

Federal Crop Insurance Corporation, USDA

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k. *Replanting* means performing the cultural practices necessary to replant insured acreage to dry beans.

l. *Replant payment* means that payment made to the insured in accordance with the provisions of subsection 9.g. of this policy which payment is subject to offset for premium owed.

m. *Service office* means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

n. *Tenant* means a person who rents land from another person for a share of the beans or a share of the proceeds therefrom.

o. *Unit* means all insurable acreage of either dry edible beans or bush varieties of garden seed beans in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the beans on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive Headings

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any provisions of the contract.

19. Determinations

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice

will be determined by the time of our receipt of the written notice.

[50 FR 10202, Mar. 14, 1985, as amended by Amdt. 1, 50 FR 49520, Dec. 3, 1985; 50 FR 52758, Dec. 26, 1985; 51 FR 7546, Mar. 5, 1986; 51 FR 29205—29207, Aug. 15, 1986; 51 FR 45296, Dec. 18, 1986; 52 FR 3214, Feb. 3, 1987; 52 FR 17547, 17548, May 11, 1987; 54 FR 20510, May 12, 1989; 55 FR 50816, Dec. 11, 1990; 61 FR 68543, Dec. 30, 1996; 62 FR 6105, Feb. 11, 1997]

PART 434 [RESERVED]

PART 435—TOBACCO (QUOTA PLAN) CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1985 THROUGH 1998 CROP YEARS

Sec.

435.1 Availability of quota plan tobacco crop insurance.

435.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

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

SOURCE: 50 FR 2951, Jan. 23, 1985, unless otherwise noted.

§ 435.1 Availability of quota plan tobacco crop insurance.

Insurance shall be offered under the provisions of this subpart on tobacco in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 435.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for tobacco which will be included in the actuarial table on file in service offices for the county and which may be changed from year to year.

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(b) At the time application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 435.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR part 435) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB numbers 0563-0003 and 0563-0007.

§ 435.4 Creditors.

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

§ 435.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the tobacco insurance contract, whenever—

(a) An insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the term of the insurance contract to have been complied with or waived, and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than \$100,000.00, finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give, erroneous advice; (2) said insured person relied thereon in good faith; and (3) to required the payment of the additional premiums or to deny such insured's entitlement to the

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indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

Application for relief under this section must be submitted to the Corporation in writing.

§ 435.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the tobacco crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 435.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the tobacco crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the FEDERAL REGISTER upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1985 and succeeding