



News from Washington

Citations

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1. Catastrophic Risk Protection Endorsement; Group Risk Plan of Insurance Regulations, etc. 45537-45544 [E9-21233]

Sep 3, 2009

Federal Register

RMA must specify the acceptable documentation necessary to prove acreage last farmed over a decade ago is not native sod. Comment: A commenter stated the definition of "native sod" would allow brome grass or other grass-like plants to be declared native sod. USDA properly relied on statutory language in defining "Native Sod." The commenter would oppose USDA adopting a substantially different definition of Native Sod.

2. Farmers' wait on ag bill nears end

Aug 31, 2009

Lubbock Avalanche-Journal

DeJong, deputy press secretary for the USDA, in a statement about the programs. Programs like ACRE and Farmland Wetland protection may not make a big difference to farmers on the South Plains, but the slow process erodes producers' confidence in government assistance, said Roger Haldenby, vice president of operations for Plains Cotton Growers. One of the larger programs left, ACRE hasn't proved to be popular in the area, Haldenby said, because cotton farmers don't expect to...

3. Meet N.D.'s new FSA chief

Sep 1, 2009

Agweek

The youngest of three siblings, Krauter graduated from high school in 1974 and went to the University of Mary in Bismarck to play the trumpet and earn a music education degree. Mitchell is a senior in high school and Hannah is in eighth grade, Krauter sees farm life -- kids working with their parents -- as a particular benefit for those who go through it. In 2000, Krauter was on the ticket with gubernatorial candidate Attorney General Heidi Heitkamp, they lost to Gov.

4. Three Southern NH counties declared disaster area

Sep 2, 2009

The Eagle-Tribune

...said. "This might have been the year to have crop insurance," Ferdinando said yesterday. The only time Ferdinando received federal help was 15 years ago when his entire corn crop was flattened by a hurricane. "We did get money that year," Ferdinando said. But he's not counting on any federal programs to be available this year. Ferdinando said he wouldn't expect much help unless his whole corn crop was lost and that's not the case this year. "They..."

5. Lack of water putting a hurt on Mariposa agriculture

Sep 3, 2009

Merced Sun-Star

6. Farmers finally getting drought assistance

Sep 3, 2009

The Monitor

Henry Cuellar, D-Laredo, said assistance to farmers through SURE will be available beginning in November. Hidalgo and Webb counties have formal disaster declarations from the drought. Starr, Zapata and Jim Hogg counties have pending declarations.

"The drought didn't start yesterday," Cuellar said. "It's been a while."

7. **Texas drought drying Austin's famed Barton Springs**

Sep 3, 2009

Associated Press Online

The springs draw water from the Edwards Aquifer, a massive 160-mile underground water system. With less water moving through, there's less dissolved oxygen that the gilled creatures need. At the spring where they're most common, an average of

1. **Catastrophic Risk Protection Endorsement; Group Risk Plan of Insurance Regulations, etc. 45537-45544 [E9-21233]**

Sep 3, 2009

Federal Register

[Federal Register: September 3, 2009 (Volume 74, Number 170)]

[Rules and Regulations]

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From the Federal Register Online via GPO Access [wais.access.gpo.gov]

[DOCID:fr03se09-1]

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Rules and Regulations

Federal Register

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 402, 407, and 457

RIN 0563-AC19

Catastrophic Risk Protection Endorsement; Group Risk Plan of Insurance Regulations; and the Common Crop Insurance Regulations, Basic Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes the Catastrophic Risk Protection Endorsement, the Group Risk Plan of Insurance Regulations, and the Common Crop Insurance Regulations, Basic Provisions to revise those provisions as mandated by the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill). The changes will apply for the 2010 and succeeding crop years for all crops with a 2010 crop year contract change date on or after the effective date of this rule and for the 2011 and succeeding crop years for all crops with a 2010 crop year contract change date prior to the effective date of this rule.

DATES: Effective Date: This rule is effective October 5, 2009.

FOR FURTHER INFORMATION CONTACT: Erin Albright, Risk Management Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility--Mail Stop 0812, PO Box 419205, Kansas

City, MO 64141-6205, telephone (816) 926-7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is non-significant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563-0053 through March 31, 2012.

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, and all producers are required to submit a notice of loss and production information to determine the amount of 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 that small entities are given the same opportunities as large entities 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 final 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 or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an

Environmental Assessment nor an Environmental Impact Statement is needed.

Background

This rule finalizes changes to the Catastrophic Risk Protection Endorsement, the Group Risk Plan of Insurance Regulations, and the Common Crop Insurance Regulations, Basic Provisions, mandated by the 2008 Farm Bill, that were published by FCIC on November 24, 2008, as a notice of interim rulemaking in the Federal Register at 73 FR 70861-70865. The public was afforded 60 days to submit written comments and opinions.

A total of 52 comments were received from 14 commenters. The commenters were reinsured companies, conservation organizations, a state agricultural association, an insurance service organization, a grower association, a government agency, and other interested parties.

The public comments received are organized below by the issues identified in this rule and the specific public comments received. The comments received and FCIC's responses are as follows:

General

Comment: A commenter asked how the changes in the interim rule will be conveyed to the insureds. The commenter asked whether the changes will be added to the Basic Provisions as an endorsement or whether the insurance providers will be required to issue a completely new set of Basic Provisions.

Response: The changes will be issued in a revised Farm Bill

Amendment. Therefore, the insurance providers will only have to issue

the revised endorsement rather than reissue the entire Basic Provisions.

Comment: A few commenters stated the language in this interim rule has already been sent, or is in the process of being sent, to all affected policyholders. If RMA makes any changes to what is in the interim rule, the commenters would recommend that any such changes to the Farm Bill Amendment necessitated by the final rule be issued in conjunction with the Administrative Remedies for Non-Compliance Final Rule language (7 CFR Part 400, 407, and 457; RIN 0563-AB73 published on December 18, 2008) instead of having another separate revised Farm Bill Amendment.

Response: FCIC has already issued the Administrative Remedies for Non-Compliance final rule language in the Sanctions Amendment. Therefore, any changes made in this final rule will result in the revision of the Farm Bill Amendment.

Comment: A few commenters stated the Supplementary Information for Executive Order 12866 in item number (3) indicates that this will not impact a large number of insured producers. There are a large number of current policyholders who have their own structures for farm-stored harvested production, and if a substantial percentage of these producers elect to extend the settlement of their claims, this could result in a large number of producers being impacted by this rule.

Response: The provisions only provide a producer the option to postpone settlement of their claim if they have farm-stored production. FCIC does not anticipate a large number of producers will elect this

option. Further, the provisions only allow a short delay for calculating a claim and only when there is farm-stored production.

Therefore, FCIC does not anticipate the changes within this provision will significantly impact a large number of producers.

Linkage Requirements

Comment: A few commenters stated FCIC has proposed removing all references to other United States Department of Agriculture (USDA) program benefits (linkage requirements). A commenter stated even though the question of eligibility is for other agencies to determine, their recommendation would be to maintain this language in the provisions so producers are aware of these requirements. A commenter stated while this makes sense since the question of eligibility and the requirements are dependent on those other programs as they become available, and such details should be provided by those other agencies, it would seem that there should be at least some mention of these potential requirements in the crop insurance policy language so policyholders are aware of them. Both commenters stated if FCIC chooses to continue with removing all language regarding linkage requirements from the policies, it would be beneficial if insurance providers were provided with some kind of notification when those linkage requirements are imposed or changed.

Response: Producers are generally aware of other USDA program benefits, so FCIC does not believe the addition of a general provision would be of any assistance to them. Further, these requirements have changed over the years. As stated in the interim rule, any program

eligibility requirements for a particular program are best provided by the agency administering such program.

Delay of Claims for Farm-Stored Production

Comment: A few commenters stated section 12014 of the Farm Bill allows producers with farm-stored production to elect to extend the settlement of their claim for up to four additional months beyond the 60 days allowed in the current policy provisions. The commenters stated this language needs to clarify that it is applicable only to grain crops and also recommended the word "harvested" be inserted after the word "Have" and in front of the words "farm-stored production" to preclude any arguments from policyholders who maintain they are storing such production in the field (since there was not a definition of "farm-stored production" being added to the provisions).

Response: These provisions were intended to only apply to harvested farm-stored grain and FCIC has revised the provisions accordingly.

Comment: A few commenters stated the new farm-stored production provisions could potentially present some additional problems of extending the final determination of production for actual production history (APH) purposes beyond the applicable production reporting date.

Policyholders may also feel this provides them with additional time to pay their premium beyond the termination date. There could also be APH reviews or other quality control reviews that are delayed beyond the April 30 deadline for reporting such information to the RMA because of this language. The additional time also allows for more things to happen to the grain before a final determination of production is made.

Response: FCIC is statutorily mandated to allow producers to delay their claims. However, FCIC does not anticipate many producers will opt to wait the full 180 days to determine the amount of farm-stored production. FCIC has added provisions notifying producers they will be assigned their prior year's approved yield in accordance with the temporary yield procedure contained in the Crop Insurance Handbook when extensions go beyond the date production reports are due. FCIC has also added provisions notifying producers that no additional time is provided for payment of premium nor can damage that occurs after grain is stored be covered. When quality control reviews cannot be completed before reports are due because production amounts are not yet

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available, it should be noted in the report remarks that the review is not yet complete because of the delayed measurement.

Comment: A few commenters questioned what happens if the producer elects to delay measurement of the grain for an additional four months but subsequently removes and sells the grain during the four month period. The commenters asked whether the production from the settlement sheets with the buyer would be used in lieu of any measurements in this situation. The commenters also asked what happens if the grain is lost due to tornado or fire during this four month period. The added policy language does not address these issues.

Response: When production is sold, the sales records will be used to determine the amount of production provided the records are verifiable. Since harvest ends the insurance period, no coverage is

provided for any subsequent damage. Provisions have been added to make this clear. When production is lost after the end of the insurance period and no records of production are available, no claim can be paid because there is no way to accurately adjust the claim.

Native Sod Acreage Located in the Prairie Pothole National Priority Area

Comment: A commenter stated placing the Farm Service Agency (FSA) in the position of determining if the soil has been tilled in the past, without an appeals process for the producer, is unacceptable. FSA records are available for only the last 30 to 40 years while the land has been operated for at least 100 years. With the current definition of native sod and no appeals rights, any grass area that does not have a farm number and a field number will be native sod. This goes far beyond the intent of the conference committee and the managers. A few commenters stated there is acreage that was farmed over a decade ago and now appears to be native sod. This acreage was not farmed again until after May 22, 2008. Therefore, they believe this acreage will not be classified as native sod as defined in the Farm Bill Amendment. RMA must specify the acceptable documentation necessary to prove acreage last farmed over a decade ago is not native sod. This will allow the producer to avoid the 5-year moratorium on coverage if the Governor of a State enacts section 508(o) of the Federal Crop Insurance Act (Act). Because "no record of being tilled" is based on FSA records and FSA records exist for a limited number of years, as are the producer's records, the commenters asked if acreage that was

previously farmed but for which no records exist to prove such farming, is returned to a "native sod" status by fact of "no record of being tilled." If some documentation exists to prove old tillage, the commenters asked how the insurance providers will know if such documentation is considered acceptable (e.g., Fish and Wildlife Refuge rental agreements). RMA must specify a list of documents or document criteria that is acceptable to prove prior tillage of a piece of ground that appears to be native sod but the land owner/producer claims is not. The commenter suggests RMA simply indicate that any available documentation, when outside the retention period, must contain an acceptable legal description (e.g., 578's, CRP contracts).

Another commenter recommended the rule specify these records must consist of some type of official, written record tied to the specific piece of property under evaluation or consideration which indicates the property had been tilled at some point in the past; producers should not be allowed to self-certify any tillage records.

Another commenter stated FSA records are not infallible. The commenter recommended allowing a landowner to present the FSA with hard evidence that the land has been tilled and cropped in the past. If that evidence is persuasive, the FSA should be allowed to determine that the land had been previously tilled and is thus outside the operation of the rule and thus eligible for crop insurance.

A few commenters were concerned about the definition of native sod.

The legislative definition of native sod differs from the definition in the regulation. The legislation defines native sod as land "that has

never been tilled for the production of an annual crop as of the date of enactment." The regulation defines native sod as land ``that has no record date of being tilled (determined in accordance with Farm Service Agency (FSA) records) as of the date of enactment." The definition in the regulation is significantly more restrictive. In most cases, FSA records are only available for the past 30 or 40 years while the land may have been in production as long as a century ago. It appears that the burden is on the grower to dispute the FSA records even though there is no appeals process available.

The commenters stated Congress did not limit the evidence or information a landowner could use to show that the land had been used for the production of an annual crop at some point in the past. Instead of relying on FSA records producers should be permitted to provide photos, personal records and affidavits as evidence that the land in question has been tilled in the past.

Response: FCIC agrees records other than those from FSA may be used to determine whether land has been tilled in the past. The provisions have been revised to allow the use of written verifiable records from other sources that are acceptable to the insurance provider. Since the kinds of records that could be used to verify prior tillage may vary considerably, FCIC does not intend to provide a specific list of documents, because doing so may eliminate the use of some acceptable records that would clearly indicate prior tillage. Acceptable records of tillage must be verifiable and identify the location of the acreage.

Self-certification of past tillage is not acceptable. However, past

farm records provided by a producer may be acceptable.

Comment: A commenter recommended considering the phrase "tilled" in its broadest meaning, which they believe agrees with the intent of Congress. That is, if land is converted to cropland using plowing, disking, chemicals like glyphosate, or other methods, the effect is the same and the conversion should fall under the "native sod" rules.

Another commenter wanted to ensure the term "tilled" is understood to broadly encapsulate the various means by which acreage may be prepared for an annual crop, including the understanding that the act of seeding an annual crop constitutes tilling. Acreage may be converted with many methods, including chemical treatment and no-till drilling, but the determinative factor is the acreage has no previous record of any means of conversion for an annual crop.

Response: Plowing, disking, no-till drilling following the termination of existing plants, and chemical tillage would all be considered tillage for the purpose of these provisions, provided it was done for the production of an annual crop. FCIC has added a definition to so specify.

Comment: A commenter stated it is not clear what constitutes native sod. The regulation merely transposes the legislative language--this is unacceptable. As there is with other conservation programs, there should be a specific list of criteria for what generally constitutes native sod (tall grass, mixed grasses and/or short prairie grasses), specific varieties of sod grasses covered by this provision, and how it will be identified and applied.

A commenter stated there should be an opt-out clause in periods of low or

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projected low grain stocks, such as because of drought or increased grain demand.

The economic implications of this provision and the likelihood it could discourage much needed economic activity on the state level must be considered. There needs to be economic factors to allow a state to opt into or out of the program.

Response: There are no limitations on what factors a Governor may use to determine whether they will elect to implement the provisions.

The choice is for the Governor to make. Further, the 2008 Farm Bill does not provide any authority that would allow an opt-out clause. Once the Governor makes the election, the only exception is for the five acre de minimis. FCIC does not believe specifying tall grass or short prairie grass, etc., provides any additional clarification. The term ``native grasses" in the definition is clearly inclusive of these grass types. It is up to agricultural experts to determine what constitutes native grasses, grass-like plants, forbs, or shrubs suitable for grazing and browsing for a particular area. Therefore, no changes have been made in response to this comment.

Comment: A commenter stated the definition of ``native sod" would allow brome grass or other grass-like plants to be declared native sod.

The intent is to protect tall-, mixed-, and short-grass prairie. The definition should identify the grasses in those prairies such as big

bluestem, Indian grass, green needle grass, blue gamma grass, buffalo grass, little blue stem, etc. A specific list of criteria must be developed for native sod including grass types, soils, and erosion factors before this program is put into effect.

Another commenter stated it is clear the definition specifies native grasses but also specifies other plants (grass-like, or forbs, or shrubs) all of which are suitable for grazing and browsing. They emphasized this for the fact the "native" designation of existing grasses is just one of multiple possible plants that meet the definition. In using "or" the definition emphasizes, in effect, the native or non-native status of the plants present is not the compelling criteria. Rather, it is the broadly referenced native grass, grass-like plants, forbs, or shrubs which are of a type suitable for grazing and browsing.

Secondly, and of ultimately higher determinative value, the definition requires the suitable plants are present on "land" (section 12020 of the 2008 Farm Bill) or "acreage" (interim rule) that has never been tilled for the production of an annual crop. The commenter emphasized this second criteria is of higher determinative value because the broad definition of suitable plants ultimately depends upon the plants simply being suitable for grazing and browsing.

Additionally, as determined by the "and" in the interim rules definition which reads " * * * and that has no record of being tilled * * *," the prevailing factor is that the acreage ("determined in accordance with FSA records") has not previously been in annual crop

production.

The commenter emphasized these points to clarify appropriate establishment and subsequent adherence to the rule should never be dependent on the native status or specific species of grass or plants.

Beyond simply consisting of various plants being suitable for grazing and browsing, the final determining factor is that the acreage has not previously been converted for an annual crop.

Another commenter recommended reordering the definition of native sod to read as follows: ``Acreages on which no records exist indicating tillage (determined in accordance with FSA records) for the production of an annual crop on or before May 22, 2008, and the plant cover is composed principally of grasses, grass-like plants, forbs, or shrubs suitable for grazing and browsing."''

While the interim rule does not suggest there is a priority in the criteria, the commenter believed the lack of tillage history is a more important indicator of native sod than the plant community description provided. Native sod may also contain nonnative species that have invaded from adjacent habitat and may encounter changes in vegetation composition associated with natural succession and wildfire.

Furthermore, the vegetation composition may be difficult to discern by FCIC or FSA staff who are not trained botanists or biologists because plant communities may also vary depending on intensity and frequency of drought, fire and grazing. For these reasons, the commenter recommended the word ``native'' be stricken from the definition. They believe that doing so, in combination with the suggested reorganization of the

definition, will facilitate implementation of the rule and fulfill

Congressional intent.

Another commenter stated under the law, the definition of "Native

Sod" includes land " " on which the plant cover is composed

principally of native grasses, grasslike plants, forbs, or shrubs

suitable for grazing and browsing " " " Given the clear Congressional

intent of the language, USDA need not consider arguments about which

plants should be included as "native grasses, grasslike plants" etc.

The real test is whether the producer is converting land to cropland

that has not been converted before, and upon which there is therefore

no prior crop insurance history. USDA properly relied on statutory

language in defining "Native Sod." The commenter would oppose USDA

adopting a substantially different definition of Native Sod. One

practice USDA should be wary of is a landowner drilling non-native

plant species into a native prairie, and then claiming what they are

breaking is not 'native sod' and thus outside the operation of the

rule. The status of the land as of May 22, 2008, should determine

program eligibility under this provision.

Response: The primary consideration is whether the acreage has been

tilled in the past and FCIC has reordered the definition accordingly.

The term "native" cannot be removed from the definition because it is

specified in the 2008 Farm Bill. Acreage that has never been tilled is

very likely to contain the broad categories of plant types listed in

the definition. The intent is to protect acreage with native plants

that has never been tilled. Acreage that has been tilled and planted

with non-native species, such as Smooth Brome Grass, would not be included under the definition of "native sod." The native sod provisions are applicable in a wide geographic area and FCIC cannot list all the native plants that may be found in these areas. In questionable cases, agricultural experts in the area may be consulted to determine the native plants for a specific area. FCIC has added a definition of "tilled" to make it clear that simply drilling non-native plant species into native sod without terminating the native plants would not be considered tilling. Whether there is a prior crop insurance history is not material. The paramount question is whether the acreage has previously been tilled.

Comment: Several comments were received regarding the Governor's authority to determine whether section 508(o) of the Act will be effective in their State. A commenter stated RMA must impose a specific deadline that limits the amount of time the Governor has to make this election. If RMA does not establish a deadline to limit the decision-making window, there is the potential a producer may suffer unwarranted penalties. A fixed number of days following the applicable acreage reporting date is acceptable. In addition, RMA must clarify what crop year this will apply to if the election is imposed after said deadline.

(i.e., if section 508(o) of the Act becomes effective more than

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60 days past the applicable acreage reporting deadline specified in the Special Provisions for the crop year, the election will be effective for the following crop year and succeeding crop years).

A few commenters stated as the rule notes, the Governor of each of the five states has the sole authority to determine whether the provision will be operative in his or her state. The commenters appreciated and supported USDA's suggestion that the Governors make their designation by February 15, 2009, to put everyone on notice and allow crop insurance to be purchased where available. The commenters also recognized this as a helpful suggestion with practical advantages for avoiding the complexities of required benefit repayments and premium refunds in the first crop year in which the election may be made. However, the statute does not set a deadline for Governors to make this determination.

A few commenters questioned whether the Governor's election to participate or not participate in the provision is a one-time permanent election or if there is some other time period during which the election applies. The rule should clarify whether the Governors can elect to participate at any time in the future or can change their decision at a later time. A commenter questioned if the Governor of a respective state can change their election, does the election start at the date of the election, is the election for one year, or is it a permanent decision. If the election can be changed, the commenter asked whether FCIC would be obligated to "look-back" to the May 22, 2008 enactment date of the Farm Bill. A few commenters stated it is not clear whether a future Governor can change the election made by a predecessor.

A few commenters recommended the decisions made by the Governor

during the 2009 crop year should be final, and language should be inserted into the provisions to clarify the finality of these decisions. The commenters also recommended any decision made by the Governor should be maintained for the duration of the 2008 Farm Bill regardless of whether the Governor who made the decision remains in office during this period. The commenters believed that would ensure consistency for the duration of the 2008 Farm Bill, in fairness to farmers within the affected region who might otherwise be impacted by fines or insurance repayment should a decision be changed after 2009. Another commenter stated section 12020 of the 2008 Farm Bill and the interim rule clearly do not and should not place any limit upon when a current or future Governor within the Prairie Pothole National Priority Area may elect to make section 508(o) of the Act effective, and section 12020 of the 2008 Farm Bill and the interim rule clearly do not and should not enable a current or future Governor to nullify section 508(o) of the Act if an election has been made previously. However, with respect to the complexities of future required benefit repayments and premium refunds on any acreage in the first five years after section 508(o) of the Act is made effective--on native sod acreage converted anytime after May 22, 2008--the commenter recommended that future elections should become effective only prior to February 15 of a given year. Or stated alternatively, elections made after February 15 will become effective for the next crop year.

A few commenters stated it is not clear what constitutes application of a Governor's approval and how the FCIC will notify

individual farmers of the election (e.g., a phone call, a document transmitted in writing or by electronic e-mail). To avoid any confusion, it would seem prudent for the FCIC to require a Governor's election in writing. Also, an application should only apply from the date of a Governor's approval. The commenter opposed retroactive "look-backs" of any indemnities or other payments.

A few commenters had concerns growers will be subject to retroactive penalty as a result of indemnities or disaster assistance payments in the event a Governor decides to enroll in the program at some future date. A producer should only forfeit indemnities and disaster payments that would be received after a Governor elects to make section 508(o) of the Act effective in the state since prior to that time the statute is not applicable. Similarly, the interim rule does not explain whether a Governor has the authority later to withdraw their state from the program once the decision has been made to enroll.

Response: The 2008 Farm Bill does not contain any deadlines for the Governors to decide whether to implement section 508(o) of the Act.

Therefore, FCIC lacks the authority to impose a deadline. However, in correspondence to the Governors and in the interim rule, FCIC explained the potential negative impacts of a delayed decision. Any time a Governor makes the election, the provision becomes effective for any acreage newly tilled after May 22, 2008, and insurance is not available for the first five years of planting. Producers who received an indemnity for acreage tilled after this date will be required to repay it and any premiums paid must be refunded. If the election could be

changed, it would effectively negate the provision. If a Governor elects to implement section 508(o) of the Act, it will be announced by RMA via a Manager's Bulletin and posted on the RMA Web site at <http://www.rma.usda.gov/>. Insurance providers will be directed to notify individual producers when such announcement is made.

Comment: Several commenters stated the interim rule specifies the counties in the Prairie Pothole National Priority Area by referencing the RMA Web site. The commenters recommended the rule identify the specific counties within the States of Iowa, Minnesota, Montana, North Dakota, and South Dakota that are included in the RMA Web site map of the Prairie Pothole National Priority Area to make it clearer, and to avoid inadvertently changing the operation of the rule should the Web site be changed, updated, or become temporarily unavailable. The Web site map should be cited as a reference tool.

Response: The counties identified on the RMA Web site are consistent with the counties identified by the FSA, Agricultural Resource Conservation Program 2-CRP (Revision 4) dated April 28, 2008. The Web site would only be changed or updated if the designated counties change. However, FCIC will include the FSA reference in case the Web site is unavailable.

Comment: A few comments were received regarding how the native sod provisions are only applicable in the Prairie Pothole National Priority Area. A commenter questioned why the area in the Prairie Pothole National Priority Area is of more concern than other areas in the state. The arbitrary decision makes it impossible to explain to

producers that native sod in the Prairie Pothole National Priority Area is a higher priority than native sod in other parts of the state. A commenter believed the native sod provisions of the 2008 Farm Bill resulted from a clear problem that applies well beyond the Prairie Pothole National Priority Area. Throughout the Great Plains, and in other parts of the country, native prairie, virgin forest, and other types of native habitat are being tilled, cleared and converted to cropland. Much of this land is marginal and would not be farmed if the risk in doing so were not underwritten by taxpayer-subsidized crop insurance and disaster assistance programs, along with commodity payments and other USDA programs.

The commenter stated in sagebrush grasslands, the rapid pace of conversion

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represents a long-term threat to the health and viability of sage-grouse populations and other sagebrush obligate species. Portions of the Prairie Pothole National Priority Area within Montana include important sage-grouse habitat as well as native grasslands important to migratory birds of concern. Unfortunately, the current focus on the Prairie Pothole National Priority Area excludes significant blocks of native grasslands within the Great Plains in Montana and other states.

Putting the native sod provisions in effect in the Prairie Pothole National Priority Area would be a good first step, but the job is nowhere near complete if we seek to maintain functional working landscapes throughout our nation.

The commenter urged USDA to examine this issue carefully, and to undertake monitoring and research on how much native prairie and other native habitat is being converted to cropland and the influence of USDA insurance, commodity, and other programs in those decisions. Should one or more Governors choose to have the provision apply in their state, it would provide an invaluable opportunity to study side-by-side comparisons of conversion rates with and without the availability of Federal crop insurance.

Another commenter stated USDA data shows the loss of rangeland and pastureland is not limited to the states of the Prairie Pothole National Priority Area. In fact, data cited in a Government Accountability Office (GAO) report shows states like Colorado, New Mexico and Texas are experiencing losses as bad as or worse than those in the Prairie Pothole National Priority Area. Landowners throughout the country who are maintaining grasslands receive none of the Federal farm program supports that studies show are an important factor in converting grasslands to annual crop production. Again, the GAO detailed that even among annual crop producers, the landowners that are converting the most native sod are receiving far larger insurance benefits than their neighbors who are not. Further, the Federal farm program is paying landowners to re-establish perennial grass and plants on previously converted sod at the very same time crop insurance and other Federal benefits are prodding the conversion of perennial grasslands.

The commenter recommended the "added land" provision of crop

insurance rules be amended to require land without production crop history prior to May 22, 2008, that is subsequently planted to a crop, must establish a full four to ten year actual production history prior to becoming eligible for insurance.

A commenter strongly recommended an incentive-based program to help preserve tall-, mixed-, and short-grass prairies in the entire state of South Dakota, as opposed to the current sod saver program for the Prairie Pothole National Priority Area.

Another commenter noted in their explanatory language on the new Farm Bill, the Managers Report cites a GAO report and recommendation that USDA should "(1) track annual conversion and provide current data to policymakers, and (2) conduct a study of the relationship between farm program payments and land conversion and report findings to Congress." The Managers intend for the Secretary to undertake a study on the influence of the crop insurance program on the conversion of native sod to crop production and to provide recommendations to Congress.

The commenter echoed this call for careful study and recommendations. They also asked USDA to look for other opportunities within the existing structure of Federal crop insurance and non-insured disaster assistance payments to reduce or eliminate the taxpayer-paid incentives that are now in place that encourage landowners to break out native prairie and other native habitats, and to work to combat abuses of the current system that waste taxpayer money.

Response: Congress created an exception to the rule regarding the

eligibility of acreage for insurance. Because it is an exception to the rule, it should not be read more broadly than it is written. The 2008 Farm Bill specifically provided the authority to implement these provisions in the Prairie Pothole National Priority Area. The 2008 Farm Bill also specified the 5-year period in which insurance cannot be offered after native sod acreage has been tilled. In addition, the crop insurance policy already contains provisions that limit insurance on certain acreage on which a crop was not previously planted or harvested in the previous three years. As conversion data is gathered and included in required reports to policymakers, policy changes may be vetted to determine the best land management practices that meet the needs of all land users.

Comment: A commenter stated the interim rule makes native sod tilled after May 22, 2008, ineligible for crop insurance for the first five years an annual crop is planted. It appears this will also make the crop ineligible for any disaster payments because crop insurance is a requirement for disaster assistance. This reduces a risk management tool for the producer in the Prairie Pothole National Priority Area.

The commenters asked for the justification for eliminating these tools for the producer in the Prairie Pothole National Priority Area and not for the producer across the road in another county that is not in the Prairie Pothole National Priority Area. The commenter recommended an incentive to not break the native sod with a pilot program or a CREP-like program of some sort. Producers who have gone out of the livestock business are limited in the use of the land under Sod Saver. The

producer should make decisions based on his or her operation needs, not disincentives for change because he or she lives in the Prairie Pothole National Priority Area.

Another commenter stated if a producer falls under the sod saver provisions in the interim rule, they are not eligible for disaster assistance. This would place these farmers at an economic disadvantage relative to other farmers. The commenter was opposed to that outcome.

Response: FCIC is required to implement the provisions of the 2008 Farm Bill. Further, its provisions limit crop insurance and noninsured crop disaster assistance program benefits. It does not expressly exclude the payment of disaster benefits. FSA provides disaster assistance and any program requirements for insurance are detailed in materials developed and issued by FSA. Producers should contact their local FSA office to verify disaster assistance program requirements.

Comment: A commenter stated the interim rule adds a new subsection in section 3 of 7 CFR 407.9 and a new subsection in section 9 of 7 CFR 457.8 to specify when native sod is ineligible for crop insurance. The language is virtually identical in the two sections and is consistent with section 12020 of the 2008 Farm Bill, except in the final sentence of the sections: "If the Governor makes this election after you have received an indemnity or other payment for native sod acreage, you may be required to repay the amount received and any premium for such acreage may be refunded to you."

Section 12020 of the 2008 Farm Bill states that, " * * * native sod acreage that has been tilled for the production of an annual crop after

the date of enactment of this subsection shall be ineligible during the first 5 crop years of planting * * *

Both section 12020 of the 2008 Farm Bill and the interim rule affirm acreage tilled for production after May 22, 2008 is not insurable, so the commenter

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believed it will be necessary to specify that a payment received shall be repaid and a premium paid shall be refunded.

Further to this point, paragraph d. of the "Background" section of the interim rule contains the same usage of "may" that the commenter asserts should be "shall." As stated in paragraph d. in adherence to section 12020 of the 2008 Farm Bill, "The 2008 Farm Bill is specific in that, at the election of the Governors of these states, any acreage of native sod that is tilled for production of an annual crop after the date of enactment will be ineligible for insurance for the first 5 crops years of planting." The commenter agreed the 2008 Farm Bill is specific and that the ineligibility shall apply whenever a Governor elects to make section 508(o) of the Act effective.

Response: The commenter is correct that if the election is made by the Governor, acreage first tilled after May 22, 2008, is ineligible for insurance so the provisions should indicate prior payments will have to be repaid. FCIC has revised the provisions accordingly.

Comment: A commenter stated the statutory language says "The Secretary shall exempt areas of 5 acres or less" from the clause, which is designed to provide a 'de minimus' exemption. The commenter

believed the rule's language is clear that "any native sod acreage greater than 5 acres" is not insurable. The commenter recommended the Secretary, in providing direction to USDA employees, ensures landowners do not skirt the rule by trying to claim an exemption for five acres of an area one year, five more acres the following year, another five acres the third year, etc.

Another commenter stated section 12020 of the 2008 Farm Bill specifies a "De Minimis Acreage Exemption" that requires areas of 5 acres or less to be exempt from the ineligibility designation. The commenter wanted to emphasize it would contradict the intent and spirit of the law to allow incremental conversion of contiguous parcels of 5 acres or less. They emphasized this point to clarify appropriate establishment and subsequent adherence to the rule must ensure multiple tracts of 5 acres or less that become contiguous tracts totaling more than 5 acres should be regarded as a single tract larger than 5 acres and therefore ineligible for crop insurance.

Response: The intent is to provide an exception for acreage that is legitimately five acres or less. The intent is not to allow incremental increases in the amount of converted acreage. FCIC has added provisions specifying that adding to the acreage so more than 5 acres have been converted would subject all the converted acreage to the provisions beginning the year the producer cumulatively converted more than the 5 acre threshold.

Comment: A commenter stated they live in a wildlife paradise in Central North Dakota adjacent to U.S. Fish & Wildlife land and the

wildlife is every bit as plentiful and cared for on their land as on the government-owned land. They have watched all of these projects and land acquisitions over the years and the amount of tax-payer money that has been spent could surely help eliminate the deficit. The commenter asked USDA to use its influence to deter another costly program.

Response: Since the program changes contained in this rule were mandated by the 2008 Farm Bill, FCIC is required by law to implement the changes.

List of Subjects in 7 CFR Parts 402, 407 and 457

Crop insurance, Reporting and recordkeeping requirements.

Final Rule

0

Accordingly, as set forth in the preamble and under the authority of 7 U.S.C. 1506(l), 1506(o), the interim rule amending 7 CFR parts 402, 407 and 457 which was published at 73 FR 70861-70865 on November 24, 2008, is adopted as final with the following changes. The amendments listed below are effective for the 2010 and succeeding crop years for all crops with a 2010 crop year contract change date on or after the effective date of this rule and for the 2011 and succeeding crop years for all crops with a 2010 crop year contract change date prior to the effective date of this rule as follows:

PART 407--GROUP RISK PLAN OF INSURANCE REGULATIONS

0

1. The authority citation for 7 CFR Part 407 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(o).

0

2. Amend Sec. 407.9 as follows:

0

a. Amend section 1 by adding the definition of "tilled" and revising

the definitions of "native sod" and "Prairie Pothole National

Priority Area;" " and

0

b. Amend section 3 by revising paragraph (d).

The revised and added text reads as follows:

Sec. 407.9 Group risk plan common policy.

* * * * *

1. Definitions.

* * * * *

Native sod. Acreage that has no record of being tilled (determined in accordance with FSA or other verifiable records acceptable to us) for the production of an annual crop on or before May 22, 2008, and on which the plant cover is composed principally of native grasses, grass-like plants, forbs, or shrubs suitable for grazing and browsing.

* * * * *

Prairie Pothole National Priority Area. Consists of specific counties within the States of Iowa, Minnesota, Montana, North Dakota or South Dakota as specified on the RMA Web site at <http://www.rma.usda.gov/>, or a successor Web site, or the Farm Service Agency, Agricultural Resource Conservation Program 2-CRP

(Revision 4), dated April 28, 2008, or a subsequent publication.

* * * * *

Tilled. The termination of existing plants by plowing, disking, burning, application of chemicals, or by other means to prepare acreage for the production of an annual crop.

* * * * *

3. Insured and Insurable Acreage.

* * * * *

(d) If the Governor of a State designated within the Prairie Pothole National Priority Area elects to make section 508(o) of the Act effective for the State, any native sod acreage greater than five acres located in a county contained within the Prairie Pothole National Priority Area that has been tilled after May 22, 2008, is not insurable for the first five crop years of planting following the date the native sod acreage is tilled.

(1) If the Governor makes this election after you have received an indemnity or other payment for native sod acreage, you will be required to repay the amount received and any premium for such acreage will be refunded to you.

(2) If we determine you have tilled less than five acres of native sod a year for more than one crop year, we will add all the native sod acreage tilled after May 22, 2008, and all such acreage will be ineligible for insurance for the first five crop years of planting following the date the cumulative native sod acreage tilled exceeds five acres.

* * * * *

PART 457--COMMON CROP INSURANCE REGULATIONS

0

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

Authority: 7 U.S.C. 1506(1), 1506(o).

0

4. Amend Sec. 457.8 as follows:

0

a. Amend section 1 by adding the definition of "tilled" and revising the

[[Page 45544]]

definitions of "native sod" and "Prairie Pothole National Priority Area;"

0

b. Amend section 9 by revising paragraph (e); and

0

c. Revise section 14(c) (Your Duties).

The revised and added text reads as follows:

Sec. 457.8 The application and policy.

1. Definitions.

* * * * *

Native sod. Acreage that has no record of being tilled (determined in accordance with FSA or other verifiable records acceptable to us) for the production of an annual crop on or before May 22, 2008, and on

which the plant cover is composed principally of native grasses, grass-like plants, forbs, or shrubs suitable for grazing and browsing.

* * * * *

Prairie Pothole National Priority Area. Consists of specific counties within the States of Iowa, Minnesota, Montana, North Dakota or South Dakota as specified on the RMA Web site at <http://www.rma.usda.gov/>, or a successor Web site, or the Farm Service Agency, Agricultural Resource Conservation Program 2-CRP (Revision 4), dated April 28, 2008, or a subsequent publication.

* * * * *

Tilled. The termination of existing plants by plowing, disking, burning, application of chemicals, or by other means to prepare acreage for the production of an annual crop.

* * * * *

9. Insurable Acreage.

* * * * *

(e) Notwithstanding the provisions in section 9(a)(1), if the Governor of a State designated within the Prairie Pothole National Priority Area elects to make section 508(o) of the Act effective for the State, any native sod acreage greater than five acres located in a county contained within the Prairie Pothole National Priority Area that has been tilled after May 22, 2008, is not insurable for the first five crop years of planting following the date the native sod acreage is tilled.

(1) If the Governor makes this election after you have received an

indemnity or other payment for native sod acreage, you will be required to repay the amount received and any premium for such acreage will be refunded to you.

(2) If we determine you have tilled less than five acres of native sod a year for more than one crop year, we will add all the native sod acreage tilled after May 22, 2008, and all such acreage will be ineligible for insurance for the first five crop years of planting following the date the cumulative native sod acreage tilled exceeds five acres.

* * * * *

14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage.

Your Duties--

* * * * *

(c) In addition to complying with the notice requirements, you must submit a claim for indemnity declaring the amount of your loss:

(1) Not later than 60 days after the end of the insurance period unless, prior to the end of the 60 day period, you:

(i) Request an extension in writing and we agree to such request

(Extensions will only be granted if the amount of loss cannot be determined within such time period because the information needed to determine the amount of the loss is not available); or

(ii) Have harvested farm-stored grain production and elect, in writing, to delay measurement of your farm-stored production and settlement of any potential associated claim for indemnity (Extensions

will be granted for this purpose up to 180 days after the end of the insurance period).

(A) For policies that require APH, if such extension continues beyond the date you are required to submit your production report, you will be assigned the previous year's approved yield as a temporary yield in accordance with applicable procedures.

(B) Any extension does not extend any date specified in the policy by which premiums, administrative fees, or other debts owed must be paid.

(C) Damage that occurs after the end of the insurance period (for example, while the harvested crop production is in storage) is not covered; and

(2) That includes all information we require to settle the claim.

Failure to submit a claim or provide the required information will result in no indemnity, prevented planting payment or replant payment (even though no indemnity or other payment is due, you will still be required to pay the premium due under the policy for the unit).

* * * * *

Signed in Washington, DC, on August 28, 2009.

William J. Murphy,

Manager, Federal Crop Insurance Corporation.

[FR Doc. E9-21233 Filed 9-2-09; 8:45 am]

BILLING CODE 3410-08-P

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2. **Farmers' wait on ag bill nears end**

Aug 31, 2009

Lubbock Avalanche-Journal

Joshua Hull

Aug. 31, 2009 (McClatchy-Tribune Regional News delivered by Newstex) -- Farmers waiting for programs promised by the 2008 Farm Bill may have an end in sight, but details are vague as to when that end will be, agriculture experts say.

Though passed in June of 2008, several programs were held in limbo while the U.S. Department of Agriculture made the transition along with President Barack Obama's administration.

The \$3 billion SURE drought assistance program, which will be used to repay farmers for losses in 2008 as well as 2009, was opened for sign-ups earlier this month while some programs have yet to see those steps.

"I think what we just have to do is wait for the administration to get those things out," said Steve Pringle, legislative director for the Texas Farm Bureau. "Unfortunately, that's all we can do."

In the last 30 days, the USDA closed the application process for the Average Crop Revenue Election -- an alternative to standard safety payments in the event of low crop prices -- and opened up registration for the \$150 million Farmland Wetland program to provide funds for those conserving wetlands on their properties.

Even with the progress made in program application, Pringle said the new administration has failed by allowing programs to go so long without a clear plan for implementation.

"They're responsible for getting people on board, they're responsible for getting the rules done," he said. "That's what happens when you win an election."

Pringle said he was assured by Secretary of Agriculture Tom Vilsack that most programs would be on their way to operational by October.

In a statement released by the USDA, officials did not confirm an October deadline but did say their office was working to put programs in place quickly.

"Secretary Vilsack is committed to implementing the provisions included in the 2008 Farm Bill, and we continue to make progress in rolling out the programs designed to assist farmers and ranchers throughout the country," said Justin DeJong, deputy press secretary for the USDA, in a statement about the programs.

Programs like ACRE and Farmland Wetland protection may not make a big difference to farmers on the South Plains, but the slow process erodes producers' confidence in government assistance, said Roger Haldenby, vice president of operations for Plains Cotton Growers.

One of the larger programs left, ACRE hasn't proved to be popular in the area, Haldenby said, because cotton farmers don't expect to profit from enrollment and it would interfere with existing payment programs.

"It creates skepticism in the eyes of a producer or an agribusiness," he said. "Quite honestly that is something that we get used to over the years, that the intent of Congress is the important thing for any farm program to get implemented."

To comment on this story:

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AGRICULTURE/Officials say progress made on delayed programs, but timeline vague

First appeared on lubbockonline.com: 8:15 p.m. Sunday.

Newstex ID: KRTB-1067-37608610

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3. Meet N.D.'s new FSA chief

Sep 1, 2009

Agweek

Mikkel Pates

Aug. 31, 2009 (McClatchy-Tribune Regional News delivered by Newstex) -- FARGO, N.D. -- Aaron Krauter still is a farmer, but he's recently taken on a new career as executive director for the U.S. Department of Agriculture's Farm Service Agency in North Dakota.

"This is a huge opportunity," Krauter says, in his new FSA digs in Fargo, N.D. "I'm serving the people of North Dakota -- particularly ag producers. I feel at home. I'm working with an agency of people who are career-minded and want to do their best. It's another way of serving like I've served in the state senate."

Krauter, 52, has been at his work for more than three weeks now. He'll be at the political helm of an agency that -- among other things -- is charged with delivering five new permanent disaster provisions that were created in the 2008 farm bill.

Like many of his predecessors, Krauter's is an unconventional career story -- a mix of farm, nonfarm and political fortunes and moves.

He's a fourth-generation farmer in Regent, N.D., in the southwest part of the state. The youngest of three siblings, Krauter graduated from high school in 1974 and went to the University of Mary in Bismarck to play the trumpet and earn a music education degree. He taught music for a year at Cooperstown, N.D., and then moved back to Bismarck to play in a seven-piece rhythm and blues band.

While in Bismarck, Krauter worked at LaBelle's Catalog Showroom, a position that complemented his interests in photography and electronics. While there, he returned to the University of Mary for a master's of business degree.

"At that point in your life, things start to click for career and success," Krauter says.

It was heady stuff. He became the Bismarck store manager, managing sales grossing \$7 million and a payroll of \$450,000.

Almost immediately, he was courted to work as a corporate operations manager at the LaBelle's home office in Richmond, Va.

"I told my Mom and Dad I had this opportunity. Mom said, 'You'll never come back.' I said, 'I will, but I need this experience.'" Krauter married his wife, Cindy, of Washburn, N.D., and the couple lived in Richmond, N.D., for two years.

Krauter was working with 220 stores from coast to coast.

"I was fortunate because we had stores in the Midwest and I could always come back home," he says.

In 1987, his parents, Adam and Ann, decided to retire from farm management. Aaron and Cindy went back to the farm.

"I'll never forget the first day back. I'm planting durum and I didn't have a pair of jeans, so I planted in a pair of dress pants," he says.

After struggling through the 1988 and 1989 droughts, he moved ahead.

Krauter credits the LaBelle's experience with helping him become a better business analyst on the farm.

"It taught me about the bottom line, about profitability and how you get there -- skills to work with and manage people and get good results." In the corporate world, he'd become adept at Lotus computer spreadsheets -- the hot tool of the day. He used the computer to analyze productivity data on his father's land and to realize the strip-crop systems -- leaving half of the soil fallow every year -- couldn't produce enough to pay for machinery and land payments.

His father owned 1,500 acres. He'd gotten out of livestock in 1969 and much of the pastureland had been plowed for farming.

His father raised durum wheat for 40 years and he's raised it for almost 22 years straight.

"There's a pocket in southwest North Dakota where there's some very good quality durum grown," he says. "I'm fortunate to be in that area."

He also raises spring wheat, hullless oats and broadleaf crops including yellow flax, canola and field peas, although he's in and out of other crops, including mustard, safflower and tame buckwheat.

When Aaron came home, he rented more land -- initially going to a total of 2,000 acres and later to 3,000 acres.

After the first drought years, the 1990s brought some good moisture.

Krauter put about 600 acres into the Conservation Reserve Program, for some 10 to 12 years. When some of those contracts came out, he converted the land to no-till.

Apart from the cropping, Krauter underlines that he's first a family man.

The Krauters' oldest daughter, Emily, is a second-year student at North Dakota State College of Science in Wahpeton. Mitchell is a senior in high school and Hannah is in eighth grade, Krauter sees farm life -- kids working with their parents -- as a particular benefit for those who go through it. In recent harvests, Emily and Mitchell have done all of the combining and Krauter has done all the trucking, he says.

The family does as much farm work as they can, but they have hired employees at peak times such as seeding. They'll hire a custom harvester in a particularly heavy year. For the past eight years, he's leased a combine for the harvest period so that he has all of the latest technology, but doesn't own it.

As Aaron and Cindy carried forward a family farm, he also took over a family political legacy. The FSA state directorship is, of course, a political appointment.

Aaron's father, Adam, had been a state senator from 1976 until he retired from the post in 1990. Aaron ran for

his father's seat and won it.

With his business background, Krauter sought a seat in the Industry, Business and Labor Committee, and also the Committee on Natural Resources, which involved the coal, oil, wind, as well as game and fish concerns in his district.

He served in Senate leadership for two sessions, but then went on the Appropriations Committee, where he focused on human resources, as well as extension and agriculture department budgets. In 2000, Krauter was on the ticket with gubernatorial candidate Attorney General Heidi Heitkamp, they lost to Gov. John Hoeven and Lt. Gov. Jack Dalrymple.

Since then, he's been sticking to his farming work and his work in the Legislature.

When Barack Obama was elected president, Krauter approached Sens. Kent Conrad and Byron Dorgan, and Rep. Earl Pomeroy -- all North Dakota Democrats -- about his interest in the state FSA post.

Krauter says he's still active in the farming, but has hired a first cousin, Jeff Krauter, and his wife, Diane, to manage the farm for 2009. The couple are former farmers who moved back to the area for the past couple of years.

To become FSA state director, Krauter's farming contracts were to be approved by an ethics process. Since coming to the office, he's emphasized to the state staff that his farm program dealings should be double-checked and scrutinized.

"I told them I don't want to embarrass you in this office, or the people who appointed me. My history has been that you are up-front with everything and that's what the people of North Dakota expect." Krauter says there also is a responsibility to the country as a whole.

"This nation has never gone hungry and I know the philosophy is not to let production agriculture slip financially so that we do go hungry. To help administer public policy in production agriculture is important to producers in North Dakota, and important to me," he says.

Krauter says he's going to "miss farming, no doubt." He remains a state senator until 2010, when federal laws bar him from running for another term.

He is open-minded whether he'd go back to farming after serving a four-year term, or even a second term, when he'd be 60.

"Never say never; it's a definite option, you bet," he says. "Farming is a struggle, but when it's good, it's really good. And it's a good way of life."

Newstex ID: KRTB-0012-37647306

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4. **Three Southern NH counties declared disaster area**

Sep 2, 2009

The Eagle-Tribune

Eric Parry

Sep. 2, 2009 (McClatchy-Tribune Regional News delivered by Newstex) -- Businesses and farmers in

Rockingham County are eligible for disaster loans after early summer rain washed out farmers' crops.

The U.S. Small Business Administration announced yesterday it would provide low-interest, long-term loans to small businesses, nonprofit organizations and small agricultural cooperatives in Rockingham, Carroll and Strafford counties.

The three counties were selected because they are contiguous to Maine, where the whole state was declared an agricultural disaster last week, according to Michael Lampton, spokesman for the SBA.

SBA loans would be available to businesses that suffered losses because of excessive rain and flooding from June 19 to June 30. Up to \$2 million is available to businesses in the three counties, Lampton said.

But New Hampshire agriculture officials are waiting for the federal government to declare the entire state a disaster.

Gov. John Lynch requested the declaration last month and Lorraine Merrill, commissioner of the state Agriculture Department, said they should hear within the next few weeks.

"I think it's not going to be an issue," Merrill said.

A disaster declaration means emergency, low-interest, long-term loans would be available to farmers who apply to the federal agency.

Merrill said she's not sure if there will be any other type of assistance programs available to farmers.

The 2007 Farm Bill changed how disaster assistance programs operate and Congress has yet to clarify the issue for agriculture officials.

"We don't really know how the disaster program works," Merrill said.

But some local farmers who have lost crops said there's not much help out there, even with the disaster declaration.

Phil Ferdinando, co-owner of J&F Farms in Derry, estimates he's lost about 50 percent of his crops this year.

But without crop insurance, there's little that can be done to help him. He's never bought the insurance because it's expensive and it doesn't always pay off, he said.

"This might have been the year to have crop insurance," Ferdinando said yesterday.

The only time Ferdinando received federal help was 15 years ago when his entire corn crop was flattened by a hurricane.

"We did get money that year," Ferdinando said.

But he's not counting on any federal programs to be available this year.

Ferdinando said he wouldn't expect much help unless his whole corn crop was lost and that's not the case this year.

"They don't usually determine that until the end of the season," he said.

Newstex ID: KRTB-0379-37674032

5. Lack of water putting a hurt on Mariposa agriculture

Sep 3, 2009

Merced Sun-Star

Carol Reiter

Sep. 3, 2009 (McClatchy-Tribune Regional News delivered by Newstex) -- Drought, drought and more drought has hit agriculture in Mariposa County hard.

In the third year of sparse rainfall, the Mother Lode county lost about \$4 million in agriculture value from the year 2007.

Because cattle and calves drive Mariposa's ag revenue, the drought has upended the economy. Livestock value fell from more than \$19 million in 2007 to only about \$15 million in 2008. The total worth of ag commodities in the county dropped from about \$29 million in 2007 to about \$25 million in 2008.

Cattle from other counties, such as Merced County, are pastured in the foothills of Mariposa County during the winter months when the grasses are green and nutritious.

But without rain, the grasses don't grow. And the lack of rainfall has also dried up stock ponds and natural springs, meaning cattlemen have no way of getting water to their cattle.

"The cattle are being sold off," said Cathi Boze, agricultural commissioner for Mariposa County. "Their weight went down, and now cattlemen are selling their breeding stock, too."

The price of cattle took another hit when dairies dumped cattle earlier this summer because of low milk prices.

The number of cattle in California saw a huge drop, Boze said. "The California cattle herd is the smallest in 40 years," she said.

The water situation actually became critical last year, especially along the Merced/Mariposa county border, which is prime rangeland, Boze said.

"No water on those properties meant that the land couldn't be rented," she said. "The cattlemen have nowhere to put their cattle, so they sell them off."

While cattle were No. 1 in Mariposa County in 2008, other ag products included field crops, worth about \$6 million, and fruit and nut crops, worth about \$397,000.

One way the county is trying to push agriculture is to start an agri-tourism program.

Boze said there's an advisory committee ready to report to the Board of Supervisors, and she believes agri-tourism can help the small mountain county.

"It's a tool," she said. "It will help keep farmers in production, help them keep their employees, and most of all, help them keep their land."

Reporter Carol Reiter can be reached at (209) 385-2486 or creiter@mercedsun-star.com.

6. Farmers finally getting drought assistance

Sep 3, 2009

The Monitor

Jared Janes

Sep. 3, 2009 (McClatchy-Tribune Regional News delivered by Newstex) -- MISSION -- Chuck McDonald said it's the worst year he has had in three decades of farming.

Hurricane Dolly swamped the Monte Alto farmer's land last year when he was already reeling from dry conditions.

Right after he recovered from Dolly, this year's drought and high temperatures combined to devastate his cotton and grain crops.

"You never can get the right weather at the right time," said McDonald, the chair of Hidalgo County's Farm Service Agency committee. "You're dealing with disaster after disaster."

Aid to the agricultural producers hurt by last year's hurricanes and this year's drought has been slow to come despite the implementation of a standing disaster trust fund in the 2008 Farm Bill.

The new program --the Supplemental Revenue Assistance Payments Program, or SURE for short -- replaces disaster relief aid that was distributed on a case-by-case basis, said Juan Garcia, the Farm Service Agency's state director.

Aid distributed in the old manner was often unreliable, but the U.S. Department of Agriculture has been slow to implement the new programs the bill established.

U.S. Rep. Henry Cuellar, D-Laredo, said assistance to farmers through SURE will be available beginning in November.

Hidalgo and Webb counties have formal disaster declarations from the drought. Starr, Zapata and Jim Hogg counties have pending declarations.

"The drought didn't start yesterday," Cuellar said. "It's been a while. The assistance for farmers and producers needs to happen now."

In the Rio Grande Valley, the devastating drought has killed a fifth of the acreage, with dryland crops faring the worst.

Valley crop losses alone are estimated at \$10.4 million through the end of July.

Total losses for ranchers and farmers across the state are pegged at \$3.6 billion.

The crop damage in the Valley has dealt a heavy blow to farmers who were already hurting from Hurricane Dolly losses estimated at \$20 million.

Tommy Guerra, who runs cattle on 5,500 acres of land near Roma, said the drought is affecting ranchers as well.

Next week is a deadline to submit applications for assistance with livestock-related losses attributed to the

drought.

Guerra, one of about a dozen ag producers who met Wednesday with the state's FSA director to get details on aid programs, said the drought has killed much of his grass -- a rancher's main resource.

"It will be 100 (degrees) again next week," he said. "Grass can't grow at 100 degrees."

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7. Texas drought drying Austin's famed Barton Springs

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Associated Press Online

By JOHN McFARLAND

AUSTIN, Texas, Sep. 3, 2009 (AP Online delivered by Newstex) -- The most severe drought in the nation is drying up one of Austin's most treasured natural resources, the spring-fed Barton Creek Pool where more than 400,000 visitors from around the world flock each year.

The drought is dragging into its third year in parts of central and southern Texas. Lakes, rivers and creeks are evaporating, cities have ordered residents to cut back on water use, and farmers' crops have been devastated.

While the blue-green waters of the 3-acre pool at Zilker Park may look clear and inviting when the crowds arrive for Labor Day weekend, the drought has taken a toll on the site where Robert Redford learned to swim and music fans cool off during the Austin City Limits festival.

The springs are flowing at about 25 percent of their average rate, threatening endangered salamanders and the swimming hole where the water is always about 68 degrees.

"We haven't had a drought like this since the '50s, so we're kind of in uncharted territories," said David Johns, a hydrologist with the city of Austin.

The pool is fed by the largest of the three underground springs known collectively as Barton Springs. The springs draw water from the Edwards Aquifer, a massive 160-mile underground water system. Water usually enters the Barton Springs portion of the aquifer through six creeks as well as caves, sinkholes and other openings, but there's been no significant rain for more than two years.

"You could roller-skate down the creek beds," Johns said.

The drought that began in 2007 is threatening the very existence of the Barton Springs salamander.

The 2 1/2- to 3-inch-long amphibian lives at the bottom of the springs and nowhere else in the world. With less water moving through, there's less dissolved oxygen that the gilled creatures need. Their numbers have been dropping rapidly, and scientists haven't spotted any juveniles recently, indicating they aren't reproducing.

No salamanders have been spotted in one spring for over a year. At the spring where they're most common,

an average of about 160 have been counted each month this year. Last year, that average was about 700.

Laurie Dries, an evolutionary ecologist for the city, said she fears the salamanders may be going deeper into caves and openings where the Austin blind salamander lives. The two species might be competing for food or even eating each other, she said.

If conditions get much worse, the city may consider pulling the salamanders out of the springs and putting them in a captive breeding program.

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