

entities will be small and are outweighed by the benefits associated with preventing the spread of EAB into noninfested areas of the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant impact on a substantial number of small entities.

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

### PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 72 FR 15597–15598 on April 2, 2007.

Done in Washington, DC, this 15th day of August 2007.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service*

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## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 457

#### RIN 0563–AC12

### Common Crop Insurance Regulations; Millet Crop Insurance Provisions

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

**ACTION:** Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) finalizes the Common Crop Insurance Regulations; Millet Crop Insurance Provisions to remove the reduction in indemnity for any unharvested millet acreage to better meet the needs of insured producers.

**DATES:** *Effective Date:* September 24, 2007.

**FOR FURTHER INFORMATION CONTACT:** Erin Albright, Risk Management Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility—Mail Stop 0812, PO Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

**SUPPLEMENTARY INFORMATION:**

#### Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is non significant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by OMB.

#### Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563–0053 through November 30, 2007.

#### Government Paperwork Elimination Act (GPEA) Compliance

FCIC is committed to compliance with the GPEA, which requires Government agencies, in general, to provide the public with the option of submitting information or transacting business electronically to the maximum extent possible. FCIC requires that all reinsured companies be in compliance with the Freedom to E-File Act and section 508 of the Rehabilitation Act.

#### Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) 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 UMRA.

#### Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

#### Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Written agreement requirements for the Federal crop insurance program are the same for all producers regardless of the size of their operations. For instance, all producers requesting this type of written

agreement must submit production history for at least the most recent three crop years in which the crop was planted during the base period, if they produced the crop for three years. If any producer has not produced the crop for three years, he or she may submit evidence of production history for a similar crop, or for a combination of production history for the crop and a similar crop, provided a total of three years of production history is provided. Whether a producer has 10 acres or 100 acres there is no difference in the kind of information required for requesting a written agreement. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this change helps ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

#### Federal Assistance Program

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

#### Executive Order 12372

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

#### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, 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 economic impact on the quality of the human environment, health, or safety. Therefore, neither an

Environmental Assessment nor an Environmental Impact Statement is needed.

### Background

This rule finalizes proposed changes made to 7 CFR 457.165 (Millet Crop Insurance Provisions) that were published by FCIC on December 27, 2006, as a notice of proposed rulemaking in the **Federal Register** at 71 FR 77628–77629.

The public was afforded 60 days to submit written comments and opinions. A total of 27 comments were received from three commenters. The commenters were an insurance service organization and two approved insurance providers. The comments received and FCIC's responses are as follows:

*Comment:* A commenter stated they were in agreement with the Proposed Rule published by the Federal Crop Insurance Corporation that amends the Millet Crop Provisions.

*Response:* FCIC thanks the commenter for their assistance in reviewing the Millet Proposed Rule.

*Comment:* A few commenters agreed with the statement in the Background portion of the Proposed Rule that the proposed change will require a corresponding premium rate increase. One commenter stated the amount of this increase should correspond to the amount of the additional loss payments that will result.

*Response:* As stated in the Background of the proposed rule, premium rates will be increased because the amount of indemnity paid may increase and the premium will be determined based on the anticipated losses for the revised policy and a reasonable reserve in accordance with section 508(d) of the Federal Crop Insurance Act.

*Comment:* A few commenters stated the preamble of the current Crop Provisions indicates which policy provisions take preference if a conflict exists among policy provisions. This has been removed from the Crop Provisions that have recently been published in the **Federal Register** as this is covered in the Basic Provisions. There was no indication in the proposed rule if this will remain unchanged or will be removed. The commenters recommended that it be removed.

*Response:* FCIC has removed the provisions regarding document priority because these provisions are now contained in the Basic Provisions.

*Comment:* A few commenters recommended FCIC consider deleting the repetitive phrases in the definition of "late planting period." The

commenters recommended deleting the phrases "of 'Late planting period' contained" and "late planting period is defined as" from the definition.

*Response:* FCIC has modified the definition accordingly.

*Comment:* A few commenters recommended FCIC consider either deleting the comma after "including" or adding a matching comma after the subsequent phrase ["including, but not limited to \* \* \*"] in the definition of "local market price."

*Response:* FCIC has modified the definition accordingly.

*Comment:* A few commenters recommended FCIC consider deleting the repetitive phrases in the definition of "planted acreage." The commenters recommended deleting the phrases "of 'Planted acreage' contained" and "not contained in the definition of 'planted acreage'" from the definition.

*Response:* FCIC has modified the definition accordingly.

*Comment:* A few commenters stated references to "windrow[ing]" have been removed in this Proposed Rule in section 7(a) & (b) except for in the definitions of "swathed" and "windrow." The commenters asked FCIC to consider deleting the definition of "windrow" and revising the definition of "swathed" to refer to "\* \* \* and placing into a row."

*Response:* FCIC has removed the definition of windrow and revised the definition of "swathed" accordingly.

*Comment:* A few commenters stated in section 7 it is unclear if the deletion of "the" in "\* \* \* end of insurance period \* \* \*" is intentional (it is kept in the references in the Background portion of the Proposed Rule).

*Response:* FCIC did not intentionally delete the word "the" in the phrase "\* \* \* end of insurance period \* \* \*" FCIC has revised the provision in section 7 to state "\* \* \* end of the insurance period \* \* \*"

*Comment:* A few commenters stated the explanation in the Background portion of the Proposed Rule indicates the date changes for the end of the insurance period in sections 7(a) and (b) are due to the elimination of separate dates depending on whether or not the acreage was swathed and windrowed but does not provide any reason why the proposed dates are often two weeks to a month later than the earlier of the current dates. The commenters asked if they can assume the loss history supports these later dates. One commenter asked why the proposed dates were changed for Wyoming ("WY") and "all other states."

	2003 crop provisions	Proposed rule
ND, SD ...	Sept. 15 or Oct. 10	Oct. 10.
WY .....	Sept. 30 or Oct. 15	Oct. 10.
All other states.	Sept. 30 or Oct. 15	Oct. 31.

*Response:* Only one date, rather than dual dates, is necessary for the end of the insurance period for each group of states because of the removal of the provision that reduced the indemnity of the acreage that was not swathed or harvested. The Risk Management Agency Regional Offices reviewed the end of the insurance period dates and recommended the proposed changes to the end of insurance period dates to more accurately reflect actual harvesting dates for millet.

*Comment:* A few commenters recommended the insured cause of loss in section 8(b) be clarified as "Fire, due to natural causes" (or "Fire, if caused by lightning", as in the proposed revision to the Tobacco Crop Provisions).

*Response:* This change is not necessary because the Act requires all causes of loss to be natural causes, not just fire. Specifically referring to natural disasters with respect to fire but not the other causes of loss could create the impression that other such causes could be something other than from natural causes. Further, section 12 of the Basic Provisions specifically refers to "unavoidable" causes of loss due to "naturally occurring events". No change has been made.

*Comment:* A few commenters recommended adding hyphens in "1,500-bushel guarantee" and "800-bushel production to count" in steps (1) & (2) of the Example in section 10.

*Response:* The recommended change does not clarify the provision and such change would be inconsistent with other applicable Crop Provisions where no hyphen is used between the applicable number and the term "bushel." No change has been made.

*Comment:* A few commenters stated in section 10(d)(4)(iv) it appears the parenthetical phrase should refer to plural "\* \* \* (the moisture-adjusted gross bushels, if appropriate) \* \* \*"

*Response:* FCIC has revised section 10(d)(4)(iv) accordingly.

*Comment:* A few commenters stated they are in agreement with the proposal to eliminate section 10(f) provided the premium rates are increased accordingly to account for the increased losses that will result.

*Response:* As stated above, premium rates will be based on the anticipated losses under the revised Millet Crop Provisions.

*Comment:* A few commenters recommended eliminating the option to increase prevented planting coverage levels (in the second sentence) of section 12, as well as reviewing the amount that is being paid for prevented planting purposes.

*Response:* FCIC cannot incorporate the commenters' recommendations of eliminating the option to increase prevented planting coverage levels in the final rule since the recommended change was not proposed, the recommended change is substantive in nature, and the public was not provided an opportunity to comment on the recommended change.

#### List of Subjects in 7 CFR Part 457

Crop insurance, Millet, Reporting and recordkeeping requirements.

#### Final Rule

■ Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 457 the Common Crop Insurance Regulations, for the 2008 and succeeding crop years, as follows:

#### PART 457—COMMON CROP INSURANCE REGULATIONS

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

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

■ 2. In § 457.165 make the following amendments:

- a. Revise the introductory text.
- b. Remove the paragraph immediately preceding section 1 which refers to the order of priority in the event of conflict.
- c. Amend section 1 of § 457.165 by removing the definition of "windrow;" revising the definitions of "late planting period" and "planted acreage;" amending the definition of "local market price" by adding a comma after the phrase "but not limited to;" and amending the definition of "swathed" by removing the term "windrow" and adding the term "row" in its place.
- d. Revise section 7 of § 457.165.
- e. Revise section 8(h) of § 457.165.
- f. Amend section 10(b)(4) of § 457.165 by removing the phrase "and any adjustment from section 10(f)."
- g. Amend paragraph (2) of the example in section 10(b) of § 457.165 by removing the phrases "1,500 bushels" and adding the phrase "1,500 bushel" in its place.
- h. Amend paragraph (3) of the example in section 10(b) of § 457.165 by removing the phrase "700 bushel" and adding the phrase "700 bushels" in its place.
- i. Amend section 10(d)(4)(iii) of § 457.165 by removing the semicolon at

the end of the current text and adding a period in its place.

■ j. Amend section 10(d)(4)(iv) by removing the phrase "gross bushel" and adding the phrase "gross bushels" in its place.

■ k. Remove section 10(f) of § 457.165.

■ l. Amend section 11(a) of § 457.165 by adding the phrase "per day" after the phrase "One percent".

■ m. Amend section 11(b) of § 457.165 by adding the phrase "per day" after the phrase "Three percent".

■ n. Amend section 12 of § 457.165 by removing the phrase "an additional coverage level" and adding the phrase "additional levels of coverage" in its place.

The revised text reads as follows:

#### § 457.165 Millet crop insurance provisions.

The millet crop insurance provisions for the 2008 and succeeding crop years are as follows:

\* \* \* \* \*

##### 1. Definitions.

\* \* \* \* \*

*Late planting period.* In lieu of the definition contained in the Basic Provisions, the period that begins the day after the final planting date for the insured crop and ends 20 days after the final planting date.

\* \* \* \* \*

*Planted acreage.* In addition to the definition contained in the Basic Provisions, land on which seed is initially spread onto the soil surface by any method and is subsequently mechanically incorporated into the soil in a timely manner and at the proper depth. Acreage planted in any manner not contained in this definition will not be insurable unless otherwise provided by the Special Provisions.

\* \* \* \* \*

##### 7. Insurance Period.

In accordance with section 11 of the Basic Provisions, the calendar date for the end of the insurance period is the date immediately following planting (unless otherwise specified in the Special Provisions) as follows:

(a) October 10 for North Dakota, South Dakota, and Wyoming; and

(b) October 31 for all other states.

##### 8. Causes of Loss.

\* \* \* \* \*

(h) Failure of the irrigation water supply due to a cause of loss specified in sections 8(a) through (g) that also occurs during the insurance period.

\* \* \* \* \*

Signed in Washington, DC, on August 9, 2007.

**Eldon Gould,**

Manager, Federal Crop Insurance Corporation.

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#### DEPARTMENT OF AGRICULTURE

#### Commodity Credit Corporation

#### 7 CFR Part 1430

RIN 0560-AH73

#### Milk Income Loss Contract Program

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

**ACTION:** Final rule.

**SUMMARY:** This rule amends the regulations for the Milk Income Loss Contract (MILC) Program as authorized by the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, to extend the payment calculation at 34 percent for the month of September 2007.

**DATES:** *Effective Date:* August 22, 2007.

**FOR FURTHER INFORMATION CONTACT:** Danielle Cooke, Special Programs Manager, Price Support Division, FSA/USDA, STOP 0512, 1400 Independence Ave., SW., Washington, DC 20250-0512; telephone (202) 720-1919; facsimile (202) 690-1536; e-mail: [Danielle.Cooke@wdc.usda.gov](mailto:Danielle.Cooke@wdc.usda.gov). Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

#### SUPPLEMENTARY INFORMATION:

#### Background

The Milk Income Loss Contract (MILC) Program is administered by the Commodity Credit Corporation (CCC). The MILC Program compensates dairy producers when domestic milk prices fall below a specified level. In general, eligible dairy producers are those who commercially produce and market cow milk in the United States or produce milk in the United States and commercially market the milk outside the United States.

The program began on December 1, 2001 and was extended to September 30, 2007. In 2006, applicable to the program extension, the signup and contract periods were both set to end on September 30, 2007. The 2006 amendment lowered the payment calculation percentage from 45 to 34; however, it only extended the payment