

## § 407.2

## 7 CFR Ch. IV (1-1-08 Edition)

### § 407.2 Availability of Federal crop insurance.

(a) Insurance shall be offered under the provisions of this part on the insured crop in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, (7 U.S.C. 1501 *et seq.*) (the Act). The crops and counties shall be designated by the Manager of the Federal Crop Insurance Corporation (FCIC) from those approved by the Board of Directors of FCIC.

(b) The insurance will be offered through companies reinsured by FCIC under the same terms and conditions as the contract contained in this part. These contracts are clearly identified as being reinsured by FCIC. Additionally, the contract contained in this part may be offered directly to producers through agents of the United States Department of Agriculture. Those contracts are specifically identified as being offered by FCIC.

(c) No person may have in force more than one insurance policy issued or reinsured by FCIC on the same crop for the same crop year, in the same county, unless specifically approved in writing by FCIC.

(d) Except as specified in paragraph (c) of this section, if a person has more than one contract authorized under the Act that provides coverage for the same loss on the same crop for the same crop year in the same county, all such contracts shall be voided for that crop year and the person will be liable for the premium on all contracts, unless the person can show to the satisfaction of the Corporation that the multiple contracts of insurance were without the fault of the person.

(1) If the multiple contracts of insurance are shown to be without the fault of the person and:

(i) One contract is an additional coverage policy and the other contract is a Catastrophic Risk Protection policy, the additional coverage policy will apply if both policies are with the same insurance provider, or if not, both insurance providers agree, and the Catastrophic Risk Protection policy will be canceled (If the insurance providers do not agree, the policy with the earliest date of application will be in force and the other contract will be canceled); or

(ii) Both contracts are additional coverage policies or both are Catastrophic Risk Protection policies, the contract with the earliest signature date on the application will be valid and the other contract on that crop in the county for that crop year will be canceled, unless both policies are with the same insurance provider and the insurance provider agrees otherwise or both policies are with different insurance providers and both insurance providers agree otherwise.

(2) No liability for indemnity or premium will attach to the contracts canceled as specified in paragraphs (d)(1)(i) and (ii) of this section.

(e) The person must repay all amounts received in violation of this section with interest at the rate contained in the contract (see § 407.9, section 15).

(f) A person whose contract with FCIC or with a company reinsured by FCIC under the Act has been terminated because of violation of the terms of the contract is not eligible to obtain crop insurance under the Act with FCIC or with a company reinsured by FCIC unless the person can show that the termination was improper and should not result in subsequent ineligibility.

(g) All applicants for insurance under the Act must advise the insurance provider, in writing at the time of application, of any previous applications for insurance or contracts of insurance under the Act within the last 5 years and the present status of any such applications or insurance.

[64 FR 30219, June 7, 1999, as amended at 69 FR 48731, Aug. 10, 2004]

### § 407.3 Premium rates, amounts of protection, and coverage levels.

(a) The Manager of FCIC shall establish premium rates, amounts of protection, and coverage levels for the insured crop that will be included in the actuarial documents on file in the insurance provider's office. Premium rates, amounts of protection, and coverage levels may be changed from year to year.

(b) At the time the application for insurance is made, the person must elect

an amount of protection and a coverage level from among those contained in the actuarial documents for the crop year.

**§ 407.4 OMB control numbers.**

The information collection activity associated with this rule has been previously approved by the Office of Management and Budget (OMB) under control number 0563-0053.

**§ 407.5 Creditors.**

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

**§ 407.6 [Reserved]**

**§ 407.7 The contract.**

The insurance contract shall become effective upon the acceptance by FCIC or the reinsured company of a complete, duly executed application for insurance on a form prescribed or approved by FCIC. The contract shall consist of the accepted application, Group Risk Plan of Insurance Basic Provisions, Crop Provisions, Special Provisions, Actuarial Table, and any amendments, endorsements, or options thereto. Changes made in the contract shall not affect its continuity from year to year. No indemnity shall be paid unless the person complies with all terms and conditions of the contract. The forms required under this part and by the contract are available at the office of the insurance provider, or the local FSA office, if applicable.

[64 FR 30219, June 7, 1999, as amended at 69 FR 48731, Aug. 10, 2004]

**§ 407.8 The application and policy.**

(a) Application for insurance, on a form prescribed or approved by FCIC, must be made by any person who wishes to participate in the program in order to cover such person's share in the insured crop as landlord, owner-operator, tenant, or other crop ownership interest. No other person's interest in the crop may be insured under the application. The application must be submitted to the insurance provider on or

before the applicable sales closing date on file in the insurance provider's local office.

(b) FCIC or the reinsured company may reject or no longer accept applications upon the FCIC's determination that the insurance risk is excessive. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications for fall planted crops, unless prohibited by law, upon determining that the probability and severity of claims will not increase because of the extension, by placing the extended date on file in the insurance provider's office and publishing a notice in the FEDERAL REGISTER. If adverse conditions should develop during the extended period, the Corporation will require the insurance provider to immediately discontinue acceptance of applications.

(c) Since this Group Risk Plan differs significantly from traditional Multiple Peril Crop Insurance, persons who purchase the Group Risk Plan and their crop insurance agents will be required to execute an "Acknowledgment of Differences" that explains that the terms and conditions of the Group Risk Plan are different from traditional crop insurance in that:

(1) The Group Risk Plan indemnity payment, if any, will be made after the Group Risk Plan premium is received;

(2) A person may have a low yield on his or her individual farm and not receive a payment under Group Risk Plan; and

(3) A person may not have any loss of production and still collect under the policy if a loss of production is general in the area.

(4) By executing the "Acknowledgment of Differences," the insured certifies that:

(i) He or she understands the terms of the Group Risk Plan;

(ii) An MPCPI policy may be available in the county; and

(iii) Both a Group Risk Plan and a MPCPI Plan cannot be purchased on the same crop by the same insured in the same county.