

formula(s). In addition, the State agency may require medical documentation before issuing any contract brand infant formula, except as provided in paragraph (c)(7) of this section (see § 246.10(c)(1)(i)) and must require medical documentation before issuing any WIC formula covered by § 246.10(c)(1)(iii).

\* \* \* \* \*

(k) *What are the requirements for infant formula rebate invoices?* A State agency must have a system in place that ensures infant formula rebate invoices, under competitive bidding, provide a reasonable estimate or an actual count of the number of units purchased by participants in the program.

(l) \* \* \*

(3) If FNS determines that the number of State agencies making the request provided for in paragraph (l)(2) of this section does not comply with the requirements of paragraph (c)(2) of this section, FNS shall, in consultation with such State agencies, divide such State agencies into more than one group and solicit bids for each group. These groups of State agencies are referred to as "bid groups." In determining the size and composition of the bid groups, FNS will, to the extent practicable, take into account the need to maximize the number of potential bidders so as to increase competition among infant formula manufacturers and the similarities in the State agencies' procurement and contract requirements (as provided by the State agencies in accordance with paragraphs (l)(2)(ii), (l)(2)(iii), and (l)(2)(iv) of this section). FNS reserves the right to exclude a State agency from the national bid solicitation and selection process if FNS determines that the State agency's procurement requirements or contractual requirements are so dissimilar from those of the other State agencies in any bid group that the State agency's inclusion in the bid group could adversely affect the bids.

\* \* \* \* \*

(m) *What are the penalties for disclosing the amount of the bid or discount practices prior to the time bids are opened?* Any person, company, corporation, or other legal entity that submits a bid in response to a bid solicitation and discloses the amount of the bid, or the rebate or discount practices of such entities, in advance of the time the bids are opened by the Secretary or the State agency, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress for up to 2 years from the date the bids are opened. In addition, any person, company,

corporation, or other legal entity shall be subject to a civil money penalty as specified in § 3.91(b)(3)(iv) of this title, as determined by the Secretary to provide restitution to the program for harm done to the program.

#### § 246.27 [Amended]

■ 13. In § 246.27, amend paragraph (g) by removing the words "550 Kearny Street, room 400, San Francisco, California 94108", and adding in their place the words "90 Seventh Street, Suite #10-100, San Francisco, California 94103".

Dated: February 20, 2008.

**Nancy Montanez Johner,**

*Under Secretary, Food, Nutrition, and Consumer Services.*

[FR Doc. E8-3880 Filed 2-29-08; 8:45 am]

**BILLING CODE 3410-30-P**

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 457

RIN 0563-AC00

#### Common Crop Insurance Regulations; Cultivated Wild Rice Crop Insurance Provisions

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

**ACTION:** Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) finalizes the Cultivated Wild Rice Crop Insurance Provisions to convert the cultivated wild rice pilot crop insurance program to a permanent insurance program for the 2009 and succeeding crop years.

**DATES:** *Effective Date:* May 2, 2008.

**FOR FURTHER INFORMATION CONTACT:** Erin Albright, Risk Management Specialist, Product Management, Product Administration & Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility—Mail Stop 0812, Room 421, PO Box 419205, Kansas City, MO 64141-6205, telephone (816) 926-7730.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is non-significant for the purpose of Executive Order 12866 and, therefore, it has not been reviewed by OMB.

##### Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule

have been approved by OMB under control number 0563-0053 through June 30, 2008.

#### 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 the 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.

#### Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economical 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 compute premium amounts, 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 final rule has been reviewed in accordance with Executive Order No. 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule 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, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

#### Background

On Wednesday, June 6, 2007, FCIC published a notice of proposed rule making in the **Federal Register** at 72 FR 31196–31199 to add to the Common Crop Insurance Regulations (7 CFR part 457) a new section, 7 CFR 457.170, Cultivated Wild Rice Crop Insurance Provisions. FCIC is converting the cultivated wild rice pilot crop insurance program to a permanent crop insurance program beginning with the 2009 crop year. These provisions will replace and supersede the current unpublished provisions that insure cultivated wild rice under pilot program status.

Following publication of the proposed rule, the public was afforded 60 days to submit written comments, data, and opinions. A total of 24 comments were received from 3 commenters. The commenters were an insurance service organization and two insurance providers. The comments received and FCIC's responses are as follows:

*Comment:* Two commenters stated the definition of "cultivated wild rice" refers to "\* \* \* man-made irrigated fields known as paddies" while section 6(a)(3) specifies the insured crop is "grown in man-made flood irrigated fields." The commenters asked if cultivated wild rice is ever grown in a field that is irrigated by some other method, or should both of the references be made to read consistently.

*Response:* Natural stands of wild rice can be found in various locations. Because wild rice plants shatter, seeds will drop and the natural stands may continue to grow. To be eligible for crop insurance, wild rice must be grown in man-made fields in accordance with good farming practices for wild rice production. The term "flood" is used to describe how the cultivated wild rice is irrigated; paddies must be built so that they can not only flood the area, but also to control the water level and to provide drainage when the crop is to be harvested. FCIC has revised the definition of "cultivated wild rice" to specify it must be grown "in man-made flood irrigated fields." This will provide consistency with the provision in section 6(a)(3).

*Comment:* Two commenters stated the definition of "finished weight" is defined in three parts as green weight (delivered, stored, or appraised) multiplied by the applicable recovery method (determined or standard). The commenters asked if the definition of "finished weight" matches the definition of "processor," which is defined as "A business that converts green weight to finished weight using appropriate equipment and methods \* \* \*." while the "finished weight" definition sounds like it is simply the result of a mathematical calculation. The commenters also suggested the word "The" be added to the beginning of subpart (c) of the definition of "finished weight" to match subparts (a) and (b).

*Response:* The definition of "processor" was added to the Crop Provisions because it is referenced in other definitions. FCIC agrees the definition of "processor" is confusing by referencing the term "finished weight." The definition of "processor" has been revised to specify it is a business enterprise that converts green

weight to a product ready for commercial sale. Also, the beginning of subpart (c) of the definition of "finished weight" has been revised accordingly.

*Comment:* Two commenters suggested the definition of "planted acreage" could be easier to read if the phrase "including shattering for the second and succeeding years" was put in parentheses instead of setting it off with commas.

*Response:* FCIC has made the change accordingly.

*Comment:* Two commenters suggested the definition of "recovery percentage" be revised to include the definitions of "standard recovery percentage" and "determined recovery percentage" as subparagraphs.

*Response:* FCIC has made the change accordingly.

*Comment:* Two commenters suggested commas should be added in section 4 before and after the phrase "\* \* \* the contract change date is November 30 preceding the cancellation date for counties with a February 28 cancellation date \* \* \*." or consider separating the two contract change dates into 4(a) and (b).

*Response:* FCIC has revised section 4 to separate the contract change dates into separate subsections as suggested.

*Comment:* Two commenters stated section 6(b) uses "shatters" as a verb, while in section 1, "shatter" is defined as a noun. The commenters suggested one or the other should be revised to be consistent. They also indicated the term "shattering" is used in the definition of "planted acreage."

*Response:* FCIC has revised the definition of "shatter" to be defined as a verb.

*Comment:* Two commenters thought section 7 should be separated into three subsections for easier identification, and rearranged to list the states first in all three cases: "\* \* \* the calendar date for the end of the insurance period is:

"(a) For Minnesota, September 30

\* \* \*;

"(b) For California, October 15 \* \* \*;

and

"(c) For all other states, the date

provided in the Special Provisions."

*Response:* FCIC has made the change accordingly.

*Comment:* Two commenters recommended the insured cause of loss in section 8 should be clarified as "Fire due to natural causes."

*Response:* In addition to the Cultivated Wild Rice Crop Provisions, the Common Crop Insurance Policy, Basic Provisions are applicable for wild rice. Section 12 of the Basic Provisions states all specified causes of loss must be due to a naturally occurring event.

Adding the suggested language could be redundant and could cause confusion by suggesting that the other listed causes of loss do not have to be due to natural causes. Therefore, no change has been made.

*Comment:* Two commenters indicated FCIC should consider if section 8(a)(8) should include the phrase that is in the Rice Crop Provisions: “\* \* \* drought, or the intrusion of saline water” [in which case, section 9(b) of the Rice Crop Provisions also should be adapted for use for Cultivated Wild Rice].

*Response:* The crop insurance program for cultivated wild rice is available in certain Minnesota and California counties. The chance for intrusion of saline water in Minnesota is almost non-existent. However, there is a minute possibility for the chance of saline water intrusion in three California counties located in the intermountain region. In addition, two California counties where crop insurance is available are located in areas where the crop could be damaged if levees were to fail. For that reason, FCIC agrees with the commenters and has revised section 8(a)(8) to be consistent with the Rice Crop Provisions and specify the application of saline water is not an insured cause of loss.

*Comment:* Two commenters stated if the intention in section 11(b)(2) is to delete the word “section” preceding the phrase “11(b)(1)” in this subsection, the same should be done in subsections (b)(3)–(7) as well to be consistent.

*Response:* FCIC did not intend to omit the word “section” as questioned by the commenters. FCIC has added the term “section” preceding 11(b)(1) in section 11(b)(2) accordingly.

*Comment:* Two commenters suggested the example contained in section 11 be revised to delete the “/” and replace it with “per” so it is not mistaken for a division symbol.

*Response:* FCIC has made the change accordingly.

*Comment:* Two commenters asked FCIC to consider rearranging section 11(c) from “The total production (finished weight) to count \* \* \*” to read as “The total production to count (finished weight) \* \* \*”

*Response:* FCIC has made the change accordingly.

In addition to the changes described above, FCIC has revised the definition of “recovery percentage” in section 1 by deleting the sentence “This is also known as percent recovery.”

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

Crop insurance, Cultivated wild rice, Reporting and recordkeeping requirements.

#### Final Rule

■ Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation finalizes 7 CFR part 457, Common Crop Insurance Regulations, for the 2009 and succeeding crop years as follows:

#### PART 457—COMMON CROP INSURANCE REGULATIONS

■ 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 457.170 is added to read as follows:

#### § 457.170 Cultivated Wild Rice crop insurance provisions.

The Cultivated Wild Rice Crop Insurance Provisions for the 2009 and succeeding crop years are as follows:  
*FCIC policies:* United States Department of Agriculture, Federal Crop Insurance Corporation.

*Reinsured policies:* (Appropriate title for insurance provider).

*Both FCIC and reinsured policies:* Cultivated Wild Rice Crop Provisions.

##### 1. Definitions

*Approved laboratory.* A testing facility approved by us to determine the recovery percentage from samples of cultivated wild rice.

*Cultivated Wild Rice.* A member of the grass family *Zizania Palustris* L., adapted for growing in man-made flood irrigated fields known as paddies.

*Finished weight.*

(a) The green weight delivered to a processor multiplied by the determined recovery percentage;

(b) The green weight stored for seed multiplied by either the determined recovery percentage or the standard recovery percentage in accordance with section 11(d); or

(c) The appraised green weight multiplied by either the determined recovery percentage or the standard recovery percentage in accordance with section 11(d).

*Flood irrigation.* Intentionally covering the planted acreage with water and maintaining it at a proper depth throughout the growing season.

*Green weight.* The total weight in pounds of the green cultivated wild rice production that was appraised, delivered to a processor, or stored for seed.

*Harvest.* Combining or threshing the cultivated wild rice for grain or seed.

*Initially planted.* The first occurrence of planting the insured crop on insurable acreage for the crop year.

*Planted acreage.* In addition to the definition contained in the Basic

Provisions, land on which an adequate amount of seed is initially spread onto the soil surface by any appropriate method (including shattering for the second and succeeding years) and subsequently is mechanically incorporated into the soil at the proper depth, will be considered planted, unless otherwise provided by the Special Provisions or actuarial documents.

*Processor.* A business that converts green weight to a product ready for commercial sale using appropriate equipment and methods such as separating immature kernels, fermenting or curing, parching, de-hulling, and scarifying.

*Recovery percentage.* The ratio of finished weight to green weight of the cultivated wild rice. As specified in section 11(d), the recovery percentage is either:

(a) The determined recovery percentage for a sample as determined by an approved laboratory; or

(b) The standard recovery percentage provided in the Special Provisions.

*Shatter.* The act of mature seeds naturally falling to the ground from a cultivated wild rice plant.

##### 2. Unit Division

Provisions in the Basic Provisions that allow optional units by irrigated and non-irrigated practices are not applicable.

##### 3. Insurance Guarantee, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 of the Basic Provisions:

(a) You may select only one percentage of the maximum price election for all the cultivated wild rice insured under this policy in the county.

(b) The insurance guarantee per acre is expressed as pounds of finished weight.

##### 4. Contract Changes

In accordance with section 4 of the Basic Provisions, the contract change date is:

(a) November 30 preceding the cancellation date for counties with a February 28 cancellation date; and

(b) June 30 preceding the cancellation date for counties with a September 30 cancellation date.

##### 5. Cancellation and Termination Dates

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

State	Cancellation date	Termination date
Mendocino, Glenn, Butte, and Sierra Counties, California; and all California Counties south thereof .....	February 28 .....	February 28.
Minnesota; All Other California Counties; and All Other States .....	September 30 ...	November 30.

#### 6. Insured Crop

(a) In accordance with section 8 of the Basic Provisions, the crop insured will be all the cultivated wild rice in the county grown on insurable acreage for which premium rates are provided by the actuarial documents:

- (1) In which you have a share;
- (2) That is planted for harvest as grain; and
- (3) That is grown in man-made flood irrigated fields.

(b) Section 8(b)(3) of the Basic Provisions is not applicable to the cultivated wild rice seed that naturally shatters and is subsequently mechanically incorporated into the soil.

#### 7. Insurance Period

In accordance with section 11 of the Basic Provisions, the calendar date for the end of the insurance period is:

- (a) For Minnesota, September 30 of the calendar year the crop is normally harvested;
- (b) For California, October 15 of the calendar year the crop is normally harvested; and
- (c) For all other states, the date provided in the Special Provisions.

#### 8. Causes of Loss

(a) In accordance with section 12 of the Basic Provisions, insurance is provided only against the following causes of loss that occur during the insurance period:

- (1) Adverse weather conditions;
- (2) Fire;
- (3) Insects, but not damage due to insufficient or improper application of pest control measures;
- (4) Plant disease, but not damage due to insufficient or improper application of disease control measures;
- (5) Wildlife;
- (6) Earthquake;
- (7) Volcanic eruption; or
- (8) Failure of the irrigation water supply, if caused by a cause of loss specified in sections 8(a)(1) through (7) that occurs during the insurance period, drought, or the intrusion of saline water.

(b) In addition to the causes not insured against in section 12 of the Basic Provisions, we will not insure against any loss of production due to:

- (1) The crop not being timely harvested unless such delay in harvesting is solely and directly due to adverse weather conditions which preclude harvesting equipment from entering and moving about the field; or

(2) The application of saline water, except as specified in section 8(a) of these crop provisions.

#### 9. Replanting Payments

The provisions of section 13 of the Basic Provisions are not applicable.

#### 10. Duties in the Event of Damage or Loss

Representative samples are required in accordance with section 14 of the Basic Provisions.

#### 11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production that are acceptable to us for any:

- (1) Optional unit, we will combine all optional units for which such production records were not provided; or

(2) Basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

- (1) Multiplying the insured acreage by its respective production guarantee;
- (2) Multiplying the result in section 11(b)(1) by the respective price election;
- (3) Totaling the results of section 11(b)(2);
- (4) Multiplying the total production to be counted, (see section 11(c) through (d)) by the respective price election;
- (5) Totaling the results of section 11(b)(4);
- (6) Subtracting the result of section 11(b)(5) from the result of section 11(b)(3); and
- (7) Multiplying the result of section 11(b)(6) by your share.

For example:

You have a 100 percent share in 100 acres of cultivated wild rice in the unit, with a guarantee of 400 pounds per acre and a price election of \$1.00 per pound. You are only able to harvest 20,000 pounds. Your indemnity would be calculated as follows:

- (1) 100 acres  $\times$  400 pounds = 40,000 pound guarantee;
- (2) 40,000 pounds  $\times$  \$1.00 per pound price election = \$40,000 value of guarantee;
- (3) 20,000 pounds  $\times$  \$1.00 per pound price election = \$20,000 value of production to count;

(4) \$40,000 – \$20,000 = \$20,000 loss; and

(5) \$20,000  $\times$  100 percent share = \$20,000 indemnity payment.

(c) The total production to count (finished weight) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee for acreage:

- (A) That is abandoned;
- (B) Put to another use without our consent;

(C) Damaged solely by uninsured causes; or

(D) For which you fail to provide records of production that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested green weight production must be adjusted in accordance with section 11(d)); and

(iv) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage.

(d) Mature green weight will be multiplied by the recovery percentage subject to the following:

(1) We may obtain samples of the production to determine the recovery percentage.

(2) The determined recovery percentage will be used to calculate your loss only if:

(i) All determined recovery percentages are established using samples of green weight production obtained by us or by the processor for sold or processed production; and

(ii) The samples are analyzed by an approved laboratory.

(3) If the conditions of section 11(d)(2) are not met, the standard recovery percentage will be used.

#### 12. Late Planting

The provisions of section 16 of the Basic Provisions are not applicable.

#### 13. Prevented Planting

The provisions of section 17 of the Basic Provisions are not applicable.

Signed in Washington, DC on February 21, 2008.

**Eldon Gould,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. E8-3964 Filed 2-29-08; 8:45 am]

**BILLING CODE 3410-08-P**

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 457

**RIN 0563-AC04**

### Common Crop Insurance Regulations; Mustard Crop Insurance Provisions

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

**ACTION:** Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) finalizes the Common Crop Insurance Regulations; Mustard Crop Insurance Provisions to convert the mustard pilot crop insurance program to a permanent insurance program for the 2009 and succeeding crop years.

**DATES:** *Effective Date:* April 2, 2008.

**FOR FURTHER INFORMATION CONTACT:** Gary Johnson, Risk Management Specialist, USDA Risk Management Agency-PASD, Beacon Facility-Mail Stop 0812, P.O. Box 419205, Kansas City, MO 64141-6205, telephone (816) 926-7730.

**SUPPLEMENTARY INFORMATION:**

#### Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is non-significant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by 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 OMB under control number 0563-0053 through June 30, 2008.

#### 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.

#### 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 compute premium amounts, 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:**

On Thursday, November 16, 2006, FCIC published a notice of proposed rulemaking in the **Federal Register** at 71 FR 6016-6021 to add 7 CFR 457.168 Mustard crop insurance provisions.