

§ 400.456

7 CFR Ch. IV (1-1-05 Edition)

part 409, subpart 409.4 and shall be applicable to all FCIC debarment and suspension proceedings undertaken pursuant to the Federal Acquisition Regulations, except that the authority to debar or suspend is reserved to the Manager, FCIC, or the Manager's designee.

(c) Any individual or entity suspended or debarred under the provisions of 48 CFR part 9, subpart 9.4 will not be eligible to contract with FCIC or be employed by or contract with any insurance company that sells or adjusts FCIC's crop insurance contracts or which company's crop insurance contracts are reinsured by FCIC. FCIC may waive this provision if it is satisfied that the insurance company has taken sufficient action to insure that the suspended or debarred entity or individual will not be involved, in any way, with FCIC or FCIC reinsured crop insurance contracts.

§ 400.456 Governmentwide debarment and suspension (nonprocurement).

(a) This section prescribes the terms and conditions under which individuals or entities may be debarred or suspended by FCIC from participation in Federal assistance and benefits under Federal programs and activities.

(b) This section, in accordance with 7 CFR part 3017, shall be applicable to all FCIC debarment and suspension proceedings other than those undertaken pursuant to the Federal Acquisition Regulations.

(c) Proceedings under this section are not applicable to determinations of eligibility under the provisions of the crop insurance contracts or determinations to be made under 7 CFR 400.454.

(d) The Manager, FCIC, shall be the debarring and suspending official for all debarment or suspension proceedings undertaken by FCIC under the provisions of 7 CFR part 3017.

§ 400.457 Program Fraud Civil Remedies Act.

(a) This section is in accordance with the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801-U.S.C. 3831) which provides for civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, ficti-

tious, or fraudulent claims or written statements to Federal authorities or to their agents.

(b) Proceedings under this section will be in accordance with subpart L of 7 CFR part 1, "Procedures Related to Administrative Hearings Under the Program Fraud Civil Remedies Act of 1986."

(c) The Director, Appeals and Litigation Staff, FCIC, or the Director's designee, is authorized to serve as Agency Fraud Claims Officer for the purpose of implementing the requirements of this section.

§ 400.458 Scheme or device.

(a) In addition to the penalties specified in this part, if a person has knowingly adopted a material scheme or device to obtain catastrophic risk protection, other plans of insurance coverage, or noninsured assistance benefits to which the person is not entitled, has evaded the provisions of the Federal Crop Insurance Act, or has acted with the purpose of evading the provisions of the Federal Crop Insurance Act, the person shall be ineligible to receive any and all benefits applicable to any crop year for which the scheme or device was adopted.

(b) A scheme or device may include, but is not limited to, creating or using another entity, or concealing or providing false information with respect to your interest in the policyholder, to evade:

(1) Suspension, debarment, or disqualification from participation in the program;

(2) The assignment of the non-standard classification system; or

(3) Ineligibility for a delinquent debt owed to FCIC or the insurance company.

[60 FR 37324, July 20, 1995]

§ 400.459 Indebtedness.

Any person who owes a debt to FCIC, or an approved insurance provider, arising from any program administered under the Act, and that debt is delinquent, will be ineligible to participate in all such programs until the debt is paid in full or the person enters into an agreement, acceptable to FCIC or the approved insurance provider, to repay

the debt. If the person provides adequate evidence to demonstrate that the amount of debt is in dispute, the person's application will be accepted or their insurance will remain in effect, but no indemnity payment will be made, until the disputed issue is resolved between that person and FCIC or the approved insurance provider through the available appeal process.

[60 FR 51321, Oct. 2, 1995]

§§ 400.460–400.500 [Reserved]

Subpart S [Reserved]

Subpart T—Federal Crop Insurance Reform, Insurance Implementation

AUTHORITY: 7 U.S.C. 1506(l) and 1506(p).

SOURCE: 61 FR 42975, Aug. 20, 1996, unless otherwise noted.

§ 400.650 Purpose.

The Reform Act requires FCIC to implement a crop insurance program that offers several levels of insurance coverage for producers. These levels of protection include catastrophic risk protection, and additional coverage insurance. This subpart provides notice of the availability of these crop insurance options and establishes provisions and requirements for implementation of the insurance provisions of the Reform Act.

[61 FR 42975, Aug. 20, 1996, as amended at 68 FR 37721, June 25, 2003]

§ 400.651 Definitions.

Act. The Federal Crop Insurance Act, as amended (7 U.S.C. §§ 1501 *et seq.*).

Additional coverage. A level of coverage greater than catastrophic risk protection.

Administrative fee. An amount the producer must pay for catastrophic, and additional coverage each crop year on a per crop and county basis as specified in the Basic Provisions or the Catastrophic Risk Protection Endorsement.

Approved insurance provider. A private insurance company, including its agents, that has been approved and re-insured by FCIC to provide insurance

coverage to producers participating in the Federal crop insurance program.

Approved yield. The actual production history (APH) yield, calculated and approved by the verifier, used to determine the production guarantee by summing the yearly actual, assigned, adjusted or unadjusted transitional yields and dividing the sum by the number of yields contained in the database, which will always contain at least four yields. The database may contain up to 10 consecutive crop years of actual or assigned yields. The approved yield may have yield adjustments elected under applicable policy provisions, or other limitations according to FCIC approved procedures applied when calculating the approved yield.

Catastrophic risk protection. The minimum level of coverage offered by FCIC which is required before a person may qualify for certain other USDA program benefits unless the producer executes a waiver of any eligibility for emergency crop loss assistance in connection with the crop. For the 1995 through 1998 crop years, such coverage will offer protection equal to fifty percent (50%) of the approved yield indemnified at sixty percent (60%) of the expected market price, or a comparable coverage as established by FCIC. For the 1999 and subsequent crop years, such coverage will offer protection equal to fifty percent (50%) of the approved yield indemnified at fifty-five percent (55%) of the expected market price, or a comparable coverage as established by FCIC.

Catastrophic Risk Protection Endorsement. The part of the crop insurance policy that contains provisions of insurance that are specific to catastrophic risk protection.

Crop of economic significance. A crop that has either contributed in the previous crop year, or is expected to contribute in the current crop year, ten percent (10%) or more of the total expected value of the producer's share of all crops grown in the county. However, a crop will not be considered a crop of economic significance if the expected liability under the Catastrophic Risk Protection Endorsement is equal to or less than the administrative fee required for the crop.