

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Parts 401 and 457

RIN 0563-AA79

#### General Crop Insurance Regulations, Safflower Seed Crop Insurance Endorsement; and Common Crop Insurance Regulations, Safflower 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 safflower. 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 safflower seed crop endorsement under the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current safflower seed crop endorsement to the 1997 and prior crop years.

**EFFECTIVE DATE:** August 8, 1997.

**FOR FURTHER INFORMATION CONTACT:** Ron Nesheim, 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, 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 comments and opinions on information collection requirements currently being reviewed by OMB under OMB control number 0563-0053 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) of 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 economic impact on a substantial number of small entities. The amount of work required of insurance companies should not increase because the information used to determine eligibility is already maintained at their office. The amount of work required of insurance companies may actually be reduced because verification with FCIC of a producer's compliance with the controlled substance regulations, currently done manually, will be automated. 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 rule has been reviewed in accordance with Executive Order No. 12988 on civil justice reforms. The provisions of this rule will not have a 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 Friday, April 11, 1997, FCIC published a proposed rule in the **Federal Register** at 62 FR 17758 to add to the Common Crop Insurance Regulations (7 CFR part 457) a new section, 7 CFR 457.125, Safflower 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 safflower found at 7 CFR 401.123 (Safflower Seed Crop Endorsement). FCIC also amends 7 CFR 401.123 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 13 comments were received from the reinsured companies and an insurance service organization. The comments received, and FCIC's responses, are as follows:

*Comment:* A reinsured company asked why no late planting period or prevented planting language was put in the policy. The reinsured company asked whether the old Late Planting Agreement Option must still be signed.

*Response:* The Late Planting Agreement Option, found under 7 CFR § 401.123 that is currently applicable to safflower provisions, will no longer apply. FCIC intends to revise the Late and Prevented Planting provisions for the 1998 crop year. Until the revised rule is published, FCIC will add the Late and Prevented Planting provisions, in effect for other crops, to safflower.

*Comment:* An insurance service organization suggested that in the definitions of "final planting date" and "good farming practices," the term "production guarantee" be replaced by "average yield," or "insured's average yield" (also in provision 2(e)(1)).

*Response:* The terms "average yield" or "insured's average yield" would not be accurate because the insured's approved yield is multiplied by the coverage level selected to determine the production guarantee. Good farming practices and final planting date require that the crop be able to produce the yield, not the production guarantee. Therefore, no change has been made.

*Comment:* A reinsured company and an insurance service organization expressed a concern that the provision in the definition of "good farming practices" stating that, "recognized by the Cooperative State Research, Education and Extension Service as compatible \* \* \*" there may be accepted practices not so recognized. They also asked that if this cannot be dropped, it would at least help to say "generally recognized \* \* \*".

*Response:* FCIC believes that the Cooperative State Research, Education, and Extension Service (CSREES) recognizes farming practices that are considered acceptable for producing safflower. If a producer is following practices currently not recognized as acceptable by the CSREES, there is no reason why such recognition cannot be sought by interested parties. CSREES pertains only to specific areas within a county. No change has been made.

*Comment:* A reinsured company suggested that in the definition of "irrigated practice," the words "and quality" be added after the words "\* \* \* providing the quantity."

*Response:* FCIC disagrees. There are no clear criteria regarding the quality of water necessary to produce a crop. The highly variable factors involved would make such criteria difficult to develop and administer. The provisions regarding good farming practices can be applied in situations in which the insured person failed to exercise due care and diligence. Therefore, no change has been made.

*Comment:* An insurance service organization stated that in the definition of "practical to replant," the addition of marketing window in several recent proposed rules seems to be applicable to processor and fresh market crops. It does not appear to be a consideration for replanting crops like safflower.

*Response:* FCIC agrees that the concept is most applicable to processor and fresh market crops. However, the Federal Crop Insurance Act has mandated that insurance providers consider marketing window, when determining whether it is practical to replant. Therefore, no change has been made.

*Comment:* An insurance service organization suggested that "value per pound of damaged safflower" be changed to read "value per pound" since the definition refers to "damaged safflower."

*Response:* FCIC agrees and has made the change.

*Comment:* An insurance service organization questioned if it is necessary to include all the language in section 3 (Insurance Guarantees, Coverage Levels, and Prices) if there are no prices by type. Since this appears to be standard language for most of the recent proposed rule crop provisions, perhaps it should be in the Basic Provisions instead.

*Response:* While many crops allow separate prices, by type, not all require the same percentage relationship. The provision is included in safflower to provide correct coverage as different types are developed. Therefore, no change has been made.

*Comment:* An insurance service organization stated that some policies allow the entire replanting payment to be paid to the person incurring the entire expense (usually the tenant) when the landlord and tenant are insured with the same company, but no such language is in this proposed rule.

*Response:* It is true that a few Crop Provisions allow the entire replanting payment to be paid to the person incurring the entire expense (usually the tenant) when the landlord and tenant are insured with the same company. However, because of the difficulties of administering this provision, it is being

discontinued as Crop Provisions are revised. Therefore, no change has been made.

*Comment:* An insurance service organization suggested that section 12(c)(1)(iv)(A) of the policy should not allow the insured to defer settlement and wait for a later, generally lower, appraisal, especially on crops that have a short "shelf life."

*Response:* A later appraisal will be necessary only if the insurance provider agrees that such an appraisal would result in a more accurate determination of production to count and if the producer continues to care for the crop. If the producer does not care for the crop, the original appraisal will be used. Therefore, no change will be made to these provisions.

*Comment:* An insurance service organization stated that section 12(d)(3)(ii) refers to "net price;" section 12(d)(4)(ii)(A) refers to "value per pound;" and section 12(d)(4)(ii)(B) refers to "price per pound." All three seem to mean the same thing. Since "value per pound" is defined in the policy, they suggested using it in each item.

*Response:* FCIC agrees and has made those changes.

*Comment:* An insurance service organization suggested that in section 12(d)(4) (i) & (ii), "qualifying adjustment factor provisions" be revised to read "quality adjustment factors" in item (i), and "quality adjustment factor provisions" to "quality adjustment factors" in item (ii).

*Response:* FCIC agrees and has made the changes.

*Comment:* An insurance service organization suggested that in section 12(d)(4)(ii)(A), "local market price of undamaged safflower" be amended to read "local market price."

*Response:* FCIC agrees and has made the change.

*Comment:* An insurance service organization and a reinsured company suggested that written agreements should not be limited to one year. Written unit agreements are continuous unless there are significant changes in the farming operation. Some others should also be this way.

*Response:* Written agreements are intended to change policy terms or permit insurance in unusual or previously unknown situations. If such practices continue year to year, they should be incorporated into the policy or Special Provisions. It is important to keep non-uniform exceptions to the minimum and to ensure that the insured is well aware of the specific terms of the policy. Therefore, no change has been made.

In addition to the changes described above, FCIC has made minor editorial changes and has amended the following provisions:

1. The preamble is revised to refer to the Catastrophic Risk Protection Endorsement for the purpose of clarification.
2. In section 2, the authority to vary the unit structure has been clarified that only the optional unit guideline, specified in section 2(e)(4) may be revised by written agreement.
3. Section 9(e) has been amended to clarify that wildlife is an insured cause of loss, unless proper measures to control wildlife have not been taken to be consistent with other policies.

Good cause is shown to make this rule effective upon publication in the **Federal Register**. This rule improves the safflower crop insurance coverage and brings it under the Common Crop Insurance Policy Basic Provisions for consistency among policies. The earliest contract change date that can be met for the 1998 crop year is August 31, 1997, and the final rule must be published as soon as possible. It is, therefore, imperative that these provisions be made final so that reinsured companies 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, Safflower seed.

#### Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR Parts 401 and 457 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(l), 1506(p).

2. In § 401.123, the introductory paragraph is revised to read as follows:

##### § 401.123 Safflower seed crop endorsement.

The provisions of the Safflower Seed Crop Insurance Endorsement for the 1988 through the 1997 crop year.

3. Section 401.8 is amended by revising the introductory text of paragraph (d) to read as follows:

##### § 401.8 The application and policy.

(d) The application for the 1988 and succeeding crop years is found at subpart D of part 400, General Administrative Regulations (7 CFR 400.37 and 400.38). The provisions of the Safflower Insurance Policy for the 1988 through 1997 crop years are as follows:

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

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

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

5. Section 457.125 is added to read as follows:

##### § 457.125 Safflower crop insurance provisions.

The Safflower 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:

##### Safflower Crop Insurance Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these Crop Provisions, the Special Provisions, and the Catastrophic Risk Protection Endorsement, if applicable, the Special Provisions will control these Crop Provisions and the Basic Provisions; and these Crop Provisions will control the Basic Provisions. The Catastrophic Risk Protection Endorsement, if applicable, will control all provisions.

##### 1. Definitions

**Days.** Calendar days.

**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.** Collecting the safflower seed by combining or threshing.

**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.

**Local market price.** The cash price per pound for undamaged safflower (test weight of 35 pounds per bushel or higher and seed damage less than 25 percent) offered by buyers.

**Nurse crop (companion crop).** A crop planted into the same acreage as another crop, that is intended to be harvested separately, and which is planted to improve growing conditions for the crop with which it is grown.

**Planted acreage.** Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice. Safflower must initially be planted in rows. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

**Pound.** Sixteen ounces avoirdupois.

**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.

**Production guarantee (per acre).** The number of pounds determined by multiplying the approved APH yield per acre by the coverage level percentage you elect.

**Replanting.** Performing the cultural practices necessary to replace the safflower seed, including preparing the land and then replacing the safflower seed in the insured acreage with the expectation of producing at least the yield used to determine the production guarantee.

**Value per pound.** The cash price per pound for damaged safflower (test weight below 35 pounds per bushel, seed damage in excess of 25 percent, or both).

**Written agreement.** A written document that alters designated terms of this policy in accordance with section 13.

##### 2. Unit Division

(a) Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8) (a 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) For each crop year, records of marketed production or measurement of stored production from each optional unit must be 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 loss adjustment is completed by us; and

(4) Each optional unit must meet one or more of the following criteria, as applicable, unless otherwise specified by written agreement:

(i) *Optional Units by Section, Section Equivalent, or FSA Farm Serial Number:* Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands, as the equivalent of sections for unit purposes. In areas that have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number.

(ii) *Optional Units on Acreage Including Both Irrigated and Non-irrigated Practices:* Optional units may be based on irrigated acreage and non-irrigated acreage (in those counties where "non-irrigated" practice is allowed in the actuarial table) if both are located in the same section, section equivalent, or FSA Farm Serial Number. 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 the 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 a 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. 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 that all other requirements of this section are met.

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

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 safflower 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 safflower 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.

### 4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is August 31 preceding the cancellation date for California, and December 31 preceding the cancellation date for all other states.

### 5. Cancellation and Termination Dates

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

State	Cancellation and termination dates
California .....	December 31.
All other states .....	March 15.

### 6. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all safflower in the county for which a premium rate is provided by the actuarial table:

- (a) In which you have a share;
- (b) That is planted for harvest as safflower seed;
- (c) That is not (unless allowed by the Special Provisions or by written agreement):
  - (1) Interplanted with another crop; or
  - (2) Planted into an established grass or legume.

### 7. Insurable Acreage

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

- (a) Safflower planted on land on which safflower, sunflower seed, any variety of dry beans, soybeans, mustard, rapeseed, or lentils were grown the preceding crop year, unless other rotation requirements are specified in

the Special Provisions or we agree in writing to insure such acreage; or

- (b) Any acreage of safflower 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, unless the crop is replanted or we agree that it is not practical to replant.

### 8. Insurance Period

In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the calendar date for the end of the insurance period is October 31 immediately following planting.

### 9. Causes of Loss

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 during the insurance period:

- (a) Adverse weather conditions;
- (b) Fire;
- (c) Insects, but not damage due to insufficient or improper application of pest control measures;
- (d) Plant disease, but not damage due to insufficient or improper application of disease control measures;
- (e) Wildlife, unless proper measures to control wildlife have not been taken;
- (f) Earthquake;
- (g) Volcanic eruption; or
- (h) Failure of the irrigation water supply, if caused by an insured cause of loss that occurs during the insurance period.

### 10. 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 production guarantee for the acreage and it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the lesser of 20 percent of the production guarantee or 160 pounds, multiplied by your price election, multiplied by your insured share.

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

### 11. Duties In The Event of Damage or Loss

In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the representative samples of the unharvested crop 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.

### 12. Settlement of Claim

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

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

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

(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 in section 12(b)(1) by the respective price election;

(3) Totalling the results in section 12(b)(2);

(4) Multiplying the total production to be counted of each type if applicable, (see section 12(c)) by the respective price election;

(5) Totalling the results in section 12(b)(4);

(6) Subtracting the results from the total in section 12(b)(5) from the results in section 12(b)(3); and

(7) Multiplying the result in section 12(b)(6) by your share.

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

(1) All appraised production as follows:

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

(A) That is abandoned;

(B) Put to another use without our consent;

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

(D) For which you fail to provide acceptable production records;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 12(d)); and

(iv) 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 when you put the acreage to another use or abandon the crop. 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 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 production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage.

(d) Mature safflower may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable, it will be made prior to any adjustment for quality.

(1) Production will be reduced by 0.12 percent for each 0.1 percentage point of

moisture in excess of 8 percent. We may obtain samples of the production to determine the moisture content.

(2) Production will be eligible for quality adjustment if such production:

(i) Has a test weight below 35 pounds per bushel;

(ii) Has seed damage in excess of 25 percent; or

(iii) Contains substances or conditions that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is provided under these crop provisions and that occurred within the insurance period;

(ii) The deficiencies, substances, or conditions result in a value per pound that is less than the local market price;

(iii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us; and

(iv) The samples are analyzed by a grader licensed to grade safflower under the authority of the Agricultural Marketing Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health. Test weight for quality adjustment purposes may be determined by our loss adjuster.

(4) Safflower production that is eligible for quality adjustment, as specified in sections 12(d)(2) and (3), will be reduced as follows:

(i) In accordance with the quality adjustment factors contained in the Special Provisions; or

(ii) If quality adjustment factors are not contained in the Special Provisions:

(A) By determining the value per pound and the local market price on the earlier of the date such quality adjusted production is sold or the date of final inspection for the unit. Discounts used to establish the value per pound will be limited to those which are usual, customary, and reasonable. The value per pound will not be reduced for:

(1) Moisture content;

(2) Damage due to uninsured causes; or

(3) Drying, handling, processing, or any other costs associated with normal harvesting, handling, and marketing of safflower. We may obtain values per pound from any buyer of our choice. If we obtain values per pound from one or more buyers located outside your local market area, we will reduce such values per pound by the additional costs required to deliver the production to those buyers.

(B) Divide the value per pound by the local market price to determine the quality adjustment factor; and

(C) Multiply the adjustment factor by the number of pounds of the damaged production remaining after any reduction due to excessive moisture to determine the net production to count.

(e) Any production harvested from other plants growing in the insured crop may be

counted as production of the insured crop on a weight basis.

### 3. Written Agreement

Terms of this policy which are specifically designated for the use of written agreement 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 13(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us 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 a 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 August 4, 1997.

**Kenneth D. Ackerman,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. 97-20914 Filed 8-7-97; 8:45 am]

BILLING CODE 3410-08-P

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1493

RIN 0551-AA35

### CCC Facility Guarantee Program (FGP)

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Interim rule with request for comment.

**SUMMARY:** This interim rule provides for facility payment guarantees to be issued by the Commodity Credit Corporation (CCC). The guarantees are to be issued in connection with sales of goods or services to establish or improve agricultural-related facilities in emerging markets to expand exports of U.S. agricultural commodities or products.

**DATES:** *Effective date:* August 8, 1997.

*Comment date:* Comments due on or before October 7, 1997.

**ADDRESSES:** Comments must be submitted in writing to L.T. McElvain,