

Federal Crop Insurance Corporation, USDA

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Subpart C—General Administrative Regulations; Mutual Consent Cancellation

AUTHORITY: 7 U.S.C. 1501 *et seq.*

SOURCE: 57 FR 56438, Nov. 30, 1992, unless otherwise noted.

§ 400.27 Applicability.

Notwithstanding any provisions of the crop insurance policy to the contrary, the mutual consent provision contained herein shall be applicable to all new crop insurance policies issued by the Federal Crop Insurance Corporation (7 CFR part 401 *et seq.*), or by a company reinsured by the Federal Crop Insurance Corporation, effective for the applicable crop year only if those policies meet the requirements of § 400.28 of this subpart and if the crop insured is the same as the crop for which a disaster payment application (CCC 441) was filed for the previous crop year.

[58 FR 67304, Dec. 21, 1993]

§ 400.28 Mutual consent criteria.

(a) An insured may request policy cancellation for the crop year for which the insured filed a CCC 441 for the applicable crop year if written documentation is provided, signed by an authorized Agricultural Stabilization and Conservation Service official, certifying the cancellation is based on one of the following conditions:

(1) Insurance was not a condition of eligibility for disaster payment, based on one or more of the statutory criteria; or

(2) the producer withdrew his application for disaster payments with prejudice or it was rejected by Commodity Credit Corporation;

(b) Cancellation requests must be received in writing no later than three weeks after the date:

(1) The disaster payment check is issued; or

(2) The producer is notified that an application for disaster payment has been rejected; or

(3) The producer withdraws from the disaster payment program.

(c) Carryover policies are not available for mutual consent cancellation. Crop insurance applications dated before the disaster cancellation date (available in the insureds' service office) are not eligible for mutual consent cancellations.

[57 FR 56438, Nov. 30, 1992, as amended at 58 FR 67304, Dec. 21, 1993]

§§ 400.29–400.36 [Reserved]

Subparts D–E [Reserved]

Subpart F—Food Security Act of 1985, Implementation; Denial of Benefits

AUTHORITY: Secs. 1506, 1516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1501 *et seq.*); sec. 1244, Pub. L. 99-198.

SOURCE: 52 FR 19128, May 21, 1987, unless otherwise noted.

§ 400.45 Applicability.

(a) The regulations in this subpart implement Chapter XII and section 1764 of the Food Security Act of 1985 (Pub. L. 99-198) (the Act) requiring the denial of crop insurance to persons who are determined to have performed certain practices prohibited by the Act or who have violated certain federal or State statutes or the regulations implementing the Act. The provisions of this subpart are applicable to all crop insurance policies written by the Federal Crop Insurance Corporation (the Corporation) or reinsured by the Corporation.

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(b) The provisions of this subpart will be effective for the crop and crop year immediately following the first crop cancellation date occurring after the effective date of the Act for all crop policies reinsured by FCIC, and for all policies and regulations for crop insurance issued by FCIC.

§ 400.46 Definitions.

For the purpose of this regulation and in addition to the definitions included at 7 CFR 12.2, the following definitions are applicable:

(a) *Controlled substance* means any prohibited drug-producing plants including, but not limited to, cacti of the genus *lophophora*, coca bushes (*erythroxylum coca*), marijuana (*cannabis sativa*), opium poppies (*papaver somniferum*), and other drug-producing plants, the planting and harvesting of which is prohibited by Federal or State law.

(b) *Person* means any producer, tenant, or landlord, insured under a policy of crop insurance issued by FCIC, or by a multi-peril insurance company whose crop insurance policy is reinsured by FCIC.

(c) *State* means each of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific.

(d) *The Act* means the Food Security Act of 1985 (Pub. L. 99-198).

§ 400.47 Denial of crop insurance.

(a) Any person convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance in any crop year will be ineligible for crop insurance during that crop year and the four succeeding crop years.

(1) The insurance of such person insured by FCIC who found to be ineligible under paragraph (a) of this section will be null and void, and any indemnity paid on such insurance must be returned in full to FCIC. Any premium paid for insurance coverage declared null and void will be returned, less a reasonable amount for expenses and handling not to exceed 20 percent of the premium paid.

(2) The application and policy of insurance will be voided, or the person will be removed from the policy and the policyholder share reduced in accordance with 7 CFR 400.681(b), when any person becomes ineligible for crop insurance under the provisions of paragraph (a) of this section. To obtain crop insurance coverage following the period of ineligibility, the person must submit a new application for crop insurance.

(b) Any insurance written by a multi-peril crop insurance company to any person who is ineligible under the provisions of this subpart is not eligible for reinsurance under the Corporation's standard reinsurance agreement. Any premium subsidy and expense allowance or loss paid by the Corporation because of such agreement will be immediately refunded to the Corporation. Notwithstanding any other provision of law, policies written by multi-peril crop insurance companies to any person ineligible under the provisions of this subpart are null and void. Premium paid for such policies will be refunded to the person applying for insurance, less a reasonable amount for expenses and handling not to exceed 20 percent of the premium paid, and no indemnity will be paid unless the multi-peril company expressly agrees to continue such policy in effect without FCIC reinsurance. However, if the reinsured company follows the procedure of the Corporation and the requirements of the regulations, reinsurance will continue to be provided under the reinsurance agreement on the policy unless it is shown that the agent or company had knowledge of facts which would indicate ineligibility on the part of the insured and failed to act on that knowledge.

(c) FCIC employees or contractors are required to report all suspected cases of violation of the Act or the regulations to the appropriate agency for a determination of violation. Benefits shall not be paid in such cases pending a determination from the appropriate agency.

(d) Notwithstanding any other provision of this subpart, any crop insurance policy where insurance attached to a crop prior to August 15, 1986, will continue in effect for that crop until the