

this action to reduce the risk that *Ottelia alismoides* (L.) Pers. and *Ipomea aquatica* will be introduced into other States and become established there.

One commenter suggested that APHIS add *Solanum tampincensis* to the list of noxious weeds. The commenter stated that *Solanum tampincensis* is a related species to tropical soda apple, but occupies much wetter habitats.

APHIS would welcome specific information on this weed that would help us to assess the pest risk potential of *Solanum tampincensis* and decide if it should be added to the list of noxious weeds. Information that APHIS needs in order to assess the risk posed by *Solanum tampincensis* would be its current distribution within and outside the United States, potential range within the United States (expressed, for example, in plant hardiness zones), biology, dispersal potential, potential economic and environmental impacts, and the source of any information provided.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule, without change.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

In accordance with 5 U.S.C. 603, we have performed a Final Regulatory Flexibility Analysis, set forth below, regarding the impact of this rule on small entities.

In accordance with 7 U.S.C. 2803 and 2809, the Secretary of Agriculture is authorized to promulgate regulations to prevent the movement of any noxious weed into the United States, or interstate, except under conditions prescribed by the Secretary.

This rule will add tropical soda apple to the list of terrestrial noxious weeds. The reduction in usable acreage caused by the spread of tropical soda apple poses a significant threat to the cattle industry and to other agricultural entities. Tropical soda apple also poses a threat to natural ecosystems. The weed is spreading into citrus groves, vegetable farms, sugarcane production areas, and dairy farms. Preventing further introductions and curtailing spread will have a positive economic impact on ranchers and growers not yet affected.

With this rule, commodities offered for import found to be contaminated with propagules of tropical soda apple will be cleaned, treated, or reexported.

This will have a minimal negative economic impact on various importers. However, information regarding importations of commodities contaminated with tropical soda apple is not available, nor is the number of importers of such material.

This rule will also remove *Euphorbia prunifolia* Jacquin (painted Euphorbia) from the list of terrestrial noxious weeds, and will therefore remove restrictions on its importation and interstate movement. From 1985 through 1993, 207 shipments of articles intended for entry into the United States were found to contain *Euphorbia*, possibly *prunifolia*.

This rule will also add *Ottelia alismoides* (L.) Pers. to the list of aquatic noxious weeds, and will remove *Stratiotes aloides* Linnaeus (water-alee) from the list of aquatic noxious weeds. Data on the amount of *Ottelia alismoides* (L.) Pers., if any, currently being imported into the United States is unavailable. From 1985 through 1993, one shipment of articles intended for entry into the United States was found to contain *Stratiotes aloides* Linnaeus (water-alee).

A listed noxious weed may be moved into or through the United States only pursuant to a written permit. The regulations provide that APHIS will issue a written permit only after determining that the importation and movement of the noxious weed will not involve a danger of dissemination of the noxious weed in the United States.

#### **Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### **Executive Order 12778**

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### **Paperwork Reduction Act Statement**

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

#### **List of Subjects in 7 CFR Part 360**

Imports, Plants (Agriculture), Quarantine, Reporting and recordkeeping requirements, Transportation, Weeds.

Accordingly, 7 CFR part 360 is amended as follows:

#### **PART 360—NOXIOUS WEED REGULATIONS**

1. The authority citation for part 360 continues to read as follows:

**Authority:** 7 U.S.C. 2803 and 2809; 7 CFR 2.17, 2.51, and 371.2(c).

#### **§ 360.200 [Amended]**

2. Section 360.200 is amended as follows:

a. In paragraph (a), by removing “*Stratiotes aloides* Linnaeus (water-alee)”.

b. In paragraph (a), by adding “*Ottelia alismoides* (L.) Pers.” immediately after “*Monochoria vaginalis* (Burman f.) C. Presl”.

c. In paragraph (c), by removing “*Euphorbia prunifolia* Jacquin (painted euphorbia)”.

d. In paragraph (c), by adding “*Solanum viarum* Dunal (tropical soda apple)” immediately after “*Solanum torvum* Swartz (turkeyberry)”.

Done in Washington, DC, this 3rd day of July 1995.

**Terry L. Medley,**

*Acting Administrator, Animal and Plant and Health Inspection Service.*

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#### **Federal Crop Insurance Corporation**

#### **7 CFR Part 457**

**RIN 0563-AB27**

#### **Common Crop Insurance Regulations; Various Crop Provisions**

**AGENCY:** Federal Crop Insurance Corporation.

**ACTION:** Interim rule.

**SUMMARY:** The Federal Crop Insurance Corporation (“FCIC”) hereby amends the Common Crop Insurance Regulations, applicable for the 1995 crop year only, by revising the prevented planting coverage for the Small Grains, Coarse Grains, Cotton, and Extra Long Staple Cotton Crop Provisions. The intended effect of this regulation is to allow an insured to collect both a guaranteed deficiency payment under the so-called 50/92 and 0/92 provisions of the wheat, feed grains, cotton and rice programs administered by the United States

Department of Agriculture ("USDA") under the authority of the Agricultural Act of 1949, as amended, and a prevented planting indemnity under the crop insurance program.

**DATES:** This rule is effective January 1, 1995. Written comments, data, and opinions on this rule will be accepted until close of business September 11, 1995, and will be considered when the rule is to be made final.

**ADDRESSES:** Written comments, data, and opinion on this interim rule should be sent to Diana Moslak, Regulatory and Procedural Development Staff, Federal Crop Insurance Corporation, USDA, Washington, DC 20250. Hand or messenger delivery may be made to 2101 L Street NW., Suite 500, Washington, DC. Written comments will be available for public inspection and copying in the Office of the Manager, 2101 L Street NW., 5th Floor, Washington, DC, during regular business hours, Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** For further information and a copy of the Cost-Benefit Analysis to the Common Crop Insurance prevented planting provision, contact Diana Moslak, Regulatory and Procedural Development Staff, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250. Telephone (202) 254-8314.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed under United States Department of Agriculture ("USDA") procedures established by Executive Order 12866 and Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for small grains is July 1, 1998 and for coarse grains, cotton and Extra Long Staple cotton is March 1, 1999.

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

A Cost-Benefit Analysis has been completed and is available to interested persons at the address listed above. In summary, the analysis finds that this action will alleviate an inequity of the crop insurance rules that affect farmers who are unable to plant compared to farmers who are able to plant. The prevented planting rules promulgated in 1993 did not authorize a prevented planting guarantee on any acreage "considered to have been left unplanted" under other programs of the U.S. Department of Agriculture. The

intent was to avoid double payments for the same loss so that the programs were less intrusive on economic incentives to plant. However, it has been determined that these payments are not for a loss of production, but rather are an income supplement. Producers who plant a crop that subsequently fails are entitled to a full indemnity from crop insurance in addition to the supplemental payments under the deficiency payment programs. Thus, removing the restriction on land "considered to have been left unplanted" places these producers on the same basis as those who plant.

The change in rules is not expected to have significant costs in most crop years since relatively small acreages normally cannot be planted. The cost will be greater in 1995, primarily to pay prevented planting payments to producers insured at the catastrophic level of protection who could have been expected to take the 0/92 payment in lieu of a prevented planting guarantee. These relatively small payments per acre are estimated to be made on 1.2 million acres and total \$31.5 million. It has been determined that this will not have an adverse actuarial affect on the Federal Crop Insurance Program.

The information collection requirements contained in these regulations (7 CFR part 457) were previously approved by OMB pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*), under OMB control numbers 0563-0001, 0563-0003, 0563-0014, 0563-0023, 0563-0025, 0563-0029, 0563-0032, and 0563-0036. The amendments set forth in this rule do not revise the content or alter the frequency of reporting for any of the forms cleared under the above-referenced dockets. Public reporting burden for the collection of information is estimated to range from 15 to 90 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions and procedures contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

This regulation will not have a significant impact on a substantial number of small entities. The amount of work required of the insurance

companies delivering the policies and the procedures therein will not increase from the amount of work currently required to deliver previous policies to which this regulation applies. This rule does not have any greater or lesser impact on the insured farmer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsections 2(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The provisions of this rule are retroactive to January 1, 1995, so as to make the benefits hereunder available to all insureds for the applicable 1995 crop year. The implementation of the provision is not adverse to any insured. The administrative appeal provisions located at 7 CFR part 400, subpart J, or promulgated by the National Appeals Division, whichever is applicable, must be exhausted before judicial action may be brought.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

### Background

The Omnibus Budget Reconciliation Act of 1993 (OBRA) made the 50/92 and the 0/92 provisions available to producers who were prevented from planting or had failed acreage for crop years 1994 through 1997. Currently, the prevented planting crop insurance provisions prohibit a prevented planting production guarantee for any acreage considered to have been left unplanted under any other United States Department of Agriculture program. By this rule, an insured may collect both a guaranteed deficiency payment under the "0/85", "50/92" and "0/92" provisions of the various commodity programs administered by United States Department of Agriculture under the

Agricultural Act of 1949, as amended, and a prevented planting indemnity under the crop insurance program. Because the weather conditions in various parts of the midwest have not been conducive to timely planting of various 1995 program crops, an emergency situation exists for many producers which requires that this rule be made effective retroactive to January 1, 1995, without prior notice and comment. Comments are solicited for 60 days after the date of publication in the **Federal Register** and will be considered by FCIC before this rule is made final.

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

Crop insurance, Small grains, Coarse grains, Cotton, ELS cotton.

**Interim Rule**

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Common Crop Insurance Regulations (7 CFR Part 457) by amending the Small Grains (§ 457.101), Cotton (§ 457.104), Extra Long Staple Cotton (§ 457.105), and Coarse Grains (§ 457.113) Crop Provisions, applicable for the 1995 crop year only, to read as follows:

**PART 457—[AMENDED]**

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

**Authority:** 7 U.S.C. 1506(1).

2. Section 457.101 is amended by revising paragraph 12.(d)(3)(iii)(C) to read as follows:

**§ 457.101 Small Grains Crop Insurance.**

\* \* \* \* \*

12. Late Planting and Prevented Planting

\* \* \* \* \*

(d) \* \* \*

(3) \* \* \*

(iii) \* \* \*

(C) Land used for conservation purposes or intended to be left unplanted under any program administered by the United States Department of Agriculture (Proof that the insured had the seed, chemicals and other materials available to plant and produce a crop with the expectation of at least producing the production guarantee may be required.);

\* \* \* \* \*

3. Section 457.104 is amended by revising paragraph 12.(d)(3)(iv)(C) to read as follows:

**§ 457.104 Cotton Crop Insurance Provisions.**

\* \* \* \* \*

12. Late Planting and Prevented Planting

\* \* \* \* \*

(d) \* \* \*

(3) \* \* \*

(iv) \* \* \*

(C) Land used for conservation purposes or intended to be left unplanted under any program administered by the United States Department of Agriculture (Proof that the insured had the seed, chemicals and other materials available to plant and produce a crop with the expectation of at least producing the production guarantee may be required.);

\* \* \* \* \*

4. Section 457.105 is amended by redesignating paragraphs 12.(e) (3) and (4) as paragraphs 12.(e) (4) and (5), by redesignating the second paragraph 12.(e)(2) as paragraph 12.(e)(3), and revising paragraphs 12.(e) (3) and (4) and 12.(e)(4)(iii) to read as follows:

**§ 457.105 Extra Long Staple Cotton Crop Insurance Provisions.**

\* \* \* \* \*

12. Prevented Planting

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(2) \* \* \*

(3) Acreage intended to be planted under an irrigated practice will be limited to the number of acres properly prepared to carry out an irrigated practice.

(4) A prevented planting production guarantee will not be provided for:

(i) \* \* \*

(ii) \* \* \*

(iii) Land used for conservation purposes or intended to be left unplanted under any program administered by the United States Department of Agriculture (Proof that the insured had the seed, chemicals and other materials available to plant and produce a crop with the expectation of at least producing the production guarantee may be required.);

\* \* \* \* \*

5. Section 457.113 is amended by revising paragraph 13.(d)(3)(iv)(C) to read as follows:

**§ 457.113 Coarse Grains Crop Insurance Provisions.**

\* \* \* \* \*

13. Late Planting and Prevented Planting

\* \* \* \* \*

(d) \* \* \*

(3) \* \* \*

(iv) \* \* \*

(C) Land used for conservation purposes or intended to be left unplanted under any program administered by the United States Department of Agriculture (Proof that the insured had the seed, chemicals and other materials available to plant and produce a crop with the expectation of at least producing the production guarantee may be required.);

\* \* \* \* \*

Done in Washington, D.C., on June 29, 1995.

**Kenneth D. Ackerman,**  
Manager, Federal Crop Insurance Corporation.

[FR Doc. 95-16583 Filed 7-10-95; 10:33 am]

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**Commodity Credit Corporation**

**7 CFR Part 1446**

RIN 0560-AD90

**Peanuts**

**AGENCY:** Commodity Credit Corporation, USDA.

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

**SUMMARY:** This rule adds to the peanut price support regulations in 7 CFR part 1446 a reference to crop insurance requirements contained in 7 CFR part 400 which effect the eligibility of peanut producers for price support. Under the provisions of part 400, producers generally must obtain crop insurance for all crops in which they have an interest in the county where the peanuts are produced. The crop insurance requirements of part 400, which implement provisions of the recently-enacted Federal Crop Insurance Reform Act of 1994 (1994 Act), are in addition to all existing eligibility requirements for price support for peanuts contained in part 1446 and elsewhere.

**DATES:** This interim rule is effective July 12, 1995. Written comments and data on this rule will be accepted until close of business August 11, 1995, and will be considered when the rule is to be made final.

**ADDRESSES:** All interested persons are invited to submit written comments and data concerning this interim rule to the Director, Tobacco and Peanuts Division, CFSA, U.S. Department of Agriculture, PO Box 2415, Washington, DC. 20013-2415, or deliver by hand or messenger to room 5750, South Building, USDA, 14th Street and Independence Avenue, SW, Washington, D.C. All written submissions received in response to this request will be made available for public inspection in room 5750, South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m., on regular Federal workdays.

**FOR FURTHER INFORMATION CONTACT:** Gary S. Fountain, Consolidated Farm Service Agency, USDA, PO Box 2415, Washington, DC. 20013-2415; telephone (202) 720-9106.