

#### § 402.4 Catastrophic Risk Protection Endorsement Provisions.

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#### Catastrophic Risk Protection Endorsement

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##### 1. Definitions.

\* \* \* \* \*

*Administrative fee.* An amount the producer must pay for catastrophic coverage each crop year on a per crop and county basis as specified in section 6.

##### B. Remove section 2(d).

C. Revise section 6(b) to read as follows:

\* \* \* \* \*

#### 6. Annual Premium and Administrative Fees

\* \* \* \* \*

(b) In return for catastrophic risk protection coverage, you must pay an administrative fee to the insurance provider within 30 days after you have been billed (You will be billed by the billing date stated in the Special Provisions);

(1) The administrative fee owed for each crop in the county is equal to \$10 plus the greater of either \$50 or 10 percent of the premium subsidy provided for the catastrophic risk protection coverage.

(2) Payment of an administrative fee will not be required if you file a bona fide zero acreage report on or before the acreage reporting date for the crop (if you falsely file a zero acreage report you may be subject to criminal and administrative sanctions).

\* \* \* \* \*

##### D. Remove section 6(e).

E. Redesignate section 6(f) as section 6(e) and revise to read as follows:

\* \* \* \* \*

(e) If the administrative fee is not paid when due, you, and all persons with an insurable interest in the crop under the same contract, may be ineligible for certain other USDA program benefits as set out in section 12, and all such benefits already received for the crop year must be refunded.

\* \* \* \* \*

Signed in Washington, D.C., on July 24, 1998.

**Kenneth D. Ackerman,**

*Manager, Federal Crop Insurance Corporation.*

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## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Parts 400 and 457

RIN 0563-AB67

#### General Administrative Regulations, Subpart T-Federal Crop Insurance Reform, Insurance Implementation; Regulations for the 1999 and Subsequent Reinsurance Years; and the Common Crop Insurance Regulations; Basic Provisions; and Various Crop Insurance Provisions

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

**ACTION:** Interim rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) amends subpart T in the General Administrative Regulations and the Common Crop Insurance Regulations, Basic Provisions, to conform with the statutory mandates of the Agricultural Research, Extension, and Education Reform Act of 1998 (1998 Research Act) and to move those provisions that are terms of insurance from subpart T into the Basic Provisions. In this rule, FCIC will also remove those provisions of subpart T that have been moved to the Basic Provisions.

**EFFECTIVE DATE:** This rule is effective July 1, 1998. Written comments and opinions on this rule will be accepted until the close of business September 28, 1998, and will be considered when the rule is to be made final.

**ADDRESSES:** Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131. A copy of each response will be available for public inspection and copying from 7:00 a.m. to 4:30 p.m., CDT, Monday through Friday, except holidays, at the above address.

**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

This rule has been determined to be economically significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the

Office of Management and Budget (OMB).

This action amends FCIC's regulations in accordance with the 1998 Research Act. This rule is being published on an emergency basis so that affected producers have the opportunity to make timely decisions regarding their insurance plans for the 1999 crop year for crops with sales closing dates subsequent to the enactment of the 1998 Research Act. The 1998 Research Act was signed by the President on June 23, 1998. The first sales closing date subsequent to the date of signing is July 31, 1998, for raisins in California. This emergency situation makes timely compliance with sections 6 (3)(B)(ii) and (3)(C) of Executive Order 12866 impractical due to the short time to make this rule effective prior to that sales closing date. FCIC will complete the required cost-benefit analysis within 90 days of the publication of this rule in the **Federal Register** and will make such analysis available to the public.

#### Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121, 5 U.S.C. Secs. 801-808)

This rule has been designated by the Office of Information and Regulatory Affairs, OMB, as a major rule under the Small Business Regulatory Enforcement Fairness Act of 1996 (Small Business Act). However, section 808 of the Small Business Act exempts a rule from the 60 day delay in effectiveness of a rule where an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. The Administrator of the Risk Management Agency (RMA) has determined that there is good cause for making this rule effective less than 60 days after submission of the rule to each House of Congress and to the Comptroller General because a delay would be contrary to the public interest.

There are producers affected by this rule that must make critical risk management decisions and the deadline for the first 1999 crop year decisions is less than 60 days from the July 1, 1998, effective date of the 1998 Research Act. A delay in the effective date of this rule will create instability and inequity within the program as producers attempt to determine whether they are affected and it will create separate classes of producers who are subjected to the increased administrative fees and those who are not.

Further, RMA was required to revise the Standard Reinsurance Agreement before the July 1, 1998, start of the 1999 reinsurance year to implement the provisions of the 1998 Research Act. If this rule is delayed, it will create

administrative problems for the 1999 reinsurance year because the reinsured companies will be subject to the provisions of the 1998 Research Act but some of their insureds will not.

#### **Paperwork Reduction Act of 1995**

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information for this rule have been previously approved by the Office of Management and Budget (OMB) under control number 0563-0053 through October 31, 2000. The amendments set forth in this rule do not revise the content or alter the frequency of reporting for any of the forms or information collections cleared under the above-referenced docket.

#### **Unfunded Mandates Reform Act of 1995**

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

#### **Executive Order 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 regulation does not require any more action on the part of the small entities than is required on the part of large entities. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605) and no Regulatory Flexibility Analysis was prepared.

#### **Federal Assistance Program**

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

#### **Executive Order 12372**

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

#### **Executive Order 12988**

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review of any determination made by FCIC may be brought.

#### **Environmental Evaluation**

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

#### **Background**

This interim rule implements revisions to these parts mandated by the Federal Crop Insurance Act, as amended by the 1998 Research Act, enacted June 23, 1998. The 1998 Research Act requires the provisions be implemented for the 1999 and subsequent reinsurance years. Crop insurance policies with a sales closing date prior to the effective date of this rule will not be affected by these provisions until the 2000 reinsurance year. Crop insurance policies with a sales closing date after the effective date of this rule will have revised administrative fees. Since the changes to the policy made by this rule are required by statute, it is impractical and contrary to the public interest to publish this rule for notice and comment prior to making the rule effective. However, comments are solicited for 60 days after the date of publication in the **Federal Register** and will be considered by FCIC before this rule is made final.

FCIC amends subpart T by deleting the provisions regarding available coverage, administrative fees, and election of benefits that are being incorporated into the Basic Provisions. FCIC amends the Basic Provisions as follows:

1. Section 1 is amended to add definitions of the terms "additional coverage," "administrative fee,"

"catastrophic risk protection," "Catastrophic Risk Protection Endorsement," "limited coverage," and "limited resource farmer" for clarity.

2. Section 2 is amended to incorporate the provisions from subpart T regarding the termination of a policy when a producer fails to pay administrative fees when they are due and revising the provisions in accordance with the 1998 Research Act.

3. Section 3 is amended to incorporate the provisions from subpart T involving the coverage available for catastrophic risk protection, limited and additional coverage levels.

4. Section 7 is amended to incorporate provisions from subpart T involving administrative fees that must be paid for limited and additional coverage policies and revising the amounts of such fees in accordance with the 1998 Research Act.

5. Section 15 is amended to incorporate the provisions from subpart T involving the reduction of an indemnity to reflect costs not incurred by the producer.

6. A new section 35 is added to incorporate provisions from subpart T that provide options that are available to insureds when they are eligible for benefits under their crop insurance policy and another USDA program for the same loss.

#### **List of Subjects in 7 CFR Parts 400 and 457**

Crop insurance, Administrative practice and procedure, Claims, Reporting and record keeping requirements; Common Crop Insurance Regulations; Basic Provisions; and Various Crop Insurance Provisions.

#### **Interim Rule**

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR parts 400 and 457 as follows:

#### **PART 400—GENERAL ADMINISTRATIVE REGULATIONS**

##### **Subpart T—Federal Crop Insurance Reform, Insurance Implementation; Regulations for the 1999 and Subsequent Reinsurance Years**

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

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

2. The subpart heading for subpart T is revised as set forth above.

3. In § 400.651, revise the definition of "administrative fee" to read as follows:

##### **§ 400.651 Definitions.**

\* \* \* \* \*

*Administrative fee.* An amount the producer must pay for catastrophic, limited, and additional coverage each crop year on a per crop and county basis as specified in the Basic Provisions or the Catastrophic Risk Protection Endorsement.

\* \* \* \* \*

4. Remove sections 400.655 and 400.656 and redesignate §§ 400.657 through 400.659 as §§ 400.655 through 400.657.

## PART 457—COMMON CROP INSURANCE REGULATIONS

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

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

6. In § 457.8, amend the policy as follows:

A. Amend section 1 to add the definitions of “additional coverage,” “administrative fee,” “catastrophic risk protection,” “Catastrophic Risk Protection Endorsement,” “limited coverage,” and “limited resource farmer” to read as follows:

### § 457.8 The application and policy.

\* \* \* \* \*

#### Common Crop Insurance Policy

\* \* \* \* \*

#### 1. \* \* \*

*Additional coverage.* Plans of crop insurance providing a level of coverage equal to or greater than 65 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC.

*Administrative fee.* An amount the producer must pay for catastrophic risk protection, limited, and additional coverage for each crop year as specified in section 7 and the Catastrophic Risk Protection Endorsement.

\* \* \* \* \*

*Catastrophic risk protection.* The minimum level of coverage offered by FCIC that is required before a person may qualify for certain other USDA program benefits unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop.

*Catastrophic Risk Protection Endorsement.* The part of the crop insurance policy that contains provisions of insurance that are specific to catastrophic risk protection.

\* \* \* \* \*

*Limited coverage.* Plans of insurance offering coverage that is equal to or greater than 50 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC, but less than 65 percent of the approved yield indemnified at 100 percent of the expected market price, or a comparable coverage as established by FCIC.

*Limited resource farmer.* A producer or operator of a farm, with an annual gross income of \$20,000 or less derived from all

sources, including income from a spouse or other members of the household, for each of the prior two years. Notwithstanding the previous sentence, a producer on a farm or farms of less than 25 acres aggregated for all crops, where a majority of the producer's gross income is derived from such farm or farms, but the producer's gross income from farming operations does not exceed \$20,000, will be considered a limited resource farmer.

B. Amend section 2 by adding a new subsection (i) and revising sections 2(e) introductory text and 2(e)(1) to read as follows:

\* \* \* \* \*

(e) If any amount due, including administrative fees or premium, is not paid on or before the termination date for the crop for which such amount is due:

(1) For a policy with unpaid administrative fees or premium, the policy will terminate effective on the termination date immediately subsequent to the billing date for the crop year;

\* \* \* \* \*

(i) When obtaining catastrophic, limited, or additional coverage, a producer must provide information regarding crop insurance coverage on any crop previously obtained at any other local FSA office or from an approved insurance provider, including the date such insurance was obtained and the amount of the administrative fee.

C. Amend section 3 by adding new subsections (f), (g), and (h) to read as follows:

\* \* \* \* \*

(f) The producer must obtain the same level of coverage (catastrophic risk protection, limited or additional) for all acreage of the crop in the county unless one of the following applies:

(1) The applicable crop policy allows the producer the option to separately insure individual crop types or varieties. In this case, each individual type or variety insured by the producer will be subject to separate administrative fees. For example, if two grape varieties in California are insured under the Catastrophic Risk Protection Endorsement and two varieties are insured under a limited coverage policy, a separate administrative fee will be charged for each of the four varieties. Although insurance may be elected by type or variety in these instances, failure to insure a type or variety that is of economic significance may result in the denial of other farm program benefits unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop.

(2) The producer with limited or additional coverage for the crop in the county has acreage that has been designated as “high risk” by FCIC. Such producers will be able to obtain a High Risk Land Exclusion Option for the high risk land under the limited or additional coverage policies and insure the high risk acreage under a separate Catastrophic Risk Protection Endorsement, provided that the Catastrophic Risk Protection Endorsement is obtained from the same insurance provider from which the limited or additional coverage was obtained.

(g) Hail and fire coverage may be excluded from the covered causes of loss for a crop policy only if additional coverage is selected.

(h) Any person may sign any document relative to crop insurance coverage on behalf of any other person covered by such a policy, provided that the person has a properly executed power of attorney or such other legally sufficient document authorizing such person to sign.

D. Amend section 7 by revising the heading and adding a new subsection (e) to read as follows:

\* \* \* \* \*

#### 7. Annual Premium and Administrative Fees.

\* \* \* \* \*

(e) In addition to the premium charged:

(1) If you elect limited coverage, you must pay an administrative fee each crop year of \$50 per crop per county, not to exceed \$200 per county, or \$600 for all counties in which the producer has elected to obtain limited coverage.

(2) If you elect additional coverage, you must pay an administrative fee of \$20 per crop for each crop year in which crop insurance coverage remains in effect.

(3) The administrative fee must be paid no later than the time that premium is due.

(4) Payment of an administrative fee will not be required if the insured files a bona fide zero acreage report on or before the acreage reporting date for the crop. Any producer who falsely files a zero acreage report may be subject to criminal and administrative sanctions.

(5) The administrative fee for limited coverage will be waived if you qualify as a limited resource farmer.

(6) The administrative fee for additional coverage is not refundable, is not subject to any limits, and may not be waived.

(7) Failure to pay the administrative fees when due may make you ineligible for certain other USDA benefits.

E. Amend section 15 by adding a new subsection (d) to read as follows:

\* \* \* \* \*

(d) The amount of an indemnity that may be determined under the applicable provisions of your crop policy may be reduced by an amount, determined in accordance with the Crop Provisions or Special Provisions, to reflect out-of-pocket expenses that were not incurred by the producer as a result of not planting, caring for, or harvesting the crop. Indemnities paid for acreage prevented from planting will be based on a reduced guarantee as provided for in the crop policy and will not be further reduced to reflect expenses not incurred.

F. Add a new section 35 to read as follows:

\* \* \* \* \*

#### 35. Multiple Benefits.

(a) If you are eligible to receive an indemnity under a limited or additional coverage plan of insurance and are also eligible to receive benefits for the same loss under any other USDA program, you may receive benefits under both programs, unless specifically limited by the crop insurance contract or by law.

(b) The total amount received from all such sources may not exceed the amount of your actual loss. The total amount of the actual loss is the difference between the fair market value of the insured commodity before and after the loss, based on your production records and the highest price election or amount of insurance available for the crop.

(c) FSA will determine and pay the additional amount due you for any applicable USDA program after first considering the amount of any crop insurance indemnity.

(d) Farm ownership and operating loans may be obtained from USDA in addition to crop insurance indemnities.

\* \* \* \* \*

Signed in Washington, D.C., on July 24, 1998.

**Kenneth D. Ackerman,**

*Manager, Federal Crop Insurance Corporation.*

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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 230

[Regulation DD; Docket No. R-0869]

#### Truth in Savings

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board has adopted a rule amending Regulation DD (Truth in Savings); the action makes final an interim rule adopted in January 1995. The amendment permits institutions to disclose an annual percentage yield (APY) equal to the contract interest rate for time accounts with maturities greater than one year that do not compound but that require interest distributions at least annually.

**EFFECTIVE DATE:** August 28, 1998.

**FOR FURTHER INFORMATION CONTACT:** Jane Ahrens, Senior Attorney, or Obrea Otey Poindexter, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System at (202) 452-2412 or 452-3667; for the hearing impaired *only* contact Diane Jenkins, Telecommunications Device for the Deaf at (202) 452-3544.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Truth in Savings Act (TISA) was enacted in December 1991. The Board published a final regulation, Regulation DD, to implement the act on September 21, 1992 (57 FR 43337) (correction notice at 57 FR 46480, October 9, 1992). Compliance with the regulation became mandatory in June 1993. The act and

regulation require depository institutions to disclose yields, fees, and other terms concerning deposit accounts to consumers at account opening. The regulation also includes rules about advertising of deposit accounts.

Depository institutions are generally subject to civil liability for violations of the act and regulation. Credit unions are not subject to Regulation DD, but are governed by a substantially similar regulation issued by the National Credit Union Administration.

##### II. Proposals Regarding APY Calculation

In 1993, deposit brokers covered by Regulation DD's advertising rules petitioned the Board to reconsider how the annual percentage yield (APY) is calculated. They expressed concern that for a certificate of deposit that has a maturity greater than one year and that does not compound interest, the APY is less than the contract interest rate under the formula prescribed by Regulation DD. The Board subsequently published several proposals addressing this matter (58 FR 64190, December 6, 1993; 59 FR 24376, May 11, 1994; 59 FR 35271, July 11, 1994; 60 FR 5142, January 26, 1995).

In January 1995, to address immediately one anomaly created by the regulation's formula for APY calculations, the Board adopted an interim rule applicable to time accounts with maturities greater than one year that do not compound but require interest distributions at least annually (60 FR 5128, January 26, 1995).

##### III. Summary of Final Rule

The interim rule permitted institutions to disclose an APY equal to the contract interest rate for noncompounding CDs with a maturity greater than one year if they require interest distributions at least annually. The Board received more than 250 comments—about 75 comments on the interim rule and the remainder on a proposal published concurrently with the interim rule that would have amended the APY formula. The majority of commenters supported the interim rule and urged the Board to make the interim rule permanent. Many commenters believed that the interim rule adequately addressed the concerns of deposit brokers and depository institutions that require interest distributions at least annually. Commenters noted that the interim rule provided a simple solution that would be understandable to consumers. Some banks that opposed any change to the APY calculations favored the interim rule among the alternatives offered.

Based on the comments received and further analysis, the Board has amended Regulation DD by making the interim rule final. The final rule permits institutions to disclose an APY equal to the contract interest rate for noncompounding CDs with a maturity greater than one year if they require interest distributions at least annually. Institutions may not disclose an APY equal to the contract interest rate for noncompounding multi-year CDs that either prohibit withdrawal of interest or that permit but do not require interest distributions; for these time accounts, institutions will continue to use the current formula for APY calculations. The Board believes that this narrow rule provides a targeted response to questions about the APY disclosures for certain time accounts that otherwise would have to disclose an APY that is lower than the contract interest rate. The amendment retains the interim rule's requirement of a brief narrative disclosure about the effect of interest payments on the APY and earnings from the account to minimize any possible consumer confusion.

##### IV. Regulatory Revisions: Section-by-Section Analysis

###### Section 230.4 Account Disclosures

###### 4(b) Content of Account Disclosures

###### 4(b)(6) Features of Time Accounts

###### 4(b)(6)(iii) Withdrawal of Interest Prior to Maturity

Consistent with the interim rule, paragraph 4(b)(6) adds a brief narrative for institutions stating an APY equal to the contract interest rate for noncompounding CDs that have a maturity greater than one year and that require interest payouts at least annually. The Board believes a statement alerting consumers to the fact that interest cannot remain in the account will assist them in comparison shopping between CDs with annual compounding and CDs that do not compound but require interest payouts during the account term. The Board believes the disclosure does not add an undue burden on institutions.

###### Section 230.8 Advertising

###### 8(c) When Additional Disclosures are Required

###### 8(c)(6) Features of Time Accounts

Consistent with the interim rule, paragraph 8(c)(6) adds a brief disclosure for any advertisement that states an APY equal to the contract interest rate for a noncompounding multi-year CD that requires the automatic payment of interest at least annually. To assist