



**Billing Code 3410-08-P**

**DEPARTMENT OF AGRICULTURE**

**Federal Crop Insurance Corporation**

**7 CFR Part 457**

**[Docket ID FCIC-19-0006]**

**RIN 0563-AC62**

**Common Crop Insurance Regulations; Rice Crop Insurance Provisions**

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

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

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) amends the Common Crop Insurance Regulations, Rice Crop Insurance Provisions (Crop Provisions). The intended effect of this action is to allow for new irrigation methods and change the cancellation and termination dates in certain states to align with other row crops to implement the changes contained in the Agriculture Improvement Act of 2018 (commonly referred to as the 2018 Farm Bill). The changes will be effective for the 2020 and succeeding crop years.

**DATES:** *Effective Date:* This final rule is effective November 30, 2019.

*Comment Date:* We will consider comments that we receive on this rule by the close of business **[insert date 60 days after publication in the *FEDERAL REGISTER*]**. FCIC will consider these comments and make changes to the rule if warranted in a subsequent rulemaking.

**ADDRESSES:** We invite you to submit comments on this rule. In your comments, include the date, volume, and page number of this issue of the *Federal Register*, and the

title of rule. You may submit comments by any of the following methods, although FCIC prefers that you submit comments electronically through the Federal eRulemaking Portal:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and search for Docket ID FCIC-19-0006. Follow the online 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 and publicly available on <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Francie Tolle; telephone (816) 926-7829; email [francie.tolle@usda.gov](mailto:francie.tolle@usda.gov). Persons with disabilities who require alternative means of communication should contact the USDA Target Center at (202) 720-2600 (voice).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The FCIC serves America's agricultural producers through effective, market-based risk management tools to strengthen the economic stability of agricultural producers and rural communities. FCIC is committed to increasing the availability and effectiveness of Federal crop insurance as a risk management tool. Approved Insurance Providers (AIP) sell and service Federal crop insurance policies in every state and in Puerto Rico through a public-private partnership. FCIC reinsures the AIPs who share the risks associated with catastrophic losses due to major weather events. FCIC's vision is to

secure the future of agriculture by providing world class risk management tools to rural America.

Federal crop insurance policies typically consist of the Basic Provisions, the Crop Provisions, the Special Provisions, the Commodity Exchange Price Provisions, if applicable, other applicable endorsements or options, the actuarial documents for the insured agricultural commodity, the Catastrophic Risk Protection Endorsement, if applicable, and the applicable regulations published in 7 CFR chapter IV.

FCIC amends the Common Crop Insurance Regulations (7 CFR part 457) by revising 7 CFR 457.141 Rice Crop Insurance Provisions to implement the changes contained in the 2018 Farm Bill (Pub. L. 115-334) to be effective for the 2020 and succeeding crop years. The 2018 Farm Bill requires that FCIC research and develop an insurance product that provides coverage to alternative irrigation practices for rice; specifically, intermittent flooding and furrow irrigation practices.

The changes to 7 CFR 457.141 Rice Crop Insurance Provisions are as follows:

1. Section 5 – FCIC is adding an additional cancellation and termination date of March 15 for Illinois and Missouri. This change is needed to make the dates consistent with other row crops in these states.

2. Section 6 – FCIC is revising section 6(c) to allow additional irrigation methods to be specified in the Special Provisions. In the past, rice has traditionally been grown under flood irrigation, whereby an entire field is continuously flooded during the entire growing season and not drained until preparations for harvest. Currently, only continuously-flooded rice is covered under the Rice Crop Provisions.

The intermittent flood irrigation and furrow irrigation methods are desirable

alternatives to continuous flood irrigation because they produce a similar yield to continuously flooded fields while using less water and lowering greenhouse gas emissions.

Intermittent flood irrigation is a method of crop irrigation, also known as alternate wetting and drying (AWD), that allows flood irrigation water within a field to subside naturally (dry down) during rice growth and development before the rice field is reflooded.

Furrow irrigation is a method of crop irrigation in which furrows are created to convey water down the field; capacity and equipment must be able to apply water uniformly across the crown of the field to assure water delivery to all rice plants in the field.

These alternative irrigation methods will offer existing rice growers flexibility to choose the most appropriate irrigation method for their farming operation, while maintaining crop insurance eligibility. Crop insurance is an important component of many farming operations to manage financial risks and is often required by lending institutions to receive an operating loan.

### **Effective Date and Notice and Comment**

In general, the Administrative Procedure Act (APA, 5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the *Federal Register* for interested persons to be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation and requires a 30-day delay in the effective date of rules, except when the rule involves a matter relating to public property, loans, grants, benefits, or contracts. This rule involves matters

relating to contracts and therefore the requirements in section 553 do not apply.

Although not required by APA, FCIC has chosen to request comments on this rule.

The Office of Management and Budget (OMB) designated this rule as not major under the Congressional Review Act, as defined by 5 U.S.C. 804(2). Therefore, FCIC is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Accordingly, this rule is effective November 30, 2019.

### **Executive Orders 12866, 13563, 13771 and 13777**

Executive Order 12866, “Regulatory Planning and Review,” and Executive Order 13563, “Improving Regulation and Regulatory Review,” direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, “Enforcing the Regulatory Reform Agenda,” established a federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866, “Regulatory Planning and Review,” and therefore, OMB has not reviewed this rule.

Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs,” requires that in order to manage the private costs required to comply with Federal regulations that for every new significant or economically significant regulation issued, the new costs must be offset by the elimination of at least two prior regulations. As this

rule is designated as not significant, it is not subject to Executive Order 13771.

### **Clarity of the Regulation**

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this rule, we invite your comments on how to make the rule easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

### **Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601-612), as amended by SBREFA, generally requires an agency to prepare a regulatory analysis of any rule whenever an agency is required by APA or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because as

noted above, this rule is exempt from APA and no other law requires that a proposed rule be published for this rulemaking initiative.

### **Environmental Review**

In general, the environmental impacts of rules are to be considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321-4347) and the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508). FCIC conducts programs and activities that have been determined to have no individual or cumulative effect on the human environment. As specified in 7 CFR 1b.4, FCIC is categorically excluded from the preparation of an Environmental Analysis or Environmental Impact Statement unless the FCIC Manager (agency head) determines that an action may have a significant environmental effect. The FCIC Manager has determined this rule will not have a significant environmental effect. Therefore, FCIC will not prepare an environmental assessment or environmental impact statement for this action and this rule serves as documentation of the programmatic environmental compliance decision.

### **Executive Order 12372**

Executive Order 12372, “Intergovernmental Review of Federal Programs,” requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice regarding 7 CFR part 3015, subpart V (48 FR 29115, June 24,

1983), the programs and activities in this rule are excluded from the scope of Executive Order 12372.

**Executive Order 12988**

This rule has been reviewed under Executive Order 12988, “Civil Justice Reform.” This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. Before any judicial actions may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 are to be exhausted.

**Executive Order 13132**

This rule has been reviewed under Executive Order 13132, “Federalism.” The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

**Executive Order 13175**

This rule has been reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes or on the distribution of



power and responsibilities between the Federal Government and Indian Tribes.

FCIC has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our knowledge, have Tribal implications that require Tribal consultation under EO 13175. The regulation changes do not have Tribal implications that preempt Tribal law and are not expected have a substantial direct effect on one or more Indian Tribes. If a Tribe requests consultation, FCIC will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes and additions identified in this rule are not expressly mandated by the 2018 Farm Bill.

### **Unfunded Mandates**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104-4) requires Federal agencies to assess the effects of their regulatory actions of State, local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including cost benefits analysis, for proposed and final rules with Federal mandates that may result in expenditures of \$100 million or more in any 1 year for State, local or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of 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.

### **Federal Assistance Program**

The title and number of the Federal Domestic Assistance Program listed in the Catalog of Federal Domestic Assistance to which this rule applies is No. 10.450 – Crop

Insurance.

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

In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, subchapter I), the rule does not change the information collection approved by OMB under control numbers 0563-0053.

### **E-Government Act Compliance**

FCIC is committed to complying with the E-Government Act, 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.

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

Acreage allotments, Crop insurance, Reporting and recordkeeping requirements.

### **Final Rule**

For the reasons discussed above, FCIC amends 7 CFR part 457, effective for the 2021 and succeeding crop years, as follows:

### **PART 457 - COMMON CROP INSURANCE REGULATIONS**

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

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

2. Amend § 457.141 as follows:

- a. In the introductory text by removing “2017” and adding “2020” in its place;
- b. Revise the table in section 5; and
- c. Revise section 6(c).

The revisions read as follows:

#### **§ 457.141 Rice crop insurance provisions.**

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5. Cancellation and Termination Dates

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State and County	Cancellation and Termination Date
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, and Dimmit Counties, Texas; and all Texas Counties south thereof;	January 31
Florida	February 15
Illinois and Missouri	March 15
All other states	February 28

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6. Insured Crop.

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(c) That is flood irrigated unless otherwise specified in the Special Provisions;

and

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Robin Anderson,  
Executive Secretary,  
Federal Crop Insurance Corporation.

[FR Doc. 2019-25386 Filed: 11/21/2019 8:45 am; Publication Date: 11/22/2019]