

3. Changed the October 31 cancellation date and November 30 termination date for barley to March 15 in Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou, and Trinity Counties, California. This change makes program dates consistent between these Northern California counties and Oregon, which has similar agronomic conditions.

4. Revised section 11(d)(2)(ii) to base the level at which buckwheat production can be quality adjusted on a certain grade rather than specific quality factors. This change is made to allow quality adjustment at levels appropriate for the crop type (large or small seed) and to avoid the need for revision if grading standards should change.

Good cause is shown to make this rule effective upon filing for public inspection at the Office of the Federal Register. Good cause to make the rule effective upon filing at the Office of the Federal Register exists when the 30 day delay in the effective date is impracticable, unnecessary, or contrary to the public interest.

With respect to the provisions of this rule, it would be contrary to the public interest to delay implementation of improved insurance benefits until the 2005 crop year. The public interest is served by improving the insurance product as follows: (1) Providing insurance for producers of hull-less barley, hull-less oats, and Khorasan. Insurance coverage for these crop types is not available under the current Small Grains Crop Provisions; (2) increasing insurance flexibility by providing for separate insurance units for durum and club wheat; (3) moving the contract change date earlier to provide a greater amount of time between the contract change date and the sales closing date to allow producers more time to make insurance decisions; (4) changing program dates to provide coverage for winter wheat in certain counties where coverage for winter wheat is not currently provided; (5) adding replanting payment benefits for barley, oats and flax and increasing the replanting payment amount for wheat. Replanting payments help defray costs incurred by producers who have to replant their crops under the terms of these provisions; (6) allowing winter protection for fall planted barley which is not provided for under current provisions; and (7) improving clarity of the insurance policy.

If FCIC is required to delay the implementation of this rule 30 days after the date it is published, the provisions of this rule could not be implemented until the 2005 crop year. This would mean the affected producers

would be without the benefits described above for an additional year.

For the reasons stated above, good cause exists to make these policy changes effective upon filing with the Office of the Federal Register.

List of Subjects in 7 CFR Part 457

Barley, Buckwheat, Crop insurance, Flax, Oats, Rye, Wheat.

Final Rule

■ Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 457 for the 2004 and succeeding crop years as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

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

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

- 2. Amend the crop insurance provisions in § 457.101 as follows:
 - a. Revise the introductory text;
 - b. Amend section 1 of the crop provisions by adding a definition for “Khorasan” and revising the definitions of “local market price,” “prevented planting” and “small grains;”
 - c. Revise section 2;
 - d. Revise section 3;
 - e. Revise section 4;
 - f. Revise section 5;
 - g. Delete the period before the parenthetical phrase in section 6(b)(1);
 - h. Revise section 6(c);
 - i. Revise section 6(b)(2) and add section 6(d);
 - j. Revise the introductory text of section 7;
 - k. Revise sections 7(a)(1) introductory text, 7(a)(2)(iii), 7(a)(2)(v) and 7(b)(4);
 - 1. Revise section 9;
 - m. Revise sections 11(b), 11(c)(1)(iv) and 11(d); and
 - n. Revise section 12, all to read as follows:

§ 457.101 Small Grains Crop Insurance.

The small grains crop insurance provisions for the 2004 and succeeding crop years are as follows:

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1. Definitions

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Khorasan. The common name for a variety of wheat (*Triticum turanicum*) that is marketed under trademarks such as Kamut. Khorasan is considered to be spring wheat for the purposes of this policy.

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Local market price. The cash grain price per bushel for the applicable quality level indicated below and offered by buyers in the area in which you normally market the insured crop. The local market price will

reflect the maximum limits of quality deficiencies allowable for the applicable quality level indicated below. Factors not associated with the specified quality levels, including but not limited to protein, oil or moisture content, or milling quality will not be considered.

(1) U.S. No. 2 for Wheat (subclass hard amber durum for durum wheat and subclass northern spring for hard red spring wheat), except Khorasan; barley (including hull-less barley); oats (including hull-less oats); rye; and flax.

(2) The quality factor levels required for durum wheat to grade U.S. No. 2 for Khorasan.

(3) No. 2 grade buckwheat determined in accordance with the applicable state grading standards.

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Prevented planting. In lieu of the definition contained in the Basic Provisions, failure to plant the insured crop with proper equipment by the latest final planting date designated in the Special Provisions for the insured crop in the county. You may also be eligible for a prevented planting payment if you failed to plant the insured crop with the proper equipment within the applicable late planting period following the latest final planting date. You must have been prevented from planting the insured crop due to an insured cause of loss that is general in the surrounding area and that prevents other producers from planting acreage with similar characteristics.

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Small grains. Wheat, including only common wheat (*Triticum aestivum*), club wheat (*T. compactum*), durum wheat (*T. durum*) and Khorasan (*T. turanicum*); barley (*Hordeum vulgare*), including hull-less barley and excluding black barley; oats (*Avena sativa*, and *A. byzantina*), and hull-less oats (*A. Nuda*); rye (*Secale cereale*); flax (*Linum usitatissimum*); and buckwheat (*Fagopyrum esculentum*).

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2. Unit Division

In addition to the requirements of section 34(b) of the Basic Provisions, for wheat only, in addition to, or instead of, establishing optional units by section, section equivalent or FSA farm serial number and by irrigated and non-irrigated practices, optional units may be established if each optional unit contains only initially planted winter wheat, only initially planted spring wheat, only initially planted club wheat or only initially planted durum wheat. Separate optional units for initially planted winter wheat and initially planted spring wheat may be established only in counties having both winter and spring type final planting dates as designated in the Special Provisions. A separate optional unit for club wheat may be established only in counties for which the Special Provisions designate club wheat as a wheat type (separate optional units may be established for initially planted winter club and initially planted spring club wheat if the Special Provisions specify both as wheat types). A separate optional unit for durum wheat may be established only in counties for which the Special Provisions designate