# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

### 7 CFR Part 457

**RIN 0563–AC15**

## Common Crop Insurance Regulations; Coverage Enhancement Option Provisions

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

**ACTION:** Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) finalizes the Coverage Enhancement Option (CEO) Provisions. The intended effect of this action is to restrict the effect of the current Pilot Coverage Enhancement Option to the 2008 and prior crop years and replace with revised permanent CEO provisions, and to better meet the needs of insured producers. The changes will apply for the 2009 and succeeding crop years.

**DATES:** *Effective Date:* August 27, 2008.

**FOR FURTHER INFORMATION CONTACT:** William Klein, Risk Management, Specialist, Product Management, Product Administration and Standards 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 non-significant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by the Office of Management and Budget (OMB).

### Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information are approved by OMB under control number 0563–0053.

### E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

### Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) 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. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

### Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

### Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, or a notice of loss and production information to determine an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1,000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure small entities are given the same opportunities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

### Federal Assistance Program

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

### Executive Order 12372

This program is not subject to the provisions of Executive Order 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 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review of any determination or action by FCIC 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.

### Background

On June 6, 2007, FCIC published a notice of proposed rulemaking in the **Federal Register** at 71 FR 4056–4061 to revise 7 CFR 457.172 Coverage Enhancement Option. Following publication of the proposed rule, the public was afforded 60 days to submit written comments and opinions. A total of 3 sets of comments, with a total of 33 comments, were received from insurance providers and an insurance service organization. The comments received and FCIC's responses are as follows:

*1. General*

*Comment:* An insurance provider commented that the contractor hired by FCIC to review the Coverage Enhancement Option (CEO) looked at participation and loss experience on crops which had CEO available, and compared the experience of policyholders having only Multiple Peril Crop Insurance (MPCI) versus those that had both MPCI and CEO. While their study was inconclusive, concerns were noted regarding a possible increase of poor or high-risk producers using CEO to obtain a higher amount of coverage, particularly for apples and rice. The contractor recommended that CEO be terminated for all crops except Texas Citrus Trees. The commenter further stated that FCIC indicated they only plan to offer CEO on Texas Citrus Trees at this time, however, CEO could be expanded in the future. Based on the concerns expressed in this study, the commenter has serious reservations about any future expansion of CEO and recommends that it remain limited to Texas Citrus Trees. If FCIC considers expansion of CEO in the future, the commenter recommends it be reviewed with the insurance providers before expansion occurs.

*Response:* FCIC will consider the contractor's conclusions and all insurance experience should there be any consideration to expand CEO to additional crops in the future. However, there are currently no plans to expand CEO. FCIC will not undertake such expansion without significant research into the risk and feasibility of adding CEO to a crop, and determining whether it can be properly rated and underwritten.

*Comment:* An insurance service organization and an insurance provider recommend the title be modified to ''Coverage Enhancement Option,'' by deleting the words ''Pilot'' and ''Insurance Provisions.'' They believe this would make it clearer this option is available only to eligible Crop Provisions.

*Response:* FCIC has modified the title accordingly.

*Comment:* An insurance service organization and an insurance provider commented that they agree with the deletion of the order of priority provisions at the beginning of the option, because it is contained in the Basic Provisions. However, FCIC might consider if there is a need, either in an opening statement or in a numbered section of the option, to address the order of priority in the event of any contradictions between the CEO and other policy provisions. They further commented this reference might be necessary since options are not specifically mentioned in the order of priority in the Basic Provisions.

*Response:* FCIC has added a provision stating that if there is a conflict between the terms of CEO and any other provision of the policy, the terms of CEO control.

2. Section 1. Definitions

*Comment:* An insurance service organization and an insurance provider noted that several of the definitions in section 1 are set up on a unit basis such as: MPCI dollar amount of insurance, MPCI indemnity, MPCI indemnity factor, and Option Dollar Amount of Insurance. They further commented that they do not believe this is consistently applied and cite the definition for ''Total value of the insured crop.'' If FCIC uses a ''unit basis'' in the terms, it should consider a consistent phrase instead of the ''MPCI dollar amount of insurance'' and ''Option Dollar Amount of Insurance'' using the phrase ''for the unit,'' ''MPCI indemnity,'' ''for each unit,'' and ''MPCI indemnity factor,'' ''for a unit.''

*Response:* FCIC believes that the definitions in section 1 including MPCI dollar amount of insurance, MPCI indemnity, MPCI indemnity factor, and Option Dollar Amount of Insurance (now CEO dollar amount of insurance) are appropriately defined on a unit basis. FCIC has modified the term ''Total value of the insured crop'' by using the phrase ''for each unit'' and then adding provisions regarding summing the total of all units if there is more than one unit for the crop. Additionally, FCIC agrees with the commenters that the unit phrase needs to be consistent and has modified the provisions accordingly, making each unit phrase read, ''for each unit.''

*Comment:* An insurance service organization and an insurance provider commented that presumably the parenthetical details in the term ''MPCI dollar amount of insurance'' (the amount of insurance selected by you for dollar or similar plans of insurance or the amount determined by multiplying the production guarantee (per acre) times the price election, times the number of acres in the unit, times the MPCI coverage level you selected) are being added so the CEO would not have to be revised if it is subsequently expanded to cover more crop policies that are not insured under the Dollar Plan. The provisions would allow the guarantee to be converted to a dollar amount of insurance. They further commented that section 3(b)(2) of the Texas Citrus Tree Crop Provisions (the only crop to which the CEO is proposed to apply) refers to the amount of insurance per acre rather than ''for the unit'' as in this definition.

*Response:* The commenters are correct, the language in parentheses under the term ''MPCI dollar amount of insurance'' was added to allow for flexibility should CEO be expanded to crops under plans of insurance other than the dollar plan. The guarantee per acre as referenced in section 3(b)(2) of the Texas Citrus Tree Crop Provisions is summed up to the unit level as provided for in section 12 Settlement of Claim of those crop provisions. Additionally, FCIC has revised the definition of ''MPCI dollar amount of insurance'' to clarify that if the amount of insurance selected under the policy is on a per acre basis, the amount must be multiplied by the number of acres in the unit.

*Comment:* An insurance provider commented that the parenthetical details in the term ''MPCI dollar amount of insurance'' which reads in part ''* * * or the amount determined by multiplying the production guarantee (per acre) times the price election, times the number of acres in the unit, times the MPCI coverage level you selected * * *'' is not correct. The commenter pointed out that the production guarantee (per acre) already accounts for the MPCI level of coverage but this statement indicates that the production guarantee (per acre) will be multiplied by the price election, the number of acres and the MPCI coverage level again. The commenter recommends that FCIC either needs to start with the approved Actual Production History (APH) yield and multiply it by the MPCI coverage level or use the production guarantee (per acre) and not multiply it by the MPCI coverage level as it has already been taken into account to determine the production guarantee (per acre).

*Response:* FCIC has revised the provisions in the second half of the language contained in the parentheses to remove the reference to the coverage level selected because the commenter is correct that the definition of production guarantee (per acre) already incorporates the coverage level selected.

1 ''MPCI Indemnity'' references ''* * * replant and prevented planting indemnities * * *.'' The Basic Provisions as well as section 6(b) of the CEO reference these as being a ''payment'' rather than an ''indemnity.''

The commenter recommended that the word ''indemnities'' in the phrase be changed to ''payments.''

*Response:* FCIC has revised the provision accordingly.

*Comment:* An insurance service organization noted that FCIC was inconsistent in using the word ''percentage'' and ''percent.'' The commenter cited the use of the word ''percentage'' in the definition of ''Option coverage level'' and the use of the word ''percent'' option coverage level in sections 2 and 4.

*Response:* FCIC has modified sections 2 and 4 accordingly to use the word ''percentage'' consistently in the phrase ''option coverage level.''

*Comment:* An insurance service organization and an insurance provider recommended modifying the term ''Option coverage level'' in section 1 to ''CEO Coverage Level,'' or something similar. They further commented that this might more closely match the actuarial documents which currently show ''(CE) Coverage Enhancement'' in the Common Option Factor Table. They suggested that this could also be done for the definition of ''Option Dollar Amount of Insurance'' making it the ''CEO Dollar Amount of Insurance,'' and the definitions would then need to be rearranged alphabetically.

*Response:* FCIC has replaced the ''Option coverage level'' and ''Option Dollar Amount of Insurance'' with ''CEO Coverage Level'' and ''CEO Dollar Amount of Insurance'' and rearranged the terms alphabetically. FCIC has also replaced the terms as they appear in the remaining sections of the Coverage Enhancement Option provisions.

*Comment:* An insurance service organization and an insurance provider commented that the term ''Total value of the insured crop'' is defined as ''The value of the crop that is determined by dividing the MPCI dollar amount of insurance by the MPCI coverage level.'' However, the ''MPCI dollar amount of insurance'' is defined as being on a unit basis rather than on a crop basis.

*Response:* FCIC has modified the definition to clarify how the value for the crop is obtained using the separate units so it now reads, ''The value of the crop that is determined by dividing the MPCI dollar amount of insurance for each unit by the MPCI coverage level and summing the total for all units.''

*Comment:* An insurance service organization and an insurance provider commented that while most people should understand that ''* * * an option coverage level percent in the actuarial documents'' refers to an option coverage level for the CEO and does not include other options that might be available for a crop, still this could be reworded to be clearer. They further commented that the ''Option Coverage Level'' is defined as the ''coverage level percentage selected * * *'' so ''percent'' could be deleted from this section 2 reference. Finally they suggested FCIC add a reference in the definition of ''Option coverage level'' that it can be found in the actuarial documents, so that phrase does not have to be repeated in sections 2, 3, and 4.

*Response:* As stated above, FCIC has modified the term ''Option Coverage Level'' to read ''CEO coverage level,'' and has used this term, ''CEO coverage level,'' to clarify the provisions in section 2. FCIC has also revised the definition to clarify that the CEO coverage level is contained on the actuarial documents where CEO is available. FCIC has removed the words ''percentage'' or ''percent'' in sections 2, 3, and 4 because the terms are no longer needed. However, when determining eligibility, there still must be reference to the actuarial documents but FCIC has revised these provisions for clarification.

*Comment:* An insurance provider commented that it disagrees with the second sentence added in the definition of ''Option coverage level'' which indicates this level effectively becomes the coverage level under the MPCI policy when losses exceed the deductible. This is simply not true, and gives the policyholder the false impression their coverage level under the MPCI policy is increased to the option coverage level when a loss occurs. The MPCI coverage level remains the same regardless of the option coverage level and it is the trigger point for a loss for both MPCI and CEO. The commenter states that this sentence is misleading and recommends that it be removed.

*Response:* The Proposed Rule states the option coverage level ''effectively'' becomes the coverage level under the MPCI policy when losses exceed the deductible. For example, if an insured had a 50 percent MPCI coverage level and a 75 percent CEO coverage level, the CEO indemnity would not trigger until the 50 percent MPCI coverage level was penetrated; however, in the case of a total loss, the indemnity for the policy would, in fact, be at the 75 percent CEO coverage level. However, this could be misleading because the CEO coverage level only becomes the effective MPCI coverage level when there is a total loss. Therefore, FCIC has modified the sentence to read, ''This percentage is applicable under the MPCI/CEO policy when losses under such policy exceed the MPCI deductible and an indemnity is owed.''

*3. Section 3*

*Comment:* An insurance service organization and an insurance provider commented that it does not seem necessary to add after the requirement to ''* * * have an MPCI policy in force for the insured crop * * *'' the phrase ''* * * in accordance with the applicable Crop Provisions for the insured crop.'' They questioned if it is possible to have an MPCI policy in force that is NOT in accordance with the Crop Provisions.

*Response:* FCIC has revised the provisions to specify that the insured must have a MPCI policy in force and comply with all terms of the policy.

*Comment:* An insurance service organization and an insurance provider recommended that FCIC consider rearranging the parenthetical phrase in section 3 to read ''* * * for the insured crop (the insured type for citrus fruit, citrus trees, and stonefruit) * * *'' The phrase ''as applicable,'' as shown in the Proposed Rule, seems unnecessary since the insured type is applicable for those three crop policies.

*Response:* The phrase ''as applicable,'' is not superfluous. FCIC inadvertently omitted the additional phrase ''or other crops.'' Therefore, FCIC has modified the provision to read ''(or for citrus fruit, citrus trees, and stonefruit, or other crops, as applicable, the insured type).'' This language allows for the flexibility of bringing other crops under CEO in those instances where the insured is allowed to insure by type.

*4. Section 4*

*Comment:* An insurance service organization and an insurance provider commented that FCIC should consider moving the first sentence of section 4 to section 3 so all the requirements for CEO coverage are grouped together, and consider rearranging as follows: ''3. To be eligible for this coverage, you must: ''(a) Have an MPCI policy in force for the insured crop (insured type for citrus fruit, citrus trees and stonefruit); and ''(b) Elect this option in writing and choose an option coverage level on or before the sales closing date for the insured crop.'' Additionally they questioned if it is necessary to repeat the phrase ''* * * for the insured crop.''

*Response:* FCIC has added the provisions of the first sentence in section 4 to section 3(b). FCIC has also added ''CEO,'' and ''for the insured crop'' in the first sentence of section 3 which now reads, ''To be eligible for CEO coverage on the insured crop, you must: * * *'' However, because the requirements to have an MPCI policy in effect and elect a CEO coverage level are specific to the insured crop, the phrase ''for the insured crop'' is not removed from sections 3(a) and 3(b).

*Comment:* An insurance service organization and an insurance provider commented that FCIC needs to revise the last phrase of the remaining sentence in section 4 to read ''* * * or until it is cancelled by you or terminated by us * * *'' so it does not appear to say that the CEO remains in effect even if it is cancelled or terminated.

*Response:* FCIC has revised the provisions accordingly.

*Comment:* An insurance provider commented that FCIC might want to consider adding the requirement that the insured must choose an option coverage level which is at least five percent higher than the underlying MPCI coverage level.

*Response:* FCIC has added the requirement that the CEO coverage level selected must be at least five percent higher than the underlying MPCI coverage level to the provisions contained in section 3(b) as revised.

*5. Section 5*

*Comment:* An insurance service organization and an insurance provider commented that FCIC should consider combining section 5 with section 2 since section 5 addresses the fact that CAT policies are NOT eligible for the CEO.

*Response:* FCIC agrees that section 5 could be combined with another section, but believes it should more appropriately be combined with section 3 rather than section 2. Therefore, FCIC has combined section 3 with provisions from the previous section 5 to include the requirement that insureds select a coverage level greater than CAT because it is a condition of eligibility.

*6. Section 6*

*Comment:* An insurance provider commented that the first sentence of section 6 reads ''* * * your deductible will disappear in proportion to the amount of such loss and indemnity paid * * *.'' The language appears to give the impression that the deductible is disappearing or getting smaller as a loss occurs, but actually, it remains the same (difference between 1 minus the applicable MPCI coverage level). The deductible remains the same even after a loss occurs.

*Response:* The commenter is correct that the deductible under the MPCI policy does not actually disappear. However, CEO is intended to provide coverage for losses that would otherwise not be payable because of the deductible. The provision has been revised to so clarify and to provide an example that demonstrates how such coverage works when the loss is greater than the MPCI deductible but less that a total loss.

*Comment:* An insurance service organization and an insurance provider commented that the opening paragraph in section 6 ends ''* * * The amount of the additional indemnity and related terms and conditions are described below'' but only (c) and (d) address the CEO indemnity. Section 6(b) addresses replant and prevented planting payments so it might fit under the ''indemnity'' heading, but (a) and (e) appear to belong elsewhere.

*Response:* The commenters are correct that section 6 contains a mixture of provisions that are not directly related. Some provisions only relate to the general coverage provided under CEO and its relationship to the MPCI policy and FCIC has left those provisions in section 6. However, those provisions relating to how indemnities are paid in relation to the MPCI policy have been moved to a new section 7. FCIC has also moved section 6(e) to be the new section 5 in response to other comments that suggest the premium provisions should be separated. The provisions in section 7 in the proposed rule have been moved to a new section 8.

*Comment:* An insurance provider questioned if an insured had prevented planting acreage, would CEO premium be charged for additional CEO coverage on such acreage. The commenter added that the way section 6(e) is written it would indicate there would be an MPCI dollar amount of coverage provided for prevented planting coverage.

*Response:* The new section 5 specifies how premium is calculated. It is based on the total liability under the MPCI policy and the total liability under CEO. This is because this is what is at risk when the insured enters into the policy. The fact that the insured may subsequently be paid a prevented planting payment on some of the insured acreage does not eliminate the fact that the total liability was originally insured under the policy. Section 6(b) in the Final Rule clarifies that any replant or prevented planting payment that is payable under the MPCI policy will not be affected by the CEO Option.

*Comment:* An insurance service organization and an insurance provider commented that subsection 6(e) addresses the calculation of the premium under CEO rather than the indemnity, so perhaps it should be a separate section (ahead of the indemnity section) since it would apply to all policies with the CEO even if there is no CEO indemnity.

*Response:* As stated above, FCIC has made the previous section 6(e) the new section 5. This places the provisions in a more logical order and improves the clarity of the provisions.

*Comment:* An insurance service organization and an insurance provider commented that the deletion of subsections 6(b) and (c) in the current provisions, proposed rule section 7, is not appropriate since those provisions are still needed to determine the option dollar amount of insurance.

*Response:* The commenters are correct that the previous subsections 6(b) and (c) served to identify how the option dollar amount of insurance is determined. FCIC tried to simplify the provisions but in the process it did not adequately identify how the option dollar amount of insurance (now CEO dollar amount of insurance) is determined. Therefore, FCIC has added two additional steps in the current section 8 to clarify this determination. FCIC has also added two additional steps in the Example in section 8 for clarification.

**List of Subjects in 7 CFR Part 457**

Crop insurance, Coverage Enhancement Option.

**Final Rule**

■ Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 457, Common Crop Insurance Regulations, for the 2009 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. Add a new § 457.172 to read as follows:

**§ 457.172 Coverage Enhancement Option.**

The Coverage Enhancement Option for the 2009 and succeeding crop years are as follows:

FCIC policies: United States Department of Agriculture, Federal Crop Insurance Corporation.

Reinsured policies: (Appropriate title for insurance provider).

Both FCIC and reinsured policies: Coverage Enhancement Option.

Both FCIC and reinsured policies:

**Coverage Enhancement Option**

*1. Definitions*

*CEO coverage level*—The coverage level percentage contained in the actuarial documents where the Coverage Enhancement Option (CEO) is available and selected by you. This percentage is applicable under the combined MPCI/CEO policy when losses under the MPCI policy exceed the deductible and an indemnity is owed.

*CEO dollar amount of insurance*—The value of the additional insurance coverage for each unit provided by the CEO, which is determined by multiplying the CEO coverage level by the total value of the insured crop and subtracting the MPCI dollar amount of insurance.

*MPCI*—Multiple Peril Crop Insurance, the plan of insurance offered by the Federal Crop Insurance Corporation as published at 7 CFR part 457.

*MPCI coverage level*—The coverage level percentage you selected in the underlying MPCI policy to which CEO is attached.

*MPCI dollar amount of insurance*—The value of the insurance coverage for each unit provided under the MPCI policy (the amount of insurance selected by you for dollar or similar plans of insurance, multiplied by the number of acres in the unit if such amount of insurance is on a per acre basis, or the amount determined by multiplying your production guarantee (per acre), times the price election, times the number of acres in the unit).

*MPCI indemnity*—The indemnity determined for each unit under the MPCI policy to which CEO is attached, not including replant and prevented planting payments or any indemnity payable under CEO.

*MPCI indemnity factor*—A factor determined by dividing the MPCI indemnity by the MPCI dollar amount of insurance for each unit. This factor is used to ensure that the indemnity paid under the CEO is proportional to the amount of loss and indemnity paid under the MPCI policy.

*Total value of the insured crop*—The value of the crop that is determined by dividing the MPCI dollar amount of insurance for each unit by the MPCI coverage level, and summing the total for all units.

2. CEO is only available for insured crops where the actuarial documents contain a CEO coverage level. If there is a conflict between the terms of CEO and any other provision of your policy, the terms of the CEO will control.

3. To be eligible for CEO coverage on the insured crop, you must:

(a) Have an MPCI policy in force for the insured crop (or for citrus fruit, citrus trees, and stone fruit or other crops, as applicable, the insured type) and comply with all terms and conditions of such policy.

(b) Elect CEO in writing and choose a CEO coverage level (at least 5 percent higher than the MPCI coverage level), by the sales closing date for the insured crop.

(c) Elect a level of coverage greater than the Catastrophic Risk Protection (CAT) coverage level and a 100 percent price election. CEO is not available for the CAT level of coverage.

4. CEO is continuous and will remain in effect for as long as you continue to have a MPCI policy in effect for the insured crop, the actuarial documents contain a CEO coverage level, or until it is canceled by you or terminated by us on or before the cancellation or termination date, as applicable.

5. The premium for your policy will be determined by:

(a) Totaling the MPCI dollar amount of insurance and the CEO dollar amount of insurance; and

(b) Multiplying the result of section 5(a) by the premium rate for the insured crop applicable to your MPCI coverage level

6. With respect to the coverage provided under CEO:

(a) All acreage of the insured crop insured under your MPCI policy will be covered under the CEO;

(b) The amount of any replant or prevented planting payment that is payable under the MPCI policy will not be affected by the CEO;

(c) An indemnity will be payable under the CEO only after the underlying MPCI deductible is met and an MPCI indemnity is paid; and

(d) The total indemnity for each unit (MPCI coverage plus CEO) cannot exceed the combination of both the MPCI and CEO dollar amounts of insurance.

7. If you elect CEO and a MPCI indemnity is paid on any unit, CEO will pay a portion of the loss not paid under the deductible of the MPCI policy depending on the CEO coverage level you select (For example, if you selected a 50 percent MPCI coverage level, selected an 85 percent CEO coverage level, and had 60 percent loss of the insured crop, the total amount of indemnity paid under both the MPCI policy and the CEO would be equal to approximately 51 percent of the total value of the insured crop). See the example in section 8.

8. In addition to the settlement of claim section for the applicable Crop Provisions, your indemnity will be computed for each unit as follows:

(a) Determine the MPCI indemnity factor;

(b) Determine the total value of the insured crop;

(c) Determine the CEO dollar amount of insurance; and

(d) Multiply the MPCI indemnity factor times the CEO dollar amount of insurance to determine the indemnity under the CEO.

*Example:*

Assume a policy with one unit; an MPCI coverage level of 50 percent and a CEO coverage level of 85 percent; 100% share; a $120,000 MPCI dollar amount of insurance; and a $72,000 payable indemnity under the MPCI portion of the policy.

Your indemnity would be calculated as follows:

(a) $72,000 MPCI loss ÷ by $120,000 MPCI dollar amount of insurance = .60 MPCI indemnity factor;

(b) $120,000 MPCI dollar amount of insurance, divided by the MPCI coverage level of .50 results in $240,000 total value of the insured crop;

(c) $240,000 total value of the insured crop multiplied by the CEO coverage level .85, equals $204,000, and subtracting $120,000 MPCI dollar amount of insurance equals $84,000 CEO dollar amount of insurance;

(d) .60 MPCI indemnity factor × $84,000 CEO dollar amount of insurance = $50,400 unit indemnity under the CEO.

**Note:** The total unit indemnity is $122,400 ($72,000 MPCI indemnity plus $50,400 CEO indemnity).

Signed in Washington, DC, on July 22, 2008.

**Eldon Gould,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. E8–17187 Filed 7–25–08; 8:45 am]

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## DEPARTMENT OF ENERGY

### 10 CFR Part 430

**[Docket No. EE–RM/STD–01–350]**

**RIN 1904–AA78**

### Energy Conservation Program for Consumer Products: Energy Conservation Standards for Residential Furnaces and Boilers

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** This final rule clarifies the standards that are applicable to residential furnaces and boilers that were not subject to a final rule published by the Department of Energy