

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 402

[Docket No. FCIC-11-0003]

RIN 0563-AC31

#### Catastrophic Risk Protection Endorsement

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) proposes to amend the Catastrophic Risk Protection Endorsement. The intended effect of this action is to clarify existing policy provisions and to incorporate changes that are consistent with those made in the Common Crop Insurance Policy Basic Provisions and to incorporate provisions regarding catastrophic risk protection coverage for area yield plans from the Group Risk Plan (GRP) of Insurance Basic Provisions. The proposed changes will be effective for the 2013 and succeeding crop years.

**DATES:** Written comments and opinions on this proposed rule will be accepted until close of business October 17, 2011 and will be considered when the rule is to be made final.

**ADDRESSES:** FCIC prefers that comments be submitted electronically through the Federal eRulemaking Portal. You may submit comments, identified by Docket ID No. FCIC-11-0003, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the 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 to <http://www.regulations.gov>, including any personal information

provided, and can be accessed by the public. All comments must include the agency name and docket number or Regulatory Information Number (RIN) for this rule. For detailed instructions on submitting comments and additional information, see <http://www.regulations.gov>. If you are submitting comments electronically through the Federal eRulemaking Portal and want to attach a document, we ask that it be in a text-based format. If you want to attach a document that is a scanned Adobe PDF file, it must be scanned as text and not as an image, thus allowing FCIC to search and copy certain portions of your submissions. For questions regarding attaching a document that is a scanned Adobe PDF file, please contact the RMA Web Content Team at (816) 823-4694 or by e-mail at [rmaweb.content@rma.usda.gov](mailto:rmaweb.content@rma.usda.gov).

*Privacy Act:* Anyone is able to search the electronic form of all comments received for any dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the complete User Notice and Privacy Notice for Regulations.gov at <http://www.regulations.gov/#/privacyNotice>.

**FOR FURTHER INFORMATION CONTACT:** Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, P.O. Box 419205, Kansas City, MO 64141-6205, telephone (816) 926-7730.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This rule has been determined to be non significant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by the OMB.

##### Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by the Office of Management and Budget (OMB) under control number 0563-0053.

##### E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, 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.

##### Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act 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 UMRA.

##### Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

##### Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

##### Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss.

Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

#### 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. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, 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, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

#### Background

FCIC proposes to amend the Catastrophic Risk Protection Endorsement (7 CFR part 402), to be effective for the 2013 and succeeding crop years. The proposed changes are as follows:

1. FCIC proposes to revise the paragraph immediately preceding

section 1 which refers to the order of priority in the event of a conflict to include the actuarial documents and the Commodity Exchange Price Provisions, if applicable, in the order of priority.

2. Section 1—FCIC proposes to remove the definitions of “approved yield,” “county,” “FSA,” “household,” “limited resource farmer,” and “USDA” because these terms are already defined in the applicable Basic Provisions.

FCIC also proposes to remove the definition of “expected market price” because the term is no longer applicable to any plan of insurance for which catastrophic risk protection coverage is available (e.g., the Yield Protection plan of insurance uses a projected price).

FCIC proposes to remove the definition of “Secretary” because the term is not used in the Endorsement.

3. Section 2—FCIC proposes to revise section 2(a)(1) to clarify catastrophic risk protection coverage is not available under individual revenue plans of insurance such as Revenue Protection and Revenue Protection with Harvest Price Exclusion plans of insurance.

FCIC proposes to revise section 2(a)(2) to allow the Group Risk Plan of Insurance Basic Provisions, or its successor provisions, to elect the Catastrophic Risk Protection Endorsement. FCIC also proposes to clarify that catastrophic risk protection coverage is not available under area revenue plans of insurance such as Group Risk Income Protection—Harvest Price Option or Group Risk Income Protection plans of insurance or successor plans of insurance.

4. Section 3—FCIC proposes to revise section 3(a) to clarify this section is not applicable if the policyholder elected catastrophic risk protection coverage under the Group Risk Plan of Insurance Basic Provisions (7 CFR 407.9) and Crop Provisions, or its successor provisions. The Group Risk Plan of Insurance Basic Provisions and Crop Provisions do not have unit provisions. Therefore, the unit division provisions in section 3 cannot be used in lieu of the unit provisions of the Group Risk Plan of Insurance Basic Provisions.

5. Section 4—FCIC proposes to revise section 4(a) to allow the actuarial documents to revise the amount of protection offered under catastrophic risk protection coverage in the event this amount is changed in the future by Congress.

FCIC proposes to revise section 4(a) to replace the reference to “expected market price” with “price election or projected price, as applicable.”

FCIC also proposes to revise section 4(a) to include information regarding the amount of protection a policyholder

would receive if they elected catastrophic risk protection coverage under the Group Risk Plan of Insurance Basic Provisions or successor provisions. Currently, section 4(a) simply contains the catastrophic risk protection amount of coverage for policyholders insured under the Common Crop Insurance Policy. The information regarding the amount of catastrophic risk protection coverage for area yield plans is contained in the Group Risk Plan of Insurance Basic Provisions because section 4(a) of the Endorsement allows FCIC to determine a comparable amount of coverage. This change will place all the provisions regarding the catastrophic risk protection amount of coverage in one place.

FCIC proposes to revise section 4(b) to replace the reference to “expected market price” with “price election.”

FCIC proposes to revise section 4(c) to replace the reference to “Actuarial Table or the Special Provisions” with “actuarial documents.” With the implementation of the new information technology system, FCIC will no longer have actuarial tables; all the information previously contained in the actuarial tables will now be contained in the actuarial documents filed electronically on RMA’s Web site.

FCIC proposes to remove section 4(d) because information regarding the percentage of loss in applicable yield a policyholder must have suffered to be eligible for an indemnity is contained in section 4(a) which contains the coverage level. The amount determined by subtracting the coverage level from 100 percent is the amount of loss a policyholder must suffer before an indemnity is paid under catastrophic risk protection coverage.

6. Section 6—FCIC proposes to revise sections 6(b) and 6(b)(1) to replace the reference to “Special Provisions” with “actuarial documents.”

Section 7—FCIC proposes to remove section 7(b) because undivided interest will no longer be available as a result of the USDA Acreage Crop Reporting Streamlining Initiative to establish common USDA data standards to support producer commodity reporting in support of USDA programs. FCIC also proposes to remove those provisions that suggest that approved insurance providers have the option to not offer catastrophic risk protection coverage. All approved insurance providers must offer catastrophic risk protection coverage for the policies they sell.

7. Section 9—FCIC proposes to revise section 9 to clarify the price references to include projected prices, dollar amounts of insurance, or dollar amounts

of protection because the term “price election” is not applicable to all plans of insurance.

**List of Subjects in 7 CFR Part 402**

Crop insurance, Reporting and recordkeeping requirements.

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 402 as follows:

**PART 402—CATASTROPHIC RISK PROTECTION ENDORSEMENT**

1. The authority citation for 7 CFR part 402 continues to read as follows:

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

2. Amend § 402.4 as follows:

a. Revise introductory text preceding section 1;

b. Remove the definitions in section 1 for “approved yield,” “county,” “expected market price,” “FSA,” “household,” “limited resource farmer,” “Secretary,” and “USDA;”

c. Revise section 2(a) introductory text;

d. Revise section 3(a);

e. Revise section 4(a);

f. Amend section 4(b) by removing the phrase “expected market price” and adding the phrase “price election” in its place;

g. Amend section 4(c) by removing the phrase “Actuarial Table or the Special Provisions” and adding the phrase “actuarial documents” in its place;

h. Remove section 4(d);

i. Amend section 6(b) introductory text by removing the phrase “Special Provisions” and adding the phrase “actuarial documents” in its place;

j. Amend section 6(b)(1) by removing the phrase “Special Provisions” and adding the phrase “actuarial documents” in its place;

k. Revise section 7; and

l. Amend section 9 by adding the phrase “, projected prices, dollar amounts of insurance, or dollar amounts of protection” after the phrase “multiple price elections” in the two instances that it appears.

The revised text reads as follows:

**§ 402.4 Catastrophic Risk Protection Endorsement Provisions.**

\* \* \* \* \*

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

\* \* \* \* \*

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 the Revenue Protection and Revenue Protection with Harvest Price Exclusion plans of insurance);

(2) The Group Risk Plan of Insurance Basic Provisions (7 CFR 407.9) and applicable Crop Provisions, or its successor provisions, if available for catastrophic risk protection coverage (Catastrophic risk protection coverage is not available under area revenue plans of insurance such as Group Risk Income Protection—Harvest Price Option or Group Risk Income Protection plans of insurance or successor plans of insurance); or

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

\* \* \* \* \*

3. Unit Division.

(a) This section is in lieu of the unit provisions specified in the applicable crop policy and is not applicable if you are insured under the Group Risk Plan of Insurance Basic Provisions (7 CFR 407.9) and applicable Crop Provisions, or its successor provisions.

\* \* \* \* \*

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

(a) Unless otherwise specified in the actuarial documents, 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 Group Risk Plan of Insurance Basic Provisions (7 CFR 407.9) and applicable Crop Provisions, or its successor 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.

\* \* \* \* \*

7. Insured Crop.

(a) The crop insured is specified in the applicable crop policy, however 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 under catastrophic risk protection coverage that has been designated as “high-risk” land by FCIC, provided that you execute a High-Risk Land Exclusion Option and obtain a catastrophic risk protection coverage policy with the same approved insurance provider on or before the applicable sales closing date.

(b) You will be required to pay a separate administrative fee for both the additional coverage policy and the catastrophic risk protection coverage policy.

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Signed in Washington, DC, on August 10, 2011.

**William J. Murphy,**  
Manager, Federal Crop Insurance Corporation.

[FR Doc. 2011–20850 Filed 8–16–11; 8:45 am]

**BILLING CODE 3410–08–P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[REG–131491–10]

**RIN 1545–BJ82**

**Health Insurance Premium Tax Credit**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains proposed regulations relating to the health insurance premium tax credit enacted by the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010, as amended by the Medicare and Medicaid Extenders Act of 2010, the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011, and the Department of Defense and Full-Year Continuing Appropriations Act, 2011. These proposed regulations provide guidance to individuals who enroll in qualified health plans through Affordable Insurance Exchanges and claim the premium tax credit, and to Exchanges that make qualified health plans available to individuals and