

# Proposed Rules

Federal Register

Vol. 71, No. 145

Friday, July 28, 2006

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 457

RIN 0563-AC05

#### Common Crop Insurance Regulations; Potato 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; Northern Potato Crop Insurance Provisions, Northern Potato Crop Insurance Quality Endorsement, Northern Potato Crop Insurance Processing Quality Endorsement, Potato Crop Insurance Certified Seed Endorsement, Northern Potato Crop Insurance Storage Coverage Endorsement, and the Central and Southern Potato Crop Insurance Provisions. The intended effect of this action is to provide policy changes and clarify existing policy provisions to better meet the needs of the insureds, and to reduce vulnerability to fraud, waste and abuse. The changes are intended to apply for the 2008 and succeeding crop years.

**DATES:** Written comments and opinions on this proposed rule will be accepted until close of business September 26, 2006 and will be considered when the rule is to be made final.

**ADDRESSES:** Interested persons are invited to submit comments, titled "Potato Crop Insurance Provisions", by any of the following methods:

- By Mail to: Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO 64133-4676.

- E-mail: [DirectorPDD@rma.usda.gov](mailto:DirectorPDD@rma.usda.gov).
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

A copy of each response will be available for public inspection from 7 a.m. to 4:30 p.m., c.s.t. Monday through Friday except holidays at the above address.

#### FOR FURTHER INFORMATION CONTACT:

Elizabeth Lopez, Risk Management Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, at the Kansas City, MO, address listed above; telephone (816) 926-7730.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

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

##### Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563-0053 through November 30, 2007.

##### E-Government Act Compliance

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

##### Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

##### Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will

not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

##### Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

##### Federal Assistance Program

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

##### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

##### Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this

rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 and 7 CFR part 400, subpart J for the informal administrative review process of good farming practices, as applicable, must be exhausted before any action against FCIC for judicial review may be brought.

#### Environmental Evaluation

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

#### Background

FCIC proposes to amend the Common Crop Insurance Regulations; Northern Potato Crop Insurance Provisions, Northern Potato Crop Insurance Quality Endorsement, Northern Potato Crop Insurance Processing Quality Endorsement, Potato Crop Insurance Certified Seed Endorsement, Northern Potato Crop Insurance Storage Coverage Endorsement, and Central and Southern Potato Crop Insurance Provisions.

The documents listed above were last updated effective for the 1998 crop year in states where insurance is offered under the Northern Potato Crop Provisions and for the 1999 crop year in states where insurance is offered under the Central and Southern Potato Crop Provisions. Since that time, several requests have been made for changes to improve the coverage offered, address program integrity issues, simplify program administration and improve clarity of the policy provisions. The various requests and the actions, if any, taken in response to the request are included below.

The proposed changes are as follows:

1. FCIC proposes to amend § 457.142, Northern Potato Crop Insurance Provisions as follows:

a. FCIC is proposing to amend the introductory text to include Kansas and San Juan County, New Mexico, because growing and post harvest handling of production is similar to other areas currently covered by the Northern Potato Crop Provisions. FCIC is also proposing to allow the Special Provisions to include additional states or counties in which insurance can be provided under the Northern Potato Crop Provisions. This will allow FCIC to better meet the needs of producers by

more quickly making insurance available in other areas;

b. FCIC is proposing to remove provisions regarding document priority because these provisions are now contained in the Basic Provisions;

c. Section 1—FCIC is proposing to revise the definition of “Certified seed” to clarify that certified seed includes both seed used to produce a seed crop for the next crop year or a potato crop for harvest for commercial sale in the next crop year. This will clarify that certified seed must be used to produce the crop for both purposes and clarify the amount of production to count under the Potato Crop Insurance Certified Seed Endorsement. A definition of “Potato certified seed program” is being proposed because it is used in the definition of “Certified seed”. FCIC is also proposing to revise the definition of “Grade inspection” to specify the standards that will be used to grade the potatoes. Since there are several grading standards that differ based on the intended use of the potato (i.e., chipping, processing, etc.), the policy needs to specify how these different standards will be applied for grading the potatoes. FCIC is also proposing to remove the definition of “reduction percentage” because the revised quality adjustment provisions no longer use the term. FCIC is also proposing to move the definition of “processor contract” from the Northern Potato Crop Provisions to the Northern Potato Crop Insurance Processing Quality Endorsement because the term is used only in that endorsement;

d. Section 2(b)—FCIC is proposing to revise the amount of percentage of the price election used to calculate an indemnity when the crop is not harvested. Producer groups requested FCIC review harvesting costs to determine if the current adjustment to the price election for unharvested acreage is accurate. The Federal Crop Insurance Act authorizes a reduction in the indemnity paid that is proportional to the out-of-pocket expenses that are not incurred as a result of not harvesting the crop. To effectuate this reduction in indemnity, FCIC reduces the price election used to compute the indemnity for unharvested acreage.

Under the current policy, 80 percent of the price election is used when calculating the indemnity for unharvested acreage. Using cost of production budgets prepared by the Cooperative State Research Education and Extension Service (CSREES), FCIC determined an average harvest cost (inputs associated with vine kill through hauling) of approximately 10 percent of the cost of production. Therefore, FCIC

is proposing the price election used to determine an indemnity for unharvested production be set at 90 percent of the price election. Sections 2(b) and 11(b) of the Northern Potato Crop Provisions and sections 3(b) and 12(b) of the Southern Potato Crop Provisions have also been revised to reflect this change;

e. Section 8(c)—FCIC is proposing to revise the provisions to include the state of Kansas with other states having October 15 as the end of insurance period because this is the date by which harvest is usually completed in this state;

f. Section 8(e)—FCIC is proposing to revise the provisions to include San Juan County, New Mexico with other states having October 31 as the end of insurance because this is the date by which harvest is usually completed in this county;

g. Section 11(b)(7)—FCIC is proposing to revise the indemnity calculation example to incorporate the new percentage used to reduce the price election for unharvested acreage;

h. Section 11(d)(1)(iv)—FCIC is proposing to revise the provisions to clarify that all unharvested production is subject to the price reduction used to determine the indemnity for unharvested acreage and qualifies for a quality adjustment. As currently drafted, it may not be clear that all unharvested production is subject to these provisions. Further, since unharvested production is eligible for the quality adjustments, potential production in acreage put to another use or abandoned should also be eligible for quality adjustment. FCIC also proposes to revise the cross references to the quality adjustment provisions;

i. Section 11(e)(2)—FCIC is proposing to clarify that a grade inspection must be completed no later than 21 days after end of the insurance period. If the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable, samples must be obtained within 60 days from the end of the insurance period and a quality (grade) determination must occur within 21 days of sampling. To allow grade inspections to occur at later dates will lead to the potential to have quality adjustments based on other than insurable causes of loss that occur within the insurance period;

j. FCIC also proposes to add section 11(e)(3) to the quality adjustment provisions to clarify that the producer must report the intended use of the potatoes so that the appropriate United States Standards can be applied. This will allow for a more accurate quality adjustment based on the disposition of the potatoes;

k. Section 11(g)—FCIC is proposing to revise section 11(g) because the Office of Inspector General (OIG) and an RMA Compliance office recommended changes to the quality adjustment provisions. Section 11(g) provides the quality adjustment standards based on a certain number of days within which the potatoes are discarded, delivered, or there is an agreement on the price of potatoes (within 21 days of the end of the insurance period or 60 days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable). Based on these standards, the amount of production counted as production to count is reduced. The production to count is used to determine whether an indemnity is due. Reports prepared by OIG and RMA Compliance indicated there were some cases in which producers retained production beyond the time period specified and then were able to sell more production than the amount of production used to determine the production to count. Therefore, FCIC is proposing changes to the quality adjustment procedures for situations in which damaged production is not sold within the applicable time period. In these cases, the amount of production to count will be the greater of the amount determined by dividing the sale price per cwt. of the production eligible for a quality adjustment by the price election and multiplying the result by the number of cwt. of production eligible for a quality adjustment, or the amount determined by reducing the production by a specified percentage factor based on the percent damage. By using the greater of these two amounts, the production will no longer be able to qualify for an adjustment based on the percentage factors contained in the policy and then later sold in a greater amount. The amount of production used to calculate the claim will be the amount actually sold.

In addition, FCIC proposes to revise the percentages used for this purpose and the same factors will be used for damage resulting from tuber rot and for freeze. The current policy uses different factors for tuber rot and freeze and is complex to administer when there is a combination of such damage. Instead, FCIC has carefully considered the factors and is proposing new factors it believes are a balance between the two sets of current factors and should adequately reflect the value lost due to tuber rot and freeze; and

l. FCIC proposes to add provisions to section 11(g) to clarify how discarded production will be adjusted. Currently, the provisions state that if production with freeze damage in excess of 17.9 percent is not discarded within 21 days

of the end of the insurance period, 15 percent of such production will be included as production to count. Now production that has more than 5.1 percent freeze damage and could not have been sold will receive a zero as production to count. However, such production must be destroyed before a claim can be settled. If the production could have been sold or was discarded more than 21 days after the end of the insurance period, the production will be adjusted under section 11(g)(2)(iii). This change treats freeze damage consistent with the manner in which tuber rot is currently adjusted and eliminates the additional complexity required by many different percentage standards. Any additional losses this change will cause will be included in the premium rating.

2. FCIC proposes to amend § 457.143, Northern Potato Crop Insurance Quality Endorsement as follows:

a. FCIC is proposing to add a new section 1, and move the definition of "Percentage factor" currently in section 10 to section 1. This new format will conform to all other crop provisions that have the definitions first, which will make it easier to read;

b. Section 4—FCIC is proposing to revise provisions to reflect the format and changes for the quality adjustment provisions in section 11(g) of the Northern Potato Crop Provisions; and

c. Section 5—For the reasons stated above, FCIC is proposing to add provisions to clarify how discarded production will be adjusted.

3. FCIC proposes to revise § 457.144, Northern Potato Crop Insurance Processing Quality Endorsement as follows:

a. Section 1—FCIC is proposing to add a new section 1, move the definition of "Percentage factor" currently in section 10 to section 1 and add definitions for "Broker," "Processor," and "Processor contract". This new format will conform to all the other crop provisions that have the definitions first, which will make it easier to read. Previously, the terms "Processor" and "Processor contract" were included in the endorsement but were not defined. Definitions are necessary to ensure a uniform meaning is provided for these terms, which are consistent with the definitions of such terms in other crop policies involving processing crops. The definition of "Broker" is added because FCIC recognizes that not all potatoes are sold directly to processors and instead the potatoes are sold through brokers. Subsequent sections will be redesignated as necessary;

b. Section 2—FCIC is proposing to add a new section 2 that consolidates

the provisions regarding eligibility from current sections 2, 3, 4 and 5, into one section to eliminate ambiguity. The new section 2 now contains the requirement that the producer must have a Northern Potato Crop Insurance Quality Endorsement in effect and the Northern Potato Crop Insurance Processing Quality Endorsement must be elected on or before the sales closing date. Further, FCIC is proposing to add a provision that specifies that if the producer cancels the Northern Potato Crop Insurance Quality Endorsement, the Northern Potato Crop Insurance Processing Quality Endorsement is automatically cancelled. The provision regarding the ability to cancel the Northern Potato Crop Insurance Processing Quality Endorsement for subsequent years has been added to this section because the other cancellation provisions are here and it is best to keep such provisions together. FCIC also proposes to add a requirement that the producer have a processor contract executed with a processor or broker as a condition of eligibility. This is implied in other sections but now it is clear that such a contract is a condition of eligibility for coverage;

c. Redesignated section 5—FCIC is proposing to include processor contracts executed with brokers because this has become an increasingly common mechanism for producers to sell their potato production and without inclusion of these contracts, such producers would be without coverage. FCIC also proposes to add those provisions currently in section 6 because they also relate to the insurable acreage. Inclusion of all related provisions should improve the readability of the policy and remove ambiguities;

d. Redesignated section 6—FCIC is proposing to revise the quality adjustment provisions for potatoes to include a standard for chipping potatoes. A producer group recommended including a quality standard specific to chipping potatoes in the Northern Potato Crop Insurance Processing Quality Endorsement. FCIC agrees such standard should be added. FCIC is proposing to use a standard based on an Agtron rating because this rating is commonly recognized by the potato industry as well as being referenced in the U.S. Standards for Grades of Potatoes for Processing or Chipping. FCIC is proposing to use an Agtron rating value of 58 because this appears to be an average threshold of what processors will accept. For the reasons stated above, FCIC is also proposing to revise the provisions to reflect the changes in the new quality

adjustment provisions in the Northern Potato Crop Provisions. FCIC is also proposing to simplify the provisions and make other grammatical changes for readability;

e. FCIC is proposing to add a new section 7 to clarify how discarded production will be adjusted for the same reasons stated above; and

f. FCIC is proposing to combine the provisions in current sections 7 and 8 to specify that all quality determinations must be based on a grade inspection using the United States Standards for Grades of Potatoes for Processing and Chipping.

4. FCIC proposes to amend § 457.145, Potato Crop Insurance Certified Seed Endorsement as follows:

a. Section 1—FCIC is proposing to revise the provisions to clarify that the Certified Seed Endorsement only extends the time period to discover damage beyond harvest that resulted from a cause of loss that occurred during the insurance period, it does not extend the insurance period and any new causes of loss that occur after harvest are not covered. Therefore, the additional premium paid for coverage under the Storage Coverage Endorsement will not apply;

b. Section 2—FCIC is proposing to move the definition “potato certified seed program” to Northern Potato Crop Provisions because the term is used in the definition of certified seed;

c. Section 6—FCIC also proposes to move the provisions currently in section 11 to section 6 and add new provisions to clarify that failure to meet any requirements under the potato seed certification program will be considered loss due to uninsured causes, which under section 8(d) means that such production is counted as production to count. This will ensure that coverage is only provided for potatoes that could have met the standards for certification if not for an insurable cause of loss; and

d. Section 10—FCIC also proposes to clarify that coverage is not provided for failure to meet quality requirements for seed used to produce a subsequent seed crop. Certified seed can be used to produce a subsequent commercial crop or a subsequent seed crop. This endorsement only covers quality losses due to insurable causes of certified seed used to produce a subsequent commercial crop, not the subsequent seed crop. This is because certified seed that does not meet the quality standards for a subsequent seed crop generally still meets the requirements to be used for a commercial crop.

5. FCIC proposes to amend § 457.146, Northern Potato Crop Insurance Storage Coverage Endorsement as follows:

a. Section 5(a)(3)—FCIC is proposing to revise the provisions to include the Agron standard for chipping potatoes for the reasons stated above;

b. Section 5(c)—FCIC is proposing to revise the provisions to include provisions currently contained in section 5(d) because the provisions all relate to sampling and now provide the time frame such sampling must occur for all situations and who may conduct the sampling; and

c. Producer groups recommended increasing the length of time coverage is provided under the Northern Potato Crop Insurance Storage Coverage Endorsement period. The current endorsement provides 60 days after the end of the insurance period to discover damage that occurred during the insurance period but does not become evident until a later time. To determine the feasibility of extending the storage period, the historic experience for policies with the Storage Coverage Endorsement was analyzed. A review of crop years from 1998 through 2003 indicated that for five of the six years, losses exceeded premiums collected under the Storage Coverage Endorsement. In addition, several potato industry experts state that virtually all damage that occurs within the covered insurance period (coverage ends upon harvest) will become apparent within 45 days after production is harvested. Therefore, based on loss experience to date and adequacy of the current coverage period, no time extension is proposed.

6. FCIC proposes to amend § 457.147, Central and Southern Potato Crop Insurance Provisions as follows:

a. Introductory text—FCIC is proposing to revise to exclude San Juan County, New Mexico, and to allow for the Special Provisions to include states or counties in which insurance can be provided under the Central and Southern Potato Crop Insurance Provisions;

b. FCIC is proposing to remove provisions regarding document priority because these are now contained in the Basic Provisions;

c. Section 1—FCIC is proposing to revise the definition of “Certified seed” to clarify that certified seed includes both seed used to produce a seed crop for the next crop year or a potato crop for harvest for commercial sale in the next crop year. This will clarify that certified seed must be used to produce the crop for both purposes. The definition of “Potato certified seed program” is included because it is used in the definition of certified seed. FCIC is also proposing to revise the definition of “grade inspection” to specify the

standards that will be used to grade the potatoes. Since there are several grading standards that differ based on the intended use of the potato (i.e., chipping, processing, etc.), the policy needs to specify how these different standards will be applied for grading the potatoes;

d. Section 3(b)—FCIC is proposing to revise the percent of the price election used to determine the indemnity for unharvested acreage from 80 to 90 percent;

e. Section 4—FCIC is proposing to add an additional contract change date of October 31 for counties with a new January 31 cancellation date as specified below. This will allow sufficient time for affected producers to make informed decisions by the cancellation date;

f. Section 5—FCIC is proposing to add an additional cancellation and termination date of January 31 for Delaware, Maryland, New Jersey, North Carolina, and Virginia. This change is being made to accurately reflect the growing cycle in these states;

g. Section 12(b)—FCIC is proposing to revise the indemnity calculation example to incorporate the new percentage used to reduce the price election for unharvested acreage; and

h. Section 12(e)—FCIC is proposing to add the requirement that the producer provide notice of the intended use of the potato so the appropriate grading standard can be applied. Further, FCIC is proposing to revise the provisions to clarify that the same quality determinations apply for both harvested and unharvested production.

#### List of Subjects in 7 CFR Part 547

Crop insurance, Potatoes, Reporting and recordkeeping requirements.

#### Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 457 effective for the 2008 and succeeding crop years to read as follows:

#### PART 457—COMMON CROP INSURANCE REGULATIONS

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

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

2. Amend § 457.142 Northern potato crop insurance provisions as follows:

a. Revise the introductory text;

b. Remove the paragraph regarding document priority immediately preceding section 1 and revise the remaining paragraph below the heading “Northern Potato Crop Provisions” and before section 1;

c. Amend section 1 by revising the definition of "Certified seed" and "Grade inspection". Add definition of "Potato certified seed program", and remove the definitions of "Processor contract" and "Reduction percentage";

d. Amend section 2 by revising paragraph (b);

e. Amend section 8 by revising paragraphs (c) and (e); and

f. Amend section 11 as follows:

(1) Revise paragraph (b)(7);

(2) Remove paragraph (d)(1)(iv), redesignate paragraph (d)(1)(v) as (d)(1)(iv) and revise it;

(3) Revise paragraph (e)(2);

(4) Add new paragraph (e)(3);

(5) Revise section 11(g); and

(6) Remove paragraph (h).

The added and revised text reads as follows:

#### **§ 457.142 Northern potato crop insurance provisions**

The Northern Potato Crop Insurance Provisions for the 2008 and succeeding crop years are as follows:

\* \* \* \* \*

These provisions will be applicable in: Alaska; Humboldt, Modoc, and Siskiyou Counties, California; Colorado; Connecticut; Idaho; Indiana; Iowa; Kansas; Maine; Massachusetts; Michigan; Minnesota; Montana; Nebraska; Nevada; San Juan County, New Mexico; New York; North Dakota; Ohio; Oregon; Pennsylvania; Rhode Island; South Dakota; Utah; Washington; Wisconsin; and Wyoming; and any other states or counties if allowed by the Special Provisions.

\* \* \* \* \*

#### **1. Definitions**

\* \* \* \* \*

*Certified seed.* Potatoes that were entered into the potato certified seed program and that meet all requirements for production to be used to produce a seed crop for the next crop year or a potato crop for harvest for commercial uses in the next crop year.

\* \* \* \* \*

*Grade inspection.* An inspection in which samples of production are obtained by us, or a party approved by us, prior to the sale, storage, or disposal of any lot of potatoes, or any portion of a lot of and the potatoes are evaluated and quality (grade) determinations are made by us, a laboratory approved by us, or a potato grader licensed or certified by the applicable State or the United States Department of Agriculture, in accordance with the United States Standards for Grades of Potatoes. The United States standards used to determine the quality (grade) deficiencies will be: (1) For potatoes

produced or sold for chipping, the United States Standards for Grades of Potatoes for Chipping; (2) for potatoes produced or sold for processing, the United States Standards for Grades of Potatoes for Processing; and (3) for all other potatoes, the United States Standards for Grades of Potatoes. The quantity and number of samples required will be determined in accordance with procedure issued by FCIC.

\* \* \* \* \*

*Potato certified seed program.* The state program administered by a public agency responsible for the seed certification process within the state in which the seed is produced.

\* \* \* \* \*

#### **2. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities**

\* \* \* \* \*

(b) If the production from any acreage of the insured crop is not harvested, the price used to determine your indemnity will be 90 percent of your price election. This requirement is not applicable to the certified seed endorsement price election.

\* \* \* \* \*

#### **8. Insurance Period**

\* \* \* \* \*

(c) October 15 in Colorado; Indiana; Iowa; Kansas; Michigan; Minnesota; Montana; Nevada; North Dakota; South Dakota; Utah; and Wisconsin.

\* \* \* \* \*

(e) October 31 in Humboldt, Modoc, and Siskiyou Counties, California; Connecticut; Idaho; Massachusetts; San Juan County, New Mexico; New York; Ohio; Oregon; Pennsylvania; Rhode Island; and Washington.

\* \* \* \* \*

#### **11. Settlement of Claim**

\* \* \* \* \*

(b) \* \* \*

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

For example:

You have a 100 percent share in 100 harvested acres of potatoes in the unit, with a guarantee of 150 hundredweight per acre and a price election of \$4.00 per hundredweight. You are only able to harvest 10,000 hundredweight. Your indemnity would be calculated as follows:

(1) 100 acres × 150 hundredweight = 15,000 hundredweight guarantee;

(2) 15,000 hundredweight × \$4.00 price election = \$60,000.00 value of guarantee;

(4) 10,000 hundredweight × \$4.00 price election = \$40,000.00 value of production to count;

(6) \$60,000.00 – \$40,000.00 = \$20,000.00 loss; and

(7) \$20,000.00 × 100 percent = \$20,000.00 indemnity payment.

You also have a 100 percent share in 100 unharvested acres of potatoes in the same unit, with a guarantee of 150 hundredweight per acre and a price election of \$3.60 per hundredweight. (The price election for unharvested acreage is 90.0 percent of your elected price election (\$4.00 × 0.90 = \$3.60.)) This unharvested acreage was appraised at 35 hundredweight per acre for a total of 3500 hundredweight as production to count. Your total indemnity for the harvested and unharvested acreage would be calculated as follows:

(1) 100 acres × 150 hundredweight = 15,000 hundredweight guarantee for the harvested acreage, and 100 acres × 150 hundredweight = 15,000 hundredweight guarantee for the unharvested acreage;

(2) 15,000 hundredweight guarantee × \$4.00 price election = \$60,000.00 value of guarantee for the harvested acreage, and 15,000 hundredweight guarantee × \$3.60 price election = \$54,000.00 value of guarantee for the unharvested acreage;

(3) \$60,000.00 + \$54,000.00 = \$114,000.00 total value of guarantee;

(4) 10,000 hundredweight × \$4.00 price election = \$40,000.00 value of production to count for the harvested acreage, and 3500 hundredweight × \$3.60 = \$12,600.00 value of production to count for the unharvested acreage;

(5) \$40,000.00 + \$12,600.00 = \$52,600.00 total value of production to count;

(6) \$114,000.00 – \$52,600.00 = \$61,400.00 loss; and

(7) \$61,400.00 loss × 100 percent = \$61,400.00 indemnity payment.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(iv) Unharvested production, including unharvested production on insured acreage that you intend to put to another use or acreage damaged by insurable causes and for which you cease to provide further care or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or cease providing care for the crop. This unharvested production may be adjusted in accordance with sections 11(e), (f), and (g); and the value of all unharvested production will be calculated using the reduced price election determined in section 2(b). If agreement on the appraised amount of production is not reached:

\* \* \* \* \*

(e) \* \* \*

(2) A grade inspection is completed no later than 21 days after the end of insurance period (if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable, samples must be obtained within 60 days of the end of insurance period and quality (grade) determinations must be completed with 21 days of sampling); and

(3) Prior to any quality adjustment, you notify us of the intended use of the potatoes so the applicable United States Standards will be applied.

\* \* \* \* \*

(g) Potato production to count that is eligible for quality adjustment, as specified in section 11(e), with 5.1 percent damage or more (by weight) will be determined as follows:

(1) For potatoes for which a price is agreed upon between you and a buyer within 21 days of the end of insurance period (60 days of the end of insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable), or that are delivered to a buyer within 21 days (60 days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable), the amount of production will be determined by:

(i) Dividing the price received or that will be received per hundredweight by the highest price election designated in the Special Provisions or addendum thereto for the insured potato type (if the production is sold for a price lower than the value appropriate to and representative of the local market, we will determine the value of the production based on the price you could have received in the local market); and

(ii) Multiplying the result (not to exceed 1.0) by the number of harvested hundredweight; or

(2) For potatoes for which a price is not agreed upon between you and a buyer or are not delivered and no price is agreed upon within 21 days of the end of insurance period (60 days of the end of insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) and that remain in storage 22 or more days after the end of insurance period (61 or more days after the end of insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable), the amount of production will be the greater of:

(i) The amount determined by:

(A) Dividing the price that is received, or will be received after the end of the applicable insurance period, per hundredweight by the highest price election designated in the Special

Provisions or addendum thereto for the insured potato type (if the production is sold for a price lower than the value appropriate to and representative of the local market, we will determine the value of the production based in the price you could have received in the local market); and

(B) Multiplying the result of section 11(g)(2)(i)(A) (not to exceed 1.0) by the number of harvested hundredweight; or

(ii) The amount of production determined by:

(A) Reducing any harvested or appraised production:

(1) By 0.1 percent for 0.1 percent

damage through 5.0 percent;

(2) By 0.5 percent for each 0.1 percent of damage from 5.1 percent through 6.0 percent;

(3) By 1.0 percent for each 0.1 percent of damage from 6.1 through 13.5 percent; or

(B) Including 15 percent of the production when damage is in excess of 13.5 percent.

(iii) For any production discarded:

(A) Within 21 days after the end of insurance period (60 days after the end of the insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable), the amount of production to count will be:

(1) Zero if we determine the production could not have been sold; or

(2) Determined in accordance with section 11(g)(2)(ii) if we determine the production could have been sold; or

(B) Later 21 days after the end of insurance period (60 days after the end of the insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable), the amount of production to count will be adjusted in accordance with section 11(g)(2)(ii).

\* \* \* \* \*

3. Amend § 457.143, Northern potato crop insurance quality endorsement, as follows:

a. Revise the introductory text;

b. Redesignate sections 5 through 8 as 7 through 10;

c. Redesignate sections 1 through 4, as sections 2 through 5, and add new section 1;

d. Revise redesignated section 5; and

e. Add a new section 6.

The revised and added text reads as follows:

**§ 457.143 Northern potato crop insurance quality endorsement.**

The Northern Potato Crop Insurance Quality Endorsement Provisions for the 2008 and succeeding crop years are as follows:

\* \* \* \* \*

**1. Definitions**

*Percentage factor.* The historical average percentage of potatoes grading

U.S. No. 2 or better, by type, determined from your records. If at least 4 continuous years of records are available, the percentage factor will be the simple average of the available records not to exceed 10 years. If less than 4 years of records are available, the percentage factor will be determined based on a combination of your records and the percentage factor contained in the Special Provisions so that such a combination would be the functional equivalent of 4 years of records.

\* \* \* \* \*

5. We will adjust the production to count determined in accordance with section 15 of the Basic Provisions and section 11 of the Northern Potato Crop Provisions for potatoes that do not meet U.S. No. 2 grade requirements from unharvested acreage or harvested acreage that is stored or is marketed after a grade inspection due to:

(a) Internal defects as long as the number of potatoes with such defects are in excess of the tolerances allowed for the U.S. No. 2 grade potatoes on a lot basis and are not separable from undamaged production using methods used by the packers or processors to whom you normally deliver your potato production as follows:

(1) For potatoes for which a price is agreed upon between you and a buyer within 21 days of the end of insurance period (60 days of the end of insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable), or that are delivered to a buyer within 21 days of the end of insurance period (60 days of the end of insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable), the amount of production will be determined by:

(i) Dividing the price received or that will be received per hundredweight by the highest price election designated in the Special Provisions or addendum thereto for the insured potato type (if the production is sold for a price lower than the value appropriate to and representative of the local market, we will determine the value of the production based on the price you could have received in the local market); and

(ii) Multiplying the result (not to exceed 1.0) by the number of harvested hundredweight; or

(2) For potatoes for which a price is not agreed upon between you and a buyer or are not delivered and no price is agreed upon within 21 days of the end of insurance period (60 days of the end of insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) and that

remain in storage 22 or more days of the end of insurance period (61 or more days of the end of insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable), the amount of production will be the greater of:

(i) The amount of production determined by:

(A) Dividing the price that is received, or will be received after the end of the applicable insurance period, per hundredweight by the highest price election designated in the Special Provisions or addendum thereto for the insured potato type (if the production is sold for a price lower than the value appropriate to and representative of the local market, we will determine the value of the production based on the price you could have received in the local market); and

(B) Multiplying the result of section 5(a)(2)(i)(A) (not to exceed 1.0) by the number of hundredweight of sold production (Adjustment under section 5(a)(2)(i)(A) will not be performed if it already has been performed under the terms of section 11(g)(2) of the Northern Potato Crop Provisions); or

(ii) The amount of production determined as follows:

(A) The combined weight of sampled potatoes that grade U.S. No. 2 or better (the amount of potatoes grading U.S. No. 2 will be based on a grade inspection completed no later than 21 days after the end of insurance period (if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable, samples must be obtained within 60 days of the end of insurance period and a grade inspection completed within 21 days of sampling) and are damaged by freeze or tuber rot will be divided by the total sample weight;

(B) The percentage determined in section 5(a)(2)(ii)(A) will be divided by the applicable percentage factor determined in accordance with section 1; and

(C) The result of section 5(a)(2)(ii)(B) will be multiplied by the amount of production to count determined in accordance with section 15 of the Basic Provisions and section 11 of the Northern Potato Crop Provisions.

(b) Factors other than those specified in section 5(a), in accordance with section 5(a)(2)(ii).

6. For any production discarded that qualifies for adjustment in accordance with section 6(a):

(a) Within 21 days after the end of insurance period (60 days after the end of the insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable), the amount of production to count will be:

(1) Zero if we determine the production could not have been sold; or

(2) Determined in accordance with section 5(a)(2)(ii) if we determine the production could have been sold; or

(b) Later than 21 days after the end of insurance period (60 days after the end of the insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable), the amount of production to count will be adjusted in accordance with section 5(a)(2)(ii).

\* \* \* \* \*

4. Revise § 457.144, Northern potato crop insurance processing quality endorsement to read as follows:

**§ 457.144 Northern potato crop insurance processing quality endorsement.**

The Northern Potato Crop Insurance Processing Quality Endorsement Provision for the 2008 and succeeding crop years are as follows:

1. Definitions.

*Broker.* Any business enterprise regularly engaged in the buying and selling of processing potatoes, that possesses all licenses and permits as required by the state in which it operates, and when required, has the necessary facilities or the contractual access to such facilities, with enough equipment to accept and transfer processing potatoes to the broker within a reasonable amount of time after harvest or the typical storage period.

*Percentage factor.* The historical average percent of potatoes grading U.S. No. 2 or better, by type, determined from your records. If at least 4 continuous years of records are available, the percentage factor will be the simple average of the available records not to exceed 10 years. If less than 4 years of records are available, the percentage factor will be determined based on a combination of your records and the percentage factor contained in the Special Provisions so that such combination would be the functional equivalent of 4 years of records.

*Processor.* Any business enterprise regularly engaged in processing potatoes for human consumption, that possesses all licenses and permits for processing potatoes required by the state in which it operates, and that possesses facilities, or has contractual access to such facilities, with enough equipment to accept and process processing potatoes grown under a processing contract within a reasonable amount of time after harvest or the typical storage period.

*Processor contract.* A written agreement between the producer and processor, or between a producer and a broker, containing at a minimum:

(a) The producer's commitment to plant and grow processing potatoes, and to deliver the potato production to the processor or broker;

(b) The processor's or broker's commitment to purchase all the production stated in the processing contract; and

(c) A price or pricing mechanism to determine the value of delivered production.

2. To be eligible for coverage under this endorsement, you must have a:

(a) Northern Potato Crop Insurance Quality Endorsement in place and elect this endorsement on or before the sales closing date for the initial crop year in which you wish to insure your potatoes under this endorsement;

(1) Cancellation of your Northern Potato Crop Insurance Quality Endorsement will automatically result in cancellation of this endorsement;

(2) This endorsement may be canceled by either you or us for any succeeding crop year by giving written notice to the other party on or before the cancellation date; and

(b) Processor contract executed with a processor or broker for the potato types insured under this endorsement that is applicable for the crop year;

(1) A copy of the processor contract must be submitted to us on or before the acreage reporting date for potatoes;

(2) Failure to timely provide the processor contract will result in no coverage under this endorsement and coverage will be provided only under the terms of the Northern Potato Crop Insurance and Northern Potato Crop Insurance Quality Endorsement.

3. In return for payment of the additional premium designated in the actuarial documents, this endorsement is attached to and made part of your Northern Potato Crop Provisions and Northern Potato Crop Insurance Quality Endorsement subject to the terms and conditions described herein. In the event of a conflict between the Northern Potato Crop Provisions or Northern Potato Crop Insurance Quality Endorsement and this endorsement, this endorsement will control.

4. All terms of the Northern Potato Crop Insurance Quality Endorsement not modified by this endorsement will be applicable to acreage covered under this endorsement.

5. If you elect this endorsement, all insurable acreage of production under contract with the processor or broker must be insured under this endorsement:

(a) When the processor contract requires the processor or broker to purchase a stated amount of production, rather than all of the production from a

stated number of acres, the insurable acreage will be determined by dividing the stated amount of production by the approved yield for the acreage; and

(b) The number of acres insured under this endorsement will not exceed the actual number of acres planted to the potato types needed to fulfill the contract.

6. In lieu of the provisions contained in section 5 of the Northern Potato Crop Insurance Quality Endorsement, production to count determined in accordance with section 15 of the Basic Provisions and section 11 of the Northern Potato Crop Provisions will be adjusted in accordance with sections 6(a) or 6(b), whichever is applicable, from unharvested acreage or harvested acreage that is stored or is marketed after a grade inspection conducted in accordance with section 8 as follows:

(a) The production to count for potatoes rejected by a processor or broker because they do not meet U.S. No. 2 grade requirements due to internal defects as long as the number of potatoes with such defects are in excess of the tolerance allowed for U.S. No. 2 grade potatoes on a lot basis and are not separable from undamaged production using methods used by the potato packers to whom you normally deliver your potato production; a specific gravity lower than the lesser of 1.074 or the minimum acceptable amount specified in the processor contract; a fry color of No. 3 or darker due to either sugar exceeding 10 percent or sugar ends exceeding 19 percent; or an Agtron rating lower than the lesser of 58 or the minimum acceptable amount specified in the processor contract will be determined as follows:

(1) For potatoes for which a price is agreed upon between you and a buyer within 21 days of the end of insurance period (60 days of the end of insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable), or that are delivered to a buyer within 21 days of the end of insurance period (60 days of the end of insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable), the amount of production will be determined by:

(i) Dividing the price received or that will be received per hundredweight by the highest price election designated in the Special Provisions or addendum thereto for the insured potato type (if the production is sold for a price lower than the value appropriate to and representative of the local market, we will determine the value of the production based on the price you could have received in the local market); and

(ii) Multiplying the result of section 6(a)(1)(i) (not to exceed 1.0) by the number of hundredweight; or

(2) For potatoes for which a price is not agreed upon between you and a buyer *or are not delivered and no price is agreed upon* within 21 days of the end of insurance period (60 days of the end of insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) and that remain in storage 22 or more days after the end of insurance period (61 or more days after the end of insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable), the amount of production will be the greater of:

(i) The amount of production determined by:

(A) Dividing the price that is received, or will be received after the end of the applicable insurance period, per hundredweight by the highest price election designated in the Special Provisions or addendum thereto for the insured potato type (if the production is sold for a price lower than the value appropriate to and representative of the local market, we will determine the value of the production based on the price you could have received in the local market); and

(B) Multiplying the result of section 6(a)(2)(i)(A) (not to exceed 1.0) by the number of hundredweight of sold production (Adjustment under section 6(a)(2)(i) will not be performed if it already has been performed under the terms of section 11(g)(2) of the Northern Potato Crop Provisions); or

(ii) The amount of production determined as follows:

(A) The combined weight of sampled potatoes that grade U.S. No. 2 or better, and that are damaged by freeze or tuber rot will be based on a grade inspection:

(1) The amount of potatoes grading U.S. No. 2 or better will be based on a grade inspection from samples taken no later than 21 days after the end of insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is not applicable;

(2) If the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable, samples must be obtained within 60 days of the end of insurance period and quality (grade) determination completed within 21 days of sampling.

(B) The percentage determined in section 6(a)(2)(ii)(A) will be divided by the applicable percentage factor; and

(C) The result of section 6(a)(2)(ii)(B) will be multiplied by the amount of production to count determined in accordance with section 15 of the Basic

Provisions and section 11 of the Northern Potato Crop Provisions.

(b) The production to count for potatoes rejected by the processor or broker due to factors other than those specified in section 6(a) will be adjusted in accordance with section 6(a)(2)(ii).

7. For any production that qualifies for adjustment in accordance with section 6(a) and that is discarded:

(a) Within 21 days after the end of insurance period (60 days after the end of the insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable), the amount of production to count will be:

(1) Zero if we determine the production could not have been sold; or

(2) Determined in accordance with section 6(a)(2)(ii) if we determine the production could have been sold; or

(b) Later than 21 days after the end of insurance period (60 days after the end of the insurance period if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable), the amount of will production to count will be adjusted in accordance with section 6(a)(2)(ii).

8. All quality determinations must be based upon a grade inspection using the United States Standards for Grades of Potatoes for Processing or Chipping.

9. The actuarial documents may provide "U.S. No. 1 grade" in place of "U.S. No. 2 grade" as used in this endorsement. If both U.S. No. 1 and 2 grades are available in the actuarial documents, you may elect U.S. No. 1 or 2 grade by potato type or group, if separate types or groups are specified in the Special Provisions.

5. Amend § 457.145, Potato crop insurance certified seed endorsement, as follows:

- a. Revise the introductory text;
- b. Revise section 1;
- c. Remove section 2, and redesignate sections 3 through 11 as 2 through 10;
- d. Revise redesignated section 6; and
- e. Revise redesignated section 10.

The added and revised text reads as follows:

**§ 457.145 Potato crop insurance certified seed endorsement.**

The Potato Crop Insurance Certified Seed Endorsement Provisions for the 2008 and succeeding crop years are as follows:

\* \* \* \* \*

1. In return for payment of the additional premium designated in the actuarial documents, this endorsement is attached to and made part of your Northern Potato Crop Provisions subject to the terms and conditions described herein. Any additional premium paid for coverage under the Northern Potato

Crop Insurance Storage Coverage Endorsement will not apply to the additional coverage provided under the terms of this endorsement. In the event of a conflict between the Northern Potato Crop Provisions and this endorsement, this endorsement will control.

\* \* \* \* \*

6. All potatoes insured for certified seed production must be produced and managed in accordance with the regulations, standards, practices, and procedures required for certification under the potato certified seed program. Any production that does not qualify as certified seed because of varietal mixing or your failure to meet any requirements under the potato certified seed program will be considered as lost due to uninsured causes.

\* \* \* \* \*

10. Failure to meet any requirements for seed to be used to produce a subsequent seed crop will not be covered. All the production that meets requirements for certified seed used to produce a commercial crop will be included in production to count.

6. Amend § 457.146 Northern potato crop insurance storage coverage endorsement as follows:

- a. Revise the introductory text; and
- b. Amend section 5 by revising the first sentence, removing paragraph (d) and revising paragraphs (a)(3) and (c).

The revised text reads as follows:

**§ 457.146 Northern potato crop insurance storage coverage endorsement.**

The Northern Potato Crop Insurance Storage Coverage Endorsement Provisions for the 2008 and succeeding crop years are as follows:

\* \* \* \* \*

5. In lieu of section 9(b)(1) of the Northern Potato Crop Provisions, the extended coverage provided by this endorsement will be applicable but only if:

(a) \* \* \*

(3) A specific gravity lower than the lesser of 1.074 or the minimum acceptable amount specified in the processor contract, or a fry color of No. 3 or darker due to either sugar exceeding 10 percent or sugar ends exceeding 19 percent, or an Agron rating lower than the lesser of 58 or the minimum acceptable amount specified in the processor contract. This coverage is applicable only to production covered under the Northern Potato Crop Insurance Processing Quality Endorsement.

\* \* \* \* \*

(c) The percentage of production that has any of the quality deficiencies specified in section 5(a) is determined based on samples obtained no later than 60 days after the end of the insurance period and the potatoes are evaluated and quality (grade) determinations are made by us, a laboratory approved by us, a potato grader licensed or certified by the applicable State or the United States Department of Agriculture, or us, in accordance with the United States Standards for Grades of Potatoes;

(1) Samples of damaged production must be obtained by us or a party approved by us prior to the sale or disposal of any lot of potatoes; and

(2) If production is not sold or disposed of within 60 days of the end of insurance period, samples must be obtained within 60 days of the end of insurance period and a quality (grade) determination must be completed within 21 days of sampling.

7. Amend § 457.147, Central and southern potato crop insurance provisions as follows:

- a. Revise the introductory text;
  - b. Remove the paragraph regarding document priority immediately preceding section 1 and revise the remaining paragraph below the heading "Central and Southern Potato Crop Provisions" and before section 1;
  - c. Amend section 1 by revising the definition of "Certified seed" and "Grade inspection", and adding a new definition for "Potato certified seed program";
  - d. Amend section 3 by revising paragraph (b);
  - e. Amend section 4 by redesignating the current paragraph (c) as paragraph (d) and adding a new paragraph (c);
  - f. Revise section 5; and
  - g. Amend section 12 as follows:
    - (1) Revise paragraph (b)(7); and
    - (2) Revise paragraph (e) in its entirety.
- The added and revised text reads as follows:

**§ 457.147 Central and southern potato crop insurance provisions.**

The Central and Southern Potato Crop Insurance Provisions for the 2008 and succeeding crop years are as follows:

\* \* \* \* \*

These provisions will be applicable in Alabama; Arizona; all California counties except Humboldt, Modoc, and Siskiyou; Delaware; Florida; Georgia; Maryland; Missouri; New Jersey; all New Mexico counties except San Juan; North Carolina; Oklahoma; Texas and Virginia; and other states or counties if allowed by the Special Provisions.

\* \* \* \* \*

**1. Definitions**

\* \* \* \* \*

*Certified seed.* Potatoes that were entered into the potato certified seed program and that meet all requirements for production to be used to produce a seed crop for the next year or a potato crop for harvest for commercial uses in the next crop year.

\* \* \* \* \*

*Grade inspection.* An inspection in which samples of production are obtained by us, or a party approved by us, prior to the sale, storage, or disposal of any lot of potatoes, or any portion of a lot and the potatoes are evaluated and quality (grade) determinations are made by us, a laboratory approved by us, or a potato grader licensed or certified by the applicable State or the United States Department of Agriculture, in accordance with the United States Standards for Grades of Potatoes. The United States standards used to determine the quality (grade) deficiencies will be: (1) For potatoes produced or sold for chipping, the United States Standards for Grades of Potatoes for Chipping; (2) for potatoes produced or sold for processing, the United States Standards for Grades of Potatoes for Processing; and (3) for all other potatoes, the United States Standards for Grades of Potatoes. The quantity and number of samples required will be determined in accordance with procedure issued by FCIC.

\* \* \* \* \*

*Potato certified seed program.* The state program administered by a public agency responsible for the seed certification process within the state in which the seed is produced.

\* \* \* \* \*

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

\* \* \* \* \*

(b) If the production from any acreage of the insured crop is not harvested, the price used to determine your indemnity will be 90 percent of your price election.

\* \* \* \* \*

**4. Contract Changes**

\* \* \* \* \*

(c) October 31 preceding the cancellation date for counties with a January 31 cancellation date; and

\* \* \* \* \*

**5. Cancellation and Termination Dates**

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are:

| State and county                                                                                                                                                                    | Dates         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| Pinellas, Hillsborough, Polk, Oseola, and Brevard Counties, Florida, and all Florida counties lying south thereof .....                                                             | September 30. |
| Arizona; all California counties; and all Texas counties except Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Haskell, Knox, Lamb, Parmer, Swisher, and Yoakum. | November 30.  |
| Alabama; Georgia; Missouri; and All Florida Counties except Pinellas, Hillsborough, Polk, Oseola, and Brevard Counties, Florida, and all Florida counties to the south thereof.     | December 31.  |
| Delaware; Maryland; New Jersey; North Carolina; and Virginia .....                                                                                                                  | January 31.   |
| Oklahoma; and Haskell and Knox Counties, Texas .....                                                                                                                                | February 28.  |
| Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Lamb, Parmer, Swisher, and Yoakum counties, Texas; and New Mexico.                                                | March 15.     |

\* \* \* \* \*  
12. Settlement of Claim.

\* \* \* \* \*

(b) \* \* \*

(7) Multiplying the result of section 12(b)(6) by your share.

For example:

You have a 100 percent share in 100 harvested acreage acres of potatoes in the unit, with a guarantee of 150 hundredweight per acre and a price election of \$4.00 per hundredweight. You are only able to harvest 10,000 hundredweight. Your indemnity would be calculated as follows:

(1) 100 acres × 150 hundredweight = 15,000 hundredweight guarantee;

(2) 15,000 hundredweight × \$4.00 price election = \$60,000.00 value of guarantee;

(4) 10,000 hundredweight × \$4.00 price election = \$40,000.00 value of production to count;

(6) \$60,000.00 – \$40,000.00 = \$20,000.00 loss; and

(7) \$20,000.00 × 100 percent = \$20,000.00 indemnity payment.

You also have a 100 percent share in 100 unharvested acres of potatoes in the same unit, with a guarantee of 150 hundredweight per acre and a price election of \$3.60 per hundredweight. (The price election for unharvested acreage is 90.0 percent of your elected price election (\$4.00 × 0.90 = \$3.60.)) This unharvested acreage was appraised at 35 hundredweight per acre for a total of 3500 hundredweight as production to count. Your total indemnity for the harvested and unharvested acreage would be calculated as follows:

(1) 100 acres × 150 hundredweight = 15,000 hundredweight guarantee for the harvested acreage, and

100 acres × 150 hundredweight = 15,000 hundredweight guarantee for the unharvested acreage;

(2) 15,000 hundredweight guarantee × \$4.00 price election = \$60,000.00 value of guarantee for the harvested acreage, and

15,000 hundredweight guarantee × \$3.60 price election = \$54,000.00 value of guarantee for the unharvested acreage;

(3) \$60,000.00 + \$54,000.00 = \$114,000.00 total value of guarantee;

(4) 10,000 hundredweight × \$4.00 price election = \$40,000.00 value of production to count for the harvested acreage, and 3500 hundredweight × \$3.60 = \$12,600.00 value of production to count for the unharvested acreage;

(5) \$40,000.00 + \$12,600.00 = \$52,600.00 total value of production to count;

(6) \$114,000.00 – \$52,600.00 = \$61,400.00 loss; and

(7) \$61,400.00 loss × 100 percent = \$61,400.00 indemnity payment.

\* \* \* \* \*

(e) With the exception of production with external defects, only marketable lots of mature potatoes will be production to count for loss adjustment purposes:

(1) Production not meeting the standards for grading U.S. No. 2 due to external defects will be determined on an individual basis for all harvested and unharvested potatoes if we determine it is or would be practical to separate the damaged production;

(2) All determinations must be based upon a grade inspection; and

(3) Prior to any grade inspection, you must notify us of the intended use of the potatoes so the applicable United States Standard will be applied.

(4) Marketable lots of potatoes will include any lot of potatoes that is:

(i) Stored;

(ii) Sold as seed;

(iii) Sold for human consumption; or

(iv) Harvested and not sold or that is appraised if such lots meet the standards for grading U.S. No. 2 or better on a sample basis.

(5) Marketable lots will also include any potatoes that we determine:

(i) Could have been sold for seed or human consumption in the general marketing area;

(ii) Were not sold as a result of uninsured causes including, but not limited to, failure to meet chipper or processor standards for fry color or specific gravity; or

(iii) Were disposed of without our prior written consent and such disposition prevented our determination of marketability.

(6) Unless included in section 12(e)(4) or (5), a potato lot will not be

considered marketable if, due to insurable causes of damage, it:

(i) Is partially damaged, and is salvageable only for starch, alcohol, or livestock feed;

(ii) Does not meet the standards for grading U.S. No. 2 or better due to internal defects; or

(iii) Does not meet the standards for grading U.S. No. 2 or better due to external defects, and it is not practical to separate the damaged production.

\* \* \* \* \*

Signed in Washington, DC, on July 21, 2006.

**James Callan,**  
*Acting Manager, Federal Crop Insurance Corporation.*  
[FR Doc. 06–6527 Filed 7–27–06; 8:45 am]  
**BILLING CODE 3410–08–P**

---

**DEPARTMENT OF AGRICULTURE**

**Federal Crop Insurance Corporation**

**7 CFR Part 457**

**RIN 0563–AC02**

**Common Crop Insurance Regulations; Fresh Market Sweet Corn Crop Insurance Provisions**

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

**ACTION:** Proposed rule with request for comments.

---

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) proposes to amend its Fresh Market Sweet Corn Crop Insurance Provisions. The intended effect of this action is to provide policy changes to allow for the expansion of fresh market sweet corn coverage into areas where the crop is produced and when provided in the actuarial documents, and allow coverage for fresh market sweet corn when it is marketed through direct marketing. This change will be applicable for the 2008 and succeeding crop years.

**DATES:** Written comments and opinions on this proposed rule will be accepted until close of business September 26, 2006 and will be considered when the