

DEPARTMENT OF AGRICULTURE**Federal Crop Insurance Corporation****7 CFR Part 457****RIN 0563-AB03****Common Crop Insurance Regulations; Basic Provisions; and Various Crop Insurance Provisions****AGENCY:** Federal Crop Insurance Corporation, USDA.**ACTION:** Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Common Crop Insurance Regulations to delete the late and prevented planting provisions currently contained in many Crop Provisions, incorporate revised late and prevented planting provisions into the Common Crop Insurance Policy Basic Provisions, and add definitions and provisions that are common to most crops. The intended effect of this action is to provide policy changes that meet the needs of the insured, are easier to administer, and to delete repetitive provisions contained in various Crop Provisions.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business September 11, 1997, and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131.

FOR FURTHER INFORMATION CONTACT: Louise Narber, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926-7730.

SUPPLEMENTARY INFORMATION:**Executive Order 12866**

The Office of Management and Budget (OMB) has determined this rule to be significant, and therefore, this rule has been reviewed by OMB.

Cost-Benefit Analysis

A Cost-Benefit Analysis has been completed and is available to interested persons at the Kansas City address listed above. In summary, the analysis finds that the proposed rule makes several major changes in the implementation of prevented planting provisions. Specifically, the proposed rule: (1)

eliminates substitute crop benefits, largely to reduce the likelihood of moral hazard; (2) increases prevented planting for cover crop or black dirt situations, providing better protection to producers who are truly unable to plant a crop for harvest; and (3) simplifies the payment method, making payments on an acre-by-acre basis in all cover crop/black dirt situations. These provisions are designed to improve the protection provided to producers in adverse prevented planting situations, and to simplify program operation.

Because this proposed rule is expected to be implemented in an actuarially sound manner, there are no associated excess losses that will be incurred by the Federal government in the aggregate. Two provisions—the increase in coverage in black dirt/cover crop situations provision and the “separate payment” provision—are expected to result in an increase in indemnities and, thus, an increase in rates. The elimination in substitute crop provisions results in reduced indemnities, and a rate decline in the aggregate. The net effect of these changes is likely to be small in terms of the rate impact, and will vary according to crop and location. Because of the small expected average rate impact, any changes in reimbursements to private companies for delivery or any underwriting gains are also expected to be small. The amendments made to these regulations will simplify program operations, benefit producers, FCIC, and reinsured companies, and conform with the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994.

Paperwork Reduction Act of 1995

The information collection requirements contained in these regulations are being reviewed by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563-0053. The Basic Provisions and Various Crop Insurance Provisions are described in the background.

The title of this information collection is “Multiple Peril Crop Insurance.” The information to be collected includes a crop insurance application and an acreage report. Information collected from the application and an acreage report is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers that are eligible for Federal crop insurance.

The information requested is necessary for the insurance company and FCIC to provide insurance and

reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts, and pay benefits.

The burden associated with the Basic Provisions and Various Crop Insurance Provisions is estimated at 19.5 minutes per response for each of the 2.2 responses from approximately 1,610,629 respondents each year for a total of 1,127,407 hours.

FCIC is requesting comments on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information gathering technology.

Comments regarding paperwork reduction should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, 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. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism

Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

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 proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

FCIC proposes to amend the Common Crop Insurance Regulations Basic Provisions (Basic Provisions) (7 CFR part 457) and the Crop Provisions (7

CFR 457.101–457.157) effective for the: 1998 and succeeding crop years for wheat, barley and oats in counties with a December 31 contract change date, flax, cotton, ELS cotton, sunflowers, sugar beets in counties with a November 30 contract change date, corn, grain sorghum, soybeans, raisins, fresh market tomatoes (guaranteed production plan), rice, and dry beans; 1999 and succeeding crop years for wheat, barley and oats in counties with a June 30 contract change date, rye, Texas citrus tree, Florida citrus fruit, sugar beets in counties with an April 30 contract change date, figs, pears, nursery, sugarcane, forage production, walnuts, almonds, safflowers, fresh market sweet corn, macadamia trees, cranberry, onion, grapes, fresh market tomatoes (dollar plan), peppers, forage seeding, peaches, and plums; and 2000 and succeeding crop years for Texas citrus fruit, Arizona—California citrus, and macadamia nuts. This rule proposes to delete the late and prevented planting provisions, certain definitions and other provisions that are applicable to most crops and are currently contained in the Crop Provisions and incorporate these definitions and provisions into the Basic Provisions to better meet the needs of the insured. Those Crop Provisions which will not be final until after this rule has been published as a proposed rule will be similarly revised when this rule is finalized. This rule also proposes to make substantive changes as follows:

1. 7 CFR 457.2 (b), (c), and (d)—Specify that FCIC may offer the catastrophic level of coverage directly to the insured through local Farm Service Agency (FSA) offices. Also specify that a person may not have more than one contract in force on the same crop, for the same crop year, in the same county except as specified in the Catastrophic Risk Protection Endorsement and 7 CFR part 400, subpart T, whether insured by FCIC through local FSA offices or insured by a company which is reinsured by FCIC. Also, clarify that if multiple contracts of insurance are shown to be inadvertent and without the fault of the insured, the contract with the earliest signature date on the application will be in effect.

2. 7 CFR 457.8 (Basic Provisions) are revised as follows:

a. Section 457.8(b) is revised by deleting the provisions that authorize the Manager of FCIC to extend any sales closing date.

b. The “Agreement to Insure” provision is amended to include provisions regarding conflicts between the Basic Provisions, Crop Provisions, Special Provisions, and Catastrophic Risk Protection Endorsement. Current

provisions regarding conflicts between policy forms were contained in both the Basic and Crop provisions.

c. Section 1—Delete all paragraph designations to avoid confusion in case of any future revision. Delete the definitions of “ASCS” and “ASCS Farm Serial Number” and replace with “FSA” and “FSA farm serial number.” These changes are necessary to bring these regulations into conformance with the Department of Agriculture

Reorganization Act of 1994. Delete the definition of “Late Planting Agreement Option” (LPAO) because the provisions for late planted crops are now incorporated into the Basic Provisions and those crops for which such coverage is not available will be designated in the Crop Provisions. Late planting will automatically be available and will not require a separate option. Delete the definition of “reporting date” because “acreage reporting date” is defined and this definition refers to the same date. Revise the definition of “abandon” to clarify that failure to continue providing sufficient care or failure to harvest in a timely manner is not considered abandonment if such failures are due to an insurable cause of loss. Revise the definition of “acreage report” and “acreage reporting date” to clarify that the final acreage reporting date may be determined in accordance with section 6 (Report of Acreage) of the Basic Provisions rather than the acreage

reporting date contained in the Special Provisions. Define the term “basic unit” rather than “unit” to be consistent with the language contained in the current Crop Provisions. The definition of “unit” amended to “basic unit” is revised to remove provisions regarding the determination of share. These provisions will now be covered in section 10 (Share Insured). Delete duplicative provisions contained in the definition of “contract.” Clarify that the definition of “contract” is synonymous with “policy.” Revise the definition of “county” to include acreage in a field that extends into an adjoining county if the county boundary is not readily discernible. Revise the definition of “insured” to delete the reference subsection designation. Revise the definition of “loss, notice of” by adding “whichever is earlier” after the two specific times notice of loss must be given. Revise the definition of “person” to clarify that the United States government or any agency thereof is not considered a “person.” Revise the definition of “policy” to indicate that the Catastrophic Risk Protection Endorsement may also be applicable. Revise the definition of “premium”

“billing date” to indicate that the date is contained in the Special Provisions. Revise the definition of “practical to replant” to add marketing window as an additional factor that must be considered when determining whether or not it is practical to replant; remove the reference to the LPAÖ; and specify that the unavailability of seed or plants will not be considered a valid reason for failure to replant. Revise the definition of “price election” to specify that price elections will be contained in the Special Provisions. Revise the definition of “share” to remove provisions regarding how the share is determined. Add definitions for the terms “Act,” “days,” “deductible,” “final planting date,” “FSA,” “FSA farm serial number,” “good farming practices,” “interplanted,” “irrigated practice,” “late planted,” “late planting period,” “non-contiguous,” “Palmer Drought Severity Index,” “planted acreage,” “prevented planting,” “prevented planting, notice of,” “production guarantee (per acre),” “replanting,” “timely planted,” “USDA,” “void,” and “written agreement.”

d. Section 2—Reformat this section and add a provision in section 2(b) stating that an application is not acceptable unless it contains all material information, including all social security numbers and employer identification numbers, as applicable, coverage level, price election, etc. If a producer with a substantial beneficial interest in an insured crop refuses to provide a social security number or employer identification number, the share insurable under the policy will be reduced commensurately by that producer’s share, unless the producer has been placed on the nonstandard classification system list in which case insurance will not be available to that entity.

e. Section 2(e)—Specify that a person who is ineligible for crop insurance because of a delinquent debt may become eligible if the person repays the debt, executes an agreement to repay the debt and makes all payments in accordance with the agreement, or has the debt discharged in bankruptcy. If the repayment, execution of the agreement, or discharge occurs after the sales closing date for the crop, the person is not eligible for crop insurance until the next crop year. This is to conform with the ineligible file regulations.

f. Section 3(b)—Remove the provisions that authorize the insurance provider to assign a coverage level if the producer does not elect one. These provisions are no longer necessary because an application will not be accepted if it is not complete.

g. Section 3(c)—Specify that if the producer filed a claim for any crop year, the amount of production used to complete the claim for indemnity will be the production report for that crop year unless otherwise specified by FCIC. Also, specify that production and acreage for the prior crop year must be reported for each proposed optional unit on or before the production reporting date.

h. Section 3(e)—Add a provision to indicate that an updated price election or amount of insurance may be announced not later than 15 days prior to the sales closing date to allow FCIC the flexibility to adjust these amounts to more accurately reflect market conditions.

i. Section 4—Add a provision allowing additional price elections to be announced after the contract change date to conform with section 3(e).

j. Section 6—Reformat this section and change the date by which an insured must submit an annual acreage report by allowing the insured until the latest applicable spring or fall acreage reporting date when multiple crops are insured in a county. However, if the Special Provisions designate separate planting periods, the insured must submit an acreage report on or before the acreage reporting date contained in the Special Provisions for the planting period. Specify that instead of the production guarantee or amount of insurance being reduced proportionately when the actual share, acreage, practice, type or other material information results in a lower premium than determined under the reported information, only the production guarantee or amount of insurance will be reduced to conform to the correct information. Specify that, if liability is denied for unreported units, the producer’s share of any production from the unreported units will be allocated as production to count to the reported units in proportion to the liability on each reported unit. The production allocated in this manner will not be used to compute the producer’s yield for actual production history (7 CFR part 400, subpart G). Also, add a provision to specify that if information reported by the producer is incorrect and results in an overstatement of liability, in the subsequent crop years that the producer is insured, the producer may be required to provide documentation to substantiate the report of acreage in those subsequent years, including but not limited to an acreage measurement service at the producer’s expense.

k. Section 7—Clarify that any amount owed by the producer to the insurance provider related to any crop insured

under the Act will be deducted from any replant payment, prevented planting payment or indemnity due the insured for any crop insured under the authority of the Act with the same insurance provider. Specify that the premium will be computed using the price election or amount of insurance the producer elects or the insurance provider assigns.

l. Section 8—Delete section 8(b)(2) since crops planted during the late planting period will be insured unless otherwise specified in the Crop Provisions and redesignate the following sections. Replace “Special Provisions” with “policy provisions” in redesignated section 8(b)(2). Replace “unless we agree, in writing, to insure such crop” with “written agreement” in redesignated section 8(b)(5).

m. Section 9(a)(1)—Specify that acreage will not be insurable if it has not been planted and harvested within one of the 3 previous calendar years, unless such acreage was not planted to comply with any other United States Department of Agriculture (USDA) program or because of crop rotation, (e.g., corn, soybeans, alfalfa; and the alfalfa remained for 4 years before the acreage was planted to corn again), unless the crop provisions specifically allow insurance for such acreage.

n. Section 9(a)(2)—Specify that acreage that has been strip mined will be insurable only by written agreement, unless crops produced for food or fiber have been harvested from the acreage for at least 5 consecutive crop years after it was strip mined.

o. Section 9(a)(6)—A new section is added to clarify that acreage planted in any manner other than as specified in the policy provisions for the crop is not insurable unless otherwise specified by a written agreement, if applicable.

p. Section 10—Add provisions to clarify that a lease containing provisions for BOTH a minimum payment (such as a specified amount of cash, bushels, pounds, etc.) AND a crop share will be considered a crop share lease; and a lease containing provisions for EITHER a minimum payment OR a crop share (e.g., a lease provides for a 50/50 share or 100 dollars, whichever is greater) will be considered a cash lease.

q. Section 11—Add provisions to clarify the date at which insurance attaches and redesignate the following provisions.

r. Section 13(d)—Delete section 13(d) and redesignate section 13(e) as 13(d). This provision required the insurance provider to measure the total acres in the unit for the crop that is replanted even if only a small portion of the acres were replanted. Without this provision

only the replanted acres need to be determined.

s. Section 14(a)—Add a new paragraph to clarify that producers must cooperate in the investigation or settlement of a claim.

t. Section 15(c)—Amend the provision to delete a reference to the FCI-78A form since it is no longer in use.

u. Section 16—Add a new section which incorporates the coverage for acreage that is planted after the final planting date previously included in the Crop Provisions. This section will amend the late planting provisions to: (1) Differentiate between the production guarantees or amounts of insurance for acreage planted to the insured crop during the late planting period and acreage planted to the insured crop after the late planting period; and (2) amend the reductions in production guarantees or amounts of insurance for acreage planted to the insured crop during the late planting period. The production guarantee or amount of insurance for acreage planted to the insured crop during the twenty-five day late planting period will be reduced one percent per day for each day the acreage is planted after the final planting date. The maximum reduction for acreage planted during the late planting period will be 25 percent. Current late planting provisions contained in the Crop Provisions reduce the production guarantee or amount of insurance for each acre for each day planted after the final planting date by one percent for the first through the tenth day and two percent for the eleventh through the twenty-fifth day, resulting in a maximum reduction of 40 percent. This change provides increased coverage for acreage planted in the last 15 days of the late planting period and therefore should maintain an incentive to plant the insured crop during the late planting period. A strong incentive to plant should reduce the number of prevented planting claims and related expenses.

v. Section 17—Add a new section to incorporate the prevented planting coverage previously included in the Crop Provisions. FCIC proposes to remove the substitute crop provisions contained in the current prevented planting provisions. These provisions allow insureds with limited or additional coverage to receive a prevented planting production guarantee for acreage planted to a substitute crop. Removal of these provisions will eliminate problems associated with determining the crop originally intended to be planted and increase incentives to plant in response to market signals.

w. Section 17(a)(2)—Require the insured to notify the insurance provider within 72 hours after the final planting date if the insured is prevented from planting by such date, regardless of whether or not the insured intends to plant any acreage of the insured crop after the final planting date. Under current prevented planting provisions, the first notice the insurance provider receives of prevented planting is when prevented planting acreage is listed on the acreage report. In some cases, this may be nearly two months after the final planting date due to the change in the acreage reporting date. This change provides the insurance provider a better opportunity to verify that the insured was prevented from planting due to an insured cause of loss.

x. Section 17(b)—Specify that the Crop Provisions will contain a prevented planting coverage level percentage that will automatically apply to the insured's crop policy if the insured does not elect an available prevented planting coverage level percentage on or before the sales closing date. The Actuarial Table will provide the additional prevented planting coverage elections available to the producer for an additional premium. FCIC proposes to offer producers with limited or additional coverage a 60 percent prevented planting coverage level (60 percent of the insured production guarantee for timely planted acreage) for coarse grains (corn, grain sorghum, and soybeans), small grains (barley, flax, oats, rye, and wheat), dry beans, and sunflower seed, with an option for the insured to increase the coverage to 65 or 70 percent; and a 45 percent prevented planting coverage level for cotton, ELS cotton, sugar beets, onions, and rice with an option for the insured to increase the coverage to 50 or 55 percent. Insureds who have a Catastrophic Risk Protection Endorsement will be limited to the lowest prevented planting coverage level percentage available for the crop. Placing prevented planting coverage level percentages in the Crop Provisions and Actuarial Table allows FCIC to establish prevented planting coverage levels that are appropriate on a crop-by-crop basis.

y. Section 17(e)(1)—Specify that the maximum number of acres eligible for a prevented planting payment will be: (1) For crops with production guarantees based on the actual production history (APH) or crops that do not require yield certification (except those for which the crop provisions require a processor contract), the greatest number of acres of the insured crop included in the APH data base or insured in any one of the

4 most recent crop years, excluding any acreage of the insured crop for which a prevented planting production guarantee was established and was planted to a substitute crop; and (2) For any crop for which the Crop Provisions require a contract to be executed with a processor, the number of acres required to be grown in the current crop year under the processor contract if such contract stipulates a specific number of acres from which all production is to be delivered. If the contract stipulates a specific amount of production to be delivered, the maximum eligible acreage will be determined by dividing the amount of production to be delivered under the processor contract by the approved yield, without recognition of reductions to transitional yields due to failure to certify production for a prior year, using the same unit of measure for both amounts. This section is also amended to allow an insured who did not plant any crop that is insurable in the county in the 4 most recent crop years, to request a written agreement to establish the maximum number of acres that will be eligible for prevented planting coverage.

z. Section 17(e)(2)—Specify the timing and contents of a request for a written agreement.

aa. Section 17(e)(3)—Specify that the total number of acres requested for all crops insured under the authority of the Federal Crop Insurance Act cannot exceed the number of acres of cropland in the insured's farming operation for the crop year.

bb. Section 17(e)(4)—Amend the provisions to allow the maximum eligible number of prevented planting acres for certain crops to be increased under certain conditions, if the number of acres in an insured's farming operation is greater than the number of acres farmed the previous year to avoid penalizing insureds who expand their farming operations.

cc. Section 17(e)(5)—Clarify that any acreage of the crop that is planted will be subtracted from eligible prevented planting acreage. Previous provisions provided that only insured crop acreage would be subtracted.

dd. Section 17(f)(1)—Clarify that prevented planting coverage will not be provided for any acreage that does not constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit, whichever is less. Current provisions specify that the 20/20 rule applies to the acreage in the unit, which could include both insurable and uninsurable acreage. This provision also specifies that the insurance provider will assume that any prevented planting acreage within a field that contains planted acreage

would have been planted to the same crop that is planted in the field, unless the prevented planting acreage constitutes at least 20 acres or 20 percent of the insurable acreage in the field and the insured provides proof of the intent to plant such acreage to another crop.

ee. Section 17(f)(4)—Clarify that prevented planting coverage will not be provided if the insured or any other person receives a prevented planting payment for any crop for the same unit in the same crop year, except in the case of double cropped acreage if the insured has coverage greater than that applicable to the catastrophic risk protection plan of insurance. Also, clarify that in order to qualify for prevented planting coverage for double-cropped acreage, the insured must have records of acreage and production to prove that the acreage was double-cropped in each of the last four years in which the insured crop was grown on the acreage.

ff. Section 17(f)(5)—Clarify that a cover crop may be hayed or grazed after the final planting date for the insured crop without affecting prevented planting eligibility. Current provisions do not specify the date after which the cover crop may be hayed or grazed. Also, amend the provisions to clarify that prevented planting coverage is not allowed for acreage that is prevented from being planted, if any crop from which the insured derives any benefit under any program administered by the USDA is planted and fails. This clarification is intended to prevent a producer from receiving a benefit for a failed crop or income from a harvested crop, and an additional benefit for any crop that is prevented from being planted, unless the insured has coverage greater than that applicable to the catastrophic risk protection plan of insurance and can prove a history of double cropping.

gg. Section 17(f)(6)—Add a provision specifying that prevented planting coverage will not be provided if a cash lease payment is also received for use of the same acreage in the same crop year (not applicable if acreage is leased for haying or grazing only).

hh. Section 17(f)(9)—Specify that prevented planting coverage will not be provided for any acreage for which the producer cannot provide proof that he or she had the inputs available to plant and produce a crop with the expectation of at least producing the yield used to determine the production guarantee or amount of insurance. Current provisions state "... with the expectation of at least producing the production guarantee or amount of insurance."

ii. Section 17(f)(10)—Clarify that prevented planting coverage will not be provided for any acreage based on an irrigated practice production guarantee or amount of insurance unless adequate irrigation facilities were in place to carry out an irrigated practice on the acreage prior to the insured cause of loss that prevented the insured from planting.

jj. Section 17(f)(11)—Specify that prevented planting coverage will not be provided on any acreage based on a price election, amount of insurance or production guarantee for a crop type that the producer did not plant in at least one of the four most recent years unless allowed by the policy provisions so that producers receive benefits commensurate with their actual planting practices.

kk. Section 17(g)—Amend the provisions to allow prevented planting payments on a per acre basis once the specified minimum number of acres has been prevented from being planted. Per acre payment recognizes a producer's loss on each acre that is prevented from being planted. Current provisions combine production guarantees for planted and prevented planting acreage and provides no payment when production from planted acreage exceeds this combined guarantee.

ll. Section 18—Add a new section 18 that provides the requirements for insurance coverage by written agreement previously included in the Crop Provisions. FCIC has a long-standing policy of permitting modification of certain provisions of the insurance contract by written agreement. This new section will cover the application for, and duration of, written agreements.

mm. Sections 17 (redesignated as section 20)—For FCIC policies, amend the reference to the appeals provisions to specify 7 CFR part 11 since FCIC does not currently have an informal appeals process. For reinsured policies, amend the provisions to specify that failure to agree with any factual determination made by the FCIC must be resolved through the FCIC appeal provisions published at 7 CFR part 11. Also, clarify that any award determined by arbitration cannot exceed the amount of liability established or which should have been established under the policy.

nn. Section 20 (redesignated as section 23)—Remove the provision that authorizes FCIC to cancel a policy for violation of the conservation provisions of the Food Security Act of 1985 to conform to the Federal Agriculture Improvement and Reform Act of 1996. Add a provision to allow the insurance provider to retain up to 20 percent of

the premium to defray expenses and handling since most violations will not be discovered until loss adjustment and the insurance provider will have already incurred costs associated with the delivery of the policy.

oo. Section 21 (redesignated as section 24)—For FCIC policies, revise to specify that any amount illegally or erroneously paid to the producer, or that is owed to the insurance provider and is delinquent, may be recovered by the insurance provider through offset or other collection action. Also specify that, if the insurance provider determines that it is necessary to refer the debt to government collection centers or the Department of Treasury Offset Program, the producer agrees to pay all of the expenses of collection.

pp. Section 24 (redesignated as section 27)—Clarify that the policy will be voided if the producer commits fraud or misrepresents a material fact. Such voidance will be effective with the beginning of the crop year in which such acts occurred. Voidance will have no effect on subsequent crop years unless a violation also occurred in that subsequent crop year or the producer is otherwise suspended, debarred or disqualified. The producer will be required to pay up to 20 percent of the premium owed to defray costs already incurred in the service of the policy.

qq. Section 25 (redesignated as section 28)—Revise by adding a provision that states that liability under the policy cannot be increased by a transfer of coverage. Also revise by adding a provision stating that the transferee must be eligible for crop insurance.

rr. Section 26 (redesignated as section 29)—Clarify that no cause of action will lie against FCIC arising from any assignment. Also specify that if the insured suffered a loss from an insurable cause and failed to file a claim for indemnity within 60 days after the end of the insurance period, the assignee may submit the claim for indemnity not later than 15 days after the 60 day period has expired.

ss. Add a new section 34 to incorporate the optional unit structure requirements previously included in the Crop Provisions.

3. Section 457.101 (Small Grains Crop Insurance Provisions); § 457.104 (Cotton Crop Insurance Provisions); § 457.105 (Extra Long Staple Cotton Crop Insurance Provisions); § 457.110 (Fig Crop Insurance Provisions); and § 457.113 (Coarse Grains Crop Insurance Provisions)—Delete all references to the "Common Crop Insurance Policy" and replace them with "Basic Provisions."

4. Section 457.101 (Small Grains Crop Insurance Provisions); § 457.104 (Cotton Crop Insurance Provisions); § 457.105 (Extra Long Staple Cotton Crop Insurance Provisions); § 457.106 (Texas Citrus Tree Crop Insurance Provisions); § 457.107 (Florida Citrus Fruit Crop Provisions); § 457.108 (Sunflower Seed Crop Insurance Provisions); § 457.109 (Sugar Beet Crop Insurance Provisions); § 457.110 (Fig Crop Insurance Provisions); § 457.111 (Pear Crop Insurance Provisions); § 457.113 (Coarse Grains Crop Insurance Provisions); § 457.114 (Nursery Crop Insurance Provisions); § 457.116 (Sugar Cane Crop Insurance Provisions); § 457.117 (Forage Production Crop Insurance Provisions); § 457.119 (Texas Citrus Fruit Crop Insurance Provisions); § 457.121 (Arizona-California Citrus Crop Insurance Provisions); § 457.122 (Walnut Crop Insurance Provisions); § 457.123 (Almond Crop Insurance Provisions); § 457.124 (Raisin Crop Insurance Provisions); § 457.125 (Safflower Crop Insurance Provisions); § 457.128 (Guaranteed Production Plan of Fresh Market Tomato Crop Insurance Provisions); § 457.129 (Fresh Market Sweet Corn Crop Insurance Provisions); § 457.130 (Macadamia Tree Crop Insurance Provisions); § 457.131 (Macadamia Nut Crop Insurance Provisions); § 457.132 (Cranberry Crop Insurance Provisions); § 457.135 (Onion Crop Insurance Provisions); § 457.138 (Grape Crop Insurance Provisions); § 457.139 (Fresh Market Tomato (Dollar Plan) Crop Insurance Provisions); § 457.141 (Rice Crop Insurance Provisions); § 457.148 (Fresh Market Pepper Crop Insurance Provisions); § 457.150 (Dry Beans Crop Insurance Provisions); § 457.151 (Forage Seeding Crop Insurance Provisions); § 457.153 (Peach Crop Insurance Provisions) and § 457.157 (Plum Crop Insurance Provisions)—

(a) Delete definitions that are added to the Basic Provisions (§ 457.8) by this rule. This allows FCIC to remove duplicative provisions from the Crop Provisions.

(b) Delete or modify section 2 because the requirements for optional units have now been incorporated into section 34 of the Basic Provisions.

(c) Delete, modify, or add late and prevented planting provisions since these provisions are now included in sections 16 and 17 of the Basic Provisions.

(d) Revise section designations, as necessary, to conform to changes made in the Basic Provisions (§ 457.8), and removal of unit division provisions in some crop provisions.

(e) Delete the written agreement provisions because they are now incorporated into section 18 of the Basic Provisions.

(f) Make minor style and conforming changes.

5. Section 457.104 (Cotton Crop Insurance Provisions); § 457.105 (Extra Long Staple Cotton Crop Insurance Provisions); § 457.108 (Sunflower Seed Crop Insurance Provisions); and § 457.113 (Coarse Grains Crop Insurance Provisions)—Revise the provisions in the “Insurable Acreage” section to specify that any acreage damaged to the extent that a majority of the producers in the area would not normally care for the crop must be replanted unless the insurance provider agrees that it is not practical to replant. The current provisions specify that damage must exist such that the remaining stand will not produce at least 90 percent of the production guarantee. This change removes the inequity caused by the current language when a landlord and tenant have different production guarantees on the same acreage due to different coverage levels that were selected, and standardizes the language among the various Crop Provisions.

6. A new provision is added in section 11 of § 457.104 (Cotton Crop Insurance Provisions) and section 12 of § 457.105 (Extra Long Staple Cotton Crop Insurance Provisions) to indicate that the prevented planting production guarantee will be based on the approved yield for solid-planted acreage.

List of Subjects in 7 CFR Part 457

Crop insurance, Common crop insurance policy; Almonds; Arizona-California citrus; Coarse grains; Cotton; Cranberry; Dry beans; Extra long staple cotton; Figs; Florida citrus fruit; Forage production; Forage seeding; Fresh market pepper; Fresh market sweet corn; Fresh market tomato (Dollar plan); Fresh market tomato (Guaranteed production plan); Grape; Macadamia Nut; Macadamia Tree; Nursery; Onion; Peach; Pears; Plum crop insurance provisions; Raisin; Rice; Safflower; Small grains; Sugar beet; Sugar cane; Sunflower seed; Texas citrus fruit; Walnut.

Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation hereby proposes to amend 7 CFR part 457, as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1998 AND SUBSEQUENT CONTRACT YEARS

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

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

2. Section 457.2 is amended by removing paragraph (e), redesignating paragraphs (f), (g), and (h) as paragraphs (e), (f), and (g) respectively and revising paragraphs (b), (c), and (d) to read as follows:

§ 457.2 Availability of federal crop insurance.

* * * * *

(b) The insurance is offered through two methods. First, the Corporation may offer the contract for the catastrophic level of coverage contained in this part and part 402 directly to the insured through local offices of the Department of Agriculture. Those contracts are specifically identified as being offered by the Federal Crop Insurance Corporation (FCIC). Second, companies reinsured by the Corporation may offer contracts containing the same terms and conditions as the contract set out in this part. These contracts are clearly identified as being reinsured by the Corporation.

(c) Except as specified in the Catastrophic Risk Protection Endorsement (part 402 of this chapter) and part 400, subpart T of this chapter, no person may have in force more than one contract on the same crop for the same crop year, in the same county, whether insured by the Corporation through local offices of the Department of Agriculture or insured by a company reinsured by the Corporation.

(d) Except as specified in paragraph (c) of this section if a person has more than one contract under the Act that provides coverage for the same loss on the same crop for the same crop year in the same county, all such contracts shall be voided for that crop year and the person will be liable for the premium on all contracts, unless the person can show to the satisfaction of the Corporation that the multiple contracts of insurance were inadvertent and without the fault of the person. If the multiple contracts of insurance are shown to be inadvertent and without the fault of the insured, the contract with the earliest signature date on the application will be valid and all other contracts on that crop in the county for that crop year will be canceled. No liability for indemnity or premium will attach to the contracts so canceled.

* * * * *

3. Section 457.8 paragraph (b) is revised to read as follows:

§ 457.8 The application and policy.

(a) * * *

(b) The Corporation or the reinsured company may reject or discontinue the acceptance of applications in any county or of any individual application upon the Corporation's determination that the insurance risk is excessive. If the reinsured company rejects any application and such rejection is not required by the Corporation, the applicant must be referred to an agent authorized to sell the Corporation's policies of insurance.

4. Section 457.8 is amended by revising the policy to read as follows:

DEPARTMENT OF AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

[or Policy Issuing Company Name]

Common Crop Insurance Policy

(This is a continuous policy. Refer to section 2.)

FCIC Policies

This is an insurance policy issued by the Federal Crop Insurance Corporation (FCIC), a United States government agency. The provisions of the policy are published in the **Federal Register** and in chapter IV of title 7 of the Code of Federal Regulations (CFR) under the Federal Register Act (44 U.S.C. 1501 *et seq.*), and may not be waived or varied in any way by the crop insurance agent or any other agent or employee of FCIC.

Throughout this policy, "you" and "your" refer to the named insured shown on the accepted application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation. Unless the context indicates otherwise, use of the plural form of a word includes the singular and use of the singular form of the word includes the plural.

Reinsured policies

This insurance policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the provisions of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) (Act). All provisions of the policy and rights and responsibilities of the parties are specifically subject to the Act. The provisions of the policy are published in the **Federal Register** and in the chapter IV of title 7 of the Code of Federal Regulations (CFR) under the Federal Register Act (44 U.S.C. 1501 *et seq.*), and may not be waived or varied in any way by the crop insurance agent or any other agent or employee of FCIC or the company. In the event we cannot pay your loss, your claim will be settled in accordance with the provisions of this policy and paid by FCIC. No state guarantee fund will be liable for your loss.

Throughout this policy, "you" and "your" refer to the named insured shown on the accepted application and "we," "us," and "our" refer to the insurance company providing insurance. Unless the context indicates otherwise, use of the plural form of

a word includes the singular and use of the singular form of the word includes the plural.

Agreement to insure. In return for the payment of the premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in this policy. If a conflict exists among these Basic Provisions, the Crop Provisions, the Special Provisions, and the Catastrophic Risk Protection Endorsement, if applicable, the Special Provisions will control the Crop Provisions and these Basic Provisions; the Crop Provisions will control these Basic Provisions; and the Catastrophic Risk Protection Endorsement, if applicable, will control all provisions.

TERMS AND CONDITIONS

Basic Provisions

1. Definitions.

Abandon. Failure to continue providing sufficient care (cultivation, irrigation, fertilization, application of chemicals, etc., consistent with good farming practices) for the insured crop to make normal progress toward harvest or maturity, or failure to harvest in a timely manner, unless such failures are due to an insurable cause.

Acreage report. A report required by paragraph 6 of these Basic Provisions that contains, in addition to other required information, your report of your share of all acreage of an insured crop in the county whether insurable or not insurable.

Acreage reporting date. The date contained in the Special Provisions or as provided in section 6 by which you are required to submit your acreage report.

Act. The Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*).

Actuarial Table. The forms and related material for the crop year which are available for public inspection in your agent's office, and which show the amounts of insurance or production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable acreage, and other related information regarding crop insurance in the county.

Another use, notice of. The written notice required when you wish to put acreage to another use (see section 14).

Application. The form required to be completed by you and accepted by us before insurance coverage will commence. This form must be completed and filed in your agent's office not later than the sales closing date of the initial insurance year for each crop for which insurance coverage is requested. If a break in insurance coverage occurs for any reason, including but not limited to suspension, debarment, disqualification, placement on the ineligibility list, violation of the controlled substance provisions of the Food Security Act of 1985, etc., a new application must be filed.

Assignment of indemnity. A transfer of policy rights, made on our form, and effective when approved by us. It is the arrangement whereby you assign your right to an indemnity payment to any party of your choice for the crop year.

Basic unit. All insurable acreage of the insured crop in the county on the date coverage begins for the crop year.

(1) In which you have 100 percent crop share; or

(2) Which is owned by one person and operated by another person on a share basis. (Example: If, in addition to the land you own, you rent land from five landlords, three on a crop share basis and two on a cash basis, you would be entitled to four units; one for each crop share lease and one that combines the two cash leases and the land you own.) Land which would otherwise be one unit may, in certain instances, be divided according to guidelines contained in section 34 of these Basic Provisions and in the applicable Crop Provisions. Units will be determined when the acreage is reported but may be adjusted or combined to reflect the actual unit structure when adjusting a loss. No further unit division may be made after the acreage reporting date for any reason.

Cancellation date. The calendar date specified in each Crop Provision on which that Crop Provision will automatically renew unless canceled in writing by either you or us.

Claim for indemnity. A claim made on our form by you for damage or loss to an insured crop and submitted to us not later than 60 days after the end of the insurance period (see section 14).

Consent. Approval in writing by us allowing you to take a specific action.

Contract. (See "policy").

Contract change date. The calendar date by which we make any policy changes available for inspection in the agent's office (see section 4).

County. The county, parish, or other political subdivision of a state shown on your accepted application and includes acreage in a field that extends into an adjoining county if the county boundary is not readily discernible.

Coverage. The insurance provided by this policy, against insured loss of production or value, by unit as shown on your summary of coverage.

Coverage begins, date. The calendar date insurance begins on the insured crop, as contained in the Crop Provisions, or the date planting begins on the unit (see section 11 and the policy for specific provisions relating to prevented planting).

Crop Provisions. The part of the policy that contains the specific provisions of insurance for each insured crop.

Crop year. The period within which the insured crop is normally grown and designated by the calendar year in which the insured crop is normally harvested.

Damage. Injury, deterioration, or loss of production of the insured crop due to insured or uninsured causes.

Damage, notice of. A written notice required to be filed in your agent's office whenever you initially discover the insured crop has been damaged to the extent that a loss is probable (see section 14).

Days. Calendar days.

Deductible. The amount determined by subtracting the coverage level percentage you choose from 100 percent. For example, if you elected a 65 percent coverage level, your deductible would be 35 percent (100%—65% = 35%).

Delinquent account. Any account you have with us in which premiums and interest on

those premiums is not paid by the termination date specified in the Crop Provisions, or any other amounts due us, such as indemnities found not to have been earned, which are not paid within 30 days of our mailing or other delivery of notification to you of the amount due.

Earliest planting date. The earliest date established for planting the insured crop and qualifying for a replant payment if applicable (see Special Provisions and section 13).

End of insurance period, date of. The date upon which your crop insurance coverage ceases for the crop year (see Crop Provisions and section 11).

Final planting date. The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full production guarantee or amount of insurance per acre.

FSA. The Farm Service Agency, an agency of the USDA, or a successor agency.

FSA farm serial number. The number assigned to the farm by the local FSA office.

Good farming practices. The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee or amount of insurance, and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Insured. The named person as shown on the application accepted by us. This term does not extend to any other person having a share or interest in the crop (for example, a partnership, landlord, or any other person) unless specifically indicated on the accepted application.

Insured crop. The crop defined under these Basic Provisions and the applicable Crop Provisions as shown on the application accepted by us.

Interplanted. Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice. A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee or amount of insurance on the irrigated acreage planted to the insured crop.

Late planted. Acreage planted to the insured crop after the final planting date.

Late planting period. The period that begins the day after the final planting date for the insured crop and ends 25 days after the final planting date, unless otherwise specified in the Special Provisions.

Loss, notice of. The notice required to be given by you not later than 72 hours after certain occurrences or 15 days after the end of the insurance period, whichever is earlier (see section 14).

Negligence. The failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

Non-contiguous. Any two or more tracts of land whose boundaries do not touch at any point, except that land separated only by a

public or private right-of-way, waterway, or an irrigation canal will be considered as contiguous.

Palmer Drought Severity Index. A meteorological index calculated by the National Weather Service to indicate prolonged and abnormal moisture deficiency or excess.

Person. An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State. Person does not include the United States Government or any agency thereof.

Planted acreage. Land in which seed, plants, or trees have been placed appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice.

Policy. The agreement between you and us consisting of the accepted application, these Basic Provisions, the Crop Provisions, the Special Provisions, other applicable endorsements or options, the Actuarial Table for the insured crop, the Catastrophic Risk Protection Endorsement, if applicable, and the applicable regulations published in 7 CFR chapter IV.

Practical to replant. Our determination, after loss or damage to the insured crop, based on all factors, including, but not limited to moisture availability, marketing window, condition of the field, and time to crop maturity, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period or the final planting date if no late planting period is applicable, unless replanting is generally occurring in the area. Unavailability of seed or plants will not be considered a valid reason for failure to replant.

Premium billing date. The earliest date upon which you will be billed for insurance coverage based on your acreage report and which generally falls at or near harvest time. The premium billing date is contained in the Special Provisions.

Prevented planting. Failure to plant the insured crop with proper equipment by the final planting date designated in the Special Provisions for the insured crop in the county or by the end of the late planting period. You must have failed to plant the insured crop due to an insured cause of loss that has prevented the majority of producers in the surrounding area from planting the same crop.

Prevented planting, notice of. Notice required within 72 hours of the final planting date if you are prevented from planting.

Price election. The amounts determined by FCIC and contained in the Special Provisions or an addendum thereto, to be used as a basis for computing the value per unit of production for the purposes of determining premium and indemnity under the policy.

Production guarantee (per acre). The number of pounds, bushels, tons, cartons, or other applicable units of measure determined by multiplying the approved actual production history (APH) yield per acre, calculated in accordance with 7 CFR part

400, subpart G, by the coverage level percentage you elect.

Production report. A written record showing your annual production and used by us to determine your yield for insurance purposes (see section 3). The report contains previous years yield information including planted acreage and harvested production. This report must be supported by written verifiable records from a warehouseman or buyer of the insured crop or by measurement of farm stored production, or by other records of production approved by us on an individual case basis.

Replanting. Performing the cultural practices necessary to prepare the land to replace the seed or plants of the damaged or destroyed crop and then replacing the seed or plants in the insured acreage.

Representative sample. Portions of the insured crop which are required to remain in the field for examination and review by our loss adjusters when making a crop appraisal, as specified in the Crop Provisions. In certain instances we may allow you to harvest the crop and require only that samples of the crop residue be left in the field.

Sales closing date. The date contained in the Special Provisions which is the final date when an application may be filed. This is the last date for you to make changes in your crop insurance coverage for the crop year.

Section. (for the purposes of unit structure)—A unit of measure under a rectangular survey system describing a tract of land usually one mile square and usually containing approximately 640 acres.

Share. Your percentage of interest in the insured crop as an owner, operator, or tenant at the time insurance attaches. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share at the earlier of the time of loss, or the beginning of harvest.

Special Provisions. The part of the policy that contains specific provisions of insurance for each insured crop that may vary by geographic area.

State. The state shown on your accepted application.

Summary of coverage. Our statement to you, based upon your acreage report, by unit, specifying the insured crop and the guarantee or amount of insurance coverage provided.

Tenant. A person who rents land from another person for a share of the crop or a share of the proceeds of the crop (see the definition of "share" above).

Termination date. The calendar date contained in the Crop Provisions upon which your policy ceases to exist for nonpayment of premium or any other amount due us under the policy.

Timely planted. Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

USDA. United States Department of Agriculture.

Void. When the policy is considered not to have existed for a crop year as a result of concealment, fraud or misrepresentation (see section 27).

Written agreement. A document that alters designated terms of a policy and that is authorized under these Basic Provisions, the Crop Provisions, or the Special Provisions for the insured crop (see section 18).

2. Life of Policy, Cancellation, and Termination.

(a) This is a continuous policy and will remain in effect for each crop year following the acceptance of the original application until canceled by you in accordance with the terms of the policy or terminated by operation of the terms of the policy or by us.

(b) Applications that do not contain all social security numbers and employer identification numbers, as applicable, coverage level, price election, crop, type, variety, or class, plan of insurance, and any other material information required to insure the crop, are not acceptable. If a person with a substantial beneficial interest in the insured crop and who is not on the non-standard classification list refused to provide a social security number or employer identification number, the amount of coverage available under the policy will be reduced proportionately to that person's share of the crop. If the person refusing to supply a social security number or employer identification number is on the non-standard classification system list the insurance will not be available to that entity.

(c) After acceptance of the application, you may not cancel this policy for the initial crop year. Thereafter, the policy will continue in force for each succeeding crop year unless canceled or terminated as provided below.

(d) Either you or we may cancel this policy after the initial crop year by providing written notice to the other on or before the cancellation date shown in the Crop Provisions.

(e) All policies issued by us under the authority of the Act will terminate as of the coincidental or next termination date contained in these policies if any amount due us is not paid on or before the termination date for the crop on which the amount is due. Such unpaid debts will make you ineligible for any crop insurance provided under the Act until payment is made or you execute an agreement to repay the debt and all payments are made in accordance with the agreement, or your debt is discharged in your bankruptcy proceeding. If payment is made, you execute an agreement to repay the debt or are discharged in bankruptcy after the sales closing date for the crop, you will not be eligible for crop insurance until the next crop year. If we deduct an amount due us from an indemnity, the date of payment for the purpose of this paragraph will be the date you sign the properly completed claim for indemnity.

(f) If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the policy will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after coverage begins for any crop year, the policy will continue in force through the crop year and terminate at the end of the insurance period and any indemnity will be paid to the person or persons determined to be beneficially entitled to the indemnity. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

(g) Your policy will terminate if no premium is earned for 3 consecutive years.

(h) The cancellation and termination dates are contained in the Crop Provisions.

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

(a) For each crop year the production guarantee or amount of insurance, coverage level, and price at which an indemnity will be determined for each unit will be those used to calculate your summary of coverage. The information necessary to determine those factors will be contained in the Special Provisions or in the Actuarial Table.

(b) You may select only one coverage level offered by us for each insured crop. You may change the coverage level, price election, or amount of insurance for the following crop year by giving written notice to us not later than the sales closing date for the insured crop. Since the price election or amount of insurance may change each year, if you do not select a new price election or amount of insurance on or before the sales closing date, we will assign a price election or amount of insurance which bears the same relationship to the price election schedule as the price election or amount of insurance was in effect for the preceding year. (For example: If you selected 100 percent of the market price for the previous crop year and you do not select a new price election for the current crop year, we will assign 100 percent of the market price for the current crop year.)

(c) You must report production to us for the previous crop year by the earlier of the acreage reporting date or 45 days after the cancellation date. If you do not provide the required production report, we will assign a yield for the previous crop year. The yield assigned by us will not be more than 75 percent of the yield used by us to determine your coverage for the previous crop year. The production report or assigned yield will be used to compute your production history for the purpose of determining your coverage for the current crop year. If you have filed a claim for any crop year, the amount of production used to complete the claim for indemnity will be the production report for that year unless otherwise specified by FCIC. Production and acreage for the prior crop year must be reported for each proposed optional unit by the production reporting date. If you did not provide the information stated above, the optional units will be combined into the basic unit.

(d) We may revise your production guarantee for any farm unit, and revise any indemnity paid based on that production guarantee, if we find that your production report under paragraph (c) of this section:

(1) Is not supported by written verifiable records in accordance with the definition of production report; or

(2) Fails to accurately report actual production.

(e) In addition to the maximum price election or amount of insurance available on the contract change date, we may provide an additional price election or amount of insurance no later than 15 days prior to the sales closing date. These additional amounts will not be less than the maximum amounts available on the contract change date. If you elect this additional amount on or before the

sales closing date, any claim settlement and amount of premium will be based on this amount.

4. Contract Changes.

We may change the terms of your coverage under this policy from year to year. Any changes in policy provisions, price elections, amounts of insurance, premium rates, and program dates will be provided by us to your crop insurance agent not later than the contract change date contained in the Crop Provisions except the price elections may be offered after the contract change date in accordance with section 3. You will be notified, in writing, of these changes not later than 30 days prior to the cancellation date for the insured crop. Acceptance of changes will be conclusively presumed in the absence of notice from you to change or cancel your insurance coverage.

5. Liberalization.

If we adopt any revisions which would broaden the coverage under this policy subsequent to the contract change date without additional premium, the broadened coverage will apply.

6. Report of Acreage.

(a) An annual acreage report must be submitted to us on our form for each insured crop in the county on or before the acreage reporting date contained in the Special Provisions, except as follows:

(1) If you insure multiple crops that have fall final planting dates (on or after August 15 but before December 31), you must submit an acreage report for all such crops on or before the latest applicable fall acreage reporting date for such crops; and

(2) If you insure multiple crops that have spring final planting dates (on or after December 31 but before August 15), you must submit an acreage report for all such crops on or before the latest applicable spring acreage reporting date for such crops.

(3) Notwithstanding the provisions in sections 6(a) (1) and (2):

(i) If the Special Provisions designate separate planting periods for a crop, you must submit an acreage report for each planting period on or before the acreage reporting date contained in the Special Provisions for the planting period; and

(ii) If planting of the insured crop continues after the final planting date or you are prevented from planting during the late planting period, the acreage reporting date will be the later of the acreage reporting date contained in the Special Provisions or the date determined in accordance with section 6(a)(2), or 5 days after the end of the late planting period for the insured crop.

(b) If you do not have a share in any insured crop in the county for the crop year, you must submit an acreage report so indicating.

(c) Your acreage report must include the following information, if applicable:

(1) All acreage of the crop (insurable and not insurable) in which you have a share;

(2) Your share at the time coverage begins;

(3) The practice;

(4) The type; and

(5) The date the insured crop was planted, including the date for late planted acreage.

(d) Because incorrect reporting on the acreage report may have the effect of

changing your premium and any indemnity which may be due, you may not revise this report after the acreage reporting date without our consent.

(e) We may elect to determine all premiums and indemnities based on the information you submit on the acreage report or upon the factual circumstances which we determine to have actually existed.

(f) If you do not submit an acreage report by the acreage reporting date, or if you fail to report all units, we may elect to determine by unit the insurable crop acreage, share, type and practice or to deny liability on such units. If we deny liability for the unreported units, your share of any production from the unreported units will be allocated as production to count to the reported units in proportion to the liability on each reported unit if you file a claim for a loss. The production allocated in this manner will not be used to compute the yield for actual production history (see 7 CFR part 400, subpart G) for the purpose of determining your coverage for subsequent crop years.

(g) If the information reported by you on the acreage report for share, acreage, practice, type or other material information is inconsistent with the information that is determined to actually exist for a unit and results in:

(1) A lower premium than the actual premium determined to be due, the production guarantee or amount of insurance on the unit will be reduced to an amount that is consistent with the correct information. In the event that insurable acreage is under-reported for any unit, all production or value from insurable acreage in that unit will be considered production or value to count in determining the indemnity; and

(2) Overstated liability, you may be required to provide documentation in subsequent crop years that support your report of acreage for those crop years including but not limited to an acreage measurement service at your own expense.

(h) Errors in reporting units may be corrected by us at the time of adjusting a loss to reduce our liability and to conform to applicable unit division guidelines.

7. Annual Premium.

(a) The annual premium is earned and payable at the time coverage begins. You will be billed for premium due not earlier than the billing date specified in the Special Provisions. The premium due, plus any accrued interest, will be considered delinquent if any amount due us is not paid on or before the termination date specified in the Crop Provisions.

(b) Any amount you owe us related to any crop insured with us under the authority of the Act will be deducted from any replant payment, prevented planting payment, or indemnity due you for any crop insured with us under the authority of the Act. Any delinquent amount may be deducted from any amount owed to you by any United States Government agency or by us.

(c) The annual premium amount is determined by either:

(1) Multiplying the production guarantee per acre times the price election, times the premium rate, times the insured acreage, times your share at the time coverage begins, and times any premium adjustment percentages that may apply; or

(2) Multiplying the amount of insurance per acre times the premium rate, times the insured acreage, times your share at the time coverage begins, and times any premium adjustment percentages that may apply.

(d) The premium will be computed using the price election or amount of insurance you elect or that we assign.

8. Insured Crop.

(a) The insured crop will be that shown on your accepted application and as specified in the Crop Provisions and must be grown on insurable acreage.

(b) A crop which will NOT be insured will include, but will not be limited to, any crop:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates, production guarantees or amounts of insurance have been established;

(2) Of a type, class or variety established as not adapted to the area or excluded by the policy provisions;

(3) That is a volunteer crop;

(4) That is a second crop following the same crop (insured or not insured) harvested in the same crop year unless specifically permitted by the Crop Provisions or the Special Provisions;

(5) Which is planted for the development or production of hybrid seed or for experimental purposes, unless permitted by the Crop Provisions or by a written agreement to insure such crop; or

(6) Used for wildlife protection or management.

9. Insurable Acreage.

(a) Acreage planted to the insured crop in which you have a share is insurable except for acreage:

(l) That has not been planted and harvested within one of the 3 previous calendar years, unless such acreage was not planted to comply with any other USDA program or because of crop rotation, (e.g., corn, soybean, alfalfa; and the alfalfa remained for 4 years before the acreage was planted to corn again), or the crop provisions specifically allow insurance for such acreage;

(2) That has been strip mined unless otherwise approved by written agreement, or unless crops produced for food or fiber have been harvested from the acreage for at least five consecutive crop years after it was strip mined. Cover or forage crops will not qualify as a food or fiber crop for the purpose of this section.

(3) On which the insured crop is damaged and it is practical to replant the insured crop, but the insured crop is not replanted;

(4) Which is interplanted, unless allowed by the Crop Provisions;

(5) Which is otherwise restricted by the Crop Provisions or Special Provisions; or

(6) Planted in any manner other than as specified in the policy provisions for the crop

unless a written agreement to such planting exists.

(b) If insurance is provided for an irrigated practice, you must report as irrigated only that acreage for which you have adequate facilities and water, at the time coverage begins, to carry out a good irrigation practice.

(c) If acreage is irrigated and we do not provide a premium rate for an irrigated practice, you may either report and insure the irrigated acreage as "non-irrigated," or report the irrigated acreage as not insured.

(d) We may restrict the amount of acreage which we will insure to the amount allowed under any acreage limitation program established by the United States Department of Agriculture if we notify you of that restriction prior to the sales closing date.

10. Share Insured.

(a) You may only insure your share (see section 1).

(b) You as a landlord (or tenant) may insure your tenant's (or landlord's) share of the crop if evidence of the other party's approval of that insurance is demonstrated (Lease, Power of Attorney, etc.). The respective shares must be clearly set out on the Acreage Report and a copy of the other party's approval must be retained by us.

(c) Unless the accepted application clearly indicates that insurance is requested for a partnership or joint venture, or is intended to cover the landlord's, or tenant's share of the crop, insurance will cover only the crop share of the person completing the application. The share will not extend to any other person having an interest in the crop except as may otherwise be specifically allowed in this policy.

(d) We may consider any acreage or interest reported by or for your spouse, child or any member of your household to be included in your share.

(e) Acreage rented for a percentage of the crop will be considered a crop share lease.

(f) A lease containing provisions for BOTH a minimum payment (such as a specified amount of cash, bushels, pounds, etc.) AND a crop share will be considered a crop share lease. Acreage rented for cash will be considered a cash lease. A lease containing provisions for EITHER a minimum payment OR a crop share (e.g. lease provides for a 50/50 share or 100 dollars, whichever is greater) will be considered a cash lease.

11. Insurance Period.

(a) Except for prevented planting coverage (see section 17), coverage begins on each unit or part of a unit at the later of:

(1) The date we accept your application;

(2) The date the insured crop is planted; or

(3) The calendar date contained in the Crop Provisions for the beginning of the insurance period.

(b) Coverage ends at the earliest of:

(1) Total destruction of the insured crop on the unit;

(2) Harvest of the unit;

- (3) Final adjustment of a loss on a unit;
- (4) The calendar date contained in the Crop Provisions for the end of the insurance period;
- (5) Abandonment of the crop on the unit; or
- (6) As otherwise specified in the Crop Provisions.

12. Causes of Loss.

The insurance provided is against only unavoidable loss of production directly caused by specific causes of loss contained in the Crop Provisions. All other causes of loss, including but not limited to the following, are NOT covered:

- (a) Negligence, mismanagement, or wrongdoing by you, any member of your family or household, your tenants, or employees;
- (b) The failure to follow recognized good farming practices for the insured crop;
- (c) Water contained by any governmental, public, or private dam or reservoir project;
- (d) Failure or breakdown of irrigation equipment or facilities; or
- (e) Failure to carry out a good irrigation practice for the insured crop if applicable.

13. Replanting Payment.

(a) If allowed by the Crop Provisions, a replanting payment may be made on an insured crop replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured planted acreage for the unit (as determined on the final planting date).

(b) No replanting payment will be made on acreage:

(1) On which our appraisal establishes that production will exceed the level set by the Crop Provisions;

(2) Initially planted prior to the date established by the Special Provisions; or

(3) On which one replanting payment has already been allowed for the crop year.

(c) The replanting payment per acre will be your actual cost for replanting, but will not exceed the amount determined in accordance with the Crop Provisions.

(d) No replanting payment will be paid if we determine it is not practical to replant.

14. Duties in the Event of Damage or Loss.

Your Duties—

(a) In case of damage to any insured crop you must:

(1) Protect the crop from further damage by providing sufficient care;

(2) Give us notice within 72 hours of your initial discovery of damage (but not later than 15 days after the end of the insurance period), by unit, for each insured crop; and

(3) Leave representative samples intact for each field of the damaged unit as may be required by the Crop Provisions.

(4) Cooperate with us in the investigation or settlement of the claim, and, as often as we reasonably require:

(i) Show us the damaged crop;

(ii) Allow us to remove samples of the insured crop; and

(iii) Provide us with records and documents we request and permit us to make copies.

(b) You must obtain consent from us before, and notify us after you:

(1) Destroy any of the insured crop which is not harvested;

- (2) Put the insured crop to an alternative use;
- (3) Put the acreage to another use; or
- (4) Abandon any portion of the insured crop. We will not give such consent if it is practical to replant the crop or until we have made an appraisal of the potential production of the crop.

(c) In addition to complying with all other notice requirements, you must submit a claim for indemnity declaring the amount of your loss not later than 60 days after the end of the insurance period. This claim must include all the information we require to settle the claim.

(d) Upon our request, you must:

(1) Provide a complete harvesting and marketing record of each insured crop by unit including separate records showing the same information for production from any acreage not insured; and

(2) Submit to examination under oath.

(e) You must establish the total production or value received for the insured crop on the unit and that any loss of production or value occurred during the insurance period and was directly caused by one or more of the insured causes specified in the Crop Provisions.

(f) All notices required in this paragraph that must be received by us within 72 hours may be made by telephone or in person to your crop insurance agent but must be confirmed in writing within 15 days.

Our Duties—

(a) If you have complied with all the policy provisions we will pay your loss within 30 days after:

(1) We reach agreement with you; or

(2) The entry of a final judgment by a court of competent jurisdiction.

(b) In the event we are unable to pay your loss within 30 days, we will give you notice of our intentions within the 30 day period.

(c) We may defer the adjustment of a loss until the amount of loss can be accurately determined. We will not pay for additional damage resulting from your failure to provide sufficient care for the crop during the deferral period.

(d) We recognize and apply the loss adjustment procedures established or approved by the Federal Crop Insurance Corporation.

15. Production Included in Determining Indemnities.

(a) The total production to be counted for a unit will include all production determined in accordance with the policy.

(b) The amount of production of any unharvested insured crop may be determined on the basis of our field appraisals conducted after the end of the insurance period.

(c) If you elect to exclude hail and fire as insured causes of loss and the insured crop is damaged by hail or fire, appraisals will be made as described in the applicable Form FCI-78 'Request To Exclude Hail and Fire', or a form approved by the Federal Crop Insurance Corporation that contains the same terms.

16. Late Planting.

Unless limited by the Crop Provisions, insurance will be provided for acreage planted to the insured crop after the final planting date in accordance with the following:

(a) The production guarantee or amount of insurance for each acre planted to the insured crop during the late planting period will be reduced by 1 percent per day for each day planted after the final planting date.

(b) The production guarantee or amount of insurance for each acre of the insured crop that is planted to the insured crop after the late planting period (or after the final planting date for crops that do not have a late planting period) will be the same as the production guarantee or amount of insurance that is provided for acreage of the insured crop that is prevented from being planted (see section 17). Such acreage must have been prevented from being planted by an insurable cause occurring within the insurance period for prevented planting coverage.

(c) The premium amount for insurable acreage planted to the insured crop after the final planting date will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for acreage planted after the final planting date exceeds the liability on such acreage, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid for such acreage).

17. Prevented Planting.

(a) Unless limited by the Crop Provisions, a prevented planting payment may be made to you for eligible acreage you were prevented from planting if:

(1) You were prevented from planting the insured crop by an insured cause that occurs:

(i) On or after the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on or after the sales closing date for the previous crop year for the insured crop in the county, provided insurance has been in force continuously since that date. Cancellation for the purpose of transferring the policy to a different insurance provider for the subsequent crop year will not be considered a break in continuity for the purpose of the preceding sentence; and

(2) You notify us within 72 hours after the final planting date if you are prevented from planting by such date, whether or not you intend to plant any acreage of the insured crop after the final planting date. In addition to this notice, you must include any acreage of the insured crop that was prevented from being planted on your acreage report.

(b) The Actuarial Table contains the levels of prevented planting coverage that you may elect for the crop on or before the sales closing date. If you do not elect one of the available coverages by the sales closing date, you will receive the prevented planting coverage specified in the Crop Provisions. If you have a Catastrophic Risk Protection Endorsement, you will receive the lowest level of prevented planting coverage available for the crop.

(c) The premium amount for acreage that is prevented from being planted will be the

same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for acreage that is prevented from being planted exceeds the liability on such acreage, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid for such acreage).

(d) Drought or failure of the irrigation water supply will not be considered to be an

insurable cause of loss for the purposes of prevented planting unless, on the final planting date:

- (1) For non-irrigated acreage, the area that is prevented from being planted is classified by the Palmer Drought Severity Index as being in a severe or extreme drought; or
- (2) For irrigated acreage, there is not a reasonable probability of having adequate water to carry out an irrigated practice.

(e) The maximum number of acres that may be eligible for a prevented planting payment for any crop will be determined as follows:

- (1) The base eligible acres for each insured crop will be determined in accordance with the following table.

Type of crop	Base eligible acres (if you have produced any crop for which insurance was available in any of the 4 most recent crop years)	Base eligible acres (if you have not produced any crop for which insurance is available in any of the 4 most recent crop years)
(i) (A) The crop's insurance guarantee is based on APH or the crop does not require yield certification and the crop is not required to be contracted with a processor to be insured.	(B) The maximum number of acres certified for APH purposes or reported for insurance for the crop in any one of the 4 most recent crop years (not including reported prevented planting acreage that was planted to a substitute crop other than an approved cover crop).	(C) The number of acres approved by written agreement in accordance with the provisions in this section and section 18.
(ii) (A) The crop must be contracted with a processor to be insured and the contract specifies a number of acres contracted for the crop year.	(B) The number of acres of the crop specified in the processor contract.	(C) The number of acres of the crop specified in the processor contract.
(iii) (A) The crop must be contracted with a processor to be insured and the processor contract specifies a quantity of production that will be accepted.	(B) The result of dividing the quantity of production stated in the processor contract by your approved yield (For the purposes of establishing the base number of prevented planting acres, any reductions applied to the transitional yield for failure to certify acreage and production for a prior year will not be used.).	(C) The result of dividing the quantity of production stated in the processor contract by your approved yield (For the purposes of establishing the base number of prevented planting acres, any reductions applied to the transitional yield for failure to certify acreage and production for a prior year will not be used.).

(2) All requests for written agreement under this section must be submitted to us on or before the sales closing date and include, by crop, the number of acres of all crops for which insurance is offered under the authority of the Act that you intend to plant in the county.

(3) The total number of acres requested for all crops cannot exceed the number of acres of cropland in your farming operation for the crop year.

(4) The number of acres determined in section 17(e)(1)(i)(B) may be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the total cropland acres that you farmed in the previous year, provided that you submit proof to us on or before the sales closing date for the insured crop that you have purchased or leased additional land, that acreage will be released from any USDA program which prohibits harvest of a crop, or that the additional acreage has not been cropped in any of the four most recent crop years. Such acreage must have been purchased, leased, released from the USDA program, or intended to be brought into production in time to plant it for the current crop year.

(5) The result of section 17(e)(1) or 17(e)(4), whichever is applicable, will be reduced by subtracting the number of acres of the crop that are timely and late planted.

(f) Regardless of the number of eligible acres determined in section 17(e), prevented planting coverage will not be provided for any acreage:

(1) That does not constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit, whichever is less (We

will assume that any prevented planting acreage within a field that contains planted acreage would have been planted to the same crop that is planted in the field, unless the prevented planting acreage constitutes at least 20 acres or 20 percent of the insurable acreage in the field and you can prove that you intended to plant such acreage to another crop);

(2) For which the Actuarial Table does not designate a premium rate unless a written agreement designates such premium rate;

(3) Used for conservation purposes or intended to be left unplanted under any program administered by the USDA;

(4) On which the insured crop is prevented from being planted, if you or any other person receives a prevented planting payment for any crop for the same acreage in the same crop year, unless you have coverage greater than that applicable to the Catastrophic Risk Protection Plan of Insurance and have records of acreage and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage;

(5) On which the insured crop is prevented from being planted, if any crop from which any benefit is derived under any program administered by the USDA is planted and fails, or if any crop is planted and harvested, hayed or grazed on the same acreage in the same crop year (other than a cover crop which may be hayed or grazed after the final planting date for the insured crop), unless you have coverage greater than that applicable to the Catastrophic Risk Protection Plan of Insurance and have records of acreage

and production that are used to determine your approved yield that show the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage;

(6) Of a crop that is prevented from being planted if a cash lease payment is also received for use of the same acreage in the same crop year (not applicable if acreage is leased for haying or grazing only);

(7) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes;

(8) That is in excess of the number of acres eligible for a prevented planting payment or the number of eligible acres physically available for planting;

(9) For which you cannot provide proof that you had the inputs available to plant and produce a crop with the expectation of at least producing the yield used to determine the production guarantee or amount of insurance;

(10) Based on an irrigated practice production guarantee or amount of insurance unless adequate irrigation facilities were in place to carry out an irrigated practice on the acreage prior to the insured cause of loss that prevented you from planting; or

(11) Based on a price election, amount of insurance or production guarantee for a crop type that you did not plant in at least one of the four most recent years. Types for which separate price elections, amounts of insurance, or production guarantees are available must be included in your APH database in at least one of the most recent four years, or, crops that do not require yield certification (crops for which the insurance

guarantee is not based on APH) must be reported on your acreage report in at least one of the four most recent crop years.

(g) The prevented planting payment for any eligible acreage within a unit will be determined by:

(1) Multiplying the liability per acre for timely planted acreage of the insured crop (the amount of insurance per acre or the production guarantee per acre multiplied by the price election for the crop, or type if applicable) by the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage;

(2) Multiplying the result of section 17(g)(1) by the number of eligible prevented planting acres in the unit; and

(3) Multiplying the result of section 17(g)(2) by your share.

18. Written Agreements.

Terms of this policy which are specifically designated for the use of written agreements may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 18(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one crop year (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

19. Crops as Payment.

You must not abandon any crop to us. We will not accept any crop as compensation for payments due us.

For FCIC policies

20. Appeals.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration or appeal those determinations in accordance with appeal provisions published at 7 CFR part 11.

For reinsured policies

20. Arbitration.

(a) If you and we fail to agree on any factual determination, the disagreement will be resolved in accordance with the rules of the American Arbitration Association.

Failure to agree with any factual determination made by FCIC must be resolved through the FCIC appeal provisions published at 7 CFR part 11.

(b) No award determined by arbitration can exceed the amount of liability established or

which should have been established under the policy.

21. Access to Insured Crop and Record Retention.

(a) We reserve the right to examine the insured crop as often as we reasonably require.

(b) For three years after the end of the crop year, you must retain, and provide upon our request, complete records of the harvesting, storage, shipment, sale, or other disposition of all the insured crop produced on each unit. This requirement also applies to the records used to establish the basis for the production report for each unit. You must also upon our request, provide separate records showing the same information for production from any acreage not insured. We may extend the record retention period beyond three years by notifying you of such extension in writing. Your failure to keep and maintain such records may, at our option, result in:

(1) Cancellation of the policy;

(2) Assignment of production to the units by us;

(3) Combination of the units; or

(4) A determination that no indemnity is due;

(c) Any person designated by us will, at any time during the record retention period, have access:

(1) To any records relating to this insurance at any location where such records may be found or maintained; and

(2) To the farm.

(d) By applying for insurance under the authority of the Act or by continuing insurance for which you previously applied, you authorize us, or any person acting for us, to obtain records relating to the insured crop from any person who may have custody of those records including, but not limited to, FSA offices, banks, warehouses, gins, cooperatives, marketing associations, and accountants. You must assist us in obtaining all records which we request from third parties.

22. Other Insurance.

(a) *Other Like Insurance.* You must not obtain any other crop insurance issued under the authority of the Act on your share of the insured crop. If we determine that more than one policy on your share is intentional, you may be subject to the fraud provisions under this policy. If we determine that the violation was not intentional, the policy with the earliest date of application will be in force and all other policies will be void. Nothing in this paragraph prevents you from obtaining other insurance not issued under the Act.

(b) *Other Insurance Against Fire.* If you have other insurance, whether valid or not, against damage to the insured crop by fire during the insurance period, and you have not excluded coverage for fire from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this policy without regard to any other insurance; or

(2) The amount by which the loss from fire is determined to exceed the indemnity paid or payable under such other insurance.

(3) For the purpose of subsection (b) of this section the amount of loss from fire will be the difference between the fair market value

of the production of the insured crop on the unit involved before the fire and after the fire, as determined from appraisals made by us.

23. Conformity to Food Security Act.

Although your violation of a number of federal statutes, including the Act, may cause cancellation, termination, or voidance of your insurance contract, you should be specifically aware that your policy will be canceled if you are determined to be ineligible to receive benefits under the Act due to violation of the controlled substance provisions (title XVII) of the Food Security Act of 1985 (Pub. L. 99-198) and the regulations promulgated under the Act by USDA. Your insurance policy will be canceled if you are determined, by the appropriate Agency, to be in violation of these provisions. We will recover any and all monies paid to you or received by you and your premium will be refunded, less a reasonable amount for expenses and handling not to exceed 20 percent of the premium paid or to be paid by you.

For FCIC Policies

24. Amounts Due Us.

(a) Any amount illegally or erroneously paid to you or that is owed to us but is delinquent may be recovered by us through offset by deducting it from any loan or payment due you under any Act of Congress or program administered by any United States Government Agency, or by other collection action.

(b) Interest will accrue at the rate of 1 1/4 percent simple interest per calendar month, or any part thereof, on any unpaid premium amount due us. With respect to any premiums owed, interest will start to accrue on the first day of the month following the premium billing date specified in the Special Provisions.

(c) For the purpose of any other amounts due us, such as repayment of indemnities found not to have been earned, interest will start on the date that notice is issued to you for the collection of the unearned amount. Amounts found due under this paragraph will not be charged interest if payment is made within 30 days of issuance of the notice by us. The amount will be considered delinquent if not paid within 30 days of the date the notice is issued by us.

(d) Penalties and interest will be charged in accordance with 31 U.S.C. 3717 and 4 CFR part 102. The penalty for accounts more than 90 days delinquent is an additional 6 percent per annum.

(e) Interest on any amount due us found to have been received by you because of fraud, misrepresentation or presentation by you of a false claim will start on the date you received the amount with the additional 6 percent penalty beginning on the 31st day after the notice of amount due is issued to you. This interest is in addition to any other amount found to be due under any other federal criminal or civil statute.

(f) If we determine that it is necessary to contract with a collection agency, refer the debt to government collection

centers, the Department of Treasury Offset Program, or to employ an attorney to assist in collection, you agree to pay all the expenses of collection.

(g) All amounts paid will be applied first to the payment of the expenses of collection second to the reduction of any penalties which may have been assessed, then to reduction of accrued interest, then to reduction of the principal balance.

For Reinsured Policies

24. Amounts Due Us.

(a) Interest will accrue at the rate of 1.25 percent simple interest per calendar month on any unpaid amount due us. For the purpose of premium amounts due us, the interest will start on the first day of the month following the premium billing date specified in the Special Provisions.

(b) For the purpose of any other amounts due us, such as repayment of indemnities found not to have been earned, interest will start on the date that notice is issued to you for the collection of the unearned amount. Amounts found due under this paragraph will not be charged interest if payment is made within 30 days of issuance of the notice by us. The amount will be considered delinquent if not paid within 30 days of the date the notice is issued by us.

(c) All amounts paid will be applied first to expenses of collection (see subsection (d) of this section) if any, second, to the reduction of accrued interest, and then to the principal balance.

(d) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in collection, you agree to pay all of the expenses of collection. Those expenses will be paid before the application of any amounts to interest or principal.

25. Legal Action Against Us.

(a) You may not bring legal action against us unless you have complied with all of the policy provisions.

(b) If you do take legal action against us you must do so within 12 months of the date of denial of the claim. Suit must be brought in accordance with the provisions of 7 U.S.C. 1508(j).

(c) Your right to recover damages (compensatory, punitive, or other), attorney's fees, or other charges is limited or excluded by this contract or by Federal Regulations.

26. Payment and Interest Limitations.

(a) Under no circumstances will we be liable for the payment of damages (compensatory, punitive, or other), attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim.

(b) We will pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment of a court of competent jurisdiction, from and including the 61st day after the date you sign, date, and submit to us the properly completed claim on our form. Interest will be paid only if the reason for our failure to timely pay is NOT due to your failure to provide information or other material necessary for the computation or payment of

the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1 of each year and may vary with each publication.

27. Concealment, Misrepresentation or Fraud.

(a) This policy will be voided in the event that you have falsely or fraudulently concealed the fact that you are ineligible to receive benefits under the Act. This policy will also be voided if you or anyone assisting you has intentionally concealed or misrepresented any material fact relating to this policy.

(b) Even though the policy is void, you may still be required to pay 20 percent of the premium due under the policy to offset costs incurred by us in the service of this policy. If previously paid, the balance of the premium will be returned.

(c) Voidance of this policy will result in you having to reimburse all indemnities paid during the crop year in which the violation occurred.

(d) Voidance will be effective with the first day of the insurance period for the crop year in which the act occurred and will not affect the policy for subsequent crop years unless a violation of this section also occurred in such crop years or you are disqualified or suspended or debarred under 7 CFR part 400, subpart R.

28. Transfer of Coverage and Right to Indemnity.

If you transfer any part of your share during the crop year, you may transfer your coverage rights. The transfer must be on our form and approved by us. Both you and the person to whom you transfer your interest are jointly and severally liable for the payment of the premium. The transferee has all rights and responsibilities under this policy consistent with the transferee's interest. We will not be liable for any more than the liability determined in accordance with your policy that existed before the transfer occurred. The transferee must be eligible for crop insurance.

29. Assignment of Indemnity.

You may assign to another party your right to an indemnity for the crop year. The assignment must be on our form and will not be effective until approved in writing by us. The assignee will have the right to submit all loss notices and forms as required by the policy. If you have suffered a loss from an insurable cause and fail to file a claim for indemnity within 60 days after the end of the insurance period, the assignee may submit the claim for indemnity not later than 15 days after the 60 day period has expired. We will make a good faith effort to honor the terms of this assignment but no action will lie against us for failure to do so.

30. Subrogation (Recovery of Loss From A Third Party).

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve this right. If we pay you for your loss, your right to recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

31. Applicability of State and Local Statutes.

If the provisions of this policy conflict with statutes of the State or locality in which this policy is issued, the policy provisions will prevail. State and local laws and regulations in conflict with federal statutes, this policy, and the applicable regulations do not apply to this policy.

32. Descriptive Headings.

The descriptive headings of the various policy provisions are formulated for convenience only and are not intended to affect the construction or meaning of any of the policy provisions.

33. Notices.

All notices required to be given by you must be in writing and received by your crop insurance agent within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice. If the date by which you are required to submit a report or notice falls on Saturday, Sunday, or a Federal holiday, or, if your agent's office is, for any reason, not open for business on the date you are required to submit such notice or report, such notice or report must be submitted on the next business day. All notices and communications required to be sent by us to you will be mailed to the address contained in your records located with your crop insurance agent. Notice sent to such address will be conclusively presumed to have been received by you. You should advise us immediately of any change of address.

34. Unit Division.

(a) Unless limited by the Crop Provisions or Special Provisions, a basic unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8) may be divided into optional units if, for each optional unit, you meet the following:

(1) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(2) All optional units you select for the crop year are identified on the acreage report for that crop year;

(3) You have records, which can be independently verified, of planted acreage and the production from each optional unit for at least the last crop year used to determine your production guarantee;

(4) You have records of marketed or stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each optional unit must be kept separate until loss adjustment is completed by us; and

(b) Each optional unit must meet one or more of the following, unless otherwise specified in the Crop Provisions or allowed by written agreement:

(1) Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands. In

areas which have not been surveyed using the systems identified above or another system approved by us, and in areas where boundaries are not readily discernable, each optional unit must be located in a separate FSA farm serial number; and

(2) In addition to, or instead of, establishing optional units by section, section equivalent or FSA farm serial number, optional units may be based on irrigated and non-irrigated acreage if both are located in the same section, section equivalent or FSA farm serial number. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which the guarantee is based, except the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be a part of the unit containing the irrigated acreage. However, non-irrigated acreage that is not a part of a field in which a center-pivot irrigation system is used may qualify as a separate optional unit provided all requirements of this section and the Crop Provisions are met.

(c) Optional units are not available for crops insured under a Catastrophic Risk Protection Endorsement.

(d) If you do not comply fully with the provisions in this section, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined by us to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you for the units combined.

* * * * *

5. Section 457.101 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.101 Small grains crop insurance provisions.

The small grains crop insurance provisions for the 1998 and succeeding crop years in counties with a contract change date of December 31, and for the 1999 and succeeding crop years in counties with a contract change date of June 30, are as follows:

* * * * *

6. In § 457.101, 1. Definitions, remove alphabetic paragraph designations and the definitions of "days," "final planting date," "good farming practices," "interplanted," "irrigated practice," "late planted," "practical to

replant," "production guarantee," "replanting," and "timely planted" and revise the definitions of "planted acreage" and "prevented planting" to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), except for flax, land on which seed is initially spread onto the soil surface by any method and subsequently is mechanically incorporated into the soil in a timely manner and at the proper depth. Flax seed must initially be planted in rows to be considered planted, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

Prevented planting—(In lieu of the definition contained in the Basic Provisions (§ 457.8)) 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 or by the end of the late planting period. You must have failed to plant the insured crop due to an insured cause of loss that has prevented the majority of producers in the surrounding area from planting the same crop.

* * * * *

7. In Section 457.101, remove the words "Common Crop Insurance Policy" and add in their place, the words "Basic Provisions" in the following places:

- a. Section 3 Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities;
- b. Section 4 Contract Changes;
- c. Section 6 Insured Crop paragraphs (b)(1) and (b)(2);
- d. Section 7 Insurance Period introductory text;
- e. Section 8 Causes of Loss, introductory text;
- f. Section 9 Replanting Payments, paragraphs (a)(1) and (c); and
- g. Section 10 Duties in the Event of Damage or Loss.

8. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

In addition to the requirements of section 34.(b) of the Basic Provisions (§ 457.8), for wheat only, in addition to, or instead of, 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 or initially planted spring wheat. Optional units may be established in this manner only in counties having both fall and spring final planting dates as designated in the Special Provisions.

9. In Section 6. Insured Crop, paragraph (b)(1) is revised to read as follows:

6. Insured Crop.

(a) * * *

(b) * * *

(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 (§ 457.8)); or

* * * * *

10. In Section 7. Insurance Period, paragraphs (a)(1)(i), (a)(1)(ii), and (a)(2)(i) are revised to read as follows:

7. Insurance Period.

* * * * *

(a) * * *

(1) * * *

(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 (§ 457.8).

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

(2) * * *

(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 (§ 457.8).

* * * * *

11. In Section 12. Late Planting and Prevented Planting is revised to read as follows:

12. Late Planting.

A late planting period is not applicable to fall-planted wheat. Any winter wheat that is planted after the fall final planting date in counties for which the Special Provisions also contain a final planting date for spring wheat will not be insured. Any winter wheat that is planted after the fall final planting date in counties for which the Special Provisions contain only a fall final planting date will not be insured unless you were prevented from planting the winter wheat by the fall final planting date. Such acreage will be insurable, and the production guarantee and premium for the acreage will be determined in accordance with sections 16(b) and (c) of the Basic Provisions (§ 457.8).

12. Section 13 is added to read as follows:

13. Prevented Planting.

(a) In addition to the provisions contained in section 17 of the Basic Provisions (§ 457.8), 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 the levels specified in the Actuarial Table.

13. Section 457.104 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.104 Cotton crop insurance provisions.

The cotton crop insurance provisions for the 1998 and succeeding crop years are as follows:

* * * * *

14. In § 457.104, 1. Definitions, remove alphabetic paragraph designations and the definitions of "days," "final planting date," "good farming practices," "interplanted," "irrigated practice," "late planted," "late planting period," "practical to replant," "prevented planting," "replanting," "timely planted," and "written agreement" and revise the definition of "planted acreage" to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), cotton must be planted in rows, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement. The yield conversion factor normally applied to non-irrigated skip-row cotton acreage will not be used if the land between the rows of cotton is planted to any other spring planted crop.

* * * * *

15. In § 457.104, remove the words "Common Crop Insurance Policy" and add in their place, the words "Basic Provisions" in the following places:

- a. Section 3 Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities;
- b. Section 4 Contract Changes;
- c. Section 5 Cancellation and Termination Dates, introductory text;
- d. Section 6 Insured Crop, introductory text;
- e. Section 7 Insurable Acreage, introductory text;
- f. Section 8 Insurance Period, paragraphs (a) and (b);
- g. Section 9 Causes of Loss, introductory text; and
- h. Section 10 Duties in the Event of Damage or Loss, paragraph (a).

* * * * *

16. Section 2. Unit Division is removed.

§ 457.104, Sections 3 through 13 [Redesignated as sections 2 through 12]

17. In § 457.104, Sections 3 through 13 are redesignated as follows:

Old section	New section
Section 3	Section 2.
Section 4	Section 3.
Section 5	Section 4.
Section 6	Section 5.
Section 7	Section 6.
Section 8	Section 7.
Section 9	Section 8.
Section 10	Section 9.
Section 11	Section 10.
Section 12	Section 11.
Section 13	Section 12.

18. Redesignated Section 6(b) is revised to read as follows:

6. Insurable Acreage.

* * * * *

(a) *

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

* * * * *

19. Redesignated Section 7(a) is revised to read as follows:

7. Insurance Period.

(a) In lieu of Section 11(b)(2) of the Basic Provisions (§ 457.8) (Harvest of the unit), insurance will end upon the removal of the cotton from the field.

* * * * *

20. Redesignated Section 10(c)(1)(E) is amended by changing the section reference therein from 10 to 9.

* * * * *

21. Redesignated Section 10(c)(1)(iii) is amended by changing the section reference therein from 11.(d) to 10.(d).

* * * * *

22. Redesignated Section 11 is revised to read as follows:

11. Prevented Planting.

(a) In addition to the provisions contained in section 17 of the Basic Provisions (§ 457.8), your prevented planting production guarantee will be based on your approved yield for solid planted acreage.

(b) Your prevented planting coverage will be 45 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 the levels specified in the Actuarial Table.

* * * * *

23. Redesignated Section 12 is removed.

24. Section 457.105 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.105 Extra long staple cotton crop insurance provisions.

The extra long staple cotton crop insurance provisions for the 1998 and succeeding crop years are as follows:

* * * * *

25. In § 457.105, 1. Definitions, remove alphabetic paragraph designations and the definitions of "days," "final planting date," "good farming practices," "interplanted," "irrigated practice," "practical to replant," "prevented planting," "timely planted," and "written agreement" and revise the definition of "planted acreage" to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), cotton must be planted in rows, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement. The yield conversion factor normally applied to non-irrigated skip-row cotton acreage will not be used if the land between the rows of cotton is planted to any other spring planted crop.

* * * * *

26. In § 457.105, remove the words "Common Crop Insurance Policy" and add in their place, the words "Basic Provisions" in the following places:

- a. Section 3 Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities;
- b. Section 4 Contract Changes;
- c. Section 5 Cancellation and Termination Dates;
- d. Section 6 Insured Crop,

introduction text;

- e. Section 7 Insurable Acreage, introduction text;

f. Section 8 Insurance Period, paragraphs (a) and (b);

- g. Section 9 Causes of Loss, introduction text; and

h. Section 10 Duties in the Event of Damage or Loss, paragraph (a).

27. Section 2. Unit Division is removed.

§ 457.105, Sections 3 through 13 [Redesignated as sections 2 through 12]

28. In § 457.105, Sections 3 through 13 are redesignated as follows:

Old section	New section
Section 3	Section 2.
Section 4	Section 3.
Section 5	Section 4.
Section 6	Section 5.
Section 7	Section 6.
Section 8	Section 7.
Section 9	Section 8.
Section 10	Section 9.
Section 11	Section 10.
Section 12	Section 11.
Section 13	Section 12.

29. Redesignated Section 6(b) is revised to read as follows:

6. Insurable Acreage.

* * * * *

(a) *

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

* * * * *

30. Redesignated Section 7(a) is revised to read as follows:

7. Insurance Period.

(a) In lieu of Section 11(b)(2) of the Basic Provisions (§ 457.8) (Harvest of the unit), insurance will end upon the removal of the cotton from the field.

* * * * *

31. Redesignated Section 10(c)(1)(E) is amended by changing the section reference therein from 10 to 9.

* * * * *

32. Redesignated Section 10(c)(1)(iii)(A) is amended by changing the section reference therein from 11.(d) and (e) to 10(d) and (e).

* * * * *

33. Redesignated Section 10(c)(1)(iii)(B) is amended by changing the section reference therein from 11.(f) to 10(f).

* * * * *

34. Redesignated Section 10(e) is amended by changing the section reference therein from 11(d) to 10(d).

35. Redesignated Section 11 is revised to read as follows:

11. Late Planting.

A late planting period is not applicable to ELS cotton. Any ELS cotton that is planted after the final planting date will not be insured unless you were prevented from planting it by the final planting date. Such acreage will be insurable, and the production guarantee and premium for the acreage will be determined in accordance with sections 16(b) and (c) of the Basic Provisions (§ 457.8).

36. Redesignated Section 12 is revised to read as follows:

12. Prevented Planting.

(a) In addition to the provisions contained in section 17 of the Basic Provisions (§ 457.8), your prevented planting production guarantee will be based on your approved yield for solid planted acreage.

(b) Your prevented planting coverage will be 45 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 the levels specified in the Actuarial Table.

37. Section 457.106 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.106 Texas citrus tree crop insurance provisions.

The Texas citrus tree crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

38. In § 457.106, 1. Definitions, remove the definitions of "days," "deductible," "FSA," "non-contiguous land," and "written agreement."

39. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by each citrus crop designated in the Special Provisions.

(b) Provisions in the Basic Provisions (§ 457.8), that allow optional units by irrigated and non-irrigated practices are not applicable. Each optional unit must meet one of the following, unless otherwise allowed by written agreement:

(1) Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands. In areas that have not been surveyed using the systems identified above, or another system approved by us, and in areas where such systems exist but boundaries are not readily discernible, each optional unit must be located in a separate FSA farm serial number; or

(2) Instead of establishing optional units by section, section equivalent, or FSA Farm Serial Number optional units may be established if each optional unit is located on non-contiguous land.

40. Section 13 is revised to read as follows:

13. Late and prevented planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

41. Section 457.107 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.107 Florida citrus fruit crop insurance provisions.

The Florida citrus fruit crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

42. In § 457.107, 1. Definitions, remove the definitions of "days," "FSA," "non-contiguous land," and "written agreement."

43. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by

each citrus crop designated in the Special Provisions.

(b) Provisions in the Basic Provisions (§ 457.8) that allow optional units by irrigated and non-irrigated practices are not applicable. Each optional unit must meet one of the following, unless otherwise allowed by written agreement:

(1) Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands. In areas that have not been surveyed using the systems identified above, or another system approved by us, and in areas where such systems exist but boundaries are not readily discernible, each optional unit must be located in a separate FSA farm serial number; or

(2) Instead of establishing optional units by section, section equivalent, or FSA farm serial number, optional units may be established if each optional unit is located on non-contiguous land.

44. Section 6(d) is amended by changing the section reference therein from 6(f) to 6.

45. Section 11 is revised to read as follows:

11. Late and prevented planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

46. Section 457.108 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.108 Sunflower seed crop insurance provisions.

The sunflower seed crop insurance provisions for the 1998 and succeeding crop years are as follows:

* * * * *

47. In § 457.108, 1. Definitions, remove alphabetic paragraph designations and the definitions of "days," "final planting date," "good farming practices," "interplanted," "irrigated practice," "late planted," "late planting period," "practical to replant," "prevented planting," "production guarantee," "replanting," "timely planted," and "written agreement" and revise the definition of "planted acreage" to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), sunflower seed must initially be planted in rows far enough apart to permit mechanical cultivation, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

* * * * *

48. Section 2. Unit Division is removed.

**§ 457.108, Sections 3 through 13
[Redesignated as Sections 2 through 12]**

49. In § 457.108, Sections 3 through 13 are redesignated as follows:

Old section	New section
Section 3	Section 2.
Section 4	Section 3.
Section 5	Section 4.
Section 6	Section 5.
Section 7	Section 6.
Section 8	Section 7.
Section 9	Section 8.
Section 10	Section 9.
Section 11	Section 10.
Section 12	Section 11.
Section 13	Section 12.

50. Redesignated Section 4 is amended by changing the section reference therein from 2(f) to 2.

51. Redesignated Section 6(b) is revised to read as follows:

6. Insurable Acreage.

* * * * *

(a) *

(b) Any acreage of the insured crop damaged before the final planting date, to the extent that a majority of growers in the area would not normally further care for the crop, must be replanted unless we agree that replanting is not practical.

52. Redesignated Section 9(a) is revised to read as follows:

9. Replanting Payments.

(a) In accordance with Section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), a replanting payment for sunflower seed is allowed if the sunflowers are damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least ninety percent (90%) of the production guarantee for the acreage and it is practical to replant.

* * * * *

53. Redesignated Section 9(b) is amended by changing the section reference therein from 10.(c) to 9(c).

54. Redesignated Section 11(c)(1)(iii) is amended by changing the section reference therein from 12.(d) to 11(d).

55. Redesignated Section 11(d)(4) is amended by changing the section reference therein from 12.(d)(2) and (3) to 11(d)(2) and (3).

56. Redesignated Section 12 is revised to read as follows:

12. Prevented Planting.

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 the levels specified in the Actuarial Table.

57. Section 457.109 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.109 Sugar beet crop insurance provisions.

The sugar beet crop insurance provisions for the 1998 and succeeding crop years in counties with a contract change date of November 30, and for the 1999 and succeeding crop years in counties with a contract change date of April 30, are as follows:

* * * * *

58. In § 457.109, 1. Definitions, remove the definitions of "days," "FSA," "final planting date," "good farming practices," "interplanted," "irrigated practice," "late planted," "late planting period," "prevented planting," "replanting," "timely planted," and "written agreement" and revise the definition of "planted acreage" to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), sugar beets must initially be planted in rows, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

* * * * *

59. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

In addition to the requirements of section 34 of the Basic Provisions (§ 457.8), basic units may be divided into optional units only if you have a sugar beet processor contract that requires the processor to accept all production from a number of acres specified in the sugar beet processor contract. Acreage insured to fulfill a sugar beet processor contract which provides that the processor will accept a designated amount of production or a combination of acreage and production will not be eligible for optional units.

60. Section 14 is revised to read as follows:

14. Late Planting.

The late planting provisions contained in section 16 of the Basic Provisions (§ 457.8), are not applicable in California counties with a July 15 cancellation date.

61. Section 15 is revised to read as follows:

15. Prevented Planting.

(a) The prevented planting provisions contained in section 17 of the Basic Provisions (§ 457.8), are not applicable in California counties with a July 15 cancellation date.

(b) Except in those counties indicated in section 15(a), your prevented planting coverage will be 45 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 the levels specified in the Actuarial Table.

62. Section 457.110 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.110 Fig crop insurance provisions.

The fig crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

63. In § 457.110, 1. Definitions, remove alphabetic paragraph designations and the definitions of "good farming practices," "irrigated practices," "non-contiguous land," and "production guarantee."

64. In § 457.110, remove the words "Common Crop Insurance Policy" and add in their place, the words "Basic Provisions" in the following places:

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

b. Section 4 Contract Changes;

c. Section 8 Insurance Period, introductory text; and

d. Section 9 Causes of Loss, paragraphs (a) and (b).

* * * * *

65. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8), that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement.

66. Section 11 is added to read as follows:

11. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

67. Section 457.111 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.111 Pear crop insurance provisions.

The pear crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

68. In § 457.111, 1. Definitions, remove the definitions of "days," "FSA," "good farming practices," "irrigated practice," "non-contiguous," "production guarantee (per acre)," and "written agreement."

69. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8) that allow optional units by irrigated and non-irrigated practices are not applicable. Each optional unit must meet one of the

following, unless otherwise allowed by written agreement:

(a) Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands. In areas that have not been surveyed using the systems identified above, or another system approved by us, and in areas where such systems exist but boundaries are not readily discernible, each optional unit must be located in a separate FSA farm serial number; or

(b) Instead of establishing optional units by section, section equivalent, or FSA farm serial number optional units may be established if each optional unit is located on non-contiguous land.

(c) In addition to, or instead of, establishing optional units by section, section equivalent, FSA farm serial number, or on non-contiguous land, optional units may be established by varietal group when provided for in the Special Provisions.

70. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

71. Section 457.113 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.113 Coarse grains crop insurance provisions.

The coarse grains crop insurance provisions for the 1998 and succeeding crop years are as follows:

* * * * *

72. In § 457.113, 1. Definitions, remove alphabetic paragraph designations and the definitions of "days," "final planting date," "good farming practices," "interplanted," "irrigated practice," "late planted," "late planting period," "practical to replant," "prevented planting," "replanting," "timely planted," and "written agreement" and revise the definitions of "planted acreage" and "production guarantee" to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), coarse grains must initially be planted in rows (corn must be planted in rows far enough apart to permit mechanical cultivation), unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

Production guarantee (per acre)—In lieu to the definition contained in the Basic Provisions (§ 457.8), the number of bushels (tons for corn insured as silage) determined

by multiplying the approved actual production history (APH) yield per acre, calculated in accordance with 7 CFR part 400, subpart G, by the coverage level percentage you elect.

* * * * *

73. In § 457.113, remove the words "Common Crop Insurance Policy" and add in their place, the words "Basic Provisions" in the following places: a. Section 3 Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities, paragraph (a); b. Section 4 Contract Changes; c. Section 5 Cancellation and Termination Dates; d. Section 6 Insured Crop, paragraph (a); e. Section 7 Insurable Acreage; f. Section 8 Insurance Period, introductory text; g. Section 9 Causes of Loss, introductory text; h. Section 10 Replanting Payments, paragraph (a); and i. Section 11 Duties in the Event of Damage or Loss, paragraphs (a), (b)(1), and (b)(2).

* * * * *

74. Section 2. Unit Division is removed.

§ 457.113, Sections 3 through 13 [Redesignated as Sections 2 through 12]

75. In § 457.113, Sections 3 through 13 are redesignated as follows:

Old section	New section
Section 3	Section 2.
Section 4	Section 3.
Section 5	Section 4.
Section 6	Section 5.
Section 7	Section 6.
Section 8	Section 7.
Section 9	Section 8.
Section 10	Section 9.
Section 11	Section 10.
Section 12	Section 11.
Section 13	Section 12.

76. Redesignated Section 4 is amended by changing the section reference therein from 2.(f) to 2.

77. Redesignated Section 5(a)(3)(i) is amended by changing the section reference therein from 6.(b)(1) to 5(b)(1).

78. Redesignated Section 5(b) is amended by changing the section reference therein from 6.(a) to 5(a).

79. Redesignated Section 5(b)(1) is amended by changing the section reference therein from 6.(c) to 5(c).

80. Redesignated Sections 5(d) and (e) are amended by changing the section references therein from 6.(a) to 5(a).

81. Redesignated Section 6 is revised to read as follows:

6. Insurable Acreage.

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions

(§ 457.8), any acreage of the insured crop damaged before the final planting date, to the extent that a majority of growers in the area would not normally further care for the crop, must be replanted unless we agree that replanting is not practical.

82. Redesignated Section 9(a) is revised to read as follows:

9. Replanting Payments.

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), replanting payments for coarse grains are allowed if the coarse grains are damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least ninety percent (90%) of the production guarantee for the acreage and it is practical to replant.

83. Redesignated Sections 11(b)(2)(iv) and 11(c) are amended by changing the section references therein from 12.(d) to 11(d).

84. Redesignated Section 11(c)(1)(iii) is amended by changing the section reference therein from 12.(e) to 11(e).

85. Redesignated Section 11(d)(2) is amended by changing the section reference therein from 12.(c)(1) to 11(c)(1).

86. Redesignated Section 11(e) is amended by changing the section reference therein from 12.(f) to 11(f).

87. Redesignated Section 11(e)(4) is amended by changing the section reference therein from 12.(e)(2) and (3) to 11(e)(2) and (3).

88. Redesignated Section 12 is revised to read as follows:

12. Prevented Planting.

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 the levels specified in the Actuarial Table.

89. Section 457.114 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.114 Nursery crop insurance provisions.

The nursery crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

90. In § 457.114, 1. Definitions, remove alphabetic paragraph designations and the definition of "written agreement" and revise the definition of "irrigated practice" to read as follows:

1. Definitions.

* * * * *

Irrigated practice—(In lieu of the definition contained in the Basic Provisions (§ 457.8).) A method of producing a crop by which

water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to maintain the amount of insurance on the nursery plant inventory.

* * * * *

91. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

In lieu of the definition of "basic unit" and section 34 of the Basic Provisions (§ 457.8), a unit consists of all growing locations in the county within a five mile radius of the named insured locations designated on your nursery plant inventory summary. Any growing location more than five miles from any other growing location, but within the county, may be designated as a separate basic unit or be included in the closest unit listed on your nursery plant inventory summary.

92. Section 13 is added to read as follows:

13. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

93. Section 457.116 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.116 Sugar cane crop insurance provisions.

The sugar cane crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

94. In § 457.116, 1. Definitions, remove alphabetic paragraph designations and the definitions of "CFSAs," "good farming practices," "interplanted," "irrigated practice," "production guarantee," and "written agreement."

95. Section 2. Unit Division is removed.

§ 457.116, Sections 3 through 11 [Redesignated as sections 2 through 10]

96. In § 457.116, Sections 3 through 11 are redesignated as follows:

Old section	New section
Section 3	Section 2.
Section 4	Section 3.
Section 5	Section 4.
Section 6	Section 5.
Section 7	Section 6.
Section 8	Section 7.
Section 9	Section 8.
Section 10	Section 9.
Section 11	Section 10.

97. Redesignated Section 4 is amended by changing the section reference therein from 2.(f) to 2.

98. Redesignated Section 7(a)(2) is amended by changing the section reference therein from 8.(a)(3) to 7(a)(3).

99. Redesignated Section 10(c)(1)(v) is amended by changing the section reference therein from 10.(a)(2) to 9(a)(2).

100. Section 11 is added to read as follows:

11. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

101. Section 457.117 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.117 Forage production crop insurance provisions.

The forage production crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

102. In § 457.117, 1. Definitions, remove the definitions of "days," "good farming practices," "irrigated practice," "production guarantee (per acre)," and "written agreement."

103. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

The optional unit provisions in section 34 of the Basic Provisions (§ 457.8) are not applicable.

104. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

105. Section 457.119 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.119 Texas citrus fruit crop insurance provisions.

The Texas citrus fruit crop insurance provisions for the 2000 and succeeding crop years are as follows:

* * * * *

106. In § 457.119, 1. Definitions, remove the definitions of "days," "FSA," "good farming practices," "irrigated practice," "non-contiguous land" and "written agreement."

107. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by each citrus crop designated in the Special Provisions.

(b) Provisions in the Basic Provisions (§ 457.8) that allow optional units by irrigated and non-irrigated practices are not applicable. Each optional unit must meet one of the following, unless otherwise allowed by written agreement:

(1) Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands. In areas that have not been surveyed using the systems identified above, or another system approved by us, and in areas where such systems exist but boundaries are not readily discernible, each optional unit must be located in a separate FSA farm serial number; or

(2) Instead of establishing optional units by section, section equivalent, or FSA farm serial number, optional units may be established if each optional unit is located on non-contiguous land.

108. Section 13 is revised to read as follows:

13. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

109. Section 457.121 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.121 Arizona-California citrus crop insurance provisions.

The Arizona-California citrus crop insurance provisions for the 2000 and succeeding crop years are as follows:

* * * * *

110. In § 457.121, 1. Definitions, remove the definitions of "days," "good farming practices," "irrigated practice," "non-contiguous land," "production guarantee (per acre)," and "written agreement."

111. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by each citrus crop designated in the Special Provisions.

(b) Provisions in the Basic Provisions (§ 457.8) that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement.

112. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

113. Section 457.122 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.122 Walnut crop insurance provisions.

The walnut crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

114. In § 457.122, 1. Definitions, remove the definitions of "days," "good farming practices," "irrigated practice," "non-contiguous land," and "written agreement."

115. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8) that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement.

116. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

117. Section 457.123 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.123 Almond crop insurance provisions.

The almond crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

118. In § 457.123, 1. Definitions, remove the definitions of "days," "good farming practices," "irrigated practice," "non-contiguous land," and "written agreement."

119. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8) that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement.

120. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

121. Section 457.124 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.124 Raisin crop insurance provisions.

The raisin crop insurance provisions for the 1998 and succeeding crop years are as follows:

* * * * *

122. In § 457.124, 1. Definitions, remove the definitions of "days," "non-contiguous land," and "written agreement."

123. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit as defined in section 1 of the Basic Provisions (§ 457.8), will be divided into additional basic units by grape variety.

(b) Provisions in the Basic Provisions (§ 457.8) that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement.

124. Section 14 is revised to read as follows:

14. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

125. Section 457.125 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.125 Safflower crop insurance provisions.

The safflower crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

126. In § 457.125, 1. Definitions, remove the definitions of "days," "FSA," "final planting date," "good farming practices," "interplanted," "irrigated practice," "practical to replant," "production guarantee (per acre)," "replanting," and "written agreement" and revise the definition of "planted acreage" to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), safflowers must initially be planted in rows, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

* * * * *

127. Section 2. Unit Division is removed.

§ 457.125, Sections 3 through 13 [Redesignated as Sections 2 through section 12.]

128. In § 457.125, Sections 3 through 13 are redesignated as follows:

Old section	New section
Section 3	Section 2.
Section 4	Section 3.
Section 5	Section 4.
Section 6	Section 5.
Section 7	Section 6.
Section 8	Section 7.
Section 9	Section 8.
Section 10	Section 9.
Section 11	Section 10.
Section 12	Section 11.
Section 13	Section 12.

129. Redesignated Section 11(b)(2) is amended by changing the section reference therein from 12(b)(1) to 11(b)(1).

130. Redesignated Section 11(b)(3) is amended by changing the section reference therein from 12(b)(2) to 11(b)(2).

131. Redesignated Section 11(b)(4) is amended by changing the section reference therein from 12(c) to 11(c).

132. Redesignated Section 11(b)(5) is amended by changing the section reference therein from 12(b)(4) to 11(b)(4).

133. Redesignated Section 11(b)(6) is amended by changing the section references therein from 12(b)(5) to 11(b)(5) and 12(b)(3) to 11(b)(3).

134. Redesignated Section 11(b)(7) is amended by changing the section reference therein from 12(b)(6) to 11(b)(6).

135. Redesignated Section 11(c)(1)(iii) is amended by changing the section reference therein from Section 12(d) to Section 11(d).

136. Redesignated Section 11(d)(4) is amended by changing the section reference therein from 12(d)(2) and (3) to 11(d)(2) and (3).

137. Redesignated Section 12 is amended to read as follows:

12. Prevented Planting.

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 the levels specified in the Actuarial Table.

* * * * *

§ 457.128 Guaranteed production plan of fresh market tomato.

138. Section 457.128 is amended by removing the paragraph preceding Definitions.

139. In § 457.128, 1. Definitions, remove the definitions of "days," "FSA," "good farming practices," "irrigated practice," "production guarantee (per acre)," "replanting," and "written agreement."

140. Section 2. Unit Division is amended to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by planting period, if separate planting periods are provided for in the Special Provisions.

(b) Provisions in the Basic Provisions (§ 457.8) that allow optional units by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located in a separate section, section equivalent, or FSA farm serial number, unless otherwise allowed by written agreement.

141. Section 14 is amended to read as follows:

14. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

142. Section 457.129 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.129 Fresh market sweet corn crop insurance provisions.

The fresh market sweet corn crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

143. In § 457.129, 1. Definitions, remove the definitions of "days," "FSA," "good farming practices," "interplanted," "irrigated practice," "replanting," and "written agreement" and revise the definition of "planted acreage" to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), sweet corn seed must be planted in rows far enough apart to permit mechanical cultivation, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

* * * * *

144. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 of the Basic Provisions (§ 457.8), will be divided into additional basic units by planting period.

(b) Provisions in the Basic Provisions (§ 457.8), that allow optional units by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located in a separate section, section equivalent, or FSA farm serial number as provided in the unit division provisions contained in the Basic Provisions (§ 457.8), unless otherwise allowed by written agreement.

145. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

146. Section 457.130 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.130 Macadamia tree crop insurance provisions.

The macadamia tree crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

147. In § 457.130, 1. Definitions, remove the definitions of "days," "non-contiguous," and "written agreement."

148. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8), that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Unless otherwise allowed by written agreement, optional units may be established only if each optional unit:

(a) Contains at least 80 acres of insurable age macadamia trees; or

(b) Is located on non-contiguous land.

149. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

150. Section 457.131 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.131 Macadamia nut crop insurance provisions.

The macadamia nut crop insurance provisions for the 2000 and succeeding crop years are as follows:

* * * * *

151. In § 457.131, 1. Definitions, remove the definitions of "days," "good farming practices," "irrigated practice," "non-contiguous," and "written agreement."

152. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8), that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Unless otherwise allowed by written agreement, optional units may be established only if each optional unit:

(a) Contains at least 80 acres of bearing macadamia trees; or

(b) Is located on non-contiguous land.

153. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

154. Section 457.132 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.132 Cranberry crop insurance provisions.

The cranberry crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

155. In § 457.132, 1. Definitions, remove the definitions of "days," "good farming practices," "irrigated practice," "non-contiguous land," "production guarantee (per acre)," and "written agreement."

156. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8) that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement.

157. Section 11 is revised to read as follows:

11. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

158. Section 457.135 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.135 Onion crop insurance provisions.

The onion crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

159. In § 457.135, 1. Definitions, remove the definitions of "crop year," "days," "FSA," "final planting date," "good farming practices," "interplanted," "irrigated practice," "late planted," "late planting period," "practical to replant," "prevented planting," "replanting," "timely planted," and "written agreement."

160. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8), that allow optional units by section, section equivalent, or FSA farm serial number are not applicable. Optional units must meet one or more of the following, as applicable, unless otherwise provided by written agreement:

(a) Optional units may be based on irrigated acreage or non-irrigated acreage as provided in the unit division provisions contained in the Basic Provisions (§ 457.8); or

(b) In addition to, or instead of, establishing optional units by irrigated

acreage or non-irrigated acreage, optional units may be established by type, if the specific type is designated in the Special Provisions.

161. Section 14 is revised to read as follows:

14. Prevented Planting.

Your prevented planting coverage will be 45 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 the levels specified in the Actuarial Table.

162. Section 15 is removed.

163. Section 457.138 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.138 Grape crop insurance provisions.

The grape crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

164. In § 457.138, 1. Definitions, remove the definitions of "days," "FSA," "good farming practices," "irrigated practice," "non-contiguous," "production guarantee (per acre)" "USDA," and "written agreement."

165. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) In California only, a basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by each variety that you insure.

(b) In California only, provisions in the Basic Provisions (§ 457.8), that provide for optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement.

(c) In all states except California, in addition to, or instead of, establishing optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated acreage as provided in the unit division provisions contained in the Basic Provisions (§ 457.8), a separate optional unit may be established if each optional unit:

- (1) Is located on non-contiguous land; or
- (2) Consists of a separate varietal group when separate varietal groups are specified in the Special Provisions.

166. Section 13 is revised to read as follows:

13. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

167. Section 457.139 is amended by revising the introductory text and

removing the paragraph preceding Definitions to read as follows:

§ 457.139 Fresh market tomato (dollar plan) crop insurance provisions.

The fresh market tomato (dollar plan) crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

168. In § 457.139, 1. Definitions, remove the definitions of "days," "FSA," "good farming practices," "interplanted," "irrigated practice," "replanting," and "written agreement" and revise the definition of "planted acreage" to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), tomato seed must initially be planted in rows far enough apart to permit mechanical cultivation, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

* * * * *

169. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 of the Basic Provisions (§ 457.8), will be divided into additional basic units by planting period.

(b) Provisions in the Basic Provisions (§ 457.8) that allow optional units by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located in a separate section, section equivalent, or FSA farm serial number as provided in the unit division provisions contained in the Basic Provisions (§ 457.8), unless otherwise allowed by written agreement.

170. Section 15 is revised to read as follows:

15. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

§ 457.141 Rice crop insurance provisions.

171. Section 457.141 is amended by removing the paragraph preceding Definitions.

172. In Section 457.141, 1.

Definitions, remove the definitions of "days," "FSA," "final planting date," "good farming practices," "irrigated practice," "late planted," "late planting period," "practical to replant," "prevented planting," "production guarantee (per acre)," "replanting," "timely planted," and "written agreement."

* * * * *

173. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8), that allow optional units by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located in a separate section, section equivalent, or FSA farm serial number as provided in the unit division provisions contained in the Basic Provisions (§ 457.8), unless otherwise allowed by written agreement.

174. Section 13 is revised to read as follows:

13. Prevented Planting.

Your prevented planting coverage will be 45 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 the levels specified in the Actuarial Table.

175. Section 14 is removed.

176. Section 457.148 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.148 Fresh market pepper crop insurance provisions.

The fresh market pepper crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

177. In § 457.148, 1. Definitions, remove the definitions of "days," "FSA," "good farming practices," "interplanted," "irrigated practice," "replanting," and "written agreement" and revise the definition of "planted acreage" to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), peppers must initially be planted in rows, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

178. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) A basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by planting period.

(b) Provisions in the Basic Provisions (§ 457.8) that allow optional units by irrigated and non-irrigated practices are not applicable. Optional units may be established only if each optional unit is located in a separate section, section equivalent, or FSA farm serial number as provided in the unit division provisions contained in the Basic Provisions (§ 457.8), unless otherwise allowed by written agreement.

179. Section 15 is revised to read as follows:

15. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

180. Section 457.150 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.150 Dry bean crop insurance provisions.

The dry bean crop insurance provisions for the 1998 and succeeding crop years are as follows:

* * * * *

181. In § 457.150, 1. Definitions, remove the definitions of "days," "FSA," "final planting date," "good farming practices," "interplanted," "irrigated practice," "late planted," "late planting period," "prevented planting," "replanting," "timely planted," and "written agreement" and revise the definition of "planted acreage" to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the definition contained in the Basic Provisions (§ 457.8), beans must initially be planted in rows far enough apart to permit mechanical cultivation, unless otherwise provided by the Special Provisions, Actuarial Table, or by written agreement.

* * * * *

182. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

(a) In addition to section 1 (Definitions) of the Basic Provisions (§ 457.8), (basic unit) all acreage of contract seed beans qualifies as a separate basic unit. For production based seed bean processor contracts, the unit will consist of all the acreage needed to produce the amount of production under contract, based on the actual production history of the acreage. For acreage based seed bean processor contracts, the unit will consist of all acreage specified in the contract.

(b) In addition to, or instead of, establishing optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated acreage as provided in the unit division provisions contained in the Basic Provisions (§ 457.8), a separate optional unit may be established for each bean type shown in the Special Provisions.

(c) Contract seed beans may qualify for optional units only if the seed bean processor contract specifies the number of acres under contract. Contract seed beans produced under a seed bean processor contract that specifies only an amount of production or a combination of acreage and production, are not eligible for optional units.

183. Section 7(c)(3) is revised to read as follows:

7. Insured Crop.

* * * * *

(c) *

(3) Both parties (you and us) enter into a written agreement allowing insurance on the

type in accordance with section 18 of the Basic Provisions (§ 457.8).

* * * * *

184. Section 14 is revised to read as follows:

14. Prevented Planting.

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 the levels specified in the Actuarial Table.

185. Section 15 is removed.

186. Section 457.151 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.151 Forage seeding crop insurance provisions.

The forage seeding crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

187. In § 457.151, 1. Definitions, remove the definitions of "days," "FSA," "final planting date," "interplanted," "irrigated practice," "practical to replant," and "written agreement" and revise the definition of "planted acreage" to read as follows:

1. Definitions.

* * * * *

Planted acreage—In addition to the provisions in section 1 of the Basic Provisions (§ 457.8), land on which seed is initially spread onto the soil surface by any method and subsequently is mechanically incorporated into the soil in a timely manner and at the proper depth will be considered planted, unless otherwise provided by the Special Provisions, Actuarial Table, or written agreement.

* * * * *

188. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

A basic unit, as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by spring planted and fall planted acreage.

189. Section 13 is revised to read as follows:

13. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

190. Section 457.153 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.153 Peach crop insurance provisions.

The peach crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

191. In § 457.153, 1. Definitions, remove the definitions of "days," "FSA," "good farming practices," "irrigated practice," "production guarantee (per acre)," and "written agreement."

192. Section 2. Unit Division is removed.

§ 457.153, Sections 3 through 12 [Redesignated as sections 2 through 11]

193. In § 457.153 Sections 3 through 12 are redesignated as follows:

Old section	New section
Section 3	Section 2.
Section 4	Section 3.
Section 5	Section 4.
Section 6	Section 5.
Section 7	Section 6.
Section 8	Section 7.
Section 9	Section 8.
Section 10	Section 9.
Section 11	Section 10.
Section 12	Section 11.

194. Redesignated Section 10(b)(2) is amended by changing the section reference therein from 11(b)(1) to 10(b)(1).

195. Redesignated Section 10(b)(3) is amended by changing the section reference therein from 11(b)(2) to 10(b)(2).

196. Redesignated Section 10(b)(4) is amended by changing the section reference therein from 11(c) to 10(c).

197. Redesignated Section 10(b)(5) is amended by changing the section reference therein from 11(b)(4) to 10(b)(4).

198. Redesignated Section 10(b)(6) is amended by changing the section references therein from 11(b)(5) to 10(b)(5) and 11(b)(3) to 10(b)(3).

199. Redesignated Section 10(b)(7) is amended by changing the section reference therein from 11(b)(6) to 10(b)(6).

200. Redesignated Section 10(c)(1)(i)(B) is amended by changing the section reference therein from section 10 to section 9.

201. Redesignated Section 10(c)(3)(i)(B) is amended by changing the section reference therein from 11(c)(3)(i)(A) to 10(c)(3)(i)(A).

202. Redesignated Section 10(c)(3)(ii)(B) is amended by changing the section reference therein from 11(c)(3)(ii)(A) to 10(c)(3)(ii)(A).

203. Redesignated Section 11 is revised to read as follows:

11. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

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204. Section 457.157 is amended by revising the introductory text and removing the paragraph preceding Definitions to read as follows:

§ 457.157 Plum crop insurance provisions.

The plum crop insurance provisions for the 1999 and succeeding crop years are as follows:

* * * * *

205. In § 457.157, 1. Definitions, remove the definitions of "days," "good farming practices," "irrigated practice,"

"non-contiguous," "production guarantee (per acre)" and "written agreement."

206. Section 2. Unit Division is revised to read as follows:

2. Unit Division.

Provisions in the Basic Provisions (§ 457.8), that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units must meet one or more of the following, as applicable, unless otherwise provided by the Special Provisions, Actuarial Table, or written agreement:

(a) Optional units may be established if each optional unit is located on non-contiguous land.

(b) In addition to, or instead of, establishing optional units for non-contiguous land, optional units may be established by varietal group when provided for in the Special Provisions.

207. Section 12 is revised to read as follows:

12. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions (§ 457.8) are not applicable.

Signed in Washington, DC, on August 7, 1997.

Kenneth D. Ackerman,

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