

revisions mandated by the Federal Crop Insurance Act (Act), as amended by the Agricultural Risk Protection Act of 2000 (ARPA), and to require an earlier notice of loss for prevented planting in response to an Office of Inspector General Audit. The changes will apply for the 2004 and succeeding crop years for all crops with a contract change date on or after the effective date of this rule, and for the 2005 and succeeding crop years for all crops with a contract change date prior to the effective date of this rule. FCIC also made conforming amendments to the General Administrative Regulations, that provide the process for informal administrative review of determinations of good farming practices, to make the definition of "good farming practices" consistent with the definition contained in the Basic Provisions, and to consolidate all the provisions regarding the informal administrative review process for determinations of good farming practices in a separate section.

EFFECTIVE DATE: June 18, 2003.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the Cost-Benefit Analysis, contact Janice Nuckolls, Insurance Management Specialist, Research and Development, Product Development Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO, 64133-4676, telephone (816) 926-7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Cost-Benefit Analysis

A Cost-Benefit Analysis has been completed and is available to interested persons at the Kansas City address listed above. In summary, the analysis finds that changes in the rule will have positive potential benefits for insureds who do not engage in program abuse.

Changes in prevented planting provisions will be beneficial to two groups of producers. One group is made up of those who, under current provisions, would forgo the full prevented planting payment on a first crop in order to plant a second crop. Under the final rule, such producers will receive a reduced prevented planting payment to at least partially compensate for pre-planting costs incurred on the first crop. The second group is made up of producers who

change planting decisions and plant a second crop that would not have been planted under current provisions. In taking this action, these individuals will reveal they perceive a positive economic benefit relative to the options offered them by current provisions. Whether payments and costs associated with prevented planting coverage increase or decrease and the magnitude of any such change will depend on the proportion of reduced prevented planting payments made under the final rule that are taken by producers who would have taken a full versus zero payment under current provisions.

Double insurance provisions of the final rule reduce the incentive for program abuse that is perceived to have occurred under current provisions. Earlier notice required from producers who are prevented from planting should also help reduce instances in which insurance providers cannot accurately determine whether insured causes resulted in the loss. Over time, if program abuse is decreased, premium reductions may result. Such reductions would be beneficial to producers who do not abuse the program. However, because the amount of abuse that currently occurs cannot be measured with existing data, immediate rate adjustments for reduction of program abuse are not appropriate. Rather, such adjustments should be made when adequate loss experience is available to support actuarial calculations that satisfy appropriate credibility standards.

Adding provisions to allow coverage for crops produced using an organic farming practice may encourage more producers using this practice to purchase insurance than in the past. Although it is not possible to determine the number of additional producers who may participate, the premium amount charged will be adequate to cover any additional losses and the amount provided to insurance providers for administrative and operating expenses will be as determined under the SRA.

Providing a reconsideration process for determinations regarding good farming practices will reduce costs incurred by insurance providers and insured producers. Prior to this rule, arbitration or judicial review were the mechanisms used to settle disputes regarding the use of good farming practices, and both are significantly more expensive than the reconsideration process that FCIC will perform. Although it is not possible to estimate the savings because the number of cases mediated or litigated in the past is not known, savings to insurance providers and insured producers will clearly result.

Changes to the provisions regarding yield substitution when actual yields fall below 60 percent of the applicable transitional yield should have little impact on overall program costs. It is anticipated that producers will continue to elect to substitute all low yields in a data base even though they are allowed to select individual years. Therefore this change should not affect program costs. Likewise, it is not anticipated many producers will elect to cancel the yield substitution election once they have it. Therefore, new provisions allowing cancellation of the election will have little impact on program costs.

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501), the collections of information in this rule have been approved by the Office of Management and Budget (OMB) under control number 0563-0053 through February 28, 2005.

The following comments were received regarding information collection burden: (1) A commenter stated FCIC estimates it will take producers, a loss adjuster, and an insurance agent an average of one hour to provide the requested information. The commenter believes this is incorrect for the producer, agent, company, and loss adjuster. It believes a more realistic estimate would be at least one hour for each individual listed above; and (2) Another commenter states that while the purpose of the proposed rule is to make changes and clarify existing policy provisions to better meet the needs of the insured and the insurance companies, it believes that the information FCIC collects for use in offering crop insurance coverage, determining program eligibility, establishing a production guarantee, calculating losses qualifying for a payment, and combating fraud, waste, and abuse will most likely result in a substantial increase in the number of burden hours to producers and insurance providers. In addition, it believes that it is critical the rule introduce greater clarity and common sense in the regulations that ultimately define contract terms for crop insurance policies as well as producers' responsibilities. The commenter believes it is imperative the rule be developed without imposing unnecessary, burdensome administrative requirements for crop insurance participants.

Based on the comments received, FCIC has increased the burden that FCIC estimates it will place on respondents for information collection for the entire crop insurance process to 1.1 hours per