

| Old section | New section |
|---------------|-------------|
| 400.405 | 400.406 |
| 400.406 | 400.407 |
| 400.407 | 400.408 |
| 400.408 | 400.409 |
| 400.409 | 400.410 |
| 400.410 | 400.411 |
| 400.411 | 400.412 |
| 400.412 | 400.413 |

7. Section 400.405 is added to read as follows:

§ 400.405 Agent and loss adjuster responsibilities.

(a) The agent or loss adjuster shall provide his or her correct SSN to FCIC or the insurance provider, whichever is applicable, to be eligible to participate in the crop insurance program. The SSN will be used by FCIC and the insurance provider in establishing a database for the purposes of:

- (1) Identifying agents and loss adjusters on an individual basis;
- (2) Evaluating agents and loss adjusters to determine level of performance;
- (3) Determining eligibility for program participation; and
- (4) Collection of any amount which may be owed by the agent and loss adjuster to the United States.

(b) If the loss adjuster contracting with FCIC to participate in the crop insurance program does not provide his or her correct SSN on forms or contracts where such SSN is required, the loss adjuster's contract will be cancelled effective on the date of refusal and the loss adjuster will be subject to suspension and debarment in accordance with the suspension and debarment regulations of the United States Department of Agriculture.

(c) If the agent or loss adjuster contracting with an insurance provider, who is also a private insurance company, to participate in the crop insurance program does not provide his or her correct SSN on forms or contracts where such SSN is required, the premium subsidy payable for administrative and operating expenses under the Standard Reinsurance Agreement, or any other reinsurance agreement, will not be paid on those policies lacking the correct SSN.

8. Redesignated § 400.406 is revised to read as follows:

§ 400.406 Insurance provider responsibilities.

The insurance provider is required to collect and record the SSN or EIN on each application or on any other form required by FCIC.

9. Redesignated § 400.407 is revised to read as follows:

§ 400.407 Restricted access.

The Manager, other officer, or employee of FCIC or an authorized person may have access to the SSNs and EINs obtained pursuant to this subpart, only for the purpose of establishing and maintaining a system of records necessary for the effective administration of the Act.

10. Redesignated § 400.408 is revised to read as follows:

§ 400.408 Safeguards and storage.

Records must be maintained in secured storage with proper safeguards sufficient to enforce the restricted access provisions of this subpart.

11. Redesignated § 400.411 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 400.411 Obtaining personal records.

Policyholders, agents, and loss adjusters in the crop insurance program will be able to review and correct their records as provided by the Privacy Act. Records may be requested by:

- (a) Mailing a signed written request to the headquarters office of FCIC; the FCIC Regional Service Office, or the insurance provider; or

* * * * *

12. Redesignated § 400.412 is revised to read as follows:

§ 400.412 Record retention.

(a) FCIC or the insurance provider will retain all records of policyholders for a period of not less than 3 years from the date of final action on a policy for the crop year, unless further maintenance of specific records is requested by FCIC. Final actions on insurance policies include conclusion of insurance events, such as the latest of termination of the policy, completion of loss adjustment, or satisfaction of claim.

(b) The statute of limitations for FCIC contract claims may permit litigation to be instituted after the period of record retention. Destruction of records prior to the expiration of the statute of limitations will not provide a defense to any action by FCIC against any private insurance company.

13. Redesignated § 400.413 is revised to read as follows:

§ 400.413 OMB control numbers.

The collecting of information requirements in this subpart has been approved by the Office of Management and Budget and assigned OMB control number 0563-0047.

Signed in Washington, D.C., May 16, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97-13498 Filed 5-23-97; 8:45 am]

BILLING CODE 3410-08-P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

General Crop Insurance Regulations, Onion Endorsement; and Common Crop Insurance Regulations, Onion Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of onions. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current Onion Endorsement under the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current Onion Endorsement to the 1997 and prior crop years.

EFFECTIVE DATE: May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Bill Klein, 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 No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Following publication of the proposed rule, the public was afforded 60 days to submit written comments on information collection requirements previously approved by OMB under OMB control number 0563-0003 through September 30, 1998. No public comments were received.

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 the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 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 impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity.

The producer must also annually certify to the number of acres and the previous years production, if adequate records are available to support the certification, or receive a transitional yield. The producer must maintain the production records to support the certification information for at least three years. This regulation does not alter those requirements.

The amount of work required of the 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 No. 12372

This program is not subject to the provisions of Executive Order No. 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 No. 12988

This proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reforms. The provisions of this rule will not have retroactive effect prior to the effective date. 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 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 Thursday, February 13, 1997, FCIC published a proposed rule, in the **Federal Register** at 62 FR 6739-6746 to add to the Common Crop Insurance Regulations (7 CFR part 457) a new section, 7 CFR 457.135, Onion Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring onions found at 7 CFR 401.126 (Onion Endorsement). This rule also amends § 401.126 to limit its effect to the 1997 and prior crop years.

Following publication of the proposed rule, the public was afforded 30 days to submit written comments, data and opinions. A total of 28 comments were received from reinsured companies, an insurance service organization, and FCIC Regional Service Offices (RSO). The comments received, and FCIC's responses, are as follows:

Comment: An insurance service organization recommended that FCIC consider defining in section 1 the term "onion" or "bulb onion" to clarify that

green (bunch) and seed onions are not insurable types.

Response: Insurable types of onions are clearly identified in section 7 (Insured Crop). The provision states in part "* * * the crop insured will be all the onions (excluding green (bunch) or seed onions, chives, garlic, leeks, and scallions) in the county * * *". Therefore, no change will be made in the definitions.

Comment: A reinsured company recommended deleting the definition for "FSA" in section 1 of the provisions because they do not see a need for this definition.

Response: FCIC disagrees with the recommendation. The term "FSA" is used numerous times in section 14, Late planting and Prevented Planting. Therefore, the definition has not been deleted.

Comment: A reinsured company recommended adding in section 1 the words "and quality" after the word "quantity" in the definition of "irrigated practice."

Response: FCIC agrees that water quality is an important issue. However, since no standards or procedures have been developed to measure water quality for insurance purposes, FCIC has elected not to include quality in the definition. Therefore, no change has been made.

Comment: A reinsured company recommended that either the master yield concept be incorporated or that onions be insured solely for production loss with a quality option endorsement to cover quality concerns.

Response: FCIC disagrees with the recommendations. The "master yield" is used by FCIC to establish an actual production history yield for crops that require several years between plantings in the same field to avoid buildup of insects, disease, or both. It is useful principally when optional units are authorized by section or section equivalent. For onions, however, location of land within a county is not a factor in determining eligibility for optional units. Therefore, each year's production is considered in establishing the APH yield regardless of the field in which the onions are planted. This differs materially from the conditions that necessitate the use of a master yield. Use of a master yield in the circumstances surrounding onion insurance would only complicate the onion insurance program needlessly.

FCIC considered a "straight production" policy but circumstances do not support the concept. In general, onions that do not meet U.S. No. 1 standards for storage onions or the applicable marketing order for non-

storage onions are not marketable. Furthermore, only a small percentage of onions normally fail to meet marketing requirements due to factors such as doubles, seeders, off color, or hand or machine damage. Thus, FCIC determined that adjustment for deficient quality best meets the risk management needs of onion producers.

Comment: A reinsured company and an insurance service organization recommended that optional units be made available by legal description (sections, etc), as is the case with similar crops.

Response: The rule authorizes optional units by irrigated and non-irrigated practice and by type. The only types allowed to be separated into optional units are those identified in the Special Provisions and include white, yellow, and red storage onions and two or more types of non-storage onions based on regional differences.

Additional unit division by section or legal description would require further record keeping that may not be readily available based on past practices, increase producer premium, and further complicate the insurance program for onions. Therefore, the recommendation is not adopted in the final rule.

Comment: A reinsured company recommended that the percent of coverage for each stage be uniform nationwide and that it be included in section 3 of the crop provisions rather than being placed in the Special Provisions.

Response: The percentage of coverage for each stage is uniform nationwide. The term "production guarantee" is defined in section 1 and includes the percentages for each stage. The definition will remain in section 1. However, for clarity purposes the percentages have been added to the stages defined in section 3.

Comment: An insurance service organization commented that the language in section 3 describes the first stage as being " * * * until the emergence of the third leaf * * * ", while the second stage is described as " * * * extends from emergence of the fourth leaf * * * ". Commenters believe that the language leaves a gap between stage 1 and stage 2 and that the language in the first stage should be modified to read " * * * through emergence of the third leaf. "

Response: FCIC agrees with the comment, and has amended provisions in section 3 accordingly.

Comment: An FCIC RSO suggested that the proposed three stages may be difficult to distinguish and would require extra effort to administer. The commenter recommended that two

stages be used: (1) Prior to topping and lifting or digging, and (2) From topping and lifting or digging to the end of the insurance period.

Response: The three stages as defined in the proposed rule reflect the inputs through each stage of crop development. Transplants, for example, are immediately placed in the second stage based on producer inputs. The leaf count method of appraisal for onions is similar to appraisal methods for many other crops. Thus onion loss adjustment should not require significantly greater time to administer or be unduly difficult. Therefore, no change has been made.

Comment: An insurance service organization commented that it is confusing to have no first stage for transplanted onions, only a second and final stage. The industry suggested that it might be less confusing to have separate stage definitions for direct-seeded and for transplanted onions.

Response: Crops are divided into stages primarily to reflect insured's expenses in producing the crop and appropriate insurer liability. Transplanted onions are immediately placed in the second stage due to the additional cost incurred in purchasing the transplants, and the cost of transplanting. It would actually be more confusing to have two different stages, one for seed onions and one for transplanted onions. Therefore, no change has been made.

Comment: An insurance service organization commented that a contract change date 60 days before the sales closing date, as shown in section 4, may not provide sufficient time for producers to make informed risk management decisions. They contend that the companies will not have adequate time to make operational changes, to develop training materials, or to train agents. Even a contract change date three months ahead of the sales closing creates problems in getting necessary information to insureds on a timely basis.

Response: While FCIC is sensitive to the industry's concerns for timely information, FCIC believes that a contract change date 60 days prior to the sales closing date allows the companies adequate time to perform all required tasks in a timely manner. Furthermore, major changes in the crop provisions are published in the **Federal Register** prior to the contract change date. This provides companies additional lead time to begin implementing changes. The June 30 and November 30 contract change dates contained in section 4 are consistent with other crops. For these reasons, no change has been made.

Comment: One commenter from a reinsured company questioned if 70 days, as listed in section 7, provides sufficient time to harvest wheat interplanted with onions to function as a windbreak in the Pacific Northwest where this is a common practice.

Response: Wheat planted for this purpose is only a windbreak and is not intended for harvest. Harvesting wheat grown with an insured onion crop will violate the onion contract.

Comment: One commenter from a reinsured company suggested that FCIC consider changing the provisions in section 8 which address crop rotation requirements. They maintained that onion growers in the Vidalia region plant onions following onions year after year, apparently with no adverse effect on yields. Current language requires producers to request written agreements every year unless the Special Provisions provide different rotation requirements. The commenter noted that they did not know what information will be provided in the Special Provisions. However, for the Vidalia region FCIC must allow different rotation requirements without requiring additional paperwork.

Response: In most areas of the country, rotating onion acreage to control disease and insects is a good farming practice. Consequently, standard rotation requirements were placed in the crop provisions. The Special Provisions contain the requirements that are specific for the county and are received by the insured with the other policy documents. If a different rotation practice is appropriate for any area, FCIC will allow that rotation practice in the Special Provisions. Therefore, no change has been made.

Comment: An insurance service organization commented that the State of Washington was listed in section 9 with a July 31 end of insurance period, but was not listed in item 10 of the summary of changes. The industry questioned whether Washington was inadvertently omitted from the summary.

Response: FCIC inadvertently omitted the state of Washington from item 10 of the summary. The reference in section 9 is correct.

Comment: An insurance service organization commented that, under section 9, the end of the insurance period for Colorado would be October 15. The summary of changes states that this is a date change for Colorado, but the Automated Date Table already shows October 15 for the 1997 crop year.

Response: The date table published for the 1997 crop year is incorrect. The regulations at § 401.126 specify the end of insurance date for Colorado is September 30. Therefore, the summary of changes is correct.

Comment: An FCIC RSO recommended two changes in section 9: (1) That the term "fall planted" be changed to "fall direct seeded" or "winter transplanted", and (2) the end of the insurance period be changed from June 15 to June 1 for the State of Georgia. The commenter stated that the date change recommendation resulted from consultation with extension personnel, and the commenter stated that the additional 14 days increases the risk of heat damage to Georgia onions not harvested by June 1.

Response: FCIC has determined that the terms are production practices that should properly be defined in the Special Provisions. The recommended change to the end of insurance period for Georgia is adopted.

Comment: An FCIC RSO commented that the time allowed after lifting or digging of non-storage onions until the end of the insurance period was too short. A maximum of 14 days was recommended versus the presently allowed 2 days after lifting or digging.

Response: Based on additional research, FCIC agrees with the recommendation and has made the change accordingly.

Comment: An insurance service organization recommended that the words "for the type" be added to section 11 after the words "by your price election" to clarify the price used in determining the maximum amount of the replanting payment per acre.

Response: FCIC agrees with the recommendation and has amended the language accordingly.

Comment: A reinsured company recommended that the maximum amount of replant payment in section 11 be changed from "* * * the lesser of 7 percent of the final stage production guarantee or 18 hundredweight * * *" to "* * * the lesser of 10 percent of the final stage production guarantee or 20 hundredweight." The commenter reasoned that since most guarantees exceed 200 hundredweight, these recommendations will provide a more equitable replant payment.

Response: A replanting payment equal to the lesser of 7 percent or 18 hundredweight was based on extensive research of the actual cost of replanting. These costs do not differ materially if the crop yields 200 or 500 hundredweight. Therefore, no change has been made.

Comment: An insurance service organization stated that they did not understand the intent of the language in section 13(c)(1)(vi)(C) and how it related to items 13(c)(1)(vi)(A) and 13(c)(1)(vi)(B). They noted that they previously took exception with allowing the insured to wait for a later, probably lower appraisal. They did not believe that the language in section 13(c)(1)(vi)(C) resolved the issue.

Response: After further review, FCIC agrees that the language in section 13(c)(1)(vi)(C) does not relate well to sections 13(c)(1)(vi)(A) and 13(c)(1)(vi)(B) and does not further clarify section 13(c)(1)(vi)(A) as was intended. Therefore, FCIC has been deleted 13(c)(1)(vi)(C).

Comment: A reinsured company and an insurance service organization expressed concern that the language in section 13(d) seemed to address only unharvested production and questioned the meaning of the clause "* * * no production will be counted if the appraised percent of damage exceeds the percentage shown in the Special Provisions."

Response: FCIC agrees that the language was unclear and has modified the language to read "If the percent of damaged onion production, harvested or unharvested, is determined to exceed the percentage shown by type in the Special Provisions * * *" to clearly specify both harvested and unharvested onion production that is damaged. Thus, for example, if the percentage shown on the Special Provisions is 50 percent for non-storage type onions, and the percent of actual damage exceeds 50 percent, then the production to count would be zero for that acreage. Onions with a high percent of damage generally have no value.

Comment: An FCIC RSO recommended that the percentage factors referenced in section 13(d) be uniform nationwide and be placed in the Crop Provisions rather than in the Special Provisions. This person recommended a graduated system in which an appraised percent of damage between 0 and 30 percent resulted in no damage, but the amount of production would be reduced by five percent for each 1 percent of damage between 31 percent and 50 percent. Damage in excess of 50 percent would result in no production to count.

Response: Allowable damage differs by region and type. Listing the percentage in the Special Provisions permits recognition of these differences. Therefore, no change has been made.

Comment: An insurance service organization communicated an anticipation that the substitute crop

provision in section 14 under the prevented planting coverage will be eliminated for the 1998 crop year.

Response: FCIC is currently working on a regulation that will propose numerous revisions to the prevented planting coverage. The substitute crop provision is among those revisions. Until that rule is finalized, the current prevented planting coverage will continue.

Comment: An insurance service organization commented that some recently revised crop provisions have deleted the reference to base acres for non-program crops. Although the comment did not specifically recommend removal of these provisions from the onion crop provisions, this was clearly the intent.

Response: FCIC agrees with the comment and is currently working on a regulation that proposes to delete reference to base acres.

Comment: A reinsured company recommended reducing the prevented planting percentages in section 14 from 40 percent to 35 percent for unplanted acreage, and from 20 percent to 17.5 percent for acreage planted to a substitute crop. The commenter reasoned that the recommended percentages would be more consistent with other policies (such as cotton, rice, and sugar beets) that insure high-value crops.

Response: After additional study, FCIC agrees with the comment and has amended section 14 to read 35 percent for unplanted acreage and 17.5 percent for acreage planted to a substitute crop.

Comment: An insurance service organization commented that the language in section 14 refers to double-cropping in "* * * each of the last 4 years in which the insured crop was grown on the acreage." Earlier crop provisions required a history of double-cropping in each of the last 4 years, which was interpreted to mean the last 4 consecutive calendar years, not APH crop years. The commenter observed that this is a significant change and questioned if it had been discussed in recent meetings where prevented planting was a topic.

Response: Initial crop policies converted to the Common Crop Insurance Policy contained language appropriately interpreted to mean the last 4 consecutive calendar years. More recent crop provisions contain language that specifies each of the last 4 years in which the insured crop was grown on the acreage. This issue has been discussed in a number of recent prevented planting meetings at which industry representatives were present. The restriction that limited eligibility to

4 calendar years is unduly restrictive because it does not recognize normal practices on a typical farm that employs a double-cropping practice.

Comment: An FCIC RSO recommended deleting language in section 14 that refers to participation in USDA programs that limit the number of acres planted for the crop year to base acres, and to nonparticipation in USDA programs, because these provisions do not apply to onions.

Response: FCIC agrees with the comment and is currently working on a regulation that proposes to delete these references. However, this language will not be deleted from Crop Provisions until that regulation has become a final rule. This provides consistency among policies. Therefore, no change has been made.

Comment: An insurance service organization suggested combining the provisions contained in section 15(e) with the provisions in section 15(a).

Response: The requirement that a written agreement be requested on or before the sales closing date is intended to be the rule. The exception provided in section 15(e) is only available in specific limited circumstances. Therefore, no change will be made.

Comment: A reinsured company and an insurance service organization recommended removal of the requirement in section 15 that a written agreement be renewed each year. The terms should be stated in the agreement to fit the particular situation for the policy, and, if no substantive changes occur from one year to the next, the written agreement should be continuous. Limiting written agreements to one year only increases administrative cost, complexity, and the opportunities for misunderstanding and error.

Response: Written agreements are intended to supplement policy terms or permit insurance in unusual situations that require modification of the otherwise standard insurance provisions. If such practices continue year to year, they should be incorporated into the policy or Special Provisions. It is not intended that written agreements be so numerous that they would significantly increase administrative costs and cause producer misunderstanding. It is important to minimize written agreement exceptions to assure that the insured is well aware of the specific terms of the policy. Therefore, no change will be made.

In addition to the changes described above, and minor reformatting and word changes for clarity, FCIC has made the following changes:

1. Changed the term "third stage" to "final stage" throughout the text for clarification.

2. Section 1—Amend the terms "onion production" and production guarantee (per acre) and added the term "damaged onion production" in order to standardize the guidelines to be used in determining damaged onions.

3. Section 3(b)—Modified the language to read "the stages are for any acreage in the unit * * *" that qualify for a specific stage. Previously the language describing stages 2 and 3 read "* * * 25 percent of the acreage in the unit * * *." Stages are now on an acre basis rather than a unit basis.

4. Section 13—Deleted section 13(c)(1)(vi)(C) based on proposed rule comments that the provision did not relate well to sections 13(c)(1)(vi)(A) and 13(c)(1)(vi)(B) and that it did not further clarify section 13(c)(1)(vi)(A) as was intended.

Good cause is shown to make this rule effective upon publication in the **Federal Register**. This rule improves the onion insurance coverage and brings it under the Common Crop Insurance Policy Basic Provisions for consistency among the policies. The earliest contract change date that can be met for the 1998 crop years is June 30, 1997. It is therefore, imperative that these provisions be made final before that date so that the reinsured companies and insureds may have sufficient time to implement these changes. Therefore, public interest requires the agency to make the rules effective upon publication.

List of Subjects in 7 CFR Parts 401 and 457

Crop insurance, Onion crop insurance regulations, Onions.

Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR parts 401 and 457 effective for the 1998 and succeeding crop years to read as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS—REGULATIONS FOR THE 1988 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

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

2. In § 401.126 the introductory paragraph is revised to read as follows:

§ 401.126 Onion endorsement.

The provisions of the Onion Endorsement for the 1988 through the 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

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

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

4. Section 457.135 is added to read as follows:

§ 457.135 Onion Crop Insurance Provisions.

The Onion Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

United States Department of Agriculture

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Onion Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these Crop Provisions, and the Special Provisions; the Special Provisions will control these Crop Provisions and the Basic Provisions; and these Crop Provisions will control the Basic Provisions.

1. Definitions.

Crop year. The period of time in which the onions are normally grown and designated by the calendar year in which the onions are normally harvested.

Damaged onion production. Storage type onions that do not grade U.S. No. 1 or do not satisfy any other standards that may be contained in the Special Provisions; or non-storage type onions which do not satisfy standards contained in any applicable marketing order or other standards that may be contained in the Special Provisions.

Days. Calendar days.

Direct Marketing. Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper or buyer. Examples of direct marketing include selling through an on-farm or roadside stand, farmer's market, and permitting the general public to enter the field for the purpose of harvesting all or a portion of the crop.

FSA. The Farm Service Agency, an agency of the United States Department of Agriculture, or a successor Agency.

Final planting date. The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full production guarantee.

Good farming practices. The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used

to determine the production guarantee and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest. Removal of the onions from the field after topping and lifting or digging.

Hundredweight. 100 pounds avoirdupois.

Interplanted. Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice. A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Late planted. Acreage planted to the insured crop during the late planting period.

Late planting period.—The period that begins the day after the final planting date for the insured crop and ends 25 days after the final planting date.

Lifting or digging. A pre-harvest process in which the onion roots are severed from the soil and the onion bulbs laid on the surface of the soil for drying in the field.

Non-storage onions. Generally of a Bermuda, Granex, or Grano variety, or hybrids developed from these varieties, that are harvested as a bulb and dried only a short time, and consequently have a higher moisture content. They are thinner skinned, contain a higher sugar content, and are generally milder in flavor than storage onions. Due to a higher moisture and sugar content, they are subject to deterioration both on the surface and internally if not used shortly after harvest.

Onion production. Onions of recoverable size and condition, with excess dirt and foliage material removed and that are not considered damaged onion production.

Planted acreage. Land in which onion seed has been placed by a machine appropriate for the insured crop and planting method, or in which onion plants or sets have been transplanted by machine or by hand, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice. Onions must initially be planted in rows to be considered planted.

Practical to replant. In lieu of the definition of "Practical to replant" contained in section 1 of the Basic Provisions (§ 457.8), practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors including but not limited to moisture availability, condition of the field, time to crop maturity, and marketing window, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period unless replanting is generally occurring in the area.

Prevented planting. Inability to plant the insured crop with proper equipment by the final planting date designated in the Special Provisions for the insured crop in the county

or the end of the late planting period. You must have been unable to plant the insured crop due to an insured cause of loss that has prevented the majority of producers in the surrounding area from planting the same crop.

Production guarantee (per acre):

(a) First stage production guarantee—Thirty-five percent (35%) of the final stage production guarantee.

(b) Second stage production guarantee—Sixty percent (60%) of the final stage production guarantee.

(c) Final stage production guarantee—The quantity of onions (in hundredweight) determined by multiplying the approved yield per acre by the coverage level percentage you elect.

Replanting. Performing the cultural practices necessary to replace the onion seed or onion transplants, and then replacing the onion seed or onion transplants in the insured acreage with the expectation of growing a crop that will produce at least the yield used to determine the production guarantee.

Storage onions. Onions other than a Bermuda, Granex, or Grano variety, or hybrids developed from these varieties that are harvested as a bulb and dried to a lower moisture content, are firmer, have more outer layers of paper-like skin, and are darker in color than non-storage onions. They are generally more pungent, have a lower sugar content, and can normally be stored for several months under proper conditions prior to use without deterioration.

Timely planted. Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

Topping. A pre-harvest process to initiate curing, in which onion foliage is removed or bent over.

Type. A category of onions as identified in the Special Provisions.

Written agreement. A written document that alters designated terms of this policy in accordance with section 15.

2. Unit Division.

(a) Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), (basic unit) may be divided into optional units if, for each optional unit you meet all the conditions of this section.

(b) Basic units may not be divided into optional units on any basis other than as described in this section.

(c) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you.

(d) All optional units you selected for the crop year must be identified on the acreage report for that crop year.

(e) The following requirements must be met for each optional unit:

(1) You must have records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;

(2) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(3) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until after loss adjustment is completed by us; and

(4) Optional units meet one or more of the following, as applicable, unless otherwise provided by written agreement:

(i) **Optional Units Based on Irrigated Acreage or Non-Irrigated Acreage:** To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which your guarantee is based, except the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which the center pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be a part of the unit containing the irrigated acreage. However, non-irrigated acreage that is not a part of a field in which a center pivot irrigation system is used may qualify as a separate optional unit provided all requirements of this section are met; or

(ii) **Optional Units Based on Onion Type:** To qualify for a separate optional unit by type, that type of onion must be designated in the Special Provisions.

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

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one price election for all the onions in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each onion type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

(b) Your production guarantee progresses, in stages, to the final stage production guarantee. Stages will be determined on an acre basis and at least 75% of the plants on such acreage must be at the same stage to qualify for the applicable stage guarantee. The stages are as follows:

(1) First stage extends from planting through the emergence of the third leaf for

direct seeded onions, and has a guarantee of 35 percent of the final stage production guarantee.

(2) Second stage extends from emergence of the fourth leaf for direct seeded onions, or from transplanting of onion plants or sets, until the acreage has been subjected to topping and lifting or digging, and has a guarantee of 60 percent of the final stage production guarantee.

(3) Final stage extends from the completion of topping and lifting or digging on the acreage until the end of the insurance period,

and is the quantity of onions (in hundredweight) determined by multiplying the approved yield per acre by the coverage level percentage elected.

(c) Any acreage of onions damaged in the first or second stage, to the extent that producers in the area would not normally further care for the onions, will be deemed to have been destroyed even though you may continue to care for the onions. The production guarantee for such acreage will not exceed the production guarantee for the stage in which the damage occurred.

4. Contract Changes.

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is June 30 preceding the cancellation date for counties with an August 31 cancellation date, and November 30 preceding the cancellation date for all other counties.

5. Cancellation and Termination Dates.

In accordance with section 2 (Life of the Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are:

| State and county | Cancellation and termination date |
|---|-----------------------------------|
| All Georgia Counties; Umatilla County, Oregon; Kinney, Uvalde, Medina, Bexar, Wilson, Karnes, Bee, and San Patricio, Counties, Texas, and all Texas Counties lying south thereof; Walla Walla County, Washington. | Aug. 31. |
| All other states and counties | Feb. 1. |

6. Annual Premium.

In lieu of the provisions of section 7(c) (Annual Premium) of the Basic Provisions (§ 457.8), the annual premium amount is computed by multiplying the final stage production guarantee by the price election, the premium rate, the insured acreage, your share at the time of planting, and any applicable premium adjustment factors contained in the Actuarial Table.

7. Insured Crop.

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the storage and non-storage onions (excluding green (bunch) or seed onions, chives, garlic, leeks, and scallions) in the county for which a premium rate is provided by the Actuarial Table:

- (a) In which you have a share;
- (b) That are planted for harvest as either storage onions or non-storage onions;
- (c) That are not (unless allowed by the Special Provisions or by written agreement):
 - (1) Interplanted with another crop, unless the onions are interplanted with a windbreak crop and the windbreak crop is destroyed within 70 days after completion of seeding or transplanting; or
 - (2) Planted into an established grass or legume.

8. Insurable Acreage.

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), we will not insure any acreage of the insured crop that:

- (a) Was planted the previous year to storage or non-storage onions, green (bunch) onions, seed onions, chives, garlic, leeks, shallots, or scallions unless different rotation requirements are specified in the Special Provisions or we agree in writing to insure such acreage; or
- (b) Is damaged before the final planting date to the extent that the majority of producers in the area would normally not further care for the crop and is not replanted, unless we agree that it is not practical to replant.

9. Insurance Period.

(a) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the acreage must be planted on or

before the final planting date designated in the Special Provisions except as allowed in section 14(c).

(b) The insurance period ends at the earliest of:

- (1) The calendar date for the end of the insurance period as follows:
 - (i) June 1 for Vidalia, and any other non-storage onions planted in the State of Georgia;
 - (ii) July 15 for 1015 Super Sweets, and any other non-storage onions in the State of Texas;
 - (iii) July 31 for Walla Walla Sweets, and any other non-storage onions in the states of Oregon and Washington;
 - (iv) August 31 for all non-storage onions in any other state; and
 - (v) October 15 for all storage onions; or
 - (2) The following event for each unit or portion of a unit:
 - (i) Removal of the onions from the field; or
 - (ii) Fourteen days after lifting or digging.

10. Causes of Loss.

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur within the insurance period:

- (1) Adverse weather conditions;
- (2) Fire;
- (3) Insects, but not damage due to insufficient or improper application of pest control measures;
- (4) Plant disease, but not damage due to insufficient or improper application of disease control measures;
- (5) Wildlife, unless control measures have not been taken;
- (6) Earthquake;
- (7) Volcanic eruption; or
- (8) Failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period.

(b) In addition to the causes of loss not insured against as listed in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against any loss of production due to damage that occurs or becomes evident after the end of the insurance period, including, but not limited to, loss of

production that occurs after onions have been placed in storage.

11. Replanting Payment.

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), a replanting payment is allowed if the crop is damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the final stage production guarantee for the acreage and we determine that it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the lesser of 7 percent of the final stage production guarantee or 18 hundredweight multiplied by your price election for the type and by your insured share.

(c) When onions are replanted using a practice that is uninsurable as an original planting, the liability for the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

12. Duties in the Event of Damage or Loss.

(a) In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), any representative samples of the unharvested crop that may be required must be at least 10 feet wide and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

(b) You must notify us at least 15 days before any production from any unit will be sold by direct marketing. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count that is not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

13. Settlement of Claim.

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

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

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

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by its respective production guarantee;

(2) Multiplying each result of section 13(b)(1) by the respective price election;

(3) Totaling the results in section 13(b)(2);

(4) Multiplying the total production to be counted (see section 13(c)) by the respective price elections you chose;

(5) Totaling the results of section 13(b)(4);

(6) Subtracting the result in section 13(b)(5) from the result in 13(b)(3); and

(7) Multiplying the result in section 13(b)(6) by your share.

(c) The total production (in hundredweight) to count from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee for acreage:

(A) That is abandoned;

(B) That is direct marketed to consumers if you fail to meet the requirements contained in section 12;

(C) Put to another use without our consent;

(D) That is damaged solely by uninsured causes; or

(E) For which you fail to provide production records that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested onion production (mature unharvested production may be adjusted based on the percent of damaged onion production in accordance with section 13(d));

(iv) The appraised production that exceeds the difference between the first or second stage (as applicable) and the final stage production guarantee for acreage that does not qualify for the final stage guarantee, if such acreage is not subject to section 13(c)(1) (i) and (ii); and

(v) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end if you put the acreage to another use or abandon the crop.

(vi) If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us. (The amount of production to count for such acreage will be based on the harvested onion production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to

put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested onion production, or our reappraisal if additional damage occurs and the crop is not harvested.

(2) All harvested onion production from the insurable acreage.

(d) If the damage to onion production (harvested or unharvested) exceeds the percentage shown by type in the Special Provisions, no production will be counted for that unit or portion of a unit unless the damaged onion production from that acreage is subsequently sold.

(e) The extent of any damaged onion production must be determined not later than the time onions are placed in storage if the production is stored prior to sale, or the date the onions are delivered to a packer, processor, or other handler if production is not stored.

14. Late Planting and Prevented Planting.

(a) In lieu of provisions contained in the Basic Provisions (§ 457.8) regarding acreage initially planted after the final planting date and the applicability of a Late Planting Agreement Option, insurance will be provided for acreage planted to the insured crop during the late planting period (see section 14(c)) and you were prevented from planting (see section 14(d)). These coverages provide reduced production guarantees. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for late planted acreage or prevented planting acreage exceeds the liability on such acreage, coverage for those acres will not be provided, no premium will be due, and no indemnity will be paid for such acreage.

(b) If you were prevented from planting, you must provide written notice to us not later than the acreage reporting date.

(c) Late Planting

(1) For onion acreage planted during the late planting period, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (1%) per day for the 1st through the 10th day; and

(ii) Two percent (2%) per day for the 11th through the 25th day.

(2) In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of onions continues after the final planting date, or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Special Provisions for the insured crop; or

(ii) Five days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period)

(1) If you were prevented from timely planting onions, you may elect:

(i) To plant onions during the late planting period. The production guarantee for such acreage will be determined in accordance with section 14(c)(1);

(ii) Not to plant this acreage to any crop except a cover crop not for harvest. You may also elect to plant the insured crop after the late planting period. In either case, the production guarantee for such acreage will be 35 percent of the final stage production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 300 hundredweight per acre, your prevented planting production guarantee would be 105 hundredweight per acre (300 hundredweight multiplied by 0.35). If you elect to plant the insured crop after the late planting period, production to count for such acreage will be determined in accordance with section 13; or

(iii) Not to plant the intended crop but plant a substitute crop for harvest, in which case:

(A) No prevented planting production guarantee will be provided for such acreage if the substitute crop is planted on or before the 10th day following the final planting date for the insured crop; or

(B) A production guarantee equal to 17.5 percent of the final stage production guarantee for timely planted acres will be provided for such acreage, if the substitute crop is planted after the 10th day following the final planting date for the insured crop. If you elected the Catastrophic Risk Protection Endorsement or excluded this coverage, and plant a substitute crop, no prevented planting coverage will be provided. For example, if your production guarantee for timely planted acreage is 300 hundredweight per acre, your prevented planting production guarantee would be 52.5 hundredweight per acre (300 hundredweight multiplied by 0.175). You may elect to exclude prevented planting coverage when a substitute crop is planted for harvest and receive a reduction in the applicable premium rate. If you wish to exclude this coverage, you must so indicate, on or before the sales closing date, on your application or on a form approved by us. Your election to exclude this coverage will remain in effect from year to year unless you notify us in writing on our form by the applicable sales closing date for the crop year for which you wish to include this coverage. All acreage of the crop insured under this policy will be subject to this exclusion.

(2) Production guarantees for timely, late, and prevented planting acreage within a unit will be combined to determine the production guarantee for the unit. For example, assume you insure one unit in which you have a 100 percent share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres were not planted but are eligible for a prevented planting production guarantee. The production guarantee for the unit will be computed as follows:

(i) For the timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(ii) For the late planted acreage, multiply the per acre production guarantee for timely

planted acreage by 93 percent and multiply the result by the 50 acres planted late; and

(iii) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by:

(A) Thirty-five percent and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if the acreage is left idle for the crop year, or if a cover crop is planted not for harvest. Prevented planting compensation hereunder will not be denied because the cover crop is hayed or grazed; or

(B) Seventeen and one-half percent and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if you elect to plant a substitute crop for harvest after the 10th day following the final planting date for the insured crop (This paragraph (B) is not applicable, and prevented planting coverage is not available under these crop provisions, if you elected the Catastrophic Risk Protection Endorsement or you elected to exclude prevented planting coverage when a substitute crop is planted (see section 14(d)(1)(iii)).)

Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(3) You must have the inputs available to plant and produce the intended crop with the expectation of at least producing the production guarantee. Proof that these inputs were available may be required.

(4) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the insurance period for prevented planting coverage begins:

(i) On the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on the sales closing date for the insured crop in the county for the previous crop year, provided continuous coverage has been in effect since that date. For example: If you make application and purchase insurance for onions for the 1998 crop year, prevented planting coverage will begin on the 1998 sales closing date for onions in the county. If the onion coverage remains in effect for the 1999 crop year (is not terminated or canceled during or after the 1998 crop year) prevented planting coverage for the 1999 crop year began on the 1998 sales closing date. Cancellation for the purposes of transferring the policy to a different insurance provider when there is no lapse in coverage will not be considered terminated or canceled coverage for the purpose of the preceding sentence.

(5) The acreage to which prevented planting coverage applies will not exceed the total eligible acreage on all FSA Farm Serial Numbers in which you have a share, adjusted for any reconstitution that may have occurred on or before the sales closing date. Eligible acreage for each FSA Farm Serial Number is determined as follows:

(i) If you participate in any program administered by the United States

Department of Agriculture that limits the number of acres that may be planted for the crop year, the acreage eligible for prevented planting coverage will not exceed the total acreage permitted to be planted to the insured crop.

(ii) If you do not participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted, and unless we agree in writing on or before the sales closing date, eligible acreage will not exceed the greater of:

(A) The FSA base acreage for the insured crop, including acres that could be flexed from another crop, if applicable;

(B) The number of acres planted to onions on the FSA Farm Serial Number during the previous crop year; or

(C) One-hundred percent of the simple average of the number of acres planted to onions during the crop years that you certified to determine your yield.

(iii) Acreage intended to be planted under an irrigated practice will be limited to the number of acres for which you had adequate irrigation facilities prior to the insured cause of loss which prevented you from planting.

(iv) A prevented planting production guarantee will not be provided for any acreage:

(A) That does not constitute at least 20 acres or 20 percent of the acreage in the unit, whichever is less (Acreage that is less than 20 acres or 20 percent of the acreage in the unit will be presumed to have been intended to be planted to the insured crop planted in the unit, unless you can show that you had the inputs available before the final planting date to plant and produce another insured crop on the acreage);

(B) For which the actuarial table does not designate a premium rate unless a written agreement designates such premium rate;

(C) Used for conservation purposes or intended to be left unplanted under any program administered by the United States Department of Agriculture;

(D) On which another crop is prevented from being planted, if you have already received a prevented planting indemnity, guarantee or amount of insurance for the same acreage in the same crop year, unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last 4 years in which the insured crop was grown on the acreage;

(E) On which the insured crop is prevented from being planted, if any other crop is planted and fails, or is planted and harvested, hayed or grazed on the same acreage in the same crop year (other than a cover crop as specified in section 14(d)(2)(iii)(A) or a substitute crop allowed in section 14(d)(2)(iii)(B)), unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last 4 years in which the insured crop was grown on the acreage;

(F) When coverage is provided under the Catastrophic Risk Protection Endorsement if you plant another crop for harvest on any acreage you were prevented from planting in the same crop year, even if you have a history

of double-cropping. If you have a Catastrophic Risk Protection Endorsement and receive a prevented planting indemnity, guarantee, or amount of insurance for a crop and are prevented from planting another crop on the same acreage, you may only receive the prevented planting indemnity, guarantee, or amount of insurance for the crop on which the prevented planting indemnity, guarantee, or amount of insurance is received; or

(G) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes.

(v) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of onion acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent share. The acreage is located in a single FSA Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of onions on one optional unit and 40 acres of onions on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero).

(6) In accordance with the provisions of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report by unit any insurable acreage that you were prevented from planting. This report must be submitted on or before the acreage reporting date. For the purpose of determining acreage eligible for a prevented planting production guarantee, the total amount of prevented planting and planted acres cannot exceed the maximum number of acres eligible for prevented planting coverage. Any acreage you report in excess of the number of acres eligible for prevented planting coverage, or that exceeds the number of eligible acres physically located in a unit, will be deleted from your acreage report.

15. Written Agreements.

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 15(e);

(b) The application for written agreement must contain all terms of the contract between the insurance provider and the insured that will be in effect if the written agreement is not approved;

(c) If approved by us, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year. (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for written agreement submitted after the sales closing date may be approved if, after a physical inspection of the

acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, D.C., on May 19, 1997.

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

[FR Doc. 97-13801 Filed 5-23-97; 8:45 am]

BILLING CODE 3410-08-P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Rural Housing Service

Rural Business—Cooperative Service

Rural Utilities Service

7 CFR Parts 1910, 1941, 1943, 1945, and 1980

RIN 0560-AE87

Implementation of the Direct and Guaranteed Loan Making Provisions of the Federal Agricultural Improvement Act of 1996: Correction

AGENCY: Farm Service Agency, USDA.

ACTION: Interim rule, correction; and
correcting amendments.

SUMMARY: This document contains corrections to the interim regulations that were published Monday, March 3, 1997 (62 FR 9351-59). Technical corrections are also made to CFR sections not originally included in the interim rule. The regulations pertained to the loan making provisions of the Farm Service Agency (FSA) farm loan programs.

EFFECTIVE DATE: The corrections to the interim rule and the correcting amendments are effective May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Steven R. Bazzell, Senior Loan Officer, Farm Service Agency. Telephone: 202-720-3889; facsimile: 202-690-1117; or e-mail: sbazzell@wdc.fsa.usda.gov

SUPPLEMENTARY INFORMATION:

Background

The interim final regulations, which are the subject of these corrections, implemented the direct and guaranteed FSA farm loan making provisions of the Federal Agricultural Improvement Act of 1996 (Act). The public comment period ended on May 2, 1997.

Need for Correction

As published, the interim final regulations contain errors that either conflict with the Act, are misleading or are in need of clarification. Conflicts

with the statutory language of the Act require some corrections not originally included in the interim rule published on March 3, 1997. Those corrections are as follows: (a) Section 1910.5 of 7 CFR part 1910, subpart A, is corrected by incorporating a provision that renders an applicant ineligible for most types of FSA loan assistance when they have received debt forgiveness. (b) Section 1943.13 of 7 CFR part 1943, subpart A, is corrected by removing references to the "sale of acquired property" and "credit sales" to socially disadvantaged applicants, since this is eliminated by the Act. (c) Section 1980.106 of 7 CFR part 1980, subpart B, is corrected by removing a reference to "non-farm enterprises" contained in the "farm" definition because non-farm enterprises are no longer financed by the Agency under the Act.

List of Subjects

7 CFR Part 1910

Application processing, Loan programs-agriculture.

7 CFR Part 1941 and 1943

Applicant eligibility, Beginning farmers and ranchers, Loan programs-agriculture.

7 CFR Part 1945

Disaster assistance, Loan programs-agriculture.

7 CFR Part 1980

Beginning farmers and ranchers, Loan guarantees, Loan programs-agriculture.

Accordingly, 7 CFR chapter XVIII is corrected by making the following correcting amendments:

PART 1910—GENERAL

1. The authority citation for part 1910 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; and 42 U.S.C. 1480.

Subpart A—Receiving and Processing Applications

2. Section 1910.5 is amended by revising the introductory text of paragraph (c) as set forth below and removing paragraph (c)(6).

§ 1910.5 Evaluating applications.

* * * * *

(c) When the applicant, including any members of an entity applicant, caused the Agency a loss by receiving debt forgiveness, they are ineligible for assistance in accordance with applicable program eligibility regulations. If the debt forgiveness is cured by repayment of the Agency's loss, the Agency may still consider the

debt forgiveness in determining the applicant's creditworthiness. The following circumstances do not automatically indicate an unacceptable credit history:

* * * * *

PART 1941—OPERATING LOANS

3. The authority citation for part 1941 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

Subpart A—Operating Loan Policies, Procedures, and Authorizations

4. Section 1941.12, paragraphs (a)(8), (a)(11), (b)(9) and (b)(12) are revised to read as follows:

§ 1941.12 Eligibility requirements.

* * * * *

(a) * * *

(8) Have not executed a promissory note for a direct OL loan in more than 6 different calendar years prior to the calendar year that the requested direct OL loan will close. This eligibility restriction applies to anyone who signs the promissory note. Youth loans are not counted as direct OL loans for the purpose of this paragraph.

* * * * *

(11) Not be delinquent on any Federal debt. This restriction will not apply if the Federal delinquency is cured on or before the loan closing date.

(b) * * *

(9) Have no member of the business entity who has executed a promissory note for direct OL loans in more than 6 different calendar years prior to the calendar year that the requested direct OL loan will close. This eligibility restriction applies to anyone who signs the promissory note. Youth loans are not counted as direct OL loans for the purpose of this paragraph.

* * * * *

(12) Not be delinquent on any Federal debt. This restriction will not apply if the Federal delinquency is cured on or before the loan closing date. This eligibility restriction applies to the entity and all of its members.

* * * * *

§ 1941.16 [Corrected]

5. Section 1941.16(i)(2) is amended by removing the word "owned" and adding the word "owed" in its place.

Subpart B—Closing Loans Secured by Chattels

§ 1941.88 [Corrected]

6. In § 1941.88(c), the first sentence is amended by removing the word "more" and adding the word "less" in its place.