

## § 402.3

### § 402.3 OMB control numbers.

The information collection activity associated with this rule has been approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563-0053.

[61 FR 42985, Aug. 20, 1996, as amended at 69 FR 48730, Aug. 10, 2004]

### § 402.4 Catastrophic Risk Protection Endorsement Provisions.

#### DEPARTMENT OF AGRICULTURE

#### Federal Crop Insurance Corporation

#### *Catastrophic Risk Protection Endorsement*

(This is a continuous endorsement)

If a conflict exists among the policy, the order of priority is: (1) This Endorsement; (2) Special Provisions; (3) actuarial documents; (4) the Commodity Exchange Price Provisions, if applicable; and (5) any of the policies specified in section 2, with (1) controlling (2), etc.

#### *Terms and Conditions*

##### 1. Definitions

*Insurance provider.* A private insurance company that has been approved by FCIC to provide insurance coverage to producers participating in programs authorized by the Federal Crop Insurance Act.

*Zero acreage report.* An acreage report filed by you that certifies you do not have a share in the crop for that crop year.

##### 2. Eligibility, Life of Policy, Cancellation, and Termination

(a) You must have one of the following policies in force to elect this Endorsement:

(1) The Common Crop Insurance Policy Basic Provisions (7 CFR 457.8) and applicable Crop Provisions (catastrophic risk protection coverage is not available under individual revenue plans of insurance such as Revenue Protection and Revenue Protection with Harvest Price Exclusion);

(2) The Area Risk Protection Insurance Basic Provisions (7 CFR 407.9) and applicable Crop Provisions (catastrophic risk protection coverage is not available under area revenue plans of insurance such as Area Revenue Protection or Area Revenue Protection with the Harvest Price Exclusion); or

(3) Other crop policies only if catastrophic risk protection coverage is provided in the applicable crop policy.

(b) You must have made application for catastrophic risk protection on or before the sales closing date for the crop in the county.

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(c) You must be a “person” as defined in the crop policy to be eligible for catastrophic risk protection coverage.

### 3. Unit Division

(a) This section is not applicable if you are insured under the Area Risk Protection Insurance Basic Provisions (7 CFR 407.9) and applicable Crop Provisions.

(b) This section is in lieu of the unit provisions specified in the applicable crop policy. For catastrophic risk protection coverage, a unit will be all insurable acreage of the insured crop in the county on the date coverage begins for the crop year:

(1) In which you have one hundred percent (100%) crop share; or

(2) Which is owned by one person and operated by another person on a share basis.

(Example: If, in addition to the land you own, you rent land from five landlords, three on a crop share basis and two on a cash basis, you would be entitled to four units; one for each crop share lease and one that combines the two cash leases and the land you own.)

(c) Further division of the units described in paragraph (b) above is not allowed under this Endorsement.

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

(a) Unless otherwise specified in the Special Provisions, catastrophic risk protection coverage will offer protection equal to:

(1) Fifty percent (50%) of your approved yield indemnified at fifty-five percent (55%) of the price election or projected price, as applicable, if you are insured under the Common Crop Insurance Policy Basic Provisions (7 CFR 457.8) and applicable Crop Provisions;

(2) Sixty-five percent (65%) of the expected county yield indemnified at forty-five percent (45%) of the maximum protection per acre if you are insured under the Area Risk Protection Insurance Basic Provisions (7 CFR 407.9) and applicable Crop Provisions; or

(3) A comparable coverage as established by FCIC for other crop policies only if catastrophic risk protection coverage is provided in the applicable crop policy.

(b) If the crop policy denominates coverage in dollars per acre or other measure, or any other alternative method of coverage, such coverage will be converted to the amount of coverage that would be payable at fifty percent (50%) of your approved yield indemnified at fifty-five percent (55%) of the price election.

(c) You may elect catastrophic coverage for any crop insured or reinsured by FCIC on either an individual yield and loss basis or an area yield and loss basis, if both options are offered as set out in the Special Provisions.

## 5. Report of Acreage

(a) The report of crop acreage that you file in accordance with the crop policy must be signed on or before the acreage reporting date. For catastrophic risk protection, unless the other person with an insurable interest in the crop objects in writing prior to the acreage reporting date and provides a signed acreage report on their own behalf, the operator may sign the acreage report for all other persons with an insurable interest in the crop without a power of attorney. All persons with an insurable interest in the crop, and for whom the operator purports to sign and represent, are bound by the information contained in that acreage report.

(b) For the purpose of determining the amount of indemnity only, your share will not exceed your insurable interest at the earlier of the time of loss or the beginning of harvest. Unless the accepted application clearly indicates that insurance is requested for a partnership or joint venture, insurance will only cover the crop share of the person completing the application. The share will not extend to any other person having an interest in the crop except as may otherwise be specifically allowed in this endorsement. Any acreage or interest reported by or for your spouse, child or any member of your household may be considered your share. A lease containing provisions for both a minimum payment (such as a specified amount of cash, bushels, pounds, etc.) and a crop share will be considered a crop share lease. A lease containing provisions for either a minimum payment (such as a specified amount of cash, bushels, pounds, etc.) or a crop share will be considered a cash lease. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the insured crop on such land will be considered as owned by the lessee.

## 6. Annual Premium and Administrative Fees

(a) Notwithstanding any provision contained in any other policy document, you will not be responsible to pay a premium, nor will the policy be terminated because the premium has not been paid. FCIC will pay a premium subsidy equal to the premium established for the coverage provided under this endorsement.

(b) In return for catastrophic risk protection coverage, you must pay an administrative fee to us within 30 days after you have been billed, unless otherwise authorized in the Federal Crop Insurance Act (You will be billed by the date stated in the actuarial documents);

(1) The administrative fee owed is \$300 for each crop in the county unless otherwise specified in the Special Provisions.

(2) Payment of an administrative fee will not be required if you file a bona fide zero acreage report on or before the acreage re-

porting date for the crop (if you falsely file a zero acreage report you may be subject to criminal and administrative sanctions).

(c) The administrative fee provisions of paragraph (b) of this section do not apply if you meet the definition of a limited resource farmer specified in the applicable crop policy. The administrative fee will be waived if you request it and you meet the requirements contained in the annual premium provisions of the applicable crop policy.

(d) When a crop policy has provisions to allow you the option to separately insure individual crop types or varieties, you must pay a separate administrative fee in accordance with paragraph (b) of this section for each type or variety you elect to separately insure.

(e) If the administrative fee is not paid when due, you, and all persons with an insurable interest in the crop under the same contract, may be ineligible for certain other USDA program benefits.

## 7. Insured Crop

The crop insured is specified in the applicable crop policy; however, for policies other than those insured under the Area Risk Protection Insurance Basic Provisions, notwithstanding any other policy provision requiring the same insurance coverage on all insurable acreage of the crop in the county, if you purchase additional coverage for a crop, you may separately insure acreage designated as "high-risk" land by FCIC under catastrophic risk protection coverage, provided that you execute a High-Risk Land Exclusion Option and obtain a catastrophic risk protection coverage policy with the same insurance provider on or before the applicable sales closing date. You will be required to pay a separate administrative fee for both the additional coverage policy and the catastrophic risk protection coverage policy.

## 8. Replanting Payment

Notwithstanding any provision contained in any other crop insurance document, no replant payment will be paid whether or not replanting of the crop is required under the policy.

## 9. Claim for Indemnity

If two or more insured crop types, varieties, or classes are insured within the same unit, and multiple price elections, projected prices, or amounts of insurance are applicable, the dollar amount of insurance and the dollar amount of production to be counted will be determined separately for each type, variety, class, etc., that have separate price elections, projected prices, or amounts of insurance and then totaled to determine the total liability or dollar amount of production to be counted for the unit.

## 10. Concealment or Fraud

Notwithstanding any provision contained in any other crop insurance document, your CAT policy may be voided by us on all crops without waiving any of our rights, including the right to collect any amounts due:

(a) If at any time you conceal or misrepresent any material fact or commit fraud relating to this or any other contract issued under the authority of the Federal Crop Insurance Act with any insurance provider; and

(b) The voidance will be effective for the crop year during which any such act or omission occurred.

## 11. Exclusion of Coverage

(a) Options or endorsements that extend the coverage available under any crop policy offered by FCIC will not be available under this endorsement. Written agreements are not available for any crop insured under this endorsement.

(b) Notwithstanding any provision contained in any other crop policy, hail and fire coverage and high-risk land may not be excluded under catastrophic risk protection.

[61 FR 42985, Aug. 20, 1996, as amended at 63 FR 40631, July 30, 1998; 64 FR 40740, July 28, 1999; 65 FR 40484, June 30, 2000; 69 FR 48730, Aug. 10, 2004; 73 FR 36408, June 27, 2008; 73 FR 70864, Nov. 24, 2008; 78 FR 52835, Aug. 27, 2013]

**PARTS 403-406 [RESERVED]****PART 407—AREA RISK PROTECTION INSURANCE REGULATIONS**

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

SOURCE: 78 FR 38507, June 26, 2013, unless otherwise noted.

**§ 407.1 Applicability.**

The provisions of this part are applicable only to those crops for which a Crop Provision is contained in this part and the crop years specified.

**§ 407.2 Availability of Federal crop insurance.**

(a) Insurance shall be offered under the provisions of this part on the insured crop in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act (7 U.S.C. 1501-1524) (Act). The crops and counties shall be designated by the Manager of the Federal Crop Insurance Corporation (FCIC) from those approved by the Board of Directors of FCIC.

(b) The insurance is offered through insurance providers reinsured by the FCIC that offer contracts containing the same terms and conditions as the contract set out in this part. These contracts are clearly identified as being reinsured by FCIC. FCIC may offer the contract for coverage contained in this part and part 402 of this chapter directly to the insured through the Department of Agriculture if the Secretary determines that the availability of local agents is not adequate. Those contracts are specifically identified as being offered by FCIC.

(c) No person may have in force more than one insurance policy issued or reinsured by FCIC on the same crop for the same crop year, in the same county, unless specifically approved in writing by FCIC.

(d) Except as specified in paragraph (c) of this section, if a person has more than one contract authorized under the Act that provides coverage for the same loss on the same crop for the same crop year in the same county, all such contracts shall be voided for that crop year and the person will be liable for the premium on all contracts, unless the person can show to the satisfaction of the FCIC that the multiple contracts of insurance were without the fault of the person.