§ 457.9 Small grains crop insurance.

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

- **Approval of cultivation as an uninsured cause of loss.**
  - Each excluded actual yield will be replaced with a yield equal to 60 percent of the applicable T-yield for the crop year in which the acreage was reported. Any loss due to failure to comply with organic standards will be considered an uninsured cause of loss.

- **Insured crop losses.**
  - In accordance with section 8(b)(2), insurance will not be provided for any crop grown using an organic farming practice, unless the information needed to determine a premium rate for an organic farming practice is specified on the actuarial table, or insurance is allowed by a written agreement.

- **Insured organic crops.**
  - If any acreage qualifies as certified organic, transitional, or buffer zone acreage on the date you report such acreage, and such certification is subsequently revoked by the certifying agent, or the certifying agent no longer considers the acreage as transitional acreage for the remainder of the crop year, that acreage will remain insured under the reported practice for which it qualified at the time the acreage was reported. Any loss due to failure to comply with organic standards will be considered an uninsured cause of loss.

- **Contamination.**
  - In addition to the provisions contained in section 17(f), prevented planting acreage will not be provided for any acreage based on an organic farming practice in excess of the number of acres that will be grown under an organic farming practice and shown as such in the records required in section 37(c).

- **Replacement yields.**
  - In place of the provisions contained in section 17(f), prevented planting acreage within a field that contains planted acreage will be considered as organic practice acreage if it is identified as certified organic, transitional, or buffer zone acreage in the organic plan.

[56 FR 1351, Jan. 14, 1991]

**EDITORIAL NOTE:** For Federal Register citations affecting § 457.8, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.
Small Grains Crop Provisions

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Catastrophic Risk Protection Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions with (1) controlling (2), etc.

1. Definitions

Adequate stand—A population of live plants per unit of acreage which will produce at least the yield used to establish your production guarantee.

Harvest—Combining or threshing the insured crop for grain or cutting for hay or silage on any acreage. A crop which is swathed prior to combining is not considered harvested.

Initially planted—The first occurrence of planting the insured crop on insurable acreage for the crop year.

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

Latest final planting date—(1) The final planting date for spring-planted acreage in all counties for which the Special Provisions designate a final planting date for spring-planted acreage only;

(2) The final planting date for fall-planted acreage in all counties for which the Special Provisions designate a final planting date for fall-planted acreage only; or

(3) The final planting date for spring-planted acreage in all counties for which the Special Provisions designate final planting dates for both spring-planted and fall-planted acreage.

Local market price. The cash grain price per bushel for the applicable quality level indicated below and offered by buyers in the area in which you normally market the insured crop. The local market price will reflect the maximum limits of quality deficiencies allowable for the applicable quality level indicated below. Factors not associated with the specified quality levels, including but not limited to protein, oil or moisture content, or milling quality will not be considered.

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

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

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

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

Sales closing date—In lieu of the definition contained in the Basic Provisions, a date contained in the Special Provisions by which an application must be filed and by which you may change your crop insurance coverage for a crop year. If the Special Provisions provide a sales closing date for both winter and spring types of the insured crop and you plant any insurable acreage of the winter type, you may not change your crop insurance coverage after the sales closing date for the winter type.

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

Swathed—Severance of the stem and grain head from the ground without removal of the seed from the head and placing into a windrow.

2. Unit Division

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

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

(a) In addition to the requirements of section 3 of the Basic Provisions, you may select only one price election for each crop in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case each type must be insured using the price election for the respective type. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

(b) In addition to the requirements of section 3 of the Basic Provisions, in counties with both fall and spring sales closing dates for the insured crop, you may only change your coverage level or price election until the spring sales closing date if you do not have any insured fall planted acreage of the insured crop. If you have any insured fall planted acreage of the insured crop, you may not change your coverage level or price election after the fall sales closing date.

4. Contract Changes

In accordance with section 4 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date for counties with a March 15 cancellation date and June 30 preceding the cancellation date for all other counties.

5. Cancellation and Termination Dates

The cancellation and termination dates are:

<table>
<thead>
<tr>
<th>Crop, state and county</th>
<th>Cancellation date</th>
<th>Termination date</th>
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<tbody>
<tr>
<td>Wheat:</td>
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<tr>
<td>All California counties except Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou and Trinity Counties, California; Archuleta, Custer, Delta, Dolores, Eagle, Garfield, Grand, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt and San Miguel Counties, Colorado; Connecticut; Idaho; Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt, Wright, Franklin, Butler, Black Hawk, Buchanan, Delaware and Dubuque Counties, Iowa, and all Iowa counties north thereof; Massachusetts; all Montana counties except Daniels and Sheridan; New York; Oregon; Rhode Island; all South Dakota counties except Corson, Walworth, Edmunds, Faulk, Spink, Beadle, Kingsbury, Miner, McCook, Turner, Yankton and all South Dakota counties north and east thereof; Washington; Buffalo, Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown and Kewaunee Counties, Wisconsin, and all Wisconsin counties north thereof; all Wyoming counties except Big Horn, Fremont, Hot Springs, Park, and Washakie.</td>
<td>September 30 ..............</td>
<td>November 30.</td>
</tr>
<tr>
<td>Arizona; all California counties except Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou and Trinity; Nevada; and Utah.</td>
<td>October 31 ..............</td>
<td>November 30.</td>
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6. Insured Crop

(a) The crop insured will be each small grain you elect to insure, that is grown in the county on insurable acreage, and for which premium rates are provided by the actuarial documents:

1. In which you have a share;
2. That is planted for harvest as grain (a grain mixture in which barley or oats is the predominate grain may also be insured if allowed by the Barley or Oat Special Provisions, or if we agree in writing to insure such mixture. The crop insured will be the grain which is predominate in the mixture. The production from such mixture will be considered as the predominate grain on a weight basis);
3. That is not:
   i. Interplanted with another crop except as allowed in paragraph 6.(a)(2);
   ii. Planted into an established grass or legume; or
   iii. Planted as a nurse crop, unless planted as a nurse crop for new forage seeding, but only if seeded at a normal rate and intended for harvest as grain.
4. We may agree, in writing, to insure a crop prohibited under paragraph 6.(a)(3) if you so request. Your request to insure such crop must be in writing, and submitted to

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<tr>
<td>Alaska; Alamosa, Conejos, Costilla, Rio Grande and Saguache Counties, Colorado; Maine; Minnesota; Daniels and Sheridan Counties, Montana; New Hampshire; North Dakota; Corson, Walworth, Edmunds, Faulk, Spink, Beadle, Kingsbury, Miner, McCook, Turner, and Yankton Counties, South Dakota, and all South Dakota counties north and east thereof; Vermont and Big Horn, Fremont, Hot Springs, Park, and Washakie Counties, Wyoming.</td>
<td>March 15 ...............</td>
<td>March 15.</td>
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</table>

**Barley:** All New Mexico counties except Taos; Texas, Oklahoma, Missouri, Illinois, Indiana, Ohio, Pennsylvania, New Jersey and all states south and east thereof.

Kit Carson, Lincoln, Elbert, El Paso, Pueblo and Las Animas Counties, Colorado, and all Colorado counties south and east thereof; Connecticut; Kansas; Massachusetts; New York; and Rhode Island.

Arizona; all California counties except Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou and Trinity; Clark, Humboldt, Nye and Pershing Counties, Nevada; and Box Elder, Millard and Utah Counties, Utah.

Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou and Trinity Counties, California; All Colorado counties except Kit Carson, Lincoln, Elbert, El Paso, Pueblo and Las Animas, and all Colorado counties south and east thereof; all Nevada counties except Clark, Humboldt, Nye and Pershing; Taos County, New Mexico; all Utah counties except Box Elder, Millard and Utah; and all other states except Arizona, and (except) Texas, Oklahoma, Missouri, Illinois, Indiana, Ohio, Pennsylvania, New Jersey and all states south and east thereof.

October 31 ............... November 30.

September 30 ............ November 30.

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</tr>
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Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou and Trinity Counties, California; All Colorado counties except Kit Carson, Lincoln, Elbert, El Paso, Pueblo and Las Animas, and all Colorado counties south and east thereof; all Nevada counties except Clark, Humboldt, Nye and Pershing; Taos County, New Mexico; all Utah counties except Box Elder, Millard and Utah; and all other states except Arizona, and (except) Texas, Oklahoma, Missouri, Illinois, Indiana, Ohio, Pennsylvania, New Jersey and all states south and east thereof.

All New Mexico counties except Taos County; North Carolina; Oklahoma; South Carolina; Tennessee; Texas; and Patrick, Franklin, Pittsylvania, Campbell, Appomattox, Fluvanna, Buckingham, Louisa, Spotsylvania, Caroline, Essex, and Westmoreland Counties, Virginia, and all Virginia counties east thereof.

Oats: Alabama; Arkansas; Florida; Georgia; Louisiana; Mississippi; All New Mexico counties except Taos County; North Carolina; Oklahoma; South Carolina; Tennessee; Texas; and Patrick, Franklin, Pittsylvania, Campbell, Appomattox, Fluvanna, Buckingham, Louisa, Spotsylvania, Caroline, Essex, and Westmoreland Counties, Virginia, and all Virginia counties east thereof.

Arizona; All California counties except Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou and Trinity.

Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou, and Trinity Counties, California; All Colorado counties except Kit Carson, Lincoln, Elbert, El Paso, Pueblo and Las Animas, and all Colorado counties south and east thereof; all Nevada counties except Clark, Humboldt, Nye and Pershing; Taos County, New Mexico; all Utah counties except Box Elder, Millard and Utah; and all other states except Arizona, and (except) Texas, Oklahoma, Missouri, Illinois, Indiana, Ohio, Pennsylvania, New Jersey and all states south and east thereof.

October 31 ............... October 31.

March 15 ................... March 15.

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<thead>
<tr>
<th>Crop, state and county</th>
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<th>Termination date</th>
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<tbody>
<tr>
<td>Rye: All states .............</td>
<td>September 30 ............</td>
<td>September 30.</td>
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Flax:

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<tbody>
<tr>
<td>Flax: All states .............</td>
<td>March 15 ...................</td>
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Buckwheat:

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</tr>
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<tbody>
<tr>
<td>Buckwheat: All states .............</td>
<td>March 15 ...................</td>
<td>March 15.</td>
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</table>
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your agent not later than 15 days after the acreage reporting date.

(b) If you anticipate destroying any acreage prior to harvest you:

(1) May report all planted acreage when you report your acreage for the crop year and specify any acreage to be destroyed as uninsurable acreage (by doing so, no coverage will be considered to have attached on the specified acreage and no premium will be due for such acreage. If you do not destroy such acreage, you will be subject to the under-reporting provisions contained in section 6 of the Basic Provisions); or

(2) May report all planted acreage as insurable when you report your acreage for the crop year. Premium will be due on all the acreage except as set forth herein. If the Special Provisions allow a reduced premium amount for acreage intentionally destroyed prior to harvest, you may qualify for such reduction only if you notify us in writing on or before the date designated in the Special Provisions of the intended destruction, and do not claim an indemnity on the acreage. No premium reduction will be allowed if the required notice is not given or if you claim an indemnity for the acreage. Upon receiving timely notice, insurance coverage on the acreage you do not intend to harvest will cease and we will revise your acreage report to indicate the applicable reduction in premium. If you do not destroy the crop as intended, you will be subject to the under-reporting provisions contained in section 6 of the Basic Provisions.

(c) In counties for which the actuarial table provides premium rates for the Wheat or Barley Winter Coverage Endorsement (7 CFR 457.162), additional coverage is available for wheat or barley damaged between the time coverage begins and the spring final planting date. Coverage under the endorsement is effective only if you notify under the terms of the endorsement and you execute the endorsement by the sales closing date.

(d) In counties for which the actuarial table provides premium rates for malting barley coverage, an endorsement is available (7 CFR 457.118) that provides additional insurance protection for malting barley. This endorsement provides coverage for producers who grow malting barley under contract and for those who do not have a contract. Coverage under the endorsement is effective only if you qualify under the terms of the endorsement and you execute the endorsement by the sales closing date.

7. Insurance Period

In lieu of the requirements under section 11 (Insurance Period) of the Basic Provisions (§457.8), and subject to any provisions provided by the Wheat or Barley Winter Coverage Endorsement (§457.102) if you have elected such endorsement, the insurance period is as follows:

(a) Insurance attaches on each unit or part thereof on the later of the date we accept your application or the date the insured crop is planted.

(1) For oats, rye, flax and buckwheat, the following limitations apply:

(i) The acreage must be planted on or before the final planting date designated in the Special Provisions for the insured crop except as allowed in section 12 of these Crop Provisions and section 16 of the Basic Provisions.

(ii) Any acreage of the insured crop damaged before the final planting date, to the extent that producers in the surrounding area would not normally further care for the crop, must be replanted unless we agree that it is not practical to replant.

(2) For barley and wheat, the following limitations apply:

(i) The acreage must be planted on or before the final planting date designated in the Special Provisions for the type (winter or spring) except as allowed in section 12 of these Crop Provisions and section 16 of the Basic Provisions.

(ii) Whenever the Special Provisions designate only a fall final planting date, any acreage of winter barley or wheat damaged before such final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted to a winter type of the insured crop unless we agree that replanting is not practical.

(iii) Whenever the Special Provisions designate both fall and spring final planting dates, any winter barley or winter wheat that is damaged before the spring final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted to a winter type of the insured crop to maintain insurance based on the winter type unless we agree that replanting is not practical. If it is not practical to replant to the winter type of wheat or barley but is practical to replant to a spring type, you must replant to a spring type to keep your insurance based on the winter type in force. Any winter barley or winter wheat acreage that is replanted to a spring type of the same crop when it was practical to replant the winter type will be insured as the spring type and the production guarantee, premium and price election applicable to the spring type will be used. In this case, the acreage will be considered to be initially planted to the spring type. If you have elected coverage under a barley or wheat winter coverage endorsement (if available in the county), insurance will be in accordance with the option.

(iv) Whenever the Special Provisions designate a spring final planting date, any acreage of spring barley or wheat damaged before such final planting date, to the extent that
growers in the area would normally not further care for the crop, must be replanted to a spring type of the insured crop unless we agree that replanting is not practical.

(e) Replanting payments will be calculated using the price election and production guarantee. The premium amount will not be reduced by the amount of the replanting payment.

9. Replanting Payments

(a) A replanting payment is allowed as follows:

(1) In lieu of provisions in section 13 of the Basic Provisions that limit the amount of a replant payment to the actual cost of replanting, the amount of any replanting payment will be determined in accordance with these crop provisions;

(2) You must comply with all requirements regarding replanting payments contained in section 13 of the Basic Provisions (except as allowed in section 9(a)(1)) and in any winter coverage endorsement for which you are eligible and which you have elected;

(3) The insured crop must be damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the production guarantee for the acreage;

(4) The acreage must have been initially planted to a spring type of the insured crop in those counties with only a spring final planting date;

(5) Damage must occur after the fall final planting date in those counties where both a fall and spring final planting date are designated (if the Special Provisions provide for the crop type that is replanted and you have elected);

(b) Replanting payment will be made for acreage initially planted to a winter type of the insured crop (including rye) in any county for which the Special Provisions contain only a fall final planting date (including final planting dates in December, January and February);

(c) The maximum amount of the replanting payment per acre will be the lesser of 20 percent of the production guarantee or the number of bushels for the applicable crop specified below, multiplied by your price election and your share:

(1) 2 bushels for flax or buckwheat;

(2) 4 bushels for wheat; or

(3) 5 bushels for barley or oats.

(d) When the crop is replanted using a practice that is unsuitable for an original planting, the liability on the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

(e) Replanting payments will be calculated using the price election and production guarantee for the crop type that is replanted and
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insured. For example, if damaged spring wheat is replanted to durum wheat, the price election applicable to durum wheat will be used to calculate any replanting payment that may be due. A revised acreage report will be required to reflect the replanted type. Notwithstanding the previous two sentences, the following will have a replanting payment based on the winter crop type guarantee and price election:

1. Any damaged winter crop type that is replanted to a spring crop type, but that retains insurance based on the winter crop type guarantee and price election; and

2. Any acreage replanted at a reduced seeding rate into a partially damaged stand of the insured crop.

10. Duties in the Event of Damage or Loss

In addition to your duties under section 14 of the Basic Provisions (§457.8), if you initially discover damage to any insured crop within 15 days of, or during harvest, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 10 feet wide and the entire length of each field in the unit, and must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production that are acceptable to us for any:

(1) Optional unit, we will combine all optional units for which acceptable records of production were not provided; or for any

(2) Basic unit, we will allocate any mingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by its respective production guarantee;

(2) Multiplying each result in section 11(b)(1) by the respective price election;

(3) Totaling the results of section 11(b)(2);

(4) Multiplying the total production to be counted of each type, if applicable (see sections 11(c), (d), and (e)), by the respective price election;

(5) Totaling the results of section 11(b)(4);

(6) Subtracting the result of section 11(b)(5) from the result in section 11(b)(3); and

(7) Multiplying the result of section 11(b)(6) by your share.

(c) The total production (bushels) to count from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(A) Which is abandoned;

(B) Put to another use without our consent;

(C) Damaged solely by uninsured causes; or

(D) For which you fail to provide records of production that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with subsection 11.(d));

(iv) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(d) Mature wheat, barley, oat, rye, and buckwheat production may be adjusted for excess moisture and quality deficiencies. Flax production may be adjusted for quality deficiencies only. If a moisture adjustment is applicable, it will be made prior to any adjustment for quality.

(1) Production will be reduced by .12 percent for each .1 percentage point of moisture in excess of:

(i) 13.5 percent for wheat;

(ii) 14.5 percent for barley;

(iii) 14.0 percent for oats; and

(iv) 16.0 percent for rye and buckwheat.

We may obtain samples of the production to determine the moisture content.

(2) Production will be eligible for quality adjustment if:

(i) Deficiencies in quality, in accordance with the Official United States Standards for Grain including the definition of terms used in section 11(d), result in:

(A) Wheat, except Khorasan, not meeting the grade requirements for U.S. No. 1 (grades U.S. No. 5 or worse) because of test weight;
(iii) Quality factors for Khorasan fall below the levels contained in the Special Provisions will also apply to Khorasan when its test weight falls below 27.0 pounds per bushel. The quality factors considered for quality adjustment of Khorasan will be applicable and determination of deficiencies will be made in accordance with the Federal Grain Inspection Service directive that establishes procedures for quality factor analysis of Khorasan seed. Quality adjustment discount factors for U.S. grades specified in the Special Provisions will also apply to Khorasan at the same levels applicable to durum wheat.

(iv) Quality factors for hull-less barley fall below the levels contained in the Official United States Standards for Grain that cause barley to grade less than U.S. No. 4. For example, if barley grades less than U.S. No. 4 when its test weight falls below 40.0 pounds per bushel, hull-less barley would be eligible for quality adjustment if its test weight falls below 40.0 pounds per bushel. The same quality factors considered for quality adjustment of barley will be applicable and determination of deficiencies will be made in accordance with the Federal Grain Inspection Service directive that establishes procedures for quality factor analysis of hull-less barley. Quality adjustment discount factors for U.S. grades specified in the Special Provisions will also apply to hull-less barley at the same levels applicable to barley.

(v) Quality factors for hull-less oats fall below the levels contained in the Official United States Standards for Grain that cause oats to grade less than U.S. No. 4. For example, if oats grade less than U.S. No. 4 when its test weight falls below 27.0 pounds per bushel, hull-less oats would be eligible for quality adjustment if its test weight falls below 27.0 pounds per bushel. The same quality factors considered for quality adjustment of oats will be applicable and determination of deficiencies will be made in accordance with the Federal Grain Inspection Service directive that establishes procedures for quality factor analysis of hull-less oats. Quality adjustment discount factors for U.S. grades specified in the Special Provisions will also apply to hull-less oats at the same levels applicable to oats; or

(vi) Substances or conditions are present, including mycotoxins, that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is provided under these crop provisions;

(ii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us;

(iii) With regard to deficiencies in quality (except test weight, which may be determined by our loss adjustor), the samples are analyzed by:
(A) A grain grader licensed under the United States Grain Standards Act or the United States Warehouse Act;

(B) A grain grader licensed under State law and employed by a warehouse operator who has a commodity storage agreement with the Commodity Credit Corporation; or

(C) A grain grader not licensed under State law, but who is employed by a warehouse operator who has a commodity storage agreement with the Commodity Credit Corporation and is in compliance with State law regarding warehouses; and

(iv) With regard to substances or conditions injurious to human or animal health, the samples are analyzed by a laboratory approved by us.

4. Small grain production that is eligible for quality adjustment, as specified in sections 11(d)(2) and (3), will be reduced by the quality adjustment factor contained in the Special Provisions.

(e) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on a weight basis.

12. Late Planting

A late planting period is applicable to small grains, except to any barley or wheat acreage covered under the terms of the Wheat or Barley Winter Coverage Endorsement. Barley or wheat covered under the terms of the Winter Coverage Endorsement must be planted on or prior to the applicable final planting date specified in the Special Provisions. In counties having one fall final planting date for acreage covered under the Wheat or Barley Winter Coverage Endorsement and another fall final planting date for acreage not covered under the endorsement, the fall late planting period will begin after the final planting date for acreage not covered under the endorsement.

13. Prevented Planting

(a) In addition to the provisions contained in section 17 of the Basic Provisions, in counties for which the Special Provisions designate a spring final planting date, your prevented planting production guarantee will be based on your approved yield for spring-planted acreage of the insured crop.

(b) Your prevented planting coverage will be 60 percent of your production guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400, subpart T, and pay an additional premium, you may increase your prevented planting coverage to a level specified in the actuarial documents.