Federal Crop Insurance Corporation, USDA § 457.118

§ 457.118 Malting barley crop insurance.

The malting barley crop insurance provisions for the 1996 and succeeding crop years are as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Small Grains Crop Insurance Malting Barley Price and Quality Endorsement

(This is a continuous endorsement. Refer to section 2 of the Common Crop Insurance Policy.)

In return for your payment of premium for the coverage contained herein, this endorsement will be attached to and made part of the Common Crop Insurance Policy (§ 457.8) and Small Grains Crop Provisions (§ 457.101), subject to the terms and conditions described herein.

1. You must have the Common Crop Insurance Policy (§ 457.8) and the Small Grains Crop Insurance Provisions (§ 457.101) in force to elect to insure malting barley under this endorsement.

2. You must select either Option A or Option B on or before the sales closing date. Failure to select either Option A or Option B, or if you elect Option B but fail to have a malting barley contract in effect by the acreage reporting date, will result in no coverage under this endorsement for the applicable crop year. If you elect coverage under Option A, and subsequently enter into a malting barley contract, your coverage will continue under the terms of Option A. Your selection (Option A or B) will continue from year to year unless you cancel or change your selection on or before the sales closing date.

3. You must select either an additional value price election or a percentage of the maximum additional value price election on or before the sales closing date. The percentage of the maximum additional value price election you select does not have to be the same as that selected under the Small Grains Crop Provisions for feed barley. In the event that you choose a percentage of the maximum additional value price election, we will multiply that percentage by the maximum additional value price election specified in Option A or B to determine the additional value price election that pertains to your contract.

4. The additional premium amount for this coverage will be determined by multiplying your malting barley production guarantee per acre by your selected additional value price election, times the premium rate stated in the Actuarial Table, times the acreage planted to approved malting barley varieties, times your share at the time coverage begins.

(B) Put to another use without our consent;
(C) Damaged solely by uninsured causes; or
(D) For which you fail to provide production records that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production;

(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 and:

(A) 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 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) 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

(2) All harvested production from the insurable acreage.

(d) When forage is harvested as other than air-dry forage, the production to count will be adjusted to the equivalent of air-dry forage.

(e) Any harvested production from plants growing in the forage will be counted as forage on a weight basis.

(f) In addition to the provisions of section 15 (Production Included in Determining Indemnities) of the Basic Provisions (§ 457.8), we may determine the amount of production of any unharvested forage on the basis of our field appraisals conducted after the normal time for each cutting for the area.

11. Late and Prevented Planting

The late and prevented planting provisions of the Basic Provisions are not applicable.

5. In addition to the reporting requirements contained in section 6 of the Common Crop Insurance Policy (§ 457.8), you must provide the information required by the Option you select.

6. In lieu of the provisions regarding units and unit division in the Common Crop Insurance Policy (§ 457.8) and the Small Grains Crop Provisions (§ 457.101), all barley acreage in the county that is planted to malting varieties that is insurable under the Small Grains Crop Provisions for feed barley and your selected Option must be insured under this endorsement and will be considered as one unit regardless of whether such acreage is owned, rented for cash, or rented for a share of the crop. The producer’s shares in the malting barley acreage to be insured under this endorsement must be designated on the acreage report.

7. In lieu of the provisions in the Common Crop Insurance Policy (§ 457.8) that requires us to pay your loss within 30 days after we reach agreement with you, whenever any production fails one or more of the quality criteria specified herein, the claim may not be settled until the earlier of:
   (a) The date you sell, feed, donate, or otherwise utilize such production for any purpose; or
   (b) May 31 of the calendar year immediately following the calendar year in which the insured malting barley is normally harvested.

If the production meets all quality criteria contained herein or grades U.S. No. 4 or lower in accordance with the grades and grade requirements for the subclasses Six-rowed and Two-rowed barley, and for the class Barley in accordance with the Official United States Standards for Grain, the claim will be settled within 30 days in accordance with the Common Crop Insurance Policy (§ 457.8).

8. This endorsement does not provide additional prevented planting coverage. Such coverage is only provided in accordance with the provisions of the Small Grains Crop Provisions for feed barley.

9. Production from all acreage insured under this endorsement and any production of feed barley varieties must not be commingled prior to our making all determinations necessary for the purposes of this insurance. Failure to keep production separate may result in denial of your claim for indemnity.

10. Definitions:
   (a) APH. Actual production history as determined in accordance with 7 CFR part 400, subpart G.
   (b) Approved malting variety. A variety of barley specified as such in the Special Provisions.
   (c) Brewery. A facility where malt beverages are commercially produced for human consumption.
   (d) Contracted production. A quantity of barley the producer agrees to grow and deliver, and the buyer agrees to accept, under the terms of the malting barley contract.
   (e) Licensed grain grader. A person authorized by the U.S. Department of Agriculture to inspect and grade barley under the U.S. Standards for malt barley.
   (f) Malting barley contract. An agreement in writing between the producer and a brewery or a business enterprise that produces or sells malt or processed mash to a brewery, or a business enterprise owned by such brewery or business, that contains the amount of contracted production, the purchase price, or a method to determine such price, and other such terms that establish the obligations of each party to the agreement.
   (g) Objective test. A determination made by a qualified person using standardized equipment that is widely used in the malting industry, and following a procedure approved by the American Society of Brewing Chemists when determining percent germination or protein content; grading performed by following a procedure approved by the Federal Grain Inspection Service when determining quality factors other than percent germination or protein content; or by the Food and Drug Administration when determining concentrations of mycotoxins or other substances or conditions that are identified as being injurious to human or animal health.
   (h) Subjective test. A determination made by a person using olfactory, visual, touch or feel, masticatory, or other senses unless performed by a licensed grain grader; or that uses non-standardized equipment; or that does not follow a procedure approved by the American Society of Brewing Chemists, the Federal Grain Inspection Service, or the Food and Drug Administration.
   (i) Unit. All insurable acreage of approved malting varieties in the county on the date coverage begins for the crop year.

Option A—(Available for Producers of Production Contracted After the Sales Closing Date, Non-Contracted Production, or a Combination of Contracted and Non-Contracted Production)

This option provides coverage for malting barley production and quality losses at a price per bushel greater than that offered under the Small Grains Crop Provisions.

1. To be eligible for coverage under this option, you must provide us acceptable records of your sales of malting barley and the number of acres planted to malting varieties for at least the four crop years in your APH database prior to the crop year immediately preceding the current crop year. For example, to determine your production guarantee for the 1996 crop year, records must be provided for the 1991 through the 1994 crop years, if malting barley varieties were planted in each of those crop years. Failure to
provide acceptable records or reports as required herein will make you ineligible for coverage under this endorsement. You must provide these records to us no later than the production reporting date specified in the Common Crop Insurance Policy (§457.8).

2. Your malting barley production guarantee per acre will be the lesser of:
   (a) The production guarantee for feed barley for acreage planted to approved malting varieties calculated in accordance with the Small Grains Crop Provisions and APH regulations; or
   (b) A production guarantee calculated in accordance with APH procedures using the malting barley sales and acreage records provided by you.

3. The additional value price per bushel elected cannot exceed the maximum price designated in the Special Provisions.

4. The amount of production to count against your malting barley production guarantee will be determined as follows:
   (a) Production to count will include all:
      (1) Appraised production determined in accordance with sections 11(c)(1) (i) and (ii) of the Small Grains Crop Provisions;
      (2) Harvested production and potential unharvested production that meets, or would meet if properly handled;
      (i) Tolerances established by the Food and Drug Administration or other public health organization of the United States for substances or conditions, including mycotoxins, that are identified as being injurious to human health; and
      (ii) The following quality standards, as applicable:

<table>
<thead>
<tr>
<th>Protein (dry basis)</th>
<th>Six-rowed malting barley (percent)</th>
<th>Two-rowed malting barley (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>14.0 maximum</td>
<td>14.0 maximum</td>
<td></td>
</tr>
<tr>
<td>65.0 minimum</td>
<td>75.0 minimum</td>
<td></td>
</tr>
<tr>
<td>10.0 maximum</td>
<td>10.0 maximum</td>
<td></td>
</tr>
<tr>
<td>95.0 minimum</td>
<td>95.0 minimum</td>
<td></td>
</tr>
<tr>
<td>4.0 maximum</td>
<td>4.0 maximum</td>
<td></td>
</tr>
<tr>
<td>0.4 maximum</td>
<td>0.4 maximum</td>
<td></td>
</tr>
<tr>
<td>1.0 maximum</td>
<td>1.0 maximum</td>
<td></td>
</tr>
<tr>
<td>5.0 maximum</td>
<td>5.0 maximum</td>
<td></td>
</tr>
<tr>
<td>0.4 maximum</td>
<td>0.4 maximum</td>
<td></td>
</tr>
</tbody>
</table>

   (3) Harvested production that does not meet the quality standards contained in section 4(a)(2) of this Option, but is accepted by a buyer for malting purposes. For such production, the production to count may be reduced by the cost incurred for any conditioning required to improve the quality of production so that it is marketable as malting barley, provided the failure of such production to meet these standards is due to insurable causes.

   (d) The additional value price election per bushel used to determine the value of the production to count for production that initially fails any quality standard contained in section 4(a)(2), but is sold as malting barley, may be reduced by the cost incurred for any conditioning required to improve the quality of production so that it is marketable as malting barley, provided the failure of such production to meet these standards is due to insurable causes.

5. In the event of loss or damage covered by this policy, we will settle your claim by:
   (a) Multiplying the insured acreage times your malting barley production guarantee per acre;
   (b) Multiplying the result in subsection (a) of this section times your additional value price election per bushel;
   (c) Multiplying the number of bushels of production to count determined in accordance with sections 4(a) and (b) of this Option times your elected additional value price per bushel;
   (d) Multiplying the production to count determined under section 4(c) of this Option...
times the additional value price per bushel determined in section 4(d) of the Option;

(e) Adding the results of subsections (c) and (d) of this section;

(f) Subtracting the result of subsection (e) of this section from the result in subsection (b); and

(g) Multiplying the result of subsection (f) of this section times your share.

6. For example, assume you insure two units of barley under the Small Grains Crop Provisions in which you have a 100% share and that are planted to approved malting varieties. Assume the following:

(a) Each unit contains 40 acres;

(b) You have sold an average of 20 bushels per acre of malting barley for each of the last 6 years;

(c) You have selected the 70 percent coverage level;

(d) Your production guarantee under the Small Grains Crop Provisions and the APH regulations for feed barley is 30 bushels per acre;

(e) Your total production from all units under the Small Grains Crop Provisions is 1,000 bushels, all of which fails to meet the quality standards specified by this Option. Two hundred bushels are sold for malting purposes after conditioning. Conditioning costs are $0.05 per bushel; and

(f) Your additional value price election is $0.40 per bushel.

Your malting barley production guarantee is 1200.0 bushels (the lesser of 20 or 30-70 percent coverage level × 80 acres). The value of your production guarantee is $448.00 (1120 bushels × $0.40 per bushel). Your production to count is 200 bushels. The value of your production to count is $70.00 (200 bushels × $0.35 ($0.40—$0.05)). Your indemnity for the malting barley unit is $378.00 (($448.00—$70.00) × $0.35 ($0.40—$0.05)). Your indemnity for the malting barley unit is $378.00 ($0.35 ($0.40—$0.05)). Your indemnity for the malting barley unit is $378.00 ($0.35 ($0.40—$0.05)).

2. Your malting barley guarantee per acre will be the lesser of:

(a) The production guarantee for feed barley for acreage planted to approved malting barley varieties calculated in accordance with the Small Grains Crop Provisions and APH regulations; or

(b) The number of bushels obtained by:

1) Dividing the number of bushels of contracted production by the number of acres planted to approved malting varieties in the current crop year; and

2) Multiplying the result by the percentage for the coverage level you elected under the Small Grains Crop Provisions.

3. The additional value price election per bushel will be the lesser of:

(a) The guaranteed sale price per bushel established in the malting barley contract (without regard to discounts or incentives that may apply) minus the maximum price election for feed barley; or

(b) The premium price per bushel (without regard to discounts or incentives) if the sale price is based on a future market price as specified in the malting barley contract.

Under no circumstances will the additional value price election per bushel exceed $2.00 per bushel.

4. The amount of production to count against your malting barley production guarantee will be determined as follows:

(a) Production to count will include all:

1) Appraised production determined in accordance with sections 11(c)(1) and (2) of the Small Grains Crop Provisions;

2) Harvested production and potential unharvested production that meets, or would meet if properly handled, the minimum acceptance standards contained in the harvesting barley contract for protein, plump kernels, thin kernels, germination, blight damage, mold injury or damage, sprout damage, frost injury or damage, and mycotoxins or other standards or conditions identified by the Food and Drug Administration or other public health organization of the United States as being injurious to human health, or the following quality standards as applicable:

<table>
<thead>
<tr>
<th>Quality Standard</th>
<th>Six-rowed malting barley</th>
<th>Two-rowed malting barley</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protein (dry basis)</td>
<td>14.0 maximum</td>
<td>14.0 maximum</td>
</tr>
<tr>
<td>Plump kernels</td>
<td>65.0 minimum</td>
<td>75.0 minimum</td>
</tr>
<tr>
<td>Thin kernels</td>
<td>10.0 maximum</td>
<td>10.0 maximum</td>
</tr>
<tr>
<td>Germination</td>
<td>95.0 minimum</td>
<td>95.0 minimum</td>
</tr>
<tr>
<td>Blight damaged</td>
<td>4.0 maximum</td>
<td>4.0 maximum</td>
</tr>
<tr>
<td>Injured by mold</td>
<td>5.0 maximum</td>
<td>5.0 maximum</td>
</tr>
<tr>
<td>Mold damaged</td>
<td>0.4 maximum</td>
<td>0.4 maximum</td>
</tr>
<tr>
<td>Sprout damaged</td>
<td>1.0 maximum</td>
<td>1.0 maximum</td>
</tr>
<tr>
<td>Injured by frost</td>
<td>5.0 maximum</td>
<td>5.0 maximum</td>
</tr>
<tr>
<td>Frost damaged</td>
<td>0.4 maximum</td>
<td>0.4 maximum</td>
</tr>
</tbody>
</table>

(3) Harvested production that does not meet the quality standards contained in section 4(a)(2) of this Option, but is accepted by
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(a) Multiplying the insured acreage times your malting barley production guarantee per acre;
(b) Multiplying the result in subsection (a) of this section times your additional value price election per bushel;
(c) Multiplying the number of bushels of production to count determined in accordance with sections 4(a) and (b) of this Option times your elected additional value price per bushel;
(d) Multiplying the production to count determined under section 4(c) of this Option times the additional value price per bushel determined in section 4(d) of the Option;
(e) Adding the results of subsections (c) and (d) of this section;
(f) Subtracting the result of subsection (e) of this section from the result in subsection (b); and
(g) Multiplying the result of subsection (f) of this section times your share.

6. For example, assume you insure two units of barley under the Small Grains Crop Provisions in which you have a 100% share and that are planted to approved malting varieties. Assume the following:
(a) Each unit contains 40 acres;
(b) You have a contract for the sale of 2500 bushels of malting barley;
(c) You have selected the 70 percent coverage level;
(d) Your production guarantee under the Small Grains Crop Provisions and the APH regulations for feed barley is 35 bushels per acre;
(e) Your total production from all units under the Small Grains Crop Provisions is 1,000 bushels, all of which fails to meet the quality standards specified by this Option. Two hundred bushels are sold for malting purposes after conditioning. Conditioning cost $0.05 per bushel; and
(f) Your additional value price election is $0.80 per bushel.

Your malting barley production guarantee is 1750.0 bushels (the lesser of 35 or 21.875 (2500 contracted bushels × 80 acres)×70 percent coverage)×80 acres). The value of your production guarantee is $1050.00 (1750 bushels×$0.60 per bushel). Your production to count is 200 bushels. The value of your production to count is $110.00 (200 bushels×$0.55 ($0.60—$0.05)). Your indemnity for the malting barley unit is $940.00 (($1050.00 — $110.00)×100 percent share). Any remaining loss is paid under the Small Grains Crop Provisions for feed barley.

[61 FR 8855, Mar. 6, 1996; 61 FR 27245, May 31, 1996]