

Federal Crop Insurance Corporation, USDA

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service office within the designated time unless otherwise provided by the notice requirements. Notices required to be given immediately may be by telephone or in person and confirmed in writing. The time of the notice will be determined at the time of our receipt of the written notice.

[45 FR 49511, July 25, 1980, as amended by Amdt. 2, 49 FR 6335, Feb. 21, 1984; 50 FR 49027, Nov. 29, 1985; 50 FR 52758, Dec. 26, 1985; 51 FR 7546, Mar. 5, 1986; 51 FR 29205, Aug. 15, 1986; 52 FR 3214, Feb. 3, 1987; 55 FR 50814, Dec. 11, 1990; 62 FR 13291, Mar. 20, 1997]

PART 415—FORAGE PRODUCTION CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1986 Through 1997 Crop Years

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AUTHORITY: 7 U.S.C. 1506(l), 1516(p).

SOURCE: 50 FR 26341, June 26, 1985, unless otherwise noted.

Subpart—Regulations for the 1986 Through 1997 Crop Years

§ 415.1 Availability of forage production crop insurance.

Insurance shall be offered under the provisions of this subpart on forage production in counties within limits prescribed by, and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

[50 FR 27928, July 9, 1985]

§ 415.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for forage

production which will be included in the actuarial table on file in applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 415.3 OMB control numbers.

OMB control numbers are contained in subpart H to part 400 in title 7 CFR.

§ 415.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 415.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the forage production insurance contract, whenever:

(a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation (1) is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than \$100,000.00, finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such

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insured shall be granted relief the same as if otherwise entitled thereto.

Application for relief under this section must be submitted to the Corporation in writing.

§415.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the forage production crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service office.

[50 FR 27928, July 9, 1985]

§415.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the forage production crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the FEDERAL REGISTER upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1986 and succeeding

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crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a forage production contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1986 and succeeding crop years is found at subpart D of part 400, General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Forage Production Insurance Policy for the 1986 through 1997 crop years are as follows:

DEPARTMENT OF AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

Forage Production Crop Insurance Policy

(This is a continuous contract. Refer to section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of Loss

a. The insurance provided is against unavoidable loss of production resulting from the following losses occurring within the insurance period:

- (1) Adverse weather conditions;
- (2) Fire;
- (3) Insects;
- (4) Plant disease;
- (5) Wildlife;
- (6) Earthquake;
- (7) Volcanic eruption ; or
- (8) Failure of the irrigation water supply due to an unavoidable cause occurring after insurance attaches;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

b. We will not insure against any loss of production due to:

- (1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;
- (2) The failure to follow recognized good forage production farming practices;
- (3) The impoundment of water by any governmental, public, or private dam or reservoir project; or
- (4) Any cause not specified in section 1a as an insured loss.

2. Crop, Acreage, and Share Insured

a. The crop insured will be forage which is planted for harvest as livestock feed, which is grown on insured acreage, and for which we provide a guarantee and premium rate in the actuarial table.

b. The acreage insured for each crop year will be forage planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share will be your share as landlord, owner-operator, or tenant in the insured forage at the time insurance attaches.

d. We do not insure any acreage:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) If forage ground cover is less than 75 percent at the beginning of the insurance period;

(4) If the current age of the forage stand exceeds the limitations established by the actuarial table unless otherwise approved in writing by us;

(5) Planted to a type or variety or mixture not established as adapted to the area or excluded by the actuarial table;

(6) Grown with another crop; or

(7) Grown for experimental purposes.

e. If insurance is provided for an irrigated practice:

(1) You must report as irrigated only the acreage for which you have adequate facilities and water to carry out a good forage irrigation practice at the time insurance attaches; and

(2) Any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after insurance attaches, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the time insurance attaches.

3. Report of Acreage, Share, and Practice

You must report on our form:

a. All the acreage of insurable types of forage grown in the county in which you have a share;

b. The practice; and

c. Your share at the time insurance attaches.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any forage grown in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established in the actuarial table.

d. You must furnish a report of production to us for the previous crop year prior to the sales closing date for the subsequent crop year as established by the actuarial table. If you do not provide the required production report we will assign a yield for the crop year for which the report is not furnished. The production report or assigned yield will be used to compute your production history for the purpose of determining your guarantee for the subsequent crop year. The yield assigned by us will be 75% of the yield assigned for the purpose of determining your guarantee for the present crop year. If you have filed a claim for the previous crop year, the yield determined in adjusting your indemnity claim will be used as your production report.

5. Annual Premium

a. The annual premium is earned and payable at the time insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches.

b. Interest will accrue at the rate of one and one-quarter percent (1¼%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1948 crop year under the terms of the experience table contained in the forage production policy in effect for the 1985 crop year, you will continue

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to receive the benefit of that reduction subject to the following conditions:

- (1) No premium reduction will be retained after the 1991 crop year.
- (2) The premium reduction will not increase because of favorable experience;
- (3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year;
- (4) Once the loss ratio exceeds .80, no further premium reduction will apply; and
- (5) Participation must be continuous.

6. Deductions for Debt

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance Period

a. Insurance attaches on acreage with an adequate stand:

- (1) For the calendar year following the year of seeding on:
 - (a) February 1 for spring-seeded forage in California;
 - (b) April 15 for spring-seeded forage in Colorado, Idaho, Nebraska, Nevada, Oregon, Utah, and Washington;
 - (c) May 22 for spring-seeded forage in Iowa, Minnesota, Montana, New Hampshire, New York, North Dakota, Pennsylvania, Wisconsin, Wyoming and all other states;
 - (d) October 16 for fall-seeded forage in all states except California; and
 - (e) December 16 for fall-seeded forage in California.
 - (2) For subsequent years on:
 - (a) October 16 in all states except California; and
 - (b) January 1 in California.
- b. Insurance ends at the earliest of:
- (1) Total destruction of the forage crop;
 - (2) Removal from the windrow or the field;
 - (3) Final adjustment of a loss; or
 - (4) The following dates of the calendar year in which the majority of the forage is normally harvested:
 - (a) All states except CaliforniaOctober 15.
 - (b) CaliforniaDecember 31.

8. Notice of Damage or Loss

a. In case of damage or probable loss, you must give us written notice if:

- (1) During the period before harvest, the forage on any unit is damaged and you decide not to further care for or harvest any part of it;
- (2) You want our consent to put the acreage to another use; or
- (3) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the forage and given written consent. You must notify us when such acreage is put to another use.

b. If you are going to claim an indemnity on any unit, you must give us notice:

- (1) Of probable loss at least 15 days before the beginning of any cutting or immediately, if probable loss is later determined; and
- (2) At least 5 days before any feeding of the insured forage begins. The notice before feeding must include the number of acres harvested and tons produced from each unit.

c. You must obtain written consent from us before you destroy any of the forage which is not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for Indemnity

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

- (1) Total destruction of the forage on the unit;
- (2) Final harvest of the units; or
- (3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

- (1) Establish the total production of forage on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and
- (2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

- (1) Multiplying the insured acreage by the production guarantee;
- (2) Subtracting therefrom the total production of forage to be counted (see section 9e);
- (3) Multiplying the remainder by the price election; and
- (4) Multiplying this result by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported and not on the actual information determined. All production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production to be counted for a unit will include all harvested and appraised production.

- (1) Any production from volunteer plants growing in the forage will be counted as forage on a weight basis.
- (2) Appraised production to be counted will include:
 - (a) Unharvested production on harvested acreage and potential production lost due to

uninsured causes and failure to follow recognized good forage farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any appraised production on unharvested acreage.

(3) When forage is harvested as other than air-dry hay, the production to count will be adjusted to the equivalent of air-dry hay.

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of forage becomes general in the county;

(b) Harvested; or

(c) Further damaged by an insured cause before the acreage is put to another use.

(5) We may determine the amount of production of any unharvested forage on the basis of field appraisals conducted after the normal time for each cutting for the area.

(6) If you elect to exclude hail and fire as insured causes of loss and the forage is damaged by hail or fire, appraisals will be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire."

(7) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You must not abandon any acreage to us.

g. You may not sue us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is received by you.

h. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the FEDERAL REGISTER semi-annually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary

with the rate announced by the Secretary of the Treasury.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or Fraud

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such avoidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of Right Indemnity on Insured Share

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of Indemnity

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation (Recovery of Loss From a Third Party)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

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14. Records and Access to Farm

You must keep, for 2 years after the time of loss, records of the harvesting, storage, shipments, sale, or other disposition of all forage produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of Contract: Cancellation and Termination

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign such claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such other payment and setoff are approved.

d. The cancellation and termination date is:

State	Cancellation and termination date
All States	Nov. 30.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for 3 consecutive years.

16. Contract Changes

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by August 15 preceding the cancellation date. Acceptance of any change will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of Terms

For the purposes of forage production crop insurance:

a. *Actuarial table* means the forms and related material for the crop year approved by us which are available for public inspection in your service office and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding forage production insurance in the county.

b. *Alfalfa* means a pure stand of alfalfa or a stand of alfalfa and grass in which 60 percent or more of the ground cover is alfalfa.

c. *Alfalfa-grass mixture* means a mixed stand of alfalfa and grass in which alfalfa comprises more than 25 percent but less than 60 percent of the ground cover.

d. *County* means the county shown on the application and any additional land located in a local producing area bordering on the county as shown by the actuarial table.

e. *Crop year* means the period from the date insurance attaches until harvest is normally completed and will be designated by the calendar year in which the majority of the forage is normally harvested.

f. *Cutting* means the severance of the forage plant from the land for the purpose of livestock feed.

g. *Forage* means Alfalfa, Alfalfa Grass-mixture or Grass-mixture.

h. *Grass-mixture* means a mixed stand of locally recognized forage grasses and alfalfa in which alfalfa comprises less than 25 percent of the ground cover.

i. *Harvest* means the removal from the windrow or field.

j. *Insurable acreage* means the land classified as insurable by us and shown as such in the actuarial table.

k. *Insured* means the person who submitted the application accepted by us.

l. *Loss ratio* means the ratio of indemnity(ies) to premium(s).

m. *Person* means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

n. *Service office* means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

o. *Tenant* means a person who rents land from another person for a share of the forage production or a share of the proceeds therefrom.

p. *Unit* means all insurable acreage of forage in the county on the date insurance attaches:

- (1) In which you have a 100 percent share; or
- (2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the forage on such land will be considered as owned by the lessee. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive Headings

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

[50 FR 26341, June 26, 1985; 50 FR 32160, Aug. 9, 1985; 50 FR 49027, Nov. 27, 1985; 51 FR 29205—29207, Aug. 15, 1986; 51 FR 45296, Dec. 18, 1986; 52 FR 3214, Feb. 3, 1987; 55 FR 40789, Oct. 5, 1990; 58 FR 33509, June 18, 1993; 62 FR 14285, Mar. 26, 1997]

PART 416—PEA CROP INSURANCE REGULATIONS FOR THE 1986 THROUGH 1997 CROP YEARS

Sec.

- 416.1 Availability of pea crop insurance.
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AUTHORITY: 7 U.S.C. 1506(1), 1506(p).

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§416.1 Availability of pea crop insurance.

Insurance shall be offered under the provisions of this subpart on pea crop in counties within limits prescribed by, and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

[50 FR 27928, July 9, 1985]

§416.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for peas which will be included in the actuarial table on file in applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§416.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR part 416) have been approved by the Office of Management and Budget