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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 400, 402, 407, and 457

[Docket No. FCIC–14–0005]

RIN 0563–AC43

General Administrative Regulations; Catastrophic Risk Protection Endorsement; Area Risk Protection Insurance Regulations; and the Common Crop Insurance Regulations, Basic Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes the General Administrative Regulations—Ineligibility for Programs under the Federal Crop Insurance Act, the Catastrophic Risk Protection Endorsement, the Area Risk Protection Insurance Regulations, and the Common Crop Insurance Regulations, Basic Provisions to revise those provisions affected by changes mandated by the Agricultural Act of 2014 (commonly referred to as the 2014 Farm Bill), enacted on February 7, 2014.

DATES: This rule is effective June 30, 2016.

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

SUPPLEMENTARY INFORMATION:

Background

This rule finalizes changes to the General Administrative Regulations—Ineligibility for Programs under the Federal Crop Insurance Act, the Catastrophic Risk Protection Endorsement, the Area Risk Protection Insurance Regulations, and the Common Crop Insurance Regulations, Basic Provisions that were published by FCIC on July 1, 2014, as a notice of interim rulemaking in the **Federal Register** at 79 FR 37155–37166. The public was afforded 60 days to submit written comments and opinions.

A total of 364 comments were received from 74 commenters. The commenters included persons or entities from the following categories: Academic, farmer, financial, insurance company, producer group, trade association, and other.

FCIC received a number of comments regarding sections of the Farm Bill that were not included in the interim rule. The comments received included but are not limited to (1) section 1404 participation of dairy operations in margin protection program; (2) section 11003 supplemental coverage option; (3) section 11017 stacked income protection plan for producers of upland cotton; (4) section 11022 whole farm diversified risk management insurance plan; and (5) section 11023 crop insurance for organic crops. These sections of the Farm Bill were not a part of this regulation. Therefore, FCIC is not publishing these comments in this final rule. FCIC thanks the public for their input.

The public comments received are organized below by the issues identified in this rule and the specific public comments received. The comments received and FCIC's responses are as follows:

General

Comment: A commenter stated programs to educate farmers on the new provisions contained in the Farm Bill are essential to proper implementation of this legislation and to the long-term success of Northeast agriculture.

The commenter suggested the United States Department of Agriculture (USDA) aggressively promote educational and informational programming, especially initiatives that involve and combine the efforts of public, private and educational entities.

Response: FCIC collaborated with producers, producers groups, agents, approved insurance providers, as well as the National Resource and Conservation Service (NRCS) and the Farm Service Agency (FSA) regarding several sections of the 2014 Farm Bill through meetings, teleconferences, webinars, and listening sessions to develop policies and procedures. The purpose of this outreach was to provide feedback and explain revisions, explain the rationale and approach for implementation, and reach out to specialty groups. General updates to ongoing activities were provided to approved insurance providers. Conservation compliance education included producers, producer groups, agents, and approved insurance provider meetings, collaborations with RMA, NRCS, and FSA, revising forms and certification policy and procedure, as well as providing this information to producers. FCIC conducted 135 in-person and webinar training sessions, and conducted radio spots and other forms of interviews reaching an even larger audience.

FCIC has published information on its Web site highlighting the major changes to the Federal crop insurance program in response to the 2014 Farm Bill implementation. Also published on the Web site are Fact Sheets, Question and Answers, and brochures regarding each section of the Farm Bill. FCIC has worked closely with approved insurance providers to make system changes and prepare procedural documents. In addition, FCIC participated with approved insurance providers and an insurance trade association to train the trainers, underwriters, loss adjusters, and agents. FCIC will continue to promote and educate on the implementation of the Farm Bill provisions as opportunities arise.

Comment: A commenter stated the current agricultural subsidy system is a maze of market distorting and highly parochial policies that generally rewards a handful of large farm businesses or well-connected industry segments at the expense of taxpayers. The system results in costly inefficiencies that detract from program goals and produce numerous unintended consequences. The Federal government bears a disproportionate amount of the financial risks for agribusinesses to the detriment of taxpayers, consumers, and agriculture as a sector making it less competitive, less resilient, and less accountable for its impacts.

The commenter has long advocated for reforms to make the agricultural safety net more cost-effective, transparent, accountable to taxpayers, and responsive to current market conditions and needs. While the Agricultural Act of 2014 fails to take the necessary steps to achieve this reformed safety net, instead of expanding the role of Washington in agriculture through new business income entitlement programs and increasing spending on federally subsidized crop insurance, there is an opportunity to make progress in the implementation of crop insurance provisions.

The commenter strongly encouraged FCIC to remember that while USDA may consider producers and other agricultural businesses ''clients,'' it is taxpayers who are footing the bill. Farm Bills are notorious for vastly exceeding their estimated costs—the last two Farm Bills are on pace to exceed by $400 billion their Congressional Budget Office scores at passage. The decisions FCIC makes in developing and administering programs under its jurisdiction play an important role in determining whether taxpayer-funded agricultural programs will continue to be vastly over budget.

The commenter strongly encourages FCIC to implement the Agricultural Act of 2014 while being cognizant of the reality that federal taxpayers are responsible for more than $17 trillion in debt and are facing annual deficits exceeding $500 billion. The commenter suggested FCIC not simply attempt to maximize spending, but follow the will of Congress in prioritizing federal support only where necessary and in a manner that is cost-effective and transparent.

Response: FCIC does not have the authority to change the amount of subsidies that are mandated by the Federal Crop Insurance Act and such subsidies cannot be eliminated without a change in law by Congress. Since the program changes contained in this rule were mandated by the 2014 Farm Bill, FCIC is required by law to implement the changes and will do so in the most cost-effective and transparent manner possible. No change has been made.

Comment: A commenter stated the third paragraph of background item i. indicates that as of the publication of FR Doc. 2013–25321 on October 25, 2013, a 1971 amendment to the Administrative Procedures Act that previously required codified Federal crop insurance policies to be published for public review and comment is no longer in effect. The commenter believed it would be a loss to FCIC if approved insurance providers, producers and others outside the Federal government were no longer able to ask questions and offer comments to planned policy revisions. Furthermore, the publication of comments and responses in the final rule clarifies the reason for policy changes and helps to avoid potential disputes and ambiguity in policy language. The commenter urged FCIC to continue its practice of publishing all codified crop insurance policy changes in the **Federal Register** for public review and comment.

Response: FCIC is no longer required by the Administrative Procedures Act due to the revocation of the Hardin Memorandum (78 FR 33045) to publish proposed rules because contracts are exempt from notice and comment rulemaking and the crop insurance policy is a contract. FCIC now has the discretion to determine the appropriateness of affording the public an opportunity for notice and comment when promulgating regulations relating to contracts. When issuing rules regarding crop insurance policies in the future, FCIC will take many factors into consideration including but not limited to the nature of the change, and whether it is anticipated to be controversial to any party, the exigency of the change, the significance of the change to stakeholders and any recommendations made by producers, producer groups, agents, loss adjusters, approved insurance providers or other interested parties. To the extent practicable, FCIC will solicit comments before making administrative rules effective, all other rules will be final rule with comment, which still affords the opportunity for the public to comment while making the rule effective upon publication. FCIC may consider the comments received and may conduct additional rulemaking based on those comments.

Comment: A commenter stated throughout section 6 of the CAT Endorsement, FCIC uses the word ''paragraph'' to reference other portions of the Endorsement, the commenter recommended FCIC replace the word ''paragraph'' with the word ''section.'' The commenter believed this change will ensure the CAT Endorsement would be consistent with phrasing used in the CCIP Basic Provisions and other crop insurance policies.

Response: FCIC agrees and has made the change accordingly.

Comment: A commenter stated the phrase ''. . . within 30 days after you have been billed . . .'' in revised section 6(b) of the CAT Endorsement implies the payment must be received within 30 days, precluding any potential for interest owed and making the timeframe for policy termination for unpaid premium ambiguous. As written, this phrase in the CAT Endorsement is inconsistent with the Annual Premium and Administrative Fees section in the applicable Basic Provisions. The commenter therefore recommended FCIC revise section 6(b) as follows: ''In return for catastrophic risk protection coverage, you must pay an administrative fee and any applicable premium as specified in paragraph (f) of this section to us, unless otherwise authorized in the Federal Crop Insurance Act;'' and insert a new sub-clause 6(b)(3) that states ''You will be billed for any applicable premium and administrative fee not earlier than the premium billing date specified in the Special Provisions.''

Response: The phrase ''within 30 days after you have been billed'' in section 6(b) of the CAT Endorsement was not a change made by the interim final rule. The only change made to section 6(b) of the CAT Endorsement by the interim final rule was to add the phrase ''and premium as specified in paragraph (f) of this section'' between the phrases ''administrative fee'' and ''to us within.'' The addition of the phrase ''and premium as specified in paragraph (f) of this section'' does not preclude the potential for interest owed, when applicable, nor change the termination date of the policy. FCIC disagrees that the addition of the phrase ''and premium as specified in paragraph (f) of this section'' or the existing phrase ''within 30 days after you have been billed'' are inconsistent with the provisions in the Annual Premium and Administrative Fees section of the applicable Basic Provisions. However, as provided in the applicable Basic Provisions, if a conflict exists between the CAT Endorsement and the Basic Provisions, the CAT Endorsement controls. No change has been made.

Section 2611

Comment: A commenter did not think crop insurance should be connected with conservation. Farmers should be left alone to maintain their own land. The farmers are paying for their land, not the Federal Government. Farmers know and understand their land much better than USDA or Natural Resources Conservation Service (NRCS). USDA or NRCS cannot even understand the land classifications and want to make all land in a parcel ''highly erodible'' when there may be only a very small part of the parcel that is really erodible. The commenter recommended FCIC disconnect insurance from NRCS and let insurance companies compete for the business rather than continue with the current monopoly.

The commenter felt we have gotten very far off-base with government programs. The commenter explained that there are so many people working in government now that don't have any real understanding of how to work land, improve it, etc. They are only there to draw a salary and pretend to know something. Let the real farmers and ranchers control agriculture. Government programs now are really created and maintained for special interest groups, and that creates all kinds of requirements for the real farmers who know what they are doing. The people who farm small operations do not have a chance because there is somebody telling them they must do what the government wants when the government is unfairly operated in favor of takers rather than producers. The further we go into government control of farming, the less productivity we will have, and our food costs will continue to sky-rocket.

The commenter recommended separating the Supplemental Nutrition Assistance Program (SNAP) from farm programs. SNAP is leading the country in the wrong direction—dependency on somebody else to provide for those who will not keep a job, or maybe choose to have children with no intention of making a living for them.

Response: The 2014 Farm Bill linked the conservation compliance provisions to eligibility for Federal crop insurance premium subsidy. FCIC is required to implement these provisions of the 2014 Farm Bill. Further, FCIC has no control over how the conservation compliance programs are administered or the designation of highly erodible land. All such decisions are made by FSA and NRCS and communicated to FCIC. However, a producer may obtain Federally reinsured crop insurance without being in compliance with the conservation compliance provisions but such producer will be ineligible for premium subsidy on all Federally reinsured crop insurance policies and plans of insurance. The interim rule did not address any provisions of SNAP. Therefore, the comments cannot be considered in this final rule. No change has been made.

Comment: A commenter stated specialty crop and perennial producers have had limited participation in USDA programs, with the exception of the Federal crop insurance program. This agricultural segment is significant in number of producers and overall production throughout the Northeast and will have the greatest challenge meeting the timeline provided by USDA to comply with the conservation compliance requirements. The commenter requested that USDA recognize this challenge and provide leniency in the form of additional time for specialty crop producers that do not currently have an established relationship with FSA and the NRCS.

Response: The 2014 Farm Bill requires that all persons seeking eligibility for Federal crop insurance premium subsidy must provide a certification of compliance with the conservation compliance provisions beginning with the first full reinsurance year following February 7, 2014. The 2014 Farm Bill also requires that existing processes and procedures be used for certifying compliance to avoid creating an additional burden on producers and to provide fair and equal treatment to all producers regardless of what crops a producer grows or which program benefits a producer is seeking to obtain. Form AD–1026 has been used by producers to certify compliance with the provisions since the 1980's, including specialty and perennial crop producers seeking FSA benefits under programs such as the Tree Assistance Program and multiple *ad hoc* disaster programs.

However, while all persons must file a certification of compliance, Form AD–1026, by June 1, 2015, to be eligible for Federal crop insurance premium subsidy for the 2016 reinsurance year (July 1, 2015—June 30, 2016), the 2014 Farm Bill does provide additional time for producers who are subject to the conservation compliance provisions for the first time to develop and comply with a conservation plan or remedy a wetland violation, if needed. Since the conservation provisions are administered by FSA and NRCS, the terms and conditions relating to the additional time frames are specified in 7 CFR part 12. In addition, producers who are subject to the conservation compliance provisions for the first time will receive priority for NRCS technical assistance in developing and applying a conservation plan or in making a wetland determination, if needed.

Comment: A commenter stated the interim rule states, ''Section 2611 of the 2014 Farm Bill links the eligibility for premium subsidy paid by FCIC to an insured's compliance with the Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) provisions of the Food Security Act of 1985.'' The premise of these accountability standards—''conservation compliance''—is that receipt of Federal funding is a two-way street, and subsidies should not be used to tear up sensitive land, drain wetlands, or shift unintended costs onto others. These Farm Bill provisions reduce the cost of agricultural pollution and limit long term liabilities by ensuring producers minimize soil erosion on highly erodible land and forgo draining wetlands.

The commenter added that in order for these provisions to be effective, adequate enforcement of these minimum conservation practices must be prioritized after implementation. Independent analysts including USDA's own Office of Inspector General (OIG) found that from 1991 to 2008, compliance with conservation accountability standards varied from region to region, many farms were out of compliance (up to 20 percent in the 1995 OIG report), and millions in taxpayer dollars could have been saved if subsidies were appropriately withheld for risky production practices (*http://www.agri-pulse.com/uploaded/ConservationCompliance.pdf*). Strong enforcement, proper monitoring, and effective implementation should be prioritized so these provisions achieve measurable public benefits. Adequate resources must also be provided to local officials for monitoring and enforcement efforts, and staff members must be well-trained to ensure consistent enforcement from county to county and state to state.

The commenter also suggested that flexibility should also be built into program regulations so local, on-the-ground knowledge and realities are considered in farms' conservation plans. For instance, if only a small portion of a field is categorized as highly-erodible land, the sensitive acres may require a different conservation plan than the rest of the field. In addition, conservation practices should be evaluated in a holistic view to ensure that those with public benefits greatly outweigh others with potential negative impacts. For instance, installing stream buffers to conserve soil and water could be zeroed out if they are covered in excess agricultural residue left over from flooding or heavy rains. Public benefits of conservation practices may also be reduced when drainage tile is installed on farmland, increasing the rate at which water flows from farmland to nearby waterways. Considering these factors when developing conservation accountability standards will ensure that these provisions not only achieve their stated outcomes but also reduce long-term liabilities of agricultural runoff.

Response: Technical determinations regarding the conservation compliance provisions, such as whether land is highly erodible or a wetland, are made by NRCS. NRCS is also responsible for approving conservation and mitigation plans, when needed, to ensure land meets the conservation compliance requirements. The interim rule did not address the development, approval, or enforcement of the technical requirements for conservation or mitigation plans or the associated staffing needs. No change has been made.

Comment: A commenter believed that the conservation compliance provisions from the 2014 Farm Bill are effectively included in the rule concerning the CAT Endorsement, ARPI, and CCIP Basic Provisions. The commenter noted that the same text is included under each of these three parts of the rule. However, there are a few areas where some refinement could be helpful.

The rule specifically denies the premium subsidy for a compliance violation or failure to file a form AD–1026, and then specifically states that failure by the person to pay the full premium (without the premium subsidy) would result in termination of the policy and all other policies with FCIC. For example, section 6(f) of the CAT Endorsement denies the premium subsidy in the case of a violation and section 6(h) terminates the policy for failure to pay the required premium. The commenter supported the way that compliance has been handled in the rule, and the way it has provided clarity to the way FCIC will be handling it.

However, the commenter also pointed out that form AD–1026, as revised in June 2014 by FSA, can represent a somewhat more complex form for producers that are newly covered by compliance requirements—most of which have been participants in crop insurance, but not other USDA programs that have required compliance for some time. This final rule should provide some greater explanation about the form AD–1026, such as indicating the explanatory purpose of the appendix (as expanded in June of 2014), some description of the boxes to be checked on the form, and the significance of the affiliated person section.

The commenter recommended that the final rule include a specific discussion, perhaps in the background section, that indicates the time allowance for development and compliance with an approved conservation plan. The statute specified that any person newly covered would have five reinsurance years and persons that would have been in violation if they had continued participation in the programs requiring compliance would have two reinsurance years to come into compliance. Some indication of this phase in period would be helpful for those producers that are not familiar with conservation compliance requirements. This is especially important since the rule (and the statute) refer to reinsurance year whereas the form AD–1026 refers to crop year. While the commenter agreed with the time allowance and certain other provisions affecting a decision concerning compliance or a violation being left up to FSA, some greater explanation to that effect and perhaps a link to the FSA rules on HELC and WC would be helpful. Even with the reference to FSA responsibilities, the commenter urged FCIC to provide some clarity on the time allowance the insured has for developing and complying with conservation plans where applicable.

The commenter agreed with the clarity provided by the specific reference in the rule background that the HELC and WC provisions apply only to annually tilled crops.

Response: Form AD–1026 is an FSA form used by producers to self-certify compliance with the conservation compliance provisions. On June 30, 2014, FSA released a modified Form AD–1026 and appendix to incorporate the 2014 Farm Bill provisions relating to crop insurance. As an FSA form, the explanation of and instructions for completing the form are provided by FSA, which can be found at *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/AD1026.PDF.* Since it is FSA that is administering the AD–1026 process, it is best that FSA explain the process and the forms to producers and that such information is contained in their procedures where it can be more comprehensive and up to date than FCIC can provide in this rule.

The interim rule changed the applicable crop insurance Basic Provisions to indicate that producers must have Form AD–1026 on file and they must be in compliance with the conservation compliance provisions of 7 CFR part 12. FSA and NRCS administer the conservation compliance programs and make determinations regarding the additional time frames. Therefore, FSA and NRCS are in the best position to explain the requirements to producers regarding the additional time frames to come into compliance with the conservation compliance provisions. The provisions of 7 CFR part 12 regarding the requirements for conservation compliance and the additional time frames for producers who have never participated in programs for which the conservation compliance provisions were applicable to come into compliance can be found at *http://www.gpo.gov/fdsys/pkg/FR-2015-04-24/pdf/2015-09599.pdf.* However, RMA, FSA, and NRCS have been working diligently to assure that all producers are aware of their obligations under the conservation compliance provisions through meetings, mailings, outreach, etc. To clarify, a producer must provide an AD–1026 form that encompasses all acreage in the producers' farming operation. However, if the crop on acreage does not qualify as an ''agricultural commodity'' as defined in section 2601 of the Food Security Act of 1985, then the producer may be exempt from the other conservation compliance requirements. No change has been made.

Comment: A commenter stated as USDA implements the new conservation compliance provisions that link compliance to crop insurance, the commenter asked that FCIC take into consideration the impact of access and availability of crop insurance for producers. Close to 80 percent of the nation's wheat acres are covered by crop insurance and the impact of the regulations USDA is developing could have a significant adverse impact on wheat growers' access to crop insurance in future years. The ability of USDA personnel to address highly erodible land (HEL) and wetland compliance issues in the field and work with producers directly on mitigation and understanding of the new requirements will be critical to producers livelihoods.

Specifically, the commenter asked that USDA clarify that producers must only complete the AD–1026 prior to June 1, 2015, not that a completed compliance check be undertaken. It is also very important that USDA ensure that producers undergoing existing wetland compliance review or appeals are not adversely impacted when seeking crop insurance next year.

The 2014 Farm Bill establishes a new date of February 7, 2014 for wetland conversion related to eligibility for crop insurance premium subsidies and wheat growers suggest a clear distinction be made between reviews to determine eligibility for premium subsidies for crop insurance, and participation in agriculture risk coverage (ARC) or price loss coverage (PLC) and conservation programs. The 2014 Farm Bill also establishes timeframes for producers to come into compliance if they have not been participating in programs covered by conservation compliance. There are wheat growers who may not currently be participating in commodity or conservation programs, and are, therefore, not subject to conservation compliance, so they may need to use the time to come into compliance. USDA must ensure that these producers needing to come into HEL compliance or wetland conservation compliance are not adversely impacted when they are seeking insurance next year and subsequent years.

Response: The interim rule changed the policy provisions to indicate that producers must have Form AD–1026 on file by June 1 prior to the sales closing date, and they must be in compliance with the conservation compliance provisions of 7 CFR part 12. For producers who have previously been required to file Form AD–1026, such producers must be in compliance with the conservation compliance provisions. For certain producers, additional time is provided to get into compliance with the conservation provisions. However, since FSA and NRCS are administering the conservation compliance programs, the provisions to provide the additional time frames to allow producers who have never before been subject to the conservation compliance provisions can be found at 7 CFR part 12 and *http://www.gpo.gov/fdsys/pkg/FR-2015-04-24/pdf/2015-09599.pdf.*

Technical determinations regarding the conservation compliance provisions, such as whether land is highly erodible or a wetland, are made by NRCS. NRCS is also responsible for approving conservation and mitigation plans, when needed, to ensure land meets the conservation compliance requirements and conducting any compliance reviews and spot-checks. The interim rule did not address the development, approval, or enforcement of the technical requirements for conservation or mitigation plans, as these are not RMA, FCIC, or approved insurance provider responsibilities.

The details regarding the additional time afforded for certain producers to comply with the provisions, how administrative appeals affect a final determination of violation, and the differing dates for determining eligibility for FSA programs and Federal crop insurance premium subsidy due to a wetland conservation violation were not included in the interim rule. The details regarding such provisions and how they apply are contained in an amendment to the regulations at 7 CFR part 12. No change has been made.

Comment: A commenter stated section 7(h) of the CCIP Basic Provisions is poorly organized and includes repetition of Highly Erodible Land/Wetland Conservation and Form AD–1026 requirements. To streamline and eliminate any ambiguity in this section, the commenter recommended FCIC reorganize section 7(h) of the CCIP Basic Provisions as follows:

(h) Effective for any policies with a sales closing date on or after July 1, 2015:

(1) You will be ineligible for any premium subsidy paid on your behalf by FCIC for any policy issued by us if:

(i) USDA determines you have committed a violation . . .; or

(ii) You fail to file form AD–1026, or a successor form, with FSA by the applicable deadline to be properly identified as in compliance with the applicable conservation provisions specified in section 7(h)(1):

(A) By June 1 after you make application for insurance if you demonstrate you are a beginning farmer or rancher . . . ; or

(B) By June 1 prior to the sales closing date for all others.

(2) To be eligible for premium subsidy paid on your behalf by FCIC, it is your responsibility to assure you meet all the requirements in section 7(h)(1) above.

Response: FCIC does not agree the suggested language streamlines, clarifies or improves the readability of the section to the extent that a change is warranted. The proposed changes may have adverse or unintended consequences. The proposed revision introduces new paragraph designations that are not necessary and create additional cross-references that can lead to greater confusion and potential for inaccurate reading. In addition, the proposed revisions could inadvertently change the meaning of the provisions. No change has been made.

Comment: A commenter requested that FCIC allow producers who are out of compliance as of June 1 preceding the sales closing date for the upcoming reinsurance year to be able to regain eligibility if they are determined to be back in compliance prior to the sales closing date for any crop on their policy.

Another commenter agreed with the requirement of maintaining Conservation Compliance in order to qualify for the insurance premium subsidy and with FCIC's approach of not denying benefits during the year in which a farm is found to be out of compliance. However, the commenter urged FCIC to reconsider the manner in which penalties are imposed in the following year. There is significant time between the start of the reinsurance year and the sales closing date for most crops, especially cotton and other spring-seeded crops. If a producer is found to be out of compliance at the beginning of the reinsurance year, the commenter encouraged FCIC to consider giving producers the opportunity to reinstate their eligibility for premium subsidies if they are able to achieve conservation compliance by the sales closing date.

Another commenter stated the proposed June 1 deadline for filing the AD–1026 form is in the regulation, but not in the statute. The commenter requested that FCIC allow producers who are out of compliance as of June 1 to be able to regain eligibility for premium subsidy if they are determined to be back in compliance before the SCD for any crop on their policy. The commenter assumed that FSA will establish procedures around the ability of producers to become eligible for premium subsidy after June 1 but prior to the SCD for any crop on their policy.

A commenter stated the proposed implementation of the new "Conservation Compliance" provisions for the Federal crop insurance program appears to be fairly straightforward with the exception of the direction FCIC has taken regarding possible penalties for producers who temporarily fall out of compliance during an insurance year. While the commenter supported maintaining producer eligibility for premium assistance during the year that a conservation compliance-related problem is recognized, the commenter believed the automatic exclusion of the producer from participating in the program the following insurance year is overly harsh and inflexible. It fails to recognize that the producer may be able to bring themselves back into compliance prior to the start of the next reinsurance year or by their next applicable sales closing date. For cotton producers in the commenter's service area, there is a nine-month difference between the start of a reinsurance year on July 1 and the applicable sales closing date for cotton of March 15. This is a significant period of time during which a producer can come back into compliance, especially if the issue that made them non-compliant was temporary or short-term in nature and can be remedied prior to the next growing season. The commenter believed FCIC should reevaluate the interim rule and revise so that it recognizes and encourages a producer to get back into compliance as quickly as possible and prior to their next applicable sales closing date in order to prevent any lapse in their ability to participate and receive premium assistance. By allowing this option FCIC will accomplish two important goals. First, it will provide a reasonable incentive to quickly address conservation compliance related issues and further the purpose of the provision to enhance environmental stewardship. Second, it will prevent the unnecessary exclusion of otherwise eligible Federal crop insurance program participants.

Response: The 2014 Farm Bill specifies, in the case of a violation, ineligibility for Federal crop insurance premium subsidy applies to the reinsurance year following the date of a final determination of a violation, including all administrative appeals. The reinsurance year runs from July 1 through June 30. This is why the June 1 date for determining compliance was used so that approved insurance providers would know before the start of the reinsurance year on July 1 who was in compliance and would be eligible for premium subsidy. However, under the commenters' proposal, it would directly conflict with the 2014 Farm Bill to allow producers to regain their eligibility during the reinsurance year when the 2014 Farm Bill expressly states they are ineligible for premium subsidy. For example, under the 2014 Farm Bill, if a producer is determined to be in violation of the conservation compliance provisions as of June 1, 2016 and all appeals have been exhausted, the producer is ineligible for Federal crop insurance premium subsidy the 2017 reinsurance year, which runs from July 1, 2016 to June 30, 2017. This means the producer would be ineligible for premium subsidy for all crops with a sales closing date within that period. Even if the producer becomes compliant in August 2016, the 2014 Farm Bill requires eligibility for the remainder of the reinsurance year. No change has been made.

Comment: A commenter stated the National Environmental Policy Act (NEPA) and Implementing Regulations NEPA requires all Federal agencies to prepare an Environmental Impact Statement (EIS) for ''every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.'' As a preliminary step, an agency may prepare an Environmental Assessment (EA) to determine whether the environmental impact of the proposed action is significant enough to warrant an EIS. If an EA establishes that the agency's action may have a significant effect upon the environment, the agency must prepare an EIS.

An agency does not have to prepare an EIS or EA if the action to be taken falls under a categorical exclusion (CE), which include agency-identified categories of actions that do not individually or cumulatively have a significant effect on the human environment. An EA or EIS must be prepared even for otherwise categorically excluded actions where the action may have the potential to affect the environment.

USDA regulations exempt FCIC from NEPA compliance. However, the commenter notes that actions of excluded agencies, including FCIC, are no longer categorically excluded from the preparation of an EA or EIS if ''the agency head determines that an action may have a significant environmental effect.''

Similarly, FSA regulations provide that ''major changes in ongoing programs'' or ''major environmental concerns with ongoing programs'' are among the categories of FSA activities ''that have or are likely to have significant environment[al] impacts on the human environment.'' ''Initial NEPA involvement in program categories'' that are listed as likely to have significant environmental impacts ''shall begin at the time [ ]FSA begins developing proposed legislation, begins the planning stage for implementing a new or changed program or receives notice that an ongoing program may have a significant adverse impact on the quality of the human environment.''

Accordingly, CFS hereby provides notice to FCIC as the joint administrator of the crop insurance program that it must comply with NEPA because the crop insurance provisions of the 2014 Farm Bill implicate conservation programs to which NEPA applies, and may have a significant environmental effect.

The 2014 Farm Bill made two significant changes to existing agricultural programs. First, it tied the federally-funded portion of crop insurance premiums for commodities to conservation compliance. The 2014 Farm Bill requires farmers who purchase subsidized crop insurance to develop conservation plans when they grow crops on land subject to high rates of erosion. The 2014 Farm Bill reattaches soil and wetland conservation requirements to crop insurance premium subsidies, and establishes a Sodsaver provision to protect native grasslands, which prohibits recipients of crop insurance subsidies from draining or filling wetlands unless they mitigate those wetland losses. Now a producer who plows native prairie for crop production in one of the six states covered by the program will receive a 50-percentage-point crop insurance premium subsidy reduction. The prerequisite of implementing an approved conservation plan before producing a commodity on highly erodible land or converting a wetland to crop production has existed since the 1985 Farm Bill and previously affected most USDA farm program benefits, but has excluded crop insurance since 1996. The 2014 Farm Bill again links crop insurance to conservation compliance.

Second, the 2014 Farm Bill merges commodity payments into the crop insurance scheme. The 2014 Farm Bill eliminates direct commodity payments, countercyclical payments in their current form, and the Average Crop Revenue Election (ACRE) program. In place of direct payments, the 2014 Farm Bill revises the counter-cyclical payment program that was established in 2002 and the ACRE program that existed alongside direct payments into the new Price Loss Coverage (PLC) and Agriculture Risk Coverage (ARC) crop insurance options. Thus commodity support is now part of the crop insurance program.

As a result of these two significant changes, NEPA applies to the crop insurance program. First, conservation programs are subject to NEPA under FSA regulations. Because the 2014 Farm Bill explicitly links conservation compliance to the new crop insurance program, NEPA obligations attach to the new crop insurance program.

Second, the changes to the crop insurance program will significantly affect the human environment. In fact, the crop insurance-conservation program is specifically designed to significantly affect the quality of the human environment by protecting sensitive lands and preventing soil loss. Degraded soil quality has a host of serious environmental consequences, while directly undermining the ability of farmers to grow nutritious food and be resilient in the face of disruption. Soil erosion causes water pollution, impacts wildlife habitat, and threatens long-term land productivity. Soil erosion and depletion also affects air quality and climate change: Clearing land converts stored carbon into carbon monoxide, and more than a third of the excess carbon monoxide that has been added to the atmosphere has come from the destruction of soils. Releasing more carbon monoxide into the atmosphere than it can effectively absorb also causes ocean acidification and contributes to the destruction of coral reefs and other marine ecosystems.

Now, farmers who purchase or receive crop insurance will have to develop conservation plans when growing on land subject to high rates of erosion and will be prohibited from draining or filling wetlands without mitigating the losses. Approximately one third of cropland in the United States is highly erodible, meaning that these provisions affect a significant percentage of acreage. The program also limits subsidies to farmers who convert native grasslands to crop production. From 2008 to 2011, more than 23 million acres of grassland, shrub land, and wetlands were destroyed for crop production, destroying habitat that sustains many species of birds and other animals and threatening the diversity of North America's wildlife. In light of these realities, the intended result of these new provisions is to protect sensitive land and prevent soil loss. NEPA is concerned with all significant environmental impacts, not merely adverse impacts. These impacts alone are significant enough to trigger NEPA.

The new crop insurance program may also significantly, and directly, impact the environment in a negative way. The negative effects of commodity crop subsidies have been thoroughly documented. In short, subsidies—including crop insurance—encourage farmers to grow commodity crops on otherwise fallow or environmentally sensitive land. As just one example, a 2012 study by researchers at Iowa State University utilized field-level yield data up to 2006 and price data over 2005–2008, and found that up to three percent of land under the Federal crop insurance program would not have been converted from grassland if there had been no crop insurance subsidies.

With commodity crop production often comes intensive and environmentally destructive practices such as mono-cropping and heavy pesticide use. Single-crop production is more intensive and requires significantly higher usage of pesticides, herbicides, and fertilizers. Reduced crop diversity significantly increases crop losses due to insects and pathogens and reduced soil organic matter. These problems lead to increased use of pesticides and fertilizers, which in turn can increase pathogen and insect populations. Commodity-crop monoculture reduces habitat for wildlife, including birds, pollinators, and other animals that eat pest insects. In addition to reducing species richness and harming key species, this compounds the need for pesticides. On average organic farms have 30 percent higher biodiversity, including birds, pollinators, and plants, than their mono-cropped industrial counterparts. Subsidies also create higher marginal revenues for inputs (fertilizers, pesticides, herbicides, seeds, and labor), thereby motivating additional input use, by raising prices and reducing price variations in program crops. For example, compared with farmers who do not participate in commodity programs, corn farmers receiving subsidies have reported significantly increased herbicide use in all cropping sequences, ''supporting the conventional view that commodity programs directly contribute to greater herbicide use in corn production.'' The industrial-scale use of pesticides, herbicides, and fertilizers in turn significantly affects rivers and groundwater, harming aquatic ecosystems and the life forms they support. Over half of synthetic nitrogen fertilizers used on global cereal production (including corn and soy) are lost through groundwater leaching or released as nitrous oxide into the atmosphere. Nitrous oxide is a greenhouse gas 310 times more potent than carbon monoxide, and in the United States three-quarters of it comes from agricultural soil management. The effects of commodity farming as supported by the new crop insurance program are thus serious and significant.

These impacts flow directly from the new crop insurance program—a major Federal action significantly affecting the human environment—triggering FCIC's duty to comply with NEPA in implementing the programs.

For the forgoing reasons, NEPA applies to the new crop insurance program. NEPA requires FCIC to, at a minimum, conduct an EA for the new crop insurance subsidies. FCIC's failure to comply with NEPA in implementing these programs would constitute a blatant violation of NEPA and USDA regulations.

Response: The regulations at 7 CFR part 1b provide that the FCIC is categorically excluded from the preparation of an environmental assessment or environmental impact statement unless the agency head determines that an action may have a significant environmental effect. The 2014 Farm Bill mandates the expansion of current conservation compliance requirements to apply to persons who seek eligibility for Federal crop insurance premium subsidy. However, these 2014 Farm Bill provisions do not change the existing rules regarding the technical determinations for the conservation compliance provisions, such as whether land is highly erodible or a wetland, conservation and mitigation plans, when needed, to ensure land meets the conservation compliance requirements and conducting any compliance reviews and spot-checks. Further, FCIC merely amended the policy to include the requirements of the 2014 Farm Bill, the regulations governing the conservation compliance provisions of the Food Security Act of 1985, as amended by the 2014 Farm Bill, are found at 7 CFR part 12. In addition, although Federal crop insurance participants were not previously subject to conservation compliance, the majority of insured participants were already participating in farm programs subject to conservation compliance. Therefore, the head of the agency has determined that this final rule will not have a significant environmental effect.

Comment: A commenter stated there is considerable confusion surrounding the issue of new conservation compliance rules for crop insurance.

For instance, the Background in the interim rule, in the third column of page 37157, states that ''[e]ven if the insured [determined to be non-compliant on June 1, 2015, (2015 reinsurance year)] becomes compliant during the 2016 reinsurance year, the insured will not be eligible for premium subsidy until the 2017 reinsurance year starting on July 1, 2016.'' However, when questioned about this matter during a hearing of the House Subcommittee on General Farm Commodities and Risk Management, held July 10, 2014, Undersecretary Michael Scuse stated, ''Well, remember, we're asking them to sign up that they will be in compliance on June 15th and then they are given a period of time to come into compliance.'' In response to a follow up question of exactly how long the producer would have to come back into compliance, Undersecretary Scuse stated that this would be established ''in the rule.''

The commenter agreed with the Undersecretary's point of view that the producer ought to be given time to come back into compliance. However, the interim rule, at least in the Background, appears to take a punitive approach that is inconsistent with the Undersecretary's statement. The commenter respectfully urged that the rule clarify that the producer does, in fact, have time to come back into compliance and what that time period is precisely. The commenter also urged that, beyond the rulemaking, FCIC develop a FAQ document that answers the questions concerning conservation compliance. Only the Department can provide answers that will give producers confidence in the safe harbors provided by the law and regulation.

Response: The 2014 Farm Bill states that ineligibility for Federal crop insurance premium subsidy due to a violation of the conservation compliance provisions shall apply to reinsurance years subsequent to the date of final determination of a violation, including all administrative appeals. The requirement that producers file their AD–1026 form by June 1 did not come into effect until June 1, 2015, more than a year after enactment of the 2014 Farm Bill. RMA, FSA, NRCS, agents and approved insurance providers have been conducting a significant effort to inform all producers of the conservation compliance requirement so that any producers not in compliance would have an opportunity to get into compliance prior to June 1, 2015.

Since FCIC does not administer the conservation compliance provisions or make determinations of compliance, as stated above, the details regarding the additional time afforded certain producers to comply with the provisions and how administrative appeals affect a final determination of violation are contained in an amendment to the regulations at 7 CFR part 12.

However, the Food Security Act of 1985 and the 2014 Farm Bill provide an exemption for persons who act in good faith and without intent to commit a violation. The exemption allows such persons to remain eligible for Federal crop insurance premium subsidy for a period of time if the person is taking action to remedy the violation. The determination of whether a person acted in good faith and without intent to violate the provisions is part of the administrative appeals process. Therefore, a person who meets the requirements of the good faith exemption would not have a final determination of violation unless they do not take the appropriate steps to remedy the violation within the established time period. The person would not be ineligible for Federal crop insurance premium subsidy until a final determination of violation is made. The details of the good faith exemption are contained in an amendment to the regulations at 7 CFR part 12. No change has been made in this final rule.

Comment: A commenter supported the provision in the rule for beginning farmers and ranchers concerning the deadline for filing the form AD–1026. While all other insureds must file a form AD–1026 by June 1 of any reinsurance year to be eligible for premium assistance in the next reinsurance year, beginning farmers that have not had any insurable interest in a crop or livestock operation previously, and started farming after the beginning of the new reinsurance year, have until the sales closing date to file an AD–1026. In effect, this allows a new entrant to farming the same access to premium assistance as established farmers, up until the sales closing date. While the commenter did not believe that there is any provision in the 2014 Farm Bill or in prior law that specifically authorizes this flexibility to beginning farmers and ranchers, the commenter believed that it has merit and is fair to this special group of producers.

Response: FCIC agrees with the commenter that the exception to the requirement to have form AD–1026 on file on or before June 1 prior to the sales closing date for certain producers who were not previously engaged in farming is needed and is not inconsistent with the statutory requirements. Such producers would not have known of the requirement to file an AD–1026 form by June 1 and, therefore, they cannot be penalized for non-compliance. However, the term ''beginning farmer or rancher'' has a specific definition that will result in the exception not being applied as intended. The intent of the exception is to provide producers who are new to or began farming for the first time after the June 1 deadline the ability to remain eligible for premium subsidy the subsequent reinsurance year. ''Beginning farmer or rancher'' can include producers who have been farming for a few years. Therefore, in order for the exception to be applied as intended, the reference to ''beginning farmer or rancher'' will be changed to reference producers who begin farming for the first time after June 1. The needed changes were provided in the Special Provisions of the applicable crop insurance policies until this final rule was published. FCIC has issued administrative procedures that describes what constitutes beginning farming for the first time, and how producers without form AD–1026 on file can self-certify that such a situation applies to them in procedures. Producers may only qualify for this exception for one year and must have form AD–1026 on file by the following June 1 to remain eligible for premium subsidy in subsequent reinsurance years. Therefore, FCIC has incorporated this change in section 6(f)(2)(i) of the CAT Endorsement, section 7(h)(2)(i) of the CCIP Basic Provisions, and section 7(i)(2)(i) of the ARPI Basic Provisions of this final rule and will remove the Special Provisions statement after this final rule is published.

Section 11007

Comment: A commenter stated the current definition of enterprise unit is ''All insurable acreage of the same insured crop in the county in which you have a share on the date coverage begins for the crop year, provided the requirements of section 34 are met.'' With the new allowance for enterprise units by irrigation practice, the commenter does not believe this definition is sufficient. The commenter recommended FCIC revise the enterprise unit definition in the CCIP Basic Provisions as follows: ''All insurable acreage of the same insured crop or crop/irrigation practice, when allowed by the actuarial documents, in the county in which you have a share on the date coverage begins for the crop year, provided the requirements of section 34 are met.''

Response: FCIC agrees and has revised the definition to take into account that separate enterprise units are allowed for all irrigated acreage and non-irrigated acreage of the crop in the county.

Comment: A commenter stated when the option for enterprise unit coverage was introduced in the 2008 Farm Bill, it quickly gained popularity across the Cotton Belt. The new farm law enhances enterprise unit coverage by providing the ability to separate irrigated and non-irrigated acres when using enterprise unit coverage. However, the commenter understood that this provision will only be available when a producer has the ability to qualify for enterprise unit coverage for both their irrigated acreage and non-irrigated acreage. If a producer cannot qualify for enterprise unit coverage on both practices, that producer would then have a common enterprise unit. The commenter recommended FCIC implement the new enterprise unit provisions with greater flexibility than the commenter understood to be the case. Specifically, if a producer qualifies for enterprise unit coverage for a single practice, the producer should be allowed to select enterprise unit coverage for that practice, without impacting his ability to choose the most appropriate unit structure, be it a separate enterprise unit or optional units that meets the needs of his operation under the other practice. This would allow producers to utilize the law's intent of separating by practice and also prevent them from being penalized simply because a portion of their acreage does not meet the enterprise unit size requirements.

Another commenter stated in § 457.8, in section 34 of the CCIP Basic Provisions, the units provision, if a producer elects to insure dry land acreage planted to a specific commodity by enterprise unit, the producer is then also required under the interim rule to insure any irrigated acreage planted to that commodity by enterprise unit. The authority for separate enterprise units by practice, section 11007 of the Farm Bill, provides: ''(D) Nonirrigated crops.—Beginning with the 2015 crop year, the Corporation shall make available separate enterprise units for irrigated and nonirrigated acreage of crops in counties.'' The purpose of the provision is to require FCIC to make separate enterprise units available to irrigated and dry land acreage planted to a commodity but to allow the producer to elect enterprise units for both or either. As a matter of policy, assuming minimum acreage requirements are met, allowing a producer to elect to insure irrigated acreage of a commodity by enterprise unit and to elect to insure dryland acreage planted to a commodity by optional or basic units or vice-versa still achieves the risk-reducing intent of enterprise units because one practice has been insured by enterprise unit rather than optional or basic units. Denying a producer the election to insure one practice by an enterprise unit and the other practice by optional or basic units may frustrate the goal of providing more options for producers by forcing the producer to insure both practices by optional or basic units. Importantly, the premium support connected with enterprise units would be unchanged by a producer's election of enterprise units for one practice and optional or basic units for the other because the premium support for enterprise units is fixed in statute and optional or basic units have already been appropriately rated.

If the purpose of section 11007 is fully effectuated, the commenter believed that the risk-reducing intent of enterprise units will be furthered, not diminished. Producers will have a more complete set of options for how best to manage risk, consistent with the goal of the Farm Bill. The commenter respectfully urged that the purpose of section 11007 of the Farm Bill be implemented accordingly.

Another commenter, regarding the proposed implementation of the ''Enterprise Unit by Practice'' provision, stated they believed that the proposed rule does not provide the degree of flexibility the commenter expected in this provision. The commenter strongly supported the provision based on their understanding that producers would be able to select the enterprise unit structure for a single practice (*i.e.*—non-irrigated), as long as acreage insured under that practice meets the minimum requirements to be a stand-alone enterprise unit, without compromising their ability to select a different or more suitable unit structure for a different practice (*i.e.*—irrigated). This flexibility provides the insured the ability to match the most appropriate insurance unit structure to the predominant risk associated with a given practice. The commenter believed the current interpretation of the provision by FCIC does not fully recognize the intent of Congress to provide meaningful flexibility to program participants. Given that the overarching goal of this provision is flexibility, the commenter believed any concern or intent from Congress to implement the provision in a more restrictive manner as FCIC has proposed would have been specifically indicated in the legislative language. The commenter urged FCIC to reconsider their current interpretation in light of this commentary and revise this provision accordingly.

Response: The text of Section 11007 states that ''the Corporation shall make available separate enterprise units for irrigated and nonirrigated acreage of crops in counties.'' Under the plain meaning of the text, this means two separate enterprise units. Therefore, FCIC has made changes to allow separate enterprise units (not policies) by practice, *i.e.* one enterprise unit for irrigated acreage and one enterprise unit for non-irrigated acreage. Since the provision provides for two enterprise units and does not change or otherwise modify the definition of an enterprise unit, FCIC interpreted this to mean that the existing regulation for an enterprise unit remained overarching and that all acreage of the crop in the county had to be insured as an enterprise unit regardless of construct as a single enterprise unit or two separate enterprise units, one for all the irrigated acreage in the county and one for all the non-irrigated acreage in the county. To allow producers to choose smaller unit structures on some acreage of the crop in the county, such as optional and basic units, for one of the practices is counter to this intent. In addition, allowing an enterprise unit for one practice and another unit structure for the other practice complicates program administration and premium subsidy determination. Enterprise unit subsidies are based on the average enterprise unit discount received by growers. The enterprise unit discounts themselves are affected by the size of the unit—the larger the acreage in an enterprise unit, the greater the discount (and vice-versa). As growers are given additional flexibility to reduce the size (less acres) of their enterprise unit, then the enterprise unit discount becomes smaller. This brings into question whether the premium subsidy rates offered for enterprise units would need to be revised downward accordingly. To the extent that the average size of enterprise units moves closer towards the average size of optional units, the premium subsidy rates for enterprise units must also move closer towards the premium subsidy rates for optional units. No change has been made.

Comment: A commenter stated the interim rule stipulates timelines for implementing separate enterprise units and coverage levels for irrigated and dryland acreage. These provisions will greatly benefit growers in areas that utilize irrigated agriculture. Producers who use both practices in their operations are currently unable to fully realize the benefits of using enterprise units due to the wide variation in production between their irrigated and non-irrigated crops. As producers in Texas have faced multiple years of extreme drought, their dryland yields have plummeted, bringing enterprise unit yields down significantly even though the irrigated acreage was not as severely affected. The result is reduced coverage and crop insurance policies that do not reflect average production. The ability to have separate, distinct levels of coverage on irrigated and non-irrigated acres will allow farmers to create a better risk management plan for their operation. The commenter urged FCIC to implement this provision as soon as possible. By delaying the implementation of these provisions until spring of 2015, FCIC has put winter wheat producers at a distinct disadvantage to growers of other crops.

Response: The changes mandated by the 2014 Farm Bill impact almost all county crop programs within the Federal crop insurance program. Unfortunately, given the magnitude of the work required, FCIC was unable to implement the provision for crops with a contract change date prior to November 30, 2014. The actuarial documents specified the ability to make this election beginning with 2015 crop year spring crops with a contract change date of November 30, 2014, and later.

Comment: A commenter stated they identified a major flaw in section 34(a)(4)(viii)(C)(*1*) of the CCIP Basic Provisions as currently proposed. This section needs to be clarified to indicate that if the insured does not qualify for enterprise units by practice that he or she then has to automatically default to enterprise unit, provided that he or she qualifies for such unit structure on a crop basis. If it is subsequently determined that the insured does not qualify for enterprise unit either, the unit structure would then revert to basic units or optional units, whichever the insured reports on the acreage report and qualifies for. There should not be an option for the insured to not elect to have enterprise unit simply because he or she does not qualify for enterprise units by practice up to the acreage reporting date. The rationale for this is that the insured has to make the decision to elect enterprise units or enterprise units by practice by the sales closing date. Therefore, if the insureds do not qualify for enterprise units by practice the commenter felt it should not allow insureds the opportunity to not have enterprise units up to the acreage reporting date. There are valid reasons for requiring the enterprise units or enterprise units by practice election by the sales closing date and if this provision is not revised it would allow insureds the opportunity to elect enterprise units by practice by the sales closing date, even if they know that they will not qualify for such election, and then have the option to decide by the acreage reporting date if they want to go with enterprise units or change to basic or optional units, whichever they qualify for. The current language as structured allows insureds the opportunity to circumvent the sales closing date deadline for this election which is counter to the requirement that this election be made by the sales closing date. It creates an unintended loophole that producers could use to circumvent the sales closing date deadline for this election. If this provision is not changed it subjects the Approved Insurance Providers to possible adverse selection by producers since they would now be allowed to decide if they want to have enterprise units up to the acreage reporting date. In summary, the commenter stated the proper way to administer this provisions is to automatically apply enterprise units if the insured does not qualify for enterprise units by practice and then revert to basic or optional units if the insured does not qualify for enterprise units either (similar to how the commenter would handle this if it was discovered after the acreage reporting date except that optional units would also be an option in addition to basic units).

Response: FCIC disagrees with the commenter. There is nothing in the policy that requires the election of unit structure by the sales closing date. Such decisions have always been made by the acreage report once the producer knows what crops/types/practices have been used. It is impossible to make such determinations by the sales closing date. However, to protect program integrity, coverage levels must be selected by the sales closing date because there is always a potential for loss before the acreage reporting date and it would adversely affect program integrity to allow producers to change their coverage level after a loss has occurred. Even though the producer may request separate coverage levels if authorized by type or practice, it cannot be binding on the producer because the producer may elect not to plant to one of the selected types or practices. This will not be known until the crop is planted, which may be months after the sales closing date. Allowing the insured to choose, before the acreage reporting date, one enterprise unit, or basic or optional units depending on which the insured has reported on the acreage report, allows flexibility for those insureds who would not have elected one enterprise unit but for the new enterprise unit by practice election. Removing this flexibility may deter insureds from electing separate enterprise units by practice. FCIC does not allow this flexibility after the acreage reporting date. If after the acreage reporting date, an insured who elected separate coverage levels by practice does not qualify is automatically applied basic or optional units, depending on which they have reported on their acreage report. No change has been made.

Section 11009

Comment: A commenter stated their reading of the regulation indicates that USDA is limiting the use of actual production history (APH) based on production data availability. The commenter strongly recommended that APH Yield Adjustment Option be implemented for all producers without delay. This is an important provision especially for very progressive farms that have excellent production results.

Another commenter stated erosion of APH due to consecutive years of disaster is an issue the wheat industry has been fighting for many years. With wheat being grown in some of the most diverse regions of the country, wheat farmers can be devastated with drought, floods or freezes in any given year. This provision would be very beneficial to wheat growers across the country, primarily in areas where they are dealing with multi-year disasters. FCIC announced that this provision will not be available for the 2015 crop year which has left a number of wheat farmers frustrated. The commenter would appreciate FCIC doing everything in its power to make this provision available to our growers for 2015. The commenter is specifically concerned over continued economic injury to those who can least afford it after years of financial stress due to ongoing drought. The commenter believed this provision will go a long way toward their goal of ensuring a producer is paying for coverage that matches his or her production expectation.

Another commenter stated this provision will provide immediate relief to farmers who have suffered from multiple years of extreme weather disasters. The provision is not likely to trigger frequently, but will aid farmers in disaster areas to secure crop insurance coverage that meets average production estimates. A delay in implementation for the APH provision will result in one more year of eroding APH levels for growers across the Southern Plains region who are currently experiencing a record breaking, multiple year drought. The APH provision should be implemented immediately to adequately protect farmers and maintain the strength of the crop insurance program. As several key farm policy leaders have mentioned, if the provision cannot be implemented in 2015 for all areas and all crops, the commenter urged FCIC to target those areas most likely to benefit from the provision.

Another commenter stated they appreciated FCIC's work in making other provisions included in the 2014 Farm Bill applicable for the 2015 insurance year including: The ability to insure at different coverage levels by practice; enterprise unit coverage by practice; and the beginning farmer provisions. One provision that FCIC has indicated will not be available in 2015 is the APH adjustment. This provision is especially important for portions of the Cotton Belt who have recently incurred several years of historic drought conditions. Again, with insurance being the foundation of risk management for cotton producers, the commenter urged FCIC to continue to review every avenue possible for implementation of this important provision.

Another commenter stated concerning the implementation of section 11009 of the 2014 Farm Bill allowing insureds to exclude certain yields, the commenter understood there has been considerable discussion regarding the feasibility of an implementation in time for the 2015 reinsurance year. The commenter also supported the provision and its timely implementation and the commenter offered their expertise and their agent members in assisting to achieve this objective that is so important to producers struck by natural disasters, particularly the drought-stricken producers of recent years.

A commenter stated ''Section 11009—The ''APH Adjustment'' provision is one that is of particular importance to the commenter's membership and is among their top priorities for implementation. Based on previous statements from FCIC, the commenter continues to be concerned that this provision will not be implemented in time for the 2015 insurance year. The commenter appreciated FCIC's willingness to continue to evaluate possible avenues for partial implementation of the provision for those regions of the country that are most impacted by the current drought and for which this provision was intended to provide relief. The commenter believed that FCIC is making progress in this regard as it has become clear in recent weeks that FCIC has performed a significant amount of data collection and analysis in high impact regions. Based on these observations the commenter believes that FCIC can realistically implement this provision at a significant level for 2015. The commenter encouraged FCIC to continue to work on this issue and to make every effort to make this provision available to cotton and grain producers in the regions that are most in need, specifically Texas and Oklahoma.

Response: FCIC had a number of 2014 Farm Bill provisions that mandate a 2015 crop year implementation. In accordance with these mandates by Congress, FCIC had to devote considerable resources to this effort. Further, while many of the crop insurance provisions in the 2014 Farm Bill were found in previous versions, section 11009 was not included until the final enactment of the 2014 Farm Bill. Due to many 2014 Farm Bill programs being completed ahead of schedule, and the timing of these completions, FCIC was able to implement this provision for select spring crops for the 2015 crop year but given the sheer amount of work required to implement this provision for all crops, in all counties, by irrigated and non-irrigated practice, FCIC simply did not have the time or the resources to implement the provision for all crops and counties.

Comment: A commenter stated section 11009 of the 2014 Farm Bill allows producers to exclude historic yields when county yields were at least 50 percent below the ten-year simple average. Agricultural producers already receive generous premium subsidies in addition to favorable provisions allowing any producer to receive crop insurance subsidies regardless of the risk profile of the farmland. Basing these taxpayer-subsidized guarantees on an ''actual'' production history that cherry-picks the best years of production is fiscally reckless. APH should reflect the history of production actually experienced, rather than some aspirational potential harvest that would have occurred if not for the growing conditions actually experienced. The commenter suggested this provision not be implemented. If it is, the commenter suggested a surcharge be charged for every yield plug inserted in a producer's APH, to account for the likelihood of yields falling short of these artificially high guarantees.

Response: Since the provisions regarding exclusion of yields were mandated by the 2014 Farm Bill, FCIC is required by law to implement the changes. FCIC must also, by law, set premium rates sufficient to cover anticipated losses plus a reasonable reserve. FCIC has revised the premium rate calculations to account for the increase in a grower's coverage, and potential losses, due to the exclusion of certain yields from a producer's actual production history.

Comment: A commenter stated the new CCIP Basic Provisions section 5 states ''. . . the per planted acre yield was at least 50 percent below the simple average of the per acre planted yield for the crop in the county for the previous 10 consecutive crop years.'' The commenter does not believe FCIC intended to use different phrasing for per planted acre yield. The commenter recommended FCIC revise this section to only use the phrase ''per planted acre yield'' to accurately reflect that the yields to be considered are on a per-acre basis, but are limited to planted acreage.

Response: FCIC agrees with the commenter and has revised the provisions accordingly.

Section 11014

Comment: A commenter stated section 11014 of the 2014 Farm Bill reduces crop insurance premium subsidies on native sod acres in certain Midwestern states. This provision only applies to plots of land that are larger than five acres. Due to the unintended consequences and large public costs of tearing up native sod for cropland production, this threshold should be reduced to zero acres, or at a minimum, ensure that producers tear up no more than five acres across all of their farms, regardless of location, joint ownership, etc. The commenter believed taxpayers should not subsidize the conversion of sensitive cropland to crop production. Proper enforcement and monitoring of this provision should also be prioritized to ensure that taxpayer subsidies are not subsidizing risky planting decisions.

Response: The 2014 Farm Bill specifically states ''The Secretary shall exempt areas of 5 acres or less''. Therefore, the 2014 Farm Bill does not provide the authority to change this threshold. FCIC has made changes to exempt a total of five acres or less per county, per producer, across all applicable insured crop policies cumulating each year until the 5-acre threshold is reached. Once a producer converts more than five acres of native sod, the reduction in benefits will apply to all native sod acreage going forward. The premium subsidy reduction of 50 percentage points is required by the 2014 Farm Bill on converted native sod. This guarantees that taxpayers will not bear the risk of the conversion of native sod acreage. No change has been made.

Comment: Several commenters stated under the interim rule, a producer could convert native sod to an annual crop not covered by their chosen crop insurance policy and choose not to insure it during the first four crop years. During the fifth crop year the producer could add the converted acres to their policy and receive full Federal crop insurance benefits. For example, a crop insurance policy in the six sodsaver states would be for corn, soybeans, and wheat. A producer could plant annual crops of sunflowers, sorghum, millet, or oats during the first four years native sod is cropped and not include them in their crop insurance policy. The fifth year they could plant corn, soybeans or wheat and receive full crop insurance benefits. A producer could alternatively plant a perennial crop, like alfalfa, during the first four years of cropping native sod, receive full premium subsidies for forage insurance, and then again in year five plant an insurable annual crop and never be subject to sodsaver disincentives.

The commenters recommended to avoid these potential loopholes, minimize taxpayer liabilities, and maintain Congressional intent, any native sod acreage converted after February 7, 2014, should be subject to sodsaver premium reductions for the first four years of Federally insured crop production. For example, a producer who converted 160 acres of native sod in March 2014 plants alfalfa on that acreage in 2014–2017, and plants Federally insured wheat in 2018 should be subject to four years of sodsaver disincentives beginning in year 2018. This would ensure that the disincentive to convert native sod to cropland is fulfilled as intended by Congress.

Response: The 2014 Farm Bill states the reduction of benefits are during the first four crop years of planting on native sod acreage. These reduction of benefits only apply to annual crops planted during the first four crop years of planting on such acreage. FCIC does not have the authority to change these requirements and make them more restrictive. Therefore, no change has been made.

Comment: Several commenters stated the sodsaver provisions define native sod as any land that has no substantiated cropping history prior to February 7, 2014. The statute reduces Federal crop insurance premium benefits by 50 percentage points following conversion of native sod, limits transitional yields to 65 percent, and prohibits yield substitution during the first four years an annual crop is

Federally-insured. Substantiation of cropping history should include a combination of verifiable FSA records and/or spatially-explicit data tied to those tracts. The commenters stated simply providing seed or input cost receipts with no verifiable tract-level spatial information or supporting FSA documentation should not suffice as adequate substantiation of cropping history.

A few commenters stated a fact sheet published in June titled ''Native Sod Guidelines for Federal Crop Insurance'' does not provide any limitation on the types of evidence that may be used to prove that land has been tilled. Instead, the guidance provides seven examples of acceptable documentation. Moreover, the interim rule stated that the absence of tillage will be ''determined in accordance with information collected and maintained by an agency of the USDA or other verifiable records that you provide and are acceptable to us[. . .]'' The commenters were concerned that this flexibility will result in the use of unreliable evidence of tillage. Therefore, the commenters recommended that if a producer cannot provide FSA, NRCS, or Common Land Unit documentation that demonstrates a cropping history on the land, there must be a body of spatially explicit evidence (*e.g.,* GIS planting/harvest maps vs. simply seed or other input receipts with no verifiable spatial information) showing the cropping history clearly. The commenters strongly opposed the use of receipts and/or invoices as evidence of tillage, and the commenters urged that the rule explicitly exclude this as a form of documentation. The commenters believed third-party verification will help ensure accurate ''substantiation'' of prior cropping history. A commenter further recommended that the final rule explicitly exclude the use of receipts and/or invoices as documentation of tillage.

Response: FCIC agrees that the evidence for a cropping history must be tied to the specific acreage. Therefore, FCIC has removed from its issued procedures the reference to ''receipts and invoices'' as a form of documentation that may be used to substantiate the ground has been previously tilled for the production of a crop. In addition, FCIC has revised and issued procedures requiring the use of USDA documentation when available, including FSA and NRCS documentation.

Comment: Several commenters stated under the interim rule, crop insurance agents would determine the classification of native sod. Three significant factors make this process unworkable: Inadequate training on landscape classification, lack of access to FSA information, and conflict of interest. Crop insurance agents are trained in crop insurance regulations, coverage, and processing. Their responsibilities require considerable knowledge of a number of processes. Adding another component starkly foreign to their existing heavy workload and for one which few crop insurance agents are trained is not an effective method for processing native sod determinations. This would likely result in a significant rate of errors, leading to the need for new determinations by a trained staff of experts.

The commenters also stated that functionally, crop insurance agents have access to their own records regarding the cropping history of insured fields. However, that data often does not include the full cropping history of a field. Many fields may have data and history not accessible in insurance files. Often only FSA files have information on cropping history. This would require all crop insurance agents to contact FSA offices to obtain all information. It would simply be easier for FSA to make the determination and to remove the extra step of having the crop insurance agent make the inquiry into FSA.

For many crop insurance agents, selling crop insurance is their livelihood. Placing them in charge of making native sod determinations, what is and is not insurable, stands in a stark conflict of interest. In the free market of crop insurance, if a farmer is not happy with the decision of an agent, they can simply go to another agent. This threat of lost business for upholding the sodsaver provisions could punish crop insurance agents who do the right thing. It is unfair to place that burden on crop insurance agents. Here again, it is better to leave native sod determinations to an independent third party and in particular, to the FSA since they already possess much of the necessary data.

A few commenters stated the FSA and RMA have the ability, expertise and resources to work together to provide independent third-party verifications in a timely and accurate manner.

Response: Native sod guidelines apply to all counties in Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota. An insured's benefits are reduced if they till native sod acreage to grow an annual crop during the first 4 crop years they are covered by Federal crop insurance for that acreage. Native sod acreage is acreage that has never been tilled or that the insured cannot prove to have been previously tilled for crop production. To prove that acreage was previously tilled, the insured must provide documentation to the approved insurance provider. Acceptable documentation may include, but is not limited to:

(1) A Farm Service Agency (FSA)–578 document showing the crop that was previously planted on the requested acreage;

(2) A prior crop year's FSA–578 document showing that the requested acreage is classified as cropland;

(3) A prior crop year's Common Land Unit (CLU) Schema (RMA provides this to approved insurance providers), presented in a map format that contains the farm number, tract number, field number, CLU classification (the cropland classification code is '2'), and calculated acres by field;

(4) Receipts and/or invoices from custom planters or harvesters identifying the fields that were planted or harvested;

(5) A Natural Resources Conservation Service (NRCS) Form CPA–026e identifying the acreage with a ''No'' in the Sodbust column and a ''Yes'' in the HEL column;

(6) An NRCS Form CPA–026e identifying the acreage with a ''Yes'' in the Sodbust column and a determination date on or before February 7, 2014; or

(7) Precision agriculture planting records and/or raw data for previous crop years, provided such records meet the precision farming acreage reporting requirements.

Therefore, agents do not determine the classification of land as native sod but rather the acreage itself and records provided by the producer to the approved insurance providers will be the basis for such determinations. The agent's role in native sod classification is to gather the documents provided by the insured to submit to the approved insurance providers or FCIC. Since agents do not make the determination, approved insurance providers or FCIC acts as a third-party verifier. No change has been made.

Comment: A commenter was not in favor of the provisions regarding native sod. The commenter recommended the determination of whether a parcel of land is prairie, or that it once was cultivated, should be made by the USDA as opposed to crop insurance agents.

Response: Since the provisions regarding native sod contained in this rule were mandated by the 2014 Farm Bill, FCIC is required by law to implement the changes. As stated above, determinations are made based on records provided by the producer to approved insurance providers. Agents do not make the determination. No change has been made.

Comment: Several commenters stated FSA and RMA should monitor and provide publically available new breakings reports each year. This requirement was highlighted in the 2014 Farm Bill, which directs USDA to report changes in cropland acreage at the county level (including changes from non-cropland to cropland) since 2000 and on an annual basis post-enactment of the 2014 Farm Bill. The reporting requirement within Sec. 11014 Crop Production on Native Sod (Subsection C ''Cropland Report'') also directs USDA to report changes in cropland acreage. While not explicitly stated, the intent of this subsection was to monitor and report changes in native sod acreage. Simply reporting annual cropland acreage does not achieve this goal and would be duplicative of other ongoing USDA cropland reporting efforts. According to USDA Bulletin—MGR–11–006, FSA should already be tracking and reporting new breakings each year.

The commenters recommended FSA and RMA work together to monitor and provide annual new breakings reports at the county-level to measure the effectiveness of these policies, maintain public transparency, and help inform future policy making decisions. This can be done in a timely and accurate manner without jeopardizing landowner confidentiality. Specifically, the commenters asked USDA to develop and maintain a county-level ''data field'' of new breakings with no prior cropping history as they update their IT technology infrastructure. A commenter recommended that in order to track the impact of policies on grassland loss and the resulting impacts on wildlife, FSA must produce an annual report that tracks the conversion of native grasslands into row crop production. Another commenter stated information about new land breakings should be made available to the public on an annual basis.

Response: The 2014 Farm Bill provides that a cropland report shall be required to be provided to the specific congressional committees indicating the changes in cropland acreage by county and state from year to year. Congress provided no other interpretation or intent other than what is provided in the 2014 Farm Bill. Therefore the report will be constructed according to the 2014 Farm Bill language. FSA is the lead agency in preparing the cropland acreage report because they have a more complete data set of the changes in cropland acreage. FCIC works with FSA, providing any data applicable and appropriate, to provide this report to specific congressional committees.

Comment: Several commenters stated the sodsaver provisions include a *de minimis* exemption for lands five acres or less. That means producers can convert up to five acres of their land without being subject to sodsaver provisions. The interim rule is unclear whether this five-acre exemption is annual or cumulative over time. The intent of this *de minimis* provision was not to encourage conversion of five acres of native sod for a particular tract in year one, five more acres in year two, five more acres in year three, etc. Instead, it was intended to minimize conversion of native sod, like in the case of field round-outs, and avoid slowly converting native tracts over time.

The commenters recommended a cumulative five-acre limit apply to all land that the producer is a property owner, operator, or tenant, similar to current FSA policy for conservation compliance provisions.

Response: FCIC agrees that the interim rule was ambiguous. FCIC also agrees that the actual text and intent of the provision in the 2014 Farm Bill is to discourage conversion of native sod and to make this determination on an annual county and crop basis would allow the continued slow conversion over time. Therefore, FCIC has determined native sod acreage will be determined on a cumulative basis over time by county. FCIC procedures will be revised to require producers to report native sod acreage by insured crop of five acres or less beginning with the 2017 crop year. Once a producer breaks out more than five acres cumulatively across all insured crops dating back to the 2015 crop year, the provisions for reduced benefits due to converting native sod will be applied to the current crop year's insured native sod acreage and to any native sod acreage broken out in all subsequent crop years.

Comment: A commenter supported the provision that indicates the *de minimis* acreage for the native sod provision to apply is five acres. This was in the earlier statutory provisions where the new sodsaver provisions were inserted, so the five acre minimum continues to apply.

Response: FCIC agrees with the commenter and has retained the five-acre *de minimis* provision in the final rule but has also made revisions so that the five-acre rule applies on a cumulative basis over time by county.

Comment: A commenter stated they are glad that the rule appears to have incorporated the legislative provisions for sodsaver very effectively. The rule includes a new definition of ''native sod'' that references: (1) Absence of tillage; and (2) vegetative plant cover of native grasses, forbs, or shrubs as well as the trigger date of February 7, 2014, concerning potential violation. It also includes the specific listing of states covered by this aspect of the rule and removes the prior provision of the ''Prairie Pothole National Priority Area'' and the option formerly available for governors in those states. In the rule, if the native sod acreage is located in any of the listed states of Iowa, Minnesota, North Dakota, South Dakota, Nebraska, and Montana and tilled and planted, after February 7, 2014, to an annual crop during the first four crop years the rule reduces the insurance liability to be 65 percent of the protection factor and reduces the premium subsidy by 50 percentage points. The rule indicates that if the premium subsidy applicable to these acres is less than 50 percent before the reduction, then no premium subsidy at all would be available. However, the commenter did not find anything in the rule that bars yield substitution as specified in the native sod statutory provisions. While the commenter supported what is provided for native sod in the interim rule, they urged FCIC to include in the final rule the bar on yield substitution for violations and consider an amendment to the interim rule to include this important statutory provision.

Response: FCIC agrees with the commenter that the 2014 Farm Bill required yield substitution be disallowed on native sod acreage. However, by restricting the native sod acreage yield guarantee to 65 percent of the insured's applicable transitional yield, yield substitution cannot be utilized on native sod acreage because yield substitution is only applicable when the actual yields in the insured's production history database are less than 60 percent of the applicable transitional yield. Therefore, yield substitution would not be applicable to native sod acreage. To avoid any confusion, FCIC did not include this restriction to yield substitution in the interim rule and it is not necessary in the final rule. No change has been made.

Comment: A commenter stated the language in item e. of the background and in section 9(f) of the CCIP Basic Provisions indicates that section 9(e) is not applicable to acres of native sod acreage that is five acres or less in the county. The commenter stated they received additional clarification from FCIC based on the procedures issued for native sod as a part of Information Memorandum: PM–14–027 that the five acres applies on a crop and county basis. For example, if an insured tilled and planted four acres of native sod to corn and tilled and planted a different tract of four acres of native sod in the same county and year to soybeans that this would be allowable and that such acreage would not be subject to the reduction of benefits for the first four years. The language in this section of the provisions should be revised to be consistent with the procedural interpretations that are being made by the FCIC that the five-acre threshold for native sod is based on the crop and county.

Response: As stated above, FCIC has determined that to allow determinations of the five-acre threshold by crop and county was inconsistent with the 2014 Farm Bill. Instead, native sod acreage will be cumulative over time by county to prevent the scenario stated above where producers continue to slowly convert new land by simply planting the acreage to a different crop on the acreage. Once a producer breaks out more than five acres cumulatively across all insured crops dating back to the 2015 crop year, the provisions for reduced benefits due to converting native sod will be applied to the current crop year's insured native sod acreage and to any native sod acreage broken out in all subsequent crop years. Since the native sod acreage is cumulative for all insured crops by county, a specification by crop is no longer needed.

Comment: A commenter stated since the rule was not issued until July 1, 2014, producers who made investments to prepare ground for planting in 2014 had no way of knowing their decisions would result in a reduction of premium subsidies and production guarantees. Applying these penalties after-the-fact is unreasonable. The commenter proposed the rule be modified to prevent this unintended consequence by striking ''and is planted to an annual crop'' from section 9(e) of the CCIP.

The suggested change will also ensure that it conforms to the agency's definition of native sod (which makes no reference to a restriction on acreage being planted for crop year 2014).

Response: FCIC agrees and has revised the provisions of the CCIP Basic Provisions and the ARPI Basic Provisions accordingly.

Section 11015

Comment: A commenter stated section 11015 of the 2014 Farm Bill allows producers to receive taxpayer subsidies for separate coverage of irrigated versus non-irrigated cropland in a county. Agricultural producers have access to a suite of unsubsidized risk management options; some of the primary risk management techniques are diversification of crops, use of hybrids, and irrigation practices. Taxpayers should not subsidize risk management options that are readily available and already widely used in the private sector. At a minimum, when implementing this provision, the commenter recommended FCIC reduce the likelihood that producers shift acreage between irrigated and non-irrigated acres after this rule is finalized, a likely unintended consequence if adequate measures are not taken in advance.

Response: When enacting this provision, Congress observed that the risks relative to producing crops on dry land acreage versus irrigated acreage are considerably different, and that many insureds seek different coverage levels that are tailored to those varying risks. An insured must make an election for separate coverage levels for irrigated and non-irrigated acreage by the sales closing date and must meet all the policy requirements to insure their acreage under an irrigated practice. If the insured does not meet the policy requirements for insuring a crop under an irrigated practice by the acreage reporting date, the coverage level percentage they elected for the non-irrigated practice will be used to insure all acres qualifying for a non-irrigated practice. Therefore, FCIC does not believe there is a risk that insureds will shift acreage between irrigated and non-irrigated acreage. Insureds can only insure acreage as irrigated for which they have an adequate amount of water to irrigate as specified by good farming practices for the area. Further, they have to actually apply the irrigation water to the acreage in the recommended amounts and intervals or any subsequent loss will be considered due to poor farming practices and no indemnity may be due. No change has been made.

Comment: A commenter supported a producer's ability to purchase separate insurance for irrigated versus dry-land production. This Farm Bill provision was supported by the U.S. cotton industry and will be extremely beneficial to cotton producers. The commenter commended FCIC for making this change available for the 2015 crop year.

Response: All acreage of the crop in the county must be insured under a single policy, but producers will now have the option of selecting different coverage levels for the irrigated and non-irrigated practices.

Section 11016

Comment: A commenter strongly recommended that USDA expand incentives for beginning and young farmers and ranchers to Military Veterans and urged an increased premium subsidy for this segment of farmers.

Response: FCIC has implemented the beginning farmer and rancher provisions in a way that is fair to all military personnel and consistent with the Joint Explanatory Statement of the Committee of Conference, which states the Managers intend this section to be implemented in a manner that does not discriminate against producers who grew up on a farm or ranch, left for post-secondary education or military service, and returned to the farm or ranch. When calculating the five crop years in this section, the Managers intend that any year when a producer was under the age of 18, in post-secondary studies, or serving in the U.S. military should not be counted. The implementation of this provision has been done to give the maximum benefit possible to military veterans as allowed by law. No change has been made.

Comment: A commenter stated as the average age of farmers increase, it is imperative for U.S. agriculture to encourage more new and beginning farmers. The commenter believed the 10 percentage point premium subsidy increase for beginning farmers is an important provision that can allow a new producer to possibly purchase higher levels of coverage or provide a savings in insurance premiums that can be used for further investments. For many of these individuals, the prospect of starting an operation from the bottom up is nearly impossible due to the capital costs and credit availability. A more common practice is for new and beginning farmers to form partnerships within established operations with the intention of taking over the operation as the more established producer retires. FCIC's exclusion of these individuals by limiting the increased premium subsidy to only operations in which all of the substantial beneficial interested holders qualify as a beginning famer severely limits the reach of this provision. The commenter understood that the percentage of substantial beneficial interest holders is noted within the insurance documents. The commenter recommended that FCIC prorate the 10 percentage point increase in relation to the new and beginning farmer's percentage of substantial beneficial interest. This would allow more beginning farmers to utilize this provision and not put disadvantages on the type of partnerships that represent the only option for some beginning farmers to enter farming.

Response: Implementing the provision as suggested by the commenter would extend beginning farmer and rancher benefits to individuals who have previous farming experience and who are not the intended target of the 2014 Farm Bill. The 2014 Farm Bill defines a beginning farmer or rancher as one who has not actively operated and managed a farm or ranch with a bona fide interest in a crop or livestock as an owner-operator, landlord, tenant, or sharecropper for more than five crop years. Since the 2014 Farm Bill specifically limits benefits to producers with five crop years or less of insurable interest in any crop or livestock, no change has been made.

Comment: A commenter stated the language in item g. of the background describes the additional crop insurance incentives for beginning farmers and ranchers. This includes allowing the producer who qualifies as a beginning farmer or rancher to use the yield history from any previous involvement in a farm or ranch operation. The commenter questioned if a producer qualifies to use four years of history from another operator, can he/she pick and choose which year(s) to use or must all four years be used if he/she chooses to use such records. In addition, this item indicates that years of insurable interest can be excluded if earned while under the age of 18. The commenter questioned if it mattered when the person in question turns 18. For example, if the beginning farmer or rancher applicant turns 18 on December 31, after the crop year has already ended, the commenter questioned if he/she is able to exclude that crop year for beginning farmer or rancher purposes. The commenter questioned if the fact that he or she turned 18 during the same calendar year would disallow that year from being excluded for beginning farmer or rancher purposes.

Response: FCIC issued procedures allow a beginning farmer or rancher to use the APH of the previous producer when the beginning farmer or rancher was previously involved in the farming or ranching operation. The insured may choose how many years in which to transfer but the history being transferred must start with the most recent crop year and there must not be a break in continuity in the crop years being transferred. Therefore, there are limitations on the insured's ability to pick and choose which years to transfer. FCIC issued procedures specify that an individual may exclude a crop year as insurable interest if the insurable interest in the crop occurred while the individual was under the age of 18, which includes any crop year in which a beginning farmer or rancher turns 18.

Comment: A commenter stated FCIC needs to clarify that a non-individual insured person may qualify as a beginning farmer or rancher when all the individual substantial beneficial interest holders qualify as beginning farmers or ranchers. The commenter recommended FCIC revise the last sentence in the definition of ''beginning farmer or rancher'' as follows: ''. . . may be eligible for beginning farmer or rancher benefits if there is at least one individual substantial beneficial interest holder and all individual substantial beneficial interest holders qualify as a beginning farmer or rancher.''

Response: FCIC agrees with commenter and has revised the definition of ''beginning farmer or rancher'' accordingly.

Comment: A commenter stated section 3(l)(1) of the CCIP Basic Provisions indicates that the person who qualifies as a beginning farmer or rancher can use the APH of the previous producer of the crop or livestock on the acreage he or she was previously involved with. This section of the policy should be clarified to indicate the person who qualifies as a beginning farmer or rancher can only use the year(s) he or she was a part of the decision-making or physical involvement which may not be all years of past history from the previous producer. The way this section is currently written it could be construed that all years from this other producer can be used which may not always be the case if the beginning farmer or rancher was only involved with some of those years of APH.

Response: Unlike existing transfer of APH data requirements contained in FCIC-issued procedures, the number of years of production history that may be transferred is not limited by the number of years the beginning farmer or rancher was previously involved in the other person's farming or ranching operation. However, a beginning farmer or rancher can only use another person's production history for a crop that the beginning farmer or rancher was previously involved in. Since the 2014 Farm Bill used the phrase ''actual production history of the previous producer,'' FCIC interprets that to include all of the years of actual production history of the previous producer on the acreage, not limited to just those years the beginning farmer or rancher was involved in the operation. If the beginning farmer or rancher was involved with the livestock, they can use the other person's livestock records. If the beginning farmer or rancher was involved with a crop, they can use the other person's crop production records. Only the production history of the specific acreage being transferred may be used by the beginning farmer or rancher. No change has been made.

Comment: A commenter recommended section 36 of the CCIP Basic Provisions should be revised to indicate that if it is later determined that the producer does not qualify as a beginning farmer or rancher, or once the producer has produced a crop for more than five years and no longer qualifies as a beginning farmer or rancher, that the excluded actual yield(s) will then change from 80 percent of the applicable transitional yield to 60 percent of the applicable transitional yield. The commenter stated this language needs to clarify that the 80 percent of the applicable transitional yield is not retained once the producer no longer qualifies as a beginning farmer or rancher.

Response: Provisions and benefits regarding beginning farmer or rancher are only applicable when a producer qualifies as a beginning farmer or rancher. Although the policy is continuous, the insured must meet the terms and conditions of the policy each crop year and must qualify for beginning farmer or rancher benefits each crop year. That means that in those years the producer qualifies as a beginning farmer and rancher, the producer will receive 80 percent of the transitional yield. However, after five years, the producer's own yields are used to establish the APH and transitional yields are no longer used. No change has been made.

Comment: A commenter recommended FCIC add a comma in section 36(c) of the CCIP Basic Provisions as follows: ''. . . qualify as a beginning farmer or rancher, in which case. . .''

Response: FCIC agrees with commenter and has revised the provisions accordingly.

Section 11019

Comment: A few commenters stated the term ''reinstatement'' used in section 2(k)(2)(iii)(B)(*3*)(*i*) of the ARPI Basic Provisions and section 2(f)(2)(ii)(B)(*3*)(*i*) of the CCIP Basic Provisions should be defined (either added in each of the applicable Basic Provisions as a definition or included in the applicable section of each of the applicable Basic Provisions). The commenters stated this is important to define as reinstatement should not allow or require new applications to be submitted after the sales closing date, but limit reinstatement to the coverage that was terminated for which there would already be an application form on file. Allowing or requiring a new application to reinstate coverage is not necessary and could imply that changes to the coverage that was terminated is acceptable which would create a disproportionate benefit to those for whom coverage is reinstated. The commenters recommended ''reinstatement'' be defined as ''Reinstatement of coverage will be limited to the coverage you had in place on the sales closing date for the crops that were terminated due to ineligibility for debt. No new application is required and no requests to change coverage level, change plans of insurance or add or remove options or endorsements will be accepted unless such changes were made and submitted on an application form on or prior to the sales closing date for the crop.''

Response: FCIC agrees that the applicable provisions should clarify that reinstatement is under the same terms and conditions of the policy in effect as of the date termination became effective. Currently procedures published at *http://www.rma.usda.gov/bulletins/pm/2015/15-010a.pdf* make this clear. However, a definition of ''reinstatement'' has been added to subpart U because it is applicable to ineligibility determinations, appeals, and reinstatement requests and cross references have been added to section 2(k)(2)(iii)(B)(*3*)(*i*) of the ARPI Basic Provisions and section 2(f)(2)(iii)(B)(*3*)(*i*) of the CCIP Basic Provisions.

Comment: A commenter questioned how is an approved insurance provider going to determine whether a policyholders failure to pay premium was inadvertent in section 2(k)(2)(iii)(C)(*1*)(*i*) of the ARPI Basic Provisions and section 2(f)(2)(iii)(C)(*1*)(*i*) of the CCIP Basic Provisions.

Response: On February 24, 2015, FCIC issued information memorandum PM–15–010 Late Payment of Debt procedures found at *http://www.rma.usda.gov/bulletins/pm/2015/15-010a.pdf*. The criteria to qualify for an approved insurance provider authorized reinstatement can be found in section 2, paragraph 2 of these procedures. Those procedures have been modified to clarify the specific conditions that approved insurance providers are required to use in making the determination. The approved insurance providers must use the requirements in section 2(f)(2)(iii)(C)(*1*) of the CCIP and section 2(k)(2)(iii)(C)(*1*) of the ARPI Basic Provisions to make this determination. Additionally, on June 30, 2015, FCIC issued the General Standards Handbook, which can be found at *http://www.rma.usda.gov/handbooks/18000/* to further clarify the criteria an approved insurance provider is required to use in making a determination. No change has been made.

Comment: A commenter recommended FCIC move the current section 2(f)(2)(iii)(B)(*3*)(*ii*) of the CCIP Basic Provisions to be new a new section 2(f)(2)(iii)(B)(*3*) of the CCIP Basic Provisions, and combine the current sections 2(f)(2)(iii)(B)(*3*)(*i*) and 2(f)(2)(iii)(B)(*3*) of the CCIP Basic Provisions as a new section 2(f)(2)(iii)(B)(*4*) of the CCIP Basic Provisions. This organizational change sets the requirement that ''there is no evidence of fraud or misrepresentation'' apart from other text and appropriately makes it a key criteria for the Administrator granting reinstatement.

Response: FCIC disagrees with the commenter that the change provides improved organizational benefits to the extent that a change is warranted. The proposed changes may have adverse or unintended consequences. The proposed revision introduces new paragraph designations that are not necessary and may create the potential for additional cross-references that can lead to greater confusion and potential for inaccurate reading. No change has been made.

Comment: A commenter recommended FCIC revise section 2(f)(2)(iii)(C)(*1*)(*iii*) of the CCIP Basic Provisions as follows: ''You timely made the full payment of the amount owed but the delivery of that payment was delayed, and was postmarked no more than 7 calendar days. . .'' This change will clarify that this clause only provides an allowance for reinstatement following termination for a late postmarked payment; it does not allow the payment itself to be made late (*e.g.,* a late-dated check).

Response: FCIC agrees with the commenter and has revised the provisions accordingly.

Comment: A commenter stated section 2(f)(2)(iii)(C)(*3*) of the CCIP Basic Provisions requires the insured to submit a written request for reinstatement by the approved insurance provider in the situations indicated in sections 2(f)(2)(iii)(C)(*1*)(*i*) through (*iii*). The commenter believed the insured should only be required to submit a formal written request for sections 2(f)(2)(iii)(C)(*1*)(*i*) and (*ii*); the insured should not have to submit a written request for section 2(f)(2)(iii)(C)(*1*)(*iii*). For section 2(f)(2)(iii)(C)(*1*)(*iii*), the insured's full payment of the premium owed should serve as the payment and an implicit request for reinstatement. For any such late payment, the insured will not know at the time the check is mailed that the payment would be delayed in postal processing which resulted in policy termination. For reinstatements under section 2(f)(2)(iii)(C)(*1*)(*iii*), the approved insurance provider will verify the insured made a timely and full payment. This approach would eliminate any need for the insured to complete a form before an approved insurance provider can accept a payment that was postmarked late.

Response: FCIC issued procedures, which can be found at *http://www.rma.usda.gov/handbooks/18000/,* provide the approved insurance providers the guidance and direction that satisfy the written request requirement of 2(f)(2)(iii)(C)(*1*)(*iii*). No change has been made.

Comment: A commenter suggested that the language in current section 2(f)(2)(iii)(B)(*3*)(*i*) of the CCIP Basic Provisions also be included in section 2(f)(2)(iii)(C) of the CCIP Basic Provisions. It should be clear that reinstatement, whether granted by the Administrator or an approved insurance provider, is effective at the beginning of the crop year for which this insured was determined to be ineligible.

Response: FCIC agrees and has added the same language from section 2(f)(2)(iii)(B)(*3*)(*i*) of the CCIP Basic Provisions in a new section 2(f)(2)(iii)(C)(*4*) of the CCIP Basic Provisions. FCIC has made the same change in a new section 2(k)(2)(iii)(C)(*4*) of the ARPI Basic Provisions.

Comment: A commenter stated to make the policy clear concerning the specific administrative remedies the insured is waiving, as well as to ensure the insured understands they are waiving all other administrative remedies for any reinstatement request under these provisions, the commenter recommended FCIC replace section 2(f)(2)(iv) of the CCIP Basic Provisions as follows: ''You may not commence litigation or arbitration against us, obtain an administrative review in accordance with 7 CFR part 400, subpart J (administrative review), or file an appeal in accordance with 7 CFR part 11 (appeal), with respect to any determination made under section 2(f)(2)(iii)(B) or section 2(f)(2)(iii)(C).''

Response: FCIC disagrees with the commenter. Section 20 of the CCIP Basic Provisions states that if the insured and the approved insurance provider fail to agree, the insured has a right to commence litigation, arbitration, administrative review, or file an appeal against the approved insurance provider. A determination made under section 2(f)(2)(iii)(B) or section 2(f)(2)(iii)(C) of the CCIP Basic Provisions is consistent with those for which the insured has a right to pursue appeal or other recourse. FCIC has revised the provisions to clarify that determinations made by the Administrator are only appealable to National Appeals Division, and determinations made by the approved insurance provider are appealable through the arbitration process in section 20 of the CCIP Basic Provisions.

Comment: A commenter stated it is unclear from section 2(f)(2)(iv) of the CCIP Basic Provisions if an insured still has the right to appeal a determination made by RMA under section 2(f)(2)(iii)(B) to USDA's National Appeals Division. RMA's draft procedures on this section stated that appeals to the National Appeals Division were not allowed. However, the commenter believed it is questionable whether FCIC has the authority to completely prohibit insured's from appealing these determinations to the National Appeals Division. Additionally, FCIC needs to clarify that requests for reinstatements made by approved insurance providers under section 2(f)(2)(iii)(C) are not subject to arbitration. Ultimately, only RMA has the power to reinstate a policy that has been terminated, even if the request is being made by the approved insurance provider under section 2(f)(iii)(C); therefore, these determinations should not be subject to arbitration.

If National Appeals Division appeals are precluded, the commenter recommended revising section 2(f)(2)(iv) to read as follows: ''You may not commence litigation or arbitration against us, obtain an administrative review in accordance with 7 CFR part 400, subpart J (administrative review), or file an appeal in accordance with 7 CFR part 11 (appeal), with respect to any determination made under section 2(f)(2)(iii)(B) or section 2(f)(2)(iii)(C).''

If National Appeals Division appeals are allowed, the commenter recommended revising section 2(f)(2)(iv) to read as follows: ''Determinations made under section 2(f)(2)(iii)(B) or section 2(f)(2)(iii)(C) may only be appealed in accordance with 7 CFR part 11 (appeal). You may not commence litigation or arbitration against us, or obtain an administrative review in accordance with 7 CFR part 400, subpart J (administrative review), with respect to any determination made under section 2(f)(2)(iii)(B) or section 2(f)(2)(iii)(C).''

Response: FCIC agrees that section 2(f)(2)(iv) is ambiguous and it was only intended to preclude requests for reconsideration under 7 CFR part 400, subpart J. It was never intended to preclude an appeal to the National Appeals Division. Further, producers have the right to appeal determinations by approved insurance providers under section 20 of the CCIP Basic Provisions. The provisions have been revised accordingly.

Comment: A commenter stated the interim rule narrative item 4.g. (**Federal Register** page 37161) indicates that removal of the phrase '', or any portion thereof,'' from current section 24(a) of the CCIP Basic Provisions is intended ''. . . to remove ambiguity of the billing process and interest situations on amounts owed, and to ensure consistency in how insurance providers administer this section.'' The commenter does not believe this change clarifies how interest is to accrue. For example, if the insured does not pay premium for a crop with a 7/31 billing date until 9/15, under the 2014 provisions the insured could be assessed two months interest for the period of August and September. Absent the clause in 24(a), it is now unclear whether the insured would owe interest for any portion of the month of September. Any change to current billing practices could impact approved insurance providers ability to recoup debt collection costs for the insured's late payment when full premium payment was timely made to FCIC on behalf of the insured. The commenter questioned if this phrase should be removed.

A commenter stated for the 2015 reinsurance year, FCIC continues to issue Special Provision statement number 01282, which states ''In lieu of the second sentence of Section 24(a) of the Basic Provisions, for the purpose of premium amounts owed to us or administrative fees owed to FCIC, interest will start to accrue on the first day of the month following the issuance of the notice by us, provided that a minimum of 30 days have passed from the premium billing date specified in the Special Provisions.'' The interim rule does not change the second sentence of 24(a). The commenter did not see a reason why this Special Provision statement could not be incorporated into the interim rule and the Special Provision statement be discontinued. However, the commenter noted that for the February 1 billing date the added provision of a minimum of 30 days does not work as there are only 28 or 29 days in the month of February. FCIC should therefore consider changing this to 28 days.

However, instead of the two changes suggested above by the commenter, ambiguity as to the precise amount of interest owed on unpaid premium billings could be eliminated by replacing the second sentence of 24(a) with the following language, which is modeled on 24(b): ''For the purpose of premium amounts owed to us or administrative fees owed to FCIC, interest will start to accrue on the date that notice is issued to you for the collection of the unpaid amount. Amounts found due under this paragraph will not be charged interest if payment is made within 30 days of issuance of the notice by us.'' This change not only standardizes basic provision policy language, it is also consistent with revisions to section 6(b) of the CAT Endorsement and ensures premium billing is administered uniformly because interest accrues on a daily basis for all amounts owed.

Response: Interest is accrued on a monthly basis, not daily. For example, the billing date is July 1 and the due date for payment is July 31. Interest will be included on the next bill dated August 1 if the payment is not made on or before July 31, 30 days after the notice has been issued to the policyholder. If the producer pays their bill on September 15, they are only billed interest for July and August. The interest for the month of September has not yet accrued and therefore would not be owed or included in the amount due. Because interest accrues on a monthly basis the phrase '', or any portion thereof,'' is not needed. No change has been made. FCIC agrees with the commenter's suggestion to incorporate Special Provisions Statement 01282 into the policy language and has revised the language accordingly.

Comment: A commenter stated the interim rule removes the phrase '', or any portion thereof,''. However, the Farm Bill Amendment posted to RMA's Web site did not remove the word ''or''. The revised section 24(a) of the CCIP Basic Provisions in RMA's Farm Bill Amendment should read: ''Interest will accrue at the rate of 1.25 percent simple interest per calendar month or on any unpaid amount owed to us or on any unpaid administrative fees owed to FCIC . . .''

Response: The Farm Bill Amendment published on RMA's Web site contained an error and did not remove the word ''or.'' However, the interim rule provided the correct language and the word ''or'' was removed in the regulation. FCIC will make this correction when the amendment for this final rule is issued.

Comment: A commenter stated the interim rule indicates the phrase '', or any part thereof,'' was removed from 24(b) for FCIC policies. The commenter was unaware of any Federal crop insurance policy regulation specific to ''FCIC policies'' and there is no such phrase in CCIP 24(b). The commenter stated FCIC should remove this item from the interim rule.

Response: For certain portions of the policy, FCIC maintains separate sections ''for Reinsured Policies'' and ''FCIC Policies'' in the Code of Federal Regulations. While no FCIC Policies are currently written, the authority to write such policies still exists and if there comes a time when such policies are needed, FCIC needs the provisions to enable it to provide such policies. Information regarding FCIC policies is only contained in the Code of Federal Regulations and is not included in the typeset policies published on the RMA Web site. Therefore, no change has been made.

Comment: A commenter stated the time limit set-forth in § 400.682(g) should be revised. An insured will always receive a notice of the amount due well before the policy is terminated and this 60 day period could potentially expire before the policy is terminated. Thus, the 60 day period should not be tied to a notice of debt. Also, until the insured receives notice that the policy has been terminated, there would really be no need for the insured to move forward with requesting relief from RMA. Therefore, we think a fairer and clearer approach to this issue would be to shorten the time period to 30 days; however, the 30 days would not begin to accrue until the insured receives notice that the policy has been terminated. The revised language would read as follows:

(3) No later than 30 days from the date of the notice from the FCIC informing the person of ineligibility due to nonpayment of a debt, the ineligible person may request consideration for reinstatement from the Administrator of the Risk Management Agency in accordance with section 2 of the CCIP Basic Provisions (7 CFR 457.8).

Response: FCIC agrees that as written, the language in § 400.682(g) can be confusing and requires further clarification. The phrase ''the due date specified in the notice to the person of the amount due'' could be interpreted to apply to different types of scenarios and/or notices, *i.e.* billing statements. FCIC intended for this phrase to only apply in situations where the insured has received notice of an amount due after the termination date (for example, an overpaid indemnity or when premium revisions occur requiring additional premium be owed and billed), meaning the ineligible person may request consideration for reinstatement no later than 60 days after the due date specified in the notice of overpaid indemnity, additional premium owed due to revisions, or any other amounts due after the termination date. FCIC has revised § 400.682(g) to state the 60-day time period starts on the due date specified in the notice to the person of the amount due in the case of an overpaid indemnity or any other amount that becomes due after the termination date. FCIC has also made the same change in the ARPI Basic Provisions and CCIP Basic Provisions.

Comment: A commenter stated the time limit set-forth in section 2(f)(2)(iii)(B)(*3*) of the CCIP Basic Provisions should be revised. An insured will always receive a notice of the amount due well before the policy is terminated and this 60 day period could potentially expire before the policy is terminated. Thus, the 60 day period should not be tied to a notice of debt. Also, until the insured receives notice that the policy has been terminated, there would really be no need for the insured to move forward with requesting reinstatement from RMA. Therefore, the commenter thought a fairer and clearer approach to this issue would be to shorten the time period to 30 days; however the 30 days would not begin to accrue until the insured receives notice that the policy has been terminated. The revised language would read as follows:

You submit a written request for reinstatement of your policy to us no later than 30 days from the date of the notice from the FCIC informing you of your ineligibility due to nonpayment of a debt.

The commenter stated the same comment above about the time limit for these requests that applies to section 2(f)(2)(iii)(C) of the CCIP Basic Provisions. Additionally, it makes no sense to apply the written request requirement to late postmarks that fall within the 7 day transit period. These should just be automatically reinstated by the approved insurance providers. An Appendix III code should be developed so that policies which fit these criteria are tracked, but are never actually terminated and made ineligible in the first instance. As revised, this section would read as follows:

(C) We determine that, in accordance with 7 CFR part 400, subpart U and FCIC issued procedures, one of the following two conditions are met:

(1) You submit a written request for reinstatement of your policy to us in accordance with 7 CFR part 400, subpart U and applicable procedures no later than 30 days after the termination date or the missed payment date of a previously executed written payment agreement, or the due date specified in the notice to you of the amount due, if applicable, in which you demonstrate that:

(i) You made timely payment for the amount of premium owed but you inadvertently omitted some small amount, such as the most recent month's interest or a small administrative fee or the amount of the payment was clearly transposed from the amount that was otherwise due (For example, you owed $832 but you paid $823);

(ii) You remit full payment of the delinquent debt owed to us with your request for reinstatement; and

(iii) There is no evidence of fraud or misrepresentation; or

(2) You sent the full payment to us by mail and the payment was postmarked after the termination date or other applicable due date, but received by us within 7 calendar days after the termination date or other applicable due date.

Response: As stated above, FCIC agrees that as written, the language regarding the 60 day period can be confusing and requires further clarification. FCIC has revised section 2(f)(2)(iii) of the CCIP Basic Provisions and section 2(k)(2)(iii) of the ARPI Basic Provisions to state the 60 days starts on the due date specified in the notice to the person of the amount due in the case of an overpaid indemnity or any other amount that becomes due after the termination date. Lastly, FCIC has revised the reference to ''$832 but you paid $823'' in section 2(f)(2)(iii)(C)(*1*)(*ii*) of the CCIP Basic Provisions to ''$892 but you paid $829'' for clarity and consistency purposes in accordance with Appendix III to the Standard Reinsurance Agreement and instructions for handling debt and ineligibility. Appendix III of the Standard Reinsurance Agreement allows approved insurance providers the latitude to write-off balances equal to or less than $50. Therefore, the example has been revised to reflect a difference of greater than $50.

In addition to the changes described above, FCIC has revised the definition of ''approved yield'' to clarify the approved yield may have yield exclusions elected under section 5 of the CCIP Basic Provisions. The definition listed exceptions or adjustments that may be made to an approved yield. Section 5, which addresses exclusion of yields should be included in this list.

FCIC has also revised the provisions in section 34(a)(5)(i)(A)(*3*) of the CCIP Basic Provisions. The requirement to allow separate units by irrigated and non-irrigated practice were added to enterprise units in the interim rule. FCIC inadvertently omitted allowing separate units by irrigated and non-irrigated practices for whole-farm units. FCIC published a Special Provisions statement to allow such and has incorporated this change in the final rule and will remove the Special Provisions statement after this final rule is published.

Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides generally that before rules are issued by Government agencies, the rule is required to be published in the **Federal Register**, and the required publication of a substantive rule is to be not less than 30 days before its effective date. One of the exceptions is when the agency finds good cause for not delaying the effective date. Delaying the effective of this rule would result in the inability of the Federal Government to implement these changes prior to the contract change date for fall planted crops, effectively delaying their implementation for an entire year. Therefore, using the administrative procedure provisions in 5 U.S.C. 553, RMA finds that there is good cause for making this rule effective less than 30 days after publication in the **Federal Register**. This rule allows RMA to make the changes to the General Administrative Regulations; Catastrophic Risk Protection Endorsement; Area Risk Protection Insurance Regulations; and the Common Crop Insurance Regulations, Basic Provisions in time for 2017 fall planted crops. Therefore, this final rule is effective when published in the **Federal Register**.

Executive Order 12866

This rule has been determined to be economically significant for the purposes of Executive Order 12866 and, therefore, it has been reviewed by the Office of Management and Budget (OMB).

Benefit-Cost Analysis

A Benefit-Cost Analysis (BCA) has been completed and a summary is shown below; the full analysis may be viewed on *http://www.regulations.gov* in the docket listed above. In summary, the analysis finds that changes in the rule will have an expected cost to FCIC of $115.9 million annually over a 10-year period in administration of the Federal crop insurance program. Non-quantifiable benefits of this rule include increased program integrity, additional risk management tools for producers, and incentives for beginning farmers and ranchers to participate in the Federal crop insurance program.

On February 7, 2014, the 2014 Farm Bill was enacted. As a result, FCIC revised those provisions of the General Administrative Regulations—Ineligibility for Programs under the Federal Crop Insurance Act (subpart U), Catastrophic Risk Protection Endorsement (CAT Endorsement), Area Risk Protection Insurance (ARPI) Basic Provisions, and the Common Crop Insurance Provisions (CCIP) Basic Provisions to timely implement program changes identified in Titles II and XI of the 2014 Farm Bill.

On January 2014, the Congressional Budget Office (CBO) issued its estimates for the effects on direct spending and revenues of the 2014 Farm Bill. These estimates were used as a basis for the quantifiable costs and benefits stated in this BCA.

The purpose of this rule is to amend subpart U, the CAT Endorsement, the ARPI Basic Provisions, and the CCIP Basic Provisions to implement the following changes:

Section 2611 requires those enrolled in Federal crop insurance, for certain agriculture commodities, to comply with conservation compliance requirements or forego premium subsidy. For acts or situations of non-compliance, ineligibility for premium subsidy will be applied beginning with the 2016 reinsurance year. Annually, FCIC anticipates a savings of $4.6 million as a result of this change.

Section 11007 makes available insurance coverage by separate enterprise units based on irrigated and non-irrigated acreage of a crop within a county. Annually, FCIC anticipates a cost of $53.3 million as a result of this change.

Section 11009 allows insureds to exclude any recorded or appraised yield for any crop year in which the per planted acre yield in the county is at least 50 percent below the simple average per planted acre yield for the crop in the county for the previous 10 consecutive crop years, and allows insureds in any county contiguous to a county in which an insured is eligible to exclude a recorded or appraised yield to also elect a similar adjustment. Annually, FCIC anticipates a cost of $35.7 million as a result of this change.

Section 11014 applies a reduction of premium subsidy, a reduced insurance guarantee, and eliminates substitute yields in the insurance guarantee during the first four crop years that land is converted from native sod to the production of an annual crop in the States of Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota. Annually, FCIC anticipates a savings of $11.4 million as a result of this change.

Section 11015 allows producers to elect a different level of coverage for an agricultural commodity by irrigated and non-irrigated acreage. Annually, FCIC anticipates a cost of $16.8 million as a result of this change.

Section 11016 establishes crop insurance benefits for beginning farmers and ranchers by increasing the premium subsidy available by ten percentage points, allowing the use of yield history from any previous farm or ranch operation in which they had decision making or physical involvement, and replacing a low yield in their actual production history (APH) with a yield equal to 80 percent of the applicable transitional yield. Annually, FCIC anticipates a cost of $26.1 million as a result of this change.

Section 11019 allows for the correction of errors in information obtained from the producer within a reasonable amount of time and consistent with information provided by the producer to other agencies of the Department of Agriculture subject to certain limitations for maintaining program integrity. This section also provides for the payment of debt after the termination date in accordance with procedures and limitations established by the FCIC, if a producer inadvertently fails to pay a debt and has been determined to be ineligible to participate in the Federal crop insurance program. FCIC does not believe there are any additional cost outlays resulting from this change. Therefore, FCIC believes some insureds will benefit from this change and the benefits are non-quantifiable.

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 numbers 0563–0085, 0563–0083, and 0563–0053.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

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

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

The Federal Crop Insurance Corporation has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a Tribe requests consultation, the Federal Crop Insurance Corporation will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

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 (Act) authorizes FCIC to waive collection of administrative fees from beginning farmers or ranchers and 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 Federal 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 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.

List of Subjects in 7 CFR Parts 400, 402, 407 and 457

Administrative practice and procedure, Crop insurance, Reporting and recordkeeping requirements.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation adopts as final the interim rule amending 7 CFR parts 400, 402, 407, and 457, published at 79 FR 37155 on July 1, 2014, as final with the following changes:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

■ 1. The authority citation is added for 7 CFR part 400 to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(o).

■ 2. Amend § 400.677 by adding the definition of ''reinstatement'' in alphabetical order to read as follows:

§ 400.677 Definitions.

* * * * *

Reinstatement means that the policy will retain the same plan of insurance, coverage levels, price percentages, endorsements and options the person had prior to termination, provided the person continues to meet all eligibility requirements, comply with the terms of the policy, and there is no evidence of misrepresentation or fraud.

* * * * *

■ 3. Amend § 400.679 as follows:

■ a. In paragraph (e) by adding a semicolon at the end of the paragraph; and

■ b. Revising paragraph (g).

The revision reads as follows:

§ 400.679 Criteria for ineligibility.

* * * * *

(g) Has requested the Administrator, Risk Management Agency, for consideration to reinstate their eligibility in accordance with the applicable policy provisions and such request has been denied.

■ 4. Amend § 400.682 by revising paragraph (g) to read as follows:

§ 400.682 Determination and notification.

* * * * *

(g) No later than 60 days after the termination date, a missed payment date of a previously executed written payment agreement, or in the case of an overpaid indemnity or any amount that became due after the termination date, the due date specified in a notice to the person of an amount due, as applicable, such ineligible person may request consideration for reinstatement from the Administrator, Risk Management Agency, in accordance with section 2 of the Common Crop Insurance Policy Basic Provisions (7 CFR 457.8).

PART 402—CATASTROPHIC RISK PROTECTION ENDORSEMENT

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

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

■ 6. Amend § 402.4 as follows:

■ a. In section 3(c) by removing the phrase ''paragraph (b) above'' and adding in its place the phrase ''section 3(b)'';

■ b. In section 6(a) by removing the phrase ''paragraphs (f) and (h) of this section'' and adding in its place the phrase ''sections 6(f) and (h)'';

■ c. In section 6(b) by removing the phrase ''paragraph (f) of this section'' and adding in its place the phrase ''section 6(f)'';

■ d. In section 6(c) by removing the phrase ''paragraph (b) of this section'' and adding in its place the phrase ''section 6(b)'';

■ e. In section 6(d) by removing the phrase ''paragraph (b) of this section'' and adding in its place the phrase ''section 6(b)'';

■ f. In section 6(e) by removing the phrase ''paragraph (f) of this section'' and adding in its place the phrase ''section 6(f)'';

■ g. In section 6(f)(2) by removing the phrase ''paragraph (f)(1) of this section'' and adding in its place the phrase ''section 6(f)(1)'';

■ h. Revise section 6(f)(2)(i);

■ i. In section 6(f)(2)(ii)(A) by removing the phrase ''paragraph (f)(1) of this section'' and adding in its place the phrase ''section 6(f)(1)'';

■ j. In section 6(f)(2)(ii)(B) by removing the phrase ''paragraph (f)(1) of this section'' and adding in its place the phrase ''section 6(f)(1)''; and

■ k. In section 6(h) by removing the phrase ''paragraph (f) of this section'' and adding in its place the phrase ''section 6(f)''.

The revision reads as follows:

§ 402.4 Catastrophic Risk Protection Endorsement Provisions.

* * * * *

6. Annual Premium and Administrative Fees

* * * * *

(f) * * *

(2) * * *

(i) Notwithstanding section 6(f)(2), if you demonstrate you began farming for the first time after June 1 but prior to the beginning of the reinsurance year (July 1), you may be eligible for premium subsidy the subsequent reinsurance year without having form AD–1026 on file with FSA on or before June 1. For example, if you demonstrate you started farming for the first time on June 15, 2015, you may be eligible for premium subsidy for the 2016 reinsurance year without form AD–1026 on file with FSA.

* * * * *

PART 407—AREA RISK PROTECTION INSURANCE REGULATIONS

■ 7. The authority citation for 7 CFR part 407 continues to read as follows:

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

■ 8. Amend § 407.9 as follows:

■ a. In section 1 by revising the definition of ''beginning farmer or rancher'';

■ b. Revise sections 2(k)(2)(iii) and (iv);

■ c. Revise section 5(d);

■ d. In section 5(e) by removing the phrase ''areas of'' and adding in its place the word ''cumulative'';

■ e. Revise section 7(i)(2)(i);

■ f. In section 22(b) [FCIC policies] by adding the phrase ''the issuance of the notice by us, provided that a minimum of 30 days have passed from'' after the phrase ''interest will start to accrue on the first day of the month following'';

■ g. In section 22(a)(1) [Reinsured policies] by adding the phrase ''the issuance of the notice by us, provided that a minimum of 30 days have passed from'' after the phrase ''interest will start to accrue on the first day of the month following''; and

■ h. In section 31(a)(1) by removing the word ''the'' after the phrase ''any person with a substantial beneficial interest in''.

The revisions read as follows:

§ 407.9 Area risk protection insurance policy.

* * * * *

1. Definitions

* * * * *

Beginning farmer or rancher. An individual who has not actively operated and managed a farm or ranch in any state, with an insurable interest in a crop or livestock as an owner-operator, landlord, tenant, or sharecropper for more than five crop years, as determined in accordance with FCIC procedures. Any crop year's insurable interest may, at your election, be excluded if earned while under the age of 18, while in full-time military service of the United States, or while in post-secondary education, in accordance with FCIC procedures. A person other than an individual may be eligible for beginning farmer or rancher benefits if there is at least one individual substantial beneficial interest holder and all individual substantial beneficial interest holders qualify as a beginning farmer or rancher.

* * * * *

2. Life of Policy, Cancellation, and Termination

* * * * *

(k) * * *

(2) * * *

(iii) Once the policy is terminated, it cannot be reinstated for the current crop year unless:

(A) The termination was in error;

(B) The Administrator of the Risk Management Agency, at his or her sole discretion, determines that the following conditions are met:

(*1*) In accordance with 7 CFR part 400, subpart U, and FCIC issued procedures, you provide documentation that your failure to pay your debt is due to an unforeseen or unavoidable event or an extraordinary weather event that created an impossible situation for you to make timely payment;

(*2*) You remit full payment of the delinquent debt owed to us or FCIC with your request submitted in accordance with section 2(k)(2)(iii)(B)(*3*); and

(*3*) You submit a written request for reinstatement of your policy to us no later than 60 days after the termination date or the missed payment date of a previously executed written payment agreement, or in the case of overpaid indemnity or any amount that became due after the termination date, the due date specified in the notice to you of the amount due, if applicable.

(*i*) If authorization for reinstatement, as defined in 7 CFR part 400, subpart U, is granted, your policies will be reinstated effective at the beginning of the crop year for which you were determined ineligible, and you will be entitled to all applicable benefits under such policies, provided you meet all eligibility requirements and comply with the terms of the policy; and

(*ii*) There is no evidence of fraud or misrepresentation; or

(C) We determine that, in accordance with 7 CFR part 400, subpart U, and FCIC issued procedures, the following are met:

(*1*) You can demonstrate:

(*i*) You made timely payment for the amount of premium owed but you inadvertently omitted some small amount, such as the most recent month's interest or a small administrative fee;

(*ii*) The amount of the payment was clearly transposed from the amount that was otherwise due (For example, you owed $892 but you paid $829); or

(*iii*) You timely made the full payment of the amount owed but the delivery of that payment was delayed, and was postmarked no more than seven calendar days after the termination date or the missed payment date of a previously executed written payment agreement, or in the case of overpaid indemnity or any amount that became due after the termination date, the due date specified in a notice to you of an amount due, as applicable;

(*2*) You remit full payment of the delinquent debt owed to us; and

(*3*) You submit a written request for reinstatement of your policy to us in accordance with 7 CFR part 400, subpart U, and applicable procedures no later than 30 days after the termination date or the missed payment date of a previously executed written payment agreement, or in the case of overpaid indemnity or any amount that became due after the termination date, the due date specified in the notice to you of the amount due, if applicable; and

(*4*) If authorization for reinstatement, as defined in 7 CFR part 400, subpart U, is granted, your policies will be reinstated effective at the beginning of the crop year for which you were determined ineligible, and you will be entitled to all applicable benefits under such policies, provided you meet all eligibility requirements and comply with the terms of the policy; and

(*5*) There is no evidence of fraud or misrepresentation.

(iv) A determination made under:

(A) Section 2(k)(2)(iii)(B) may only be appealed to the National Appeals Division in accordance with 7 CFR part 11; and

(B) Section 2(k)(2)(iii)(C) may only be appealed in accordance with section 23.

* * * * *

5. Insurable Acreage

* * * * *

(d) Except as provided in section 5(e), in the states of Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota, during the first four crop years of planting on native sod acreage that has been tilled after February 7, 2014, such acreage may be insured if the requirements of section 5(a) have been met but will:

(1) Notwithstanding the provisions in section 6, receive a liability that is based on 65 percent of the protection factor; and

(2) For additional coverage policies, receive a premium subsidy that is 50 percentage points less than would otherwise be provided on acreage not qualifying as native sod. If the premium subsidy applicable to these acres is less than 50 percent before the reduction, you will receive no premium subsidy.

* * * * *

7. Annual Premium and Administrative Fees

* * * * *

(i) * * *

(2) * * *

(i) Notwithstanding section 7(i)(2), if you demonstrate you began farming for the first time after June 1 but prior to the beginning of the reinsurance year (July 1), you may be eligible for premium subsidy the subsequent reinsurance year without having form AD–1026 on file with FSA on or before June 1. For example, if you demonstrate you started farming for the first time on June 15, 2015, you may be eligible for premium subsidy for the 2016 reinsurance year without form AD–1026 on file with FSA.

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 9. The authority citation for 7 CFR part 457 continues to read as follows:

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

■ 10. Amend § 457.8, in the Common Crop Insurance Policy, as follows:

■ a. In section 1 by revising the definitions of ''approved yield'', ''beginning farmer or rancher'', and ''enterprise unit'';

■ b. Revise sections 2(f)(2)(iii) and (iv);

■ c. In section 5 by removing the phrase ''per acre planted'' and adding in its place the phrase ''per planted acre'';

■ d. Revise section 7(h)(2)(i);

■ e. In section 9(e) by removing the phrase ''and is planted to an annual crop'';

■ f. In section 9(f) by removing the phrase ''areas of'' and adding in its place the word ''cumulative'';

■ g. Under ''For FCIC policies'', in section 24(b), by adding the phrase ''the issuance of the notice by us, provided that a minimum of 30 days have passed from'' after the phrase ''interest will start to accrue on the first day of the month following'';

■ h. Under ''For reinsured policies'', in section 24(a), by adding the phrase ''the issuance of the notice by us, provided that a minimum of 30 days have passed from'' after the phrase ''interest will start to accrue on the first day of the month following'';

■ i. In section 25(a)(1) by removing the word ''the'' after the phrase ''any person with a substantial beneficial interest in'';

■ j. Revise section 34(a)(5)(i)(A)(*3*); and

■ k. In section 36(c) by adding a comma after the phrase ''unless you qualify as a beginning farmer or rancher''.

The revisions read as follows:

§ 457.8 The application and policy.

* * * * *

Common Crop Insurance Policy

* * * * *

1. Definitions

* * * * *

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 exclusions elected under section 5, yield adjustments elected under section 36, revisions according to section 3, or other limitations according to FCIC approved procedures applied when calculating the approved yield.

* * * * *

Beginning farmer or rancher. An individual who has not actively operated and managed a farm or ranch in any state, with an insurable interest in a crop or livestock as an owner-operator, landlord, tenant, or sharecropper for more than five crop years, as determined in accordance with FCIC procedures. Any crop year's insurable interest may, at your election, be excluded if earned while under the age of 18, while in full-time military service of the United States, or while in post-secondary education, in accordance with FCIC procedures. A person other than an individual may be eligible for beginning farmer or rancher benefits if there is at least one individual substantial beneficial interest holder and all individual substantial beneficial interest holders qualify as a beginning farmer or rancher.

* * * * *

Enterprise unit. All insurable acreage of the same insured crop or all insurable irrigated or non-irrigated acreage of the same insured crop in the county in which you have a share on the date coverage begins for the crop year, provided the requirements of section 34 are met.

* * * * *

2. Life of Policy, Cancellation, and Termination

* * * * *

(f) * * *

(2) * * *

(iii) Once the policy is terminated, it cannot be reinstated for the current crop year unless:

(A) The termination was in error;

(B) The Administrator of the Risk Management Agency, at his or her sole discretion, determines that the following are met:

(*1*) In accordance with 7 CFR part 400, subpart U, and FCIC issued procedures, you provide documentation that your failure to pay your debt is due to an unforeseen or unavoidable event or an extraordinary weather event that created an impossible situation for you to make timely payment;

(*2*) You remit full payment of the delinquent debt owed to us or FCIC with your request submitted in accordance with section 2(f)(2)(iii)(B)(*3*); and

(*3*) You submit a written request for reinstatement of your policy to us no later than 60 days after the termination date or the missed payment date of a previously executed written payment agreement, or in the case of overpaid indemnity or any amount that became due after the termination date, the due date specified in the notice to you of the amount due, if applicable.

(*i*) If authorization for reinstatement, as defined in 7 CFR part 400, subpart U, is granted, your policies will be reinstated effective at the beginning of the crop year for which you were determined ineligible, and you will be entitled to all applicable benefits under such policies, provided you meet all eligibility requirements and comply with the terms of the policy; and

(*ii*) There is no evidence of fraud or misrepresentation; or

(C) We determine that, in accordance with 7 CFR part 400, subpart U, and FCIC issued procedures, the following are met:

(*1*) You can demonstrate:

(*i*) You made timely payment for the amount of premium owed but you inadvertently omitted some small amount, such as the most recent month's interest or a small administrative fee;

(*ii*) The amount of the payment was clearly transposed from the amount that was otherwise due (For example, you owed $892 but you paid $829); or

(*iii*) You timely made the full payment of the amount owed but the delivery of that payment was delayed, and was postmarked no more than seven calendar days after the termination date or the missed payment date of a previously executed written payment agreement, or in the case of overpaid indemnity or any amount that became due after the termination date, the due date specified in a notice to you of an amount due, as applicable.

(*2*) You remit full payment of the delinquent debt owed to us; and

(*3*) You submit a written request for reinstatement of your policy to us in accordance with 7 CFR part 400, subpart U, and applicable procedures no later than 30 days after the termination date or the missed payment date of a previously executed written payment agreement, or in the case of overpaid indemnity or any amount that became due after the termination date, the due date specified in the notice to you of the amount due, if applicable; and

(*4*) If authorization for reinstatement, as defined in 7 CFR part 400, subpart U, is granted, your policies will be reinstated effective at the beginning of the crop year for which you were determined ineligible, and you will be entitled to all applicable benefits under such policies, provided you meet all eligibility requirements and comply with the terms of the policy; and

(*5*) There is no evidence of fraud or misrepresentation.

(iv) A determination made under:

(A) Section 2(f)(2)(iii)(B) may only be appealed to the National Appeals Division in accordance with 7 CFR part 11; and

(B) Section 2(f)(2)(iii)(C) may only be appealed in accordance with section 20.

* * * * *

7. Annual Premium and Administrative Fees

* * * * *

(h) * * *

(2) * * *

(i) Notwithstanding section 7(h)(2), if you demonstrate you began farming for the first time after June 1 but prior to the beginning of the reinsurance year (July 1), you may be eligible for premium subsidy the subsequent reinsurance year without having form AD–1026 on file with FSA on or before June 1. For example, if you demonstrate you started farming for the first time on June 15, 2015, you may be eligible for premium subsidy for the 2016 reinsurance year without form AD–1026 on file with FSA.

* * * * *

34. Units

(a) * * *

(5) * * *

(i) * * *

(A) * * *

(*3*) At the same coverage level (*e.g.,* if you elect to insure your corn and canola at the 65 percent coverage level and your soybeans at the 75 percent coverage level, the corn, soybeans and canola would be assigned the unit structure in accordance with section 34(a)(5)(v)) unless you can elect separate coverage levels for all irrigated and all non-irrigated crops in accordance with section 3(b)(2)(iii) (*e.g.* if you elect to insure your irrigated corn at the 65 percent coverage level you must insure your irrigated canola at the 65 percent coverage level. If you elect to insure your non-irrigated corn at the 70 percent coverage level you must insure your non-irrigated canola at the 70 percent coverage level. If you elect to insure your irrigated corn at the 65 percent coverage level and your irrigated canola at the 70 percent coverage level your unit structure will be assigned in accordance with section 34(a)(5)(v));

* * * * *

Signed in Washington, DC, on June 23, 2016.

Brandon C. Willis,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 2016–15327 Filed 6–29–16; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA 2015 7491; Directorate Identifier 2015–NE–39–AD; Amendment 39–18569; AD 2016–13–05]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

Correction

In rule document 2016–14474, beginning on page 41208 in the issue of Friday, June 24, 2016, make the following correction:

§ 39.13 [Corrected]

On page 41210, in the table titled ''Table 1 to Paragraph (e)—HPC Stage 8–10 Spool S/Ns'', the first row of the table should appear as follows: