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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 400, 402, 407 and 457

Docket No. FCIC-14-0005

RIN 0563-AC43

General Administrative Regulations; Catastrophic Risk Protection Endorsement; Area Risk Protection Insurance Regulations; and the Common Crop Insurance Regulations, Basic Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim Rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the General Administrative Regulations - Ineligibility for Programs under the Federal Crop Insurance Act, the Catastrophic Risk Protection Endorsement, the Area Risk Protection Insurance Regulations, and the Common Crop Insurance Regulations, Basic Provisions to revise those provisions affected by changes mandated by the Agricultural Act of 2014 (commonly referred to as the 2014 Farm Bill), enacted on February 7, 2014.

DATES: This rule is effective [insert date rule is filed for public inspection at the Office of the Federal Register]. Written comments and opinions on this rule will be accepted until close of business [insert date 60 days after the date of publication] and will be considered when the rule is made final.

ADDRESSES: FCIC prefers that comments be submitted electronically through the Federal eRulemaking Portal. You may submit comments, identified by Docket ID No.

FCIC-14-0005, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, P.O. Box 419205, Kansas City, MO 64133-6205.

All comments received, including those received by mail, will be posted without change to <http://www.regulations.gov>, including any personal information provided, and can be accessed by the public. All comments must include the agency name and docket number or Regulatory Information Number (RIN) for this rule. For detailed instructions on submitting comments and additional information, see <http://www.regulations.gov>. If you are submitting comments electronically through the Federal eRulemaking Portal and want to attach a document, we ask that it be in a text-based format. If you want to attach a document that is a scanned Adobe PDF file, it must be scanned as text and not as an image, thus allowing FCIC to search and copy certain portions of your submissions. For questions regarding attaching a document that is a scanned Adobe PDF file, please contact the RMA Web Content Team at (816) 823-4694 or by email at rmaweb.content@rma.usda.gov.

Privacy Act: Anyone is able to search the electronic form of all comments received for any dockets by the name of the person submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the complete User Notice and Privacy Notice for Regulations.gov at <http://www.regulations.gov/#!privacyNotice>.

FOR FURTHER INFORMATION CONTACT: Tim Hoffmann, Director, Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, PO Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be economically significant for the purposes of Executive Order 12866 and, therefore, it has been reviewed by the Office of Management and Budget (OMB).

Benefit-Cost Analysis

A Benefit-Cost Analysis (BCA) has been completed and a summary is shown below; the full analysis may be viewed on <http://www.regulations.gov>. In summary, the analysis finds that changes in the rule will have an expected cost of \$115.9 million annually over a 10-year period to the FCIC in administration of the Federal crop insurance program. Non-quantifiable benefits of this rule include increased program integrity, additional risk management tools, and incentives for beginning farmers and ranchers to participate in the Federal crop insurance program.

On February 7, 2014, the 2014 Farm Bill was enacted. As a result, FCIC must revise those provisions of the General Administrative Regulations - Ineligibility for Programs under the Federal Crop Insurance Act (Subpart U), Catastrophic Risk Protection Endorsement (CAT Endorsement), Area Risk Protection Insurance (ARPI) Basic Provisions, and the Common Crop Insurance Provisions (CCIP) Basic Provisions to implement program changes identified in Titles II and XI of the 2014 Farm Bill.

On January 2014, the Congressional Budget Office (CBO) issued its estimates on the effects on direct spending and revenues of the 2014 Farm Bill. These estimates were used as a basis for the quantifiable costs and benefits stated in this BCA.

The purpose of this rule is to amend Subpart U, the CAT Endorsement, the ARPI Basic Provisions, and the CCIP Basic Provisions to implement the following changes:

Section 2611 requires those enrolled in crop insurance, for certain agriculture commodities, to comply with conservation compliance requirements or forego premium subsidy. For acts or situations of non-compliance, ineligibility for premium subsidy will be applied beginning with the 2016 reinsurance year. Annually, FCIC anticipates a savings of \$4.6 million as a result of this change.

Section 11007 makes available insurance coverage by separate enterprise units based on irrigated and non-irrigated acreage of crops within counties. Annually, FCIC anticipates a cost of \$53.3 million as a result of this change.

Section 11009 allows insureds to exclude any recorded or appraised yield for any crop year in which the per planted acre yield in the county is at least 50 percent below the simple average for the crop in the county for the previous 10 consecutive crop years, and allows insureds in any county contiguous to a county in which an insured is eligible to exclude a recorded or appraised yield to also elect a similar adjustment. Annually, FCIC anticipates a cost of \$35.7 million as a result of this change.

Section 11014 applies a reduction of premium subsidy, a reduced insurance guarantee, and eliminates substitute yields in the insurance guarantee during the first four crop years that land is converted from native sod to the production of an annual crop in

the States of Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota. Annually, FCIC anticipates a savings of \$11.4 million as a result of this change.

Section 11015 allows producers to elect a different level of coverage for an agricultural commodity by irrigated and non-irrigated acreage. Annually, FCIC anticipates a cost of \$16.8 million as a result of this change.

Section 11016 establishes crop insurance benefits for beginning farmers and ranchers by increasing the premium subsidy available by ten percentage points, allowing the use of yield history from any previous farm or ranch operation in which they had decision making or physical involvement, and replacing a low yield in their actual production history with a yield equal to 80 percent of the applicable transitional yield. Annually, FCIC anticipates a cost of \$26.1 million as a result of this change.

Section 11019 allows for the correction of errors in information obtained from the producer within a reasonable amount of time and consistent with information provided to other agencies of the Department of Agriculture subject to certain limitations for maintaining program integrity. This section also provides for the payment of debt after the termination date in accordance with procedures and limitations established by the FCIC, if a producer inadvertently fails to pay a debt and has been determined to be ineligible to participate in the Federal crop insurance program. FCIC does not believe there are any additional cost outlays resulting from this change. Therefore, FCIC believes insureds will benefit from this change and the benefits are non-quantifiable.

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 numbers 0563-0085, 0563-0083, and 0563-0053.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

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. 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 (Act) authorizes FCIC to waive collection of administrative fees from beginning farmers or ranchers and limited resource farmers. FCIC believes this waiver helps to 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:

On February 7, 2014, the 2014 Farm Bill was enacted. FCIC must revise those provisions of the General Administrative Regulations - Ineligibility for Programs under the Federal Crop Insurance Act (Subpart U), Catastrophic Risk Protection Endorsement (CAT Endorsement), Area Risk Protection Insurance Basic Provisions (ARPI Basic Provisions), and the Common Crop Insurance Policy Basic Provisions (CCIP Basic Provisions) to implement program changes mandated by the 2014 Farm Bill. On March 14, 2014, the Farm Service Agency (FSA) and Risk Management Agency (RMA) published a notice in the Federal Register (79 FR 14472-14475) announcing a listening session for initial public input about the new programs and changes to existing programs for which FSA and RMA were delegated authority to implement. The agencies also announced an opportunity for the public to also make written statements through April 2, 2014. The listening session was held on March 27, 2014, in the Department of Agriculture's Jefferson Auditorium in Washington, D.C.

FSA and RMA received 32 written comments from individuals, trade groups, other organizations, and State entities. All written comments are available to the public for review via this link: <http://www.regulations.gov/#!documentDetail;D=FSA-2014-0002-0001>.

Total attendance at the listening session was 127 people. All of the Commodity, Credit, and Crop Insurance Titles, and parts of the Conservation, Energy, and Miscellaneous Titles were covered during the listening session. A number of oral statements from attendees were program-specific. However, recurring overarching ideas expressed during the listening session included placing a priority on information sharing between the United States Department of Agriculture (USDA) and its employees, farmers and ranchers in general, and beginning and socially disadvantaged farmers and ranchers.

Another overarching recommendation was the need to develop education, outreach, and tools to help farmers and ranchers in making their decisions. Other recommendation urged USDA to develop programs and policies that do not hinder business and family farming decisions and strengthen local assistance to farmers and ranchers on completing forms and planning.

Statements that addressed issues outside the scope of the 2014 Farm Bill are not addressed in this rule. Statements, such as those about RMA developing new products to help small, diversified farmers are not related to this rule but will be considered by RMA when establishing its priorities for research and development.

In general, RMA received listening session statements regarding the timing of when the 2014 Farm Bill requirements would go into effect. Statements were also received urging RMA to issue rules and information as quickly as possible.

Provisions in the 2014 Farm Bill that require revisions in the regulations are as follows:

a. Section 2611 of the 2014 Farm Bill links the eligibility for premium subsidy paid by FCIC to an insured's compliance with the Highly Erodible Land Conservation (HELIC) and Wetland Conservation (WC) provisions of the Food Security Act of 1985. The regulations covering these provisions are set forth in the Federal Register at 7 CFR Part 12. To be eligible for premium subsidy paid by FCIC, an insured must (1) have a completed certification of compliance, form AD-1026, with the HELIC and WC provisions on file with the Farm Service Agency (FSA); (2) be in compliance with a conservation plan approved by NRCS for all highly erodible land; (3) not plant an agricultural commodity on a wetland converted after February 7, 2014; and (4) not have converted a wetland for the purpose, or to have the effect, of making the production of an annually planted agricultural commodity possible on such converted wetland after February 7, 2014.

For the purposes of the HELIC and WC provisions, "agricultural commodity" is defined as any agricultural commodity planted and produced in a state by annual tilling of the soil, including tilling by one-trip planters, or sugarcane. Insureds determined ineligible for premium subsidy paid by FCIC for a reinsurance year will be ineligible for premium subsidy paid by FCIC on all their policies, including CAT policies, unless specific exemptions apply. There is a phase-in period for insureds who have never been subject to the HELIC and WC provisions previously and these insureds will be given additional time to become compliant before any premium subsidy is denied.

USDA will determine an insured's eligibility for premium subsidy paid by FCIC at a time that is as close to the beginning of the next reinsurance year (July 1) as practical. The determination will be based on FSA and Natural Resources Conservation Service determinations regarding compliance with the HELC and WC provisions, as recorded in FSA's automated system. Insureds who do not have a certification of compliance, form AD-1026, on file with FSA prior to the beginning of the reinsurance year (July 1) will be ineligible for premium subsidy, unless insureds can demonstrate they are a beginning farmer or rancher who has not previously had an insurable interest in a crop or livestock and they began farming for the first time after the beginning of the reinsurance year but prior to the sales closing date. In addition, an insured who is in violation of the HELC or WC provisions will be ineligible for premium subsidy, unless specific exemptions apply. This means that an insured who is determined to be non-compliant on June 1, 2015, (2015 reinsurance year) will, unless otherwise exempted, be denied premium subsidy effective July 1, 2015, the start of the 2016 reinsurance year, and will not be eligible for any premium subsidy for any policies during the 2016 reinsurance year. Even if the insured becomes compliant during the 2016 reinsurance year, the insured will not be eligible for premium subsidy until the 2017 reinsurance year starting on July 1, 2016. FCIC is amending the CAT Endorsement, ARPI Basic Provisions, and CCIP Basic Provisions to implement these provisions effective for any policies with a sales closing date on or after July 1, 2015.

b. Section 11003 of the 2014 Farm Bill created a new insurance product that provides coverage for a portion of the underlying crop insurance policy deductible called the Supplemental Coverage Option (SCO). SCO must be purchased as an endorsement to the

CCIP Basic Provisions and applicable Crop Provisions. SCO will be available, starting with the 2015 crop year, in select counties for corn, soybeans, wheat, sorghum, cotton, and rice, and made available to other crops and areas in future years if there is sufficient data and coverage is provided on the actuarial documents.

Prior to the 2014 Farm Bill, the CAT Endorsement did not allow options or endorsements to extend to CAT policies. However, section 11003 specifically makes SCO available to all policies offered under Subtitle A of the Act, which includes both additional coverage and CAT coverage. Therefore, this rule amends the CAT Endorsement to allow SCO to be available for CAT policies.

c. Section 11007 of the 2014 Farm Bill makes available insurance coverage by separate enterprise units for irrigated and non-irrigated acreage of a crop within the county. The new language allows two separate enterprise units, one for all irrigated acreage of the crop, and one for all non-irrigated acreage of the crop. Enterprise units by irrigated and non-irrigated practice will be available for any crop in which enterprise units are allowed through the actuarial documents, Crop Provisions, or Special Provisions. Availability of enterprise units will be subject to the current requirements in the Basic Provisions. This means that both the irrigated and non-irrigated acreage must each separately qualify for enterprise units. If insureds do not qualify for separate irrigated and non-irrigated enterprise units, there are two options based on the timing of the determination: 1) if the determination is made on or before the acreage reporting date, insureds may have one enterprise unit comprise of all irrigated and non-irrigated acreage in the county of the crop, if they qualify, or basic or optional units depending on which unit structure the insureds reported on the acreage report; or 2) if the determination

is made after acreage reporting date, the policy allows insureds to have one enterprise unit comprise of all irrigated and non-irrigated acreage in the county of the crop if they meet the qualifications or a basic unit will be assigned. The provisions regarding this section of the 2014 Farm Bill may not be implemented upon publication; therefore to allow flexibility, FCIC has revised section 34 of the CCIP Basic Provisions to allow the actuarial documents to specify when separate enterprise units by irrigated and non-irrigated practice will be available.

d. Section 11009 of the 2014 Farm Bill allows insureds to elect to exclude any recorded or appraised yield for any crop year in which the per planted acre yield in the county was at least 50 percent below the simple average of the per planted acre yield during the previous 10 consecutive crop years. A crop year determined eligible for exclusion in a county will also be eligible for exclusion in any contiguous county. Elections to exclude yields, by eligible crop year, by irrigated and non-irrigated acreage will be specified in the actuarial documents. Eligible crop year(s) depends upon the history for the crop year in comparison to the previous 10 consecutive crop years for a crop/county and irrigation practice. Production data availability and intensive data analysis may limit FCIC's ability to authorize exclusions of yields for all APH crops in all counties. The provisions regarding this section of the 2014 Farm Bill may not be implemented upon publication; therefore, to allow flexibility, FCIC has revised the CCIP Basic Provisions to allow the actuarial documents to specify when insureds may elect to exclude any recorded or appraised yield.

e. Section 11014 of the 2014 Farm Bill stipulates there will be a reduction of benefits on native sod acreage during the first four crop years after the acreage is tilled and is

planted to an annual crop after the date of enactment of the 2014 Farm Bill. Insureds' benefits are reduced for native sod acreage during the first four crop years of planting an annual crop by reducing the amount of premium subsidy by 50 percentage points than otherwise would be available on additional coverage policies, reducing the insurance guarantee to 65 percent of the applicable transitional yield, and eliminating yield substitution for a year of poor or low yields, as applicable. The reduction in insureds' benefits only applies to insureds who have tilled an area of native sod greater than five acres in the county in the States of Iowa, Minnesota, Montana, Nebraska, North Dakota, or South Dakota. FCIC has revised the premium subsidy and insurance guarantee provisions in the CCIP Basic Provisions and the ARPI Basic Provisions, as applicable, to incorporate these changes.

f. Section 11015 of the 2014 Farm Bill allows insureds with additional coverage policies to elect two separate coverage levels, one for all irrigated acreage of the crop in the county and one for all non-irrigated acreage of the crop in the county. This will be available where both an irrigated practice and non-irrigated practice is available in the actuarial documents. For example, an insured may choose a 65 percent coverage level for all irrigated acreage (corn irrigated practice) and an 80 percent coverage level for all non-irrigated acreage (corn non-irrigated practice). Further, if the Crop Provisions allow the option to separately insure individual crop types or varieties, separate coverage levels by irrigated and non-irrigated practice will also be available for each type or variety. For example, an insured may choose 65 percent coverage level for processing type apples with an irrigated practice and a 70 percent coverage level for processing type apples with a non-irrigated practice. The insured may also choose a 70 percent coverage level for

fresh type apples with an irrigated practice and a 75 percent coverage level for fresh type apples with a non-irrigated practice. This election is already allowed in the ARPI Basic Provisions. The provisions regarding this section of the 2014 Farm Bill may not be implemented upon publication; therefore, to allow flexibility for implementing this provision, FCIC has revised the CCIP Basic Provisions to allow the actuarial documents to specify when separate coverage levels by irrigated and non-irrigated practices will be available.

g. Section 11016 of the 2014 Farm Bill establishes crop insurance incentives for beginning farmers and ranchers by waiving the administrative fee for CAT coverage and additional coverage policies, increasing the premium subsidy that otherwise would have been available by ten percentage points, allowing the use of yield history from any previous involvement in a farm or ranch operation, including decision making or physical involvement in the production of the crop or livestock, and replacing an excluded yield within actual production history with a yield equal to 80 percent of the applicable transitional yield. To qualify as a beginning farmer or rancher, a producer must not have actively operated and managed a farm or ranch in any county, in any state, with an insurable interest in any crop or livestock as an owner-operator, landlord, tenant, or sharecropper for more than five crop years. This will exclude any crop year when the beginning farmer or rancher was under the age of 18, enrolled in post-secondary studies or on active duty in the U.S. military. Entities may qualify for beginning farmer or rancher benefits only if all of the substantial beneficial interest holders qualify as a beginning farmer or rancher. For example, a son moves home to take over the family farm and incorporates with his spouse and neither have previous farming experience.

Their corporation would qualify for beginning farmer or rancher benefits. FCIC has added a definition of “beginning farmer and rancher” and revised the administrative fee, premium subsidy, insurance guarantee, and yield substitution provision in the CCIP Basic Provisions and the ARPI Basic Provisions, as applicable, to incorporate these changes.

h. Section 11017 of the 2014 Farm Bill allows producers of upland cotton to purchase an additional policy known as the “Stacked Income Protection Plan” (STAX). STAX can be purchased as a stand-alone policy or in conjunction with any individual or area plan of insurance at any coverage level offered by FCIC. Further, STAX is found in section 508B of the Act and is not limited to the additional coverage found in section 508(c) of the Act. This means that STAX is statutorily authorized to be offered with CAT policies. Therefore, this rule amends the CAT Endorsement to clarify that STAX will be available for CAT policies. STAX will be available, starting with the 2015 crop year, in select counties where insurance for upland cotton is available as specified on the actuarial documents.

i. Section 11019 of the 2014 Farm Bill allows for the correction of errors in information obtained from the insured in addition to the correction of information currently authorized in the policies for the purposes of obtaining coverage. Within a reasonable amount of time following the sales closing date, corrections can be made in the information provided for the purposes of obtaining coverage to ensure consistency with information provided to other agencies of the Department of Agriculture. Section 11019 allows certain information to be corrected after the acreage reporting date to reconcile information determined from any other USDA program or verified by another USDA agency. This ability to correct reported information does not apply to any other

information that has not been determined or verified for the purposes of another USDA program. The ability to make these corrections are not without limitation and program integrity will be protected. Lastly, electronic transmission errors, such as transpositions, committed by the insurance provider, agent or any agency within USDA can be corrected by the insurance provider at any time the error is discovered. This section of the 2014 Farm Bill also provides for the payment of debt after the sales closing date in accordance with procedures and limitations established by FCIC, if an insured inadvertently fails to pay a debt and has been determined ineligible to participate in the Federal crop insurance program. FCIC is revising Subpart U, the CCIP Basic Provisions, and the ARPI Basic Provisions to incorporate these changes.

The changes mandated by the 2014 Farm Bill impact almost all county crop programs within the Federal crop insurance program. This entails a monumental amount of work. FCIC is implementing the changes made by the 2014 Farm Bill to all applicable programs as quickly as possible but there may be situations in which certain programs or program changes cannot be made for the earliest crop or reinsurance year after publication of these regulations. FCIC will continue to work on implementing the provisions everywhere they are applicable as expeditiously as possible. Insureds should check with their agents and on the RMA website at www.rma.usda.gov for updates on the implementation efforts.

Previously, changes made to the Federal crop insurance policies codified in the Code of Federal Regulations were required to be implemented through the rulemaking process. Such action was not required by the Administrative Procedures Act because contracts were exempt from notice and comment rulemaking and the crop insurance policy is a

contract. However, a prior Secretary of Agriculture published a notice in the Federal Register stating that the Department of Agriculture would, to the maximum extent practicable, use the notice and comment rulemaking process when making program changes, including those involving contracts. FCIC has complied with this notice over the subsequent years. Recently, the current Secretary of Agriculture has published a notice in the Federal Register rescinding the prior notice, thereby making contracts again exempt from the notice and comment rulemaking process. However, FCIC values the input it receives through comments and has elected to solicit comments to this interim rule, which will be considered when this rule is made final. For these reasons, these policy changes are effective upon filing with the Office of the Federal Register.

The changes to the policy made in this rule are applicable for the 2015 and succeeding crop years for all crops with a contract change date on or after the effective date of this rule, and for the 2016 and succeeding crop years for all crops with a contract change date prior to the effective date of this rule, provided the actuarial documents reflect the implementation of the policy changes, as applicable.

1. The specific changes to Subpart U—Ineligibility for Programs Under the Federal Crop Insurance Act (7 CFR part 400) are as follows:

a. FCIC is adding a new section 400.679(g) to specify when a person who has requested to have their policy reinstated by the Administrator of the Risk Management Agency and the request is denied, the person remains ineligible consistent with section 11019 of the 2014 Farm Bill.

b. FCIC is adding a new section 400.682(g) to specify when FCIC will allow the payment of debt after the sales closing date if a producer inadvertently fails to pay a debt

and has been determined ineligible to participate in the Federal crop insurance program consistent with section 11019 of the 2014 Farm Bill.

c. FCIC is revising section 400.485(b) to specify reinstatement is an option to regain ineligibility in this paragraph.

2. The specific changes to the CAT Endorsement (7 CFR part 402) are as follows:

a. Section 6 - FCIC is revising section 6(a) to clarify that insureds will be responsible to pay the premium if it is determined the insured has committed a violation of the HELC or WC provisions of 7 CFR part 12 as amended by the 2014 Farm Bill or the insured has not filed a form AD-1026 consistent with section 2611 of the 2014 Farm Bill unless the insured is otherwise exempted. FCIC is also revising section 6(a) to clarify that the policy will be terminated for failure to pay any premium that may be due.

FCIC is revising section 6(b) to clarify that if premium is due, as specified in new section 6(f), it must be paid within 30 days after the insured has been billed.

FCIC is revising section 6(c) to specify the administrative fee for CAT coverage will also be waived for insureds who qualify as beginning farmers or ranchers consistent with section 11016 of the 2014 Farm Bill.

FCIC is revising section 6(e) to clarify that if premium is owed, as specified in new section 6(f), and is not paid when due, the insured may be ineligible for certain other USDA program benefits.

FCIC is adding a new section 6(f) to specify the insured will be responsible for the payment of the premium if it is determined the insured has committed a violation of the HELC or WC provisions of 7 CFR part 12 as amended by the 2014 Farm Bill or the insured has not filed a form AD-1026 consistent with section 2611 of the 2014 Farm Bill.

FCIC is adding a new section 6(g) to specify that if the Act expressly authorizes an option or endorsement to be applicable to CAT coverage, the insured will owe a separate annual premium and administrative fee for such option or endorsement. SCO and STAX, authorized by sections 11003 and 11017 of the 2014 Farm Bill, will require the payment of premium for such coverage even if the insured has elected CAT coverage. FCIC is also adding a new section 6(h) to specify the policy will be terminated if the insured fails to pay the premium due by the termination date.

b. Section 11 – FCIC is revising section 11(a) to specify that if the Act authorizes options or endorsements to be applicable to CAT coverage, such options or endorsements may be purchased in addition to the CAT Endorsement. This revision should eliminate any conflict between the CAT Endorsement and SCO or STAX, allowing both to be available with CAT coverage consistent with sections 11003 and 11017 of the 2014 Farm Bill.

3. The specific changes to the Area Risk Protection Insurance Basic Provisions (7 CFR part 407) are as follows:

a. Section 1 – FCIC is adding the definition of “beginning farmer or rancher” consistent with section 11016 of the 2014 Farm Bill, which allows the exclusion of crop years in which an individual had an insurable interest if, at the time, the individual was under the age of 18, while serving full-time in the military service of the United States, or while in post-secondary education. FCIC is revising the definition of “native sod” to clarify the designation now refers to the date of enactment of the 2014 Farm Bill and removing the definition of “Prairie Pothole National Priority Area” since only native sod

in the states of Iowa, Minnesota, Montana, Nebraska, North Dakota, or South Dakota and are effected by the restrictions contained in section 11014 of the 2014 Farm Bill;

b. Section 2 - FCIC is revising section 2(k)(2)(iii) to specify when FCIC will allow the payment of debt after the sales closing date if a producer inadvertently fails to pay a debt and has been determined ineligible to participate in the Federal crop insurance program consistent with section 11019 of the 2014 Farm Bill.

FCIC is adding section 2(k)(2)(iv) to specify that any determination made in accordance with section 2(k)(2)(iii)(B) exhausts all administrative remedies for the purposes of termination.

c. Section 5 - FCIC is removing the provisions in section 5(d) regarding the ability of a Governor of a State designated within the Prairie Pothole National Priority Area to elect to make native sod acreage uninsurable for the first five crop years of planting because these provisions are no longer applicable under section 11014 of the 2014 Farm Bill.

FCIC is adding provisions to section 5(d) regarding the consequences for the first four crop years of planting on native sod acreage, which requires guarantees to be based on a reduced yield of 65 percent of the transitional yield and a reduced premium subsidy for additional coverage policies that is 50 percentage points less than would otherwise be available. Since area based plans of insurance do not have a transitional yield, FCIC is amending the provisions to require a reduced yield equal to a 65 percent protection factor. This will have the similar effect as reducing the yield to 65 percent of the transitional yield consistent with section 11014 of the 2014 Farm Bill.

FCIC is adding a new section 5(e) that clarifies that the provisions of section 5(d) do not apply to native sod areas of five acres or less in a county.

d. Section 7 - FCIC is revising section 7(a)(6) to specify the administrative fee will be waived for insureds who qualify as beginning farmers or ranchers consistent with section 11016 of the 2014 Farm Bill.

FCIC is adding a new section 7(h) to specify the insured's premium subsidy will be 10 percentage points greater if they qualify as a beginning farmer or rancher consistent with section 11016 of the 2014 Farm Bill.

FCIC is adding a new section 7(i) to specify the insured will be ineligible for premium subsidy if it is determined the insured has committed a violation of the HELC or WC provisions of 7 CFR part 12, as amended by the Agricultural Act of 2014, or the insured has not filed a form AD-1026 consistent with section 2611 of the 2014 Farm Bill unless the insured is otherwise exempted.

e. Section 22 - FCIC is revising section 22(a) by removing the phrase "any portion thereof," to remove ambiguity of the billing process and interest situations on amounts owed, and to ensure consistency in how insurance providers administer this section. Section 11019 of the 2014 Farm Bill allows producers to pay debts after the termination date and still remain eligible for insurance if certain conditions are met.

f. FCIC is adding a new section 31 to specify that in addition to the corrections to information provided by the insured previously allowed in the policy, the insurance provider may correct the information provided on an application or by the sales closing date, by the insured, including identification numbers for the insured and any person with an substantial beneficial interest in the insured, within a reasonable time after the sales closing date if the information is in error to ensure such information is correct and consistent with information reported by the insured for other USDA programs. FCIC is

also adding a provision that allows the reconciliation of errors in information reported by the insured within a reasonable time after the acreage reporting date if an agency within USDA has determined the correct information. Corrections can also be made after the date an agency within USDA has corrected the data as a result of the verification of the information. There are limitations on such corrections if the insured would avoid an eligibility requirement or obtain a disproportionate benefit, increase the guarantee or indemnity if a cause of loss has occurred or avoid premium if no cause of loss has occurred, or to avoid an obligation under Federal or State law. FCIC has also added a provision that allows the insurance provider at any time to revise any incorrect information provided by the insured, if the incorrect information was caused by electronic transmission errors by the insurance provider or agent or errors made by any agency within USDA in transmitting the information provided by the insured for purposes of other USDA programs. This is consistent with section 11019 of the 2014 Farm Bill.

4. The specific changes to the Common Crop Insurance Regulations, Basic Provisions (7 CFR part 457) are as follows:

a. Section 1 – FCIC is adding the definition of “beginning farmer or rancher” consistent with section 11016 of the 2014 Farm Bill, which allows the exclusion of crop years in which an individual had an insurable interest if, at the time, the individual was under the age of 18, while serving full-time in the military service of the United States, or while in post-secondary education. FCIC is revising the definition of “native sod” to clarify the designation now refers to the date of enactment of the 2014 Farm Bill and removing the definition of “Prairie Pothole National Priority Area” since only native sod

in the states of Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota and are effected by the restrictions contained in section 11014 of the 2014 Farm Bill.

b. Section 2 – FCIC is revising section 2(f)(2)(iii) to specify when FCIC will allow the payment of debt after the sales closing date if a producer inadvertently fails to pay a debt and has been determined ineligible to participate in the Federal crop insurance program consistent with section 11019 of the 2014 Farm Bill.

FCIC is adding section 2(f)(2)(iv) to specify that any determination made in accordance with section 2(f)(2)(iii)(B) exhausts all administrative remedies for the purposes of termination.

c. Section 3 – FCIC is adding a new section 3(b)(2)(iii) to allow separate coverage levels for irrigated and non-irrigated practices consistent with section 11015 of the 2014 Farm Bill.

FCIC is also adding a new section 3(l) to specify that notwithstanding any other provision in section 3, if the insured is a beginning farmer or rancher who was previously involved in a farming or ranching operation, including involvement in the decision-making or physical involvement in the production of the crop or livestock on the farm, for any acreage obtained by the beginning farmer or rancher, the beginning farmer or rancher shall receive a yield that is the higher of: (1) the actual production history of the previous producer of the crop or livestock on the acreage in which the beginning farmer or rancher was involved; or (2) the actual production history of the beginning farmer or rancher.

d. Section 5 – FCIC is replacing the previously reserved section 5 with a new section titled “Exclusion of Yields” to specify when an insured may elect to exclude their actual

yields if the actual yield for the acreage is at least 50 percent below the simple average of the per planted acre yield for the crop in the county for the previous 10 years consistent with section 11009 of the 2014 Farm Bill.

e. Section 7 – FCIC is revising section 7(e)(4) to specify the administrative fee will be waived for insureds who qualify as beginning farmers or ranchers consistent with section 11016 of the 2014 Farm Bill.

FCIC is adding a new section 7(g) to specify the insured's premium subsidy will be 10 percentage points greater if they qualify as a beginning farmer or rancher consistent with section 11016 of the 2014 Farm Bill.

FCIC is adding a new section 7(h) to specify the insured will be ineligible for premium subsidy if it is determined the insured has committed a violation of the HELC or WC provisions of 7 CFR part 12, as amended by the 2014 Farm Bill, or the insured has not filed a form AD-1026 consistent with section 2611 of the 2014 Farm Bill unless the insured is otherwise exempted.

f. Section 9 – FCIC is removing the provisions in section 9(e) regarding the ability of a Governor of a State designated within the Prairie Pothole National Priority Area to elect to make native sod acreage uninsurable for the first five crop years of planting because these provisions are no longer applicable under section 11014 of the 2014 Farm Bill. FCIC is adding provisions to section 9(e) regarding the consequences for the first four crop years of planting on native sod acreage, which requires guarantees to be based on a reduced yield of 65 percent of the transitional yield, meaning the established yield for the insured will be based on 65 percent of the transitional yield, and a reduced premium

subsidy for additional coverage policies that is 50 percentage points less than would otherwise be available consistent with section 11014 of the 2014 Farm Bill.

FCIC is adding a new section 9(f) that clarifies that the provisions of section 9(e) do not apply to native sod areas of five acres or less in a county.

g. Section 24 – FCIC is revising section 24(a) by removing the phrase “any portion thereof,” to remove ambiguity of the billing process and interest situations on amounts owed, and to ensure consistency in how insurance providers administer this section. Section 11019 of the 2014 Farm Bill allows producers to pay debts after the termination date and still remain eligible for insurance if certain conditions are met.

h. FCIC is replacing the previously reserved section 25 with a new section titled “Correction of Errors” to specify that in addition to the corrections to information provided by the insured previously allowed in the policy, the insurance provider may correct the information provided on an application or by the sales closing date, by the insured, including identification numbers for the insured and any person with a substantial beneficial interest in the insured, within a reasonable time after the sales closing date if the information is in error to ensure such information is correct and consistent with information reported by the insured for other USDA programs. FCIC is also adding a provision that allows the reconciliation of errors in information reported by the insured within a reasonable time after the acreage reporting date if an agency within USDA has determined the correct information. Corrections can also be made after the date an agency within USDA has corrected the data as a result of the verification of the information. There are limitations on such corrections if the insured would avoid an eligibility requirement or obtain a disproportionate benefit, increase the guarantee or

indemnity if a cause of loss has occurred, or avoid premium if no cause of loss has occurred, or to avoid an obligation under Federal or State law. FCIC has also added a provision that allows the insurance provider at any time to revise any incorrect information provided by the insured, if the incorrect information was caused by electronic transmission errors by the insurance provider or agent, or errors made by any agency within USDA in transmitting the information provided by the insured for purposes of other USDA programs. This is consistent with section 11019 of the 2014 Farm Bill.

i. Section 34 – FCIC is adding a new section 34(a)(4)(viii) to allow enterprise units for irrigated and non-irrigated practices if the acreage of each practice separately qualifies for an enterprise unit consistent with section 11007 of the 2014 Farm Bill.

j. Section 36 – FCIC is revising section 36(c) to specify that if the insured qualifies as a beginning farmer or rancher, the insured can elect to replace the excluded actual yield with a yield equal to 80 percent of the applicable transitional yield for the crop year in which the yield is being replaced consistent with section 11016 of the 2014 Farm Bill.

List of Subjects in 7 CFR Parts 400, 402, 407 and 457

Administrative practice and procedure, Crop insurance, Reporting and recordkeeping requirements.

Interim Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR parts 400, 402, 407 and 457 as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

1. The authority citation for 7 CFR part 400 continues to read as follows:

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

2. Amend § 400.679 as follows:

a. In paragraph (e) by removing the word “or” after the semicolon at the end of the paragraph;

b. In paragraph (f) by removing the period at the end of the paragraph and adding “; or” in its place; and

c. Add new paragraph (g).

The addition reads as follows:

§ 400.679 Criteria for ineligibility.

* * * * *

(g) Has requested the Administrator of the Risk Management Agency for consideration to reinstate their eligibility in accordance with the applicable policy provisions and such request has been denied.

3. Amend § 400.682 by adding a new paragraph (g) to read as follows:

§ 400.682 Determination and notification.

* * * * *

(g) No later than 60 days after the termination date, the missed payment date of a previously executed written payment agreement, or the due date specified in the notice to the person of the amount due, as applicable, the ineligible person may request consideration for reinstatement from the Administrator of the Risk Management Agency in accordance with section 2 of the Common Crop insurance Policy Basic Provisions (7 CFR 457.8).

§ 400.685 [Amended]

4. Amend paragraph (b) in § 400.685 by adding the word “reinstatement,” between the words “through” and “mediation”.

PART 402 – CATASTROPHIC RISK PROTECTION ENDORSEMENT

5. The authority citation for 7 CFR Part 402 continues to read as follows:

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

6. Amend § 402.4 as follows:

a. In section 6(a) by removing the word “Notwithstanding” and adding in its place the phrase “Except as provided in paragraphs (f) and (h) of this section and notwithstanding”;

b. In section 6(b) introductory text by adding the phrase “and premium as specified in paragraph (f) of this section” between the phrases “administrative fee” and “to us within;”

c. Revise section 6(c);

d. In section 6(e) by adding the phrase “and premium as specified in paragraph (f) of this section” between the phrases “administrative fee” and “is not paid;”

e. Add new sections 6(f), (g), and (h); and

f. Revise section 11(a).

The revisions and additions read as follows:

§ 402.4 Catastrophic Risk Protection Endorsement Provisions.

* * * * *

6. Annual Premium and Administrative Fees

* * * * *

(c) The administrative fee provisions of paragraph (b) of this section do not apply if you are a “beginning farmer or rancher” or a “limited resource farmer” as defined in the applicable crop policy. The administrative fee will be waived if you request it and you meet the requirements contained in the annual premium provisions of the applicable crop policy.

* * * * *

(f) Effective for any policies with a sales closing date on or after July 1, 2015, you will be responsible for payment of the premium established for the coverage provided under this endorsement if:

(1) USDA determines you have committed a violation of the highly erodible land conservation or wetland conservation provisions of 7 CFR part 12 as amended by the Agricultural Act of 2014; or

(2) You have not filed form AD-1026 or successor form with FSA by June 1 prior to the sales closing date to be properly identified as in compliance with the conservation provisions specified in paragraph (f)(1) of this section (For example, to be eligible for a premium subsidy for a crop with a sales closing date of March 15, 2016, you must have filed your form AD-1026 by June 1, 2015).

(i) Notwithstanding paragraph (f)(2) of this section, if you demonstrate you are a beginning farmer or rancher who has not previously had an insurable interest in a crop or livestock and began farming for the first time after June 30 prior to the sales closing date, you fail to file form AD-1026 or successor form with the FSA, by June 1 after you make application for insurance.

(ii) To be eligible for premium subsidy paid on your behalf by FCIC, it is your

responsibility to assure you meet all the requirements for:

(A) Compliance with the conservation provisions specified in paragraph (f)(1) of this section; and

(B) Filing form AD-1026, or successor form, to be properly identified as in compliance with the conservation provisions specified in paragraph (f)(1) of this section.

(g) If the Act expressly authorizes an option or endorsement to be available in addition to the coverage available under this Endorsement (for example, the Supplemental Coverage Option) or any other additional coverage offered under the Federal Crop Insurance Act (for example, the Stacked Income Protection Plan), you will owe a separate annual premium and administrative fee for such option or endorsement if the option or endorsement has been made available in the actuarial documents and you elect to purchase such coverage.

(h) Failure to pay the premium specified in paragraph (f) of this section will result in the termination of the policy and all other policies in accordance with the termination provisions specified in the applicable Basic Provisions.

* * * * *

11. Exclusion of Coverage

(a) Options or endorsements that extend the coverage available under any crop policy offered by FCIC will not be available under this endorsement, except for the Supplemental Coverage Option and any other option or endorsement or other additional coverage expressly authorized in the Federal Crop Insurance Act and allowed in the actuarial documents (for example, the Stacked Income Protection Plan). Written agreements are not available for any crop insured under this endorsement.

* * * * *

PART 407 – AREA RISK PROTECTION INSURANCE REGULATIONS

7. The authority citation for 7 CFR Part 407 continues to read as follows:

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

8. Amend § 407.9 as follows:

a. In section 1 by adding the definition of “beginning farmer or rancher” in alphabetical order, revising the definition of “native sod”, and removing the definition of “Prairie Pothole National Priority Area”;

b. Revise section 2(k)(2)(iii);

c. Add new section 2(k)(2)(iv);

d. Revise section 5(d);

f. Add a new section 5(e);

g. Revise section 7(a)(6)(i);

h. Redesignate section 7(a)(6)(ii) as section 7(a)(6)(iii) and add a new section 7(a)(6)(ii);

i. Add new sections 7(h) and (i);

j. In section 22(a) by removing the phrase “, or any portion thereof,”; and

k. Add a new section 31.

The revisions and additions reads as follows:

§ 407.9 Area risk protection insurance policy.

* * * * *

1. Definitions.

* * * * *

Beginning farmer or rancher. An individual who has not actively operated and managed a farm or ranch in any state, with an insurable interest in a crop or livestock as an owner-operator, landlord, tenant, or sharecropper for more than five crop years, as determined in accordance with FCIC procedures. Any crop year's insurable interest may, at your election, be excluded if earned while under the age of 18, while in full-time military service of the United States, or while in post-secondary education, in accordance with FCIC procedures. A person other than an individual may be eligible for beginning farmer or rancher benefits if all of the substantial beneficial interest holders qualify as a beginning farmer or rancher.

* * * * *

Native sod. Acreage that has no record of being tilled (determined in accordance with information collected and maintained by an agency of the USDA or other verifiable records that you provide and are acceptable to us) for the production of an annual crop on or before February 7, 2014, and on which the plant cover is composed principally of native grasses, grass-like plants, forbs, or shrubs suitable for grazing and browsing.

* * * * *

2. Life of Policy, Cancellation, and Termination.

* * * * *

(k) * * *

(2) * * *

(iii) Once the policy is terminated, it cannot be reinstated for the current crop year unless:

(A) The termination was in error;

(B) The Administrator of the Risk Management Agency, at his or her sole discretion, determines that the following conditions are met:

(1) In accordance with 7 CFR part 400, subpart U and FCIC issued procedures, you provide documentation that your failure to pay your debt is due to an unforeseen or unavoidable event or an extraordinary weather event that created an impossible situation for you to make timely payment;

(2) You remit full payment of the delinquent debt owed to us or FCIC with your request submitted in accordance with section 2(k)(2)(iii)(B)(3); and

(3) You submit a written request for reinstatement of your policy to us no later than 60 days after the termination date or the missed payment date of a previously executed written payment agreement, or the due date specified in the notice to you of the amount due, if applicable.

(i) If authorization for reinstatement is granted, your policies will be reinstated effective at the beginning of the crop year for which you were determined ineligible, and you will be entitled to all applicable benefits under such policies, provided you meet all eligibility requirements and comply with the terms of the policy; and

(ii) There is no evidence of fraud or misrepresentation; or

(C) We determine that, in accordance with 7 CFR part 400, subpart U and FCIC issued procedures, the following are met:

(1) You can demonstrate:

(i) You made timely payment for the amount of premium owed but you inadvertently omitted some small amount, such as the most recent month's interest or a small administrative fee;

(ii) The amount of the payment was clearly transposed from the amount that was otherwise due (For example, you owed \$832 but you paid \$823); or

(iii) You made the full payment of the amount owed but the payment was delayed and postmarked by no more than 7 calendar days after the termination date or the missed payment date of a previously executed written payment agreement, or the due date specified in the notice to you of the amount due, as applicable;

(2) You remit full payment of the delinquent debt owed to us; and

(3) You submit a written request for reinstatement of your policy to us in accordance with 7 CFR part 400, subpart U and applicable procedures no later than 30 days after the termination date or the missed payment date of a previously executed written payment agreement, or the due date specified in the notice to you of the amount due, if applicable; and

(4) There is no evidence of fraud or misrepresentation.

(iv) A determination made in section 2(k)(2)(iii)(B) exhausts all administrative remedies for purposes of termination.

* * * * *

5. Insurable Acreage.

* * * * *

(d) Except as provided in section 5(e), in the states of Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota, during the first four crop years of planting on native sod acreage that has been tilled and is planted to an annual crop, after February 7, 2014, such acreage may be insured if the requirements of section 5(a) have been met but will, for additional coverage policies;

(1) Notwithstanding the provisions in section 6, receive a liability that is based on a 65 percent of the protection factor; and

(2) Receive a premium subsidy that is 50 percentage points less than would otherwise be provided on acreage not qualifying as native sod. If the premium subsidy applicable to these acres is less than 50 percent before the reduction, you will receive no premium subsidy.

(e) Section 5(d) is not applicable to areas of native sod acreage that is five acres or less in the county.

* * * * *

7. Annual Premium and Administrative Fees.

(a) * * *

(6) * * *

(i) You qualify as a beginning farmer or rancher;

(ii) You qualify as a limited resource farmer; or

* * * * *

(h) If you qualify as a beginning farmer or rancher, your premium subsidy will be 10 percentage points greater than the premium subsidy that you would otherwise receive, unless otherwise specified in the Special Provisions.

(i) Effective for any policies with a sales closing date on or after July 1, 2015, you will be ineligible for any premium subsidy paid on your behalf by FCIC for any policy issued by us if:

(1) USDA determines you have committed a violation of the highly erodible land conservation or wetland conservation provisions of 7 CFR part 12 as amended by the

Agricultural Act of 2014; or

(2) You have not filed form AD-1026, or successor form, with FSA by June 1 prior to the sales closing date to be properly identified as in compliance with the conservation provisions specified in section 7(i)(1) (For example, to be eligible for a premium subsidy for a crop with a sales closing date of March 15, 2016, you must have filed your form AD-1026 by June 1, 2015).

(i) Notwithstanding section 7(i)(2), if you demonstrate you are a beginning farmer or rancher who has not previously had an insurable interest in a crop or livestock and began farming for the first time after June 30 prior to the sales closing date, you fail to file form AD-1026 or successor form with the FSA by June 1 after you make application for insurance.

(ii) To be eligible for premium subsidy paid on your behalf by FCIC, it is your responsibility to assure you meet all the requirements for:

(A) Compliance with the conservation provisions specified in section 7(i)(1) of this section; and

(B) Filing form AD-1026, or successor form, to be properly identified as in compliance with the conservation provisions specified in section 7(i)(1) of this section.

* * * * *

31. Correction of Errors.

(a) In addition to any other corrections allowed in your policy subject to section 31(b), we may correct:

(1) Within 60 days after the sales closing date, any incorrect information on your application or provided by the sales closing date, including identification numbers for

you and any person with a substantial beneficial interest in the you, to ensure that the eligibility information is correct and consistent with information reported by you to any USDA agency;

(2) Within 30 days after the acreage reporting date, information reported to reconcile errors in the information with correct information that has been determined by any USDA agency;

(3) Within 30 days of any subsequent correction of data by FSA, erroneous information corrected as a result of verification of information; and

(4) At any time, any incorrect information if the incorrect information was caused by electronic transmission errors by us or errors made by any agency within USDA in transmitting the information provided by you for purposes of other USDA programs.

(b) Corrections may be made but will not take effect for the current crop year if the correction would allow you to:

(1) Avoid ineligibility requirements for insurance or obtain a disproportionate benefit under the crop insurance program or any related program administered by the Secretary;

(2) Obtain, enhance, or increase an insurance guarantee or indemnity if a cause of loss exists or has occurred before any correction has been made, or avoid premium owed if no loss is likely to occur; or

(3) Avoid an obligation or requirement under any Federal or State law.

PART 457 - COMMON CROP INSURANCE REGULATIONS

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

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

10. Amend § 457.8 as follows:

a. In section 1 by adding the definition of “beginning farmer or rancher,” revising the definition of “native sod,” and removing the definition of “Prairie Pothole National Priority Area;”

b. Revise section 2(f)(2)(iii);

c. Add new section 2(f)(2)(iv);

d. Add new section 3(b)(2)(iii);

e. Add new section 3(l);

f. Add new section 5;

g. Revise section 7(e)(4)(i);

h. Redesignate section 7(e)(4)(ii) as section 7(e)(4)(iii) and add a new section 7(e)(4)(ii);

i. Add new sections 7(g) and (h);

j. Revise section 9(e);

k. Add a new section 9(f);

l. In section 24(b) [For FCIC policies] by removing the phrase “, or any part thereof,”;

m. In section 24(a) [For reinsured policies] by removing the phrase “, or any portion thereof,”;

n. Add new section 25;

o. Add new section 34(a)(4)(viii); and

p. Revise section 36(c).

The revisions and additions reads as follows:

§ 457.8 The application and policy.

* * * * *

1. Definitions.

* * * * *

Beginning farmer or rancher. An individual who has not actively operated and managed a farm or ranch in any state, with an insurable interest in a crop or livestock as an owner-operator, landlord, tenant, or sharecropper for more than five crop years, as determined in accordance with FCIC procedures. Any crop year's insurable interest may, at your election, be excluded if earned while under the age of 18, while in full-time military service of the United States, or while in post-secondary education, in accordance with FCIC procedures. A person other than an individual may be eligible for beginning farmer or rancher benefits if all of the substantial beneficial interest holders qualify as a beginning farmer or rancher.

* * * * *

Native sod. Acreage that has no record of being tilled (determined in accordance with information collected and maintained by an agency of the USDA or other verifiable records that you provide and are acceptable to us) for the production of an annual crop on or before February 7, 2014, and on which the plant cover is composed principally of native grasses, grass-like plants, forbs, or shrubs suitable for grazing and browsing.

* * * * *

2. Life of Policy, Cancellation, and Termination.

* * * * *

(f) * * *

(2) * * *

(iii) Once the policy is terminated, it cannot be reinstated for the current crop year unless:

(A) The termination was in error;

(B) The Administrator of the Risk Management Agency, at his or her sole discretion, determines that the following are met:

(1) In accordance with 7 CFR part 400, subpart U and FCIC issued procedures, you provide documentation that your failure to pay your debt is due to an unforeseen or unavoidable event or an extraordinary weather event that created an impossible situation for you to make timely payment;

(2) You remit full payment of the delinquent debt owed to us or FCIC with your request submitted in accordance with section 2(f)(2)(iii)(B)(3); and

(3) You submit a written request for reinstatement of your policy to us no later than 60 days after the termination date or the missed payment date of a previously executed written payment agreement, or the due date specified in the notice to you of the amount due, if applicable.

(i) If authorization for reinstatement is granted, your policies will be reinstated effective at the beginning of the crop year for which you were determined ineligible, and you will be entitled to all applicable benefits under such policies, provided you meet all eligibility requirements and comply with the terms of the policy; and

(ii) There is no evidence of fraud or misrepresentation; or

(C) We determine that, in accordance with 7 CFR part 400, subpart U and FCIC issued procedures, the following are met:

(1) You can demonstrate:

(i) You made timely payment for the amount of premium owed but you inadvertently omitted some small amount, such as the most recent month's interest or a small administrative fee;

(ii) The amount of the payment was clearly transposed from the amount that was otherwise due (For example, you owed \$832 but you paid \$823); or

(iii) You made the full payment of the amount owed but the payment was delayed and postmarked by no more than 7 calendar days after the termination date or the missed payment date of a previously executed written payment agreement, or the due date specified in the notice to you of the amount due, as applicable.

(2) You remit full payment of the delinquent debt owed to us; and

(3) You submit a written request for reinstatement of your policy to us in accordance with 7 CFR part 400, subpart U and applicable procedures no later than 30 days after the termination date or the missed payment date of a previously executed written payment agreement, or the due date specified in the notice to you of the amount due, if applicable; and

(4) There is no evidence of fraud or misrepresentation.

(iv) A determination made in section 2(f)(2)(iii)(B) exhausts all administrative remedies for purposes of termination.

* * * * *

3. Insurance Guarantees, Coverage Levels, and Prices.

* * * * *

(b) * * *

(2) * * *

(iii) You have additional coverage for the crop in the county, and the actuarial documents provide for separate coverage by irrigated and non-irrigated practices for the crop.

(A) You may select one coverage level for all irrigated acreage and one coverage level for all non-irrigated acreage. For example: you may choose a 65 percent coverage level for all irrigated acreage (corn irrigated practice) and an 80 percent coverage level for all non-irrigated acreage (corn non-irrigated practice).

(B) If the Crop Provisions allow the option to separately insure individual crop types or varieties, and the actuarial documents provide for separate coverage, you may select coverage levels by irrigated and non-irrigated practice for each separate type or variety.

* * * * *

(1) Notwithstanding any other provision, if you qualify as a beginning farmer or rancher and were previously involved in a farming or ranching operation, including involvement in the decision-making or physical involvement in the production of the crop or livestock on the farm, for any acreage obtained by you, you may receive a yield that is the higher of:

(1) The actual production history of the previous producer of the crop or livestock on the acreage you were previously involved with; or

(2) Your actual production history.

* * * * *

5. Exclusion of Yields.

If provided in the actuarial documents, you may elect to exclude any actual yield for any crop year when FCIC determines for a county, or its contiguous counties, the per

planted acre yield was at least 50 percent below the simple average of the per acre planted yield for the crop in the county for the previous 10 consecutive crop years.

* * * * *

7. Annual Premium and Administrative Fees.

* * * * *

(e) * * *

(4) * * *

(i) You qualify as a beginning farmer or rancher;

(ii) You qualify as a limited resource farmer; or

* * * * *

(g) If you qualify as a beginning farmer or rancher, your premium subsidy will be 10 percentage points greater than the premium subsidy that you would otherwise receive, unless otherwise specified in the Special Provisions.

(h) Effective for any policies with a sales closing date on or after July 1, 2015, you will be ineligible for any premium subsidy paid on your behalf by FCIC for any policy issued by us if:

(1) USDA determines you have committed a violation of the highly erodible land conservation or wetland conservation provisions of 7 CFR part 12 as amended by the Agricultural Act of 2014; or

(2) You have not filed form AD-1026, or successor form, with FSA by June 1 prior to the sales closing date to be properly identified as in compliance with the applicable conservation provisions specified in section 7(h)(1).

(i) Notwithstanding section 7(h)(2), if you demonstrate you are a beginning farmer or

rancher who has not previously had an insurable interest in a crop or livestock and began farming for the first time after June 30 prior to the sales closing date, you fail to file form AD-1026 or successor form with the FSA, by June 1 after you make application for insurance.

(ii) To be eligible for premium subsidy paid on your behalf by FCIC, it is your responsibility to assure you meet all the requirements for:

(A) Compliance with the conservation provisions specified in section 7(h)(1) of this section; and

(B) Filing form AD-1026, or successor form, to be properly identified as in compliance with the conservation provisions specified in section 7(h)(1) of this section.

* * * * *

9. Insurable Acreage.

* * * * *

(e) Except as provided in section 9(f), in the states of Iowa, Minnesota, Montana, Nebraska, North Dakota, or South Dakota, during the first four crop years of planting on native sod acreage that has been tilled and is planted to an annual crop after February 7, 2014, such acreage may be insured if the requirements of section 9(a) have been met but will:

(1) Notwithstanding the provisions in section 3 regarding your production guarantee, receive a production guarantee (per acre) that is based on 65 percent of the transitional yield for the county; and

(2) For additional coverage policies, receive a premium subsidy that is 50 percentage points less than would otherwise be provided on acreage not qualifying as native sod. If

the premium subsidy applicable to these acres is less than 50 percent before the reduction, you will receive no premium subsidy.

(f) Section 9(e) is not applicable to areas of native sod acreage that is five acres or less in the county.

* * * * *

25. Correction of Errors

(a) In addition to any other corrections allowed in your policy subject to section 25(b), we may correct:

(1) Within 60 days after the sales closing date, any incorrect information on your application or provided by the sales closing date, including identification numbers for you and any person with an substantial beneficial interest in the you, to ensure that the eligibility information is correct and consistent with information reported by you to any USDA agency;

(2) Within 30 days after the acreage reporting date, information reported to reconcile errors in the information with correct information that has been determined by any USDA agency;

(3) Within 30 days of any subsequent correction of data by FSA, erroneous information corrected as a result of verification of information; and

(4) At any time, any incorrect information if the incorrect information was caused by electronic transmission errors by us or errors made by any agency within USDA in transmitting the information provided by you for purposes of other USDA programs.

(b) Corrections may be made but will not take effect for the current crop year if the correction would allow you to:

(1) Avoid ineligibility requirements for insurance or obtain a disproportionate benefit under the crop insurance program or any related program administered by the Secretary;

(2) Obtain, enhance, or increase an insurance guarantee or indemnity if a cause of loss exists or has occurred before any correction has been made, or avoid premium owed if no loss is likely to occur; or

(3) Avoid an obligation or requirement under any Federal or State law.

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34. Units.

(a) * * *

(4) * * *

(viii) If allowed by the actuarial documents, you may elect separate enterprise units for irrigated and non-irrigated practices.

(A) You may elect one enterprise unit for all irrigated practices and one enterprise unit for all non-irrigated practices.

(B) You must separately meet the requirements in section 34(a)(4) for each enterprise unit.

(C) If we discover you do not qualify for an enterprise unit for the irrigated and non-irrigated practices and such discovery is made:

(1) On or before the acreage reporting date, you may elect to insure all acreage of the crop in the county in one enterprise unit provided you meet the requirements in section 34(a)(4), or your unit division will be based on basic or optional units, whichever you report on your acreage report and qualify for; or

(2) At any time after the acreage reporting date, your unit structure will be one

enterprise unit provided you meet the requirements in section 34(a)(4). Otherwise, we will assign the basic unit structure.

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36. Substitution of Yields.

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(c) Each excluded actual yield will be replaced with a yield equal to 60 percent of the applicable transitional yield for the crop year in which the yield is being replaced, unless you qualify as a beginning farmer or rancher in which case the excluded actual yield will be replaced with a yield equal to 80 percent of the applicable transitional yield for the crop year in which the yield is being replaced. (For example, if you elect to exclude a 2001 crop year actual yield, the transitional yield in effect for the 2001 crop year in the county will be used. If you also elect to exclude a 2002 crop year actual yield, the transitional yield in effect for the 2002 crop year in the county will be used). The replacement yields will be used in the same manner as actual yields for the purpose of calculating the approved yield.

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Signed in Washington, D.C., on June 23, 2014.

Brandon C. Willis
Manager
Federal Crop Insurance Corporation

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