

**Authority:** 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Section 319.56–2dd would be amended by adding a new paragraph (f) to read as follows:

**§ 319.56–2dd Administrative instructions: conditions governing the entry of tomatoes.**

\* \* \* \* \*

(f) *Tomatoes (fruit) (*Lycopersicon esculentum*) from certain countries in Central America.* Pink or red tomatoes may be imported into the United States from Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama only under the following conditions:

(1) From areas free of Mediterranean fruit fly:

(i) The tomatoes must be grown and packed in an area that has been determined by APHIS to be free of Mediterranean fruit fly (Medfly) in accordance with the procedures described in § 319.56–2(f) of this subpart.

(ii) A pre-harvest inspection of the production site must be conducted by the national plant protection organization (NPPO) of the exporting country for pea leafminer, tomato fruit borer, and potato spindle tuber viroid. If any of these pests are found to be generally infesting the production site, the NPPO may not allow export from that production site until the NPPO and APHIS have determined that risk mitigation has been achieved.

(iii) The tomatoes must be packed in insect-proof cartons or containers or covered with insect-proof mesh or plastic tarpaulin at the packinghouse for transit to the United States. These safeguards must remain intact until arrival in the United States.

(iv) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These tomatoes were grown in an area recognized to be free of Medfly and the shipment has been inspected and found free of the pests listed in the requirements."

(2) From areas where Medfly is considered to exist:

(i) The tomatoes must be grown in approved registered production sites. Initial approval of the production sites will be completed jointly by the exporting country's NPPO and APHIS. The exporting country's NPPO must visit and inspect the production sites monthly starting 2 months before

harvest and continuing through until the end of the shipping season. APHIS may monitor the production sites at any time during this period.

(ii) Tomato production sites must consist of pest-exclusionary greenhouses, which must have self-closing double doors and have all other openings and vents covered with 1.6 (or less) mm screening.

(iii) Registered sites must contain traps for the detection of Medfly both within and around the production site as follows:

(A) Traps with an approved protein bait for Medfly must be placed inside the greenhouses at a density of four traps per hectare, with a minimum of two traps per greenhouse. Traps must be serviced on a weekly basis.

(B) If a single Medfly is detected inside a registered production site or in a consignment, the registered production site will lose its ability to export tomatoes to the United States until APHIS and the exporting country's NPPO mutually determine that risk mitigation is achieved.

(C) Medfly traps with an approved protein bait must be placed inside a buffer area 500 meters wide around the registered production site, at a density of 1 trap per 10 hectares and a minimum of 10 traps. These traps must be checked at least every 7 days. At least one of these traps must be near the greenhouse. Traps must be set for at least 2 months before export and trapping must continue to the end of the harvest.

(D) Capture of 0.7 or more Medflies per trap per week will delay or suspend the harvest, depending on whether harvest has begun, for consignments of tomatoes from that production site until APHIS and the exporting country's NPPO can agree that the pest risk has been mitigated.

(E) The greenhouse must be inspected prior to harvest for pea leafminer, tomato fruit borer, and potato spindle tuber viroid. If any of these pests, or other quarantine pests, are found to be generally infesting the greenhouse, exports from that production site will be halted until the exporting country's NPPO and APHIS determine that the pest risk has been mitigated.

(iv) The exporting country's NPPO must maintain records of trap placement, checking of traps, and any Medfly captures in addition to production site and packinghouse inspection records. The exporting country's NPPO must maintain an APHIS-approved quality control program to monitor or audit the trapping program. The trapping records must be maintained for APHIS's review.

(v) The tomatoes must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. The tomatoes must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. The tomatoes must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit into the United States. These safeguards must remain intact until arrival in the United States or the consignment will be denied entry into the United States.

(vi) During the time the packinghouse is in use for exporting tomatoes to the United States, the packinghouse may only accept tomatoes from registered approved production sites.

(vii) The exporting country's NPPO is responsible for export certification, inspection, and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by the NPPO and bearing the declaration, "These tomatoes were grown in an approved production site and the shipment has been inspected and found free of the pests listed in the requirements." The shipping box must be labeled with the identity of the production site.

Done in Washington, DC, this 31st day of January 2006.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E6–1553 Filed 2–3–06; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 457

**RIN 0563–AC03**

### Common Crop Insurance Regulations; Mint Crop Insurance Provisions

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

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) proposes to add to 7 CFR part 457 a new § 457.169 that provides insurance for mint. 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 convert the mint pilot crop insurance program to a permanent

insurance program for the 2007 and succeeding crop years.

**DATES:** Written comments and opinions on this proposed rule will be accepted until close of business April 7, 2006, and will be considered when the rule is to be made final. Comments on information collection under the Paperwork Reduction of 1995 must be received on or before April 7, 2006.

**ADDRESSES:** Interested persons are invited to submit written comments to the Director, Product Development Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO 64133-4676. Comments titled "Mint Crop Insurance Provisions" may be sent via the Internet to [DirectorPDD@rma.fci.usda.gov](mailto:DirectorPDD@rma.fci.usda.gov), or the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments. A copy of each response will be available for public inspection and copying from 7 a.m. to 4:30 p.m., c.s.t., Monday through Friday, except holidays, at the above address.

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, Risk Management Specialist, Research and Development, Product Development Division, Risk Management Agency, at the Kansas City, MO address listed above, telephone (816) 926-7730.

#### **SUPPLEMENTARY INFORMATION:**

##### **Executive Order 12866**

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

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

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by the OMB under control number 0563-0057 through June 30, 2006.

##### **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), 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 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. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees, and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. 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 waiver helps to ensure small entities are given the same opportunities 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 proposed 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 and 7 CFR part 400, subpart J, for the informal administrative review process of good farming practices, as applicable, 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.

##### **Background**

FCIC offered a pilot crop insurance program for mint beginning with the 2000 crop year in the states of Indiana, Montana, Washington, and Wisconsin. Mint crop insurance is an actual production history (APH) crop that protects against a loss in yield. However, coverage is provided for the oil that is extracted from the mint plant. If the amount of mint oil produced in the crop year is less than the production guarantee, the producer will receive an indemnity if all other policy provisions have been complied with.

The production guarantee is determined the same as all other APH crops in that the producer certifies to the number of pounds of mint oil produced per acre for at least the previous four crop years building to a base of ten crop years. The covered causes of loss are the same as for other APH crops and include such causes as adverse weather, fire, wildlife, failure of the irrigation water supply, etc.

Prevented planting coverage was not provided under the policy and, as with all pilot programs, written agreements were not available.

In the 2004 crop year, 81 producers with approximately 13,143 acres were insured under the pilot mint program. FCIC contracted with an independent firm to conduct an evaluation of the mint pilot program. The evaluation found the mint crop insurance program to be valuable risk management tool for mint producers. In fact, financial institutions were more willing to approve operating loans for those producers who purchased crop insurance. While the evaluation identified the availability of a mint crop insurance program did not have an adverse effect on the mint market, two changes in the Crop Provisions were recommended. The contractor's report identified that a benefit for mint producers in the Midwest would be to offer coverage for two separate spearmint types (native and scotch spearmint) as is available in Washington State. In addition, the evaluation identified the potential of moral hazard in allowing producers to self-certify the adequacy of their mint crop stand without having insurance providers inspect the mint acreage to verify the crop met all insurability requirements after an indemnity had been paid the previous crop year. FCIC's Board of Directors concurred with the evaluation results and approved the conversion of the pilot status to that of a permanent crop insurance program.

FCIC has revised certain provisions to be consistent with other Crop Provisions. In section 1, FCIC has also added a definition of "stolon" because the term was previously used but not defined. In section 2, FCIC has revised the language to clarify that the basic units will be divided into additional basic units by mint type. In section 6(a), provisions have been added that clarify the inspection and acceptance requirements in the crop year following an indemnified loss. FCIC has revised section 6(b) to clarify that the Winter Coverage Option must be executed before the sales closing date designated in the Special Provisions because now that the program can be expanded to additional states and counties, the sales closing dates may be different.

Section 8 has been revised to specify that the date coverage begins and ends for states other than Indiana, Montana, Washington, or Wisconsin will be provided in the Special Provisions because this is a new expanding program and until the states and counties are added, FCIC does not know what the appropriate date coverage

should be. Provisions have also been added clarifying when inspection will occur for the year of application and that coverage will not attach if the insurability requirements have not been met. The provision also requires the producer to provide any information required for the crop or to determine the condition of the crop.

FCIC has also removed the prohibition against written agreements because the program is no longer considered a pilot program. Written agreements are prohibited for pilot programs because of the need to test the concept without the possibility of additional changes that could skew the results. Now written agreements will be authorized as specified in the Basic Provisions and the Mint Crop Provisions.

With respect to the Winter Coverage Option, FCIC has revised certain language for readability. Further, FCIC has added a provision that specifies that acreage on which a Winter Coverage Option payment has been made will receive zero production for the purposes of determining the subsequent year's approved yield.

FCIC intends to convert the mint pilot crop insurance program to a permanent crop insurance program beginning with the 2007 crop year. Mint insurance would then be available in any state in county in which mint was included in the actuarial documents. To effectuate this, FCIC proposes to amend the Common Crop Insurance regulations (7 CFR part 457) by adding a new section § 457.169, Mint Crop Insurance Provisions. These provisions will replace and supersede the current unpublished provisions that insure mint under a pilot program status.

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

Crop insurance, Mint, Reporting and recordkeeping requirements.

#### Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 457, Common Crop Insurance Regulations, for the 2007 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. Section 457.169 is added to read as follows:

#### § 457.169 Mint crop insurance provisions.

The Mint Crop Insurance Provisions for the 2007 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:

Mint Crop Insurance Provisions

1. Definitions.

*Adequate Stand.* A population of live mint plants that equals or exceeds the minimum required number of plants or percentage of ground cover, as specified in the Special Provisions.

*Appraisal.* A method of determining potential production by harvesting and distilling a representative sample of the mint crop.

*Cover crop.* A small grain crop seeded into mint acreage to reduce soil erosion and wind damage.

*Cutting.* Severance of the upper part of the mint plant from its stalk and roots.

*Distillation.* A process of extracting mint oil from harvested mint plants by heating and condensing.

*Existing mint.* Mint planted for harvest during a previous crop year.

*Ground cover.* Mint plants, including mint foliage and stolons, grown on insured acreage.

*Harvest.* Removal of mint from the windrow.

*Mint.* A perennial spearmint or peppermint plant of the family Labiatae and the genus *Mentha* grown for distillation of mint oil.

*Mint oil.* Oil produced by the distillation of harvested mint plants.

*New mint.* Mint planted for harvest for the first time.

*Planted acreage.* In addition to the definition in the Basic Provisions, land in which mint stolons have been placed in a manner appropriate for the planting method and at the correct depth into a seedbed that has been properly prepared.

*Pound.* 16 ounces avoirdupois.

*Stolon.* A stem at or just below the surface of the ground that produces new mint plants at its tips or nodes.

*Windrow.* Mint that is cut and placed in a row.

2. Unit Division.

A basic unit, as defined in section 1 of the Basic Provisions, will be divided into additional basic units by each mint type designated in the Special Provisions.

### 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 only select one price election for all the mint in the county insured under this policy unless the actuarial documents provide different price elections by type, in which case you may only select one price election for each type designated in the actuarial documents. The price elections you choose for each type must have the same percentage relationship to the maximum price election offered by us for each type. For example, if you choose 100 percent of the maximum price election for one specific type, you must also choose 100 percent of the maximum price election for other types.

(b) In addition to the provisions in section 3 of the Basic Provisions, you must report:

(1) The total amount of mint oil produced from insurable acreage for all cuttings for each unit;

(2) Any damage to or removal of mint plants or stolons; the stand age; any change in practices; or any other circumstance that may reduce the expected yield below the yield upon which the insurance guarantee is based, and the number of affected acres;

(3) The date existing mint acreage was planted;

(4) The date new mint acreage was initially planted; and

(5) The type of mint.

(c) If you fail to notify us of any circumstance that may reduce your yields or insurable acres from previous levels, we will reduce your production guarantee and insurable acres at any time we become aware of the circumstance based on our estimate of the effect of damage to or removal of mint plants or stolons; stand age; change in practices; and any other circumstance that may affect the yield potential or insurable acres of the insured crop.

### 4. Contract Changes.

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

### 5. Cancellation and Termination Dates.

In accordance with section 2 of the Basic Provisions, the cancellation date is September 30 and the termination date is November 30. If your policy is terminated after insurance has attached for the subsequent crop year, coverage will be deemed to not have attached to the acreage for the subsequent crop year.

### 6. Insured Crop.

(a) In accordance with the provisions of section 8 of the Basic Provisions, the

crop insured will be all mint types in the county for which a premium rate is provided by the actuarial documents:

(1) In which you have a share;

(2) That are planted for harvest and distillation for mint oil;

(3) That have an adequate stand by the date coverage begins; and

(4) That have been:

(i) Inspected and accepted by us for the first crop year you are insured, and for the subsequent crop year following an indemnified loss; or

(ii) Certified by you as having an adequate stand on the date coverage begins after the first crop year you are insured, and in the subsequent crop years, unless an indemnity was paid the previous crop year.

(b) In lieu of the provisions of section 8 of the Basic Provisions that prohibit insurance of a second crop harvested following the same crop in the same crop year, multiple harvests of mint on the same acreage will be considered as one mint crop.

(c) In addition to the coverages provided in these Crop Provisions, you may also elect the Winter Coverage Option, which provides coverage for mint that is damaged after the date coverage ends in the fall and before the date coverage begins in the spring. Coverage under the option is effective only if you execute the option by the sales closing date designated in the Special Provisions for the Winter Coverage Option.

### 7. Insurable Acreage.

(a) Mint interplanted with a cover crop will not be considered interplanted for the purposes of section 9 of the Basic Provisions if the cover crop is destroyed prior to its maturity and is not harvested as grain.

(b) In addition to the provisions of section 9 of the Basic Provisions, we will not insure any acreage that:

(1) Does not meet rotation requirements contained in the actuarial documents; or

(2) Exceeds existing mint age limitations contained in the actuarial documents.

### 8. Insurance Period.

In lieu of the provisions of section 11 of the Basic Provisions:

(a) Coverage begins on each unit or part of a unit for acreage with an adequate stand on the following calendar dates:

(1) June 16 in Indiana, Montana, and Wisconsin;

(2) May 16 in Washington; and

(3) For all other states, the date as provided in the Special Provisions.

(b) For the year of application, we will inspect all mint acreage within the two-week period before coverage begins.

Insurance will attach on the date coverage begins after your properly completed application is received in our local office, unless we inspect the acreage during the two-week period and determine it does not meet insurability requirements as specified in section 2 of the Basic Provisions, the application, or these Crop Provisions. You must provide any information we require for the crop or to determine the condition of the crop.

(c) Coverage ends for each unit or part of a unit at the earliest of:

(1) Total destruction of the insured crop;

(2) Final adjustment of a loss;

(3) Harvest for each cutting;

(4) Abandonment of the crop; or

(5) The following calendar date:

(i) September 30 in Indiana and Wisconsin;

(ii) October 15 in Montana;

(iii) October 31 in Washington; and

(iv) For all other states, the date as provided in the Special Provisions.

### 9. 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 or plant disease (except Verticillium Wilt disease), but not damage due to insufficient or improper application of control measures;

(4) Wildlife;

(5) Earthquake;

(6) Volcanic eruption; or

(7) Failure of the irrigation water supply, if caused by an insured cause of loss listed in sections 9(a)(1) through (6) that occurs during the insurance period.

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

(1) Occurs after harvest;

(2) Is due to your failure to distill the crop, unless such failure is due to actual physical damage to the crop caused by an insured cause of loss that occurs during the insurance period; or

(3) Is due to Verticillium Wilt disease.

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

In addition to your duties contained in section 14 of the Basic Provisions, if you discover that any insured mint is damaged, or if you intend to claim an indemnity on any unit:

(a) You must give us notice of probable loss at least 15 days before the beginning of any cutting or immediately if probable loss is discovered after cutting has begun or when cutting should have begun; and

(b) You must timely harvest and completely distill a sample of the crop on any acreage you do not intend to harvest, as designated by us, to determine if an indemnity is due.

#### 11. 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) We may defer appraisals until the crop reaches maturity or the date mint harvest is general in the area.

(c) 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 the result of section 11(c)(1) by the price election;

(3) Multiplying the total production to be counted (see section 11(d)) by the price election;

(4) Subtracting the total in section 11(c)(3) from the total in section 11(c)(2); and

(5) Multiplying the result in section 11(c)(4) by your share.

For example:

Assume that you have a 100 percent share in 100 acres of mint in the unit, with a guarantee of 50 pounds of oil per acre and a price election of \$12 per pound. Because an insured cause of loss has reduced production, you only harvest and distill 2,500 pounds of oil. Your indemnity would be calculated as follows:

(1) 100 acres  $\times$  50 pounds = 5,000 pound guarantee;

(2) 5,000 pound guarantee  $\times$  \$12 price election = \$60,000 value of guarantee;

(3) 2,500 pounds production to count  $\times$  \$12 price election = \$30,000 value of production to count;

(4) \$60,000 – \$30,000 = \$30,000 loss; and

(5) \$30,000  $\times$  100 percent share = \$30,000 indemnity payment.

(d) The total production to count (in pounds of oil) 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 acreage:

(A) That is abandoned;

(B) That is put to another use without our consent;

(C) For which you fail to meet the requirements contained in section 10 of these Crop Provisions;

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

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

(ii) All production lost due to uninsured causes;

(iii) All unharvested production;

(iv) All potential production on insured acreage that you intend to put to another use or abandon with our consent;

(A) If you do not elect to continue to care for the crop, we may give you our 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, the amount of production to count will be not less than the production guarantee per acre); 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 the appraised production at the time the crop reaches maturity.

(2) All harvested production from the insurable acreage.

(e) Harvested production must be distilled to determine production to count.

(f) Any oil distilled from plants growing in the mint will be counted as mint oil on a weight basis.

(g) You are responsible for the cost of distilling samples for loss adjustment purposes.

#### 12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions are not applicable.

#### 13. Winter Coverage Option.

(a) The provisions of this option are continuous and will be attached to and made part of your insurance policy, if:

(1) You elect the Winter Coverage Option on your application, or on a form approved by us, on or before the fall sales closing date for the crop year in which you wish to insure mint under this option, and pay the additional premium indicated in the actuarial documents for this optional coverage; and

(2) You have not elected coverage under the Catastrophic Risk Protection Endorsement.

(b) This option provides a guarantee equal to 60 percent of the guarantee determined under section 3 of these Crop Provisions.

(c) If you elect this option, all of the insurable acreage in the county will be insured by this option.

(d) In addition to the requirements of section 6 of the Basic Provisions, any acreage of new mint planted after the applicable acreage reporting date must be reported to us not later than two weeks after planting.

(e) In lieu of section 6(a) of these Crop Provisions, the crop insured will be all mint types in the county for which a premium rate is provided by the actuarial documents:

(1) In which you have a share;

(2) That are planted for harvest and distillation as mint oil;

(3) That have an adequate stand on the date coverage begins, if an existing stand of mint;

(4) For new mint acreage, that is planted during the Winter Coverage Option insurance period; and

(5) That has been:

(i) Inspected and accepted by us for the first crop year you are insured (We will inspect all mint acreage and will notify you of the acceptance or rejection of your application not later than November 15. If we fail to notify you by that date, your application will be accepted unless other grounds exist to reject the application, as specified in the Basic Provisions, the application, or these Crop Provisions);

(ii) Inspected and accepted by us for the subsequent crop year following an indemnified loss;

(iii) Certified by you as having an adequate stand on the date coverage begins after the first crop year you are insured, and in the subsequent crop years, unless an indemnity was paid the previous crop year; or

(iv) Certified by you within two weeks of planting new mint acreage that was planted during the Winter Coverage Option insurance period.

(f) Coverage under this option begins:

(1) On existing mint acreage with an adequate stand at 12:01 a.m. on the calendar date listed below:

(i) October 1 in Indiana and Wisconsin;

(ii) October 16 in Montana;

(iii) November 1 in Washington; and

(iv) For all other states, the date as provided in the Special Provisions.

(2) On new mint acreage, on the later of the date the crop is planted (provided the acreage is planted during the Winter Coverage Option insurance period) or the date we accept your application.

(g) Coverage under this option ends on the unit or part of the unit at 11:59 p.m. on the calendar date listed below:

(1) June 15 in Indiana, Montana, and Wisconsin;

(2) May 15 in Washington; and

(3) For all other states, the date as provided in the Special Provisions.

(h) In lieu of section 10(a) of these Crop Provisions, you must give notice of probable loss within 72 hours after you discover any insured mint is damaged and does not have an adequate stand, but no later than the date coverage ends for this option.

(i) In addition to the requirements of section 10 of these Crop Provisions, you must give us notice if you want our consent to put any mint acreage to another use before a determination can be made if there is an adequate stand on the acreage. We will inspect the acreage and you must agree in writing no payment or indemnity will be made for the acreage put to another use. The total production to count for acreage put to another use with our consent according to this section will be the production guarantee.

(j) In addition to section 11(a) of these Crop Provisions we will make a Winter Coverage Option payment only on acreage that had an adequate stand on the date that insurance attached if the adequate stand was lost due to an insured cause of loss occurring within the Winter Coverage Option insurance period and the acreage consists of at least 20 acres or 20 percent of the insurable planted acres in the unit.

(k) In lieu of section 11(b) of these Crop Provisions, we may defer appraisals until the date coverage ends under this option.

(l) In lieu of section 11(c) of these Crop Provisions, in the event of loss or damage covered by this policy, we will settle your claim by:

- (1) Multiplying 60 percent by your production guarantee per acre;
- (2) Multiplying the result in section 13(l)(1) by the number of acres that do not have an adequate stand;
- (3) Multiplying the result in section 13(l)(2) by the price election; and
- (4) Multiplying the result in section 13(l)(3) by your share.

For example:

Assume that you have a 100 percent share in 100 acres of mint with a guarantee of 50 pounds of oil per acre and a price election of \$12 per pound. Also assume that you do not have an adequate stand on 50 acres by the date coverage ends for this option because an insured cause has damaged the stand. Your Winter Coverage Option payment would be calculated as follows:

- (1) 60 percent  $\times$  50 pound guarantee = 30 pound guarantee per acre;
- (2) 30 pound guarantee per acre  $\times$  50 acres without an adequate stand = 1,500 pounds;
- (3) 1,500 pounds  $\times$  \$12 price election = \$18,000; and

(4) \$18,000  $\times$  100 percent share = \$18,000 Winter Coverage Option payment.

(m) In lieu of section 11(d) of these Crop Provisions, the population of live mint plants to be counted from insurable acreage on the unit will be not less than the population of live mint plants in an adequate stand for acreage:

- (1) That is abandoned;
- (2) That is put to another use without our consent;
- (3) For which you fail to meet the requirements contained in section 13(h); or
- (4) That is damaged solely by uninsured causes.

(n) Acreage for which a Winter Coverage Option payment has been made is no longer insurable under the Crop Provisions for the current crop year. Any mint production subsequently harvested from uninsured acreage for the crop year and not kept separate from production from insured acreage will be considered production to count.

(o) Acreage for which a Winter Coverage Option payment has been made will receive an amount of production of zero when computing subsequent year's approved yield.

(p) Sections 11(e), (f), and (g) of these Crop Provisions do not apply to this option.

Signed in Washington, DC, on January 30, 2006.

**Eldon Gould,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. E6-1529 Filed 2-3-06; 8:45 am]

**BILLING CODE 3410-08-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1250

[Docket No. PY-05-005]

#### Egg Research and Promotion Program; Section 610 Review

**AGENCY:** Agricultural Marketing Service.

**ACTION:** Notice of regulatory review and request for comments.

**SUMMARY:** This document announces the Agricultural Marketing Service's (AMS) review of the Egg Research and Promotion Program (conducted under the Egg Research and Promotion Order), under the criteria contained in Section 610 of the Regulatory Flexibility Act (RFA).

**DATES:** Written comments must be received by April 7, 2006.

**ADDRESSES:** Interested persons are invited to submit written comments

concerning this notice to Angela C. Snyder, Chief, Research and Promotion, Office of the Deputy Administrator, Poultry Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW.; STOP 0256, Room 3932-South; Washington, DC 20250-0256; or by fax to (202) 720-5631. Alternatively, comments may be submitted electronically to: [angie.snyder@usda.gov](mailto:angie.snyder@usda.gov) or <http://www.regulations.gov>. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be made available for public inspection at the above address during regular business hours. A copy of this notice may be found at: <http://www.ams.usda.gov/poultry/pyrp.htm/>.

#### FOR FURTHER INFORMATION CONTACT:

Angela C. Snyder, Office of the Deputy Administrator, Poultry Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW.; STOP 0256, Room 3932-South; Washington, DC 20250-0256 telephone (760) 386-0424; fax (202) 720-5631, or e-mail at [angie.snyder@usda.gov](mailto:angie.snyder@usda.gov).

**SUPPLEMENTARY INFORMATION:** The Egg Research and Consumer Information Act of 1974, as amended (7 U.S.C. 1201 *et seq.*), authorized the Egg Research and Promotion Order (7 CFR part 1250), which is industry-operated and funded with oversight by USDA. The Egg Research and Promotion Order's objective is to establish, finance, and carry out promotion, research, and education programs to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl.

The program became effective on August 1, 1976, when the Egg Research and Promotion Order (7 CFR part 1250) was implemented. In accordance with the legislation, the American Egg Board was established, and assessments at 5 cents per 30-dozen case of eggs soon began to be levied. Since that time, assessments have fluctuated from 2½ cents per 30-dozen case of eggs to the current 10 cents per 30-dozen case approved by producer referendum in 1994.

Assessments collected under this program are used to carry out promotion, research, and education programs to improve, maintain, and develop markets for eggs, egg products, spent fowl, and products of spent fowl.

The program is administered by the American Egg Board, which is composed of egg producers and egg producer representatives. Each of the 18