

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Parts 401, 454, and 457

#### General Crop Insurance Regulations, Various Endorsements; Fresh Market Tomato (Guaranteed Production Plan) Crop Insurance Regulations; and Common Crop Insurance Regulations, Various Crop Insurance Provisions

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

**ACTION:** Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) adopts regulations for the General Crop Insurance Regulations; Canning and Processing Tomato and Rice Endorsements; Fresh Market Tomato (Guaranteed Production Plan) Crop Insurance Regulations; and the Common Crop Insurance Regulations, Cotton, Coarse Grains (Corn, Grain Sorghum, and Soybeans), Dry Bean, ELS Cotton, Sugar Beet, and Sunflower Seed Crop Insurance Provisions, effective for the 1998 crop year only, for counties and states with a November 30 contract change date. The intended effect of this action is to extend the contract change date to December 17, 1997.

**EFFECTIVE DATE:** This rule was effective November 26, 1997.

**FOR FURTHER INFORMATION CONTACT:** Louise Narber, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926-7730.

**SUPPLEMENTARY INFORMATION:**

#### Executive Order 12866

The Office of Management and Budget (OMB) determined this rule to be not significant for the purposes of Executive

Order 12866 and, therefore, this rule has not been reviewed by OMB.

#### Paperwork Reduction Act of 1995

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), there are no information collection requirements contained in this rule.

#### Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

#### Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. The extended contract change date included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, FCIC is required to have changes in policy provisions at the agent's office by November 30. If this date is not met, then the changes will not be applicable until the next crop year. The administrative process has delayed the implementation of the 1998 prevented planting and other policy changes intended to simplify and streamline the process. This regulation merely extended that date so that insurance companies and producers can receive the benefit of these changes in the 1998 crop year. The amount of work required of insurance companies delivering and servicing these policies

will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

#### Federal Assistance Program

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

#### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

#### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. This rule was published as an interim rule effective November 26, 1997. The rule was in the agents office by November 30, 1997, so as to be effective for the 1998 crop year. The provisions of this rule will not have retroactive effect prior to November 26, 1997. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before action against FCIC for judicial review may be brought.

#### Environmental Evaluation

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

#### National Performance Review

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

#### Background

On Tuesday, December 2, 1997, FCIC published an interim rule in the **Federal Register** at 62 FR 63631 to amend the General Crop Insurance Regulations,

Various Endorsements; Fresh Market Tomato (Guaranteed Production Plan) Crop Insurance Regulations; and Common Crop Insurance Regulations, Various Crop Insurance Provisions by extending the contract change date for certain 1998 spring crop counties and States. Since this rule benefited the insured and insurance companies by improving coverage and simplifying and streamlining the policies, good cause was found to make the interim rule effective November 26, 1997, the date the interim rule was placed on file for public inspection at the office at the **Federal Register**.

Following publication of the interim rule, the public was afforded 27 days to submit written comments and opinions. Comments were received from a reinsured company and legal counsel for a reinsured company. The comments and FCIC's responses are as follows:

*Comment:* A reinsured company and legal counsel for a reinsured company stated that FCIC's inability to propose and promulgate timely changes in its regulations will adversely affect the reinsured companies and their policyholders. Since the first crops affected by the rule have a sales closing date of January 15, 1998, the commenters state that there is not sufficient time for the companies to understand the changes in the twelve policies FCIC has proposed to change, train the trainers, have the trainers train the agents, have the agents explain these changes to their insureds, and then to permit the insureds to complete the reports required of them in a timely and accurate manner. Also, when the insureds are late receiving the crop insurance changes, it interrupts and delays their planning and decisions. Receiving these changes late contributes to more obstacles to be overcome by program providers and agents as opposed to the mandate and goal of simplification. One of the commenters expects FCIC to hold the reinsured company harmless for the consequences of FCIC's errors and omissions. This commenter also stated that the reinsured company reserves the right to accept, without penalty, late filed applications, written agreements, acreage reports and any other document that requires a belated amendment as a result of the FCIC's delay regardless of whether the sales closing date is extended. The commenter also stated that the reinsured company reserves the right to challenge the legality of the FCIC's interim rule and final rule.

*Response:* It was crucial that better late and prevented planting coverage be developed and implemented for the 1998 crop year. FCIC spent months

working with producers, farm organizations, commodity groups, reinsured companies, an insurance service organization, and agents to develop simplified prevented planting provisions that: (1) Would protect producers when crops were prevented from being planted by an insurable cause of loss, (2) would be actuarially sound, (3) reinsured companies could quickly develop training plans to present to employees and agents, and (4) would be simple enough for agents to explain to the producers in a limited time frame. FCIC determined that its efforts were successful and that neither insureds nor reinsured companies would be adversely affected by extension of the contract change date. The sales closing date of January 15, 1998, which is the first sales closing date for the 1998 crop year, is only applicable to a few counties and crops and few insureds were affected by the contract change date extension. With respect to the sales closing date, neither the Manager or any reinsured company has the authority to extend the sales closing date. Further, nothing in the rule or the time of its implementation should require any sales closing date extensions. Late filed documents may only be accepted in accordance with applicable regulations and FCIC approved procedures. If FCIC extends the contract change date and the reinsured company does not feel prepared to sell a policy prior to the sales closing date, then the company should not sell the policy and the applicant should be advised to find another agent. Therefore, no change has been made and the interim rule as published on December 2, 1997, at 62 FR 63631 is adopted as a final rule.

#### List of Subjects

##### 7 CFR Part 401

Crop insurance, Canning and processing tomato, Rice.

##### 7 CFR Part 454

Crop insurance, Fresh market tomato (guaranteed production plan).

##### 7 CFR Part 457

Crop insurance, Cotton, Coarse grains (corn, grain sorghum, and soybeans), Dry bean, ELS cotton, Sugar beet, Sunflower seed.

#### PART 457—[AMENDED]

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

**Authority:** 7 USC 1506(1), 1506(p).

#### Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation adopts as a final rule, the interim rule as published at 62 FR 63631 on December 2, 1997.

Signed in Washington, D.C., on March 18, 1998.

**Kenneth D. Ackerman,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. 98-7735 Filed 3-24-98; 8:45 am]

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#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

##### 7 CFR Part 985

[Docket No. FV98-985-1 FRC]

#### Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 1998-99 Marketing Year; Correction

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule; correction.

**SUMMARY:** The Agricultural Marketing Service, USDA, published in the **Federal Register** of February 20, 1998, a document establishing the quantity of spearmint oil produced in the Far West, by class, that handlers may purchase from, or handle for, producers during the 1998-99 marketing year. The 1998-99 marketing year covers the period June 1 through May 31. This document corrects an error in the **EFFECTIVE DATES** caption of that rule.

**EFFECTIVE DATE:** March 26, 1998.

**FOR FURTHER INFORMATION CONTACT:** George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: 202-720-2491.

**SUPPLEMENTARY INFORMATION:** In rule FR Doc. 98-4036 published on February 20, 1998 (63 FR 8559), make the following correction. On page 8559, in the first column, under **EFFECTIVE DATES** the dates "June 1, 1998, through May 30, 1999" are corrected to read "June 1, 1998, through May 31, 1999."

Dated: March 19, 1998.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 98-7734 Filed 3-24-98; 8:45 am]

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