

Proposed Rules

Federal Register

Vol. 61, No. 106

Friday, May 31, 1996

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 457

RIN 0563-AB55

Common Crop Insurance Regulations; Sugar Beet Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes specific crop provisions for the insurance of sugar beets. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions which contains standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured and include the current sugar beet endorsement with the Common Crop Insurance Policy for ease of use and consistency of policy terms.

DATES: Written comments, data, and opinions on this proposed rule will be accepted until close of business July 30, 1996 and will be considered when the rule is to be made final. The comment period for information collection under the Paperwork Reduction Act of 1995 continues through July 29, 1996.

ADDRESSES: Interested persons are invited to submit written comments to the Chief, Product Development Branch, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131. Written comments will be available for public inspection and copying in room 0324, South Building, USDA, 14th and Independence Avenue, S.W., Washington, D.C., 8:15 a.m.-4:45 p.m., EDT Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Arden Routh, Program Analyst, Research and Development Division, Product Development Branch, FCIC, at 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926-6397.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Departmental Regulation 1512-1

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 these regulations is February 1, 2000.

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

The information collection requirements contained in these regulations were previously approved by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563-0003 through September 30, 1998.

The amendments sent forth in this proposed rule do not contain additional information collections that require clearance by the OMB under the provisions of 44 U.S.C. chapter 35.

The title of this information collection is "Catastrophic Risk Protection Plan and Related Requirements including, Common Crop Insurance Regulations; Sugar Beet Crop Insurance Provisions." The information to be collected includes: a crop insurance acreage report, an insurance application and a continuous contract. Information collected from the acreage report and application is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of sugar beets that are eligible for Federal crop insurance.

The information requested is necessary for the insurance company and FCIC to provide insurance, provide reinsurance, determine eligibility, determine and collect premiums or other monetary amounts, and pay benefits.

All information is reported annually. The reporting burden for this collection of information is estimated to average 16.9 minutes per response for each of the 3.6 responses from approximately 1,755,015 respondents. The total annual

burden on the public for this information collection is 2,676,932 hours.

The comment period for information collections under the Paperwork Reduction Act of 1995 continues through July 29, 1996 for the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information gathering technology.

Comments should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Bonnie Hart, Advisory and Corporate Operations Staff, Regulatory Review Group, Farm Service Agency, P.O. Box 2415, Ag Box 0570, U.S. Department of Agriculture, Washington, D.C. 20013-2415. Telephone (202) 690-2857. Copies of the information collection may be obtained from Bonnie Hart at the above address.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, FCIC generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FCIC to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

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. Thus, 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 12612, Federalism, that this rule does not have sufficient federalism implication 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 various levels of government.

Regulatory Flexibility Act

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 these policies and the procedures therein will not increase significantly 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 producer. 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 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule will not have retroactive effect prior to the effective date. 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 in 7 CFR parts 11 and 780 must be exhausted before action for judicial review may be brought.

Environmental Evaluation

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

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR § 457.109, Sugar Beet Crop Insurance Provisions. The provisions will be effective for the 1998 and succeeding crop years. The proposed Sugar Beet Crop Insurance Provisions will replace the provisions found at 7 CFR part 430 (Sugar Beet Crop Insurance Regulations). Upon publication of 7 CFR § 457.109 as a final rule, the provisions for insuring sugar beets contained herein will supersede the current provisions contained in 7 CFR part 430. By separate rule, FCIC will revise part 430 to restrict its effect through the 1997 crop year and later remove that part.

This rule makes minor editorial and format changes to improve the Sugar Beet Crop Insurance Regulations' compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring sugar beets as follows:

1. Amend the definition of "county," to that contained in the Basic Provisions of (§ 457.8). The current definition includes land identified by an FSA farm serial number for the county that is physically located in another county where as the new definition does not. This change is made require such land to be insured using the actuarial materials for the county where the land is located.

2. Section 1—Add definitions for the terms *Days*, *FSA*, *Final planting date*, *Good farming practices*, *Initially planted*, *Interplanted*, *Irrigated practice*, *Late planted*, *Late planting period*, *Local market price*, *Planted acreage*, *Practical to replant*, *Prevented planting*, *Processor*, *Production guarantee (per acre)*, *Replanting*, *Standardized ton*, *Sugar beet processor contract*, *Thinning*, *Timely planted*, *Ton*, and, *Written agreement*, for clarification purposes.

3. Section 2—Unit division provisions are expanded to include insured's reporting responsibilities to qualify for

optional units and the breakdown of units by irrigated and non-irrigated acreage. The definition of "unit" under section 1(t) of the Basic Provisions (part 457.8) provides for the division of units in accordance with applicable crop provisions. The current Sugar Beet Crop Insurance Regulations, however, do not provide guidelines for determining optional units. Section 2 will provide guidelines for optional unit division of sugar beet basic units that are consistent with other annual crop provisions. Optional units may be divided on the basis of section, section equivalent, or Farm Service Agency (FSA) Farm Serial Number, or on acreage including both irrigated and non-irrigated practices, or both. Consistent with the definition of "unit" in the Basic Provisions (§ 457.8), section 12 of the Sugar Beet Crop Provisions will provide that in settling a claim, loss will be determined on a unit basis and all optional units for which acceptable production records were not provided will be combined.

4. Section 3(a)—Provision added to clarify that only 1 price election is available for all sugar beets insured in the county.

5. Section 4—The contract change date is moved 30 days earlier in most counties to maintain at least a 3 month period between this date and earliest cancellation date (see item 6 below).

6. Section 5—The cancellation and termination dates have been changed from April 15 to March 15 in all states except California and Arizona. The cancellation and termination dates for the state of Arizona and Imperial County, California remain unchanged at August 31. The cancellation and termination dates have been changed from March 31 to February 28 for Lassen, Modoc, Shasta and Siskiyou, counties California. The cancellation date has been changed from March 31 to July 15 for all remaining California counties. The termination date for these California counties has been changed to November 30 immediately following the last final planting date for the crop year. The changes (except California counties with a July 15 cancellation date) are intended to minimize program vulnerabilities that may exist under current program dates by reducing the chances that insureds may be able to anticipate below normal yields. The change to July 15 in the California counties specified above is made to allow FCIC to return to the use of a single final planting date in counties where sugar beets are planted year round. Constant changes in these counties made establishment of multiple final planting dates extremely difficult to administer.

7. Section 6(b)—Specify insurance eligibility requirements for sugar beet producers who are also the processing company. These provisions are needed to ensure that the same terms contained in a traditional sugar beet processor contract are in place.

8. Section 7(a)(2)—Stipulate that acreage is uninsurable in any crop year following the discovery of rhizomania on the unit unless we agree in writing to insure such acreage. Rhizomania remains in the soil for several years and normally creates an unacceptable insurance risk.

9. Section 7(a)(3)—Stipulate that acreage is uninsurable if it does not meet rotation requirements shown in the Special Provisions. This change identifies the location of these requirements.

10. Section 7(b)—Clarify that any acreage damaged prior to the final planting date must be replanted unless replanting is not practical. This provision applies to all counties with an established final planting date (see item 11 for information regarding counties that do not have a final planting date).

11. Section 7(c)—Stipulate that any acreage damaged within 30 days of the initial planting must be replanted unless replanting is not practical. This provision applies to all counties that do not have an established final planting date.

12. Section 8(b)—Change the end of insurance period to the last day of the 12th month after the crop initially was planted in all California counties except Imperial, Lassen, Modoc, Shasta and Siskiyou. This change is made to accommodate planting that occurs virtually all year in these counties.

13. Section 8(c)—Change the calendar date for the end of the insurance period to October 31 for Lassen, Modoc, Shasta and Siskiyou Counties, California and Klamath County, Oregon.

14. Section 8(e)—The end of insurance period for New Mexico has been changed from November 15 to December 31. This change is being proposed because the sugar beet program in New Mexico at this time consists of 1 county that has similar planting and harvesting dates as the adjacent sugar beet counties in Texas. The end of the insurance period in these Texas counties is December 31.

15. Section 9—Provisions are added to clarify that insufficient or improper application of pest or disease control measures is not an insured cause of loss.

16. Section 10(b)—The maximum amount of the replanting payment has changed from one ton multiplied by the price election multiplied by the share to the lesser of 10 percent (10%) of the

final stage production guarantee or one ton, multiplied by the price election multiplied by the share. The 10 percent (10%) factor has been added to prevent insureds who elect a lower coverage level from receiving a replant payment that exceeds the original liability.

17. Section 10(c)—Reduce the liability for a unit by the amount of any replanting payment when sugar beets are replanted using a practice that was originally uninsurable. The current sugar beet provisions are silent regarding this issue. For example, if the Actuarial Table requires a specific row width and the crop is replanted to a lesser row width, the dollar amount of coverage would be reduced by the amount of any replant payment. This addition is consistent with the manner in which other crops are treated.

18. Section 11(b)—Stipulate that a copy of the sugar beet processor contract or corporate resolution must be provided in the event of a loss.

19. Section 13—Grant protection for acreage planted within 25 days after the final planting date, and for acreage that cannot be planted due to any insurable cause of loss. If the insured is prevented from planting by the final planting date, or intends to plant within the late planting period and is prevented from doing so, insurance protection is provided at a specified percent of the production guarantee for timely planted acreage. Reductions are made to recognize increasingly lower yield potential as planting is delayed. Late and prevented planting coverages are not available in any California counties except Imperial, Lassen, Modoc, Shasta and Siskiyou. Year round planting in these counties precludes the use of current prevented planting provisions.

20. Section 14—Add provisions for providing insurance coverage by written agreement. FCIC has a long-standing policy of permitting modification of insurance contracts by written agreement. This provision is not documented in the current Sugar Beet Crop Insurance Regulations. Section 14 will discuss application for, and duration of, written agreements.

List of Subjects in 7 CFR Part 457

Crop insurance, sugar beet.

Proposed 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 proposes to amend the Common Crop Insurance Regulations, (7 CFR part 457), effective for the 1998 and succeeding crop years, 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), and 1506(p).

2. 7 CFR part 457 is amended by adding a new § 457.109 to read as follows:

§ 457.109 Sugar beet crop insurance provisions.

The Sugar Beet Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Sugar Beet Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these crop provisions, and the Special Provisions, the Special Provisions will control these crop provisions and the Basic Provisions; and these crop provisions will control the Basic Provisions.

1. Definitions

Crop year—In Imperial, Lassen, Modoc, Shasta and Siskiyou, counties California and all other states, the period within which the sugar beets are normally grown, which is designated by the calendar year in which the sugar beets are normally harvested. In all California counties, except Imperial, Lassen, Modoc, Shasta and Siskiyou counties, the period from planting until the applicable date for the end of the insurance period and is designated by:

- (a) The calendar year in which planted if planted on or before July 15; or
- (b) The following calendar year if planted after July 15.

Days—Calendar days.

FSA—Farm Service Agency of the United States Department of Agriculture or any successor agency.

Final planting date—The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full production guarantee.

Good farming practices—The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee and are those generally recognized by the Cooperative Extension Service as compatible with agronomic and weather conditions in the county.

Harvest—Topping, lifting and removing sugar beets from the field.

Initially planted—The first occurrence that land is considered as planted acreage for the crop year.

Interplanted—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water

needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Late planted—Acreage planted to the insured crop during the late planting period.

Late planting period—The period that begins the day after the final planting date for the insured crop and ends twenty-five (25) days after the final planting date.

Local market price—The price per pound for raw sugar offered by buyers in the area in which you normally market the sugar beets.

Planted acreage—Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice. Sugar beets must initially be planted in rows to be considered planted. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

Practical to replant—In lieu of the definition of "Practical to replant" contained in section 1 of the Basic Provisions (§ 457.8), practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors, including but not limited to moisture availability, condition of the field, and time to crop maturity, that replanting to the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period in counties where a late planting period is applicable, or 30 days after initial planting for all counties where a late planting period is not applicable, unless replanting is generally occurring in the area.

Prevented planting—Inability to plant the insured crop with proper equipment by the final planting date designated in the Special Provisions for the insured crop in the county or the end of the late planting period. You must have been unable to plant the insured crop due to an insured cause of loss that has prevented the majority of producers in the surrounding area from planting the same crop.

Processor—A corporation that possesses all licenses and permits for marketing sugar required by the state in which it is domiciled or operates, and that possesses facilities, or has contractual access to such facilities, with enough equipment to accept and process the sugar beets within a reasonable amount of time after harvest.

Production guarantee (per acre):

(a) First stage production guarantee—The final stage production guarantee multiplied by 60 percent.

(b) Final stage production guarantee—The number of tons determined by multiplying the approved yield per acre by the coverage level percentage you elect.

Replanting—Performing the cultural practices necessary to replace the sugar beet seed and then replacing the sugar beet seed in the insured acreage with the expectation of growing a successful crop.

Standardized ton—A ton of sugar beets expressed on a basis of a stated percentage of raw sugar content.

Sugar beet processor contract—A written contract between the grower and the processor, containing at a minimum:

(1) The grower's commitment to plant and grow sugar beets, and to deliver the sugar beet production to the processor;

(2) The processor's commitment to purchase the production stated in the contract; and

(3) A price or formula for a price based on third party data, that will be paid to the grower for the production stated in the contract.

Thinning—The process of removing, either by machine or hand, a portion of the sugar beet plants to attain a desired plant population.

Timely planted—Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

Ton—Two thousand (2,000) pounds avoirdupois.

Written agreement—A written document that alters designated terms of a policy in accordance with section 14.

2. Unit Division

Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), ("basic unit") may be divided into optional units if, for each optional unit you meet all the conditions of this section or if a written agreement to such division exists. Basic units may not be divided into optional units on any basis including, but not limited to, production practice, type, variety, and planting period other than as described in this section. If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined, that portion of the premium paid for the purpose of electing optional units will be refunded to you pro rata for the units combined. All optional units must be identified on the acreage report for each crop year.

(a) The following requirements must be met for each optional unit:

(1) You must have records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;

(2) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit; and

(3) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us.

(b) Each optional unit must meet one or more of the following criteria, as applicable:

(1) *Optional Units by Section, Section Equivalent, or FSA Farm Serial Number:* Optional units may be established if each

optional unit is located in a separate legally identified Section. In the absence of Sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands, as the equivalent of Sections for unit purposes. In areas that have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number.

(2) *Optional Units on Acreage Including Both Irrigated and Non-Irrigated Practices:* In addition to, or instead of, establishing optional units by Section, section equivalent, or FSA Farm Serial Number, optional units may be based on irrigated acreage or non-irrigated acreage if both are located in the same Section, section equivalent, or FSA Farm Serial Number. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which the guarantee is based. However, the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be a part of the unit containing the irrigated acreage. However, non-irrigated acreage that is not a part of a field in which a center-pivot irrigation system is used may qualify as a separate optional unit provided that all requirements of this section are met.

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

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one price election for all the sugar beets in the county insured under this policy.

(b) The production guarantees are progressive by stages, and increase at specified intervals to the final stage. The stages are:

(1) First stage, with a guarantee of 60 percent (60%), extends from planting until:

(i) July 1 in Lassen, Modoc, Shasta and Siskiyou counties of California and all other states; and

(ii) The earlier of thinning or 90 days after planting in all California counties except Lassen, Modoc, Shasta and Siskiyou.

(2) Final stage, with a guarantee equal to 100 percent (100%) of the production guarantee, applies to all insured sugar beets that complete the first stage.

(c) The production guarantee will be expressed in standardized tons.

(d) Any acreage of sugar beets damaged in the first stage to the extent that growers in the area would not normally further care for the sugar beets will be deemed to have been

destroyed, even though you may continue to care for it. The production guarantee for such acreage will not exceed the first stage production guarantee.

4. Contract Changes

The contract change date is April 30 preceding the cancellation date for counties

with a July 15 or August 31 cancellation date and November 30 preceding the cancellation date for all other counties (see the provisions of section 4 (Contract Changes) of the Basic Provisions (§ 457.8)).

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are:

State and county	Cancellation date	Termination date
Arizona; and Imperial County, California	August 31	August 31.
All California counties, except Imperial, Lassen, Modoc, Shasta and Siskiyou	July 15	November 30.
All Other States, and Lassen, Modoc, Shasta and Siskiyou Counties, California	February 28	February 28.

6. Insured Crop

(a) In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the sugar beets in the county for which a premium rate is provided by the actuarial table:

- (1) In which you have a share;
- (2) That are planted for harvest as sugar beets;
- (3) That are grown under a sugar beet processor contract executed with a processor before the acreage reporting date; and
- (4) That are not (unless allowed by the Special Provisions or by written agreement):
 - (i) Interplanted with another crop;
 - (ii) Planted into an established grass or legume; or
 - (iii) Planted prior to submitting a properly completed application.

(b) Sugar beet growers who are also the processor may be able to establish an insurable interest if they meet the following requirements:

- (1) The processor must be a corporation and have a valid insurable interest in the crop;
- (2) The Board of Directors of the processor must have approved a corporate resolution that sets forth essentially the same terms that a traditional sugar beet processor contract would contain. Such corporate resolution will be considered a sugar beet processing contract under the terms of the sugar beet crop insurance policy;
- (3) Sales records of sugar beet production for the previous year must be supplied to us to confirm the processor has produced and sold sugar in the past; and
- (4) Our inspection of the processing facilities determines that they conform to the definition of processor contained in section 1 of these crop provisions.

7. Insurable Acreage

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8):

- (a) We will not insure any acreage planted to sugar beets:
 - (1) The preceding crop year;
 - (2) In any crop year following the discovery of rhizomania on the acreage unless a written agreement allows otherwise; or
 - (3) That does not meet the rotation requirements shown in the Special Provisions;
- (b) Any acreage of the insured crop damaged before the final planting date, to the

extent that growers in the area would normally not further care for the crop, must be replanted unless we agree that replanting is not practical. This paragraph does not apply to California counties except Imperial, Lassen, Modoc, Shasta and Siskiyou; and

(c) Any acreage of the insured crop in California counties other than Imperial, Lassen, Modoc, Shasta and Siskiyou that is damaged within 30 days of initial planting to the extent growers in the area would normally not further care for the crop, must be replanted unless we agree replanting is not practical.

8. Insurance Period

In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the calendar date for the end of the insurance period is:

- (a) July 15 in Arizona and in Imperial County, California;
- (b) The last day of the 12th month after the insured crop was initially planted in all California counties except Imperial, Lassen, Modoc, Shasta and Siskiyou;
- (c) October 31 in Lassen, Modoc, Shasta and Siskiyou Counties, California, and in Klamath County, Oregon;
- (d) November 25 in Ohio;
- (e) December 31 in New Mexico and Texas; and
- (f) November 15 in all other states.

9. Causes of Loss

In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur within the insurance period:

- (a) Adverse weather conditions;
- (b) Fire;
- (c) Insects, but not damage due to insufficient or improper application of pest control measures;
- (d) Plant disease, but not damage due to insufficient or improper application of disease control measures;
- (e) Wildlife;
- (f) Earthquake;
- (g) Volcanic eruption; or
- (h) Failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period.

10. Replanting Payments

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), a replanting payment is allowed if the crop is damaged by an insurable cause of

loss to the extent that the remaining stand will not produce at least 90 percent (90%) of the final stage production guarantee for the acreage and it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the lesser of 10 percent (10%) of the production guarantee or 1 ton, multiplied by your price election, multiplied by your insured share.

(c) When sugar beets are replanted using a practice that is uninsurable as an original planting, our liability on the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

11. Duties In The Event of Damage or Loss

In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8):

- (a) Representative samples of the unharvested crop must be at least 10 feet wide and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed; and
- (b) You must provide a copy of your sugar beet processor contract, or corporate resolution if you are the processor.

12. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide production records:

- (1) For any optional unit, we will combine all optional units for which acceptable production records were not provided; or
 - (2) For any 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 on any unit by:
- (1) Multiplying the insured acreage by the production guarantee;
 - (2) Subtracting from this the total production to count;
 - (3) Multiplying the remainder by your price election; and
 - (4) Multiplying this result by your share.

(c) The total production to count (in standardized tons) 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 production records that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (unharvested production will not be adjusted for quality);

(iv) Only appraised production in excess of the difference between the first and final stage production guarantee for acreage that does not qualify for the final stage guarantee will be counted, provided that all production from acreage subject to section 12(c)(1)(i) and (ii) will be counted; and

(v) 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 if 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 you 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) Production that meets the minimum acceptable standards contained in the sugar beet processor contract or corporate resolution will be converted to standardized tons by:

(1) Dividing the average percentage of sugar in such sugar beets by the sugar content percentage shown in the Special Provisions; and

(2) Multiplying the result (rounded to three places) by the number of tons of such sugar beets.

The average percentage of sugar will be determined by the processor from tests performed on each load at the time of delivery. If individual tests of sugar content are not made at the time of delivery, the average percent of sugar shall equal the sugar content percent shown in the Special Provisions.

(e) Production that does not meet the minimum acceptable standards contained in the sugar beet processor contract or corporate resolution will be converted to standardized tons by:

(1) Dividing the gross dollar value of all of the damaged sugar beets on the unit (including the value of cooperative stock, patronage refunds, etc.) by the local market price per pound on the earlier of the date

such production is sold or the date of final inspection for the unit;

(2) Dividing that result by 2,000; and

(3) Dividing that result by the county average sugar percentage factor contained in the Special Provisions for this purpose.

For example, assume that the total dollar value of the damaged sugar beets is \$6,000.00; the local market price is \$0.10; and the county average sugar percentage factor is 0.15. The amount of production to count would be calculated as follows:
 $((\$6,000.00 \div \$0.10) \div 2,000) \div 0.15 = 200$ tons.

13. Late and Prevented Planting.

(a) In lieu of provisions contained in the Basic Provisions (§ 457.8) regarding acreage initially planted after the final planting date and the applicability of a Late Planting Agreement Option, insurance will be provided for acreage planted to the insured crop during the late planting period (see section 13(c)), and acreage you were prevented from planting (see section 13(d)). These coverages provide reduced production guarantees and are applicable in all counties except California counties with a July 15 cancellation date. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for late planted acreage or prevented planting acreage exceeds the liability on such acreage: coverage for those acres will not be provided; no premium will be due; and no indemnity will be paid for such acreage.

(b) You must provide written notice to us not later than the acreage reporting date if you were prevented from planting.

(c) Late Planting

(1) For sugar beet acreage planted during the late planting period, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (1%) for the 1st through the 10th day; and

(ii) Two percent (2%) for the 11th through the 25th day.

(2) In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of sugar beets continues after the final planting date, or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Special Provisions for the insured crop; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period)

(1) If you were prevented from timely planting sugar beets, you may elect:

(i) To plant sugar beets during the late planting period. The production guarantee for such acreage will be determined in accordance with section 13(c)(1);

(ii) Not to plant this acreage to any crop except a cover crop not for harvest. You may also elect to plant the insured crop after the late planting period. In either case, the

production guarantee for such acreage will be 35 percent (35%) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 20.0 tons per acre, your prevented planting production guarantee would be 7.0 tons per acre (20.0 tons multiplied by 0.35).

If you elect to plant the insured crop after the late planting period, production to count for such acreage will be determined in accordance with section 12; or

(iii) Not to plant the intended crop but plant a substitute crop for harvest, in which case:

(A) No prevented planting production guarantee will be provided for such acreage if the substitute crop is planted on or before the 10th day following the final planting date for the insured crop; or

(B) A production guarantee equal to 17.5 percent (17.5%) of the production guarantee for timely planted acres will be provided for such acreage, if the substitute crop is planted after the 10th day following the final planting date for the insured crop. If you elected the Catastrophic Risk Protection Endorsement or excluded this coverage, and plant a substitute crop, no prevented planting coverage will be provided. For example, if your production guarantee for timely planted acreage is 20.0 tons per acre, your prevented planting production guarantee would be 3.5 tons per acre (20.0 ton multiplied by 0.175). You may elect to exclude prevented planting coverage when a substitute crop is planted for harvest and receive a reduction in the applicable premium rate. If you wish to exclude this coverage, you must so indicate, on or before the sales closing date, on your application or on a form approved by us. Your election to exclude this coverage will remain in effect from year to year unless you notify us in writing on our form by the applicable sales closing date for the crop year for which you wish to include this coverage. All acreage of the crop insured under this policy will be subject to this exclusion.

(2) Production guarantees for timely, late, and prevented planting acreage within a unit will be combined to determine the production guarantee for the unit. For example, assume you insure 1 unit in which you have a 100 percent (100%) share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres were not planted but are eligible for a prevented planting production guarantee. The production guarantee for the unit will be computed as follows:

(i) For the timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(ii) For the late planted acreage, multiply the per acre production guarantee for timely planted acreage by 93 percent (93%) and multiply the result by the 50 acres planted late; and

(iii) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by:

(A) Thirty-five percent (35%) and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for

prevented planting coverage, and if the acreage is left idle for the crop year, or if a cover crop is planted not for harvest. Prevented planting compensation hereunder will not be denied because the cover crop is hayed or grazed; or

(B) Seventeen and five tenths percent (17.5%) and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if you elect to plant a substitute crop for harvest after the 10th day following the final planting date for the insured crop. (This subparagraph (B) is not applicable, and prevented planting coverage is not available hereunder, if you elected the Catastrophic Risk Protection Endorsement or you elected to exclude prevented planting coverage when a substitute crop is planted (see section 13(d)(1)(iii).)

Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(3) Proof may be required that you had the inputs available to plant and produce the intended crop with the expectation of at least producing the production guarantee.

(4) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the insurance period for prevented planting coverage begins:

(i) On the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on the sales closing date for the insured crop in the county for the previous crop year, provided continuous coverage has been in effect since that date. For example: If you make application and purchase insurance for sugar beets for the 1998 crop year, prevented planting coverage will begin on the 1998 sales closing date for sugar beets in the county. If the sugar beet coverage remains in effect for the 1999 crop year (is not terminated or canceled during or after the 1998 crop year, except the policy may have been canceled to transfer the policy to a different insurance provider, if there is no lapse in coverage), prevented planting coverage for the 1999 crop year began on the 1998 sales closing date.

(5) The acreage to which prevented planting coverage applies will not exceed the total eligible acreage on all FSA Farm Serial Numbers in which you have a share, adjusted for any reconstitution that may have occurred on or before the sales closing date. Eligible acreage for each FSA Farm Serial Number is determined as follows:

(i) If you participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted for the crop year, the acreage eligible for prevented planting coverage will not exceed the total acreage permitted to be planted to the insured crop.

(ii) If you do not participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted, and unless we agree in writing on or before the sales closing date, eligible acreage will not exceed the greater of:

(A) The FSA base acreage for the insured crop, including acres that could be flexed from another crop, if applicable;

(B) The number of acres planted to sugar beets on the FSA Farm Serial Number during the previous crop year; or

(C) One-hundred percent (100%) of the simple average of the number of acres planted to sugar beets during the crop years that you certified to determine your yield.

(iii) Acreage intended to be planted under an irrigated practice will be limited to the number of acres for which you had adequate irrigation facilities prior to the insured cause of loss which prevented you from planting.

(iv) A prevented planting production guarantee will not be provided for any acreage:

(A) That does not constitute at least 20 acres or 20 percent (20%) of the acreage in the unit, whichever is less (Acreage that is less than 20 acres or 20 percent (20%) of the acreage in the unit will be presumed to have been intended to be planted to the insured crop planted in the unit, unless you can show that you had the inputs available before the final planting date to plant and produce another insured crop on the acreage);

(B) For which the actuarial table does not designate a premium rate unless a written agreement designates such premium rate;

(C) Used for conservation purposes or intended to be left unplanted under any program administered by the United States Department of Agriculture;

(D) On which another crop is prevented from being planted, if you have already received a prevented planting indemnity, guarantee or amount of insurance for the same acreage in the same crop year, unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last 4 years;

(E) On which the insured crop is prevented from being planted, if any other crop is planted and fails, or is planted and harvested, hayed or grazed on the same acreage in the same crop year, (other than a cover crop as specified in paragraph (d)(2)(iii)(A) of this section, or a substitute crop allowed in paragraph (d)(2)(iii)(B) of this section), unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last 4 years;

(F) When coverage is provided under the Catastrophic Risk Protection Endorsement if you plant another crop for harvest on any acreage you were prevented from planting in the same crop year, even if you have a history of double-cropping. If you have a Catastrophic Risk Protection Endorsement and receive a prevented planting indemnity, guarantee, or amount of insurance for a crop and are prevented from planting another crop on the same acreage, you may only receive the prevented planting indemnity, guarantee, or amount of insurance for the crop on which the prevented planting indemnity, guarantee, or amount of insurance is received; or

(G) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes.

(v) For the purpose of determining eligible acreage for prevented planting coverage,

acreage for all units will be combined and be reduced by the number of sugar beet acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single FSA Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of sugar beets on one optional unit and 40 acres of sugar beets on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero).

(6) In accordance with the provisions of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report by unit any insurable acreage that you were prevented from planting. This report must be submitted on or before the acreage reporting date. For the purpose of determining acreage eligible for a prevented planting production guarantee, the total amount of prevented planting and planted acres cannot exceed the maximum number of acres eligible for prevented planting coverage. Any acreage you report in excess of the number of acres eligible for prevented planting coverage, or that exceeds the number of eligible acres physically located in a unit, will be deleted from your acreage report.

14. Written Agreements

Designated terms of this policy may be altered by written agreement. The following conditions will apply:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 14(e).

(b) The application for written agreement must contain all terms of the contract between you and us that will be in effect if the written agreement is not approved.

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election.

(d) Each written agreement will only be valid for 1 year. If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy.

(e) An application for written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, D.C., on May 23, 1996.

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

[FR Doc. 96-13589 Filed 5-30-96; 8:45 am]

BILLING CODE 3410-FA-P