



**Billing Code 3410-08-P**

**DEPARTMENT OF AGRICULTURE**

**Federal Crop Insurance Corporation**

**7 CFR Part 457**

**[Docket ID FCIC-20-0003]**

**RIN 0563-AC67**

**Common Crop Insurance Regulations; Forage Production Crop Insurance Provisions and Forage Seeding 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, Forage Production Crop Insurance Provisions and Forage Seeding Crop Insurance Provisions. The intended effect of this action is to update existing policy provisions and definitions to better reflect current agricultural practices and allow for variations in insurance provisions based on regionally-specific agronomic conditions and potential future expansions. The changes are to be effective for the 2021 and succeeding crop years.

**DATES:** *Effective date:* The Forage Seeding amendments to 7 CFR 457.151 are effective April 30, 2020, and the Forage Production amendments to 7 CFR 457.117 are effective June 30, 2020.

*Comment date:* We will consider comments that we receive on this rule until 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-20-0003. 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>.

**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.). Interested persons may review the complete User Notice and Privacy Notice for Regulations.gov at <http://www.regulations.gov/#!/privacyNotice>.

**FOR FURTHER INFORMATION CONTACT:** Francie Tolle; Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 7829, PO Box 419205, Kansas City, MO 64141-6205, telephone (816) 926-7730; email [francie.tolle@usda.gov](mailto:francie.tolle@usda.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Forage Production Background**

FCIC amends the Common Crop Insurance Regulations (7 CFR part 457) by revising 7 CFR 457.117 Forage Production Crop Insurance Provisions, to be effective for the 2021 and

succeeding crop years. The intended effect of this action is to ensure cohesiveness and continual coverage between the Forage Seeding and Forage Production Crop Insurance Provisions.

The changes are as follows:

1. FCIC is removing the paragraph immediately preceding section 1, which refers to the order of priority if a conflict exists among the policy provisions. This same provision is contained in the Common Crop Insurance Policy, Basic Provisions (“Basic Provisions”). Therefore, the appearance here is duplicative and should be removed from the Crop Provisions.

2. Section 1 – FCIC is revising the definition of “adequate stand.” The new definition will rely upon the number of live alfalfa stems for making loss determinations for forage containing more than 60 percent alfalfa. Loss determinations for forage types that contain less than 60 percent alfalfa or no alfalfa at all, such as red clover, will be based upon the normal planting density because there is no demonstrable correlation between future yield and the number of live alfalfa stems when the forage type does not contain at least 60 percent alfalfa.

FCIC is revising the definition of “fall planted” by adding the phrase, “except when specified in the Special Provisions,” following the phrase, “A forage crop seeded after June 30,” to allow FCIC to provide area-specific dates that have distinctions outside of this range. For example, Maine is currently recognized as having a single growing season with planting dates that begin before June 30 but that can extend beyond June 30, which is inconsistent with existing definitions for “spring planted” and “fall planted.” This change also allows FCIC to be responsive to new or evolving regional conditions as needed in the future.

FCIC is adding the definition of “normal planting density.” The new definition will utilize the former definition of adequate stand to be “the minimum number of live plants per square foot as shown in the Special Provisions.” The normal planting density is more appropriate for

measuring successful establishment of forage with less than 60 percent alfalfa ground cover.

FCIC is revising the definition of “spring planted” to include a reference to the Special Provisions. The revised definition adds the phrase “except when specified in the Special Provisions,” following the phrase “A forage crop seeded before July 1,” to allow FCIC to provide area specific dates that have distinctions outside of this range. This change allows FCIC to be responsive to new or evolving regional conditions as needed in the future.

FCIC is revising the definition of “Year of establishment” by moving the sentences “Insurance under this policy does not attach until after the year of establishment” and “Insurance during the year of establishment may be available under the forage seeding policy” to the end of the definition. FCIC is reordering this definition to reduce confusion and clear up potential misunderstandings by reorganizing the definition in a more logical order.

3. Section 2 – FCIC is revising the section heading to state “Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.” FCIC is revising this section heading to correct a typo and simplify the heading.

FCIC is removing the phrase, “(Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities)” when referring to section 3 of the Basic Provisions because the parenthetical section name is unnecessary and removing these titles will prevent FCIC from having to revise the Crop Provisions if section titles change in the Basic Provisions. FCIC is also removing the parenthetical reference to the Basic Provisions’ section number, “(§457.8)” to be consistent throughout the policy.

FCIC is revising section 2(a) by stating the price elections are found in the “actuarial documents,” not the “special provisions.” FCIC is replacing this term as price elections are referenced in actuarial documents, not the special provisions.

4. Section 3 - FCIC is removing the phrase, “(Contract Changes)” when referring to section 4 of the Basic Provisions because the parenthetical section name is unnecessary and removing these titles will prevent FCIC from having to revise the Crop Provisions if section titles change in the Basic Provisions. FCIC is also removing the parenthetical reference to the Basic Provisions’ section number, “(§457.8)” to be consistent throughout the policy.

5. Section 4 - FCIC is revising the cancellation and termination dates for Arizona from September 30 to October 31, to align the dates with those for California because Arizona is agronomically similar to California. FCIC is also revising the cancellation and termination dates for Nevada and Utah from October 31 to September 30 because insurance attaches October 16 and having a September sales closing date accommodates the insurance attachment date.

6. Section 6 – FCIC is revising Section 6(a), by replacing paragraph (2) to clarify that the crop must not be intended to be grazed and cannot be grazed at any time during the insurance period to be insurable. This clarification ensures that insureds will not graze the stand in lieu of harvesting it and claim an indemnity for the harvested shortfall. FCIC is also adding paragraph (3) to indicate that the insured crop will include all forage that follows a year of establishment that results in an adequate stand as shown in the Special Provisions. This clarification is provided as Forage Production is an Actual Production History (APH) plan of insurance that is based on actual harvest of the forage acreage following the year of establishment.

FCIC is revising Section 6(b) by removing the phrase, “(Insured Crop)” when referring to section 8 of the Basic Provisions because the parenthetical section name is unnecessary and removing these titles will prevent FCIC from having to revise the Crop Provisions if section titles change in the Basic Provisions. FCIC is also removing the parenthetical reference to the Basic Provisions’ section number, “(§457.8)” to be consistent throughout the policy.

7. Section 7 – FCIC is removing the phrase, “(Insurance Period)” when referring to section 11 of the Basic Provisions because the parenthetical section name is unnecessary and removing these titles will prevent FCIC from having to revise the Crop Provisions if section titles change in the Basic Provisions. FCIC is also removing the parenthetical reference to the Basic Provisions’ section number, “(§457.8)” to be consistent throughout the policy.

FCIC is also removing all state and county references in Section 7(a) and 7(b)(6), Insurance Period, and instead refer to the attachment date and end of insurance period date shown in the actuarial documents to simplify the provision and allow FCIC to provide area specific dates, allow for future program expansion, and allow FCIC to continue to be responsive to new or evolving regional conditions as needed in the future.

FCIC is changing section 7(b) to state “forage production insurance” instead of “insurance” to provide clarity and to clear up potential misunderstandings.

FCIC is removing section 7(c) as the Forage Production Winter Coverage Endorsement is currently not an insurable coverage option.

8. Section 8 – FCIC is revising Section 8, Causes of Loss by removing the phrase, “(Causes of Loss)” when referring to section 12 of the Basic Provisions because the parenthetical section name is unnecessary and removing these titles will prevent FCIC from having to revise the Crop Provisions if section titles change in the Basic Provisions. FCIC is also removing the parenthetical reference to the Basic Provisions’ section number, “(§457.8)” to be consistent throughout the policy.

FCIC is also revising section 8(b) to state that we will not insure against damage of loss of production that occurs after “harvest” instead of after “removal from the windrow”. The two phrases are interchangeable but using the word “harvest” will apply consistent use of the

definition of harvest throughout the policy.

9. Section 9 – FCIC is revising Section 9(a) to replace “harvest” with “cutting”. The section will state that the producer must notify the approved insurance provider within 3 days of the date cutting should have started if the insured crop will not be harvested. The definition of cutting is more appropriate than harvest in this instance as harvest requires removal of the forage from the windrow or field, and cutting is the severance of the forage plant from its roots.

10. Section 10 - FCIC is correcting references throughout Section 10(b) to reference Section 10 instead of Section 11. FCIC is also providing grammatical edits to example 1 and example 2 of Section 10.

FCIC is revising section 10(f) by removing the phrase, “(Production Included in Determining Indemnities)” when referring to section 15 of the Basic Provisions because the parenthetical section name is unnecessary and removing these titles will prevent FCIC from having to revise the Crop Provisions if section titles change in the Basic Provisions. FCIC is also removing the parenthetical reference to the Basic Provisions’ section number, “(§457.8)” to be consistent throughout the policy.

### **Forage Seeding Background**

FCIC amends the Common Crop Insurance Regulations (7 CFR part 457) by revising 7 CFR 457.151 Forage Seeding Crop Insurance Provisions, to be effective for the 2021 and succeeding crop years. The intended effect of this action is to update existing policy provisions and definitions to better reflect current agricultural practices and allow for variations in insurance provisions based on regional agronomic conditions and potential future expansions.

The changes are as follows:

1. FCIC is removing the paragraph immediately preceding section 1, which refers to the

order of priority if a conflict exists among the policy provisions. This same provision is contained in the Common Crop Insurance Policy, Basic Provisions (“Basic Provisions”). Therefore, the appearance here is duplicative and should be removed from the Crop Provisions.

2. Section 1 – FCIC is adding the definition of “adequate stand.” The new definition will allow RMA to revise loss adjustment procedures to rely upon the number of live alfalfa stems rather than the number of live plants (normal stand) for making loss determinations for forage containing more than 60 percent alfalfa. Plants can have more than one stem. Extension research across major forage growing areas has demonstrated that the number of live alfalfa stems is more closely correlated with future yield than the number of live plants when alfalfa is the dominant component of the forage mixture. Loss determinations for forage types that contain less than 60 percent alfalfa or no alfalfa at all, such as red clover, will have no change to existing loss adjustment procedures and, as stated below, will be based upon the normal planting density because there is no demonstrable correlation between future yield and the number of live alfalfa stems when the forage type does not contain at least 60 percent alfalfa.

FCIC is adding the definition of “amount of insurance.” The term “amount of insurance” refers to the dollar amount of insurance per acre obtained by multiplying the reference maximum dollar amount shown in the actuarial documents by the coverage level percentage elected by the insured. FCIC adds this definition to provide clarity because the term is used multiple times in the Crop Provisions but is not defined.

FCIC is removing the definition of “nurse crop (companion crop)” and adding the definition of “companion crop”. FCIC also replaces the definition “nurse crop (companion crop)” with the term “companion crop” throughout the Crop Provisions. FCIC replaces this definition to reduce ambiguity and increase clarity by using one term instead of referring to “nurse crop” and

“companion crop” interchangeably.

FCIC is revising the definition of “fall planted” by adding the phrase “except when specified in the Special Provisions,” following the phrase “A forage crop seeded after June 30” to allow FCIC to provide area-specific dates that have distinctions outside of this range. For example, Maine is currently recognized as having a single growing season with planting dates that begin before June 30 but that can extend beyond June 30, which is inconsistent with existing definitions for “spring planted” and “fall planted.” This change also allows FCIC to be responsive to new or evolving regional conditions as needed in the future.

FCIC is revising the definition of “good farming practices.” The revised definition adds the phrase “in lieu of the definition in the Basic Provisions” to clarify that the “good farming practices” definition in the Crop Provisions will replace the definition contained in the Basic Provisions. The definition in the Basic Provisions is not appropriate for forage seeding because it includes references to the insured’s approved yield, but these Crop Provisions provide coverage for a failed forage seeding, not for yield losses below an insured’s approved yield. The revised definition also replaces the phrase “normal stand” with “adequate stand,” because the adequate stand will be used to determine if the forage seeding was successful. The revised definition also replaces the phrase “and are those recognized by the National Institute of Food and Agriculture as compatible with agronomic and weather conditions in the county” with “which are those generally recognized by agricultural experts or organic agricultural experts, as compatible with agronomic and weather conditions for the area” to be more consistent with the definition of “good farming practices” contained in the Basic Provisions (even though the definition in the Basic Provisions is no longer applicable, some of the same principles apply). These changes are intended to ensure that the definition is consistent with the practices

applicable to forage seeding crops.

FCIC is revising the definition of “harvest” to remove the word “only” before “grazed” to clarify that the acreage does not have to be exclusively grazed to not be considered harvested. If the acreage is grazed at any time regardless of whether the crop is removed from the field, it is not considered harvested.

FCIC is removing the definition of “normal stand” and replacing it with the definition of “normal planting density.” The new definition of “normal planting density” simplifies the previous definition of “normal stand” by replacing the phrase “a population of live plants per square foot that meets the minimum required number of plants” with the more concise phrase “the minimum number of live plants per square foot.” The normal planting density will be used to determine if the stand qualifies for replanting payments. The normal planting density will result in more accurate replanting payments than basing replant determinations on an adequate stand because not all stems may have emerged when replanting determinations are made.

FCIC is revising the definition of “planted acreage” by removing the reference to “provisions in section 1” and replacing it with the more specific phrase “definition in”. This is not a substantive change, but it makes it consistent with other definitions that refer to the definitions in the Basic Provisions.

FCIC is revising the definition of “replanting” by removing the duplicative language that is already contained in the Basic Provisions. FCIC is revising the remaining sentence of the current definition by adding the phrase “in addition to the definition in the Basic Provisions” to clarify that the “replanting” definition in the Crop Provisions will add to the definition contained in the Basic Provisions, substituting the word “replacing” with the word “placing” as it is a more accurate term for seeding an existing stand, and replacing the phrase “which results in” with the

word “using” to convey that using a reduced seeding rate to replace seed into an existing damaged stand will not be considered replanting.

FCIC is revising the definition of “sales closing date.” The revised definition replaces the term “fall seeded” with “fall planted” and “spring seeded” with “spring planted.” These terms are used interchangeably, and this change will add clarity and reduce confusion because “fall planted” and “spring planted” are defined within the policy, but “fall seeded” and “spring seeded” are not.

FCIC is revising the definition of “spring planted.” The revised definition adds the phrase “except when specified in the Special Provisions,” following the phrase “A forage crop seeded before July 1,” to allow FCIC to provide area specific dates that have distinctions outside of this range. For example, Maine is currently recognized as having a single growing season with planting dates that begin before June 30 but that can extend beyond June 30, which is inconsistent with existing definitions for “spring planted” and “fall planted”. This change also allows FCIC to be responsive to new or evolving regional conditions as needed in the future. FCIC proposes this change to reduce ambiguity and increase clarity because the definition of “crop year” references the calendar year of the planted acreage.

3. Section 3 – FCIC is revising section 3(a) and 3(b) by removing the phrase, “(Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities)” when referring to section 3 of the Basic Provisions because the parenthetical section name is unnecessary and removing these titles will prevent FCIC from having to revise the Crop Provisions if section titles change in the Basic Provisions. FCIC is also removing the parenthetical reference to the Basic Provisions’ section number, “(§457.8)” to be consistent throughout the policy.

FCIC is also revising section 3 to clarify the circumstances under which a producer can make

changes to their insurance in counties that have both fall and spring sales closing dates (often referred to as “dual counties”). Producers who do not plant any fall planted acreage may purchase or revise their insurance coverage until the spring (later) sales closing date. Producers who plant fall planted acreage may not revise their coverage at the spring sales closing date and may not purchase insurance on the spring planted acreage if no coverage was purchased on the fall planted acreage. These conditions mirror those of other insurance programs that provide coverage for both fall planted and spring planted acreage in the same county, but the conditions are new to the Forage Seeding insurance policy.

4. Section 5– FCIC is replacing the cancellation and termination date table with a new date table. The new dates allow for expansion of the fall planted practice and align forage seeding cancellation and termination dates with the dates for other fall planted crops in each state. Maine’s cancellation and termination dates will remain unchanged at March 15 to allow time after premium billing for a termination decision to be made. In all other states, the cancellation date will be July 31 and termination date will be September 30 to allow time after premium billing for a termination decision to be made.

5. Section 6– FCIC is replacing the term “acreage report date” with the term “acreage reporting date.” FCIC is making this change because the term “acreage reporting date” is defined in the Basic Provisions and also appears in the Special Provisions.

6. Section 7– FCIC is revising section 8 by removing the phrase, “(Insured Crop)” when referring to section 8 of the Basic Provisions because the parenthetical section name is unnecessary and removing these titles will prevent FCIC from having to revise the Crop Provisions if section titles change in the Basic Provisions. FCIC is also removing the parenthetical reference to the Basic Provisions’ section number, “(§457.8)” to be consistent

throughout the policy.

FCIC is also replacing “a normal stand” with “an adequate stand” and “nurse crops” with “companion crops” to incorporate the references to the newly defined terms stated above, in Section 1.

7. Section 8– FCIC is revising section 8(a) to simplify this section by removing references to states and counties and applying the same replanting requirements to all insurable areas. FCIC is removing section 8(b) which requires some California counties to replant if damage occurred anytime within the crop year, compared to all other areas, where replanting is only required for damage that occurred before the final planting date. This change was done concurrently with revisions to section 11, which outlines when replanting payments are allowed based on region and spring or fall planting. While these changes will simplify the Crop Provisions by streamlining requirements for all areas, cases may arise that necessitate different requirements for localized geographic areas. Therefore, FCIC is also allowing these provisions to be modified at the county-level in the Special Provisions to allow FCIC greater flexibility in determining regional specific distinctions for replanting requirements and to protect program integrity and insured interests by allowing FCIC, with assistance from forage subject matter experts and regional offices, to address regional specific production practices. FCIC is also replacing the phrase “a normal stand” with “the normal planting density,” consistent with the changes above regarding the definition change.

8. Section 9 – FCIC is revising section 9 by removing the phrase, “(Insurance Period)” when referring to section 11 of the Basic Provisions because the parenthetical section name is unnecessary and removing these titles will prevent FCIC from having to revise the Crop Provisions if section titles change in the Basic Provisions. FCIC is also removing the

parenthetical reference to the Basic Provisions' section number, “(§457.8)” to be consistent throughout the policy.

FCIC is revising section 9(c) to be grammatically correct.

FCIC is also removing all state and county specific end of insurance dates in 9(g) and instead referring to the end of insurance period date shown in the actuarial documents. This change will simplify the provision and allow FCIC to provide area specific dates, allow for future program expansion, and allow FCIC to continue to be responsive to new or evolving regional conditions as needed in the future.

9. Section 10– FCIC is revising section 10 by removing the phrase, “(Causes of Loss)” when referring to section 12 of the Basic Provisions because the parenthetical section name is unnecessary and removing these titles will prevent FCIC from having to revise the Crop Provisions if section titles change in the Basic Provisions. FCIC is also removing the parenthetical reference to the Basic Provisions' section number, “(§457.8)” to be consistent throughout the policy.

FCIC is replacing the phrase “a stand of forage that occur” with the phrase “an adequate stand that occurs.” This change reduces ambiguity and clarifies the provisions because “adequate stand” is a defined term but “stand of forage” is not, which could lead to different results when determining losses.

10. Section 11– In section 11(a), FCIC is moving the phrase “unless specified otherwise in the Special Provisions,” from paragraph (a)(1) (addressing California only) to the main paragraph (addressing all areas) to allow FCIC greater flexibility in determining regional specific distinctions for replanting payments and to protect program integrity and insured interests by allowing FCIC, with assistance from forage subject matter experts and regional offices, to

address regional specific production practices.

FCIC is moving the phrase “It is practical to replant;” from paragraph (a)(2)(iii) (addressing Lassen, Modoc, Mono, Shasta, Siskiyou Counties, California and all other states) to the paragraph 11(a)(1) (addressing all areas). FCIC is moving this phrase to consistently apply the requirement that it be practical to replant in order to receive a replanting payment across all counties and states.

In section 11(a)(2), FCIC is moving the phrase “We give written consent to replant;” from paragraph (a)(2)(iv) (addressing Lassen, Modoc, Mono, Shasta, Siskiyou Counties, California and all other states) to the paragraph 11(a)(2) (addressing all areas). FCIC is moving this phrase to require written consent by approved insurance providers as a requirement of replanting payments across all counties and states. FCIC is renumbering subsequent paragraphs.

In the newly designated section 11(a)(3) FCIC is replacing the phrase “within the insurance period” with the phrase “before the spring final planting date in the actuarial documents.” FCIC is replacing this phrase so that allowable replanting payments correlate with replanting requirements. Specifically, this change corresponds with the removal of section 8(b), which removed the replanting requirement in California counties for damage occurring after the spring final planting date. Therefore, the spring final planting date is a more appropriate timeframe for defining when replanting payments are available. FCIC is replacing “a normal stand” with “the normal planting density” consistent with the changes made above.

FCIC is revising the newly designated section 11(a)(4) to remove the list of specific California counties. This list is not needed because the Special Provisions will include any county differences in replanting payment provisions.

FCIC is removing section 11(a)(4)(i), renumbering subsequent paragraphs, and adding the

phrase “spring or” before “fall planted” in the newly designated section 11(a)(4)(i) to extend replanting payment eligibility to include both fall and spring planted practices, as opposed to the current provisions that allowed replanting only for a failed fall seeding in counties that designated both fall and spring final planting dates. FCIC is adding this language in order to allow replanting payments for producers engaged in the spring planted practice. A producer that plants a forage crop in the spring suffers the same financial consequences as a producer of a fall planted crop, if that crop fails to emerge or suffers damage and needs to be replanted. Therefore, FCIC is expanding coverage to allow replanting payments for spring planted forage as well as fall planted forage. As the plan requires replanting to maintain the insurance, this will provide some compensation to cover replanting costs. Additionally, FCIC is replacing the phrase “a normal stand” with the phrase “the normal planting density,” consistent with definition change.

In the newly designated section 11(a)(2)(ii), FCIC is revising the paragraph to clarify the provision only pertains to the fall planted practice, because a separate provision is added below to address the spring planted practice. FCIC is also adding the word “final” before “planting date” to eliminate ambiguity between planting dates. FCIC is also correcting the grammar.

FCIC is revising the newly designated section 11(a)(2)(iii) to provide that if spring planted, the original planting took place after the earliest planting date shown in the Special Provisions, and the acreage is replanted by the spring final planting date shown in the Special Provisions. FCIC is adding this language in order to allow replanting payments for producers engaged in the spring planted practice. A producer that plants a forage crop in the spring suffers the same financial consequences as a producer of a fall planted crop, if that crop fails to emerge or suffers damage and needs to be replanted. Therefore, FCIC is expanding coverage to allow replanting payments for spring planted forage as well as fall planted forage. Additionally, as the plan

requires replanting to maintain the insurance, this will provide some compensation to cover replanting costs.

In section 11(b), FCIC is adding “(a)” directly after “section 13” to more specifically reference section 13(a). This addition clarifies which specific part of section 13 this provision is referencing.

11. Section 12—In section 12(a) and 12(b), FCIC is removing the phrase, “(Duties in the Event of Damage or Loss)” when referring to section 14 of the Basic Provisions because the parenthetical section name is unnecessary and removing these titles will prevent FCIC from having to revise the Crop Provisions if section titles change in the Basic Provisions. FCIC is also removing the parenthetical reference to the Basic Provisions’ section number, “(§457.8)” to be consistent throughout the policy.

In section 12(b), FCIC is also adding the adjective “damaged” before “fall planted acreage” and removing the phrase “that is damaged” after the phrase “fall planted acreage” to simplify the language and clarify the provisions.

12. Section 13 – FCIC is removing the sub-section designation of “(a)” as it is not needed in the introductory paragraph. FCIC is also adding paragraph designation “(a)” and the statement “Each type and practice:” directly following the introductory paragraph in order to clarify and simplify the section, because the steps for settling a claim should be followed for each type and practice, and then summed to any applicable unit.

FCIC is revising section 13(a)(1) to change the phrase, “Multiplying the insured acreage of each type and practice by the amount of insurance for the applicable type and practice;” to, “Determining the value of all insured acreage by multiplying the number of insured acres by the dollar amount of insurance;”. This change is intended to clarify that this is the outcome of the

calculation in this step and to remove reference to type and practices because type and practice instructions are already stated in 13(a).

FCIC is removing 13(a)(2), because the step for totaling results by type and practice from 13(a) is moved to the newly designated 13(b).

FCIC is revising section 13(a)(3) to change the phrase, “multiplying the total acres with an established stand for the insured acreage of each type and practice in the unit by the amount of insurance for the applicable type and practice” to, “determining the value of the acreage with no insurable losses, by multiplying the dollar amount of insurance by the insured acreage that”. This change is intended to simplify the policy language by removing the term “established stand,” which was referenced within the settlement steps of section 13(b); clarifying the outcome of the calculation in this step by adding the phrase, “value of the acreage with no insurable losses”; and removing the phrase “for each type and practice” because this instruction is already stated in 13(a). In addition, FCIC designates 13(a)(3) as 13(a)(2).

FCIC is moving the settlement steps in section 13(b), previously referred to as an “established stand” to section 13(a)(2)(i)-(iv). In moving these settlement steps, FCIC is also revising section 13(a)(2)(i)-(iv) to each start with a verb to provide more cohesive language and reduce redundancy between the introductory text and subordinate paragraphs.

FCIC is adding a new section 13(a)(3) to provide that determining the value of the acreage with partial insurable losses, by multiplying the dollar amount of insurance by the number of insured acres that have a stand less than 75 percent but more than 55 percent of an adequate stand, by 50 percent (0.5). This step was previously captured in section 13(c), which provided that the amount of indemnity on any spring planted acreage determined in accordance with section 13(a) will be reduced 50 percent if the stand is less than 75 percent but more than 55

percent of a normal stand. FCIC is moving this step to section 13(a)(3) so that all steps for settling a claim throughout section 13 are presented in sequential order. FCIC is updating the language of this step to clarify that the outcome of the calculation in this step is determining the value of acreage with partial insurable losses by adding the phrase, “determining the value of the acreage with partial insurable losses”. FCIC is also removing reference to spring planted acreage because the steps for settling a claim are first done by any applicable unit, which is already defined to allow basic units by spring planted and fall planted acreage. FCIC is replacing the term “a normal stand” with the term “an adequate stand,” consistent with the new definition. FCIC is removing section 13(c) because it is incorporated into section 13(a)(3), and it is no longer needed.

FCIC is revising section 13(a)(4), to state “Adding the results in section 13(a)(2) and section 13(a)(3);”. This revision calculates the total value of the acreage with no insurable loss by adding together the value of acreage with no insurable loss plus the value of acreage with partial insurable loss. FCIC removes the previous language because the step for totaling results by type and practice from 13(a) is moved to the newly designated 13(b).

FCIC is updating section 13(a)(5) reference of section 13(a)(2) to section 13(a)(1) and change the words “result” to “results”. This step will function as subtracting the total value of the acreage with no insurable loss from the total value of all insured acreage to determine the total value of acreage with insurable losses. This calculation will be for each type and practice. FCIC is also removing the word “and” at the end of the section as it is not needed for this step.

FCIC is revising 13(a)(6) to update the section reference from section 13(a)(5) to 13(a)(3). FCIC is also adding the word “and” at the end of the section 13(a)(6) to provide a cohesive transition to the final step for settlement of a claim in 13(b).

FCIC is adding section 13(b) to state “totaling the results in section 13(a).” Totaling results for each type and practice to any applicable unit was previously included twice in the steps for settling a claim. With this revision, totaling results for each type and practice is only performed once.

FCIC is revising the indemnity calculation example to portray the revised steps for settlement of a claim in section 13. The revised example demonstrates the difference in calculations when a portion of the acreage has a stand between 55 and 75 percent of an adequate stand versus a stand with less than 55 percent of an adequate stand. Additional revisions to the indemnity calculation example include replacing each instance of, “remaining stand of 75 percent or greater” with, “remaining stand of 75 percent of an adequate stand or greater” and to replace, “75% stand or greater” with, “75% of an adequate stand or greater” to reduce ambiguity and clarify that loss determinations are to be determined relative to adequate stand. In the indemnity calculation, FCIC also is replacing “\$100.00” with “\$100” and “\$90.00” with “90.” This change simplifies the example calculations.

### **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.

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) normally

requires that an agency delay the effective date of a major rule for 60 days from the date of publication to allow for Congressional review. This rule is not a major rule under SBREFA (Pub. L. 104-121). Therefore, FCIC is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review.

This final rule is effective April 30, 2020. Although not required by APA, FCIC has chosen to request comments on this rule.

### **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, additions and modifications identified in this rule are not expressly mandated by Congress.

### **The Unfunded Mandates Reform Act of 1995**

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 7 CFR part 457 is revised to read as follows:

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

2. Amend § 457.117 as follows:

a. Remove “2001” and add “2021” in its place in the introductory text;

b. Remove the undesignated paragraph immediately preceding section 1;

c. In section 1:

i. Revise the definitions of “Adequate stand” and “Fall planted”;

ii. Add the definition of “Normal planting density” in alphabetical order; and

iii. Revise the definitions of “Spring planted” and “Year of establishment”;

d. Revise sections 2, 3, and 4;

e. In section 6:

i. Revise paragraphs (a)(1) and (2);

ii. Add paragraph (a)(3); and

iii. Revise paragraph (b) introductory text;

f. In section 7:

i. Revise the introductory text and paragraphs (a), (b) introductory text, and (b)(6); and

- ii. Remove paragraph (c);
- g. In section (8), revise paragraphs (a) introductory text and (b);
- h. In section 9, revise paragraph (a); and
- i. In section 10:
  - i. Revise paragraphs (b)(2) through (7);
  - ii. In example 1, revise the introductory text and paragraph 1;
  - iii. In example 2, revise the introductory text and paragraphs 1 and 2; and
  - iv. Revise paragraph (f).

The revisions and additions read as follows:

**§ 457.117 Forage production crop insurance provisions.**

\* \* \* \* \*

1. Definitions

*Adequate stand.* The number shown in the Special Provisions, representing:

- (a) For forage containing 60 percent or more alfalfa, the minimum required number of live alfalfa stems per square foot that are two inches or greater in height; or
- (b) For forage containing less than 60 percent alfalfa, the normal planting density.

\* \* \* \* \*

*Fall planted.* A forage crop seeded after June 30, except when specified in the Special Provisions.

\* \* \* \* \*

*Normal planting density.* The minimum number of live plants per square foot as shown in the Special Provisions.

*Spring planted.* A forage crop seeded before July 1, except when specified in the Special

Provisions.

\* \* \* \* \*

*Year of establishment.* The period between seeding and when the forage crop has developed an adequate stand. The year of establishment is determined by the date of seeding. The year of establishment for spring planted forage is designated by the calendar year in which seeding occurred. The year of establishment for fall planted forage is designated by the calendar year after the year in which the crop was planted. Insurance under this policy does not attach until after the year of establishment. Insurance during the year of establishment may be available under the forage seeding policy.

## 2. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 of the Basic Provisions:

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

(b) You must report the total production harvested from insurable acreage for all cuttings for each unit by the production reporting date.

(c) Separate guarantees will be determined by forage type, as applicable.

## 3. Contract Changes

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

preceding the cancellation date.

4. Cancellation and Termination Dates

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are:

State	Cancellation/ Termination Date
Arizona and California	October 31
All other states	September 30

\* \* \* \* \*

6. Insured Crop

(a) \* \* \*

(1) In which you have a share;

(2) That is not grown with the intent to be grazed, or grazed at any time during the insurance period; and

(3) That follows a year of establishment that results in an adequate stand as shown in the Special Provisions.

(b) In addition to the crops listed as not insured in section 8 of the Basic Provisions, we will not insure any forage that:

\* \* \* \* \*

7. Insurance Period

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

(a) Insurance attaches on acreage with an adequate stand on the applicable date shown in

the actuarial documents; and

(b) Forage production insurance ends at the earliest of:

\* \* \* \* \*

(6) The end of the insurance period date shown in the actuarial documents.

## 8. Causes of Loss

(a) In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided only against the following causes of loss that occur during the insurance period:

\* \* \* \* \*

(b) In addition to the causes of loss specifically excluded in section 12 of the Basic Provisions, we will not insure against damage of loss of production that occurs after harvest.

## 9. Duties in the Event of Damage or Loss.

\* \* \* \* \*

(a) You must notify us within 3 days of the date cutting should have started if the insured crop will not be harvested;

\* \* \* \* \*

## 10. Settlement of Claim

\* \* \* \* \*

(b) \* \* \*

(2) Multiplying each result in section 10(b)(1) by the respective price election you selected;

(3) Totaling the results of each crop type in section 10(b)(2);

(4) Multiplying the total production to be counted of each type, if applicable, (see section 10(c)) by the respective price election you selected;

- (5) Totaling the results of each crop type in section 10(b)(4);
- (6) Subtracting the result in section 10(b)(5) from the result in section 10(b)(3); and
- (7) Multiplying the result in section 10(b)(6) by your share.

*Example 1*

Assume you have a 100 percent share in 100 acres of type A forage in the unit, with a guarantee of 3.0 tons per acre and a price election of \$65 per ton. Due to adverse weather you were only able to harvest 50.0 tons. Your indemnity would be calculated as follows:

- 1. 100 acres type A X 3 tons = 300-ton guarantee;

\* \* \* \* \*

*Example 2*

Assume you also have a 100 percent share in 100 acres of type B forage in the same unit, with a guarantee of 1.0 ton per acre and a price election of \$50 per ton. Due to adverse weather you were only able to harvest 5.0 tons. Your total indemnity for forage production for both types A and B in the same unit would be calculated as follows:

- 1. 100 acres X 3 tons = 300-ton guarantee for type A and  
100 acres X 1 ton = 100-ton guarantee for type B;
- 2. 300-ton guarantee X \$65 price election = \$19,500 total value of the guarantee for type A and  
100-ton guarantee X \$50 price election = \$5,000 total value of the guarantee for type B;

\* \* \* \* \*

(f) In addition to the provisions of section 15 of the Basic Provisions, we may determine the amount of production of any unharvested forage on the basis of our field appraisals conducted after the normal time for each cutting for the area.

\* \* \* \* \*

3. Amend § 457.151 as follows:
  - a. Remove “2003” and add “2021” in its place in the introductory text;
  - b. Remove the undesignated paragraph immediately preceding section 1;
  - c. In section 1:
    - i. Add the definitions of “Adequate stand”, “Amount of insurance”, and “Companion crop” in alphabetical order;
    - ii. Revise the definitions of “Fall planted”, “Good farming practices”, and “Harvest”;
    - iii. Add the definition of “Normal planting density” in alphabetical order;
    - iv. Remove the definitions of “Normal stand” and “Nurse Crop (companion crop)”; and
    - v. Revise the definitions of “Planted acreage”, “Replanting”, “Sales closing date”, and “Spring planted”;
  - d. Revise sections 3, 5, and 6;
  - e. In section 7, revise the introductory text and paragraphs (b) and (d);
  - f. Revise section 8;
  - g. In section 9, revise the introductory text and paragraphs (c) and (g);
  - h. In section 10, revise the introductory text;
  - i. In section 11, revise paragraphs (a) and (b); and
  - j. Revise sections 12 and 13.

The revisions and additions read as follows:

**§ 457.151 Forage seeding crop insurance provisions.**

\* \* \* \* \*

1. Definitions

*Adequate stand.* The number shown in the Special Provisions, representing:

(a) For forage containing 60 percent or more alfalfa, the minimum required number of live alfalfa stems per square foot that are two inches or greater in height; or

(b) For forage containing less than 60 percent alfalfa, the normal planting density.

*Amount of insurance.* The dollar amount of insurance per acre obtained by multiplying the reference maximum dollar amount shown in the actuarial documents by the coverage level percentage you elect.

*Companion crop.* A crop seeded into the same acreage as another crop, that is intended to be harvested separately, and that is planted to improve growing conditions for the crop with which it is grown.

\* \* \* \* \*

*Fall planted.* A forage crop seeded after June 30, except when specified in the Special Provisions.

\* \* \* \* \*

*Good farming practices.* In lieu of the definition in the Basic Provisions, the cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce an adequate stand, and which are those generally recognized by agricultural experts or organic agricultural experts as compatible with agronomic and weather conditions for the area.

*Harvest.* Severance of the forage plant from its roots. Acreage that is grazed will not be considered harvested.

*Normal planting density.* The minimum number of live plants per square foot as shown in the Special Provisions.

*Planted acreage.* In addition to the definition in the Basic Provisions, land on which seed is initially spread onto the soil surface by any method and subsequently is mechanically

incorporated into the soil in a timely manner and at the proper depth will be considered planted, unless otherwise provided by the Special Provisions, actuarial documents, or written agreement.

*Replanting.* In addition to the definition in the Basic Provisions, placing new seed into an existing damaged stand, using a reduced seeding rate from the original seeding rate, will not be considered replanting.

*Sales closing date.* In lieu of the definition contained in the Basic Provisions, a date contained in the Special Provisions by which an application must be filed and by which you may change your crop insurance coverage for a crop year. If the Special Provisions provide a sales closing date for both fall planted and spring planted practices for the insured crop and you plant any insurable fall planted acreage, you may not change your crop insurance coverage after the sales closing date for the fall planted practice.

*Spring planted.* A forage crop seeded before July 1, except when specified in the Special Provisions.

\* \* \* \* \*

### 3. Amounts of Insurance

In addition to the requirements of section 3 of the Basic Provisions:

(a) You may only select one coverage level and the corresponding amount of insurance designated in the actuarial documents for the applicable type and practice for all the forage seeding in the county that is insured under this policy. The amount of insurance you choose for each type and practice must have the same percentage relationship to the maximum amount of insurance offered by us for each type and practice. For example, if you choose 100 percent of the maximum amount of insurance for a specific type and practice, you must also choose 100 percent of the maximum amount of insurance for all other types and practices.

(b) In counties with both fall and spring sales closing dates for the insured crop:

(1) If you do not have any fall planted acreage, you may purchase or revise your coverage for your spring planted acreage until the spring sales closing date;

(2) In accordance with section 3(a), if you insured your fall planted acreage, you must insure your spring planted acreage with the same coverage as the fall planted acreage; and

(3) If you did not insure your fall planted acreage, you are not eligible to purchase insurance for the spring planted acreage.

(c) The production reporting requirements contained in section 3 of the Basic Provisions, do not apply to forage seeding.

\* \* \* \* \*

#### 5. Cancellation and Termination Dates

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are:

State	Cancellation	Termination
Maine	March 15	March 15
All other states	July 31	September 30

#### 6. Report of Acreage

In lieu of the provisions of section 6(a) of the Basic Provisions, a report of all insured acreage of forage seeding must be submitted on or before each forage seeding acreage reporting date specified in the Special Provisions.

#### 7. Insured Crop

In accordance with section 8 of the Basic Provisions, the crop insured will be all the

forage in the county for which a premium rate is provided by the actuarial documents:

\* \* \* \* \*

(b) That is planted during the current crop year, or replanted during the calendar year following planting, to establish an adequate stand of forage;

\* \* \* \* \*

(d) That is not interplanted with another crop, except companion crops, unless allowed by the Special Provisions or by written agreement.

8. Insurable Acreage

In addition to the provisions of section 9 of the Basic Provisions, unless otherwise specified in the Special Provisions, any acreage of the insured crop damaged before the spring final planting date, to the extent that such acreage has less than 75 percent of a normal planting density, must be replanted unless we agree that it is not practical to replant.

9. Insurance Period

In lieu of the provisions of section 11 of the Basic Provisions regarding when insurance ends, forage seeding insurance will end at the earliest of:

\* \* \* \* \*

(c) The first harvest after the late harvest date, if a late harvest date is specified in the Special Provisions (You may harvest the crop as often as practical in accordance with good farming practices on or before the late harvest date);

\* \* \* \* \*

(g) The end of insurance period date shown in the actuarial documents.

10. Causes of Loss

In accordance with the provisions of section 12 of the Basic Provisions, insurance is

provided only against the following causes that result in loss of, or failure to establish, an adequate stand that occurs during the insurance period:

\* \* \* \* \*

#### 11. Replanting Payment

\* \* \* \* \*

(a) Unless otherwise specified in the Special Provisions, a replanting payment is allowed if:

(1) It is practical to replant;

(2) We give written consent to replant;

(3) In California, acreage planted to the insured crop is damaged by an insurable cause of loss occurring before the spring final planting date in the actuarial documents to the extent that less than 75 percent of the normal planting density remains, and the crop can reach maturity before the end of the insurance period;

(4) In all other states:

(i) The insured spring or fall planted acreage is damaged by an insurable cause of loss to the extent that less than 75 percent of the normal planting density remains;

(ii) If fall planted, the acreage is replanted the following spring by the spring final planting date; and

(iii) If spring planted, the original planting took place after the earliest planting date shown in the Special Provisions, and the acreage is replanted by the spring final planting date shown in the Special Provisions.

(b) The amount of the replanting payment will be equal to 50 percent of the amount of indemnity determined in accordance with section 13(a) unless otherwise specified in the Special

Provisions.

\* \* \* \* \*

12. Duties in the Event of Damage or Loss

(a) In accordance with the requirements of section 14 of the Basic Provisions, the representative samples of the crop must be at least 10 feet wide and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after tilling of the balance of the unit is completed.

(b) In addition to the requirements of section 14 of the Basic Provisions, you must give us written notice if, during the period before destroying the crop on any damaged fall planted acreage, you decide to replant the acreage by the spring final planting date.

13. Settlement of Claim

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

(a) For each type and practice:

(1) Determining the value of all insured acreage by multiplying the number of insured acres by the dollar amount of insurance;

(2) Determining the value of the acreage with no insurable losses, by multiplying the dollar amount of insurance by the insured acreage that:

(i) Has at least 75 percent of an adequate stand;

(ii) Was abandoned or put to another use without our prior written consent;

(iii) Was damaged solely by an uninsured cause; or

(iv) Was harvested and not reseeded.

(3) Determining the value of the acreage with partial insurable losses, by multiplying the

dollar amount of insurance by the number of insured acres that have a stand less than 75 percent but more than 55 percent of an adequate stand, by 50 percent (0.5);

- (4) Adding the results in section 13(a)(2) and section 13(a)(3);
  - (5) Subtracting the results in section 13(a)(4) from the results in section 13(a)(1); and
  - (6) Multiplying the result in section 13(a)(3) by your share; and
- (b) Totaling the results in section 13(a).

Example:

Assume you have a 100 percent share in 30 acres of type A forage in the unit, with an amount of insurance of \$100 per acre. At the time of loss, the following findings are established: 10 acres had a remaining stand of 75 percent of an adequate stand or greater. 20 acres had a remaining stand less than 75 percent but more than 55 percent of an adequate stand.

You also have a 100 percent share in 20 acres of type B forage in the unit, with an amount of insurance of \$90 per acre. 10 acres had a remaining stand of 75 percent of an adequate stand or greater. 10 acres had a remaining stand less than 55 percent of an adequate stand.

Your indemnity would be calculated as follows:

1. 30 acres X \$100 = \$3,000 amount of insurance for type A;  
20 acres X \$90 = \$1,800 amount of insurance for type B;
2. 10 acres with 75% of an adequate stand or greater X \$100 = \$1,000 for type A;  
10 acres with 75% of an adequate stand or greater X \$90 = \$900 for type B;
3. 20 acres with less than 75% but greater than 55% of an adequate stand X \$100 X 50 percent = \$1,000 for type A;  
0 acres with less than 75% but greater than 55% of an adequate stand X \$90 X 50 percent = \$0 for type B;

4.  $\$1,000 + \$1,000 = \$2,000$  reduction for type A;

$\$900 + \$0 = \$900$  reduction for type B;

5.  $\$3,000 - \$2,000 = \$1,000$  for type A

$\$1,800 - \$900 = \$900$  for type B

6.  $\$1,000 \times 100$  percent share =  $\$1,000$  for type A;

$\$900 \times 100$  percent share =  $\$900$  for type B;

7.  $\$1,000 + \$900 = \$1,900$  total indemnity

\* \* \* \* \*

Martin R. Barbre,

Manager,

Federal Crop Insurance Corporation.

[FR Doc. 2020-08708 Filed: 4/29/2020 8:45 am; Publication Date: 4/30/2020]