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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 457

RIN 0563-AB53

#### Common Crop Insurance Regulations; ELS Cotton Crop Insurance Provisions

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

**ACTION:** Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of extra long staple (ELS) cotton. The intended effect of this action is to provide policy changes to better meet the needs of the insured.

**DATES:** Effective: March 17, 1997.

**FOR FURTHER INFORMATION CONTACT:** Stephen Hoy, Program Analyst, Research and Development Division, Product Development Branch, Federal Crop Insurance Corporation, at 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926-7730.

#### SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be not significant for the purposes of Executive Order No. 12866 and, therefore, this rule has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

The information collection requirements contained in these regulations were previously approved by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563-0003 at the proposed final rule stage.

The amendments set forth in this final rule contains information collections

that have been cleared by OMB under the provisions of 44 U.S.C. chapter 35.

Following publication of the proposed rule, the public was afforded 60 days to submit written comments, data, and opinions on information collection requirements previously approved by OMB under OMB control number 0563-0003 through September 30, 1998. No public comments were received.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of section 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity.

The insured must also annually certify to the previous years production or receive an assigned yield. The producer must maintain the production records to support the certified information for at least three years. This regulation does not alter those requirements. The amount of work required of the insurance companies

delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 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 No. 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before action for judicial review may be brought.

Environmental Evaluation

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

National Performance Review

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

Background

On Tuesday, August 27, 1996, FCIC published a proposed rule in the Federal Register at FR 43999-44001 to amend the Common Crop Insurance Regulations (7 CFR part 457) by revising

7 CFR 457.105 effective for the 1997 and succeeding crop years.

Following publication of that proposed rule, the public was afforded 30 days to submit written comments, data, and opinions. A total of three comments were received from the crop insurance industry. The comments received and FCIC's responses are as follows:

*Comment:* Three comments received recommended that the written agreement should be continuous. One commenter recommended that written agreements be continuous if no substantive changes occur from one year to the next. Two commenters recommended that the valid period be stated in the agreement.

*Response:* Written agreements are, by design, temporary and intended to address unusual circumstances. If the condition for which a written agreement is needed exists each crop year, the policy or Special Provisions should be amended to reflect this condition. No change has been made to these provisions.

The contract change date for the 1997 crop year was November 30, 1996. These provisions are, therefore, not applicable until the 1998 crop year.

List of Subjects in 7 CFR Part 457

Crop insurance, ELS cotton.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR part 457, effective for the 1998 and succeeding crop years, to read as follows:

**PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS**

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

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

2. Section 457.105, in paragraph 1. *Definitions*, paragraphs (j), (o)(2), and (q) are revised to read as follows:

**§ 457.105 Extra long staple cotton crop insurance provisions.**

\* \* \* \* \*

1. *Definitions.*

\* \* \* \* \*

(j) *Planted acreage*—Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed which has been properly prepared for the planting method and production practice. Cotton must be planted in rows to be considered

planted. Planting in any other manner will be considered as a failure to follow recognized good farming practices and any loss of production will not be insured unless otherwise provided by the Special Provisions or by written agreement to insure such crop. The yield conversion factor normally applied to non-irrigated skip-row cotton acreage will not be used if the land between the rows of cotton is planted to any other spring planted crop.

\* \* \* \* \*

(o) \* \* \*

(1) \* \* \*

(2) Qualifies as a skip-row planting pattern as defined by the Farm Service Agency (FSA) or a successor agency.

\* \* \* \* \*

(q) *Written agreement*—A written document that alters designated terms of a policy in accordance with section 13.

\* \* \* \* \*

2. Section 457.105 in paragraph 2. *Unit Division*, paragraph (d)(1) and the first paragraph of (d)(2) are revised to read as follows:

2. Unit Division.

\* \* \* \* \*

(d) \* \* \*

(1) *Optional Units by Section, Section Equivalent, or FSA Farm Serial Number:*

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

(2) *Optional Units on Acreage Including Both Irrigated and Non-Irrigated Practices:* In addition to, or instead of, establishing optional units by section, section equivalent, or FSA Farm Serial Number, optional units may be based on irrigated acreage or non-irrigated acreage if both are located in the same section, section equivalent, or FSA Farm Serial Number. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the

yield on which the guarantee is based, except that the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be considered part of the unit containing the irrigated acreage. However, non-irrigated acreage that is not a part of a field in which a center-pivot irrigation system is used may qualify as a separate optional unit provided that all other requirements of this section are met.

\* \* \* \* \*

3. Section 457.105 paragraph 5. *Cancellation and Termination Dates* is revised to read as follows:

5. *Cancellation and Termination Dates.*

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

States	Cancellation and termination dates
New Mexico .....	March 15.
All other States .....	Feb. 28.

\* \* \* \* \*

8. Section 457.105 is amended by adding a new paragraph 13 to read as follows:

13. *Written Agreement.*

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

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 13(e).

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

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

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

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

with the policy and written agreement provisions.

Signed in Washington DC, on February 6, 1997.

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

[FR Doc. 97-3329 Filed 2-12-97; 8:45 am]

BILLING CODE 3410-FA-P

## Grain Inspection, Packers and Stockyards Administration

### 7 CFR Part 868

#### Removal of U.S. Grade Standards; Procedures for Development and Maintenance of Voluntary Grade Standards

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Grain Inspection, Packers and Stockyards Administration (GIPSA) is adopting as a final rule, without change, its interim final rule removing the voluntary U.S. grade standards for Beans, Whole Dry Peas, Split Peas, and Lentils from the Code of Federal Regulations (CFR). The voluntary standards and all subsequent revisions or new standards will be made available in a separate publication, and will appear as notices in the Federal Register for the public to comment on. This action is part of the National Performance Review program to eliminate unnecessary regulations.

In addition, this rule specifies in the CFR the procedures, which were set out in the February 29, 1996, interim rule, that GIPSA will follow in developing, issuing, revising, suspending or terminating voluntary U.S. grade standards for Beans, Whole Dry Peas, Split Peas, and Lentils.

**EFFECTIVE DATE:** February 14, 1997.

**FOR FURTHER INFORMATION CONTACT:** Sharon Vassiliades, USDA, GIPSA, Room 0623-S, STOP 3649, 1400 Independence Avenue, S.W., Washington, D.C. 20250-3649; FAX (202) 720-4628.

**SUPPLEMENTARY INFORMATION:** In the February 29, 1996, Federal Register (61 FR 7687), GIPSA published an Interim Final Rule with Request for Comments announcing removal from the CFR of voluntary standards dealing with the U.S. grade standards for Beans, Whole Dry Peas, Split Peas, and Lentils which may be used to describe the quality of these agricultural commodities as valued in the marketplace. No comments were received in response to this Interim Final Rule. GIPSA also will

ensure that the public will have an opportunity to comment on any future proposed, new, or revised voluntary standards by publishing such standards in the "Notices" section of the Federal Register.

#### Executive Order 12866

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. This rule is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

#### Effects on Small Entities

GIPSA has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Removal of the voluntary standards from the CFR will not adversely affect interested persons. On the contrary, the U.S. pulse industry (beans, peas, and lentils) is expected to benefit from this action because it will provide for more timely improvements to the bean, pea, and lentil standards. Furthermore, those persons who apply the standards and most users of the inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act.

The primary user of pulse inspection services is the U.S. government. It is estimated that between 80 and 90 percent of all inspections are performed (directly or indirectly) at the request of either the USDA's Farm Service Agency or Foreign Agricultural Service, or the U.S. Agency for International Development. Approximately 20 percent of all inspections are performed at the request of major bean, pea, and lentil shippers who would not be considered small entities, as defined by the Small Business Administration (13 CFR 121.60); and about 3 percent of the service requests originate from other interested parties, such as producers. But regardless of who requests the service, the standards are applied equally to all entities. Use of the standards for Beans, Whole Dry Peas,

Split Peas, and Lentils is voluntary and small entities may avoid incurring any economic impact by not employing the standards. Although this action will remove standards for Beans, Whole Dry Peas, Split Peas, and Lentils from the CFR, small entities should see no changes as the standards will still be administered in a manner to ensure public input to their formulation. Further, no costs are expected to result from this action for handlers or producers and benefits derived from this action may be passed on to consumers.

Further, this final rule includes in the CFR procedures to be used by GIPSA in developing, issuing, revising, suspending, or terminating voluntary U.S. grade standards. These procedures provide for public input and participation and will not adversely affect small or large entities.

#### Paperwork Reduction Act of 1995

In accordance with the provisions of the Paperwork Reduction Act, the information collection requirements contained in Part 868 have been previously approved by the Office of Management and Budget under control number 0580-0013.

#### Background

GIPSA is delegated by the Secretary of Agriculture under the Agricultural Marketing Act of 1946 (AMA), to provide programs for Federal grading/certification services and to develop and establish efficient marketing methods and practices for designated agricultural commodities such as Beans, Whole Dry Peas, Split Peas, and Lentils. For many years, these agricultural programs have facilitated the marketing of agricultural commodities by developing official U.S. grade standards which provide uniform language that may be used to describe the characteristics of commodities as valued by the marketplace. The AMA standards are widely used in private contracts, government procurement, marketing communication and, for some commodities, consumer information. Through the years, the standards have been promulgated as regulations and codified in the CFR.

Rapid changes in consumer preferences, together with associated changes in commodity characteristics, processing technology, and marketing practices have out paced the revision or issuance of standards. As a result, industry and the marketplace could be burdened with outdated trading language. The President's regulatory review initiative provided an impetus to develop new approaches to more effectively meet the needs of U.S.