

- (5) Cleveland-Akron, OH—consisting of the Cleveland-Akron, OH CMSA;
- (6) Columbus, OH—consisting of the Columbus, OH MSA;
- (7) Dallas-Fort Worth, TX—consisting of the Dallas-Fort Worth, TX CMSA;
- (8) Dayton-Springfield, OH—consisting of the Dayton-Springfield, OH MSA;
- (9) Denver-Boulder-Greeley, CO—consisting of the Denver-Boulder-Greeley, CO CMSA;
- (10) Detroit-Ann Arbor-Flint, MI—consisting of the Detroit-Ann Arbor-Flint, MI CMSA;
- (11) Hartford, CT—consisting of the Hartford, CT MSA, plus that portion of New London County, CT, not located within the Hartford, CT MSA;
- (12) Houston-Galveston-Brazoria, TX—consisting of the Houston-Galveston-Brazoria, TX CMSA;
- (13) Huntsville, AL—consisting of the Huntsville, AL MSA;
- (14) Indianapolis, IN—consisting of the Indianapolis, IN MSA;
- (15) Kansas City, MO-KS—consisting of the Kansas City, MO-KS MSA;
- (16) Los Angeles-Riverside-Orange County, CA—consisting of the Los Angeles-Riverside-Orange County, CA CMSA, plus Santa Barbara County, CA, and that portion of Edwards Air Force Base, CA, not located within the Los Angeles-Riverside-Orange County, CA CMSA;
- (17) Miami-Fort Lauderdale, FL—consisting of the Miami-Fort Lauderdale, FL CMSA;
- (18) Milwaukee-Racine, WI—consisting of the Milwaukee-Racine, WI CMSA;
- (19) Minneapolis-St. Paul, MN-WI—consisting of the Minneapolis-St. Paul, MN-WI MSA;
- (20) New York-Northern New Jersey-Long Island, NY-NJ-CT-PA—consisting of the New York-Northern New Jersey-Long Island, NY-NJ-CT-PA CMSA;
- (21) Orlando, FL—consisting of the Orlando, FL MSA;
- (22) Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD—consisting of the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD CMSA;
- (23) Pittsburgh, PA—consisting of the Pittsburgh, PA MSA;
- (24) Portland-Salem, OR-WA—consisting of the Portland-Salem, OR-WA CMSA;
- (25) Richmond-Petersburg, VA—consisting of the Richmond-Petersburg, VA MSA;
- (26) Sacramento-Yolo, CA—consisting of the Sacramento-Yolo, CA CMSA;
- (27) St. Louis, MO-IL—consisting of the St. Louis, MO-IL MSA;

- (28) San Diego, CA—consisting of the San Diego, CA MSA;
- (29) San Francisco-Oakland-San Jose, CA—consisting of the San Francisco-Oakland-San Jose, CA CMSA;
- (30) Seattle-Tacoma-Bremerton, WA—consisting of the Seattle-Tacoma-Bremerton, WA CMSA;
- (31) Washington-Baltimore, DC-MD-VA-WV—consisting of the Washington-Baltimore, DC-MD-VA-WV CMSA, plus St. Mary's County, MD; and
- (32) Rest of U.S.—consisting of those portions of the 48 contiguous States not located in another locality pay area.

[FR Doc. 97-32580 Filed 12-11-97; 8:45 am]
BILLING CODE 6325-01-U

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

RIN 0563-AB03

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

DATES: Effective December 12, 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, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget (OMB) under control number 0563-0053.

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. Therefore, 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 effect of this regulation on small entities will be no greater than on larger entities. Under the current regulations, a producer is required to complete an application and an 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. 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 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12988

This final rule has been reviewed in accordance with Executive Order No. 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before action against FCIC for judicial review may be brought.

Environmental Evaluation

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

National Performance Review

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

Background

On Monday, December 30, 1996, FCIC published a proposed rule in the **Federal Register** at 61 FR 68674 to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.112 (Hybrid Sorghum Seed Crop Insurance Provisions). These provisions will replace and supersede the current provisions for insuring hybrid sorghum seed found at 7 CFR section 401.109 and will be effective for the 1998 and succeeding crop years. This rule also amends section 401.109 to restrict its effect to the 1997 and prior crop years.

Following publication of the proposed rule, the public was afforded 60 days to submit written comments. A total of 36 comments were received from reinsured companies and an insurance service organization. The comments received, and FCIC's responses, follow:

Comment: A reinsured company and an insurance service organization believed that the calculation sequence

in the definition of "amount of insurance per acre" formula should be revised to match the order shown in the Special Provisions. The commenter stated that in the Special Provisions, multiplication by the price election is not in the proper sequence. Amount of insurance per acre is the county yield, multiplied by the factor for the coverage level selected, multiplied by the price election selected by the producer less any minimum guaranteed payment.

Response: FCIC has revised and clarified the definition to show the proper calculation. Since the calculation is in the Crop Provisions, it will be removed from the Special Provisions.

Comment: An insurance service organization suggested that the definition of "female parent plant" may have to be changed because some companies have started experimenting with female sterile plants from which the stamen may not have to be removed.

Response: FCIC has revised the definition to accommodate those instances where the parent plants are rendered male sterile by means other than stamen removal.

Comment: A reinsured company and an insurance service organization suggested that the definition of "interplanting" be revised to match its use in the Special Provisions. Interplanting is listed as a separate type with a different county yield than standard planting.

Response: The Special Provisions uses the term "interplanting" and the Crop Provisions uses the term "interplanted," and the terms have different meanings. To avoid any confusion between these terms, FCIC will change the reference from "interplanting" to "non-standard planting" in the Special Provisions.

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: Water quality is important. However, 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 failed to exercise due care and diligence in the application of irrigation water. No change has been made.

Comment: An insurance service organization suggested adding, in the definition of "non-seed amount," the phrase "rejected for seed purposes" or something similar after the first

reference to "non-seed production" for clarification.

Response: FCIC has revised the definition and section 12 to clarify that non-seed production is production that does not qualify as seed production because of inadequate germination.

Comment: A reinsured company and an insurance service organization suggested that the definition of "planted acreage" be amended to require that the male and female parent plants be planted in accordance with the production management practices of the seed company.

Response: The definition of "planted acreage" is broad enough to permit planting in accordance with practices of the seed company. The requirement that parent plants be planted in accordance with the production management practices of the seed company is more appropriate in sections 7 and 10 regarding insured crop and causes of loss, and those provisions have been revised accordingly.

Comment: A reinsured company and an insurance service organization suggested that a conflict exists between the definition of "sample" and "inadequate germination" because the germination rate is determined by using a certified seed test on clean seed, not field run seed.

Response: There is no conflict between the terms. The sample must be at least 3 pounds of field run seed. The germination rate is based on the amount of clean seed obtained from that sample. No change has been made.

Comment: An insurance service organization asked why a seed company must now be a corporation (previously defined as a "business enterprise"), and if there are any legitimate seed companies that are not corporations.

Response: A seed company need only be a corporation if the seed company is also the producer. To cover all other situations, FCIC has changed "a corporation" to "a business enterprise" in the definition of seed company.

Comment: An insurance service organization suggested that section 2(a) be changed to read ". . . a basic unit, as defined in section 1 of the Basic Provisions, may be divided . . ." instead of "(basic unit)" at the end of the earlier phrase.

Response: All definitions and most provisions common to most crops with respect to units have been deleted and moved to the Basic Provisions.

Comment: A reinsured company and an insurance service organization stated that the provisions contained in section 2(e)(1), which require the insured to keep records by optional unit for optional units to apply, conflict with

section 3(b) which correctly indicates that production reporting requirements do not apply to this crop. In most instances the sorghum seed is harvested and hauled directly to the seed companies' processing facilities. The seed company maintains records of planted acreage and harvested production and provides all of the yield records used by the FCIC Regional Service Office (RSO) to establish the approved yields. All references to the insured maintaining records by optional unit should not be a requirement since this is maintained at the seed company level. The historical yield of the producer's sorghum seed is not used to establish the amount of insurance as stated in section 2(e)(1). The amount of insurance is based on the county yield, coverage level and price elected and any minimum guaranteed payment.

Response: The insured must have verifiable records of planted acreage and production for each optional unit for at least the "... last crop year used to determine the amount of insurance." This requirement should not be removed simply because the seed company maintains those records. In order to protect the integrity of the program, FCIC must be able to verify the accuracy of the guarantee for each unit. If the producer cannot provide the records for each optional unit, they will be combined in basic units. The insured can obtain the necessary records from the seed company. These provisions have been moved to the Basic Provisions and deleted from these Crop Provisions.

Comment: An insurance service organization suggested that the opening phrase of section 2(e)(4) "Each optional unit must meet one or more of the following criteria, as applicable:" Is not necessary, and may actually cause confusion, since this crop has only one method for optional unit division (by section or other legal description). Perhaps section (e)(4) should start with "Each optional unit is located in a separate legally identified section. . . ."

Response: All relevant changes have been made to the Basic Provisions and those provisions deleted in these Crop Provisions.

Comment: A reinsured company was concerned about the requirement that the producer must meet all the requirements in section 6. They stated that these requirements should not be mandatory for every acreage report.

Response: The information required in the acreage report is necessary to establish liability, premium, and insurability of the acreage. No change has been made.

Comment: A reinsured company and an insurance service organization mentioned that in section 6(a), each individual producer is the named insured under this program and may not know the type or variety of hybrid. The seed companies provide the seed and the producer grows it. Seed companies do not want this information going any further than necessary while still meeting the requirements of the MPC program. This information is needed only in the event of a claim and can be obtained from the seed company as needed at that time. The commenter believes collection of this information should be an option since the insurance provider may want to capture it in certain instances but not for all insureds. Therefore, this should be an option, not mandatory as it would be with the word "must" in the proposed language.

Response: The reporting requirement by type or variety must be maintained for rating purposes and to determine liability and premium for the unit. Such information cannot be obtained only at the time of loss. It is the responsibility of the producer to provide the information, which should be contained in the hybrid sorghum seed processor contract. No change has been made.

Comment: A reinsured company and an insurance service organization mentioned that section 6(b) requires that acreage occupied by the male parent plants be reported. They realize it is common for other crops to obtain all insurable and uninsurable acreage of the crop. However, this stipulation to capture the total acreage occupied by the male parent plants is an unnecessary and burdensome requirement for hybrid sorghum seed. The commenter suggested that this should only be determined in the event of a claim. A number of seed companies require that the male acres be destroyed after pollination.

Response: The requirement to report any acreage occupied by male parent plants is necessary to determine the correct amount of insurance for a unit since acres with male plants are not insurable. The amount of insurance is determined on the Summary of Coverage so the insurance provider cannot wait until the loss to determine insurable acreage. The burden of determining the amount of acreage occupied by the male plant can be minimized by mathematical calculation based on the planting pattern of the crop. No change has been made.

Comment: A reinsured company and an insurance service organization questioned section 6(c), which requires the insured to certify that there is a

hybrid sorghum seed processor contract and the amount of any minimum guaranteed payment. The commenter questioned what constitutes certification. It is their feeling that if the insured goes through the FCIC RSO to obtain an approved yield, and upon receiving copies of this information, this would be adequate certification that the insured has a contract. The presumption is that the FCIC RSO would not go through this process between the producer and the seed company if there was not some type of contractual agreement in place. If they obtain some of this information directly from the seed company it would also constitute certification as the seed company would not provide this information if a contract was not in place. If this does not constitute certification for the purposes of having a contract then they have some concerns as to what additional requirements must be met.

Response: The certification requirement is satisfied by a written statement on the acreage report, signed by the producer, that such a contract exists. In many cases, the RSO provides an approved yield for a variety, not specifically for individual producers. Since the processor contract is a condition of insurance, the insurance provider must have some assurance that a contract exists. Receipt of an approved yield from the RSO is not evidence of a contract between the processor and the producer. No change has been made.

Comment: An insurance service organization asked if all the exceptions in section 7(a)(4)(I)-(iv) should be required by written agreement. For example, the commenter questioned why acreage with female and male parent plants in the same row would ever be insurable. Perhaps the phrase "unless allowed" should be removed from item (4) and inserted at the specific items where it is actually possible.

Response: Current planting practices do not allow male and female plants in the same row. However, acceptable planting practices may change and the provision must allow a certain amount of flexibility to cover such changes. No change has been made.

Comment: Reinsured companies and an insurance service organization questioned why section 7(c) requires the seed company to be a corporation. The commenters also questioned whether there could be other acceptable legal entities that could conduct business as a seed company, and if the requirement in section 7(c)(1) is necessary, since "seed company" is a defined term.

Response: In most cases, a seed company need not be a corporation and FCIC has changed the requirement for a

seed company from a "corporation" to a "business enterprise" in the definition. However, to protect the integrity of the program, the seed company must be a corporation if the seed company is also the producer. FCIC has added a provision in the definition to require seed companies that are also the insured to be a corporation.

Comment: A reinsured company and an insurance service organization noted that section 7(c)(3) states that if sales records are not available from a seed company who is also the insured, the crop could be insured under the coarse grains policy, not the hybrid sorghum seed policy. Yield potential for sorghum seed is lower than that for commercial sorghum, so this would be a questionable move.

Response: FCIC agrees that hybrid sorghum seed is best suited for insurance under the hybrid sorghum seed policy, but records must be provided to assure that the person seeking insurance is a bona-fide producer of hybrid sorghum seed. If the crop is insured under the Coarse Grains Crop Provisions, the approved yield would be derived from grain sorghum production records of the processor for the particular type or variety. The last sentence of section 7(c)(3) has been revised to allow such insurance by written agreement.

Comment: An insurance service organization asked if it is necessary that the phrase "Of the insured crop" be specified in section 8(c) but not for sections 8(a) or 8(b).

Response: FCIC has clarified the provision. Further, since damage to the male plant could also necessitate replanting, FCIC has modified section 8(c) to include both male and female parent plants.

Comment: An insurance service organization stated that the phrase "insurance attaches after" in section 9(a) creates an ambiguity with respect to when insurance attaches. The commenter suggested that the term "after" could be changed to "once" (or "upon completion of planting:") and then delete "is completely planted" from items (1) and (2).

Response: Section 9(a) has been clarified.

Comment: A reinsured company and an insurance service organization stated that the provisions in section 11(a) stipulate that any representative samples must consist of one complete planting pattern the entire length of the field if the acreage will not be harvested. The commenters prefer that each representative sample be one complete pattern which is long enough to provide

a $\frac{1}{100}$ acre sample, and that these be at various representative areas of the field rather than the entire length of the field. This would be consistent with the appraisal methods specified in the loss adjustment procedures.

Response: More than one representative sample may be required by the insurance provider, and such samples may be in different parts of the field. However, by having a strip the entire length of the field, the loss adjuster can choose the areas to be sampled and is not restricted to the crop the insured chose to leave for this purpose. This permits a more accurate appraisal. Further, it would be difficult for the person harvesting the crop to know what constitutes $\frac{1}{100}$ of an acre. No change has been made.

Comment: An insurance service organization suggested that since the Basic Provisions state that the term "representative sample" will be further defined in the Crop Provisions, it should be included in section 1 with the other definitions (as in the 1988-CHIAA 797) so the term would be more easily located.

Response: The requirement for representative samples is substantive and, therefore, should not be in the definition section. The Basic Provisions are revised to amend the definition to state "as specified in the Crop Provisions."

Comment: A reinsured company and an insurance service organization suggested the requirement in section 11(b)(2) that the insured provide a completed copy of the seed processor contract in the event of a loss should be optional, not mandatory. If an insurance company insures all of a seed company's producers, the company knows each producer has a seed contract, and should not have to obtain a copy from each one. The insurance company will have a copy of the base contract for each seed company and nothing is gained by having to obtain the exact contract in effect for each producer. If some producers insured with an insurance company grow hybrid sorghum seed for various seed companies (not all of their producers are insured with them) there may be some benefit in obtaining a copy of their contract.

Response: Since not all producers may receive the same contract terms, the insurance company must verify contract terms, unless it has been determined that the contract provided by the seed company is used for all its producers without any waivers or amendments. Section 11(b)(2) has been revised accordingly.

Comment: An insurance service organization suggested that the provisions in section 12(e)(1)(v) (redesignated section 12(d)(1)(v)) 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 only be necessary if the insurance provider and the insured do not agree on the appraisal or the insurance provider believes the crop needs to be carried further. The producer must continue to care for the crop. If the producer does not care for the crop, the original appraisal will be used. No change will be made.

Comment: An insurance service organization stated that section 12(e)(2) (redesignated 12(d)(2)), counts harvested production *delivered to* the seed company, whereas section 6(c)(1)(a) of the 1998-CHIAA 797 counts harvested production *delivered to and accepted by* the seed company. The commenter questioned whether this is a change, or should this provision be interpreted to mean that production is not considered delivered until it is accepted.

Response: This is a change. Section 12(d)(2) provides that seed production to be counted includes mature harvested production that is delivered as commercial hybrid sorghum seed to the seed company stated in the hybrid sorghum seed processor contract, regardless of quality, unless the production has inadequate germination.

Comment: A reinsured company and an insurance service organization stated that section 12(g)(2) (redesignated section 12(f)(2)) requires a company to work the claim in the same manner as the records of the seed company provided for establishing the approved yield. Since the approved yield is calculated by the RSO, the insurance provider must be notified when a seed company has its own method for converting the production.

Response: In order to ensure the accuracy of any claim, the same moisture and weight per bushel must be used to calculate the amount of insurance and the production to count. The FCIC procedure will specify that the seed company will provide its conversion chart with the production records. FCIC will provide the conversion chart to the insurance provider when the moisture or weight used to determine a bushel differs from the definition stated in the policy.

Comment: A reinsured company and an insurance service organization suggested that the substitute crop provisions under Prevented Planting

coverage should be eliminated, as indicated in other comments being submitted and as being discussed separately.

Response: The prevented planting provisions have been moved to the Basic Provisions and FCIC has revised these provisions to remove the substitute crop provisions.

Comment: A reinsured company understands that FCIC plans to revise prevented planting for 1998 and assumes that these new provisions will be incorporated into this policy.

Response: The prevented planting provisions have been moved to the Basic Provisions and will be applicable to this policy.

Comment: An insurance service organization suggested that section 13(d)(2) may be confusing because a sentence that states "The unit consists of 185 acres * * *" is followed immediately by a sentence that states "The unit consists of 150 acres * * *". The example would be clearer if it stated "The unit consists of 150 acres of female parent plants of the same type and variety (an additional 35 acres are occupied by the male parent plants, which are not insurable). Of the 150 acres, 50 acres were planted * * *" or some similar statement. At the least, the latter should read "The unit consists of 150 insurable acres * * *".

Response: The late and prevented planting provisions common to most crops have been moved to the Basic Provisions.

Comment: An insurance service organization suggested that instead of specifying years in section 13(d)(4)(ii), it could be written with references to "this year" and "the following year" so it wouldn't look outdated in subsequent years. Also, consider changing "for the purpose of the preceding sentence" to "for this purpose".

Response: The late and prevented planting provisions common to most crops are deleted and moved to the Basic Provisions.

Comment: A reinsured company and an insurance service organization suggested that section 13(d)(5)(ii) should be changed since hybrid sorghum seed is a crop grown under contract with a seed company, which dictates the number of acres to be planted. The maximum eligible acreage for prevented planting coverage should be contracted acres, regardless of how many acres may have been planted in previous years.

Response: FCIC has clarified the provisions in the Basic Provisions.

Comment: An insurance service organization suggested that in section 13(d)(5)(iv)(E), the sentence should

begin with "On which * * *" (Or at least the first word should be capitalized to match the other items).

Response: FCIC has revised the provision appropriately in the Basic Provisions.

Comment: An insurance service organization questioned whether it is necessary to keep repeating "guarantee, or amount of insurance" as alternatives to a "prevented planting indemnity" in section 13(d)(5)(iv)(F).

Response: The prevented planting guarantee; amount of insurance; and indemnity refer to different amounts, and all terms are necessary. No change has been made in the Basic Provisions.

Comment: Reinsured companies and an insurance service organization recommended deleting section 14(d). Written agreements should not be limited to one year. Rather, such agreements should be valid for the period stated in the agreement. In most cases, written agreements should be continuous, as is the case with the policy.

Response: Written agreements are, by design, temporary and intended to address unusual circumstances. If the conditions that require a written agreement exists for multiple crop years, the policy or Special Provisions should be amended to accommodate the conditions. The written agreement provisions have been deleted and moved to the Basic Provisions.

Comment: An insurance service organization suggested that the provisions contained in section 14(e) be combined with the provisions in section 14(a).

Response: Section 14(e) is intended to be a limited exception, not the rule, affecting only those cases in which conditions discovered after the sales closing date make a written agreement necessary. Therefore, these provisions should be kept separate. No change has been made in the Basic Provisions.

Comment: A reinsured company was concerned about many of the mandatory requirements added to these provisions. In its view, most of these requirements are unnecessary. The issues of reduced expense reimbursement and simplification should be considered prior to finalizing these provisions. This policy proposes to increase the expense of writing hybrid sorghum seed along with the added complexity involved from the additional collection requirements.

Response: FCIC understands the concerns of this commenter. These Crop Provisions were revised to reduce program vulnerabilities and make the insuring language more precise. FCIC has attempted to minimize the

additional requirements imposed upon the policyholder, the reinsured company, and the seed company. All mandatory information is required to fairly and properly administer the policy.

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

1. The paragraph preceding section 1 has been revised to refer to the Catastrophic Risk Protection Endorsement for the purpose of clarification.

2. The definitions of "days," "FSA," "final planting date," "interplanted," "irrigated practice," "late planted," "late planting period," and "timely planted" have been deleted and moved to the Basic Provisions. Also, deleted the definition of "seed amount."

3. The definitions of "adjusted yield," "approved yield," "county yield," "dollar value of insurance," "hybrid sorghum seed processor contract," and "insurable interest" have been revised for clarification.

4. A definition of "coverage level factor" has been added for clarification.

5. The definitions of "good farming practices," "planted acreage," and "prevented planting" have been revised to delete the provisions moved to the Basic Provisions.

6. The definition of "practical to replant" has been revised to clarify that it will not be considered practical to replant unless production from the replanted acreage can be delivered under the terms of the hybrid sorghum seed processor contract, or the seed company agrees to accept such production.

7. Section 2 has been revised to delete those provisions that have been moved to the Basic Provisions, and to clarify the unit structure for hybrid sorghum seed when the hybrid sorghum seed processor contract specifies an amount of production to be delivered. Also, for processor contracts that stipulate a number of acres to be planted, the provisions in the Basic Provisions that allow optional units by irrigated and non-irrigated practices are not applicable.

8. Section 7(d) has been added to allow the insured crop that is under contract with different seed companies to be insured under separate policies with different insurance providers provided all acreage of the insured crop in the county is insured.

9. Section 8(c) has been revised for clarification.

10. In section 10(b)(4), the requirement that the crop be inspected and the loss appraised before harvest is

completed has been deleted to be consistent with section 11(b)(1).

11. Section 12(c) has been revised for clarification. Also, an example of an indemnity calculation has been added for illustration. Section 12(d) is deleted since it was redundant with section 12(e) and the following section redesignated accordingly.

12. In section 12(e)(1)(I), as redesignated, adjusted yield has been changed to amount of insurance per acre.

13. In section 12(f)(2), as redesignated, the last sentence has been revised to clarify that records of the seed company will only be used to determine the amount of production to count if the production is calculated on the same basis as that used to determine the approved yield.

14. Add provision specifying the prevented planting coverage available.

Good cause is shown to make this rule effective upon publication in the **Federal Register**. This rule improves the hybrid sorghum seed 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 December 31, 1997. It is, therefore, imperative that these provisions be made final before that date so that reinsured companies and insureds may have sufficient time to implement these changes. Therefore, public interest requires the agency to act immediately to make these provisions available for the 1998 crop year.

List of Subjects in 7 CFR Parts 401 and 457

Hybrid sorghum seed endorsement, Crop insurance, Hybrid sorghum 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 THROUGH 1997 CROP 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. The introductory text of § 401.109 is revised to read as follows:

§ 401.109 Hybrid sorghum seed endorsement.

The provisions of the Hybrid Sorghum Seed 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 457.112 is added to read as follows:

§ 457.112 Hybrid sorghum seed crop insurance provisions

The Hybrid Sorghum Seed 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:

Hybrid Sorghum Seed Crop Provisions

If a conflict exists among the policy provisions, the order of priority is as follows:

(1) The Catastrophic Risk Protection Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions, (§ 457.8) with (1) controlling (2), etc.

1. Definitions.

Adjusted yield. An amount determined by multiplying the county yield by the coverage level factor.

Amount of insurance per acre. A dollar amount determined by multiplying the adjusted yield by the price election you select and subtracting any minimum guaranteed payment, not to exceed the total compensation specified in the hybrid sorghum seed processor contract. If your hybrid sorghum seed processor contract contains a minimum guaranteed payment that is stated in bushels, we will convert that value to dollars by multiplying it by the price election you selected.

Approved yield. In lieu of the definition contained in the Basic Provisions, an amount FCIC determines to be representative of the yield that the female parent plants are expected to produce when grown under a specific production practice. FCIC will establish the approved yield based upon records provided by the seed company and other information it deems appropriate.

Bushel. Fifty-six pounds avoirdupois of the insured crop.

Certified seed test. A warm germination test performed on clean seed according to specifications of the "Rules for Testing Seeds" of the Association of Official Seed Analysts.

Commercial hybrid sorghum seed. The offspring produced by crossing a male and female parent plant, each having a different genetic character. This offspring is the product intended for use by an agricultural

producer to produce a commercial field sorghum crop for grain or forage.

County yield. An amount contained in the actuarial documents that is established by FCIC to represent the yield that a producer of hybrid sorghum seed would be expected to produce if the acreage had been planted to commercial field sorghum.

Coverage level factor. A factor contained in the Special Provisions to adjust the county yield for commercial field sorghum to reflect the higher value of hybrid sorghum seed.

Dollar value per bushel. An amount that determines the value of any seed production to count. It is determined by dividing the amount of insurance per acre by the result of multiplying the approved yield by the coverage level percentage, expressed as a decimal.

Female parent plants. Sorghum plants that are grown for the purpose of producing commercial hybrid sorghum seed and are male sterile.

Field run. Commercial hybrid sorghum seed production before it has been processed or screened.

Good farming practices. In addition to the definition contained in the Basic Provisions, good farming practices include those practices required by the hybrid sorghum seed processor contract.

Harvest. Combining, threshing or picking of the female parent plants to obtain commercial hybrid sorghum seed.

Hybrid sorghum seed processor contract. An agreement executed in writing between the hybrid sorghum seed crop producer and a seed company containing, at a minimum:

(a) The producer's promise to plant and grow male and female parent plants, and to deliver all commercial hybrid sorghum seed produced from such plants to the seed company;

(b) The seed company's promise to purchase the commercial hybrid sorghum seed produced by the producer; and

(c) Either a fixed price per unit of measure (bushels, hundredweight, etc.) of the commercial hybrid sorghum seed or a formula to determine the value of such seed. Any formula for establishing the value must be based on data provided by a public third party that establishes or provides pricing information to the general public, based on prices paid in the open market (e.g., commodity futures exchanges), to be acceptable for the purpose of this policy.

Inadequate germination. Germination of less than 80 percent of the commercial hybrid sorghum seed as determined by using a certified seed test.

Insurable interest. Your share of the financial loss that occurs in the event seed production is damaged by a cause of loss specified in section 10.

Local market price. The cash price offered by buyers for any production from the female parent plants that is not considered commercial hybrid sorghum seed under the terms of this policy.

Male parent plants. Sorghum plants grown for the purpose of pollinating female parent plants.

Minimum guaranteed payment. A minimum amount (usually stated in dollars or bushels) specified in your hybrid sorghum

seed processor contract that will be paid or credited to you by the seed company regardless of the quantity of seed produced.

Non-seed production. Production that does not qualify as seed production because of inadequate germination.

Planted acreage. In addition to the definition contained in the Basic Provisions, the insured crop must be planted in rows wide enough to permit mechanical cultivation, unless provided by the Special Provisions or by written agreement.

Planting pattern. The arrangement of the rows of the male and female parent plants in a field. An example of a planting pattern is four consecutive rows of female parent plants followed by two consecutive rows of male parent plants.

Practical to replant. In addition to the definition contained in the Basic Provisions, practical to replant applies to either the female or male parent plant. It will not be considered practical to replant unless production from the replanted acreage can be delivered under the terms of the hybrid sorghum seed processor contract, or the seed company agrees that it will accept the production from the replanted acreage.

Prevented planting. In addition to the definition contained in the Basic Provisions, prevented planting applies to the female and male parent plants. The male parent plants must be planted in accordance with the requirements of the hybrid sorghum seed processor contract to be considered planted.

Sample. For the purpose of the certified seed test, at least 3 pounds of randomly selected field run sorghum seed for each type or variety of commercial hybrid sorghum seed grown on the unit.

Seed company. A business enterprise that possesses all licenses for marketing commercial hybrid sorghum seed required by the state in which it is domiciled or operates, and which possesses facilities with enough storage and drying capacity to accept and process the insured crop within a reasonable amount of time after harvest. If the seed company is the insured, it must also be a corporation.

Seed production. All seed produced by female parent plants with a germination rate of at least 80 percent as determined by a certified seed test.

Type. Grain sorghum, forage sorghum, or sorghum sudan parent plants.

Variety. The name, number or code assigned to a specific genetic cross by the seed company or the Special Provisions for the insured crop in the county.

2. Unit Division.

(a) For any processor contract that stipulates the amount of production to be delivered:

(1) In lieu of the definition of "basic unit" contained in the Basic Provisions, a basic unit will consist of all acreage planted to the insured crop in the county that will be used to fulfill a hybrid sorghum seed processor contract;

(2) There will be no more than one basic unit for all production contracted with each processor contract;

(3) In accordance with section 12, all production from any basic unit in excess of the amount under contract will be included

as production to count if such production is applied to any other basic unit for which the contracted amount has not been fulfilled; and

(4) Optional units will not be established.

(b) For any processor contract that stipulates a number of acres to be planted, the provisions in the Basic Provisions that allow optional units by irrigated and non-irrigated practices are not applicable.

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

(a) In addition to the requirements of section 3 of the Basic Provisions, you may select only one price election for all the hybrid sorghum seed in the county insured under this policy unless the Special Provisions provide different price elections by type or variety, in which case you may elect one price election for each hybrid sorghum seed type or variety designated in the Special Provisions. The price election you choose for each type or variety must have the same percentage relationship to the maximum price offered by us for each type or variety. For example, if you choose 100 percent of the maximum price election for one specific type or variety, you must also choose 100 percent of the maximum price election for all other types or varieties.

(b) The production reporting requirements contained in section 3 of the Basic Provisions are not applicable to this contract.

4. Contract Changes.

In accordance with section 4 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date.

5. Cancellation and Termination Dates.

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are March 15.

6. Report of Acreage.

In addition to the requirements of section 6 of the Basic Provisions, you must:

(a) Report by type and variety, the location and insurable acreage of the insured crop;

(b) Report any acreage that is uninsured, including that portion of the total acreage occupied by male parent plants; and

(c) Certify that you have a hybrid sorghum seed processor contract and report the amount, if any, of any minimum guaranteed payment.

7. Insured Crop.

(a) In accordance with section 8 of the Basic Provisions, the crop insured will be all the female parent plants in the county for which a premium rate is provided by the actuarial documents:

(1) In which you have a share;

(2) That are grown under a hybrid sorghum seed processor contract executed before the acreage reporting date;

(3) That are planted for harvest as commercial hybrid sorghum seed in accordance with the requirements of the hybrid sorghum seed processor contract and the production management practices of the seed company; and

(4) That are not (unless allowed by the Special Provisions or by written agreement):

(i) Planted with a mixture of female and male parent seed in the same row;

(ii) Planted for any purpose other than for commercial hybrid sorghum seed;

(iii) Interplanted with another crop; or

(iv) Planted into an established grass or legume.

(b) An instrument in the form of a "lease" under which you retain control of the acreage on which the insured crop is grown and that provides for delivery of the crop under substantially the same terms as a hybrid sorghum seed processor contract will be treated as a contract under which you have an insurable interest in the crop.

(c) A commercial hybrid sorghum seed producer who is also a commercial hybrid sorghum seed company may be able to insure the hybrid sorghum seed crop if the following requirements are met:

(1) The seed company has an insurable interest in the hybrid sorghum seed crop;

(2) Prior to the sales closing date, the Board of Directors of the seed company has executed and adopted a corporate resolution containing the same terms as an acceptable hybrid sorghum seed processor contract. This corporate resolution will be considered a contract under the terms of this policy;

(3) Sales records for at least the previous years' seed production must be provided to confirm that the seed company has produced and sold seed. If such records are not available, the crop may be insured under the Coarse Grains Crop Provisions with a written agreement; and

(4) Our inspection reveals that the storage and drying facilities satisfy the definition of a seed company.

(d) Any of the insured crop that is under contract with different seed companies may be insured under separate policies with different insurance providers provided all acreage of the insured crop in the county is insured. If you elect to insure the insured crop with different insurance providers, you agree to pay separate administrative fees for each insurance policy.

8. Insurable Acreage.

In addition to the provisions of section 9 of the Basic Provisions, we will not insure any acreage of the insured crop:

(a) Planted and occupied exclusively by male parent plants;

(b) Not in compliance with the rotation requirements contained in the Special Provisions or, if applicable, required by the hybrid sorghum seed processor contract; or

(c) If either the female or male parent plants are damaged before the final planting date and we determine that insured crop is practical to replant but it is not replanted.

9. Insurance Period.

(a) In addition to the provisions of section 11 of the Basic Provisions, insurance attaches upon completion of planting of:

(1) The female parent plant seed on or before the final planting date designated in the Special Provisions, except as allowed in section 16 of the Basic Provisions; and

(2) The male parent plant seed.

(b) In accordance with the provisions of section 11 of the Basic Provisions, the calendar date for the end of the insurance period is the November 30 immediately following planting.

10. Causes of Loss.

(a) In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided only against the following causes of loss that occur during 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;
 (6) Earthquake;
 (7) Volcanic eruption; or
 (8) Failure of the irrigation water supply, if due to a cause of loss contained in section 10(a) (1) through (7) that occurs during the insurance period.

(b) In addition to the causes of loss excluded by section 12 of the Basic Provisions, we will not insure against any loss of production due to:

(1) The use of unadapted, incompatible, or genetically deficient male or female parent plant seed;

(2) Frost or freeze after the date set by the Special Provisions;

(3) Failure to follow the requirements stated in the hybrid sorghum seed processor contract and production management practices of the seed company;

(4) Inadequate germination, even if resulting from an insured cause of loss, unless you have provided adequate notice as required by section 11(b)(1); or

(5) Failure to plant the male parent plant seed at a time or in a manner sufficient to assure adequate pollination of the female parent plants, unless you are prevented from planting the male parent plant seed by an insured cause of loss.

11. Duties In The Event of Damage or Loss.

(a) In accordance with the requirements of section 14 of the Basic Provisions, you must leave representative samples of at least one complete planting pattern of the male and female parent plant rows that extend the entire length of each field in the unit. If you are going to destroy any acreage of the insured crop that will not be harvested, the samples must not be destroyed until after our inspection.

(b) In addition to the requirements of section 14 of the Basic Provisions:

(1) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate inadequate germination on any unit; and

(2) You must provide a completed copy of your hybrid sorghum seed processor contract unless we have determined it has already been provided by the seed company, and the seed company certifies that such contract is used for all its producers without any waivers or amendments.

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 units, we will combine all optional units for which such 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) You will not receive an indemnity payment on a unit if the seed company refuses to provide us with records we require

to determine the dollar value per bushel of production for each variety.

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

(1) Multiplying the insured acreage by its respective amount of insurance per acre, by type and variety if applicable;

(2) Totaling the results of section 12(c)(1) if there are more than one type or variety;

(3) Multiplying the total seed production to count (see section 12(d)) for each type and variety of commercial hybrid sorghum seed by the applicable dollar value per bushel for that type or variety;

(4) Multiplying the total non-seed production to count (see section 12(e)) for each type and variety by the applicable local market price determined on the earlier of the date the non-seed production is sold or the date of final inspection;

(5) Totaling the results of sections 12(c)(3) and 12(c)(4) by type and variety;

(6) Subtracting the result of section 12(c)(5) from the result of section 12(c)(1) if there is only one type or variety, or subtracting the result of 12(c)(5) from the result of section 12(c)(2) if there are more than one type or variety; and

(7) Multiplying the result of section 12(c)(6) by your share.

For example:

You have a 100 percent share in 50 acres insured for the development of type "A" hybrid sorghum seed in the unit, with an amount of insurance per acre guarantee of \$361 (county yield of 170 bushels times a coverage level factor of .867 for the 65 percent coverage level, times a price election of \$2.45 per bushel, minus the minimum guaranteed payment of zero). Your seed production was 1,400 bushels and the dollar value per bushel was \$3.47. Your non-seed production was 100 bushels with a local market value of \$2.00 per bushel. Your indemnity would be calculated as follows:

(1) $50 \text{ acres} \times \$361 = \$18,050$ amount of insurance guarantee;

(3) $1,400 \text{ bushels} \times \$3.47 = \$4,858$ value of seed production;

(4) $100 \text{ bushels of non-seed} \times \$2.00 = \$200$ of non-seed production;

(5) $\$4,858 + \$200 = \$5,058$;

(6) $\$18,050 - \$5,058 = \$12,992$; and

(7) $\$12,992 \times 100 \text{ percent share} = \$12,992$ indemnity payment.

You also have a 100 percent share in 50 acres insured for the development of type "B" hybrid sorghum seed in the unit, with an amount of insurance per acre guarantee of \$340 (county yield of 160 bushels times a coverage level factor of .867 for the 65 percent coverage level, times a price election of \$2.45 per bushel, minus the minimum guaranteed payment of zero). You harvested 1,200 bushels and the dollar value per bushel for the harvested amount was \$4.63. You also harvested 200 bushels of non-seed with a market value of \$2.00 per bushel. Your indemnity would be calculated as follows:

(1) $50 \text{ acres} \times \$361 = \$18,050$ amount of insurance guarantee for type "A" and $50 \text{ acres} \times \$340 = \$17,000$ amount of insurance guarantee for type "B";

(2) $\$18,050 + \$17,000 = \$35,050$ amount of insurance guarantee;

(3) $1,400 \text{ bushels} \times \$3.47 = \$4,858$ value of seed production for type "A" and $1,200 \text{ bushels} \times \$4.63 = \$5,556$ value of seed production for type "B";

(4) $100 \text{ bushels of non-seed} \times \$2.00 = \$200$ of non-seed production for type "A" and $200 \text{ bushels of non-seed} \times \$2.00 = \$400$ of non-seed production for type "B"

(5) $\$4,858 + \$200 + \$5,556 + \$400 = \$11,014$ value of production to count;

(6) $\$35,050 - \$11,014 = \$24,036$; and

(7) $\$24,036 \times 100 \text{ percent share} = \$24,036$ indemnity payment.

(d) Production to be counted as seed production will include:

(1) All appraised production as follows:

(i) Not less than the amount of insurance per acre for 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) Mature unharvested production with a germination rate of at least 80 percent of the commercial hybrid sorghum seed as determined by a certified seed test. Any such production may be adjusted in accordance with section 12(f);

(iv) Immature appraised production;

(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 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) Harvested production that you deliver as commercial hybrid sorghum seed to the seed company stated in your hybrid sorghum seed processor contract, regardless of quality, unless the production has inadequate germination.

(e) Production to be counted as non-seed production will include all harvested or mature appraised production that does not qualify as seed production to count as specified in section 12(d). Any such production may be adjusted in accordance with section 12(f).

(f) For the purpose of determining the quantity of mature production:

(1) Commercial hybrid sorghum seed production will be:

(i) Increased 0.12 percent for each 0.1 percentage point of moisture below 13.0 percent; or

(ii) Decreased 0.12 percent for each 0.1 percentage point of moisture in excess of 13.0 percent.

(2) When records of commercial hybrid sorghum seed production provided by the seed company have been adjusted to a basis of 13.0 percent moisture and 56 pound avoirdupois bushels, section 12(f)(1) above will not apply to harvested production. In such cases, records of the seed company will be used to determine the amount of production to count, provided that the moisture and weight of such production are calculated on the same basis as that used to determine the approved yield.

13. Prevented Planting.

Your prevented planting coverage will be 60 percent of your amount of insurance for timely planted acreage. If you have limited or additional levels of coverage as specified in 7 CFR part 400, subpart T, and pay an additional premium, you may increase your prevented planting coverage to a level specified in the actuarial documents.

Signed in Washington, D.C., on December 5, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97-32497 Filed 12-11-97; 8:45 am]

BILLING CODE 3410-08-P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 422 and 457

Potato Crop Insurance Regulations; and Common Crop Insurance Regulations, Northern Potato Crop Insurance Provisions, Central and Southern Potato Crop Insurance Provisions, Northern Potato Quality Endorsement Crop Insurance Provisions, Northern Processing Potato Quality Endorsement Crop Insurance Provisions, Certified Seed Potato Endorsement Crop Insurance Provisions, and Northern Potato Storage Endorsement Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes crop provisions for the insurance of potatoes. 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 potato crop insurance regulations with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current potato crop insurance regulations to the 1997 and prior crop years in counties in which the Northern Potato Crop Provisions will be used and to the 1998 and prior crop years in all other states.

EFFECTIVE DATE: December 12, 1997.

FOR FURTHER INFORMATION CONTACT:

Rob Coultis, Insurance Management Specialist, 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

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget (OMB) under control number 0563-0053.

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. Therefore, 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 will not increase because the information used to determine eligibility is already maintained at their office and the other information required is already being gathered as a result of the present policy. No additional actions are required as a result of this action on the part of either the producer or the reinsured company. Additionally, the regulation does not require any action on the part of the small entities than is required on the part of the large entities. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

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

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

Environmental Evaluation

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

National Performance Review

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