in a new subpart P in part 400, to be known as 7 CFR part 400, subpart P, General Administrative Regulations; Preemption of State Laws and Regulations. That final rule was published in the **Federal Register** on June 6, 1990, at 55 FR 23066.

The notice of proposed rulemaking with respect to establishing a Common Policy of crop insurance, also contained in the **Federal Register** notice of proposed rulemaking publication at 55 FR 4382 (7 CFR part 499), and the comments pertaining to the proposed policy provisions therein, remained under consideration by FCIC and are hereby addressed in this final rule (7 CFR part 457).

Because commenters responded to certain specific paragraphs and subparagraphs contained in the notice of proposed rulemaking with respect to the Common Policy provisions, and because such paragraphs, and subparagraphs may be redesignated, or removed in this final rule and new subparagraphs added for clarity, FCIC lists the differences between the proposed rule (7 CFR part 499), and the final rule (7 CFR part 457) in a comparison table as an aid to the reader, as follows:

Proposed rule	Final rule
Section/paragraph/subparagraph	Section/paragraph/subparagraph
Sec.:	Sec.:
499.1 Applicability	457.1 Applicability.
499.2 Availability of Federal crop insurance.	457.2 Availability of Federal crop insurance.
499.3 Premium rates, production guarantees or amounts of insurance, coverage levels, and prices at which indemnities shall be computed.	457.3 Premium rates, production guarantees or amounts of insurance, coverage levels, and prices at which indemnities shall be computed.
499.4 OMB control numbers.	457.4 OMB control numbers.
499.5 Creditors	457.5 Creditors.
499.6 Good faith reliance on misrepresentation.	457.6 Good faith reliance on misrepresentation.
499.7 The contract	457.7 The contract. (Not included in this final rule. This paragraph now appears as 7 CFR 401.352 in 7 CFR part 400, subpart P, General Administrative Regulations; Preemption of State Laws and Regulations, published in the **Federal Register** on June 6, 1990, at 55 FR 23066.)
499.8 State and local laws and regulations preempted.	
§ 499.9 The application and policy * * * * *	**§ 457.8 The application and policy.** * * * * *
(b) * * *	(b) * * *
1. Definitions.	1. Definitions.
(a) Abandon	(a) Abandon.
(b) Acreage report	(b) Acreage report.
	(c) Acreage reporting date (Not separately defined in the proposed rule).
(c) Another use, Notice of	(e) Another use, Notice of.
	(d) Actuarial table (Not separately defined in the proposed rule).
(d) Application	(f) Application.
(e) ASCS	(g) ASCS.
(f) ASCS Farm Serial Number	(h) ASCS Farm Serial Number.
(g) Assignment of indemnity	(i) Assignment of indemnity.
(h) Billing date	(gg) Premium Billing Date.
(i) Cancellation date	(j) Cancellation date.
(j) Claim for indemnity	(k) Claim for indemnity.
	(m) Contract (Not separately defined in the proposed rule.
(k) Contract change date	(n) Contract change date.
(l) Consent	(l) Consent.
(m) County	(o) County.
(n) Coverage	(p) Coverage.
(o) Coverage begins, Date	(q) Coverage begins, Date.
(p) Crop Provisions	(r) Crop provisions.
(q) Crop year	(s) Crop year.
(r) Damage	(t) Damage.
(s) Damage, Notice of	(u) Damage, Notice of.
	(v) Delinquent account (Not separately defined in the proposed rule.
(t) Earliest planting date	(w) Earliest planting date.
(u) End of insurance period, Date of	(x) End of insurance period, Date of.
(v) Insured	(y) Insured.
(w) Insured crop	(z) Insured crop· (Not included in Final Rule).
(x) Intent to abandon, Notice of	
(y) Late planting agreement	(aa) Late Planting Agreement Option.
(z) Loss, Notice of	(bb) Loss, Notice of.
(aa) Negligence	(cc) Negligence
(bb) Person	(dd) Person
(cc) Practical to replant	(ff) Practical to replant.
	(hh) Price Election (Not separately defined in the proposed rule).
(dd) Policy	(ee) Policy (see Contract).
(ee) Production report	(ii) Production report.
(ff) Representative sample	(kk) Representative sample.
(gg) Reporting date	(jj) Reporting date.
(hh) Sales closing date	(ll) Sales closing date.
(ii) Section	(mm) Section.
(jj) Share	(nn) Share.
(kk) State	(pp) State.
(ll) State provisions (this term has been changed to Special Provisions, subparagraph (oo) in the Final Rule)	(oo) Special provisions.
(mm) Summary of coverage	(qq) Summary of coverage.
(nn) Tenant	(rr) Tenant.
(oo) Termination date	(ss) Termination date (Not included in Final Rule).
(pp) Uninsurable acreage	
(qq) Unit	(tt) Unit.
§ 499.9 The application and policy (Paragraphs)	**§ 457.8 The application and policy.** (Paragraphs)
1. Definitions	1. Definitions.
2. Life of policy, cancellation and Termination	2. Life of policy, cancellation and Termination.

3 Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities	3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.
4. Policy Changes	4. Contract Changes.
5. Liberalization	5. Liberalization.
6. Report of Acreage	6. Report of Acreage.
7. Annual Premium	7. Annual Premium.
8. Crop Insured	8. Insured Crop.
9. Insurable Acreage	9. Insurable Acreage.
10. Share Insured	10. Share Insured.
11. Insurance Period	11. Insurance Period.
12. Causes of Loss	12. Causes of Loss.
13. Duties in the event of a loss or damage	14. Duties in the event of Loss or damage.
14. Abandonment	16. Crops as Payment (Retitled in final rule).
15. Appeals (FCIC) Arbitration (Reinsured Policies)	17. Appeals (FCIC) Arbitration (Reinsured Policies).
16. Access to Crop and Record Retention	18. Access to Insured Crop and Record Retention.
17. Other Insurance	19. Other Insurance.
18. Conformity to Food Security Act	20. Conformity to Food Security Act.
19. Amounts due us (FCIC and (Reinsured Policies)	21. Amounts Due Us (FCIC and Reinsured Policies).
20. Legal Action Against Us	22. Legal Action Against Us.
21. Production Included in Determining Indemnities	15. Production Included in Determining Indemnities.
22. Replanting Payment	13. Replanting Payment.
23. Payment and Interest Limitations	23. Payment and Interest Limitations.
24. Concealment, Misrepresentation or Fraud	24. Concealment, Misrepresentation or Fraud.
25. Transfer of Coverage and Right to Indemnity	25. Transfer of Coverage and Right to Indemnity.
26. Assignment of Indemnity	26. Assignment of Indemnity.
27. Subrogation (Recovery of loss from a third party)	27. Subrogation (Recovery of loss from a third party).
28. Nonconformity to Statutes	28. Applicability of State and Local Statutes.
29. Descriptive Headings	29. Descriptive Headings.
30. Notices	30. Notices.

As indicated in the comparison table above, FCIC has added new definitions, or subparagraphs in this final rule. Such additions are for the purpose of clarity and not considered substantive. Following, is an explanation of these additions:

Subparagraph 1.(c)—"Acreage reporting date." This is a remainder to the insured that the report of all insurable and not insurable acreage of the crop in the county, including the amount of share, must be reported by a specific date.

Subparagraph 1.(d)—"Actuarial table." This definition explains what is contained in the Acturial Table and that it is available in the agents' office.

Subparagraph 1.(m)—"Contract." (also termed "Insurance Contract") is a generic term interchangeable in common insurance practice with "Policy," which describes the documents that make up the contract of crop insurance between you and us (also see "policy," subparagraph (ee)).

Subparagraph 1.(v)—"Delinquent account." Defines the term which is used in paragraphs 7 ("Annual Premium") and 21 ("Amounts Due Us"), and specifies when penalties are incurred. Penalties are charged in accordance with 31 U.S.C. 3717, which are in addition to any amount and interest due.

Subparagraph 1.(gg)—"Premium Billing Date." The date we send you a bill for the premium which is to be paid to us. This date is marked on the statement. You are allowed 30 days from this date to pay the premium without interest. A penalty may be added if this amount due plus interest is not paid by the termination date contained in the crop provisions.

Subparagraph 1.(hh)—"Price Election." The amount you select, generally from three such amounts, at which you wish to be paid (per pound, bushel, ton, etc.), in the event your loss falls below our guarantee. This price election has a direct bearing on the premium you are charged for the crop insurance coverage.

Subparagraph 1.(oo)—"Special provisions." (Previously termed "State Provisions," subparagraphs (11) in the proposed rule). These provisions contain specific provisions of insurance for each insured corp in the particular area in which you farm and can vary by geographic location. The Special Provisions differ from "Crop Provisions" which are general terms of insurance applying to a particular corp under the Common Policy of insurance.

In addition, one subparagraphs in the proposed rule has been revised, and another has been deleted in this final rule as follows:

Subparagraph 1.(h)—"Billing Date." in the proposed rule has been redesignated as subparagraphs 1.(gg) ("Premium Billing Date") in this final rule and clarified to make reference to the acreage report upon which the premium is computed.

Subparagraph 1.(pp) in the proposed rule (Uninsurable acreage") has been deleted from this final rule as a definition because acreage planted to the insured crop is insurabele unless excepted by paragraph 9 of the policy. This makes the term "uninsurable" inappropriate since the acreage is not uninsurable but rather it is not insured by reason of the exceptions. FCIC has amended the definition of "Reporting Date" (subparagraphs 1. (jj) in this final rule) to clarify this matter.

All comments, and portions of comments, received in response to the notice of proposed rulemaking, published at 55 FR 4382, with respect to establishing a Commom Policy of crop insurance, and the comments pertaining to the proposed policy provisions therein, are addressed in this final rule as follows:

(a) *Comment:* FCIC should amend the Good Faith Reliance on Misrepresentation provisions in § 499.6, to expand the federal exemption from the equitable principle of estoppel to agents of reinsured companies. The commenter questions whether FCIC has the right to determine that, if an agent gives erroneous information to a policyholder upon which the policyholder relied, and which may result in indemnification beyond that allowed by the crop insurance policy, FCIC may allow the error to stand and grant relief to the insured under the Good Faith Reliance on Misrepresentation provisions (§ 499.6 in the proposed rule) while requiring reimbursement from the company/agent. The comment suggests that an agent should not be subjected to limitations beyond those that bind the Government

Response: Estoppel is defined as a bar against an allegation or denial that is contrary to one's previous allegation or denial of a fact. FCIC has a long standing policy of honoring the misinformation provided by its agents to insured as long as the statutory requirements of the Federal Crop Insurance Act, are followed: If further requires that private agents and brokers reimburse FCIC when such misinformation is the agent's or broker's responsibility. The innocent party (the insured) should not be penalized. Under the Good Faith Reliance provisions, FCIC may grant relief to the policyholder if an FCIC employee or a contractor's agent, gives erroneous information resulting in paid indemnity outside ther terms of the policy (overpaid indemnity); indebtedness for additional premium owed; or, entitlement to an indemnity not yet paid. This provision is well within the powers of FCIC (7 U.S.C. 1506(e)) and continues to represent the policy of the Corporation. Therefore, FCIC has determined that no change in the rule is necessary.

(b) *Comment:* The arbitration provisions (paragraph 17) are too limiting and are nothing more than a recital of current practice making them ineffectual. At a minimum, the companies should be permitted to arbitrate all policyholder disputes under the Federal Arbitration Act (9 U.S.C 1 *et seq.*). Another commenter suggested that the Good Faith Reliance on Misrepresentation (§ 499.6) section should be deleted with respect to arbitration because present contracts provide for arbitration of loss disputes only, and in its broadened scope, this section would allow arbitration of all disputes which can be handled administratively and become more cost efficient.

Response: The arbitration provisions contained in paragraph 17 of this final rule were established by agreement with the reinsured companies and their representatives for the companies' use. The arbitration provisions for reinsured policies in the proposed rule are limited to issues involving production to be counted in the event of a claim for indemnity. Other policyholder disputes are adjudicated under the provisions in the Appeal Process (7 CFR part 400, subpart J) with respect to appeals agains classififcation determines, and in § 457.6 of this final rule, with respect to issues involving Good Faith Reliance on Misrepresentation.

While FCIC does not agree or disagree with the comment, we believe that a procedure for resolving disputes must be contained in the policy of insurance. Although questions have been raised as to the efficiency of paragraph 17, the only suggested alternative refers to the Federal Arbitration Act. However, policy provisions are not subject to arbitration since those provisions are not subject to arbitration since those provisions have the force and effect of law. The only judgement determinations under the policy relate to appraisals and those determinations are subject to this provision. FCIC has revised § 499.6 (§ 457.6 in this final rule) to make the reinsured participation more clear.

(c) *Comment:* FCIC should prescribe the application form for insurance which is incorporated by reference and made part of the policy (§ 499.9 in the proposed rule). Company prescribed applications may lessen the benefits of a common policy; increase the opportunity for substantive changes; and invite controversy.

Response: The application for insurance is defined in this rule as a part of the contract of insurance (see response to comment (f)). The FCIC application form for crop insurance was published in the **Federal Register** on February 21, 1984, at 49 FR 6316. The published application, as amended, therefore prescribes the information required to be given by a producer applying for crop insurance under the authority of the Federal Crop Insurance Act. FCIC requires that all items relating to coverage, record-keeping requirements, etc., that are contained in the FCIC application, be included on applications used by reinsured companies. FCIC has determined that proper collection of the information by a Reinsured company, as required by the codified application form, does not lessen the benefits of the Common Policy, nor is it liable to increase the opportunity for substantive change. For this reason, FCIC determines that no change to the rule is required.

(d) *Comment:* If the proposed definition of "Abandon" (subparagraph 1.(a)) is retained, FCIC should amend the loss adjustment procedures which provide that, if a crop is abandoned, the entire guarantee is eliminated. Such result is too harsh and more discretion for the adjuster will be required.

Response: The individual crop provisions being written to be used with the basic provisions in this Common Policy will provide that the full production guarantee will be charged, and the premium owed, if the insured discontinues care for the crop without our consent and there is no insurable damage to the insured crop. Subparagraph 14(b)(4) of the policy in this final rule provides that the insured must notify us and we must consent to abandonment in case of damage to the crop. The crop will be inspected and appraised. We will not consent if it is practical to replant or until we have inspected the crop. The comment suggests modification of the loss adjustment procedure. FCIC has the responsibility of paying an indemnity on an insured crop if the crop is damaged by an insured cause of loss. The insured has the statutory duty of providing care for the crop in accordance with good farming practices. It is not the responsibility of FCIC or the reinsured company to cultivate, harvest, or market the crop.

The insured has the option of continuing with the responsibility of caring for the crop or, if the crop is damaged by an insured cause, of obtaining an appraisal. If the choice is to discontinue the responsibility of caring for the crop under the policy, the insured suffers loss of insurance, but, because insurance coverage has been received to that point, the premium must be paid. No change in policy or procedure is contemplated.

(e) *Comment:* The definition of "Intent to abandon, Notice of" (subparagraph 1.(x)) should be amended to delete the phrase "because of damage from an insured cause." Notice should be required to be given for intent to abandon for any cause, whether insured or not. In this way, loss adjusters can immediately verify such loss and obtain signatures that will bar later litigation. Another commenter suggested that this subparagraph should require a notice be given within 72 hours of the abandonment.

Response: FCIC has concluded that the definition of "Intent to Abandon, Notice of" in subparagraph 1.(x) is, in reality, a reference to subparagraph 13.(a) of the proposed rule which states that in case of damage to an insured crop, an insured must provide sufficient care for the crop and is required to give FCIC notice of damage in a specified time. Subparagraph 13.(b) further provides that notice must be given within 72 hours of the time the insured crop is abandoned. FCIC intended the definition of "intent to abandon," in this context, to mean that because of damage from an insured cause, the insured intends to no longer care for the insured crop and, since the insurance only indemnifies for damage from an insured cause, notice of abandonment need only be made if due to insured causes, and the insured no longer intends to care for the crop.

In reporting damage to the insured crop, determined to be sufficient to preclude caring for the crop any further, the insured may indicate that for this reason the crop will be "abandoned." Permission must then be given by FCIC to destroy the crop; put the insured crop to another use; or, put the acreage to another use. However, this definition may be somewhat confusing because subparagraph 13.(b) of the policy in the proposed rule does not refer to "intent to abandon" as such, only that the insured give us notice within 72 hours of the time the insured abandons the crop.

FCIC has determined to delete this definition in this final rule because intent to abandon the insured crop because of damage is the basis for the policyholder's notice in paragraph 13 of the rule and not a definition in fact. Subparagraph 13.(b), referred to in this response, has been redesignated as subparagraph 14.(b) in this final rule. This change accomplishes the commenters concern that damage itself be cause for notification and leaves the insurer to determine whether the damage was due to insured cause or not.

(f) *Comment:* The definitions of "Policy" and "Contract" (both used in subparagraph 1.(dd) of the proposed rule) have important differences and should be conformed to each other. County actuarial documents should be included in the definition of "Policy."

Response: The meaning of the term "Contract" is not separately defined in the proposed rule; however, in § 499.7 the generic term "contract" or "insurance contract' is defined as consisting of the application, the policy (Common Policy), the crop provisions (applying to a particular crop), the special provisions (containing dates etc., applying to a particular crop), the actuarial table, and any amendments or options thereto. FCIC has determined that "Policy" is a term widely used in the insurance industry and is generally meant to include the regulations, policy, amendments, and the actuarial table. However, since the "Contract" contains, among other things, the "Policy," and the separate actuarial data, and in view of the accepted usage and interchangeability of "Policy" and "Contract," FCIC agrees with this comment and, because of their respective differences, has determined to include definitions and cross reference for both "Contract" and "Policy."

(g) *Comment:* The inconsistency of times between the definition of subparagraph 1.(z) "Loss, Notice of" (10 days) and paragraph 13 of the policy (72 hours and 15 days) should be corrected.

Response: FCIC concurs and has amended the definition of "Loss, Notice of" (Subparagraph 1.(bb) in this final rule) to reflect that 72 hours notice is required after certain circumstances and 15 days notice after the end of insurance period. Because of other amendments, paragraph 13 of the proposed rule has been redesignated in this final rule as paragraph 14.

(h) *Comment:* The term "Production report" (subparagraph 1.(e) in the proposed rule) should be revised to reflect records relating to annual production instead of harvested production, which may contain several years of records.

Response: The "Production Report" (subparagraph 1.(ii) in this final rule), requires that annual production data be given which includes both planted and harvested acreage in order to provide the most complete information. For existing or "carryover" policyholders, the records of harvested production for the previous crop year, included in the report, are used to determine the yield for insurance purposes for the following crop year.

If no production report is provided for the previous crop year, FCIC assigns a yield as provided in the policy. Production reports for years before the prior crop year, as submitted by the applicant or insured, may include records of from one (1) to ten (10) years, and may be used to establish the yield for insurance purposes. Since actual production data for the previous crop year provides the most reliable information upon which to base the coming crop year yield guarantee, FCIC contemplates no change to this subparagraph.

(i) *Comment:* The unit definition's two last sentences in subparagraph 1.(qq) of the proposed rule are conflicting in that the lessee could be insured for less than 100% because the crop is shared but, the latter portion states that land rented for "* * * a crop with a minimum payment is considered owned by the lessee * * *", resulting in a 100% share.

Response: FCIC agrees with the comment. In our review and analysis of the unit definition in response to this comment, a discrepancy was discovered between the definition of unit and the definition of share, as outlined by the comment. The intent of this definition of unit provision (now appearing at subparagraph (tt) in this final rule) is to consider land rented, or leased for a crop share and a minimum payment, to be a share arrangement for the purpose of establishing the insured share in the insured crop.

The unit definition provides the insured separate insurance coverage based on ownership of the land upon which the insured crop is grown. In response to the comment, in the definition of "unit," the words "a crop share with a minimum payment," have been deleted. The definition of "share" and "unit" are now consistent with the intent of this provision.

(j) *Comment:* The definition "Summary of Coverage" (subparagraph (mm)) should be amended to delete the words (here parenthesized) from the line reading "* * * and the amount of insurance (*for which*) coverage (*is*) provided."

Response: This definition of summary of coverage contained in the proposed rule did not clearly indicate that the summary issued covers either the guarantee of insurance (pounds, tons, bushels etc.) or the amount (dollar amount) of insurance. Rather, however, the definition appeared to indicate only the crop insured and the amount of coverage (dollar amount) included on the summary. FCIC concurs with the comment dealing with the recommended deletion and has further amended this definition (appearing at subparagraph (qq) in this final rule) to read: "Our statement to you, based upon your acreage report, by unit, specifying the insured crop and the guarantee or amount of insurance coverage provided".

(l) *Comment:* The words "uninsurable" and "uninsured" are interchanged throughout the policy.

Response: FCIC agrees that the two words should not be used interchangeably. These words have been replaced with language appropriate for the context in which they were used (see explanatory notes regarding the deletion of subparagraph (pp) in Supplementary Information section of this final rule).

(m) *Comment:* The current policy states that all the farmers policies are cancelled for non payment of debt, while the current practice of FCIC is to only cancel the policy on which the debt exists.

Response: Subparagraph 2.(c) of the policy in the proposed rule provides that all policies issued under the FCIC Act will terminate if any amount owed is not paid before the termination date for any separate crop policy on which the amount is due. FCIC's position is that it is not a good business practice to provide coverage for one crop while the policyholder has a delinquent account on another crop. If FCIC's current practice is inconsistent with this provision it is wrong and will be corrected. The rule will not be changed.

(n) *Comment:* Subparagraph 13(a)(2) of the proposed policy (Duties in the event of loss or damage—Your Duties) should be replaced by subparagraph 8(a)(3) of the present general policy (Notice of damage or loss) because reporting is not limited to damage that may result in loss. The statement is too broad and adds substantial costs to loss adjustment. In addition, many types of damage are progressive requiring almost daily notices required by this proposed paragraph.

Response: The insured is responsible for, among other things, reporting to the insurer damage to the insured crop. The insurer can then ascertain the extent of the damage and whether the damage is due to an insured cause as specified in the policy, and whether such damage may result in an indemnity. These determinations should be made by the insurer based on questions asked of the insured at the time the report of damage is made. If the insured, at the time the report is made, is asked about the severity of the damage and the insureds intention to carry the crop to harvest, or if the insured is requesting an appraisal or consent to put the acreage to another use, the insurer can determine a proper course of action. It is not the intent of this provision to require progressive notices but to specify that the insured has a duty to notify the insurer of damage to the insured crop. This protects the rights of both parties to the insurance contract and is designed to keep the insurer informed that damage has occurred and what the insureds intentions are concerning the insured crop. For this reason, FCIC believes this provision does not require amendment.

(o) *Comment:* The wording in subparagraph 19(e) (Amounts due us) is in direct conflict with subparagraph 19(b) which states that interest will accrue on any unpaid balance, therefore, subparagraph 19(e) should read * * * "Penalties will be charged in accordance with * * *" This change will allow FCIC to charge a consistent interest rate of 1¼ percent on *any* unpaid balance.

Response: Subparagraph 19(e), redesignated in this final rule as subparagraph 21(d), has not been amended to include this suggestion. This subparagraph has been amended to add language providing that a penalty of 6% shall accrue from the date the debt became delinquent in accordance with 4 CFR 102.13(e) of the Standards for the Administrative Collection of Claims. The cited regulation provides that, as is the case with debts incurred on policies issued under the provisions of the FCI Act, an interest rate may be established which differs from the interest rate established in the debt collection regulations.

(p) *Comment:* Amend the record retention provision (paragraph 16) to require that records be maintained for three years; but, with the added requirement that records be maintained which were used to establish the amount of coverage on each farm unit.

Response: FCIC concurs with this suggestion and has amended this provision to include maintaining records used to establish the amount of coverage for each farm unit for three years (see paragraph 18 in this final rule). This type of information is provided by the insured initially and is not thought to impose any additional burden on the policyholder by requiring that such records be maintained. Further, it is FCIC's belief that retention of records supporting certification of past production is essential to the process of providing an adequate basis for revision of premiums and indemnities if an insured fails to maintain correct supporting records. While these requirements are provided in FCIC procedure, their effectiveness is enhanced by inclusion in the provisions of the policy to be codified in the Code of Federal Regulations.

(q) *Comment:* Another comment received by FCIC suggested additional language to another portion of the policy (paragraph 3) to provide that revision of the production guarantee, and any indemnity paid based on such guarantee, may be made if the production report is not supported by certain verifiable records or by measurement of farm stored production, or if the insured misreports actual production.

Response: FCIC also concurs in this suggestion for the same reasons outlined in response to Comment (p) above and has added a subparagraph (d) to paragraph 3 to contain this provision.

(r) *Comment:* § 499.2 (c) and (d)—Add the phrase "in the same county" after the words "on the same crop for the same crop year."

Response: These subsections have been amended to include this suggestion (§ 457.2 (c) and (d) in this final rule).

(s) *Comment:* § 499.2(d)—Add "duplicate" before the words "multiple peril contract."

Response: This subsection has been amended to include this suggestion (§ 457.2(d) in this final rule).

(t) *Comment:* § 499.2(g)—Change the term "Multi-peril" to read "multiple peril."

Response: This term has been conformed as "multiple peril" throughout the document.

(u) *Comment:* § 499.3(a)—Delete the reference to the actuarial data being "on file in the applicable service offices for the county," since this phrase is unclear and the data is maintained by the reinsured companies.

Response: This statement has been conformed throughout the document to read "agent's offices" instead of "service offices."

(v) *Comment:* § 499.7—Insert the word "accepted" before the word "application."

Response: This section has been amended to include this suggestion (§ 457.7 in this final rule).

(w) *Comment:* § 499.8(b)—This subsection should contain a requirement that the reinsured company notify FCIC in the event of rejection of an application. It is not reasonable to require the reinsured company to refer the applicant to competing agents.

Response: If FCIC would not have rejected the application and the reinsured company does so, it is not unreasonable to require the company to refer the applicant to the proper source from which to obtain crop insurance coverage. The rejecting company need not notify the Corporation of the rejection, merely refer the rejected applicant to a source of FCIC insurance. FCIC believes subsection § 499.8(b), with respect to referring a rejected applicant to another agent authorized to sell FCIC policies, is not an unreasonable requirement and does not contemplate making a change.

(x) *Comment:* The proposed rule diminishes the role of the reinsured company and inhibits any innovation because of stringent regulatory requirements which are beyond the scope of FCIC's delegated authority. References in the proposed rule to the publication of policy provisions (as amendments to the Common Policy) and the adoption of reinsured policy provisions is contrary to reinsurance principles.

Response: The legislation which allows the FCIC to operate provides that the policy issued be published in the **Federal Register**. In addition, the Administrative Procedure Act (5 U.S.C. 701–706, as amended) requires FCIC to publish its rules and to provide the public an opportunity for comment. Nothing in the rule inhibits a company from developing new products or being innovative. The FCIC Act requires the delivery of benefits of this program in a nondiscriminatory manner. FCIC does not believe that this mandate can be addressed efficiently if each company can be allowed to deliver a different product to different recipients in the guise of innovation.

(y) *Comment:* Sixteen references in paragraph 1 (Definitions) should be deleted because they are redundant and they are specifically and adequately defined in the policy sections.

Response: FCIC has corrected the redundancy to the maximum extent possible. FCIC feels the need to go to sufficient lengths to promote a proper level of understanding by retaining a certain amount of redundancy to assure a complete and clear interpretation of the policy terms and conditions.

(z) *Comment:* Subparagraph 2.(d) fails to address the consequences of death, etc., if the event occurs after the sales closing date but before coverage begins for the crop year.

Response: This eventuality is covered in the requirements of this subparagraph although not in the specific terms the commenter raises. Under this provision the policy will terminate in the event of death, should the death occur before insurance attaches. If the death were to occur after sales closing date, but before coverage begins, FCIC would terminate the policy as provided because the insurance technically had not yet begun. FCIC feels that this provision addresses the issue raised by the commenter and does not require change.

(aa) *Comment:* Subparagraph 2.(e) should be deleted because it is unnecessary and costly to require companies to carry zero premium policies.

Response: This subparagraph has been amended to delete this reference.

(bb) *Comment:* Subparagraph 3(b) should be amended to change the words "Summary of coverage" to "Schedule of insurance," and the remainder of the sentence deleted because it limits the flexibility of the reinsured company to offer multiple alternatives for price selection. In addition, price selections should be handled between the insurer and the insured by separate agreement.

Response: "Summary of Coverage" is used because the term more accurately describes the information contained on the form. The selection of a price at which to compute indemnities is an important option for the insured. The language permits the insurer to impose a price election which bears the same relationship to a previously elected price. To permit imposition of higher or lower prices without sufficient protection to the insured is not in the best interest of the insured or the program. Sufficient flexibility is provided by this language. Selection of prices is handled between the insurer and the insured under current and proposed terms. FCIC will not change this subparagraph.

(cc) *Comment:* Subparagraph 3(c) should be deleted and covered in the separate crop provisions.

Response: The FCIC has determined that this provision applies to a significant number of crops. To avoid repetition, it is placed in the Basic Provisions.

(dd) *Comment:* Reference to notification of the insured concerning changes should be deleted because this is administrative and not contractual.

Response: FCIC has determined that this section will be unchanged. Notification to the insured is an integral part of the process and is a contractual obligation (see subparagraph 1. (n) "Contract Change Date," and paragraph 4 of the Common Policy).

(ee) *Comment:* Subparagraph 6 in the proposed rule (Report of Acreage) should be modified to conform to the reinsured companies policy regarding report of acreage.

Response: This paragraph is a combination of previous provisions of the FCIC and reinsured companies' policies. Representatives of both agree that the paragraph as written eliminates previous administrative problems, therefore no change is contemplated. FCIC has determined that this provision provides adequate protection to both parties to the insurance contract.

In addition, following a review of the proposed rule by internal divisions of FCIC, changes to the language of the policy provisions were made which FCIC considers minor and non-substantive and made only for the purpose of clarification to reflect the insurance industry terms which are tested and proven workable.

Accordingly, with the amendments made necessary by the comments referred to above, and minor and non-substantive language and format changes for purposes of clarity, the proposed rule published in the **Federal Register** at 55 FR 4382, is hereby adopted as a final rule.

Since this rule only establishes a common set of terms and conditions and does not contain specific crop provisions which will effect current policyholders, good cause is shown for making this rule effective in less than 30 days.

List of Subjects in 7 CFR Part 457

Crop insurance; Common crop insurance regulations.

Final rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby adds a new part 457, the Common Crop Insurance Regulations (7 CFR part 457), effective for the 1991 and succeeding crop years, to read as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1991 AND SUBSEQUENT CONTRACT YEARS

Sec.
457.1 Applicability.
457.2 Availability of Federal crop insurance.
457.3 Premium rates, production guarantees or amounts of insurance, coverage levels, and prices at which indemnities shall be computed.
457.4 OMB control numbers.
457.5 Creditors.
457.6 Good faith reliance on misrepresentation.
457.7 The contract.
457.8 The application and policy.

Authority: 7 U.S.C. 1506, 1516.

§ 457.1 Applicability.

The provisions of this part are applicable only to crops for which a crop provision is published as a section to 7 CFR part 457 and then only for the crops and crop year designated by the application section.

§ 457.2 Availability of Federal crop insurance.

(a) Insurance shall be offered under the provisions of this section on the insured crop in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended (the Act). The crops and counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

(b) The insurance is offered through two methods. First, the Corporation offers the contract contained in this part directly to the insured through agents of the Corporation. Those contracts are specifically identified as being offered by the Federal Crop Insurance Corporation. Second, companies reinsured by the Corporation offer contracts containing the same terms and conditions as the contract set out in this part. These contracts are clearly identified as being reinsured by the Corporation.

(c) No person may have in force more than one contract on the same crop for the same crop year, in the same county, whether insured by the Corporation or insured by a company which is reinsured by the Corporation.

(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, 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 the Corporation that the duplicate multiple peril contract of insurance was inadvertent and without the fault of the person.

(e) If the multiple contracts of insurance are shown to be inadvertent and without the fault of the insured, the contract with the earliest application will be valid and all other contracts on that crop in the county for that crop year will be cancelled. No liability for indemnity or premium will attach to the contracts so cancelled.

(f) The person must repay all amounts received in violation of this section with interest at the rate contained in the contract (see § 457.8, paragraph 21).

(g) An insured whose contract with the Corporation or with a company reinsured by the Corporation under the Act has been terminated because of violation of the terms of the contract is not eligible to obtain multiple peril crop insurance under the Act with the Corporation or with a company reinsured by the Corporation unless the insured can show that the default in the prior contract was cured prior to the sales closing date of the contract applied for or unless the insured can show that the termination was improper and should not result in subsequent ineligiblity.

(h) All applicants for insurance under the Act must advise the agent, in writing, at the time of application, of any previous applications for insurance or policies of insurance under the Act and the present status of any such applications or insurance.

§ 457.3 Premium rates, production guarantees or amounts of insurance, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees or amounts of insurance, coverage levels, and prices at which indemnities shall be computed for the insured crop which will be included in the actuarial table on file in the applicable agents' office for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect an amount of insurance or a coverage level and price from among those contained in the actuarial table for the crop year.

§ 457.4 OMB control numbers.

The information collection requirements contained in these regulations have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB numbers 0563–0003, 0563–0009, and 0563–0010.

§ 457.5 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.

§ 457.6 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the crop insurance contract, whenever:

(a) A person entering into a contract of crop insurance under these regulations who, as a result of a mirsrepresentation or other erroneous action or advice by an agent or employee of the Corporation:

(1) Is indebted to the Corporation for additional premiums; or

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

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that:

(1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice;

(2) Said insured relied thereon in good faith; and

(3) To require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing. The Corporation reviewing officers must, upon application by the person claiming relief under this section, refer such application to the appropriate official of the Corporation for determination as to whether to grant relief under this section. Corporation reviewing officers do not have authority to grant relief under this section.

(c) The reinsured companies may use arbitration panels established under contracts for reinsurance issued by them under the FCIC Act to grant relief under the same terms and conditions as contained in paragraphs (a) and (b) of this section or, may establish procedures to administratively handle relief in accordance with such terms and conditions.

§ 457.7 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation or the reinsured company of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall consist of the accepted Application, the Basic Provisions, the Crop Provisions, the Special Provisions, the county Actuarial Table, and any amendments or options thereto. Changes made in the contract shall not affect its continuity from year to year. No indemnity shall be paid unless the insured complies with all terms and conditions of the contract. The forms referred to in the contract are available at the offices of the crop insurance agent.

§ 457.8 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation, or approved by the Corporation, must be made by any person who wishes to participate in the program, to cover such person's share in the insured crop as landlord, owner-operator, crop ownership interest, or tenant. No other person's interest in the crop may be insured under an application unless that person's interest is clearly shown on the application and unless that other person's interest is insured in accordance with the procedures of the Corporation. The application must be submitted to the Corporation or the reinsured company through the crop insurance agent and must be submitted on or before the applicable sales closing date on file.

(b) The Corporation or the reinsured company may reject or discontinue the acceptance of applications in any county or of any individual application upon the Corporation's or the reinsured company's determination that the insurance risk is excessive. If the reinsured company rejects any application and such rejection is not required by the Corporation, the applicant must be referred to an agent authorized to sell the Corporation's policies of insurance. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable agents office and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the extended period or that such extension is required to comply with other programs of the United States Department of Agriculture. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications and will require that the reinsured companies also immediately discontinue such acceptance.

United States Department of Agriculture

Federal Crop Insurance Corporation

Common Crop Insurance Policy

This is a continuous policy. Refer to section 2.

FCIC policies	Reinsured policies
United States Department of Agriculture, Federal Crop Insurance Corporation	
This is an insurance policy issued by the Federal Crop Insurance Corporation, a United	This policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the provisions of the

FCIC policies	Reinsured policies
States Government agency. The provisions of the policy are published in the **Federal Register** and in the Code of Federal Regulations (CFR) under the Federal Register Act (44 U.S.C. 1501 *et seq.*) and may not be waived or varied in any way by the crop insurance agent or any other agent or employee of FCIC.	Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*). All provisions of the policy and rights and responsibilities of the parties are specifically subject to the Federal Crop Insurance Act. The provisions of the policy are published in the **Federal Register** and in chapter IV of title 7 of the Code of Federal Regulations (CFR) under the Federal Register Act (44 U.S.C. 1501 *et seq.*), and may not be waived or varied in any way by the crop insurance agent, or any other agent or employee of the company. In the event we cannot pay your loss, your claim will be settled in accordance with the provisions of this policy and paid by the FCIC. No state guaranty fund will be liable to pay your loss.
Throughout this policy, "you" and "your" refer to the named insured shown on the accepted application and "we", "us" and "our" refer to the Federal Crop Insurance Corporation. Unless the context indicates otherwise, use of the plural form of a word includes the singular and use of the singular form of the word includes the plural	Throughout this policy, "you" and "your" refer to the named insured shown on the accepted application and "we" "us" and "our" refer to the company providing the insurance. Unless the context indicates otherwise, use of the plural form of a word includes the singular and use of the singular form of the word includes the plural.

Agreement to insure: In return for the payment of the premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in this policy. If a conflict exists between the basic provisions contained herein and the specific crop provisions, the crop provisions will control.

Terms and Conditions

Basic Provisions

1. Definitions

As used in this Policy these terms are defined as follows:

(a) *Abandon*—Failure to continue providing sufficient care (For example, cultivation, irrigation, fertilization, application of chemicals, etc., consistent with good farming practices) for the insured crop to make normal progress toward harvest or maturity, or failure to harvest in a timely manner.

(b) *Acreage report*—A report required by paragraph 6 of these basic provisions which contains, in addition to other required information, your report of your share of all acreage of an insured crop in the county whether insurable or not insurable. This report must be filed not later than the final acreage reporting date contained in the special provisions for the county for the insured crop.

(c) *Acreage reporting date*—The date (contained in the special provisions) by which you are required to submit your acreage reports.

(d) *Actuarial table*—The forms and related material for the crop year which are available for public inspection in your agent's office, and which show the amounts of insurance or production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable acreage, and other related information regarding crop insurance in the county.

(e) *Another use, notice of*—The written notice required when you wish to put acreage to another use (see section 14).

(f) *Application*—The form is required to be completed by you and accepted by us before insurance coverage will commence. This form must be completed and filed in your agent's office not later than the sales closing date of the initial insurance year for each crop for which insurance coverage is requested. If a break in insurance coverage occurs, a new application must be filed.

(g) *ASCS*—The Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

(h) *ASCS Farm Serial Number*—The number assigned to the farm by the ASCS County Committee.

(i) *Assignment of indemnity*—A transfer of policy rights, made on our form, and effective when approved by us. It is the arrangement whereby you assign your right to an indemnity payment to any party of your choice for the crop year.

(j) *Cancellation date*—The calendar date specified in each crop provision on which that crop provision will automatically renew unless canceled in writing by either you or us.

(k) *Claim for indemnity*—A claim made on our form by you for damage or loss to an insured crop and submitted to us not later than 60 days after the end of the insurance period (see section 14).

(l) *Consent*—Approval in writing by us allowing you to take a specific action.

(m) *Contract*—(also see "Policy") This policy is a contract between you and us consisting of the accepted Application, these Basic Provisions, the Crop Provisions, the Special Provisions, the Actuarial Table for the insured crops, and the applicable regulations as published at 7 CFR part 401.

(n) *Contract change date*—The calendar date by which we make any contract (policy) changes available for inspection in the agent's office (see section 4).

(o) *County*—The county or other political subdivision shown on your accepted application.

(p) *Coverage*—The insurance provided by this policy, against insured loss of production or value, by unit as shown on your summary of coverage.

(q) *Coverage begins, date*—The calendar date insurance begins on the insured crop, as contained in the crop provision, or the date after planting is started on the unit (see section 11).

(r) *Crop Provisions*—The part of the policy that contains the specific provisions of insurance for each insured crop.

(s) *Crop year*—The period within which the insured crop is normally grown and designated by the calendar year in which the insured crop is normally harvested.

(t) *Damage*—Injury, deterioration, or loss of production of the insured crop due to insured to uninsured causes.

(u) *Damage, notice of*—A written notice required to be filed in your agent's office whenever you initially discover the insured crop has been damaged to the extent that a loss is probable (see section 14).

(v) *Delinquent account*—Any account you have with us in which premiums, or interest on those premiums is not paid by the termination date specified in the crop provisions, or any other amounts due us, such as indemnities found not to have been earned, which are not paid within 30 days of our mailing or other delivery or notification to you of the amount due.

(w) *Earliest planting date*—The earliest date established for planting the insured crop and qualifying for a replant payment if applicable (see special provisions and section 13).

(x) *End of insurance period, date of*—The date upon which your crop insurance coverage ceases for the crop year. (See crop provisions and section 11).

(y) *Insured*—The named person as shown on the application accepted by us. This term does not extend to any other person having a share or interest in the crop (for example, a partnership, landlord, or any other person) unless specifically indicated on the accepted application (see definition of "Person" paragraph 1.(dd)).

(z) *Insured crop*—The crop defined under these basic provisions and the applicable crop provision as shown on the application accepted by us.

(aa) *Late Planting Agreement Option*—Available on selected crops. An amendment to the insurance policy which, when planting has been delayed, provides insurance coverage for acreage of an insured crop planted after the final planting date shown on the special provisions in exchange for a reduction in coverage.

(bb) *Loss, notice of*—The notice required to be given by you not later than 72 hours after certain occurrences or 15 days after the end of the insurance period (see section 14).

(cc) *Negligence*—The failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

(dd) *Person*—An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State.

(ee) *Policy*—(also see "Contract") The basic provisions for insuring a specific crop. The "Insurance Contract" or "Contract" which is the insurance contract between you and us consisting of the accepted application, the basic provisions, the crop provisions, the special provisions, the actuarial table for the insured crop, and the applicable regulations as published at 7 CFR part 401.

(ff) *Practical to replant*—Our determination, after loss or damage to the insured crop, based upon all factors, including, but not limited to moisture availability, condition of the field, time to crop maturity, etc., on the feasibility of replanting and harvesting the insured crop. It is not practical to replant after the final planting date (for crops without an offered Late Planting Agreement Option) or after 20 days after the final planting date (for crops with an offered Late Planting Agreement Option).

(gg) *Premium billing date*—The earliest date upon which you will be billed for insurance coverage based on your acreage report and which generally falls at or near harvest time.

(hh) *Price election*—The amounts determined by FCIC and contained in the actuarial table, to be used as a basis for computing the amount per unit of production which will be paid in the event of a loss under the policy.

(ii) *Production report*—A written record showing your annual production and used by us to determine your yield for insurance purposes (see section 3). The report contains previous years yield information including planted acreage and harvested production. This report must be supported by written verifiable records from a warehouseman or buyer of the insured crop or by measurement of farm stored production, or by other records of production approved by us on an individual case basis.

(jj) *Reporting date*—The acreage reporting date (contained in the special provisions) by which you are required to report all your insurable acreage in the county in which you have a share and your share at the time insurance attaches, and any acreage in which you have a share which is not insured (see section 9.).

(kk) *Representative sample*—Portions of the insured crop or insured crop residue which are required to remain in the field for examination and review by our loss adjusters when making a crop appraisal if required by the crop provisions. The samples are further defined in the crop provisions.

(ll) *Sales closing date*—The date contained in the special provisions which is the final date when an application may be filed. This is the last date for you to make changes in your crop insurance coverage for the crop year.

(mm) *Section* (for the purposes of unit structure)—A unit of measure under a rectangular survey system describing a tract of land usually one mile square and usually containing approximately 640 acres.

(nn) *Share*—Your percentage of interest in the insured crop as an owner, operator, or tenant at the time coverage begins. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share at the earlier of the time of loss or the beginning of harvest. Unless the accepted application clearly indicates that insurance is requested for a partnership or joint venture, or is intended to cover the landlord's, or tenant's share of the crop (see section 10), insurance will only cover the crop share of the person completing the application. The share will not extend to any other person having an interest in the crop except as may otherwise be specifically allowed in this policy. We may consider any acreage or interest reported by or for your spouse, child or any member of your household to be your share. Leases containing provisions for both a cash or minimum payment and a crop share will be considered a crop share lease.

(oo) *Special provisions*—The part of the policy that contains specific provisions of insurance for each insured crop that may vary by geographic area.

(pp) *State*—The state shown on your accepted application.

(qq) *Summary of coverage*—Our statement to you, based upon your acreage report, by unit, specifying the insured crop and the guarantee or amount of insurance coverage provided.

(rr) *Tenant*—A person who rents land from another person for a share of the crop or a share of the proceeds of the crop (see the definition of "share" above).

(ss) *Termination date*—The calendar date contained in the crop provisions upon which your policy ceases for nonpayment of premium or any other amount due us under the policy.

(tt) *Unit*—All insurable acreage of the insured crop in the county on the date coverage begins for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another specific entity on a share basis.

(For example, if, in addition to the land you own, you rent land from five landlords, three on a crop share basis and two on a cash basis, you would be entitled to four units, one for each crop share lease and one for the two cash leases and the land you own). Land rented for cash, a fixed commodity payment, or a consideration other than a share in the insured crop on such land will be considered as owned by the lessee (see "Share" above). Land which would otherwise be one unit may, in certain instances, be divided according to guidelines contained in the applicable crop provisions. Units will be determined when the acreage is reported but may be adjusted or combined to reflect the actual unit structure when adjusting a loss. However, no further division may be made after the acreage report date for any reason.

2. Life of Policy, Cancellation, and Termination

(a) This is a continuous policy and will remain in effect for each crop year following the acceptance of the original application. After acceptance of the application, you may not cancel this policy the initial crop year. Thereafter, the policy will continue in force for each succeeding crop year unless canceled or terminated as provided below.

(b) Either you or we may cancel this policy after the initial crop year by providing written notice to the other on or before the cancellation date shown in the crop provisions.

(c) All policies issued by us under the authority of the Federal Crop Insurance Act will terminate as of the coincidental or next termination date contained in these policies if any amount due us is not paid on or before the termination date for the crop on which the amount is due. Such unpaid debts will also make you ineligible for any crop insurance provided under the Federal Crop Insurance Act until payment is made. If we deduct any amount due us from an indemnity, the date of payment for the purpose of this paragraph will be the date you sign the properly completed claims for indemnity

(d) If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the policy will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after coverage begins for any crop year, the policy will continue in force through the crop year and terminate at the end of the insurance period and any indemnity will be paid to the person or persons determined to be beneficially entitled to the indemnity. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

(e) Your policy will terminate if no premium is earned in any year.

(f) The cancellation and termination dates are contained in the crop provisions.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

(a) For each crop year the production guarantee or amount of insurance, coverage level, and price at which an indemnity will be determined for each unit will be those used to calculate your summary of coverage. The information necessary to determine those factors will be contained in the special provisions or in the actuarial table.

(b) You may select only one coverage level offered by us for each insured crop. By written notice to us you may change the coverage level, price election, or amount of insurance for the following crop year not later than the sales closing date for the affected insured crop. If you do not elect a coverage level, we will assign the coverage level which is designated for that purpose in the special provisions. Since the price election or amount of insurance may change each year, if you do not select a new price election or amount of insurance before the next insurance year prior to the sales closing date, we will assign the price election or amount of insurance which bears the same relationship to the price election schedule as the price election or amount of insurance in effect for the preceding year.

(c) You must report production to us for the previous crop year by the earlier of the acreage reporting date or 45 days after the cancellation date. If you do not provide the required production report, we will assign a yield for the previous crop year. The yield assigned by us will not be more than 75% of the yield used by us to determine your coverage for the previous crop year. The production report or assigned yield will be used to compute your production history for the purpose of determining your coverage for the current crop year. If you have filed a claim for any crop year, the production used to determine the indemnity payment will be the production report for that year.

(d) We may revise your production guarantee for any farm unit, and revise any indemnity paid based on that production guarantee, if we find that your production report under paragraph (c) above:

(1) Is not supported by written verifiable records (see paragraph 1.(ii)); or

(2) Fails to accurately report actual production.

4. Contract changes

We may change the coverage under this policy from year to year. Your crop insurance agent will have changes in policy provisions, price elections, amounts of insurance, premium rates and program dates by the contract change date contained in the crop provisions. In addition, you will be notified, in writing, of these changes. Such notification will be made at least 30 days prior to the cancellation date of the insured crop.

5. Liberalization

If we adopt any revisions which would broaden the coverage under this policy subsequent to the contract change date without additional premium, the broadened coverage will apply.

6. Report of Acreage

(a) An annual acreage report must be submitted to us on our form for each insured crop in the county on or before the acreage reporting date shown in the special provisions. This report must include the following information, if applicable:

(1) All acreage of the crop (insurable and not insured) in which you have a share;

(2) Your share at the time coverage begins;

(3) The practice;

(4) The type; and

(5) The date the insured crop was planted.

(b) If you do not have a share in any insured crop in the county for the crop year, you must submit an acreage report so indicating.

(c) Because incorrect reporting on the acreage report may have the effect of changing your premium and any indemnity which may be due, you may not revise this report after the acreage reporting date without our consent.

(d) We may elect to determine all premiums and indemnities based on the information you submit on the acreage report or upon the factual circumstances which we determine to have actually existed.

(e) If you do not sumit an acreage report by the acreage reporting date, or if you fail to report all units, we may elect to determine by unit the insurable crop acreage, share, type and practice or deny liability on any unit.

(f) If the information reported by you on the acreage report for a unit results in a lower premium than the actual premium determined to be due on the basis of the share, acreage, practice, type or other material information determined to actually exists, the production guarantee or amount of insurance on the unit will be reduced proportionately. In the event that acreage is under-reported, all production or value from insurable acreage for the unit, whether or not reported as insurable, will be considered production or value to count in determining indemnity.

(g) Errors in reporting units may be corrected by us to reduce our liability and to conform to applicable unit division guidelines at the time of adjusting a loss.

7. Annual Premium

(a) The annual premium is earned and payable at the time coverage begins. You will be billed for premium due not earlier than the billing date specified in the special provisions. The premium due, plus any accrued interest, will be considered delinquent if any amount due us is not paid on or before the termination date specified in the corp provisions.

(b) Any amount due us will be deducted from any replant payment or indemnity due you under the provisions of this policy.

(c) The annual premium amount is determined by either:

(a) Multiplying the production guarantee per acre times the price election, times the premium rate, times the insured acreage, times your share at the time coverage begins, times any premium adjustment precentages that may apply; or

(3) Multiplying the amount of insurance per acre times the premium rate, times the insured acreage, times your share at the time coverage begins, times any premium adjustment percentages that may apply.

8. Insured Crop

(a) The insured crop will be that shown on your accepted application and as specified in the crop provisions and must be grown on insurable acreage.

(b) A corp which will NOT be insured will include, but will not be limited to, any corp:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates, production guarantees or amounts of insurance have been established;

(2) Initially planted after the final planting date, unless we allow any you agree in writing on our form, to a coverage reduction (this Late Planting Agreement Option is available only on selected crops);

(3) Of a type, class or variety established as not adapted to the area or excluded by the special provisions;

(4) That is a volunteer crop;

(5) That is a second crop following the same crop (insured or not insured) harvested in the same crop year unless specifically permitted by the crop provisions of the special provisions;

(6) Which is planted for the development or production of hybrid seed or for experimental puposes, unless permitted by the crop provisions of unless we agree, in writing, to insure such crop; or

(7) Used for sildlife protection or management.

9. Insurable Acreage

(a) Acreage planted to the insured crop in which crop you have a share in insurable unless it is acreage:

(1) On which a corp has not been planted or harvested in a least one of the three previous crop years, unless ASCS classifies such acreage as cropland;

(2) Which has been strip-mined, unless we agree in writing to insured such acreage;

(3) On which the insured crop is damaged and it is practical to replant the insured crop, but the insured crop is not replanted;

(4) Which is planted with a crop other than the insured crop, unless allowed by the crop provisions; or

(5) Which is otherwise restricted by the crop provisions of special provisions.

(b) If insurance is provided for an irrigated practice, you must report as irrigated only that acreage for which you have adequate facilities and water, at the time coverage begins, to carry out a good irrigation practice.

(c) If acreage is irrigated and we do not provide a premium rate for an irrigated practice, you may either report and insure the irrigated acreage as "nonirrigated," or report the irrigated acreage as not insured.

(d) We may restrict the amount of acreage which we will insure to the amount allowed under any acreage limitation program established by the United States Department of Agriculture if we notify you of that restriction prior to the sales closing date.

10. Share Insured

(a) You may only insure your share as defined in subparagraph 1(nn) above.

(b) You as a landlord (or tenant) may insure your tenant's (or landlord's) share of the crop if evidence of the other party's approval of that insurance is demonstrated (Lease, Power of Attorney, etc.). The respective shares must be clearly set out on the Acreage Report and a copy of the other party's approval must be retained by us.

11. Insurance Period

Coverage begins on each unit or part of a unit the later of the date you submit your application, when the insured crop is planted or on the calendar date for the beginning of the insurance period if specified in the crop provisions, and ends at the earliest of:

(a) Total destruction of the insured crop on the unit;

(b) Harvest of the unit;

(c) Final adjustment of a loss on a unit;

(d) The calendar date for the end of the insurance period contained in the crop provisions;

(e) Abandonment of the crop on the unit; or

(f) As otherwise specified in the crop provisions.

12. Causes of Loss

The insurance provided is against only unavoidable loss of production directly caused by specific causes of loss contained in the crop provisions. All other causes of loss, including but not limited to the following, are NOT covered:

(a) Negligence, mismanagement, or wrongdoing by you, any member of your family or household, your tenants, or employees;

(b) The failure to follow recognized good farming practices for the insured crop;

(c) Water contained by any governmental, public, or private dam or reservoir project;

(d) Failure or breakdown of irrigation equipment or facilities; or

(e) Failure to carry out a good irrigation practice for the insured crop if applicable.

13. Replanting Payment

(a) If allowed by the crop provisions, a replanting payment may be made on an insured crop replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured acreage for the unit (as determined on the final planting date).

(b) No replanting payment will be made on acreage:

(1) On which our appraisal establishes that production will exceed the level set by the crop provisions;

(2) Initially planted prior to the date established by the special provisions; or

(3) On which one replanting payment has already been allowed for the crop year.

(c) The replanting payment per acre will be your actual cost for replanting, but will not exceed the amount determined in accordance with the crop provisions.

(d) If the information reported by you on the acreage report results in a lower premium than the actual premium determined to be due based on the acreage, share, practice, or type determined actually to have existed, the replanting payment will be reduced proportionately.

(e) No replanting payment will be paid for replanting any crop if we determine it is not practical to replant (see subparagraph 1.(ff)).

14. Duties in the event of Damage or Loss

Your Duties—

(a) In case of damage to any insured crop you must:

(1) Protect the crop from further damage by providing sufficient care;

(2) Give us notice within 72 hours of your initial discovery of damage (but not later than 15 days after the end of the insurance period), by unit, for each insured crop; and

(3) Leave representative samples intact for each field of the damaged unit as may be required by the crop provisions.

(b) You must obtain consent from us before, and notify us after you:

(1) Destroy any of the insured crop which is not harvested;

(2) Put the insured crop to an alternative use;

(3) Put the acreage to another use; or

(4) Abandon any portion of the insured crop. We will not give such consent if it is practical to replant the crop or until we have made an appraisal of the potential production of the crop.

(c) In addition to complying with all other notice requirements, you must submit a claim for indemnity declaring the amount of your loss not later than 60 days after the end of the insurance period. This claim must include all the information we require to settle the claim.

(d) Upon our request, you must:

(1) Provide a complete harvesting and marketing record of each insured crop by unit including separate records showing the same information for production from any acreage not insured; and

(2) Submit to examination under oath;

(e) You must establish the total production or value received for the insured crop on the unit and that any loss of production or value has been directly caused by one or more of the insured causes (see crop provisions) during the insurance period.

(f) All notices required in this paragraph that must be received by us within 72 hours may be made by telephone or in person to your crop insurance agent but must be confirmed in writing within 15 days.

Our Duties—

(a) If you have complied with all the policy provisions we will pay your loss within 30 days after:

(1) We reach agreement with you; or

(2) The entry of a final judgment by a court of competent jurisdiction.

(b) In the event we are unable to pay your loss within 30 days, we will give you notice of our intentions within the 30 day period.

(c) We may defer the adjustment of a loss until the amount of loss can be accurately determined. We will not pay for additional damage resulting from your failure to provide sufficient care for the crop during the deferral period.

(d) We recognize and apply the loss adjustment procedures established or approved by the Federal Crop Insurance Corporation.

15. Production Included in Determining Indemnities

(a) The total production to be counted for a unit will include all production determined in accordance with the Policy.

(b) The amount of production of any unharvested insured crop may be determined on the basis of our field appraisals conducted after the end of the insurance period.

(c) If you elect to exclude hail and fire as insured causes of loss and the insured crop is damaged by hail or fire, appraisals will be made in accordance with the applicable Form FCI–78 or FCI–78–A, "Request To Exclude Hail and Fire" or a form which contains the same terms.

16. Crops as payment

You must not abandon any crop to us. We will not accept any crop as compensation for payments due us.

For FCIC policies	For reinsured policies
17. Appeals All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations (7 CFR part 400, subpart J)	17. Arbitration If you and we fail to agree on the production to be counted against the production guarantee due to damage, the following procedure will be used. (a) Either party may demand in writing, that the amount of production to be counted be set by appraisal. (b) Each party will select an appraiser and notify the other of the appraiser's identity within 15 days after receipt of the written demand. (c) The two appraisers will then select an umpire. If the two appraisers are unable to agree upon an umpire within 15 days, you or we can ask a judge of a court of record in the state in which the insured crop is grown to select an umpire. (d) The appraisers will set the production to be counted against the production guarantee in accordance with the policy requirements. When the appraisers submit a written report of an agreement to us, the amount agreed upon will be the production to be counted against the production guarantee. (e) If the appraisers fail to agree within 15 days they must submit their difference to the umpire. A signed written agreement by two of the three will establish the production to be counted against the production guarantee. Each appraiser must be paid by the party selecting that appraiser. Other expenses of the appraisal and compensation of the umpire will be paid equally by you and us.

18. Access to Insured Crop and Record Retention

(a) We reserve the right to examine the insured crop as often as we reasonably require.

(b) For three years after the end of the crop year, you must retain, and provide upon our request, complete records of the harvesting, storage, shipment, sale, or other disposition of all the insured crop produced on each unit. This requirement also applies to the records used to establish the basis for the production report for each unit. You must also upon our request, provide separate records showing the same information for production from any acreage not insured. We may extend the record retention period beyond three years by notifying you of such extension in writing. Your failure to keep and maintain such records may, at our option, result in:

(1) Cancellation of the policy;

(2) Assignment of production to units by us; or

(3) A determination that no indemnity is due.

(c) Any person designated by us will, at any time during the record retention period, have access:

(1) To any records relating to this insurance at any location where such records may be found or maintained; and

(2) To the farm.

(d) By applying for insurance under the Act or by continuing insurance previously applied for, you authorize us, or any person acting for us, to obtain records relating to the insured crop from any person who may have custody of those records including, but not limited to, county ASCS offices, banks, warehouses, gins, cooperatives, marketing associations, accountants, etc. You must assist us in obtaining all records which we request from third parties.

19. Other Insurance

(a) *Other Like Insurance.* You must not obtain any other crop insurance issued under the authority of the Federal Crop Insurance Act on your share of the insured crop. If we determine that more than one policy on your share is intentional, you may be subject to the fraud provisions under this policy. If we determine that the violation was not intentional, the policy with the earliest date of application will be in force and all other policies will be void. Nothing in this paragraph prevents you from obtaining other insurance not issued under the Act.

(b) *Other Insurance Against Fire.* If you have other insurance, whether valid or not, against damage to the insured crop by fire during the insurance period, and you have not excluded coverage for fire from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this policy without regard to any other insurance; or

(2) The amount by which the loss from fire is determined to exceed the indemnity paid or payable under such other insurance.

For the purpose of this paragraph, the amount of loss from fire will be the difference between the fair market value of the production of the insured crop on the unit involved before the fire and after the fire, as determined from appraisals made by us.

20. Conformity to Food Security Act

Although your violation of a number of federal statutes, including the Federal Crop Insurance Act, may cause cancellation, termination, or voidance of your insurance contract, you should be aware that your policy will be cancelled if you are determined to be ineligible to receive benefits under the Federal Crop Insurance Act due to violation of the Conservation Provision (title XII) or the Controlled Substance Provision (title XVII) of the Food Security Act of 1985 (Pub. L. 99–198) and the regulations promulgated under the Act by the United States Department of Agriculture (USDA). Your insurance policy will be cancelled if you are determined, by the appropriate United States Government (USDA) Agency, to be in violation of these provisions. We will recover any and all monies paid to you or received by you and your premium will be refunded.

21. Amounts Due Us

(a) Any delinquent amount due us may be deducted from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies or from any amount due you from any other United States Government Agency

(b) Interest will accrue at the rate of one and one-fourth percent (1¼%) simple interest per calendar month, or any part thereof, on any unpaid amount due us. For the purpose of premium amounts due us, interest will start on the first day of the month following the premium billing date specified in the special provisions

(c) For the purpose of any other amounts due us, such as repayment of indemnities found not to have been earned, interest will start on the date that notice is issued to you for the collection of the unearned amount. Amounts found due under this paragraph (c) will not be charged interest if payment is made within 30 days of issuance of the notice by us. The amount will be considered delinquent if not paid within 30 days of the date the notice is issued by us

(d) Penalties and interest will be charged in accordance with 31 U.S.C. 3717 and 4 CFR 102.13. The penalty for accounts more than 90 days delinquent (31 U.S.C. 3717(e)(2) and 4 CFR 102.13(e) is six percent (6%) per annum

(e) Interest on any amount due us found to have been received by you because of fraud, misrepresentation or presentation by you of a false claim will start on the date you received the amount with the 6% penalty beginning on the 31st day after the notice of amount due is issued to you. This interest is in addition to any other amount found to be due under any other Federal criminal or civil statute

(f) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in collection, you agree to pay all of the expenses of collection

(g) All amounts paid will be applied first to the payment of the expenses of collection accounts, second to the reduction of any penalties which may have been assessed, then to reduction of accrued interest, then to reduction of the principal balance

21. Amounts Due Us

(a) Interest will accrue at the rate of one and one-fourth percent (1¼%) simple interest per calendar month, or any part thereof, on any unpaid amount due us. For the purpose of premium amounts due us, the interest will start on the first day of the month following the premium billing date specified in the special provisions.

(b) For the purpose of any other amounts due us, such as repayment of indemnities found not to have been earned, interest will start on the date that notice is issued to you for the collection of the unearned amount. Amounts found due under this paragraph will not be charged interest if payment is made within 30 days of issuance of the notice by us. The amount will be considered delinquent if not paid within 30 days of the date the notice is issued by us.

(c) All amounts paid will be applied first to expenses of collection (see (d) below) if any, second, to the reduction of accrued interest, and then to the principal balance.

(d) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in collection, you agree to pay all of the expenses of collection. Those expenses will be paid before the application of any amounts to interest or principal.

22. Legal Action Against Us

(a) You may not bring legal action against us unless you have complied with all of the policy provisions.

(b) If you do take legal action against us you must do so within 12 months of the date of denial of the claim. Suit must be brought in accordance with the provisions of 7 U.S.C. 1508(c).

(c) Your right to recover damages (compensatory, punitive, or other), attorney's fees, or other charges is limited or excluded by this contract or by Federal Regulations.

23. Payment and Interest Limitations

(a) Under no circumstances will we be liable for the payment of damages (compensatory, punitive, or other), attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim.

(b) We will pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment of a court of competent jurisdiction, from and including the 61st day after the date you sign, date, and submit to us the properly completed claim on our form. Interest will be paid only if the reason for our failure to timely pay is NOT due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1 of each year and may vary with each publication.

24. Concealment, Misrepresentation or Fraud

This policy will be void in the event you have falsely or fraudulently concealed either the fact that you are restricted from receiving benefits under the Federal Crop Insurance Act or that action is pending which may restrict your eligibility to receive such benefits. We will also void this policy if you or anyone assisting you has intentionally concealed or misrepresented any material fact relating to this or any other FCIC or FCIC reinsured policy. This voidance will not affect your obligation to pay premiums or waive any of our rights under this policy, including the right to collect any amount due us. The voidance will be effective as of the time coverage began for the crop year within which such act occurred.

25. Transfer of Coverage and Right to Indemnity

If you transfer any part of your share during the crop year, you may transfer your coverage rights. The transfer must be on our form and approved by us. Both you and the person to whom you transfer your interest are jointly and severally liable for the payment of the premium. The transferee has all rights and responsibilities under this policy consistent with the transferee's interest.

26. Assignment of Indemnity

You may assign to another party your right to an indemnity for the crop year. The assignment must be on our form and will not be effective until approved in writing by us. The assignee will have the right to submit all loss notices and forms as required by the policy.

27. Subrogation (Recovery of loss from a third party)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve this right. If we pay you for your loss, your right to recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

28. Applicability of State and Local Statutes

If the provisions of this policy conflict with statutes of the State in which this policy is issued the policy provisions will prevail. State and local laws and regulations in conflict with federal statutes, this contract, and the applicable regulations do not apply to this policy.

29. Descriptive Headings

The descriptive headings of the various policy provisions are formulated for convenience only and are not intended to affect the construction or meaning of any of the policy provisions.

30. Notices

All notices required to be given by you must be in writing and received by your crop insurance agent within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice. If the date by which you are required to submit a report or notice falls on Saturday, Sunday, or Federal holiday, or, if your agent's office is, for any reason, not open for business on the date you are required to submit such notice or report, such notice or report must be submitted on the next business day. All notices and communications required to be sent by us to you will be mailed to the address contained in your records located with your Crop Insurance Agent. You should advise us immediately of any change of address.

Done in Washington, DC, on January 8, 1991.

James E. Cason,

Deputy Manager, Federal Crop Insurance Corporation.

[FR Doc. 91-709 Filed 1-11-91; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Stabilization and Conservation Service

7 CFR Part 760

Dairy Indemnity Payment Program; Beekeeper Indemnity Payment Program

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to amend the Dairy Indemnity Payment Program regulations to extend the operation of the program through September 30, 1995, as required by the Food, Agriculture, Conservation and Trade Act of 1990. This regulation also deletes obsolete provisions in 7 CFR part 760 which were used to administer the Beekeeper Indemnity Payment Program from 1970 through 1980.

EFFECTIVE DATE: This regulation shall become effective January 14, 1991.

FOR FURTHER INFORMATION CONTACT: Raellen Erickson, Agricultural Program Specialist, Emergency Operations and Livestock Programs Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013; Telephone (202) 447-3561.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (7 CFR part 760) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control No. 0560-0116. Public reporting burden for the collection of information contained in this regulation is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0560-0116), Washington, DC 20503.

This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program to which this rule applies re: *Title*—Dairy Indemnity Payments; *Number*—10.053, as found in the Catalog of Federal Domestic Assistance.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

The Dairy Indemnity Payment Program was originally authorized by section 331 of the Economic Opportunity Act of 1964. The statutory authority for the program has been extended several times, most recently by section 110 of the Food, Agriculture, Conservation, and Trade Act of 1990 which authorizes the program to be carried out through September 30, 1995. The objective of the program is to indemnify dairy farmers and manufacturers of dairy products who, through no fault of their own, suffer income losses with respect to milk or milk products removed from commercial markets because such milk or milk products contain certain harmful residues. In addition, dairy farmers can also be indemnified for income losses with respect to milk required to be removed from commercial markets due to residues of chemicals or toxic substances or contamination by nuclear radiation or fallout.

The Food, Agriculture, Conservation, and Trade Act of 1990 made no substantive changes to the Dairy Indemnity Payment Program but merely extended the time period for conducting the program. The regulations governing the program (7 CFR part 760) currently authorized the operation of the program through September 30, 1990. Accordingly, it is necessary to amend § 760.2 of these regulations to make them effective through September 30, 1995.

Since the only purpose of this final rule is to make a technical amendment to the regulations to extend the Dairy Indemnity Payment Program through September 30, 1995 in order to conform to the statute, it has been determined that no further public rulemaking is required. Therefore, these regulations shall become effective upon date of publication in the **Federal Register.**

The regulations of 7 CFR 760.100—760.119 were used in administering the Beekeeper Indemnity Payment Program from 1970 through 1980. No funds have been appropriated for this program since 1980 and no payments have been made since 1980. Accordingly, this final rule deletes these regulations effective upon date of publication in the **Federal Register.**

List of subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Pesticides and pests.

PART 760—[AMENDED]

Final Rule

Accordingly, the regulations at 7 CFR part 760 are amended as follows:

1. The authority citation for part 760 is revised to read as follows:

Authority: 7 U.S.C. 450j, 450k, and 450l.

2. In § 760.2, paragraphs (k) (1) and (2), (l), and (o) are amended by striking out "1990" each place it appears and inserting in lieu thereof "1995".

§§ 760.100—760.119 [Removed]

3. The regulations of 7 CFR 760.100—760.119 are removed.

Signed at Washington, DC on December 31, 1990.

Keith D. Bjerke,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 91-824 Filed 1-11-91; 8:45 am]

BILLING CODE 3410-05-M

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. 86-037F]

Ingredients That May Be Designated as Natural Flavors, Natural Flavorings, Flavors, or Flavorings When Used in Meat or Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule; delay of effective date.

SUMMARY: The Food Safety and Inspection Service (FSIS) is extending the effective date of the final rule published on March 1, 1990, titled "Ingredients That May Be Designated as Natural Flavors, Natural Flavorings, Flavors or Flavorings When Used in Meat or Poultry Products." The original effective date of August 28, 1990, was extended to March 1, 1991, by FSIS on June 28, 1990. FSIS is again extending the effective date to provide additional time for label revisions and approvals needed to implement the final rule. The new effective date is September 3, 1991. In addition, FSIS is providing notice that temporary label approvals, granted by the Agency in conjunction with the March 1, 1990, rule, will now expire on September 3, 1991.

FOR FURTHER INFORMATION CONTACT: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250; Area Code (202) 447-6042.

SUPPLEMENTARY INFORMATION: On March 1, 1990, FSIS published a final rule titled "Ingredients That May Be Designated as Natural Flavors, Natural Flavorings, Flavors or Flavorings When Used in Meat or Poultry Products" (55 FR 7289). The effective date of the rule was August 28, 1990.

The final rule amended the Federal meat and poultry inspection regulations to better define and limit the substances which are permitted to be designated only as "spice," "natural flavor," "natural flavoring," "flavor," or "flavoring" in the list of ingredients on labels for meat and poultry products. The final rule requires that when substances not permitted to be so designated are used in meat and poultry products, they must be identified on the label by their common or usual names. This will inform consumers of these added substances, a special concern of many consumers for a variety of cultural, health, religious and other reasons.

As a result of this final rule, manufacturers of meat and poultry products containing these ingredients must revise their labels to identify the ingredients by their common or usual names or alter their formulations, or both, by the effective date of the rule. FSIS had determined that the process for developing revised labeling materials and formulations for products affected by this rule requires more lead time. Therefore, to assure an orderly implementation of the new requirements, on June 28, 1990, FSIS extended the effective date from August 28, 1990, to March 12, 1991 (55 FR 26422). In addition, FSIS extended temporary label approvals which were granted by the Agency in conjunction with the March 1, 1990, until March 1, 1991.

FSIS has decided to again extend the effective date to provide additional time for label alterations and approvals. The effective date is hereby extended to September 3, 1991. Also, temporary label approvals, granted in conjunction with the rule, are extended as well until September 3, 1991.

FSIS continues to encourage manufacturers to voluntarily revise their labels as soon as possible and provide full disclosure of ingredients prior to the effective date of the regulation when disclosure will be mandatory.

Done at Washington, DC, on January 8, 1991.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 91-823 Filed 1-11-91; 8:45 am]

BILLING CODE 4310-DN-M

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Part 10

RIN 1215-AA13

Claims for Medical Benefits Under the Federal Employees' Compensation Act

AGENCY: Employment Standards Administration, Office of Workers' Compensation Programs, Labor.

ACTION: Final rule.

SUMMARY: On May 16, 1990, the Department of Labor published proposed revisions to subpart E of 20 CFR part 10, extending coverage of the fee schedule for medical procedures and services provided to injured Federal employees covered under the Federal Employees' Compensation Act (FECA) to certain services provided at hospitals in the outpatient setting (55 FR 20276). The outpatient hospital-based services now covered include radiology, pathology, and physical therapy. This rule will, among other things, require hospitals to submit billings for covered services in the manner prescribed including use of appropriate procedure codes.

DATES: This rule is effective May 14, 1991.

FOR FURTHER INFORMATION CONTACT: Thomas M. Markey, Director for Federal Employees' Compensation, Employment Standards Administration, U.S. Department of Labor, Room S-3229, 200 Constitution Avenue NW., Washington, DC 20210. Telephone (202) 523-7552.

SUPPLEMENTARY INFORMATION:

The expenses for authorized medical services to injured Federal employees receiving benefits under the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101, *et seq.*, are paid out of the Employees' Compensation Fund. The Office of Workers' Compensation Programs (OWCP), which administers the FECA under the authority granted by the Secretary, implemented a fee schedule for the reimbursement of charges for medical services based on the relative unit value system developed by the Division of Labor and Industry, State of Washington and the Physician Procedural Terminology (CPT-4) coding scheme. The fee schedule rules originally contained several exemptions from coverage, including all charges for services provided by hospitals. The exclusion from coverage under the fee schedule of all hospital services resulted in an anomaly in billing, so that the same service when billed by a physician was paid at a different rate than when billed by a hospital on an out-patient basis. As explained in the preamble to the proposed rule, this rule is designed to correct that anomaly, by extending the fee schedule to certain outpatient services provided by hospitals.

Only one response to the publication of the proposed rule was received. That response, from a Federal agency, took the form of a question as to whether or not an employee would be liable for any amount beyond that paid by the Department under the fee schedule. By extending the fee schedule rules to hospital outpatient services, all aspects of those rules are extended, including that found at 20 CFR 10.411(i)(1), which prohibits a provider whose fees have been partially reimbursed, from requesting reimbursement from the patient for any additional amount.

This extension of the fee schedule provisions requires substantial changes