

AGRICULTURAL MARKETING SERVICE 10-YEAR REVIEW PLAN FOR REGULATIONS IDENTIFIED FOR SECTION 610 REVIEW—
REGULATORY FLEXIBILITY ACT—Continued

CFR part & authority	AMS program/regulation	Year implemented	Year for review
7 Part 993; 7 U.S.C. 601–674	Dried Prunes Produced in California	1949	2002
7 Part 998; Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.	Marketing Agreement Regulating the Quality of Domestically Produced Peanuts.	1965	2005
7 Parts 1000–1139; Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.	Federal Milk Marketing Orders	1999	2009
7 Part 1150; 7 U.S.C. 4501–4513	Dairy Promotion Program	1984	2001
7 Part 1160; 7 U.S.C. 6401–6417	Fluid Milk Promotion Program	1993	2003
7 Part 1205; 7 U.S.C. 2101–2118	Cotton Research and Promotion	1996	2002
7 Part 1207; 7 U.S.C. 2611–2627	Potato Research and Promotion	1972	2001
7 Part 1209; 7 U.S.C. 6101–6112	Mushroom Promotion, Research, and Consumer Information Order.	1993	2004
7 Part 1210; 7 U.S.C. 4901–4916	Watermelon Research and Promotion Plan	1990	1999
7 Part 1215; 7 U.S.C. 7481–7491	Popcorn Promotion, Research, and Consumer Information.	1997	2007
7 Part 1220; 7 U.S.C. 6301–6311	Soybean Promotion, Research, and Consumer Information.	1991	2003
7 Part 1230; 7 U.S.C. 4801–4819	Pork Promotion, Research, and Consumer Information ..	1986	2001
7 Part 1240; 7 U.S.C. 4601–4612	Honey Research, Promotion, and Consumer Information Order.	1987	2002
7 Part 1250; 7 U.S.C. 2701–2718	Egg Research and Promotion	1976	2001
7 Part 1260; 7 U.S.C. 2901–2911	Beef Promotion and Research	1986	2003

Dated: February 11, 1999.

Enrique E. Figueroa,
Administrator, Agricultural Marketing Service.

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

Common Crop Insurance Regulations; Onion Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Onion Crop Insurance Provisions to: Modify stage guarantee percentages, to have a separate guarantee for transplanted and direct seeded onions, and to provide for modification of stage guarantee percentages in the Special Provisions; allow optional units by section or section equivalent or FSA farm serial number, unless otherwise provided in the Special Provisions; clarify the replant payment provisions; clarify the amount of production to count when damaged production is sold after a previous determination that the crop was 100 percent damaged; limit prevented planting coverage to 45 percent of the production guarantee for timely planted acreage; and change the

termination date for one county in Oregon and one county in Washington. The intended effect of this action is to modify the existing policy so that it is actuarially sound and better meets the needs of insureds.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business April 5, 1999, and will be considered when the rule is to be made final. Comments on the information collection requirements must be received on or before April 19, 1999.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131. A copy of each response will be available for public inspection and copying from 8 a.m. to 4:30 p.m., CDT, Monday through Friday, except holidays, at the above address.

FOR FURTHER INFORMATION CONTACT: William Klein, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be exempt for the purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501), the information collection or recordkeeping requirements included in the proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send your written comments to Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

We are soliciting comments from the public comment concerning our proposed information collection and recordkeeping requirements. We need this outside input to help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of

information technology, e.g. permitting electronic submission responses).

The collections of information for this rule revises the Multiple Peril Crop Insurance Collections of Information 0563-0053 which expires April 30, 2001.

Title: Multiple Peril Crop Insurance.

Abstract: This rule improves the existing onion policy by; modifying stage guarantee percentages, providing a separate guarantee for transplanted and direct seeded onions, allowing modification of stage guarantee percentages in the Special Provisions, allowing optional units by section or section equivalent unless otherwise provided in the Special Provisions, clarifying the provisions on replant payments and the amount of production to count for damaged onion production that is sold after a previous determination that the crop was 100 percent damaged, limiting prevented planting coverage to 45 percent of the production guarantee for timely planted acreage, and changing the termination date for one county in Oregon and one county in Washington. The revisions are effective for the 2000 and succeeding crop years. It is anticipated that there will be more claims filed by insureds because of the revised unit division option.

Purpose: The purpose of this proposed rule is to modify the existing crop provisions for clarification, improve the method of calculating losses, provide additional coverage benefits for insureds, and make the policy more flexible through Special Provision statements, so that it better meets the needs of all regions of the country, and to provide an improved risk management tool for onion producers.

Burden Statement: The information that FCIC collects on the specified forms will be used in offering crop insurance coverage, determining program eligibility, establishing a production guarantee or amount of insurance, calculating losses qualifying for a payment, etc. FCIC assumes that by allowing optional units to be determined by section as well as irrigated and non-irrigated and type, the number of claims submitted by producers may increase the burden hours.

Estimate of Burden: We estimate that it will take insured producers, a loss adjuster, and an insurance agent an average of .79 of an hour to provide the information required by the Onion Crop Insurance Provisions.

Respondents: Insureds, insurance agents, and loss adjusters.

Estimated annual number of respondents: 569.

Estimated annual number of responses per respondent: 2.4.

Estimated annual number of responses: 1,369.

Estimated total annual burden on respondents: The total public burden for this proposed rule is estimated at 448 hours.

Recordkeeping requirements: FCIC requires records to be kept for three years, but all records required by FCIC are retained as part of the normal business practice. Therefore, FCIC is not estimating additional burden related to recordkeeping.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the 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 the UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions 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.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, every producer is required to complete an application and an acreage report. If the crop is damaged or destroyed, every insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity. This regulation does not alter those requirements. The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. 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.

Federal Assistance Program

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

Executive Order 12372

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.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

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

Background

FCIC proposes to amend the Common Crop Insurance Regulations (7 CFR part 457) by revising 7 CFR 457.135 Onion Crop Insurance Provisions effective for the 2000 and succeeding crop years. The principal changes to the provisions for insuring onions are as follows:

1. *Section 1*—Revise the definition of “production guarantee (per acre)” to include a first stage guarantee for transplanted onions. The second stage for direct seeded storage onions is increased from 60 percent to 70 percent. These revised stage percentages reflect a more appropriate relationship of pre-harvest input costs to harvesting costs for both direct seeded and transplanted onions.

2. *Section 2*—Allow optional units by section, section equivalent, or FSA farm serial number, unless otherwise provided in the Special Provisions. This provides additional units for producers who generally raise only one type of onion (typically only yellows), irrigate all their acreage, and have onion acreage spread throughout large areas. Such

producers do not qualify for optional units under the existing policy, which only allows optional units by type and by irrigated or non-irrigated. Currently, type is defined in the Special Provisions by color, *i.e.*—red, yellow, or white.

3. *Section 3*—Add a separate first stage for transplanted onion plants or sets to run from transplanting through the 30th day after transplanting. Revise the first stage for direct seeded onions to continue until emergence of the fourth leaf instead of the third leaf. These time frames will allow sufficient time for the onions to become established before a higher guarantee applies. The language for the second stage for transplanted onions is revised to have a single standard for all onions. Based on this standard, the second stage for transplanted onions extends from the 31st day after transplanting until the acreage has been subjected to topping and lifting or digging. These changes were necessary because of the different risks at different times for direct seeded and transplanted onions.

4. *Section 5*—Change the termination date for one county in Oregon and one county in Washington to allow for a 60 day period between the billing and termination date. Currently these counties have only a 30 day period between billing and termination dates. This is too short a period of time.

5. *Section 11*—Add provisions to clarify that the amount of the replanting payment per acre will be the producer's actual cost of replanting not to exceed the lesser of 7 percent of the final stage production guarantee or 18 hundredweight multiplied by the producer's price election for the type originally planted and by the insured share. This consolidates all three criteria from the Basic Provisions and Crop Provisions needed to make a determination on the amount of a replanting payment in one section in the crop provisions. This will reduce confusion about the maximum amount of replanting payment.

6. *Section 13*—Add provisions to clarify that when damage to onion production exceeds the percentage shown in the Special Provisions but the production from that unit is sold, the quantity sold will be included as production to count on a pound-for-pound basis regardless of the quality.

7. *Section 14*—Removed the provision that allowed for additional prevented planting coverage levels. The provision

had allowed producers who selected limited or additional levels of coverage, in accordance with the Special Provisions, and paid an additional premium, to obtain prevented planting coverage of 50 or 55 percent.

Prevented planting coverage is designed to reimburse producers for the costs incurred during the pre-plant period if the intended crop cannot be planted. This amount is intended to cover the total fixed cash expenses plus the variable cash costs normally associated with completing all field operations prior to planting onions. The prevented planting coverage level for onions is lower than other major crops because, although pre-planting costs per acre are comparable to other crops, such as corn, the average insurance guarantee per acre is much higher. Therefore, FCIC considers a prevented planting coverage level of 45 percent to be appropriate for onions and proposes that additional prevented planting coverage levels not be made available.

Premium rates for onions will continue to reflect Multiple Peril Crop Insurance experience for onions, and FCIC will consider any additional risk that may result from incorporation of changes to policy provisions contained in this proposed rule.

List of Subjects in 7 CFR Part 457

Crop insurance, Onion.

Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend the onion crop insurance provisions contained in 7 CFR part 457 as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1998 AND SUBSEQUENT CONTRACT YEARS

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

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

2. Section 457.135 is amended by revising the language in the onion crop insurance provisions as follows:

§ 457.135 Onion Crop Insurance Provisions [Amended]

a. Section 1 is amended to add definitions for "direct seeded" and "transplanted" and to revise the definition of "production guarantee (per acre)" as follows:

1. Definitions.

* * * * *

Direct seeded—Placing onion seed by machine or by hand at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice.

* * * * *

Production Guarantee (per acre):

(a) First stage production guarantee—Thirty-five percent (35%) of the final stage production guarantee for direct seeded storage and non-storage onions and 45 percent of the final stage production guarantee for transplanted storage and non-storage onions, unless otherwise specified in the Special Provisions.

(b) Second stage production guarantee—Seventy percent (70%) of the final stage production guarantee for direct seeded storage onions and 60 percent of the final stage production guarantee for transplanted storage onions and all non-storage onions, unless otherwise specified in the Special Provisions.

* * * * *

Transplanted—Placing of the onion plant or bulb by machine or by hand at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice.

* * * * *

b. Section 2 is revised to read as follows:

2. Unit Division.

In addition to, or instead of, establishing optional units as provided in section 34 of the Basic Provisions, optional units may be established by type, if the type is designated in the Special Provisions.

* * * * *

c. Sections 3(b) (1) and (2) are revised to read as follows:

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

* * * * *

(b) * * *

(1) First stage extends:

(i) For direct seeded storage and non-storage onions, from planting until the emergence of the fourth leaf; and

(ii) For transplanted storage and non-storage onions, from transplanting of onion plants or sets through the 30th day after transplanting.

(2) The second stage extends, for all onions, from the end of the first stage until the acreage has been subjected to topping and lifting or digging.

* * * * *

d. Section 5 is revised to read as follows:

5. Cancellation and Termination Dates.

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

State and county	Cancellation date	Termination date
All Georgia Counties; Kinney, Uvalde, Medina, Bexar, Wilson, Karnes, Bee, and San Patricio Counties, Texas, and all Texas Counties lying south thereof.	August 31	August 31.

State and county	Cancellation date	Termination date
Umatilla County, Oregon; and Walla Walla County, Washington	August 31	September 30.
All other states and counties	February 1	February 1.

* * * * *
 e. Section 11(b) is revised to read as follows:

11. Replanting Payment.

(b) The maximum amount of the replanting payment per acre will be your actual cost for replanting, but will not exceed the lesser of:

- (1) 7 percent of the final stage production guarantee multiplied by your price election for the type originally planted and by your insured share; or
- (2) 18 hundredweight multiplied by your price election for the type originally planted and by your insured share.

* * * * *
 f. Section 13(d) is revised to read as follows:

13. Settlement of Claim.

(d) If the damage to harvested or unharvested onion production exceeds the percentage shown in the Special Provisions for the type, no production will be counted for that unit or portion of a unit unless such damaged onion production from that acreage is sold. If sold, the damaged production will be counted on a pound-for-pound basis regardless of the quality.

* * * * *
 g. Section 14 is revised to read as follows:

14. Prevented planting.

Your prevented planting coverage will be 45 percent of your production guarantee for timely planted acreage. Additional prevented planting coverage levels are not available for onions.

Signed in Washington, D.C., on February 10, 1999.

Robert Prchal,

Acting Manager, Federal Crop Insurance Corporation.

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FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052-AB80

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; FCB Assistance to Associations

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA or Agency), is

proposing to repeal a regulatory requirement that a Farm Credit Bank or an agricultural credit bank (collectively referred to as a bank) obtain FCA prior approval before giving financial assistance to an affiliated association. Instead, the proposed rule would require a bank to consider various standards before providing financial assistance and notify both the FCA and bank shareholders. We expect this rule change to reduce regulatory burden on banks.

DATES: Please send your comments to us on or before March 22, 1999.

ADDRESSES: You may mail or deliver written comments to Patricia W. DiMuzio, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090 or send them by facsimile transmission to (703) 734-5784. You may also submit comments via electronic mail to "reg-comm@fca.gov" or through the Pending Regulations section of our website at "www.fca.gov." You may review copies of all comments we receive in the Office of Policy and Analysis, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TDD (703) 883-4444, or Jennifer A. Cohn, Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: This action furthers our strategic plan commitment to consider eliminating regulatory prior approvals that are not required by the Farm Credit Act of 1971, as amended (Act), or are not based on safety and soundness concerns. The proposed regulation would eliminate the existing requirement in § 615.5171 that the FCA approve, in advance, any financial assistance from a bank to its affiliated associations. This change is appropriate for two reasons:

- The existing regulation's prior approval requirement runs counter to our current approach to supervising risk in Farm Credit System (System) institutions. Consistent with our role as arm's-length regulator, we have found that we can replace many prior approval

requirements with simple notification requirements.

- Our new, much stronger, capital regulations will help to ensure that a bank will not imperil its own capital position in providing assistance to an association. See 62 FR 4449, January 30, 1997, for a more detailed discussion of our capital regulations.

I. Scope and Application of § 615.5171

Section 1.5(11) of the Act provides that each Farm Credit Bank shall have the power, subject to our regulation, to "purchase nonvoting stock in, or pay in surplus to * * * associations in its district." Section 615.5171 implements this provision of the Act as follows: "Farm Credit Banks may purchase nonvoting stock and participation certificates of and pay in surplus to associations in their respective districts when authorized by the bank board of directors on a case basis and approved by the Farm Credit Administration."

The regulation applies to any bank purchase of association nonvoting stock and participation certificates. The regulation does not discuss voting stock because banks are not eligible association borrowers/members and thus are not permitted to hold association voting stock. The regulation also refers to the bank's statutory authority to "pay in surplus" to associations. FCA's interpretations of the "pay in surplus" language have resulted in a broad application of the prior approval requirement for financial assistance transactions.

In general, it has been our practice to consider a bank to have triggered the prior approval requirement of this regulation when it purchases nonvoting stock or participation certificates or takes other action to pay in surplus to improve the capital position of an association. Thus, the FCA has required prior approval for the following types of transactions:

- (1) Cash gifts;
- (2) Debt forgiveness or compromise of indebtedness;
- (3) Interest rate concessions;
- (4) Interest free loans;
- (5) Transfer of loans at less than fair market value;
- (6) Reduction or elimination of standard loan service fees;
- (7) Assumption of operating or other expenses (e.g., legal fees, insurance premiums, etc.); and