

EFFECTIVE 09/01/2010

Crop Agent License Examination Study Outline

Coverage Available MPCl Crop-Hail (6% = 3 items)

National Crop Insurance Services (NCIS)
Risk Management Agency (RMA)

Crop-Hail Insurance (35% = 18 items)

Eligibility
Application
Insurance Period
Perils Insured Against
Exclusions
Limits of Coverage
Crop-Hail Basic Policy Special Provisions Kentucky
Claim Settlement
Companion Plan Hail

Multiple Peril Crop Insurance (MPCI) (40% = 20 items)

Common Crop Provisions
Eligibility
Special Provisions
Yield Guarantee
Insurance Period
Multiple Peril Policy Provisions

Kentucky Agent License Law (8% = 4 items)

General Insurance Concepts and Definitions (10% = 5 items)

REFERENCES:

- Common Crop Insurance Policy Basic Provisions (05-BR)
- Crop Insurance Handbook (Agent) FCIC-18010-01 2007
- Comparison of Federal Crop Insurance to Private Crop-Hail Insurance 2009
- Federal Crop Insurance Act 2009
- FCIC Catastrophic Risk Protection Endorsement 2008 (09-CAT)
- FCIC Coarse Grains Crop Provisions (98-041)
- Crop-Hail Policy General Provisions 2007 - NCIS 3
- Crop-Hail Insurance Kentucky Amendatory Endorsement 2009 - NCIS 3KY
- Optional Fire and Lightning Coverage on Crops Planted in Small Grain Crop, Stubble or Residue 2007 - NCIS 457
- Crop-Hail Policy Jacket 2010 - NCIS 5
- Crop-Hail Policy Basic Form Special Provisions Kentucky 2007 - NCIS 616K
- Crop-Hail Policy - Unharvested and Harvested Tobacco Form Special Provisions Kentucky 2005 - NCIS 641K
- Endorsement to NCIS Crop-Hail Insurance Policy - Companion Plan Hail Insurance 2002 - NCIS 653
- Kentucky Property and Casualty Insurance License Exam Manual – Kaplan 2006
- Kentucky Administrative Regulations, Title 806
- Kentucky Revised Statutes, Chapter 304 - Insurance Code

Kentucky Crop Agent Study References

**Common Crop
Insurance Policy
Basic Provisions
(05-BR)**

**SUMMARY OF CHANGES FOR THE COMMON CROP INSURANCE POLICY
BASIC PROVISIONS - REINSURED VERSION (05-BR)**

The following is a brief description of significant changes to the Basic Provisions that are effective for the 2005 crop year for all crop insurance provisions with a contract change date on or after August 31, 2004. Please refer to the provisions for more complete information.

Provisions Preceding Section 1

Revise the first paragraph following title to incorporate reference to handbooks, manuals, memoranda and bulletins (procedures) that are used in administration of the policy.

Agreement to Insure – Clarify the order of priority when there are conflicts between the Federal Crop Insurance Act, policy documents, regulations and procedures.

Section 1 - Definitions

- Add definitions of "annual crop," "Code of Federal Regulations," "delinquent debt," "disinterested third party," "household," "insurable loss," "liability," "offset" and "perennial crop."
- Revise the definitions of "acreage report," "actuarial documents," "agricultural commodity," "approved yield," "average yield," "contract change date," "crop year," "earliest planting date," "enterprise unit," "field," "insured crop," "limited resource farmer," "non-contiguous," "policy," "practical to replant," "price election," "replanting," "second crop," "substantial beneficial interest" and "whole farm unit."
- Delete the definitions of "another use, notice of," "damage, notice of," "delinquent account" and "loss, notice of."

Section 2(b) – Clarify provisions regarding identification information required on the application for insurance. Revise provisions to require Insureds to report any changes in identification information from year to year, and to allow insurance for applicants who are composed of eligible and ineligible persons provided the ineligible person's identification number is reported and the ineligible person's share is not included on the acreage report.

Sections 2(e) and (f) – Clarify provisions pertaining to offset of amounts due from insureds, impacts of delinquent debts, including provisions regarding ineligibility and termination.

Section 2(k) – Move provisions pertaining to the ability of a person other than the insured person to sign insurance documents to this section, and revise the provisions to specify that the insured person is still responsible for the accuracy of information provided.

Section 3(e)(4) – Add provisions that limit the use of appraised production to establish actual yields.

Section 3(f) – Add provisions regarding the misreporting of information used to determine an approved yield.

Section 3(g) – Add provisions requiring adjustment of an approved yield when the yield, exceeds tolerances established by FCIC, exceeds specified tolerances and is based on a small amount of acreage and is being applied in the current year to a large amount of acreage, or is based on a production method different from that used in the current year.

Section 4 – Clarify provisions that specify when and how policy changes will be made available to insured producers.

Section 5 – Remove provisions regarding "liberalization" and reserve the section.

Section 6(d) – Clarify provisions pertaining to acreage report revisions for planted acreage and add a provision that limits the ability to change reported prevented planting acreage. Add provisions allowing producers to revise the number of acres reported on the acreage report when acreage measurement occurs after the acreage reporting date. Also, add provisions regarding conflicts between the number of acres determined by different measurement services.

Section 6(g) – Add provisions that provide for a reduced indemnity when information used to establish the amount of insurance liability is misreported.

Section 7(e) – Add provisions to permit producers who qualified as a "limited resource farmer" under the previous definition to remain qualified.

Section 8(b) – Add provisions to clarify that an uninsured crop includes any that is a type, class or variety not generally recognized for the area, or anywhere the conditions under which the crop is planted are not generally recognized for the area.

Section 9(a)(1)(I)(A) – Revise provisions pertaining to the insurability of acreage that has not been planted and harvested in one of the three previous crop years.

Section 10(a)(2) – Clarify reporting requirements for tenants or landlords who insure the other's share of the insured crop.

Section 12 – Clarify that insured causes of loss, except where price reduction is specifically covered, must be due to naturally occurring events.

Section 12(c) – Clarify provisions pertaining to losses caused by water that is contained by or within structures designed to contain water.

Section 12(d) – Revise provisions to provide coverage when an insured cause of loss causes failure of irrigation equipment.

Section 12(f) – Add provisions regarding crop damage that is not evident or that would not have been evident during the time insurance was in force.

Section 14(c) (Your Duties) – Add provisions allowing an extended time to submit a claim when information needed to settle the claim is not available. Also, add provisions indicating that no indemnity can be paid if the insured fails to submit a claim.

Section 14(h) (Your Duties) – Clarify provisions regarding the insured's failure to provide loss notifications required by section 14.

Section 14(a)(3) (Our Duties) – Add provisions indicating that claim payment may be delayed until completion of any investigation by the USDA.

Sections 15(g)(3) – Clarify provisions regarding reductions in prevented planting payments when a volunteer or cover crop is harvested after the end of the late planting period (or the final planting date if a late planting period is not applicable).

Section 15(j) – Add provisions regarding destruction of the insured crop prior to payment of a claim when any Federal or State agency requires destruction of the crop due to substances or conditions that are injurious to human or animal health.

Section 17(a)(1) – Add provisions indicating failure to plant when others producers in the area were planting will result in the denial of a prevented planting claim.

Section 17(e)(1) – Revise provisions pertaining to prevented planting coverage for acreage that is leased from year-to-year, and for acreage that was uninsurable in the past or acquired through inheritance or a gift. Also, revise provisions regarding eligible acres for crops grown under the terms of processor contracts.

Section 17(f)(1) – Clarify that prevented planting acres will not be considered the crop that is planted in the field if the crop that is planted is a second crop. Also, add provisions regarding unplanted acreage in a field when it is clear that unplanted acreage would be a different crop than the planted acreage.

Section 17(f)(3) – Add provisions regarding the number of eligible prevented planting acres when the land lease specifies the number of acres for which rent is due.

Section 17(f)(5) – Add provisions pertaining to prevented planting acreage that was previously planted to a crop from which no benefit was derived.

Section 17(f)(6) – Add provisions to prohibit prevented planting payments on acreage where pasture or other forage crops are in place during the time that planting of the insured crop generally occurs.

Section 17(f)(12) – Add provisions that prohibit prevented planting payments if a cause of loss has occurred at the time acreage is leased, purchased, released from a USDA program that prohibits harvest or is otherwise acquired. The provisions also prohibit payments if a cause of loss has occurred at the time a request is made to insure acreage by written agreement.

Section 17(h)(2) – Add provisions to prohibit prevented planting payments on an irrigated basis for non-irrigated acreage.

Section 18 – Add provisions regarding administration of written agreements, including requirements for requests for written agreements, approval of requests, cancellation, renewal, etc.

Section 20 – Revise provisions to specifically allow for dispute resolution through mediation, require that FCIC provide interpretations of any policy provisions or procedures when disputes involve the applicability or meaning of the provisions or procedures, clarify the time that arbitration proceedings and judicial review must be initiated, clarify the dispute resolution process for determinations made by FCIC, and to clarify provisions regarding payment of non-contractual damages. Provisions previously in section 25 and those previously in section 26 pertaining to non-contractual damages have been revised and moved to this section.

Section 21 – Clarify provisions regarding record retention and requirements pertaining to access to the farm and records of acreage and production.

Section 22 – Revise provisions regarding duplicate policies, including specific provisions to indicate which policy will remain in effect when it can be determined that the duplicate policies were not intentional.

Sections 24(a) and (e) – Clarify provisions pertaining to amounts that insureds owe to FCIC.

Section 30 – Add provisions to specify how payments under the policy will be made when payment for the same loss is received from another party.

Section 34(a)(2)(vi) and (a)(3)(iii) – Clarify that the basic unit structure will be assigned any time it is discovered that the insured does not qualify for an enterprise or whole farm unit.

COMMON CROP INSURANCE POLICY
(This is a continuous policy. Refer to section 2.)

This Insurance policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the provisions of the Federal Crop Insurance Act (Act) (7 U.S.C. 1501 et seq.). All provisions of the policy and rights and responsibilities of the parties are specifically subject to the Act. The provisions of the policy may not be waived or varied in any way by us, our insurance agent or any other contractor or employee of ours or any employee of USDA unless the policy specifically authorizes a waiver or modification by written agreement. We will use the procedures (handbooks, manuals, memoranda and bulletins), as issued by FCIC and published on the RMA website at <http://www.rma.usda.gov/> or a successor website, in the administration of this policy, including the adjustment of any loss or claim submitted hereunder. In the event that we cannot pay your loss because we are insolvent or are otherwise unable to perform our duties under our reinsurance agreement with FCIC, your claim will be settled in accordance with the provisions of this policy and FCIC will be responsible for any amounts owed. 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 there is a conflict between the Act, the regulations published at 7 CFR chapter IV, and the procedures as issued by FCIC, the order of priority is as follows: (1) the Act; (2) the regulations; and (3) the procedures as issued by FCIC, with (1) controlling (2), etc. If there is a conflict between the policy provisions published at 7 CFR part 457 and the administrative regulations published at 7 CFR part 400, the policy provisions published at 7 CFR part 457 control. If a conflict exists among the policy provisions, the order of priority is: (1) the Catastrophic Risk Protection Endorsement, as applicable; (2) the Special Provisions; (3) the Crop Provisions; and (4) these Basic Provisions, with (1) controlling (2), etc.

TERMS AND CONDITIONS
BASIC PROVISIONS

1. Definitions.

Abandon - Failure to continue to care for the crop, providing care so insignificant as to provide no benefit to the crop, or failure to harvest in a timely manner, unless an insured cause of loss prevents you from properly caring for or harvesting the crop or causes damage to it to the extent that most producers of the crop on acreage with similar characteristics in the area would not normally further care for or harvest it.

Acreage report - A report required by section 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, (7 U.S.C. 1501 et seq.).

Actual Production History (APH) - A process used to determine production guarantees in accordance with 7 CFR part 400, subpart (G).

Actual yield - The yield per acre for a crop year calculated from the production records or claims for indemnities. The actual yield is determined by dividing total production (which includes harvested and appraised production) by planted acres.

Actuarial documents - The material for the crop year which is available for public inspection in your agent's office and published on RMA's website at

<http://www.rma.usda.gov/> or a successor website, and which shows available coverage levels, information needed to determine amounts of insurance, premium rates, premium adjustment percentages, practices, particular types or varieties of the insurable crop, insurable acreage, and other related information regarding crop insurance in the county.

Additional coverage - A level of coverage greater than catastrophic risk protection.

Administrative fee - An amount you must pay for catastrophic risk protection and additional coverage for each crop year as specified in section 7 and the Catastrophic Risk Protection Endorsement.

Agricultural commodity - Any crop or other commodity produced, regardless of whether or not it is insurable.

Agricultural experts - Persons who are employed by the Cooperative State Research, Education and Extension Service or the agricultural departments of universities, or other persons approved by FCIC, whose research or occupation is related to the specific crop or practice for which such expertise is sought.

Annual crop - An agricultural commodity that normally must be planted each year.

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 cancellation or termination of insurance coverage occurs for any reason,

including but not limited to indebtedness, suspension, debarment, disqualification, cancellation by you or us or violation of the controlled substance provisions of the Food Security Act of 1985, a new application must be filed for the crop. Insurance coverage will not be provided if you are ineligible under the contract or under any Federal statute or regulation.

Approved yield - The actual production history (APH) yield, calculated and approved by the verifier, used to determine the production guarantee by summing the yearly actual, assigned, adjusted or unadjusted transitional yields and dividing the sum by the number of yields contained in the database, which will always contain at least four yields. The database may contain up to 10 consecutive crop years of actual or assigned yields. The approved yield may have yield adjustments elected under section 36, revisions according to section 3, or other limitations according to FCIC approved procedures applied when calculating the approved yield.

Area - Land surrounding the insured acreage with geographic characteristics, topography, soil types and climatic conditions similar to the insured acreage.

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.

Average yield - The yield, calculated by summing the yearly actual, assigned, adjusted or unadjusted transitional yields and dividing the sum by the number of yields contained in the database, prior to any adjustments, including those elected under section 36, revisions according to section 3, or other limitations according to FCIC approved procedures.

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.

Buffer zone - A parcel of land, as designated in your organic plan, that separates agricultural commodities grown under organic practices from agricultural commodities grown under non-organic practices, and used to minimize the possibility of unintended contact by prohibited substances or organisms.

Cancellation date - The calendar date specified in the Crop Provisions on which coverage for the crop will automatically renew unless canceled in writing by either you or us or terminated in accordance with the policy terms.

Catastrophic risk protection - The minimum level of coverage offered by FCIC that is required before you may qualify for certain other USDA program benefits

unless you execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop.

Catastrophic Risk Protection Endorsement - The part of the crop insurance policy that contains provisions of insurance that are specific to catastrophic risk protection.

Certified organic acreage - Acreage in the certified organic farming operation that has been certified by a certifying agent as conforming to organic standards in accordance with 7 CFR part 205.

Certifying agent - A private or governmental entity accredited by the USDA Secretary of Agriculture for the purpose of certifying a production, processing or handling operation as organic.

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).

Code of Federal Regulations (CFR) - The codification of general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. Rules published in the Federal Register by FCIC are contained in 7 CFR chapter IV. The full text of the CFR is available in electronic format at <http://www.access.gpo.gov/> or a successor website.

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

Contract - (See "policy").

Contract change date - The calendar date by which changes to the policy, if any, will be made available in accordance with section 4 of these Basic Provisions.

Conventional farming practice - A system or process for producing an agricultural commodity, excluding organic farming practices, that is necessary to produce the crop that may be, but is not required to be, generally recognized by agricultural experts for the area to conserve or enhance natural resources and the environment.

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

Cover crop - A crop generally recognized by agricultural experts as agronomically sound for the area for erosion control or other purposes related to conservation or soil improvement. A cover crop may be considered to be a second crop (see the definition of "second crop").

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 of these Basic Provisions 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, regardless of whether or not it is actually grown, and designated by the calendar year in which the

Insured crop is normally harvested, unless otherwise specified in the Crop Provisions.

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

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 debt - Any administrative fees or premiums for insurance issued under the authority of the Act, and the interest on those amounts, if applicable, that are not postmarked or received by us or our agent on or before the termination date unless you have entered into an agreement acceptable to us to pay such amounts or have filed for bankruptcy on or before the termination date; any other amounts due us for insurance issued under the authority of the Act (including, but not limited to, indemnities, prevented planting payments or replanting payments found not to have been earned or that were overpaid), and the interest on such amounts, if applicable, which are not postmarked or received by us or our agent by the due date specified in the notice to you of the amount due; or any amounts due under an agreement with you to pay the debt, which are not postmarked or received by us or our agent by the due dates specified in such agreement.

Disinterested third party - A person that does not have any familial relationship (parents, brothers, sisters, children, spouse, grandchildren, aunts, uncles, nieces, nephews, first cousins, or grandparents, related by blood, adoption or marriage, are considered to have a familial relationship) with you or who will not benefit financially from the sale of the Insured crop. Persons who are authorized to conduct quality analysis in accordance with the Crop Provisions are considered disinterested third parties unless there is a familial relationship.

Double crop - Producing two or more crops for harvest on the same acreage in the same crop year.

Earliest planting date - The initial planting date contained in the Special Provisions, which is the earliest date you may plant an insured agricultural commodity and qualify for a replanting payment if such payments are authorized by the Crop Provisions.

Economic significance - A value of a crop, or of a type or variety of a crop (if the applicable policy allows you the option to separately insure individual crop types or varieties) equal to ten percent (10%) or more of the total value of your share of all crops grown in the county the previous crop year or that you expect to grow in the current crop year. However, an amount will not be considered economically significant if the expected liability under the Catastrophic Risk Protection Endorsement is equal to or less than the administrative fee required for the crop, or if applicable, the crop type or variety.

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).

Enterprise unit - All insurable acreage of the insured crop in the county in which you have a share on the date coverage begins for the crop year. To qualify, an enterprise unit must contain all of the insurable acreage of the same insured crop in:

- (1) One or more basic units that are located in two or more separate sections, section equivalents, FSA farm serial numbers, or units established by written agreement, with at least some planted acreage in two or more separate sections, section equivalents, FSA farm serial numbers, or two or more separate units as established by written agreement; or
- (2) Two or more optional units established by separate sections, section equivalents, FSA farm serial numbers, or as established by written agreement, with at least two optional units containing some planted acreage.

Field - All acreage of tillable land within a natural or artificial boundary (e.g., roads, waterways, fences, etc.). Different planting patterns or planting different crops do not create separate fields.

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.

First insured crop - With respect to a single crop year and any specific crop acreage, the first instance that an agricultural commodity is planted for harvest or prevented from being planted and is insured under the authority of the Act. For example, if winter wheat that is not insured is planted on acreage that is later planted to soybeans that are insured, the first insured crop would be soybeans. If the winter wheat was insured, it would be the first insured crop.

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.

Generally recognized - When agricultural experts or the organic agricultural industry, as applicable, are aware of the production method or practice and there is no genuine dispute regarding whether the production method or practice allows the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee or amount of insurance.

Good farming practices - The production methods utilized to produce the insured crop and allow it to make normal progress toward maturity and produce at least the yield used to determine the production guarantee or amount of insurance, including any adjustments for late planted acreage, which are: (1) for conventional or sustainable farming practices, those generally recognized by agricultural experts for the area; or (2) for organic farming practices, those generally recognized by the organic agricultural industry for the area or contained in the organic plan. We may, or you may request us to, contact FCIC to determine whether or not production methods will be considered to be "good farming practices."

Household - A domestic establishment including the members of a family (parents, brothers, sisters, children,

spouse, grandchildren, aunts, uncles, nieces, nephews, first cousins, or grandparents, related by blood, adoption or marriage, are considered to be family members) and others who live under the same roof.

Insurable loss - Damage for which coverage is provided under the terms of your policy, and for which you accept an indemnity payment.

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 in the county for which coverage is available under your policy 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 initially 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 Crop Provisions or Special Provisions.

Liability - The dollar amount of insurance coverage used in the premium computation for the insured agricultural commodity.

Limited resource farmer - A person with:

- (1) Direct or indirect gross farm sales not more than \$100,000.00 in each of the previous two years (to be increased starting in fiscal year 2004 to adjust for inflation using Prices Paid by Farmer Index as compiled by National Agricultural Statistical Service (NASS)); and
- (2) A total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous two years (to be determined annually using Commerce Department Data).

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

Non-contiguous - Acreage of an insured crop that is separated from other acreage of the same insured crop by land that is neither owned by you nor rented by you for cash or a crop share. However, acreage separated by only a public or private right-of-way, waterway, or an irrigation canal will be considered as contiguous.

Offset - The act of deducting one amount from another amount.

Organic agricultural industry - Persons who are employed by the following organizations: Appropriate Technology Transfer for Rural Areas, Sustainable Agriculture Research and Education or the Cooperative

State Research, Education and Extension Service, the agricultural departments of universities, or other persons approved by FCIC, whose research or occupation is related to the specific organic crop or practice for which such expertise is sought.

Organic farming practice - A system of plant production practices approved by a certifying agent in accordance with 7 CFR part 205.

Organic plan - A written plan, in accordance with the National Organic Program published in 7 CFR part 205, that describes the organic farming practices that you and a certifying agent agree upon annually or at such other times as prescribed by the certifying agent.

Organic standards - Standards in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.) and 7 CFR part 205.

Perennial crop - A plant, bush, tree or vine crop that has a life span of more than one year.

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 to insure an agricultural commodity and consisting of the accepted application, these Basic Provisions, the Crop Provisions, the Special Provisions, other applicable endorsements or options, the actuarial documents for the insured agricultural commodity, the Catastrophic Risk Protection Endorsement, if applicable, and the applicable regulations published in 7 CFR chapter IV. Insurance for each agricultural commodity in each county will constitute a separate policy.

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 be considered to be practical to replant regardless of availability of seed or plants, or the input costs necessary to produce the insured crop such as those that would be incurred for seed or plants, irrigation water, etc.

Premium billing date - The earliest date upon which you will be billed for insurance coverage based on your acreage report. 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. You may also be eligible for a prevented planting payment if you failed to plant the insured crop with the proper equipment within the late planting period. You must have been prevented from planting the insured crop due to an insured cause of loss that is general in the

surrounding area and that prevents other producers from planting acreage with similar characteristics.

Price election - The amounts contained in the Special Provisions, or an addendum thereto, that is the value per pound, bushel, ton, carton, or other applicable unit of measure 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 yield per acre 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 yield information for previous years, 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.

Prohibited substance - Any biological, chemical, or other agent that is prohibited from use or is not included in the organic standards for use on any certified organic, transitional or buffer zone acreage. Lists of such substances are contained at 7 CFR part 205.

Replanted crop - The same agricultural commodity replanted on the same acreage as the first insured crop for harvest in the same crop year if the replanting is specifically made optional by the policy and you elect to replant the crop and insure it under the policy covering the first insured crop, or replanting is required by the policy.

Replanting - Performing the cultural practices necessary to prepare the land to replace the seed or plants of the damaged or destroyed insured crop and then replacing the seed or plants of the same crop in the same insured acreage. The same crop does not necessarily mean the same type or variety of the crop unless different types or varieties constitute separate crops or it is otherwise specified in the policy.

Representative sample - Portions of the insured crop that must remain in the field for examination and review by our loss adjuster 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 - A date contained in the Special Provisions by which an application must be filed. The last date by which you may change your crop insurance coverage for a crop year.

Second crop - With respect to a single crop year, the next occurrence of planting any agricultural commodity for harvest following a first insured crop on the same acreage. The second crop may be the same or a different agricultural commodity as the first insured crop, except the term does not include a replanted crop. A cover crop, planted after a first insured crop and planted for the purpose of haying, grazing or otherwise harvesting in any manner or that is hayed or grazed during the crop year, or that is otherwise harvested is considered to be a second crop. A cover crop that is

covered by FSA's noninsured crop disaster assistance program (NAP) or receives other USDA benefits associated with forage crops will be considered as planted for the purpose of haying, grazing or otherwise harvesting. A crop meeting the conditions stated herein will be considered to be a second crop regardless of whether or not it is insured. Notwithstanding the references to haying and grazing as harvesting in these Basic Provisions, for the purpose of determining the end of the insurance period, harvest of the crop will be as defined in the applicable Crop Provisions.

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.

Specific 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.

Substantial beneficial interest - An interest held by any person of at least 10 percent in you. The spouse of any individual applicant or individual insured will be considered to have a substantial beneficial interest in the applicant or insured unless the spouses can prove they are legally separated or otherwise legally separate under state law. Any child of an individual applicant or individual insured will not be considered to have a substantial beneficial interest in the applicant or insured unless the child has a separate legal interest in such person. For example, there are two partnerships that each have a 50 percent interest in you and each partnership is made up of two individuals, each with a 50 percent share in the partnership. In this case, each individual would be considered to have a 25 percent interest in you, and both the partnerships and the individuals would have a substantial beneficial interest in you (The spouses of the individuals would not be considered to have a substantial beneficial interest unless the spouse was one of the individuals that made up the partnership). However, if each partnership is made up of six individuals with equal interests, then each would only have an 8.33 percent interest in you and although the partnership would still have a substantial beneficial interest in you, the individuals would not for the purposes of reporting in section 2.

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

Sustainable farming practice - A system or process for producing an agricultural commodity, excluding organic farming practices, that is necessary to produce the crop and is generally recognized by agricultural experts for the area to conserve or enhance natural resources and the environment.

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 insurance ceases to be in effect because of nonpayment of any amount due us under the policy, including premium.

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

Transitional acreage - Acreage on which organic farming practices are being followed that does not yet qualify to be designated as organic acreage.

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).

Whole farm unit - All insurable acreage of two or more insured crops planted in the county in which you have a share on the date coverage begins for each crop for the crop year. All crops for which the whole farm unit structure is available must be included in the whole farm unit. At least two of the insured crops must each constitute at least 10 percent of the total liability of all insured crops in the whole farm unit, and all crops in the unit must be insured under the same plan of insurance and with the same insurance provider.

Written agreement - A document that alters designated terms of a policy as 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) Your application for insurance must contain your social security number (SSN) if you are an individual or employer identification number (EIN) if you are a person other than an individual, and all SSNs and EINs, as applicable, of all persons with a substantial beneficial interest in you, the coverage level, price election, crop, type, variety, or class, plan of insurance, and any other material information required on the application to insure the crop. If you or someone with a substantial beneficial interest is not legally required to have a SSN or EIN, you must request and receive an identification number for the purposes of this policy from us or the Internal Revenue Service (IRS) if such identification number is available from the IRS. If any of the information regarding persons with a substantial beneficial interest changes during the crop year, you must revise your application by the next sales closing date applicable under your policy to reflect the correct information.

(1) Applications that do not contain your SSN, EIN or identification number, or any of the other information required in section 2(b) are not acceptable and insurance will not be

provided (Except if you fail to report the SSNs, EINs or identification numbers of persons with a substantial beneficial interest in you, the provisions in section 2(b)(2) will apply);

(2) If the application does not contain the SSNs, EINs or identification numbers of all persons with a substantial beneficial interest in you, you fail to revise your application in accordance with section 2(b), or the reported SSNs, EINs or identification numbers are incorrect and the incorrect SSN, EIN or identification number has not been corrected by the acreage reporting date, and:

(i) Such persons are eligible for insurance, the amount of coverage for all crops included on this application will be reduced proportionately by the percentage interest in you of such persons, you must repay the amount of indemnity, prevented planting payment or replanting payment that is proportionate to the interest of the persons whose SSN, EIN or identification number was unreported or incorrect for such crops, and your premium will be reduced commensurately; or

(ii) Such persons are not eligible for insurance, except as provided in section 2(b)(3), the policy is void and no indemnity, prevented planting payment or replanting payment will be owed for any crop included on this application, and you must repay any indemnity, prevented planting payment or replanting payment that may have been paid for such crops. If previously paid, the balance of any premium and any administrative fees will be returned to you, less twenty percent of the premium that would otherwise be due from you for such crops. If not previously paid, no premium or administrative fees will be due for such crops.

(3) The consequences described in section 2(b)(2)(ii) will not apply if you have included an ineligible person's SSN, EIN or identification number on your application and do not include the ineligible person's share on the acreage report.

(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) Any amount due to us for any policy authorized under the Act will be offset from any indemnity or prevented planting payment due you for this or any

other crop insured with us under the authority of the Act.

- (1) Even if your claim has not yet been paid, you must still pay the premium and administrative fee on or before the termination date for you to remain eligible for insurance.
 - (2) If we offset any amount due us from an indemnity or prevented planting payment owed to you, the date of payment for the purpose of determining whether you have a delinquent debt will be the date that you submit the claim for indemnity in accordance with section 14(c) (Your Duties).
- (f) A delinquent debt for any policy will make you ineligible to obtain crop insurance authorized under the Act for any subsequent crop year and result in termination of all policies in accordance with section 2(f)(2).
- (1) With respect to ineligibility:
 - (i) Ineligibility for crop insurance will be effective on:
 - (A) The date that a policy was terminated in accordance with section 2(f)(2) for the crop for which you failed to pay premium, an administrative fee, or any related interest owed, as applicable;
 - (B) The payment due date contained in any notification of indebtedness for any overpaid indemnity, prevented planting payment or replanting payment, if you fail to pay the amount owed, including any related interest owed, as applicable, by such due date;
 - (C) The termination date for the crop year prior to the crop year in which a scheduled payment is due under a payment agreement if you fail to pay the amount owed by any payment date in any agreement to pay the debt; or
 - (D) The termination date the policy was or would have been terminated under sections 2(f)(2)(i)(A), (B) or (C) if your bankruptcy petition is dismissed before discharge.
 - (ii) If you are ineligible and a policy has been terminated in accordance with section 2(f)(2), you will not receive any indemnity, prevented planting payment or replanting payment, if applicable, and such ineligibility and termination of the policy may affect your eligibility for benefits under other USDA programs. Any indemnity, prevented planting payment or replanting payment that may be owed for the policy before it has been terminated will remain owed to you, but may be offset in accordance with section 2(e), unless your policy was terminated in accordance with sections 2(f)(2)(i)(D) or (E).
 - (2) With respect to termination:
 - (i) Termination will be effective on:
 - (A) For a policy with unpaid administrative fees or premiums, the termination date immediately subsequent to the billing date for the crop year;
 - (B) For a policy with other amounts due, the termination date immediately following the date you have a delinquent debt;
 - (C) For each policy for which insurance has attached before you become ineligible, the termination date immediately following the date you become ineligible;
 - (D) For execution of an agreement to pay any amounts owed and failure to make any scheduled payment, the termination date for the crop year prior to the crop year in which you failed to make the scheduled payment; or
 - (E) For dismissal of a bankruptcy petition before discharge, the termination date the policy was or would have been terminated under sections 2(f)(2)(i)(A), (B) or (C).
 - (ii) For all policies terminated under sections 2(f)(2)(i)(D) and (E), any indemnities, prevented planting payments or replanting payments paid subsequent to the termination date must be repaid.
 - (iii) Once the policy is terminated, it cannot be reinstated for the current crop year unless the termination was in error. Failure to timely pay because of illness, bad weather, or other such extenuating circumstances is not grounds for reinstatement in the current year.
 - (3) To regain eligibility, you must:
 - (i) Repay the delinquent debt in full;
 - (ii) Execute an agreement to pay any amounts owed and make payments in accordance with the agreement (We will not enter into an agreement with you to pay the amounts owed if you have previously failed to make a scheduled payment under the terms of any other agreement to pay with us or any other insurance provider); or
 - (iii) File a petition to have your debts discharged in bankruptcy (Dismissal of the bankruptcy petition before discharge will terminate all policies in effect retroactive to the date your policy would have been terminated in accordance with section 2(f)(2)(i));
 - (4) After you become eligible for crop insurance, if you want to obtain coverage for your crops,

you must submit a new application on or before the sales closing date for the crop (Since applications for crop insurance cannot be accepted after the sales closing date, if you make any payment after the sales closing date, you cannot apply for insurance until the next crop year);

- (5) For example, for the 2003 crop year, if crop A, with a termination date of October 31, 2003, and crop B, with a termination date of March 15, 2004, are insured and you do not pay the premium for crop A by the termination date, you are ineligible for crop insurance as of October 31, 2003, and crop A's policy is terminated as of that date. Crop B's policy does not terminate until March 15, 2004, and an indemnity for the 2003 crop year may still be owed. If you enter an agreement to repay amounts owed on September 25, 2004, the earliest date by which you can obtain crop insurance for crop A is to apply for crop insurance by the October 31, 2004, sales closing date and for crop B is to apply for crop insurance by the March 15, 2005, sales closing date. If you fail to make a payment that was scheduled to be made on April 1, 2005, your policy will terminate as of October 31, 2004, for crop A, and March 15, 2005, for crop B, and no indemnity, prevented planting payment or replanting payment will be due for that crop year for either crop. You will not be eligible to apply for crop insurance for any crop until after the amounts owed are paid in full or you file a petition to discharge the debt in bankruptcy.
- (6) If you are determined to be ineligible under section 2(f), persons with a substantial beneficial interest in you may also be ineligible until you become eligible again.
- (g) 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. The premium will be deducted from the indemnity or collected from the estate. 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.
- (h) We may cancel your policy if no premium is earned for 3 consecutive years.
- (i) The cancellation and termination dates are contained in the Crop Provisions.
- (j) When obtaining catastrophic or additional coverage, you must provide information regarding crop insurance coverage on any crop previously obtained at any other local FSA office or from an approved insurance provider, including the date such insurance was obtained and the amount of the administrative fee.
- (k) Any person may sign any document relative to crop insurance coverage on behalf of any other person covered by such a policy, provided that the person has a properly executed power of attorney or such other legally sufficient document authorizing such person to sign. You are still responsible for the accuracy of all information provided on your behalf and may be subject to the consequences in section 6(g), and any applicable consequences, if any information has been misreported.
- 3. Insurance Guarantees, Coverage Levels, and Prices.**
- (a) Unless adjusted or limited in accordance with your policy, 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 for each crop year.
- (b) You must select the same coverage, catastrophic risk protection or additional coverage, and select one level of additional coverage for all acreage of the crop in the county unless one of the following applies:
- (1) The applicable Crop Provisions allow you the option to separately insure individual crop types or varieties. In this case, each individual type or variety insured by you will be subject to separate administrative fees. For example, if two grape varieties in California are insured under the Catastrophic Risk Protection Endorsement and two varieties are insured under an additional coverage policy, a separate administrative fee will be charged for each of the four varieties. Although insurance may be elected by type or variety in these instances, failure to insure a type or variety that is of economic significance may result in the denial of other farm program benefits unless you execute a waiver of any eligibility for emergency crop loss assistance in connection with the crop.
- (2) If you have additional coverage for the crop in the county and the acreage has been designated as "high risk" by FCIC, you will be able to obtain a High Risk Land Exclusion Option for the high risk land under the additional coverage policy and insure the high risk acreage under a separate Catastrophic Risk Protection Endorsement, provided that the Catastrophic Risk Protection Endorsement is obtained from the same insurance provider from which the additional coverage was obtained.
- (c) In addition to the 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. You must select the additional price

- election or amount of insurance on or before the sales closing date for the insured crop. These additional price elections or amounts of insurance will not be less than those available on the contract change date. If you elect the additional price election or amount of insurance, any claim settlement and amount of premium will be based on this amount.
- (d) 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 that 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.)
- (e) 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 unless otherwise stated in the Special Provisions:
- (1) 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 approved yield for the purpose of determining your coverage for the current crop year.
 - (2) If you have filed a claim for any crop year, the documents signed by you which state the amount of production used to complete the claim for indemnity will be the production report for that year unless otherwise specified by FCIC.
 - (3) Production and acreage for the prior crop year must be reported for each proposed optional unit by the production reporting date. If you do not provide the information stated above, the optional units will be combined into the basic unit.
 - (4) Appraisals obtained from only a portion of the acreage in a field that remains unharvested after the remainder of the crop within the field has been destroyed or put to another use will not be used to establish your actual yield unless representative samples are required to be left by you in accordance with the Crop Provisions.
- (f) It is your responsibility to accurately report all information that is used to determine your approved yield. You must certify to the accuracy of this information on your production report.
- (1) If you do not have written verifiable records to support the information on your production report, you will receive an assigned yield in accordance with section 3(e)(1) and 7 CFR part 400, subpart G for those crop years for which you do not have such records.
 - (2) If you misreport any material information used to determine your approved yield:
 - (i) We will correct the unit structure, if necessary; and
 - (ii) You will be subject to the provisions regarding misreporting contained in section 6(g), unless we correct the information because the incorrect information was the result of our error or the error of someone from USDA.
- (g) In addition to any consequences in section 3(f), at any time the circumstances described below are discovered, your approved yield will be adjusted:
- (1) By including an assigned yield determined in accordance with section 3(e)(1) and 7 CFR part 400, subpart G, if the actual yield reported in the database is excessive for any crop year, as determined by FCIC under its procedures, and you do not provide verifiable records to support the yield in the database (if there are verifiable records for the yield in your database, the yield is significantly different from the other yields in the county or your other yields for the crop and you cannot prove there is a valid basis to support the differences in the yields, the yield will be the average of the yields for the crop or the applicable county transitional yield if you have no other yields for the crop, and you may be subject to the provisions of section 27);
 - (2) By reducing it to an amount consistent with the average of the approved yields for other databases for your farming operation with the same crop, type, and practice or the county transitional yield, as applicable, if:
 - (i) The approved APH yield is greater than 115 percent of the average of the approved yields of all applicable databases for your farming operation that have actual yields in them or it is greater than 115 percent of the county transitional yield if no applicable databases exist for comparison; and
 - (ii) The current year's insured acreage (including applicable prevented planting acreage) is greater than 400 percent of the average number of acres in the database or the acres contained in two or more individual years in the database are each less than 10 percent of the current year's insurable acreage in the unit (including applicable prevented planting acreage); or
 - (3) To an amount consistent with the production methods actually carried out for the crop year if you use a different production method than

was previously used and the production method actually carried out is likely to result in a yield lower than the average of your previous actual yields. The yield will be adjusted based on your other units where such production methods were carried out or to the applicable county transitional yield for the production methods if other such units do not exist. You must notify us of changes in your production methods by the acreage reporting date. If you fail to notify us, in addition to the reduction of your approved yield described herein, you will be considered to have misreported information and you will be subject to the consequences in section 6(g). For example, for a non-irrigated unit, your yield is based upon acreage of the crop that is watered once prior to planting, and the crop is not watered prior to planting for the current crop year. Your approved APH yield will be reduced to an amount consistent with the actual production history of your other non-irrigated units where the crop has not been watered prior to planting or limited to the non-irrigated transitional yield for the unit if other such units do not exist.

- (h) Unless you meet the double cropping requirements contained in section 17(f)(4), if you elect to plant a second crop on acreage where the first insured crop was prevented from being planted, you will receive a yield equal to 60 percent of the approved yield for the first insured crop to calculate your average yield for subsequent crop years (Not applicable to crops if the APH is not the basis for the insurance guarantee). If the unit contains both prevented planting and planted acreage of the same crop, the yield for such acreage will be determined by:
- (1) Multiplying the number of insured prevented planting acres by 60 percent of the approved yield for the first insured crop;
 - (2) Adding the totals from section 3(h)(1) to the amount of appraised or harvested production for all of the insured planted acreage; and
 - (3) Dividing the total in section 3(h)(2) by the total number of acres in the unit.
- (i) Hall and fire coverage may be excluded from the covered causes of loss for an insured crop only if you select additional coverage of not less than 65 percent of the approved yield indemnified at the 100 percent price election, or an equivalent coverage as established by FCIC, and you have purchased the same or a higher dollar amount of coverage for hall and fire from us or any other source.
- (j) The applicable premium rate, or formula to calculate the premium rate, and transitional yield will be those contained in the actuarial documents except, in the case of high risk land, a written agreement may be requested to change such transitional yield or premium rate.

4. Contract Changes.

- (a) We may change the terms of your coverage under this policy from year to year.
- (b) Any changes in policy provisions, amounts of insurance, premium rates, program dates, and price elections (except as allowed herein or as specified in section 3) can be viewed on the RMA website at <http://www.rma.usda.gov/> or a successor website not later than the contract change date contained in the Crop Provisions. We may only revise this information after the contract change date to correct clear errors (For example, the price election for corn was announced at \$25.00 per bushel instead of \$2.50 per bushel or the final planting date should be May 10 but the final planting date in the Special Provisions states August 10).
- (c) After the contract change date, all changes specified in section 4(b) will also be available upon request from your crop insurance agent. You will be provided, in writing, a copy of the changes to the Basic Provisions and Crop Provisions and a copy of the Special Provisions not later than 30 days prior to the cancellation date for the insured crop. Acceptance of the changes will be conclusively presumed in the absence of notice from you to change or cancel your insurance coverage.

5. [Reserved]

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 with us that have 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 acreage reporting date for such crops; and
 - (2) If you insure multiple crops with us that have 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 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:
 - (A) The acreage reporting date contained in the Special Provisions;
 - (B) The date determined in accordance with sections (a)(1) or (2); or

- (C) Five (5) days after the end of the late planting period for the insured crop, if applicable.
- (b) If you do not have a share in an insured crop in the county for the crop year, you must submit an acreage report, on or before the acreage reporting date, so indicating.
- (c) Your acreage report must include the following information, if applicable:
- (1) All acreage of the crop in the county (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.
- (d) Regarding the ability to revise an acreage report you have submitted to us:
- (1) For planted acreage, you cannot revise any information pertaining to the planted acreage after the acreage reporting date without our consent (Consent may only be provided when no cause of loss has occurred; our appraisal has determined that the insured crop will produce at least 90 percent of the yield used to determine your guarantee or the amount of insurance for the unit (including reported and unreported acreage), except when there are unreported units (see section 6(f)); the information on the acreage report is clearly transposed; you provide adequate evidence that we or someone from USDA have committed an error regarding the information on your acreage report; or if expressly permitted by the policy);
 - (2) For prevented planting acreage reported on the acreage report, you cannot revise any information pertaining to the prevented planting acreage after the report is initially submitted to us without our consent (Consent may only be provided when information on the acreage report is clearly transposed or you provide adequate evidence that we or someone from USDA have committed an error regarding the information on your acreage report);
 - (3) For prevented planting acreage not reported on the acreage report, you cannot revise your acreage report to add prevented planting acreage;
 - (4) If you request an acreage measurement prior to the acreage reporting date and submit documentation of such request and an acreage report with estimated acreage by the acreage reporting date, you must provide the measurement to us, we will revise your acreage report if there is a discrepancy, and no indemnity, prevented planting payment or replant payment will be paid until the acreage measurement has been received by us (Failure to provide the measurement to us will result in the application of section 6(g) if the estimated acreage is not correct and estimated acreage under this section will no longer be accepted for any subsequent acreage report);
- (5) If there is an irreconcilable difference between:
- (i) The acreage measured by FSA or a measuring service and our on-farm measurement, our on-farm measurement will be used; or
 - (ii) The acreage measured by a measuring service, other than our on-farm measurement, and FSA, the FSA measurement will be used; and
- (6) If the acreage report has been revised in accordance with section 6(d)(1), (2), (4), or (5), the information on the initial acreage report will not be considered misreported for the purposes of section 6(g).
- (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 we determine to have existed, subject to the provisions contained in section 6(g).
- (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, for loss purposes only, as production to count to the reported units in proportion to the liability on each reported unit. However, such production will not be allocated to prevented planting acreage or otherwise affect any prevented planting payment.
- (g) You must provide all required reports and you are responsible for the accuracy of all information contained in those reports. You should verify the information on all such reports prior to submitting them to us.
- (1) If you submit information on any report that is different than what is determined to be correct and such information results in:
 - (i) A lower liability than the actual liability determined, the production guarantee or amount of insurance on the unit will be reduced to an amount consistent with the reported information (In the event the 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); or
 - (ii) A higher liability than the actual liability determined, the information contained in the acreage report will be revised to be consistent with the correct information.
 - (2) In addition to the other adjustments specified in section 6(g)(1), if you misreport any information that results in liability greater than 110.0 percent or lower than 90.0 percent of the actual liability determined for the unit, any

Indemnity, prevented planting payment, or replanting payment will be based on the amount of liability determined in accordance with section 6(g)(1)(I) or (II) and will be reduced in an amount proportionate with the amount of liability that is misreported in excess of the tolerances stated in this section (For example, if the actual liability is determined to be \$100.00, but you reported liability of \$120.00, any indemnity, prevented planting payment or replanting payment will be reduced by 10.0 percent ($\$120.00 / \$100.00 = 1.20$, and $1.20 - 1.10 = 0.10$)).

- (h) If we discover you have incorrectly reported any information on the acreage report for any crop year, you may be required to provide documentation in subsequent crop years substantiating your report of acreage for those crop years, including, but not limited to, an acreage measurement service at your own expense. If the correction of any misreported information would affect an indemnity, prevented planting payment or replanting payment that was paid in a prior crop year, such claim will be adjusted and you will be required to repay any overpaid amounts.
- (i) 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 and Administrative Fees.

- (a) The annual premium is earned and payable at the time coverage begins. You will be billed for the premium and administrative fee not earlier than the premium billing date specified in the Special Provisions.
- (b) Premium or administrative fees owed by you will be offset from an indemnity or prevented planting payment due you in accordance with section 2(e).
- (c) The annual premium amount is determined, as applicable, 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 in accordance with section 3(d). The information needed to determine the premium rate and any premium adjustment percentages that may apply are contained in the actuarial documents or an approved written agreement.
- (e) In addition to the premium charged:
 - (1) You, unless otherwise authorized in 7 CFR part 400, must pay an administrative fee each crop year of \$30 per crop per county for all

levels of coverage in excess of catastrophic risk protection.

- (2) The administrative fee must be paid no later than the time premium is due.
 - (3) Payment of an administrative fee will not be required if you file a bona fide zero acreage report on or before the acreage reporting date for the crop. If you falsely file a zero acreage report you may be subject to criminal and administrative sanctions.
 - (4) The administrative fee will be waived if you request it and:
 - (i) You qualify as a limited resource farmer; or
 - (ii) You were insured prior to the 2005 crop year or for the 2005 crop year and your administrative fee was waived for one or more of those crop years because you qualified as a limited resource farmer under a policy definition previously in effect, and you remain qualified as a limited resource farmer under the definition that was in effect at the time the administrative fee was waived.
 - (5) Failure to pay the administrative fees when due may make you ineligible for certain other USDA benefits.
 - (f) If the amount of premium (gross premium less premium subsidy paid on your behalf by FCIC) and administrative fee you are required to pay for any acreage exceeds the liability for the acreage, coverage for those acres will not be provided (no premium or administrative fee will be due and no indemnity will be paid for such acreage).
- #### 8. Insured Crop.
- (a) The insured crop will be that shown on your accepted application and as specified in the Crop Provisions or Special 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) That is not grown on planted acreage (except for the purposes of prevented planting coverage), or that is a type, class or variety or where the conditions under which the crop is planted are not generally recognized for the area (For example, where agricultural experts determine that planting a non-irrigated corn crop after a failed small grain crop on the same acreage in the same crop year is not appropriate for the area);
 - (2) For which the information necessary for insurance (price election, premium rate, etc.) is not included in the actuarial documents, unless such information is provided by a written agreement;
 - (3) That is a volunteer crop;
 - (4) Planted following the same crop on the same acreage and the first planting of the crop has been harvested in the same crop year unless specifically permitted by the Crop Provisions or the Special Provisions (For example, the

- second planting of grain sorghum would not be insurable if grain sorghum had already been planted and harvested on the same acreage during the crop year);
- (5) That is planted for the development or production of hybrid seed or for experimental purposes, unless permitted by the Crop Provisions or by written agreement to insure such crop; or
 - (6) That is used solely for wildlife protection or management. If the lease states that specific acreage must remain unharvested, only that acreage is uninsurable. If the lease specifies that a percentage of the crop must be left unharvested, your share will be reduced by such percentage.
- (c) Although certain policy documents may state that a crop type, class, variety or practice is not insurable, it does not mean all other crop types, classes, varieties or practices are insurable. To be insurable the crop type, class, variety or practice must meet all the conditions in this section.
- 9. Insurable Acreage.**
- (a) Acreage planted to the insured crop in which you have a share is insurable except acreage:
 - (1) That has not been planted and harvested or insured (including insured acreage that was prevented from being planted) in at least one of the three previous crop years unless you can show that:
 - (i) Such acreage was not planted:
 - (A) In at least two of the previous three crop years to comply with any other USDA program;
 - (B) Because of crop rotation, (e.g., corn, soybeans, alfalfa; and the alfalfa remained for four years before the acreage was planted to corn again); or
 - (C) Because a perennial tree, vine, or bush crop was grown on the acreage;
 - (ii) The Crop Provisions or a written agreement specifically allow insurance for such acreage; or
 - (iii) Such acreage constitutes five percent or less of the insured planted acreage in the unit;
 - (2) That has been strip-mined, unless otherwise approved by written agreement, or unless an agricultural commodity other than a cover, hay, or forage crop (except corn silage), has been harvested from the acreage for at least five crop years after the strip-mined land was reclaimed;
 - (3) For which the actuarial documents do not provide the information necessary to determine the premium rate, unless insurance is allowed by a written agreement;
 - (4) On which the insured crop is damaged and it is practical to replant the insured crop, but the insured crop is not replanted;
 - (5) That is interplanted, unless allowed by the Crop Provisions;
 - (6) That is otherwise restricted by the Crop Provisions or Special Provisions;
 - (7) That is planted in any manner other than as specified in the policy provisions for the crop unless a written agreement to such planting exists;
 - (8) Of a second crop, if you elect not to insure such acreage when an indemnity for a first insured crop may be subject to reduction in accordance with the provisions of section 15 and you intend to collect an indemnity payment that is equal to 100 percent of the insurable loss for the first insured crop acreage. This election must be made on a first insured crop unit basis. For example, if the first insured crop unit contains 40 planted acres that may be subject to an indemnity reduction, then no second crop can be insured on any of the 40 acres. In this case:
 - (i) If the first insured crop is insured under this policy, you must provide written notice to us of your election not to insure acreage of a second crop at the time the first insured crop acreage is released by us (if no acreage in the first insured crop unit is released, this election must be made by the earlier of the acreage reporting date for the second crop or when you sign the claim for indemnity for the first insured crop) or, if the first insured crop is insured under the Group Risk Protection Plan of Insurance (7 CFR part 407), this election must be made before the second crop insured under this policy is planted, and if you fail to provide such notice, the second crop acreage will be insured in accordance with the applicable policy provisions and you must repay any overpaid indemnity for the first insured crop;
 - (ii) In the event a second crop is planted and insured with a different insurance provider, or planted and insured by a different person, you must provide written notice to each insurance provider that a second crop was planted on acreage on which you had a first insured crop; and
 - (iii) You must report the crop acreage that will not be insured on the applicable acreage report; or
 - (9) Of a crop planted following a second crop or following an insured crop that is prevented from being planted after a first insured crop, unless it is a practice that is generally recognized by agricultural experts or the organic agricultural industry for the area to plant three or more crops for harvest on the same acreage in the same crop year, and additional coverage insurance provided under

the authority of the Act is offered for the third or subsequent crop in the same crop year. Insurance will only be provided for a third or subsequent crop as follows:

(I) You must provide records acceptable to us that show:

(A) You have produced and harvested the insured crop following two other crops harvested on the same acreage in the same crop year in at least two of the last four years in which you produced the insured crop; or

(B) The applicable acreage has had three or more crops produced and harvested on it in at least two of the last four years in which the insured crop was grown on it; and

(II) The amount of insurable acreage will not exceed 100 percent of the greatest number of acres for which you provide the records required in section 9(a)(9)(I)(A) or (B).

(b) If insurance is provided for an irrigated practice, you must report as irrigated only that acreage for which you have adequate facilities and adequate water, or the reasonable expectation of receiving adequate water at the time coverage begins, to carry out a good irrigation practice. If you knew or had reason to know that your water may be reduced before coverage begins, no reasonable expectation exists.

(c) Notwithstanding the provisions in section 8(b)(2), 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 that 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) Insurance will attach only to the share of the person completing the application and will not extend to any other person having a share in the crop unless the application clearly states that:

(1) The insurance is requested for an entity such as a partnership or a joint venture; or

(2) You as landlord will insure your tenant's share, or you as tenant will insure your landlord's share. In this event, you must provide evidence of the other party's approval (lease, power of attorney, etc.). Such evidence will be retained by us. You also must clearly set forth the percentage shares of each person on the acreage report. For each landlord or tenant that is an individual, you must report the landlord's or tenant's social security number. For each landlord or tenant that is a person other than an individual or for a trust administered by the Bureau of Indian

Affairs, you must report each landlord's or tenant's social security number, employer identification number, or other identification number assigned for the purposes of this policy.

(b) 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.

(c) Acreage rented for a percentage of the crop, or 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.

(d) Acreage rented for cash, or a lease containing provisions for EITHER a minimum payment OR a crop share (such as a 50/50 share or \$100.00 per acre, 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 (For the purposes of this paragraph, the date of acceptance is the date that you submit a properly executed application in accordance with section 2);

(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 directly caused by specific causes of loss contained in the Crop Provisions. All specified causes of loss, except where the Crop Provisions specifically cover loss of revenue due to a reduced price in the marketplace, must be due to a naturally occurring event. 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) Failure to follow recognized good farming practices for the insured crop;

(c) Water that is contained by or within structures that are designed to contain a specific amount of water, such as dams, locks or reservoir projects, etc., on any acreage when such water stays within the designed limits (For example, a dam is designed to contain water to an elevation of 1,200 feet but you plant a crop on acreage at an elevation of 1,100 feet. A storm causes the water behind the dam to

rise to an elevation of 1,200 feet. Under such circumstances, the resulting damage would not be caused by an insurable cause of loss. However, if you planted on acreage that was above 1,200 feet elevation, any damage caused by water that exceeded that elevation would be caused by an insurable cause of loss);

- (d) Failure or breakdown of the irrigation equipment or facilities unless the failure or breakdown is due to a cause of loss specified in the Crop Provisions (If damage is due to an insured cause, you must make all reasonable efforts to restore the equipment or facilities to proper working order within a reasonable amount of time unless we determine it is not practical to do so. Cost will not be considered when determining whether it is practical to restore the equipment or facilities);
- (e) Failure to carry out a good irrigation practice for the insured crop, if applicable; or
- (f) Any cause of loss that results in damage that is not evident or would not have been evident during the insurance period, including, but not limited to, damage that only becomes evident after the end of the insurance period unless expressly authorized in the Crop Provisions. Even though we may not inspect the damaged crop until after the end of the insurance period, damage due to insured causes that would have been evident during the insurance period will be covered.

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 or within the late planting period if a late planting period is applicable).
- (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 earliest planting 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, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage.

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;

- (3) If representative samples are required by the Crop Provisions, leave representative samples intact of the unharvested crop if you report damage less than 15 days before the time you begin harvest or during harvest of the damaged unit (The samples must be left intact until we inspect them or until 15 days after completion of harvest on the unit, whichever is earlier. Unless otherwise specified in the Crop Provisions or Special Provisions, the samples of the crop in each field in the unit must be 10 feet wide and extend the entire length of the row, if the crop is planted in rows, or if the crop is not planted in rows, the longest dimension of the field. The period to retain representative samples may be extended if it is necessary to accurately determine the loss. You will be notified in writing of any such extension); and

- (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 that 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 consent for any of the actions in sections 14(b)(1) through (4) 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 the 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 unless you request an extension in writing and we agree to such extension. Extensions will only be granted if the amount of the loss cannot be determined within such time period because the information needed to determine the amount of the loss is not available. The claim for indemnity must include all information we require to settle the claim. Failure to submit a claim or provide the required information will result in no indemnity, prevented planting payment or replant payment (Even though no indemnity or other payment is due, you will still be required to pay the premium due under the policy for the unit).

- (d) 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. In addition, if you insure any acreage that may be subject to an Indemnity reduction as specified in section 15(e)(2) (for example, you planted a second crop on acreage where a first insured crop had an insurable loss and you do not qualify for the double cropping exemption), you must provide separate records of production from such acreage for all insured crops planted on the acreage. For example, if you have an insurable loss on 10 acres of wheat and subsequently plant cotton on the same 10 acres, you must provide records of the wheat and cotton production on the 10 acres separate from any other wheat and cotton production that may be planted in the same unit. If you fail to provide such separate records, we will allocate the production of each crop to the acreage in proportion to our liability for the acreage; and
- (2) Upon our request, or that of any USDA employee authorized to conduct investigations of the crop insurance program, submit to an examination under oath.
- (e) You must establish the total production or value received for the insured crop on the unit, that any loss of production or value occurred during the insurance period, and that the loss of production or value was directly caused by one or more of the insured causes specified in the Crop Provisions.
 - (f) In the event you are prevented from planting an insured crop which has prevented planting coverage, you must notify us within 72 hours after:
 - (1) The final planting date, if you do not intend to plant the insured crop during the late planting period or if a late planting period is not applicable; or
 - (2) You determine you will not be able to plant the insured crop within any applicable late planting period.
 - (g) All notices required in this section 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.
 - (h) It is your duty to prove you have complied with all provisions of this policy.
 - (1) Failure to comply with the requirements of section 14(c) (Your Duties) will result in denial of your claim for indemnity or prevented planting or replant payment for the acreage for which the failure occurred. Failure to comply with all other requirements of this section will result in denial of your claim for indemnity or prevented planting or replant payment for the acreage for which the failure occurred, unless we still have the ability to accurately adjust the loss (Even though no indemnity or other payment is due, you will still be required to pay the premium due under the policy for the unit); and
- (2) Failure to comply with other sections of the policy will subject you to the consequences specified in those sections.
- Our Duties -**
- (a) If you have complied with all the policy provisions, we will pay your loss within 30 days after the later of:
 - (1) We reach agreement with you;
 - (2) Completion of arbitration, reconsideration of determinations regarding good farming practices or any other appeal that results in an award in your favor, unless we exercise our right to appeal such decision;
 - (3) Completion of any investigation by USDA, if applicable, of your current or any past claim for indemnity if no evidence of wrongdoing has been found (if any evidence of wrongdoing has been discovered, the amount of any indemnity, prevented planting or replant overpayment as a result of such wrongdoing may be offset from any indemnity or prevented planting payment owed to you); or
 - (4) 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 an Indemnity and Payment Reductions.**
- (a) The total production to be counted for a unit will include all production determined in accordance with the policy.
 - (b) Appraised production will be used to calculate your claim if you are not going to harvest your acreage. Such appraisals may be conducted after the end of the insurance period. If you harvest the crop after the crop has been appraised:
 - (1) You must provide us with the amount of harvested production; and
 - (2) If the harvested production exceeds the appraised production, claims will be adjusted using the harvested production, and you will be required to repay any overpaid indemnity; or
 - (3) If the harvested production is less than the appraised production, and:
 - (i) You harvest after the end of the insurance period, your appraised production will be used to adjust the loss unless you can prove that no additional causes of loss or deterioration of the crop occurred after the end of the insurance period; or

- (ii) You harvest before the end of the insurance period, your harvested production will be used to adjust the loss.
- (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 containing the same terms approved by the Federal Crop Insurance Corporation.
- (d) The amount of an indemnity that may be determined under the applicable provisions of your policy may be reduced by an amount, determined in accordance with the Crop Provisions or Special Provisions, to reflect out-of-pocket expenses that were not incurred by you as a result of not planting, caring for, or harvesting the crop. Indemnities paid for acreage prevented from being planted will be based on a reduced guarantee as provided for in the policy and will not be further reduced to reflect expenses not incurred.
- (e) With respect to acreage where you have suffered an insurable loss to planted acreage of your first insured crop in the crop year, except in the case of double cropping described in section 15(h):
- (1) You may elect to not plant or to plant and not insure a second crop on the same acreage for harvest in the same crop year and collect an indemnity payment that is equal to 100 percent of the insurable loss for the first insured crop; or
 - (2) You may elect to plant and insure a second crop on the same acreage for harvest in the same crop year (you will pay the full premium and, if there is an insurable loss to the second crop, receive the full amount of indemnity that may be due for the second crop, regardless of whether there is a subsequent crop planted on the same acreage) and:
 - (i) Collect an indemnity payment that is 35 percent of the insurable loss for the first insured crop;
 - (ii) Be responsible for premium that is 35 percent of the premium that you would otherwise owe for the first insured crop; and
 - (iii) If the second crop does not suffer an insurable loss:
 - (A) Collect an indemnity payment for the other 65 percent of insurable loss that was not previously paid under section 15(e)(2)(i); and
 - (B) Be responsible for the remainder of the premium for the first insured crop that you did not pay under section 15(e)(2)(ii).
- (f) With respect to acreage where you were prevented from planting the first insured crop in the crop year, except in the case of double cropping described in section 15(h):
- (1) If a second crop is not planted on the same acreage for harvest in the same crop year, you may collect a prevented planting payment that is equal to 100 percent of the prevented planting payment for the acreage for the first insured crop; or
 - (2) If a second crop is planted on the same acreage for harvest in the same crop year (you will pay the full premium and, if there is an insurable loss to the second crop, receive the full amount of indemnity that may be due for the second crop, regardless of whether there is a subsequent crop planted on the same acreage) and:
 - (i) Provided the second crop is not planted on or before the final planting date or during the late planting period (as applicable) for the first insured crop, you may collect a prevented planting payment that is 35 percent of the prevented planting payment for the first insured crop; and
 - (ii) Be responsible for premium that is 35 percent of the premium that you would otherwise owe for the first insured crop.
- (g) The reduction in the amount of indemnity or prevented planting payment and premium specified in sections 15(e) and 15(f), as applicable, will apply:
- (1) Notwithstanding the priority contained in the Agreement to Insure section, which states that the Crop Provisions have priority over the Basic Provisions when a conflict exists, to any premium owed or indemnity or prevented planting payment made in accordance with the Crop Provisions, and any applicable endorsement.
 - (2) Even if another person plants the second crop on any acreage where the first insured crop was planted or was prevented from being planted, as applicable.
 - (3) For prevented planting only:
 - (i) If a volunteer crop or cover crop is hayed or grazed from the same acreage, after the late planting period (or after the final planting date if a late planting period is not applicable) for the first insured crop in the same crop year, or is otherwise harvested anytime after the late planting period (or after the final planting date if a late planting period is not applicable); or
 - (ii) If you receive cash rent for any acreage on which you were prevented from planting.
- (h) You may receive a full indemnity, or a full prevented planting payment for a first insured crop when a second crop is planted on the same acreage in the same crop year, regardless of whether or not the second crop is insured or sustains an insurable loss, if each of the following conditions are met:
- (1) It is a practice that is generally recognized by agricultural experts or the organic agricultural industry for the area to plant two or more crops for harvest in the same crop year;

- (2) The second or more crops are customarily planted after the first insured crop for harvest on the same acreage in the same crop year in the area;
 - (3) Additional coverage insurance offered under the authority of the Act is available in the county on the two or more crops that are double cropped;
 - (4) You provide records acceptable to us of acreage and production that show you have double cropped acreage in at least two of the last four crop years in which the first insured crop was planted, or that show the applicable acreage was double cropped in at least two of the last four crop years in which the first insured crop was grown on it; and
 - (5) In the case of prevented planting, the second crop is not planted on or prior to the final planting date or, if applicable, prior to the end of the late planting period for the first insured crop.
- (i) The receipt of a full indemnity or prevented planting payment on both crops that are double cropped is limited to the number of acres for which you can demonstrate you have double cropped or that have been historically double cropped as specified in section 15(h).
 - (j) If any Federal or State agency requires destruction of any insured crop or crop production, as applicable, because it contains levels of a substance, or has a condition, that is injurious to human or animal health in excess of the maximum amounts allowed by the Food and Drug Administration, other public health organizations of the United States or an agency of the applicable State, you must destroy the insured crop or crop production, as applicable, and certify that such insured crop or crop production has been destroyed prior to receiving an indemnity payment. Failure to destroy the insured crop or crop production, as applicable, will result in you having to repay any indemnity paid and you may be subject to administrative sanctions in accordance with section 515(h) of the Act and 7 CFR part 400, subpart R, and any applicable civil or criminal sanctions.

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) Acreage planted after the late planting period (or after the final planting date for crops that do not have a late planting period) may be insured as follows:
 - (1) The production guarantee or amount of insurance for each acre planted as specified in this subsection will be determined by multiplying the production guarantee or

amount of insurance that is provided for acreage of the insured crop that is timely planted 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) Planting on such acreage must have been prevented by the final planting date (or during the late planting period, if applicable) by an insurable cause occurring within the insurance period for prevented planting coverage; and
 - (3) All production from insured acreage as specified in this section will be included as production to count for the unit.
- (c) The premium amount for insurable acreage specified in this section 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 such acreage exceeds the liability, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid).
 - (d) Any acreage on which an insured cause of loss is a material factor in preventing completion of planting, as specified in the definition of "planted acreage" (e.g., seed is broadcast on the soil surface but cannot be incorporated) will be considered as acreage planted after the final planting date and the production guarantee will be calculated in accordance with section 16(b)(1).

17. Prevented Planting.

- (a) Unless limited by the policy provisions, a prevented planting payment may be made to you for eligible acreage if:
 - (1) You were prevented from planting the insured crop (Failure to plant when other producers in the area were planting will result in the denial of the prevented planting claim) 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;
 - (2) You include any acreage of the insured crop that was prevented from being planted on your acreage report; and
 - (3) You did not plant the insured crop during or after the late planting period. If such acreage was planted to the insured crop during or after

the late planting period, it is covered under the late planting provisions.

- (b) The actuarial documents may contain additional levels of prevented planting coverage that you may purchase for the insured crop:
- (1) Such purchase must be made on or before the sales closing date.
 - (2) If you do not purchase one of those additional levels by the sales closing date, you will receive the prevented planting coverage specified in the Crop Provisions.
 - (3) If you have a Catastrophic Risk Protection Endorsement for any crop, the additional levels of prevented planting coverage will not be available for that crop.
 - (4) You may not increase your elected or assigned prevented planting coverage level for any crop year if a cause of loss that will or could prevent planting is evident prior to the time you wish to change your prevented planting coverage level.
- (c) The premium amount for acreage that is prevented from being planted will be the same as that for timely planted acreage except as specified in section 15(f). 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 be considered to be an insurable cause of loss for the purposes of prevented planting only if, on the final planting date (or within the late planting period if you elect to try to plant the crop):
- (1) For non-irrigated acreage, the area that is prevented from being planted has insufficient soil moisture for germination of seed or progress toward crop maturity due to a prolonged period of dry weather. Prolonged precipitation deficiencies must be verifiable using information collected by sources whose business it is to record and study the weather, including, but not limited to, local weather reporting stations of the National Weather Service; or
 - (2) For irrigated acreage, there is not a reasonable expectation of having adequate water to carry out an irrigated practice. If you knew or had reason to know that your water is reduced before the final planting date, no reasonable expectation existed.
- (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 total number of acres eligible for prevented planting coverage for all crops cannot exceed the number of acres of cropland in your farming operation for the crop year, unless you are eligible for prevented planting coverage on double cropped acreage

in accordance with section 17(f)(4). The eligible acres for each insured crop will be determined in accordance with the following table.

| Type of Crop | Eligible acres if, in any of the 4 most recent crop years, you have planted any crop in the county for which prevented planting insurance was available or have received a prevented planting insurance guarantee | Eligible acres if, in any of the 4 most recent crop years, you have not planted any crop in the county for which prevented planting insurance was available or have not received a prevented planting insurance guarantee |
|--|--|--|
| (i) The crop is not required to be contracted with a processor to be insured | (A) The maximum number of acres certified for APH purposes, or insured acres reported, for the crop in any one of the 4 most recent crop years (not including reported prevented planting acreage that was planted to a second crop unless you meet the double cropping requirements in section 17(f)(4)). The number of acres determined above for a crop 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 that for the current crop year you have purchased or leased additional land or that acreage will be released from any USDA program which prohibits harvest of a crop. Such acreage must have been purchased, leased, or released from the USDA program, in time to plant it for the current crop year using good farming practices. No cause of loss that would prevent planting may be evident at the time you lease the acreage (except acreage you leased the previous year and continue to lease in the current crop year); you buy the acreage; the acreage is released from a USDA program which prohibits harvest of a crop; you request a written agreement to insure the acreage; or you otherwise acquire the acreage (such as inherited or gifted acreage). | (B) The number of acres specified on your intended acreage report which is submitted to us by the sales closing date for all crops you insure for the crop year and that is accepted by us. The total number of acres listed may not exceed the number of acres of cropland in your farming operation at the time you submit the intended acreage report. The number of acres determined above for a crop may only be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the number of acres listed on your intended acreage report, if you meet the conditions stated in section 17(e)(1)(i)(A). |

| | | |
|---|--|---|
| (ii) The crop must be contracted with a processor to be insured | (A) The number of acres of the crop specified in the processor contract, if the contract specifies a number of acres contracted for the crop year; or the result of dividing the quantity of production stated in the processor contract by your approved yield. If the processor contract specifies a quantity of production that will be accepted. If a minimum number of acres or amount of production is specified in the processor contract, this amount will be used to determine the eligible acres. If a processor cancels or does not provide contracts, or reduces the contracted acreage or production from what would have otherwise been allowed, solely because the acreage was prevented from being planted due to an insured cause of loss, we may elect to determine the number of acres eligible based on the number of acres or amount of production you had contracted in the county in the previous crop year. If you did not have a processor contract in place for the previous crop year, you will not have any eligible prevented planting acreage for the applicable processor crop. The total eligible prevented planting acres in all counties cannot exceed the total number of acres or amount of production contracted in all counties in the previous crop year. If the applicable crop provisions require that the price election be based on a contract price, and a contract is not in force for the current year, the price election may be based on the contract price in place for the previous crop year. | (B) The number of acres of the crop as determined in section 17(e)(1)(ii)(A). |
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(2) Any eligible acreage determined in accordance with the table contained in section 17(e)(1) will be reduced by subtracting the number of acres of the crop (insured and uninsured) that are timely and late planted, including acreage specified in section 16(b).

(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, and any prevented planting acreage within a field that contains planted acreage will be considered to be acreage of the same crop, type, and practice that is planted in the field except that the prevented planting acreage may be considered to be acreage of a crop, type, and practice other than that which is planted in the field if:

(i) The acreage that was prevented from being planted constitutes at least 20 acres or 20 percent of the total insurable acreage in the field and you produced both crops, crop types, or followed both practices in the same field in the same crop year within any one of the four most recent crop years;

(ii) You were prevented from planting a first insured crop and you planted a second crop in the field (There can only be one first insured crop in a field unless the requirements in section 17(f)(1)(i) or (iii) are met); or

(iii) The insured crop planted in the field would not have been planted on the remaining prevented planting acreage (For example, where rotation requirements would not be met or you already planted the total number of acres specified in the processor contract);

(2) For which the actuarial documents do not provide the information needed to determine a premium rate unless a written agreement designates such premium rate;

(3) Used for conservation purposes, intended to be left unplanted under any program administered by the USDA or other government agency, or required to be left unharvested under the terms of the lease or any other agreement (The number of acres eligible for prevented planting will be limited to the number of acres specified in the lease for which you are required to pay either cash or share rent);

(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 (It is your responsibility to determine whether a prevented planting payment had previously been made for the crop year on the acreage for which you are now claiming a prevented planting payment and report such information to us before any prevented planting payment can be made), excluding share arrangements, unless:

(i) It is a practice that is generally recognized by agricultural experts or the organic agricultural industry in the area to plant the second crop for harvest following harvest of the first insured crop, and additional coverage insurance offered under the authority of the Act is available in the county for both crops in the same crop year;

(ii) You provide records acceptable to us of acreage and production that show you have double cropped acreage in at least two of the last four crop years in which the first insured crop was planted, or that show the applicable acreage was double cropped in at least two of the last four crop years in which the first insured crop was grown on it; and

(iii) The amount of acreage you are double cropping in the current crop year does not exceed the number of acres for which you provide the records required in section 17(f)(4)(ii);

(5) On which the insured crop is prevented from being planted, if:

- (i) Any crop is planted within or prior to the late planting period or on or prior to the final planting date if no late planting period is applicable, unless:
 - (A) You meet the double cropping requirements in section 17(f)(4);
 - (B) The crop planted was a cover crop; or
 - (C) No benefit, including any benefit under any USDA program, was derived from the crop; or
- (ii) Any volunteer or cover crop is hayed, grazed or otherwise harvested within or prior to the late planting period or on or prior to the final planting date if no late planting period is applicable;
- (6) For which planting history or conservation plans indicate that the acreage would remain fallow for crop rotation purposes or on which any pasture or other forage crop is in place on the acreage during the time that planting of the insured crop generally occurs in the area;
- (7) That exceeds the number of acres eligible for a prevented planting payment;
- (8) That exceeds 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 (Evidence that you have previously planted the crop on the unit will be considered adequate proof unless your planting practices or rotational requirements show that the acreage would have remained fallow or been planted to another crop);
- (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. Acreage with an irrigated practice production guarantee will be limited to the number of acres allowed for that practice under sections 17(e) and (f);
- (11) Based on a crop type that you did not plant, or did not receive a prevented planting insurance guarantee for, in at least one of the four most recent crop 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 four most recent crop 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 except as allowed in section 17(e)(1)(i)(B). We will limit prevented planting payments based on a specific crop type to the number of acres allowed for that crop type as specified in sections 17(e) and (f); or
- (12) If a cause of loss has occurred that would prevent planting at the time:
 - (i) You lease the acreage (except acreage you leased the previous crop year and continue to lease in the current crop year);
 - (ii) You buy the acreage;
 - (iii) The acreage is released from a USDA program which prohibits harvest of a crop;
 - (iv) You request a written agreement to insure the acreage; or
 - (v) You acquire the acreage through means other than lease or purchase (such as inherited or gifted acreage).
- (g) If you purchased an additional coverage policy for a crop, and you executed a High Risk Land Exclusion Option that separately insures acreage which has been designated as "high-risk" land by FCIC under a Catastrophic Risk Protection Endorsement for that crop, the maximum number of acres eligible for a prevented planting payment will be limited for each policy as specified in sections 17(e) and (f).
- (h) If you are prevented from planting a crop for which you do not have an adequate base of eligible prevented planting acreage, as determined in accordance with section 17(e)(1), your prevented planting production guarantee or amount of insurance, premium, and prevented planting payment will be based on the crops insured for the current crop year, for which you have remaining eligible prevented planting acreage. The crops used for this purpose will be those that result in a prevented planting payment most similar to the prevented planting payment that would have been made for the crop that was prevented from being planted.
 - (1) For example, assume you were prevented from planting 200 acres of corn and have 100 acres eligible for a corn prevented planting guarantee that would result in a payment of \$40 per acre. You also had 50 acres of potato eligibility that would result in a \$100 per acre payment, 90 acres of grain sorghum eligibility that would result in a \$30 per acre payment, and 100 acres of soybean eligibility that would result in a \$25 per acre payment. Your prevented planting coverage for the 200 acres would be based on 100 acres of corn (\$40 per acre), 90 acres of grain sorghum (\$30 per acre), and 10 acres of soybeans (\$25 per acre).
 - (2) Prevented planting coverage will be allowed as specified in this section (17(h)) only if the crop that was prevented from being planted meets all policy provisions, except for having an adequate base of eligible prevented planting acreage. Payment may be made based on crops other than those that were prevented from being planted even though other policy provisions, including but not limited to, processor contract and rotation requirements, have not been met for the crop on which payment is being based. However, if you were prevented from planting any non-irrigated crop acreage and you do not have any remaining

eligible acreage for that crop and you do not have any other crop remaining with eligible acres under a non-irrigated practice, no prevented planting payment will be made for the acreage.

- (i) 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(l)(1) by the number of eligible prevented planting acres in the unit; and
 - (3) Multiplying the result of section 17(l)(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 by FCIC, the written agreement will include all variable terms of the contract, including, but not limited to, crop practice, type or variety, the guarantee (except for a written agreement in effect for more than one year) and premium rate or information needed to determine the guarantee and premium rate, and price election (Price elections will not exceed the price election contained in the Special Provisions, or an addendum thereto, for the county that is used to establish the other terms of the written agreement. If no price election can be provided, the written agreement will not be approved by FCIC);
- (d) Each written agreement will only be valid for the number of crop years specified in the written agreement, and a multi-year written agreement:
 - (1) Will only apply for any particular crop year designated in the written agreement if all terms and conditions in the written agreement are still applicable for the crop year and the conditions under which the written agreement has been provided have not changed prior to the beginning of the insurance period (If conditions change during or prior to the crop year, the written agreement will not be effective for that crop year but may still be effective for a subsequent crop year if conditions under which the written agreement has been provided exist for such year);
 - (2) May be canceled in writing by:
 - (i) FCIC not less than 30 days before the cancellation date if it discovers that any

term or condition of the written agreement, including the premium rate, is not appropriate for the crop; or

- (ii) You or us on or before the cancellation date;
 - (3) That is not renewed in writing after it expires, is not applicable for a crop year, or is canceled, then insurance coverage will be in accordance with the terms and conditions stated in this policy, without regard to the written agreement; and
 - (4) Will be automatically cancelled if you transfer your policy to another insurance provider (No notice will be provided to you and for any subsequent crop year, for a written agreement to be effective, you must timely request renewal of the written agreement in accordance with this section);
- (e) A request for a written agreement may be submitted:
- (1) After the sales closing date, but on or before the acreage reporting date, if you demonstrate your physical inability to submit the request prior to the sales closing date (For example, you have been hospitalized or a blizzard has made it impossible to submit the written agreement request in person or by mail);
 - (2) For the first year the written agreement will be in effect only:
 - (i) On or before the acreage reporting date, to:
 - (A) Insure unrated land, or an unrated practice, type or variety of a crop (Such written agreements may be approved only after inspection of the acreage by us and the written agreement may only be approved by FCIC if the crop's potential is equal to or exceeds 90 percent of the yield used to determine the production guarantee or the amount of insurance and you sign the agreement on the same day the appraisal is made); or
 - (B) Establish optional units in accordance with FCIC procedures that otherwise would not be allowed, change the premium rate or transitional yield for designated high risk land, change a tobacco classification, or insure acreage that is greater than five percent of the planted acreage in the unit where the acreage has not been planted and harvested or insured in any of the three previous crop years; or
 - (ii) On or before the cancellation date, to insure a crop in a county that does not have actuarial documents for the crop (If the Crop Provisions do not provide a cancellation date for the county, the cancellation date for other insurable crops in the same state that have similar final

- planting and harvesting dates will be applicable); or
- (iii) On or before the date specified in the Crop Provisions or Special Provisions;
 - (3) On or before the sales closing date, for all requests for renewal of written agreements, except as provided in section 18(e)(1);
 - (4) To add land or a crop to an existing written agreement or to add land or a crop to a request for a written agreement provided the request is submitted by the deadlines specified in this subsection;
- (f) A request for a written agreement must contain:
- (1) For all written agreement requests:
 - (i) A completed "Request for Actuarial Change" form;
 - (ii) An APH form (except for policies that do not require APH) containing all the information needed to determine the approved yield for the current crop year (completed APH form), signed by you, or an unsigned, completed APH form with the applicable production reports signed and dated by you that are based on verifiable records of actual yields for the crop and county for which the written agreement is being requested (the actual yields do not necessarily have to be from the same physical acreage for which you are requesting a written agreement) for at least the most recent crop year during the base period and verifiable records of actual yields if required by FCIC;
 - (iii) Evidence from agricultural experts or the organic agricultural industry, as applicable, that the crop can be produced in the area if the request is to provide insurance for practices, types, or varieties that are not insurable, unless we are notified in writing by FCIC that such evidence is not required by FCIC;
 - (iv) The legal description of the land (in areas where legal descriptions are available), FSA Farm Serial Number including tract number, and a FSA aerial photograph, acceptable Geographic Information System or Global Positioning System maps, or other legible maps delineating field boundaries where you intend to plant the crop for which insurance is requested;
 - (v) For any perennial crop, an inspection report completed by us; and
 - (vi) All other information that supports your request for a written agreement (including but not limited to records pertaining to levees, drainage systems, flood frequency data, soil types, elevation, etc.);
 - (2) For written agreement requests for counties without actuarial documents for the crop, the requirements in section 18(f)(1) (except section 18(f)(1)(ii)) and:
 - (i) A completed APH form (except for policies that do not require APH) based on verifiable records of actual yields for the crop and county for which the written agreement is being requested (the actual yields do not necessarily have to be from the same physical acreage for which you are requesting a written agreement) for at least the most recent three consecutive crop years during the base period;
 - (ii) Acceptable production records for at least the most recent three consecutive crop years;
 - (iii) The dates you and other growers in the area normally plant and harvest the crop, if applicable;
 - (iv) The name, location of, and approximate distance to the place the crop will be sold or used by you;
 - (v) For any irrigated practice, the water source, method of irrigation, and the amount of water needed for an irrigated practice for the crop; and
 - (vi) All other information that supports your request for a written agreement (such as publications regarding yields, practices, risks, climatic data, etc.); and
- (3) Such other information as specified in the Special Provisions or required by FCIC;
- (g) A request for a written agreement will not be accepted if:
- (1) The request is submitted to us after the deadline contained in sections 18(a) or (e);
 - (2) All the information required in section 18(f) is not submitted to us with the request for a written agreement (The request for a written agreement may be accepted if any missing information is available from other acceptable sources); or
 - (3) The request is to add land to an existing written agreement or to add land to a request for a written agreement and the request to add the land is not submitted by the deadlines specified in sections (a) or (e);
- (h) A request for a written agreement will be denied if:
- (1) FCIC determines the risk is excessive;
 - (2) Your APH history demonstrates you have not produced at least 50 percent of the transitional yield for the crop, type, and practice obtained from a county with similar agronomic conditions and risk exposure;
 - (3) There is not adequate information available to establish an actuarially sound premium rate and insurance coverage for the crop and acreage;
 - (4) The crop was not previously grown in the county or there is no evidence of a market for the crop based on sales receipts, contemporaneous feeding records or a contract for the crop (applicable only for counties without actuarial documents); or
 - (5) Agricultural experts or the organic agricultural industry determines the crop is not adapted to the county;
- (i) A written agreement will be denied unless:
- (1) FCIC approves the written agreement;

- (2) The original written agreement is signed by you and sent to us not later than the expiration date; and
- (3) The crop meets the minimum appraisal amount specified in section 18(e)(2)(1)(A), if applicable;
- (j) Multiyear written agreements may be canceled and requests for renewal may be rejected if the severity or frequency of your loss experience under the written agreement is significantly worse than expected based on the information provided by you or used to establish your premium rate and the loss experience of other crops with similar risks in the area;
- (k) With respect to your and our ability to reject an offer for a written agreement:
- (1) When a single Request for Actuarial Change form is submitted, regardless of how many requests for changes are contained on the form, you and we can only accept or reject the written agreement in its entirety (you cannot reject specific terms of the written agreement and accept others);
- (2) When multiple Request for Actuarial Change forms are submitted, regardless of when the forms are submitted, for the same condition or for the same crop (i.e., to insure corn on ten legal descriptions where there are no actuarial documents in the county or the request is to change the premium rates from the high risk rates) all these forms may be treated as one request and you and we will only have the option of accepting or rejecting the written agreement in its entirety (you cannot reject specific terms of the written agreement and accept others);
- (3) When multiple Request for Actuarial Change forms are submitted, regardless of when the forms are submitted, for the different conditions or for different crops, separate agreements may be issued and you and we will have the option to accept or reject each written agreement; and
- (4) If we reject an offer for a written agreement approved by FCIC, you may seek arbitration or mediation of our decision to reject the offer in accordance with section 20;
- (l) Any information that is submitted by you after the applicable deadlines in sections 18(a) and (e) will not be considered, unless such information is specifically requested in accordance with section 18(f)(3);
- (m) If the written agreement or the policy is canceled for any reason, or the period for which an existing written agreement is in effect ends, a request for renewal of the written agreement must contain all the information required by this section and be submitted in accordance with section 18(e), unless otherwise specified by FCIC; and
- (n) If a request for a written agreement is not approved by FCIC, a request for a written agreement for any subsequent crop year that fails to address the stated basis for the denial will not be accepted (If the request for a written agreement contains the same information that was previously rejected or denied, you will not have any right to arbitrate, mediate or appeal the non-acceptance of your request).
- 19. Crops as Payment.**
You must not abandon any crop to us. We will not accept any crop as compensation for payments due us.
- 20. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review.**
- (a) If you and we fail to agree on any determination made by us except those specified in section 20(d), the disagreement may be resolved through mediation in accordance with section 20(g). If resolution cannot be reached through mediation, or you and we do not agree to mediation, the disagreement must be resolved through arbitration in accordance with the rules of the American Arbitration Association (AAA), except as provided in sections 20(c) and (f), and unless rules are established by FCIC for this purpose. Any mediator or arbitrator with a familial, financial or other business relationship to you or us, or our agent or loss adjuster, is disqualified from hearing the dispute.
- (1) All disputes involving determinations made by us, except those specified in section 20(d), are subject to mediation or arbitration. However, if the dispute in any way involves a policy or procedure interpretation, regarding whether a specific policy provision or procedure is applicable to the situation, how it is applicable, or the meaning of any policy provision or procedure, either you or we must obtain an interpretation from FCIC in accordance with 7 CFR part 400, subpart X or such other procedures as established by FCIC.
- (i) Any Interpretation by FCIC will be binding in any mediation or arbitration.
- (ii) Failure to obtain any required interpretation from FCIC will result in the nullification of any agreement or award.
- (iii) An interpretation by FCIC of a policy provision is considered a rule of general applicability and is not appealable. If you disagree with an interpretation of a policy provision by FCIC, you must obtain a Director's review from the National Appeals Division in accordance with 7 CFR 11.6 before obtaining judicial review in accordance with subsection (e).
- (iv) An interpretation by FCIC of a procedure may be appealed to the National Appeals Division in accordance with 7 CFR part 11.
- (2) Unless the dispute is resolved through mediation, the arbitrator must provide to you and us a written statement describing the issues in dispute, the factual findings, the determinations and the amount and basis for any award and breakdown by claim for any award. The statement must also include any amounts awarded for interest. Failure of the arbitrator to provide such written statement will result in the nullification of all determinations of the arbitrator. All agreements reached through settlement, including those resulting from

mediation, must be in writing and contain at a minimum a statement of the issues in dispute and the amount of the settlement.

(b) Regardless of whether mediation is elected:

- (1) The initiation of arbitration proceedings must occur within one year of the date we denied your claim or rendered the determination with which you disagree, whichever is later;
- (2) If you fail to initiate arbitration in accordance with section 20(b)(1) and complete the process, you will not be able to resolve the dispute through judicial review;
- (3) If arbitration has been initiated in accordance with section 20(b)(1) and completed, and judicial review is sought, suit must be filed not later than one year after the date the arbitration decision was rendered; and
- (4) In any suit, if the dispute in any way involves a policy or procedure interpretation, regarding whether a specific policy provision or procedure is applicable to the situation, how it is applicable, or the meaning of any policy provision or procedure, an interpretation must be obtained from FCIC in accordance with 7 CFR part 400, subpart X or such other procedures as established by FCIC. Such interpretation will be binding.

(c) Any decision rendered in arbitration is binding on you and us unless judicial review is sought in accordance with section 20(b)(3). Notwithstanding any provision in the rules of the AAA, you and we have the right to judicial review of any decision rendered in arbitration.

(d) If you do not agree with any determination made by us or FCIC regarding whether you have used a good farming practice (excluding determinations by us of the amount of assigned production for uninsured causes for your failure to use good farming practices), you may request reconsideration by FCIC of this determination in accordance with the reconsideration process established for this purpose and published at 7 CFR part 400, subpart J (reconsideration). To resolve disputes regarding determinations of the amount of assigned production, you must use the arbitration or mediation process contained in this section.

- (1) You must complete reconsideration before filing suit against FCIC and any such suit must be brought in the United States district court for the district in which the insured farm is located.
- (2) Suit must be filed not later than one year after the date of the decision rendered in the reconsideration.
- (3) You cannot sue us for determinations of whether good farming practices were used by you.

(e) Except as provided in section 20(d), if you disagree with any other determination made by FCIC, you may obtain an administrative review in accordance with 7 CFR part 400, subpart J (administrative review) or appeal in accordance with 7 CFR part 11 (appeal). If you elect to bring suit after completion of any appeal, such suit must be filed against FCIC

not later than one year after the date of the decision rendered in such appeal. Under no circumstances can you recover any attorney fees or other expenses, or any punitive, compensatory or any other damages from FCIC.

(f) In any mediation, arbitration, appeal, administrative review, reconsideration or judicial process, the terms of this policy, the Act, and the regulations published at 7 CFR chapter IV, including the provisions of 7 CFR part 400, subpart P, are binding. Conflicts between this policy and any state or local laws will be resolved in accordance with section 31. If there are conflicts between any rules of the AAA and the provisions of your policy, the provisions of your policy will control.

(g) To resolve any dispute through mediation, you and we must both:

- (1) Agree to mediate the dispute;
- (2) Agree on a mediator; and
- (3) Be present, or have a designated representative who has authority to settle the case present, at the mediation.

(h) Except as provided in section 20(i), no award or settlement in mediation, arbitration, appeal, administrative review or reconsideration process or judicial review can exceed the amount of liability established or which should have been established under the policy, except for interest awarded in accordance with section 26.

(i) In a judicial review only, you may recover attorneys fees or other expenses, or any punitive, compensatory or any other damages from us only if you obtain a determination from FCIC that we, our agent or loss adjuster failed to comply with the terms of this policy or procedures issued by FCIC and such failure resulted in you receiving a payment in an amount that is less than the amount to which you were entitled. Requests for such a determination should be addressed to the following: USDA/RMA/Deputy Administrator of Compliance/ Stop 0806, 1400 Independence Avenue, S.W., Washington, D.C. 20250-0806.

(j) If FCIC elects to participate in the adjustment of your claim, or modifies, revises or corrects your claim, prior to payment, you may not bring an arbitration, mediation or litigation action against us. You must request administrative review or appeal in accordance with section 20(e).

21. Access to Insured Crop and Records, and Record Retention.

(a) We, and any employee of USDA authorized to investigate or review any matter relating to crop insurance, have the right to examine the insured crop and all records related to the insured crop and any mediation, arbitration or litigation involving the insured crop as often as reasonably required during the record retention period.

(b) You must retain, and provide upon our request, or the request of any employee of USDA authorized to investigate or review any matter relating to crop insurance:

- (1) Complete records of the planting, replanting, inputs, production, harvesting, and disposition of the insured crop on each unit for three years

- after the end of the crop year (This requirement also applies to all such records for acreage that is not insured); and
- (2) All records used to establish the amount of production you certified on your production reports used to compute your approved yield for three years after the end of the crop year for which you initially certified such records, unless such records have already been provided to us (For example, if your approved yield for the 2003 crop year was based on production records you certified for the 1997 through 2002 crop years, you must retain all such records through the 2006 crop year, unless such records have already been provided to us).
- (c) We, or any employee of USDA authorized to investigate or review any matter relating to crop insurance, may extend the record retention period beyond three years by notifying you of such extension in writing.
- (d) By signing the application for insurance authorized under the Act or by continuing insurance for which you have previously applied, you authorize us or USDA, or any person acting for us or USDA authorized to investigate or review any matter relating to crop insurance, to obtain records relating to the planting, replanting, inputs, production, harvesting, and disposition of the insured crop from any person who may have custody of such records, including but not limited to, FSA offices, banks, warehouses, gins, cooperatives, marketing associations, and accountants. You must assist in obtaining all records we or any employee of USDA authorized to investigate or review any matter relating to crop insurance request from third parties.
- (e) Failure to provide access to the insured crop or the farm, authorize access to the records maintained by third parties or assist in obtaining such records will result in a determination that no indemnity is due for the crop year in which such failure occurred.
- (f) Failure to maintain or provide records will result in:
- (1) The imposition of an assigned yield in accordance with section 3(e)(1) and 7 CFR part 400, subpart G for those crop years for which you do not have the required production records to support a certified yield;
 - (2) A determination that no indemnity is due if you fail to provide records necessary to determine your loss;
 - (3) Combination of the optional units into the applicable basic unit;
 - (4) Assignment of production to the units by us if you fail to maintain separate records:
 - (i) For your basic units; or
 - (ii) For any uninsurable acreage; and
 - (5) The imposition of consequences specified in section 6(g), as applicable.
- (g) If the imposition of an assigned yield under section 21(f)(1) would affect an indemnity, prevented planting payment or replant payment that was paid in a prior crop year, such claim will be adjusted and you will be required to repay any overpaid amounts.

22. Other Insurance.

- (a) **Other Like Insurance** - Nothing in this section prevents you from obtaining other insurance not authorized under the Act. However, unless specifically required by policy provisions, you must not obtain any other crop insurance authorized under the Act on your share of the insured crop. If you cannot demonstrate that you did not intend to have more than one policy in effect, you may be subject to the consequences authorized under this policy, the Act, or any other applicable statute. If you can demonstrate that you did not intend to have more than one policy in effect (For example, an application to transfer your policy or written notification to an insurance provider that states you want to purchase, or transfer, insurance and you want any other policies for the crop canceled would demonstrate you did not intend to have duplicate policies), and:
- (1) One is an additional coverage policy and the other is a Catastrophic Risk Protection policy:
 - (i) The additional coverage policy will apply if both policies are with the same insurance provider or, if not, both insurance providers agree; or
 - (ii) The policy with the earliest date of application will be in force if both insurance providers do not agree; or
 - (2) Both are additional coverage policies or both are Catastrophic Risk Protection policies, the policy with the earliest date of application will be in force and the other policy will be void, unless both policies are with:
 - (i) The same insurance provider and the insurance provider agrees otherwise; or
 - (ii) Different insurance providers and both insurance providers agree otherwise.
- (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 caused by a naturally occurring event only for the smaller of:
- (1) The amount of indemnity determined pursuant to this policy without regard to such 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.
- (c) 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 during your period of ineligibility, 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.

24. Amounts Due Us.

- (a) Interest will accrue at the rate of 1.25 percent simple interest per calendar month, or any portion thereof, on any unpaid amount owed to us or on any unpaid administrative fees owed to FCIC. For the purpose of premium amounts owed to us or administrative fees owed to FCIC, interest will start to accrue on the first day of the month following the premium billing date specified in the Special Provisions. We will collect any unpaid amounts owed to us and any interest owed thereon and, prior to the termination date, we will collect any administrative fees and interest owed thereon to FCIC. After the termination date, FCIC will collect any unpaid administrative fees and any interest owed thereon.
- (b) For the purpose of any other amounts due us, such as repayment of indemnities found not to have been earned, interest will start to accrue 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 reduction of 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.
- (e) The portion of the amounts owed by you for a policy authorized under the Act that are owed to FCIC may be collected in part through administrative offset from payments you receive from United States government agencies in accordance with 31 U.S.C. chapter 37. Such amounts include all administrative fees, and the share of the overpaid indemnities and premiums retained by FCIC plus any interest owed thereon.

25. [Reserved]

26. Interest Limitations.

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) If you have falsely or fraudulently concealed the fact that you are ineligible to receive benefits under the Act or if you or anyone assisting you has intentionally concealed or misrepresented any material fact relating to this policy:
 - (1) This policy will be voided; and
 - (2) You may be subject to remedial sanctions in accordance with 7 CFR part 400, subpart R.
- (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 for the crop year in which the voidance was effective.
- (d) Voidance will be effective on 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.

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, if the transferee is eligible for crop insurance. We will not be liable for any more than the liability determined in accordance with your policy that existed before the transfer occurred. The transfer of coverage rights must be on our form and will not be effective until approved by us in writing. Both you and the transferee are jointly and severally liable for the payment of the premium and administrative fees. The transferee has all rights and responsibilities under this policy consistent with the transferee's interest.

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 honor the terms of the assignment only if we can accurately determine the amount of the claim. However, no action will lie against us for failure to do so.

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

Since 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 you receive any compensation for your loss, excluding private hail insurance payments and payments covered by section 35, and the indemnity due under this policy plus the amount you receive from the person exceeds the amount of your actual loss, the indemnity will be reduced by the excess amount, or if the indemnity has already been paid, you will be required to repay the excess amount, not to exceed the amount of the indemnity. The total amount of the actual loss is the difference between the

value of the insured crop before and after the loss, based on your production records and the highest price election or amount of insurance available for the crop. 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.

(a) 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.

(b) 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) You may elect an enterprise unit or a whole farm unit if the Special Provisions allow such unit structure, subject to the following:

(1) You must make such election on or before the earliest sales closing date for the insured crops and report such unit structure to us in writing. Your unit selection will remain in effect from year to year unless you notify us in writing by the earliest sales closing date for the crop year for which you wish to change this election. These units may not be further divided except as specified herein;

(2) For an enterprise unit:

- (i) You must report the acreage for each optional or basic unit on your acreage report that comprises the enterprise unit;
- (ii) These basic units or optional units that comprise the enterprise unit must each have insurable planted acreage of the same crop in the crop year insured;
- (iii) You must comply with all reporting requirements for the enterprise unit (While separate records of acreage and production for basic or optional units

must be maintained, if you want to change your unit structure in subsequent crop years, it is not required to qualify for an enterprise unit);

(iv) The qualifying basic units or optional units may not be combined into an enterprise unit on any basis other than as described herein;

(v) If you do not comply with the production reporting provisions for the enterprise unit, your yield for the enterprise unit will be determined in accordance with section 3(e)(1);

(vi) At any time we discover you do not qualify for an enterprise unit, we will assign the basic unit structure; and

(vii) The discount contained in the actuarial documents will only apply to acreage in the enterprise unit that has been planted.

(3) For a whole farm unit:

(i) You must report on your acreage report the acreage for each optional or basic unit for each crop produced in the county that comprises the whole farm unit;

(ii) Although you may insure all of your crops under a whole farm unit, you will be required to pay separate applicable administrative fees for each crop included in the whole farm unit; and

(iii) At any time we discover you do not qualify for a whole farm unit, we will assign the basic unit structure.

(b) Unless limited by the Crop Provisions or Special Provisions, a basic unit as defined in section 1 of the Basic Provisions 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 discernible 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 (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);

(3) You have records, that are acceptable to us, for at least the previous crop year for all optional units that you will report in the current crop year (You may be required to produce the records for all optional units for the previous crop year);

(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 is kept separate until loss adjustment is completed by us; and

(c) 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 such as Spanish grants, as the equivalents of sections for unit purposes. In areas which have not been surveyed using sections, section equivalents or in areas where boundaries are not readily discernible, each optional unit must be located in a separate FSA farm serial number;
- (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. 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 may be considered as irrigated acreage 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. In this case, production from both practices will be used to determine your approved yield; and
- (3) In addition to, or instead of, establishing optional units by section, section equivalent or FSA farm serial number, or irrigated and non-irrigated acreage, separate optional units may be established for acreage of the insured crop grown and insured under an organic farming practice. Certified organic, transitional and buffer zone acreages do not individually qualify as separate units. (See section 37 for additional provisions regarding acreage insured under an organic farming practice).
- (d) Optional units are not available for crops insured under a Catastrophic Risk Protection Endorsement.
- (e) 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.
- 35. Multiple Benefits.**
- (a) If you are eligible to receive an indemnity under an additional coverage plan of insurance and are also eligible to receive benefits for the same loss under any other USDA program, you may receive benefits under both programs, unless specifically limited by the crop insurance contract or by law.
- (b) The total amount received from all such sources may not exceed the amount of your actual loss. The total amount of the actual loss is the difference between the fair market value of the insured commodity before and after the loss, based on your production records and the highest price election or amount of insurance available for the crop.
- (c) FSA will determine and pay the additional amount due you for any applicable USDA program, after first considering the amount of any crop insurance indemnity.
- 36. Substitution of Yields.**
- (a) When you have actual yields in your production history database that, due to an insurable cause of loss, are less than 60 percent of the applicable transitional yield (T-yield) you may elect, on an individual actual yield basis, to exclude and replace one or more of any such yields within each database.
- (b) Each election made in section 36(a) must be made on or before the production reporting date for the insured crop and each such election will remain in effect for succeeding years unless cancelled by the production reporting date for the succeeding crop year. If you cancel an election, the actual yield will be used in the database. For example, if you elected to substitute yields in your database for the 1998 and 2000 crop year, for any subsequent crop year, you can elect to cancel the substitution for either or both years.
- (c) Each excluded actual yield will be replaced with a yield equal to 60 percent of the applicable T-yield for the crop year in which the yield is being replaced (For example, if you elect to exclude a 2001 crop year actual yield, the T-yield in effect for the 2001 crop year in the county will be used. If you also elect to exclude a 2002 crop year actual yield, the T-yield in effect for the 2002 crop year in the county will be used). The replacement yields will be used in the same manner as actual yields for the purpose of calculating the approved yield.
- (d) Once you have elected to exclude an actual yield from the database, the replacement yield will remain in effect until such time as that crop year is no longer included in the database unless this election is cancelled in accordance with section 36(b).
- (e) Although your approved yield will be used to determine your amount of premium owed, the premium rate will be increased to cover the additional risk associated with the substitution of higher yields.
- 37. Organic Farming Practices.**
- (a) In accordance with section 8(b)(2), insurance will not be provided for any crop grown using an organic farming practice, unless the information needed to determine a premium rate for an organic farming practice is specified on the actuarial table, or insurance is allowed by a written agreement.
- (b) If insurance is provided for an organic farming practice as specified in section 37(a), only the following acreage will be insured under such practice:
- (1) Certified organic acreage;
 - (2) Transitional acreage being converted to certified organic acreage in accordance with an organic plan; and

- (3) Buffer zone acreage.
- (c) On the date you report your acreage, you must have:
- (1) For certified organic acreage, a written certification in effect from a certifying agent indicating the name of the entity certified, effective date of certification, certificate number, types of commodities certified, and name and address of the certifying agent (A certificate issued to a tenant may be used to qualify a landlord or other similar arrangement);
 - (2) For transitional acreage, a certificate as described in section 37(c)(1), or written documentation from a certifying agent indicating an organic plan is in effect for the acreage; and
 - (3) Records from the certifying agent showing the specific location of each field of certified organic, transitional, buffer zone, and acreage not maintained under organic management.
- (d) If you claim a loss on any acreage insured under an organic farming practice, you must provide us with copies of the records required in section 37(c).
- (e) If any acreage qualifies as certified organic or transitional acreage on the date you report such acreage, and such certification is subsequently revoked by the certifying agent, or the certifying agent no longer considers the acreage as transitional acreage for the remainder of the crop year, that acreage will remain insured under the reported practice for which it qualified at the time the acreage was reported. Any loss due to failure to comply with organic standards will be considered an uninsured cause of loss.
- (f) Contamination by application or drift of prohibited substances onto land on which crops are grown using organic farming practices will not be an insured peril on any certified organic, transitional or buffer zone acreage.
- (g) In addition to the provisions contained in section 17(f), prevented planting coverage will not be provided for any acreage based on an organic farming practice in excess of the number of acres that will be grown under an organic farming practice and shown as such in the records required in section 37(c).
- (h) In lieu of the provisions contained in section 17(f)(1) that specify prevented planting acreage within a field that contains planted acreage will be considered to be acreage of the same practice that is planted in the field, prevented planting acreage will be considered as organic practice acreage if it is identified as certified organic, transitional, or buffer zone acreage in the organic plan.

**Crop Insurance
Handbook (CIH)
2007**

United States
Department of
Agriculture



**Risk
Management
Agency**

**Product
Administration
& Standards
Division**

**FCIC 18010
(6-05)**

**FCIC 18010-01
(6-06)**

2007 CROP INSURANCE HANDBOOK (CIH)

Underwriting and Actual Production History (APH)
Standards for Catastrophic (CAT), and Additional
Coverage Multiple Peril Crop Insurance (MPCI)
Contracts

- C(2) **Ineligible Persons.** An ineligible person is a person denied participation in any program administered by FCIC under the Act. [See FCIC-24050 Ineligible Tracking System Handbook] to determine impact of ineligibility on SBI holders. A new application is required for insurance coverage after the end of the ineligibility period.
- (2)(a) Any person with a delinquent debt to RMA or an AIP is ineligible for crop insurance until the debt is resolved.
- 1 When the debt is resolved, that person again becomes eligible for crop insurance.
 - 2 Application must be made on or before the applicable SCD for the crop.
 - 3 If debt is resolved after the SCD for a crop, the person cannot apply for insurance for that crop until the next crop year, unless the crop also has a SCD for the crop year occurring after the payment is made (i.e., multiple SCDs within a crop year). For such crops, applications may be taken by a later SCD; however, insurance attaches only after the application is taken. Any loss incurred between the time the policy was terminated and the new application is taken is not covered.
- (2)(b) Any person who is disqualified, suspended or debarred, under the Act and applicable regulations, is ineligible for crop insurance for the period of disqualification, suspension or debarment.
- (2)(c) Any person who is convicted under federal or state law of planting, cultivating, growing, producing, harvesting or storing a controlled substance in any crop year will be ineligible for crop insurance for five years from the date of conviction under the Food Security Act of 1985.
- C(3) **Sales Closing Dates (SCD).** To participate, a person must apply for insurance on or before the applicable SCD. SCDs, usually preceding the beginning of the insurance period, are established for each insurable crop and are published in the county actuarial table. After the SCD, new applications for insurance for that crop may not be accepted. SCDs falling on Saturdays, Sundays, or legal holidays are extended to the next business day.
- C(4) **Selecting Coverage.** The insured's MPC coverage is determined by the level of coverage and price elected or, for some crops, the amount of insurance elected. The level of coverage and price is chosen at the time the application is completed. The level of coverage and price elected may be changed if requested in writing on or before the applicable SCD for the crop.
- (4)(a) **Levels of Coverage.** A crop may be insured at 50%, 55%, 60%, 65%, 70%, and 75% (80% and 85% coverage levels are available for some crops if indicated on the actuarial documents) of the approved APH yield or amount of insurance. All acreage of the insured crop within a county must be insured at the same level with the following exceptions:
- 1 High-risk land excluded from an additional coverage policy and insured separately under a CAT policy;

6D Approved APH Yield Reductions. [See Exhibit 6 for instructions.] The BR requires approved APH yields calculated for a practice (including transitional and certified organic acreage), type, or variety (P/T/V) of the insured crop to be reduced for the following situations when they are discovered:

- D(1) Excessive Actual Yields.** Any reported actual yield that exceeds RMA's maximum yield guideline will require an APH review by the AIP. Excessive actual yields are adjusted if the insured provides verifiable records that support the actual yield but cannot prove that there is a valid basis for the excessive yield. If an insured does not provide verifiable records to support the excessive actual yield, the production reports for the crop year are not acceptable and are not used to calculate the APH yield. For carryover insureds, assigned yields will apply.
- D(2) Inconsistent Approved APH Yields when acreage limitations are exceeded.**
- D(3) Different production methods that are likely to result in a lower yield than the production method upon which the APH is based are carried out for the crop year.**

6E T-Yields

E(1) T-Yield Methods. T-Yields are published on the County Actuarial Table. The published T-Yields will be used to calculate variable T-Yields by crop and county, when necessary to calculate approved APH yields.

(1)(a) T-Yields contained in carryover insureds' databases MUST be replaced with the current crop year's T-Yields.

(1)(b) T-Yields are published for:

- 1 Insurable P/T/V's. If irrigated and non-irrigated practices are indicated on the county actuarial documents, separate APH yields ARE REQUIRED for irrigated and non-irrigated practices. If separate (different) T-Yields are provided for other P/T/Vs separate APH yields (databases) MUST be established for each P/T/V. Separate APH yields are required for some P/T/Vs including summerfallow and continuous cropping practices, irrigated and non-irrigated practices, durum and spring wheat types [Sec. 6, Par. J(15)(h)2], feed barley and Option A malting barley [Exhibit 22, Par. 1C] and dry beans types [Exhibit 21, Par. 4C(1)] even if the T-Yields on the county actuarial documents are the same. [See individual crop instructions, Par. J.] [For additional instructions regarding summerfallow practices, refer to J(15)(h)3.]

For example, the county actuarial table for CC wheat indicates:

| Type | Practice | Map Area/T-Yield |
|--------------|----------|------------------|
| 011 (winter) | 004 (CC) | 001 = 15.0 |
| 012 (spring) | 004 (CC) | 001 = 14.0 |

In this example, separate APH yields are required for winter and spring types of CC wheat located in Map Area 001 (even if the insured does not choose optional units for winter and spring wheat).

**Comparison of
Federal Crop
Insurance to
Private Crop-Hail
Insurance
2009**

Comparison of Federal Crop Insurance to Private Crop-Hail Insurance

Prepared by National Crop Insurance Services, Inc.

| | FEDERAL CROP INSURANCE | PRIVATE CROP-HAIL INSURANCE |
|--|--|--|
| Regulator | Risk Management Agency of USDA. | State Departments of Insurance |
| Premium rates | Established by the Risk Management Agency of the USDA. | Filed by individual insurance company and approved by state insurance departments. |
| Deadlines for purchase | Initial applications or requests for changes in coverage levels must be made by the Sales Closing Date stated in the special provisions of insurance. | There is not an established deadline to purchase hail insurance; however, coverage is not effective until 12:01 a.m. of the second day following the date the insured and agent sign the application. |
| Basis of Indemnity | Determine the amount of crop remaining (revenue to count for revenue plans and value to count for dollar plans). | Determine the percent of loss. |
| Continuous or annual coverage | Federal Crop Insurance policies are continuous subject to the insured meeting all policy requirements to report acreage and production history. Action is required by the insured or insurer to cancel a policy, change coverage levels, or select different price elections. | Annual. Policy term is only for the crop year specified on the application. |
| Requirement to insure all acreage of a crop? | Generally, Federal Crop Insurance policies require that all insurable acreage of a crop in a county be insured. The Federal Livestock products would be an exception because they place a limit on the number of livestock that an insured may insure during an insurance period. | Private crop-hail insurance allows an insured to choose which and how much acreage to insure. |
| Insurance unit | Generally all of the insurable acreage in a county of the insured crop by share determines a unit. Units may be further divided by farming practices (i.e., irrigated and non-irrigated), crop types, and section or section equivalents if allowed by policy provisions. In order for an insured to receive an indemnity, the entire unit's production (harvested and/or appraised) must be less than the unit's guarantee. | Each acre constitutes a unit of insurance. An insured may receive an indemnity payment if damage occurs to only a few insured acres or even 1 insured acre. |
| Reporting requirements to obtain and maintain coverage. | In the most common form of Federal Crop Insurance, an insured is required to report acreage and production history by established reporting dates to establish an Actual Production History (APH) which is used to establish the insurance guarantee. Other Federal Crop Insurance programs may require reporting of revenue history (Adjusted Gross Revenue) or a Plant Inventory Value Report (Nursery). Producers who do not provide verifiable records may be assigned yields according to Federal Crop Insurance Underwriting guidelines. Producers who do not meet the reporting deadlines (some exceptions) may have their coverage reduced or voided for the current crop year. | Complete an application. |
| Perils covered | Federal Crop Insurance, with a few exceptions, offers coverage on an all-risk basis. The Federal Crop Insurance Act stipulates that causes of loss must be due to natural causes. However, some products provide protection against declines in revenue. Two examples of products that protect against declines in revenue would be the Adjusted Gross Revenue and Adjusted Gross Revenue-Lite programs or the Livestock Risk Protection and Gross Margin programs. | Named perils policy. The crop is insured for direct losses resulting from hail, and in most cases other named perils such as fire, lightning, transit, etc. Indirect losses and perils not named are not covered. |
| Limits of insurance | For most Federal Crop Insurance products, amounts of insurance are limited by multiplying the approved yield (determined by the insurance company according to RMA guidelines) by the selected coverage level and price (value of bushel, pound, carton, etc.) established by RMA. Insureds select by the Sales Closing Date which coverage level and what percentage of the established price (price election) to determine their insurance guarantee. Federal Crop Insurance generally does not allow increases in coverage during the crop year. One exception would be the nursery program which allows increases during the crop year that are limited and subject to a waiting period. | Cannot insure a crop for more than its value. However, coverage may be increased during the year if the value of the crop is greater than anticipated when the insurance was purchased. |
| Indemnity determinations | Difference between the unit guarantee and the actual or appraised production for the unit. For example, in a unit consisting of 640 acres, the production from the entire 640 acres must be less than the production guarantee of the entire 640 acres before an indemnity would be paid. For Federal Crop Insurance plans offering guarantees of expected revenue or a stated value, indemnities would be based the difference in determined revenue or value and the final guaranteed amount of protection. | Percentage of loss multiplied by the limit of insurance per acre subject to any excess over loss or deductible provisions elected by the insured. For example, if a producer insured 640 acres and only 40 acres were damaged, the producer would receive an indemnity on the damaged 40 acres in the amount of the determined percent of loss multiplied by the limit of insurance on those 40 acres. |

* The information contained herein is only intended to provide a general understanding of Federal Crop Insurance program and is not all-inclusive of every plan and option available.

A Quick Guide To Crop Insurance

Who is NCIS

National Crop Insurance Services (NCIS) is an international not-for-profit organization representing the interests of the crop insurance industry. NCIS member companies write Crop-Hail Insurance; Multiple Peril Crop Insurance (MPCI); the federally subsidized risk management program; and, privately developed crop insurance products. NCIS member companies service all farmers participating in the federal program, including limited-resource and socially-disadvantaged farmers. In partnership with the government, these private companies are the safety net that equitably provides risk management to the American farmer. NCIS members range in size from one-state companies to national writers, as well as foreign company members.

Purpose

NCIS believes it is in the public interest to provide adequate insurance protection against damage to growing crops by hail and other perils, and against loss or damage in connection with public events or private undertakings from rain or other adverse weather conditions. Such protection can be made available only upon adequate information and knowledge.

In support of this belief, NCIS is organized for the following objects and purposes:

- To compile and analyze relevant statistics acquired by members from year to year.
- To operate as an insurance advisory organization and an insurance statistical organization.
- To furnish statistics, loss expense, actuarial analyses, actuarial formulas, procedures, forms, and information to members and other purchasers.
- To consult and meet with groups or individuals having an interest in crop insurance, including, but not limited to, state and federal government officials and other trade associations.
- To develop, provide, and publicize procedures and forms for adjustment of losses.
- To conduct research, training, and education activities in order to promote improved knowledge and understanding of the appropriate aspects of crop insurance.

Basic Policy Choices:

➤ MPCI (Multiple Peril Crop Insurance) provides protection against a loss in yield due to nearly all natural disasters. It guarantees a yield based on the individual producer's APH (Actual Production History). MPCI is a Federal product.

➤ GRP (Group Risk Plan) insurance is based on the county expected yield rather than the individual farm yields. GRP is a Federal product.

➤ Crop-Hail is insurance offered by private companies and is not a product of federal or state governments, nor is it subsidized. Crop-Hail insurance is regulated by the insurance departments in each state. Crop-Hail is a named peril product insuring a crop from direct loss resulting from Hail and other named perils such as fire or lightning.

Other policy choices fall into the "revenue insurance" category. Instead of guaranteeing only yield, revenue products protect a grower from loss of revenue resulting from low prices, low yields, or a combination of the two.

➤ CRC (Crop Revenue Coverage) policies guarantee an amount of revenue (based on the individual producer's APH x commodity price). The final guarantee is based on the greater of the preplanting base price or the harvest price.

➤ RA (Revenue Assurance) has a Fall Harvest Price Option available. This option uses the greater of the fall harvest price or the spring generated price to determine the per-acre revenue guarantee.

➤ IP (Income Protection) policies protect against a loss of income when prices and/or yields fall. It is only available on an enterprise unit basis and does not have the increasing price function of CRC. IP policies pay when the harvested and appraised production to count, multiplied by the harvest price, is below the IP guarantee.

➤ GRIP (Group Risk Income Protection) makes a payment only if the county revenue for the insured crop is less than the selected trigger revenue.

➤ AGR (Adjusted Gross Revenue) protects against low revenue due to unavoidable natural disasters and market fluctuation that occur during the insurance year. It uses the producer's Schedule F tax form information and annual farm report as a basis to provide a level of guaranteed revenue for multiple Agricultural commodities in one insurance product.

Provided By:



National Crop Insurance Services

8900 Indian Creek Parkway
Suite 600
Overland Park, KS 66210

(913) 685-2767

Fax: (913) 685-3080

**Federal Crop
Insurance Act
2009**

1. FEDERAL CROP INSURANCE ACT¹

[As Amended Through P.L. 111-80, Effective October 21, 2009]

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¹The Federal Crop Insurance Act is title V of the Agricultural Act of 1938, Public Law 430, 75th Congress, 52 Stat. 31, Feb. 16, 1938. Section 12033 of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 2154) added a subtitle B to the end and designated subtitle A. Consequently, references within the Federal Crop Insurance Act are addressed to "this title" or "this subtitle" rather than to "this Act".

(A) IN GENERAL.—For coverage under this subtitle, each producer shall purchase crop insurance on or before the sales closing date for the crop by providing the required information and executing the required documents. Subject to the goal of ensuring actuarial soundness for the crop insurance program, the sales closing date shall be established by the Corporation to maximize convenience to producers in obtaining benefits under price and production adjustment programs of the Department.

(B) ESTABLISHED DATES.—Except as provided in subparagraph (C), the Corporation shall establish, for an insurance policy for each insurable crop that is planted in the spring, a sales closing date that is 30 days earlier than the corresponding sales closing date that was established for the 1994 crop year.

(C) EXCEPTION.—If compliance with subparagraph (B) results in a sales closing date for an agricultural commodity that is earlier than January 31, the sales closing date for that commodity shall be January 31 beginning with the 2000 crop year.

(3) RECORDS AND REPORTING.—To obtain catastrophic risk protection under subsection (b) or additional coverage under subsection (c), a producer shall—

(A) provide annually records acceptable to the Secretary regarding crop acreage, acreage yields, and production for each agricultural commodity insured under this subtitle or accept a yield determined by the Corporation; and

(B) report acreage planted and prevented from planting by the designated acreage reporting date for the crop and location as established by the Corporation.

(g) YIELD DETERMINATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), the Corporation shall establish crop insurance underwriting rules that ensure that yield coverage, as specified in this subsection, is provided to eligible producers obtaining catastrophic risk protection under subsection (b) or additional coverage under subsection (c).

(2) YIELD COVERAGE PLANS.—

(A) ACTUAL PRODUCTION HISTORY.—Subject to subparagraph (B), the yield for a crop shall be based on the actual production history for the crop, if the crop was produced on the farm without penalty during each of the 4 crop years immediately preceding the crop year for which actual production history is being established, building up to a production data base for each of the 10 consecutive crop years preceding the crop year for which actual production history is being established.

(B) ASSIGNED YIELD.—If the producer does not provide satisfactory evidence of the yield of a commodity under subparagraph (A), the producer shall be assigned—

(i) a yield that is not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Corporation for continuous years), as specified in

regulations issued by the Corporation based on production history requirements; or

(ii) a yield determined by the Corporation, in the case of—

(I) a producer that has not had a share of the production of the insured crop for more than two crop years, as determined by the Secretary;

(II) a producer that produces an agricultural commodity on land that has not been farmed by the producer; or

(III) a producer that rotates a crop produced on a farm to a crop that has not been produced on the farm.

(C) AREA YIELD.—The Corporation may offer a crop insurance plan based on an area yield that allows an insured producer to qualify for an indemnity if a loss has occurred in an area (as specified by the Corporation) in which the farm of the producer is located. Under an area yield plan, an insured producer shall be allowed to select the level of area production at which an indemnity will be paid consistent with such terms and conditions as are established by the Corporation.

(D) COMMODITY-BY-COMMODITY BASIS.—A producer may choose between individual yield or area yield coverage or combined coverage, if available, on a commodity-by-commodity basis.

(3) TRANSITIONAL YIELDS FOR PRODUCERS OF FEED OR FORAGE.—

(A) IN GENERAL.—If a producer does not provide satisfactory evidence of a yield under paragraph (2)(A), the producer shall be assigned a yield that is at least 80 percent of the transitional yield established by the Corporation (adjusted to reflect the actual production history of the producer) if the Secretary determines that—

(i) the producer grows feed or forage primarily for on-farm use in a livestock, dairy, or poultry operation; and

(ii) over 50 percent of the net farm income of the producer is derived from the operation.

(B) YIELD CALCULATION.—The Corporation shall—

(i) for the first year of participation of a producer, provide the assigned yield under this paragraph to the producer of feed or forage; and

(ii) for the second year of participation of the producer, apply the actual production history or assigned yield requirement, as provided in this subsection.

(C) TERMINATION OF AUTHORITY.—The authority provided by this paragraph shall terminate on the date that is 3 years after the effective date of this paragraph.

(4) ADJUSTMENT IN ACTUAL PRODUCTION HISTORY TO ESTABLISH INSURABLE YIELDS.—

(A) APPLICATION.—This paragraph shall apply whenever the Corporation uses the actual production records of the producer to establish the producer's actual production history for an agricultural commodity for any of the 2001 and subsequent crop years.

**FCIC Catastrophic
Risk Protection
Endorsement
2008
(09-CAT)**

**SUMMARY OF CHANGES FOR THE CATASTROPHIC RISK PROTECTION
ENDORSEMENT
(09-CAT)
(Rev. Nov. 2008)**

The following is a brief description of the changes to the Catastrophic Risk Protection (CAT) Endorsement that are effective for the 2009 and succeeding crop years for all crops with a 2009 crop year contract change date on or after November 30, 2008, and for the 2010 and succeeding crop years for all crops with a 2009 crop year contract change date prior to November 30, 2008.

Section 1 – Removed the definitions of “crop of economic significance,” “insurance is available,” and “linkage requirement” because these terms are only used in relation to the linkage requirements. The requirement to purchase crop insurance to be eligible for certain other USDA program benefits is more appropriately contained in the rules for such other USDA program, not the crop insurance policy.

Section 2 – Removed the reference to the “General Crop Insurance Policy” because that policy no longer exists.

Section 4 – Removed provisions that were only relevant for the 1995 through 1998 crop years.

Section 6(e) – Removed the reference to “section 12” because all of the provisions in section 12 have been removed.

Section 7 – Removed provisions regarding tobacco marketing cards because they are no longer being used by the Farm Service Agency. Also removed the reference to linkage requirements for the reason stated above.

Section 9 – Removed provisions regarding instances where a producer was eligible to receive an indemnity under the policy and was also eligible for compensation for the same loss under another USDA program. This language was repetitive of similar provisions contained in the Basic Provisions.

Section 10(b) – Removed provisions indicating a new application is required after a policy has been voided because voidance does not automatically mean a policy is canceled for subsequent years. Also removed provisions referring to the waiver of disaster assistance for the reason stated above.

Section 11(a) – Removed the reference to the Late Planting Agreement Option because the option is no longer available.

Removed section 12 which dealt with linkage requirements for the reason stated above.

DEPARTMENT OF AGRICULTURE
Federal Crop Insurance Corporation
Catastrophic Risk Protection Endorsement
(This is a continuous endorsement)



If a conflict exists between this Endorsement and any of the policies specified in section 2 or the Special Provisions for the insured crop, this endorsement will control.

Terms and Conditions

1. Definitions

Approved insurance provider - A private insurance company, including its agents, that has been approved and reinsured by FCIC to provide insurance coverage to producers participating in the Federal Crop Insurance program.

Approved yield - The amount of production per acre computed in accordance with FCIC's actual production history program (7 CFR part 400, subpart G) or for crops not included under 7 CFR part 400, subpart G, the yield used to determine the guarantee in accordance with the Crop Provisions or the Special Provisions, and any adjustments elected in accordance with section 36 of the Basic Provisions.

County - The political subdivision of a state listed in the actuarial table and designated on your accepted application, including land in an adjoining county, provided such land is part of a field that extends into the adjoining county and the county boundary is not readily discernable. For peanuts and tobacco, the county will also include any land identified by a FSA farm serial number for the county but physically located in another county.

Expected market price - (price election) The price per unit of production (or other basis as determined by FCIC) anticipated during the period the insured crop normally is marketed by producers. This price will be set by FCIC before the sales closing date for the crop. The expected market price may be less than the actual price paid by buyers if such price typically includes remuneration for significant amounts of post-production expenses such as conditioning, culling, sorting, packing, etc.

FCIC - The Federal Crop Insurance Corporation, a wholly owned Government Corporation within USDA.

FSA - The Farm Service Agency, an agency of the United States Department of Agriculture or any successor agency.

Household - A domestic establishment including the members of a family (parents, brothers, sisters, children, spouse, grandchildren, aunts, uncles, nieces, nephews, first cousins, or grandparents, related by blood, adoption or marriage, are considered to be family members) and others who live under the same roof.

Limited resource farmer - A person with:

- (1) Direct or indirect gross farm sales not more than \$100,000.00 in each of the previous two years (to be increased starting in fiscal year 2004 to adjust for inflation using Prices Paid by Farmer Index as

compiled by National Agricultural Statistical Service (NASS)); and

- (2) A total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous two years (to be determined annually using Commerce Department Data).

Secretary - The Secretary of the United States Department of Agriculture.

USDA - The United States Department of Agriculture.

Zero acreage report - An acreage report filed by you that certifies you do not have a share in the crop for that crop year.

2. Eligibility, Life of Policy, Cancellation, and Termination

(a) You must have one of the following policies in force to elect this Endorsement:

- (1) The Common Crop Insurance Policy (7 CFR 457.8) and crop provisions;
- (2) The Group Risk Plan Policy, if available for catastrophic risk protection; or
- (3) A specific named crop insurance policy.

(b) You must have made application for catastrophic risk protection on or before the sales closing date for the crop in the county.

(c) You must be a "person" as defined in the crop policy to be eligible for catastrophic risk protection coverage.

3. Unit Division

(a) This section is in lieu of the unit provisions specified in the applicable crop policy.

(b) For catastrophic risk protection coverage, a unit will be all insurable acreage of the insured crop in the county on the date coverage begins for the crop year:

- (1) In which you have one hundred percent (100%) 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.)

(c) Further division of the units described in paragraph (b) above is not allowed under this Endorsement.

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

- (a) Notwithstanding any provision contained in any other policy document, catastrophic coverage will offer protection equal to fifty percent (50%) of your approved yield indemnified at fifty-five percent (55%) of the expected market price, or a comparable coverage as established by FCIC.
- (b) If the crop policy denominates coverage in dollars per acre or other measure, or any other alternative method of coverage, such coverage will be converted to the amount of coverage that would be payable at fifty percent (50%) of your approved yield indemnified at fifty-five percent (55%) of the expected market price.
- (c) You may elect catastrophic coverage for any crop insured or reinsured by FCIC on either an individual yield and loss basis or an area yield and loss basis, if both options are offered as set out in the Actuarial Table or the Special Provisions.
- (d) To be eligible for an indemnity under this endorsement you must have suffered at least a 50 percent loss in yield.

5. Report of Acreage

- (a) The report of crop acreage that you file in accordance with the crop policy must be signed on or before the acreage reporting date. For catastrophic risk protection, unless the other person with an insurable interest in the crop objects in writing prior to the acreage reporting date and provides a signed acreage report on their own behalf, the operator may sign the acreage report for all other persons with an insurable interest in the crop without a power of attorney. All persons with an insurable interest in the crop, and for whom the operator purports to sign and represent, are bound by the information contained in that acreage report.
- (b) For the purpose of determining the amount of indemnity only, your share will not exceed your insurable interest at the earlier of the time of loss or the beginning of harvest. Unless the accepted application clearly indicates that insurance is requested for a partnership or joint venture, insurance will only cover 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 endorsement. Any acreage or interest reported by or for your spouse, child or any member of your household may be considered your share. 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. A lease containing provisions for either a minimum payment (such as a specified amount of cash, bushels, pounds, etc.) or a crop share will be

considered a cash lease. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the insured crop on such land will be considered as owned by the lessee.

6. Annual Premium and Administrative Fees

- (a) Notwithstanding any provision contained in any other policy document, you will not be responsible to pay a premium, nor will the policy be terminated because the premium has not been paid. FCIC will pay a premium subsidy equal to the premium established for the coverage provided under this endorsement.
- (b) In return for catastrophic risk protection coverage, you must pay an administrative fee to us within 30 days after you have been billed, unless otherwise authorized in the Federal Crop Insurance Act (You will be billed by the date stated in the Special Provisions);
 - (1) The administrative fee owed is \$300 for each crop in the county unless otherwise specified in the Special Provisions.
 - (2) Payment of an administrative fee will not be required if you file a bona fide zero acreage report on or before the acreage reporting date for the crop (if you falsely file a zero acreage report you may be subject to criminal and administrative sanctions).
- (c) The administrative fee provisions of paragraph (b) of this section do not apply if you meet the definition of a limited resource farmer (see section 1). The administrative fee will be waived if you request it and:
 - (1) You qualify as a limited resource farmer; or
 - (2) You were insured prior to the 2005 crop year or for the 2005 crop year and your administrative fee was waived for one or more of those crop years because you qualified as a limited resource farmer under a policy definition previously in effect, and you remain qualified as a limited resource farmer under the definition that was in effect at the time the administrative fee was waived.
- (d) When a crop policy has provisions to allow you the option to separately insure individual crop types or varieties, you must pay a separate administrative fee in accordance with paragraph (b) of this section for each type or variety you elect to separately insure.
- (e) If the administrative fee is not paid when due, you, and all persons with an insurable interest in the crop under the same contract, may be ineligible for certain other USDA program benefits.

7. Insured Crop

The crop insured is specified in the applicable crop policy, however:

- (a) Notwithstanding any other policy provision requiring the same insurance coverage on all insurable acreage of the crop in the county, if you purchase additional coverage for a crop, you

may separately insure acreage under catastrophic coverage that has been designated as "high risk" land by FCIC, provided that you execute a High Risk Land Exclusion Option and obtain a catastrophic risk protection policy with the same approved insurance provider, if available, on or before the applicable sales closing date. If catastrophic coverage is not available from the same insurance provider, you may obtain the catastrophic risk protection policy for the high risk land from another approved insurance provider or FSA, if available. You will be required to pay a separate administrative fee for both the additional coverage policy and the catastrophic coverage policy.

(b) A landowner will be allowed to obtain catastrophic coverage for all other landowners who hold an undivided interest in the insurable acreage, provided:

(1) All the landowners must agree in writing to such arrangement and have their social security number or employer identification number listed on the application, without regard to the actual amount of their interest in the insured acreage;

(2) All landowners must have an undivided interest in the insurable acreage;

(3) None of the landowners may hold any share in other acreage for which they are required to obtain at least catastrophic coverage;

(4) The total cumulative liability under the Catastrophic Risk Protection Endorsement for all landowners must be \$2,500 or less;

(5) The landowner insuring the crop will:

(i) Make application for insurance and provide the name and social security number or employer identification number of each person with an undivided interest in the insurable acreage;

(ii) Be responsible to pay the one administrative fee for all the producers within the county;

(iii) Fulfill all requirements under the insurance contract; and

(iv) Receive any indemnity payment under the landowner's social security number, or when applicable, employer identification number, and distribute the indemnity payments to the other persons sharing in the crop.

8. Replanting Payment

Notwithstanding any provision contained in any other crop insurance document, no replant payment will be paid whether or not replanting of the crop is required under the policy.

9. Claim for Indemnity

If two or more insured crop types, varieties, or classes are insured within the same unit, and multiple price elections are applicable, the dollar amount of

insurance and the dollar amount of production to be counted will be determined separately for each type, variety, class, etc., that have separate price elections and then totaled to determine the total liability or dollar amount of production to be counted for the unit.

10. Concealment or Fraud

Notwithstanding any provision contained in any other crop insurance document, your CAT policy may be voided by us on all crops without waiving any of our rights, including the right to collect any amounts due:

(a) If at any time you conceal or misrepresent any material fact or commit fraud relating to this or any other contract issued under the authority of the Federal Crop Insurance Act with any insurance provider; and

(b) The voidance will be effective for the crop year during which any such act or omission occurred.

11. Exclusion of Coverage

(a) Options or endorsements that extend the coverage available under any crop policy offered by FCIC will not be available under this endorsement. Written agreements are not available for any crop insured under this endorsement.

(b) Notwithstanding any provision contained in any other crop policy, hail and fire coverage and high-risk land may not be excluded under catastrophic risk protection.

**FCIC Coarse Grains
Crop Provisions
(98-041)**

SUMMARY OF CHANGES FOR THE COARSE GRAINS CROP PROVISIONS (98-041)

The following is a brief description of changes to the crop provisions that will be effective for the 1998 crop year. Please refer to the crop provisions for more complete information.

The crop provisions have been modified to accommodate changes made to the Basic Provisions of the Common Crop Insurance Policy. These modifications may include, but are not limited to:

- (a) Removal of some definitions now contained in the Basic Provisions;
- (b) Removal of unit division provisions since provisions previously contained in section 2 regarding unit division requirements and unit structure by section, section equivalent, FSA farm serial number, and irrigated and non-irrigated practices, have been moved from the crop provisions to the Basic Provisions; and
- (c) Modification of late and prevented planting provisions.

UNITED STATES DEPARTMENT OF AGRICULTURE
Federal Crop Insurance Corporation
COARSE GRAINS CROP PROVISIONS



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

1. Definitions

Coarse grains – Corn, grain sorghum, and soybeans.

Grain sorghum – The crop defined as sorghum under the United States Grain Standards Act.

Harvest – Combining, threshing, or picking the insured crop for grain, or cutting for hay, silage, or fodder.

Local market price – The cash grain price per bushel for the U.S. No. 2 yellow corn, U.S. No. 2 grain sorghum, or U.S. No. 1 soybeans, offered by buyers in the area in which you normally market the insured crop. The local market price will reflect the maximum limits of quality deficiencies allowable for the U.S. No. 2 grade for yellow corn and grain sorghum, or U.S. No. 1 grade for soybeans. Factors not associated with grading under the Official United States Standards for Grain, including but not limited to protein and oil, will not be considered.

Planted acreage – In addition to the definition contained in the Basic Provisions, 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 documents, or by written agreement.

Production guarantee (per acre) – In lieu of the definition contained in the Basic Provisions, 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.

Silage – A product that results from severing the plant from the land and chopping it for the purpose of livestock feed.

Ton – Two thousand (2000) pounds avoirdupois.

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

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions, you may select:

(1) For grain sorghum and soybeans, only one price election for each crop in the county insured under this policy; and

(2) For corn, only one price election for all the corn in the county insured as grain under this policy, and only one price election for all the corn in the county insured as silage under this policy. The price elections you choose for grain and silage must have the same percentage relationship to the maximum price election offered by us for grain and silage. For example, if you choose one hundred percent (100%) of the maximum grain price election and you also insure corn on a silage basis, you must choose one hundred percent (100%) of the maximum silage price election.

(b) For corn only, if you harvest the crop in a manner other than the manner you reported (for example, you reported grain but harvested as silage) and you did not select a price election for the type harvested, we will assign a price election for the type harvested that bears the same percentage relationship to the

maximum price election you selected for the type reported (for example, if you selected a grain price election in the amount of eighty percent (80%) of the maximum price election for grain and you did not select a silage price election, we will assign a silage price election in the amount of eighty percent (80%) of the maximum price election for silage specified in the Special Provisions if you harvest for silage). This assigned price election will be used only to determine the dollar value of production to count for indemnity purposes and will not be used to determine the amount of insurance or premium.

3. Contract Changes

The contract change date is November 30 preceding the cancellation date (see the provisions of section 4 (Contract Changes) of the Basic Provisions).

4. Cancellation and Termination Dates

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

**Cancellation and Termination
 Dates**

| <u>State and County</u> | <u>Dates</u> |
|--|--------------|
| (a) For corn and grain sorghum: Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof | January 15 |
| El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Terrell, Crockett, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas | February 15 |
| Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; and South Carolina | February 28 |
| All other Texas counties and all other states | March 15 |
| (b) For soybeans: Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, LaSalle, and Dimmit Counties, Texas and all Texas counties lying south thereof | February 15 |
| Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; and South Carolina; and El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, | |

Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Maverick, Zavala, Frio, Atascosa, Karnes, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas

February 28

All other Texas counties and all other states

March 15.

5. Insured Crop

(a) In accordance with section 8 (Insured Crop) of the Basic Provisions, the crop insured will be each coarse grain crop you elect to insure for which premium rates are provided by the actuarial documents:

- (1) In which you have a share;
- (2) That is adapted to the area based on days to maturity and is compatible with agronomic and weather conditions in the area; and
- (3) That is not (unless allowed by the Special Provisions or by written agreement):
 - (i) Interplanted with another crop except as allowed in paragraph 5(b)(1); or
 - (ii) Planted into an established grass or legume.

(b) For corn only, in addition to the provisions of subsection 5(a), the corn crop insured will be all corn that is:

- (1) Planted for harvest either as grain or as silage (see subsection 5(c)). A mixture of corn and sorghum (grain or forage-type) will be insured as corn silage if the sorghum does not constitute more than twenty percent (20%) of the plants;
- (2) Yellow dent or white corn, including mixed yellow and white, waxy or high-lysine corn, and excluding:
 - (i) High-amylose, high-oil, high-protein, flint, flour, Indian, or blue corn, or a variety genetically adapted to provide forage for wildlife or any other open pollinated corn, unless a written agreement allows insurance of such excluded crops.
 - (ii) A variety of corn adapted for silage use only when the corn is reported for insurance as grain.

(c) For corn only, if the actuarial documents for the county provide a premium rate for:

- (1) **Both grain and silage**, all insurable acreage will be insured as the type or types reported by you on or before the acreage reporting date;
- (2) **Grain but not silage**, all insurable acreage will be insured as grain unless a written agreement allows insurance on all or a portion of the insurable acreage as silage; or
- (3) **Silage but not grain**, all insurable corn acreage will be insured as silage unless a written agreement allows insurance on all or a portion of the insurable acreage as grain.

(d) For grain sorghum only, in addition to the provisions of subsection 5(a), the grain sorghum crop insured will be all of the grain sorghum in the county:

- (1) That is planted for harvest as grain;
- (2) That is a combine-type hybrid grain sorghum (grown from hybrid seed); and
- (3) That is not a dual-purpose type of grain sorghum (a type used for both grain and forage), unless a written agreement allows insurance of such grain sorghum.

(e) For soybeans only, in addition to the provisions of

subsection 5(a), the soybean crop insured will be all of the soybeans in the county that are planted for harvest as beans.

6. Insurable Acreage

In addition to the provisions of section 9 of the Basic Provisions, 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.

7. Insurance Period

In accordance with the provisions under section 11 (Insurance Period) of the Basic Provisions, the calendar date for the end of the insurance period is the date immediately following planting as follows:

- (a) For corn insured as grain:
 - (1) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof September 30
 - (2) Clark, Cowitz, Grays Harbor, Island, Jefferson, King, Kilsap, Lewis, Pierce, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom Counties, Washington October 31
 - (3) All other counties and states December 10
- (b) For corn insured as silage: All states September 30
- (c) For grain sorghum:
 - (1) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof September 30
 - (2) All other Texas counties and all other states December 10
- (d) For soybeans: All states December 10.

8. Causes of Loss

In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions, insurance is provided only against the following causes of loss which occur within the insurance period:

- (a) Adverse weather conditions;
- (b) Fire;
- (c) Insects, but not damage due to insufficient or improper application of pest control measures;
- (d) Plant disease, but not damage due to insufficient or improper application of disease control measures;
- (e) Wildlife;
- (f) Earthquake;
- (g) Volcanic eruption; or
- (h) Failure of the irrigation water supply, if applicable, due to an unavoidable cause of loss occurring within the insurance period.

9. Replanting Payments

(a) In accordance with section 13 of the Basic Provisions, 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 90 percent of the production guarantee for the acreage and it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the lesser of twenty percent (20%) of the production guarantee or the number of bushels (tons for corn insured as silage) set out herein, multiplied by your price election multiplied by your insured share or the share determined under 9(c), if applicable. The number of bushels or tons are 8 bushels for corn grain; 1 ton for corn silage; 7 bushels for grain sorghum; and 3 bushels for

soybeans.

- (c) When more than one person insures the same crop on a share basis, a replanting payment based on the total shares insured by us may be made to the insured person who incurs the total cost of replanting. Payment will be made in this manner only if an agreement exists between the insured persons which:
- (1) Requires one person to incur the entire cost of replanting; or
 - (2) Gives the right to all replanting payments to one person.
- (d) When the insured crop is replanted using a practice that is uninsurable as an original planting, the liability for the unit will be reduced by the amount of the replanting payment which is attributable to your share. The premium amount will not be reduced.

10. Duties in the Event of Damage or Loss

- (a) In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions, if you initially discover damage to any insured crop within 15 days of or during harvest, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 10 feet wide and extend the entire length of each field in the unit, and must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.
- (b) For any corn unit that has separate dates for the end of the insurance period (grain and silage):
- (1) In lieu of paragraph 14(a)(2) of the Basic Provisions, if damage occurs:
 - (i) Before the earliest end of insurance period date (grain or silage), you must give us notice within 72 hours of your initial discovery of damage (but not later than 15 days after that earliest end of insurance period date); or
 - (ii) If damage does not occur before the earliest end of insurance period date (grain or silage), but occurs before the latest end of insurance period date (grain or silage), you must give notice within 72 hours of your initial discovery of damage (but not later than 15 days after that latest end of insurance period date).
 - (2) In lieu of subsection 14(c) of the Basic Provisions, 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 latest date for the end of insurance period for the unit. This claim must include all the information we require to settle the claim.

11. Settlement of Claim

- (a) We will determine your loss on a unit basis. In the event you are unable to provide records of production:
- (1) For any optional unit, we will combine all optional units for which acceptable records of production were not provided; or
 - (2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.
- (b) In the event of loss or damage covered by this policy, we will settle your claim on any unit:
- (1) For grain sorghum and soybeans by:
 - (i) Multiplying the insured acreage by the production guarantee;
 - (ii) Subtracting from this the total production

to count;

- (iii) Multiplying the remainder by your price election; and
 - (iv) Multiplying this result by your share.
- (2) For corn by:
- (i) Multiplying the insured acreage of each type (grain/silage) by the production guarantee for the applicable type;
 - (ii) Multiplying each result by the price election for the applicable type;
 - (iii) Adding these values;
 - (iv) Multiplying the production to count of each type (see subsection 11(d)) by the price election for that type (see the provisions under section 2 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities));
 - (v) Adding these dollar values;
 - (vi) Subtracting the result of step (v) from the result of step (iii); and
 - (vii) Multiplying the result by your share.
- (c) The total production in bushels (tons for corn silage) (see subsection 11(d)) to count from all insurable acreage on the unit will include:
- (1) All appraised production as follows:
 - (i) Not less than the production guarantee for acreage:
 - (A) That is abandoned;
 - (B) Put to another use without our consent;
 - (C) Damaged solely by uninsured causes; or
 - (D) For which you fail to provide records of production that are acceptable to us;
 - (ii) Production lost due to uninsured causes;
 - (iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with subsection 11(e)); and
 - (iv) Potential production on insured acreage you want to put to another use or you wish to abandon and no longer care for, if you and we agree on the appraised amount of production. Upon such agreement the insurance period for that acreage will end if you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:
 - (A) If you do not elect to continue to care for the crop we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be

- used to determine the amount of production to count.); or
- (B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and
- (2) All harvested production from the Insurable acreage.
- (d) The production to count for corn will be in bushels for grain and in tons for silage as follows:
- (1) For harvested acreage, according to the method of harvest; and
- (2) For unharvested acreage, according to the information contained on your acreage report; except as otherwise provided in paragraph 11(c)(1).
- (e) Mature coarse grain production (excluding corn insured or harvested as silage) may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable it will be made prior to any adjustment for quality. Corn insured or harvested as silage will be adjusted for excess moisture and quality only as specified in subsection 11(f).
- (1) Production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of:
- (i) Fifteen percent (15%) for corn (If moisture exceeds 30 percent (30%), production will be reduced 0.2 percent for each 0.1 percentage point above 30 percent (30%));
- (ii) Fourteen percent (14%) for grain sorghum; and
- (iii) Thirteen percent (13%) for soybeans.
- We may obtain samples of the production to determine the moisture content.
- (2) Production will be eligible for quality adjustment if:
- (i) Deficiencies in quality, in accordance with the Official United States Standards for Grain, result in:
- (A) Corn not meeting the grade requirements for U.S. No. 4 (grades U.S. No. 5 or worse) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor;
- (B) Grain sorghum not meeting the grade requirements for U.S. No. 4 (grades U.S. Sample grade) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor (except smut odor), or meets the special grade requirements for smutty grain sorghum; or
- (C) Soybeans not meeting the grade requirements for U.S. No. 4 (grades U.S. Sample grade) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor (except garlic odor), or which meet the special grade requirements for garlicky soybeans; or
- (ii) Substances or conditions are present that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.
- (3) Quality will be a factor in determining your loss only if:
- (i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is provided under these crop provisions;
- (ii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us; and
- (iii) The samples are analyzed by a grader licensed under the authority of the United States Grain Standards Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health. (Test weight for quality adjustment purposes may be determined by our loss adjuster).
- (4) Coarse grain production that is eligible for quality adjustment, as specified in paragraphs 11(e)(2) and (3), will be reduced by the quality adjustment factor contained in the Special Provisions.
- (f) For corn insured or harvested as silage:
- (1) Whenever our appraisal of grain content is less than 4.5 bushels of grain per ton of silage, the silage production will be reduced by 1 percentage point for each 0.1 (1/10) of a bushel less than 4.5 bushels per ton, (If we cannot make a grain appraisal before harvest and you do not leave a representative unharvested sample, in accordance with the policy no reduction for grain-deficient silage will be made.); and
- (2) If the normal silage harvesting period has ended, or for any acreage harvested as silage or appraised as silage after September 30 of the crop year, we may increase the silage production to count to 65 percent (65%) moisture equivalent to reflect the normal moisture content of silage harvested during the normal silage harvesting period.
- (g) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on a weight basis.
- 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 a level specified in the actuarial documents.

**Crop-Hail Policy
General Provisions
2007
NCIS 3**

GENERAL PROVISIONS

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and compliance with all applicable provisions. If a conflict exists between the terms of the General Provisions and the Special Provisions, the terms of the Special Provisions will apply. If a conflict exists between the terms of a special crop endorsement and the General Provisions or Special Provisions, the special crop endorsement will apply.

1. COVERAGE.

We cover the crops specified at the locations described in the Schedule of Insurance.

We do not cover crops that have been damaged by an insured peril(s), as defined in the Special Provisions, prior to signing the application, unless agreed to in writing by us.

2. INSURANCE PERIOD.

The insurance is in effect from the time the crop is clearly visible above the ground until the crop is harvested, except as follows:

- a. No coverage is in effect until 12:01 a.m. of the second day following the date you and our agent sign the application.
- b. For some crops, there is an additional waiting period if shown in the Special Provisions or in a special crop endorsement.
- c. Coverage expires on the dates shown in the Special Provisions or special crop endorsement.
- d. *Increase of Existing Insurance*
Insurance added to this policy becomes effective at 12:01 a.m. of the second day following the date the revised Schedule of Insurance is accepted by us or as otherwise provided in the Special Provisions or special crop endorsement. We will not increase insurance if damage by an insured peril has already occurred, unless agreed to in writing by us.
- e. *Decrease of Existing Insurance*
Reduction or cancellation of insurance will be effective at 12:01 a.m. of the date requested.
- f. *Policy Term*
Your policy is in effect only until coverage expires and only for the crop year specified in the application. If you elect to purchase a new policy for the next or future crop years, we reserve the right to change any terms or provisions of the policy contract.

3. DUTIES AFTER LOSS.

- a. *Your Duties Are:*
In case of a probable loss to crops insured under this policy you must:
 - (1) Give written notice to us within 10 days after the occurrence of one of the insured perils.
 - (2) Continue to care for each damaged field of insured crop until we have examined the field; provided, however, that with our written consent, you may preserve representative samples in each damaged field of insured crop.
 - (3) Allow us to examine the damaged crop as often as we reasonably require.

- (4) Upon our request, provide a complete harvesting and marketing record of each insured crop.
- (5) Upon our request, submit to an examination under oath.
- (6) Sign a Withdrawal of Claim when our inspection of the crop determines that there is no payable loss under the terms of this policy.
- (7) Within 60 days after your loss, unless we extend such time in writing, submit to us a signed statement in proof of loss declaring your loss and interest in the crop.
- (8) If a claim is made on other insurance arising from the same occurrence for which a claim is made on this policy, upon our request, provide us with all claims material relating to the other insurance.

b. Our Duties Are:

- (1) Adjust all losses.
- (2) Pay the loss within 30 days after we reach agreement with you, entry of a final judgment, or the filing of any appraisal award with us.

c. Adjustment Procedures.

Both you and we agree that the percentage of loss will be determined using the crop-hail loss adjustment procedures published by National Crop Insurance Services, or in the absence of such procedures, other procedures as determined by us, for the particular crop insured and the applicable crop year.

d. Deferred Adjustment.

At times it may be necessary for us to defer the adjustment of a covered loss until the percentage of loss can be determined. You must continue to care for the damaged field of insured crop during this deferral period until the percentage of loss can be determined.

4. LOSS PAYMENT.

- a. The amount payable per acre will be the limit of insurance applying on the date of the loss multiplied by the percentage of loss. However, the amount payable may not exceed the actual cash value of the portion of the crop destroyed by perils insured against.
- b. If a crop loss is also covered by other crop-hail insurance, we will pay only the proportion of the loss that our limit of insurance bears to the total amount of insurance, provided, however that no crop insurance reinsured or approved by the Federal Crop Insurance Corporation will be prorated with this policy. If a crop loss is also covered by other insurance, including but not limited to the following examples, farm property insurance or farm and ranch insurance, then we will

pay only for the excess of such loss beyond the amount due from such other insurance, whether collectible or not, and not exceeding our limits of insurance.

5. REDUCTION OF INSURANCE.

The limit of insurance applying to each acre of insured crop will be reduced:

- a. By the gross percentage of loss determined for each loss.
- b. By the same percentage as each acre of crop is harvested.

6. APPRAISAL.

If you and we fail to agree on the percentage of loss caused by one of the insured perils, the following procedure will be used:

- a. The entire crop or a representative sample of the crop, as defined in the policy, must remain intact until a determination of the percentage of loss is rendered by these procedures.
- b. One of us will demand in writing that the percentage of loss be set by appraisal.
- c. Each of us will select a competent appraiser and notify the other of the appraiser's identity within 10 days after receipt of the written demand.
- d. The two appraisers will then select a competent, impartial umpire. If within 10 days of the selection of the appraisers, the two appraisers are unable to agree upon an umpire, you or we can ask a judge of a court of record, in the state which the insured crop is grown, to select an umpire. If the court fails to act on the request within 30 days, you or we can ask the American Arbitration Association to select an umpire.
- e. The appraisers will then set the percentage of loss in accordance with provision 3.c. The appraisers' written agreement will be final and binding upon you and us.
- f. If the appraisers fail to agree within 10 days, they will submit their difference to the umpire. Written agreement signed by any two of these three will set the percentage of loss. This written report of an agreement will be final and binding upon you and us.
- g. In the event you or we fail to select an appraiser within the time allowed herein, the appraiser selected by the other party will set the percentage of loss and his written report will be final and binding upon you and us.
- h. The determination of the percentage of loss rendered by these procedures may be entered in any court of competent jurisdiction as a final judgment.

Each appraiser will be paid by the party selecting that appraiser. Other expenses of the appraisal and compensation of the umpire will be paid equally by you and us.

We will not be held to have waived any of our rights by any act relating to the appraisal.

7. LIBERALIZATION.

If we adopt any revision which would broaden the coverage under this policy without additional premium, the broadened coverage will apply.

8. VARIATION IN ACREAGE IN CASE OF LOSS.

When the actual acreage of a crop differs from the number of acres stated by item in the Schedule of Insurance:

- a. A revised Schedule of Insurance per acre will be obtained by dividing the limit of insurance by the actual acreage at the location for such item.
- b. The total insurance per acre on your insured interest will not exceed the value of the crop at the time of loss.

9. ENTIRE AGREEMENT, WAIVER OR CHANGE OF POLICY PROVISIONS.

This policy, the application as accepted by us, and any endorsements issued by us and attached hereto constitute the entire agreement between you and us. A waiver or change of any provision must be in writing and approved by us. Our request for an appraisal or examination will not waive any of our rights.

10. ASSIGNMENT OF INTEREST.

You may not assign your interest in this policy without our written consent.

11. ASSIGNMENT OF INDEMNITY.

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the policy.

12. CONCEALMENT OR FRAUD.

We do not provide coverage for any insured who has intentionally concealed or misrepresented any material fact or circumstance relating to this insurance, either before or after a loss.

13. CANCELLATION OF POLICY.

a. *By You:*

If you cancel or reduce coverage prior to inception of the insurance period, we will refund your paid premium for the amount of insurance canceled. If you cancel or reduce coverage during the insurance period, we will not refund any premium.

b. *By Us:*

We may cancel all or any part of the insurance provided by us at any time by notifying you in writing at least 10 days before the date and hour cancellation takes effect. Notices of cancellation may be delivered or mailed to you at your mailing address shown in the declarations. Proof of mailing will be sufficient proof of notice.

If we cancel all or any part of this policy, we will return the premium paid for the amount of insurance per acre on the portion canceled.

(State law exceptions to the 10 days notice of cancellation, if any, are contained in the Special Provisions and/or state endorsements.)

14. EXCLUSIONS.

We do not cover:

- a. Loss from any peril not insured against, even though the loss may have occurred in conjunction with a peril insured against.
- b. Consequential or indirect damages, such as but not limited to diseases, insect infestation, lodging, loss of markets, etc.
- c. Loss of any portion of a crop recoverable by harvesting equipment.
- d. Loss due to your neglect or failure to harvest mature crops.
- e. Injury or damage to the vegetative or flowering portion of any plant, tree or shrub, except to the extent that the injury results in a loss to that crop.
- f. Any loss that has been contributed to by nuclear reaction, radiation, or radioactive contamination, all whether controlled or uncontrolled or however caused, or any consequence of any of these.
- g. Any loss caused in whole or in part due to pollution or contamination caused by the discharge or escape of any pollutants or contaminants.

15. ABANDONMENT OF CROP.

We will not accept abandonment to us of any interest in any crop.

16. SUIT AGAINST US.

You cannot bring suit or action against us unless you have complied with all of the policy provisions.

If you do enter suit against us you must do so within 12 months of the occurrence causing loss or damage.

(State law exceptions to the 12 months limitation, if any, are contained in the Special Provisions and/or state endorsements.)

17. CONFORMITY TO STATUTES.

If any terms of this policy are in conflict with statutes of the state in which this policy is issued, the policy will conform to such statutes.

18. 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 any such rights. If we pay you for your loss, your right of recovery will belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

19. INSPECTIONS.

We will be permitted, but not obligated, to inspect your property and operations at any time. Neither our right to make inspections, nor the making thereof, nor any report thereon, will constitute an undertaking on your behalf or for your benefit or the benefit of others, to determine or warrant that such property or operations are safe or healthful, or are in compliance with any law, rule or regulation.

20. PRE-JUDGMENT INTEREST.

If you and we do not reach agreement on the amount of loss, and whether we determine the amount of loss through the appraisal process or you file suit against us, you are not entitled to pre-judgment interest.

**Crop-Hail Insurance
Kentucky
Amendatory
Endorsement 2009
NCIS 3KY**

KENTUCKY AMENDATORY ENDORSEMENT

In compliance with the insurance regulations of the State of Kentucky, the General Provisions NCIS 3 are amended as follows:

6. **APPRAISAL.** – The first sentence of Provision No. 6 of the NCIS 3 General Provisions is amended to read as follows:

If you and we fail to agree on the percentage of loss caused by one of the insured perils, the following procedure may be used, however, any agreement obtained through this process is not final and binding.

13. **CANCELLATION OF POLICY BY US.** – Provision No. 13.b. of General Provisions NCIS 3 is amended to read as follows:

We may cancel all or any part of the insurance provided by us at any time during the first 60 days the policy is initially in effect by notifying you at least 14 days before the date and hour cancellation takes effect.

We may cancel any policy which has been in effect for more than 60 days, by notifying you in writing at least 75 days before the date and hour cancellation takes effect. In the event of nonpayment of premium, we may cancel upon 14 days notice to you. We may not cancel any policy, which has been in effect for 60 days or more, except for one or more of the following reasons:

- a. Nonpayment of premium;
- b. Discovery of fraud or material misrepresentation made by or with the knowledge of you in obtaining the policy, continuing the policy, or in presenting a claim under the policy;
- c. Discovery of willful or reckless acts or omissions on the part of you that increase any hazard insured against;
- d. The occurrence of a change in the risk, that substantially increases any hazard insured against, after insurance coverage has been issued or renewed;
- e. A violation of any local fire regulation or ordinance with respect to any insured property that substantially increases any hazard insured against;
- f. We are unable to reinsure the risk covered by the policy; or
- g. A determination by the commissioner that the continuation of the policy would place us in violation of the Kentucky insurance code or regulations of the commissioner.

Cancellation notices will state the reason for cancellation. Notices of cancellation will be mailed to you at your mailing address shown in the declarations. Unless otherwise specifically required, proof of mailing of any notice will be sufficient proof of notice. If we cancel all or any part of this policy, we will return the premium paid for the amount of insurance per acre on the portion canceled.

(THIS ENDORSEMENT MUST BE ATTACHED TO ALL KENTUCKY CROP-HAIL POLICIES.)

**Optional Fire and
Lightning Coverage
on Crops Planted in
Small Grain Crop,
Stubble or Residue
2007
NCIS 457**

**CROP-HAIL INSURANCE
OPTIONAL ENDORSEMENT**

2007 - NCIS 457

**OPTIONAL FIRE AND LIGHTNING COVERAGE ON CROPS
PLANTED IN SMALL GRAIN CROP, STUBBLE OR RESIDUE**

In consideration of the additional premium charge, your Fire and Lightning coverage is extended to crops that have been planted in small grain crop, stubble or residue. This endorsement only applies to those crops for which fire and lightning coverage is provided for in the Special Provisions or State Amendatory Endorsement.

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**Crop-Hail Policy
Jacket 2010
NCIS 5**

CROP-HAIL INSURANCE POLICY

[Name of the Company]

(Signature)

(Signature)

Secretary

President

PLEASE READ YOUR CROP-HAIL INSURANCE POLICY CAREFULLY

Quick Reference

Your Crop-Hail policy is composed of four parts:

- 1) Part I - Consists of your APPLICATION OR DECLARATION PAGE for this insurance which contains the Schedule of Insurance, description and location of crops insured, and binder provisions.
- 2) Part II - The SPECIAL PROVISIONS and ENDORSEMENTS, if any, tailor the coverage to meet the needs of the crops grown within your state and to conform to the laws and regulations of the state.
- 3) Part III - The following GENERAL PROVISIONS are the same for all policies written in the United States.

Agreement to Insure

| | |
|--|------------------|
| Coverage | Provision No. 1 |
| Insurance Period..... | Provision No. 2 |
| Duties After Loss | Provision No. 3 |
| Loss Payment..... | Provision No. 4 |
| Reduction of Insurance | Provision No. 5 |
| Appraisal | Provision No. 6 |
| Liberalization..... | Provision No. 7 |
| Variation in Acreage in Case of Loss..... | Provision No. 8 |
| Entire Agreement, Waiver or Change of Policy Provisions..... | Provision No. 9 |
| Assignment of Interest..... | Provision No. 10 |
| Assignment of Indemnity..... | Provision No. 11 |
| Concealment or Fraud..... | Provision No. 12 |
| Cancellation of Policy | Provision No. 13 |
| Exclusions..... | Provision No. 14 |
| Abandonment of Crop | Provision No. 15 |
| Suit Against Us | Provision No. 16 |
| Conformity to Statutes..... | Provision No. 17 |
| Subrogation (Recovery of Loss From a Third Party)..... | Provision No. 18 |
| Inspections..... | Provision No. 19 |
| Pre-Judgment Interest..... | Provision No. 20 |

- 4) Part IV - EXPLANATION OF POLICY/INSURANCE TERMS.

IMPORTANT: READ YOUR POLICY CAREFULLY. This Quick Reference is not part of the Crop-Hail Policy and does not provide coverage. Refer to the Crop-Hail Policy itself for the actual contractual provisions. This cover sheet provides only a brief outline of some of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth, in detail, the rights and obligations of both you and your insurance company. IT IS THEREFORE IMPORTANT THAT YOU READ YOUR POLICY CAREFULLY.

EXPLANATION OF POLICY/INSURANCE TERMS

Throughout this policy "you" and "your" refer to the "named insured" shown in the Application or Declarations, and "we", "us" and "our" refer to the Company providing this insurance. In addition, certain words and phrases are defined as follows:

1. **Direct Loss or Loss** - Only that damage to the insured crop caused by the initial impact of the insured peril.
2. **Feasible to Replant** - When the remaining growing season is considered sufficient for a crop to reach maturity.
3. **Hail** - Precipitation in the form of transparent or partially opaque balls or irregular lumps of concentric ice, and does not include sleet, snow and frozen or partly frozen rain.
4. **Harvest** - The act or process of gathering in a crop.
5. **Insured** - You.
6. **Insured Crop** - A crop described in the Schedule of Insurance which has been accepted by us for which a specific amount of insurance and premium charge has been indicated.
7. **NCIS** - National Crop Insurance Services.
8. **Occurrence** - Exposure to the peril insured against.
9. **Replant** - To reseed or transplant due to the condition of the original crop.
10. **Representative Sample** - A sample area of equal amounts of harvested and adjacent unharvested planted crop that is sufficient to provide accurate appraisals of the crop, as determined by the Company.
11. **Schedule of Insurance** - The list of crops, locations, policy forms and amounts of insurance as contained in the policy as issued by us.
12. **Unit of Insurance** - Throughout this policy the acre is the unit of insurance. This means that the limit of insurance applying to a loss on any acre may not exceed the limit per acre in the Schedule of Insurance.

This also means to the extent a crop is insured for less than its value you are self-insured. As an example of how this works, assume a crop is worth \$100 per acre and you insured it for only \$50 per acre; assume also that there has been a loss of 40% due to hail. If there is no Excess Over Loss or Deductible applying, the amount payable is 40% of \$50 per acre (or \$20 per acre), whereas the actual amount of the loss is 40% of \$100 (or \$40 per acre), and you are thus self insured for the difference of \$20 per acre.

OPTIONAL COMPANY INFORMATION

**Crop-Hail Policy
Basic Form Special
Provisions
Kentucky 2007
NCIS 616K**

SPECIAL PROVISIONS

Kentucky

1. PERILS INSURED AGAINST.

We insure for direct loss to the crops described in the Schedule of Insurance caused by:

a. *Hail*

destruction or removal of leaves or any portion thereof by wind. We do not cover loss or damage as a result of tobacco blown down by wind or fallen over from any cause.

b. *Fire and Lightning*

We cover loss by fire and lightning before harvest and while crop is still in the harvester, except that fire and lightning will not apply to any crop that has been planted in small grain crop, stubble or residue.

2. NOTICE OF LOSS. (Exception to General Provisions)

In case of probable loss to crops you must give written notice to us within 5 days after the occurrence.

Fire and Lightning coverage does not extend to cotton modules.

3. TOBACCO.a. *Insurance Effective*

Coverage on tobacco will become effective 12:01 a.m. the 7th day after the crop has been set in the field. Coverage will continue until the tobacco is unloaded at the first place of housing.

c. *Transit Coverage (Except Cotton and Tobacco)*

While the harvested crop is being transported to the first place of storage not to exceed 50 miles, this policy is extended to cover loss caused by:

- (1) Fire and Lightning
- (2) Windstorm
- (3) Collision
- (4) Overturn
- (5) Collapse of bridges, docks and culverts

b. *Excess Over 5% Loss – Increasing Payment*

We do not cover loss of unharvested tobacco caused by hail or wind with hail until the percent of loss per acre exceeds 5%. The percentage then payable per acre will be the percent in excess of 5%.

However, *Transit Coverage* is excess over any other valid and collectible insurance.

Once the percent of loss exceeds 85%, an additional 1% will be paid for each percent of loss in excess of 85%. The payable percentage may not exceed 100%.

FIRST PLACE OF STORAGE means any drying apparatus, drying bins or storage facility of any kind.

c. *Loss Adjustment*

The adjustment of any loss or claim for damage will not commence prior to the eighth day after the date of the occurrence of such claimed loss; except that this provision will not apply if replanting is necessary or if the loss occurs after August 10.

d. *Fire Department Service Charge*

We will pay up to \$250 for your obligation assumed by contract or agreement for fire department charges incurred when the fire department is called to save or protect the unharvested crop.

At any stage of growth, coverage will apply only to marketable, commercial leaves. The individual leaf will be the unit of measurement of leaf area destroyed.

No Excess Over Loss or Deductible will apply to Fire, Lightning and Transit Coverage or Fire Department Service Charge.

If a fractional part of one leaf is destroyed the leaf area destroyed will be the proportion that the fractional part bears to the whole of that leaf.

e. *Wind with Hail-Tobacco only*

We cover loss of unharvested tobacco caused by wind when hail destroys 5% or more of the crop during the same occurrence.

If adjustment is made before the tobacco is topped, adjustment will be based on an average leaf production of not less than 24 leaves on burley tobacco and not less than 14 leaves on dark-fired tobacco and not less than 20 leaves on dark air-cured tobacco.

After tobacco is cut or primed and until it is housed, we cover loss by windstorm or hail only when the loss(es) exceeds 10%. We do not cover loss resulting from mud or dirt contamination.

4. COTTON.

We do not cover cotton in open bolls, or cotton bolls immature at the time of a killing frost or freeze.

Wind loss will be interpreted to mean injury to the plant above ground only by the breaking off of stalks or

5. CORN AND SORGHUM SEED PRODUCTION.

On corn grown for seed purposes, the amount of any loss will be determined in the same manner as for ordinary field corn. On sorghum crops grown for seed purposes, the amount of any loss will be determined in the same manner as for ordinary field sorghum.

6. HAY, FORAGE AND GRASS CROPS.

- a. For hay, forage or other crops harvested more than once each growing season, the limit of insurance per acre provided for each cutting or harvest will be determined by dividing the total insurance per acre by the number of cuttings or harvests.
- b. If your schedule of Insurance specifies a limit of insurance per acre for each cutting or harvest, Section (a) will not apply.
- c. When hay and grass crops grown for seed are insured:

- (1) The insurance will apply only to the cutting to be harvested for seed.
- (2) Until the seed is set, a maximum of 25% of the insurance per acre stated in the Schedule of Insurance will apply.

7. CANNING BEANS, KALE, SPINACH, OR TURNIP GREENS.

Insurance per acre applying to each crop or planting of canning beans, kale, spinach, or turnip greens will be determined by dividing the total insurance per acre by the number of crops to be harvested.

8. REPLANTING DESTROYED CROPS (Except small grain crops and rice).

When any acre of crop has been damaged by hail to the extent that replanting is necessary, and replanting to the same or a substitute crop is feasible, as determined by us, under the growing conditions where such crop is grown, we will reimburse you for your actual expense of replanting whether the crop is replanted or not.

The limit of insurance will be reduced by the amount of the replanting award. Insurance remaining above the cost of replanting will, subject to the conditions of this policy, insure the replanted crop if of like kind; if not of like kind, the insurance remaining will be transferred to the substitute crop at the appropriate premium upon approval by us. No Excess Over Loss or Deductible provision will apply to any replant award.

9. EXPIRATION OF INSURANCE.

Coverage ceases at 12:01 a.m. on the following dates of the current year:

| | Hail or Hail and Wind coverage: | Fire, Lightning and Transit coverage: |
|-----------------------|---------------------------------------|--|
| Cotton..... | November 15 | November 15 |
| Soybeans | November 15 | November 15 |
| Tobacco | October 15 | October 15 |
| Tree fruit..... | November 1 | November 1 |
| All other crops | October 15 | October 15 |

OPTIONAL PROVISIONS

Your application and rate of premium determine whether your coverage will be amended by one of the following optional provisions.

**EXCESS OVER 10% LOSS – INCREASING PAYMENT PROVISION – (SYMBOL: XS10IP)
(TOBACCO ONLY)**

The provision "Excess Over 5% Loss-Increasing Payment" is hereby deleted and the following substituted therefore:

We do not cover loss of unharvested tobacco caused by hail or wind with hail until the percent of loss per acre exceeds 10%. The percentage then payable will be the percent in excess of such 10%. Once the percent of loss exceeds 70%, an additional 1% will be paid for each percent of loss in excess of 70%. The payable percentage may not exceed 100%.

**EXCESS OVER 5% LOSS – DISAPPEARING AT 25% PROVISION – (SYMBOL: DXS5)
(CORN, SMALL GRAIN CROPS AND SOYBEANS ONLY)**

We will not cover any loss until the percentage of loss per acre exceeds 5%. The percentage per acre then payable will be the percent in excess of 5%, multiplied by 1.25. Once the percentage of loss equals or exceeds 25% this provision will no longer apply.

**Crop-Hail Policy -
Unharvested and
Harvested Tobacco
Form Special
Provisions
Kentucky 2005
NCIS 641K**

**CROP-HAIL POLICY – UNHARVESTED AND HARVESTED TOBACCO FORM 2005-NCIS 641K
SPECIAL PROVISIONS**

Kentucky

1. PERILS INSURED AGAINST. (Unharvested Tobacco)

We insure for direct loss to the crops described in the Schedule of Insurance caused by:

- a. *Hail*
- b. *Fire and Lightning*
- c. *Wind with Hail – Tobacco Only*

We cover loss of unharvested tobacco caused by wind when hail destroys 5% or more of the crop during the same occurrence.

Wind loss will be interpreted to mean injury to the plant above ground, only by the breaking off of stalks or destruction or removal of leaves or any portion thereof by wind. We do not cover loss or damage as a result of tobacco blown down by wind or fallen over from any cause.

2. EXCESS OVER 5% LOSS-INCREASING PAYMENT.

We do not cover loss of unharvested tobacco caused by hail or wind with hail until the percentage of loss per acre exceeds 5%. The percentage per acre then payable will be the percent in excess of 5%.

Once the percent of loss exceeds 85%, an additional 1% will be paid for each percent of loss in excess of 85%. The payable percentage may not exceed 100%.

3. PERILS INSURED AGAINST. (Harvested Tobacco)

After the insured tobacco is harvested we insure for direct loss caused by:

- a. *Hail*
- b. *Fire and Lightning*
- c. *Windstorm and hail*

After the tobacco is cut or primed and before it is housed we cover loss or damage caused directly by windstorm or hail only when the loss(es) exceeds 10%. The percentage per acre then payable will be the percent in excess of 10%. We do not cover loss resulting from mud or dirt contamination.

After the tobacco is housed in a fully enclosed building we cover loss or damage caused directly by windstorm and hail. We do not cover damage resulting from frost, cold weather, ice, snow or sleet, even if driven by wind. But if the roof or walls of your building are damaged by wind or hail, we cover any subsequent loss to the tobacco inside that is caused by snow, rain, sand or dust coming through the openings in the roof or walls.

- d. *Explosion*

However, we do not cover loss caused by explosion originating within steam boilers, steam pipes, steam

turbines, steam engines or flywheels, located in any building containing the property insured.

- e. *Vehicle and Aircraft*

We cover loss of your insured tobacco resulting from a collision between a vehicle or an aircraft and the insured crops or the building housing it. We also cover your insured tobacco against loss or damage caused by objects falling from an aircraft, except spray or dusting materials.

By vehicles we mean machines that run on land or tracks. Aircraft includes self-propelled missiles and spacecraft.

We do not cover loss or damage caused by a vehicle owned or operated by you or any tenant of the described premises.

- f. *Civil disturbance and Riots*

We cover loss of insured tobacco resulting from a civil disturbance or a riot (including a riot during a strike). Losses due to looting and pillaging at the time and place of a riot are also covered.

We do not cover damage to tobacco caused by a change in temperature or humidity or interruption of business resulting from civil disturbance or riots.

- g. *Transit Coverage*

While the harvested crop is being transported from the farm premises, public stripping house or curing barn to the auction market, this policy is extended to cover loss caused by:

- (1) Fire and Lightning
- (2) Windstorm
- (3) Collision
- (4) Overturn
- (5) Collapse of bridges, docks and culverts

Except, this extension of coverage will not apply while the harvested crop is being transported by common or contract carrier.

However, *Transit Coverage* is excess over any other valid and collectible insurance.

Provisions Applying to the Unharvested Tobacco

4. INSURANCE EFFECTIVE. (Exception to General Provisions)

Coverage on tobacco will become effective 12:01 a.m. the 7th day after the crop has been set in the field.

5. REPLANTING DESTROYED CROPS.

When any acre of crop has been damaged by hail to the extent that replanting is necessary, and replanting to the same or a substitute crop is feasible under the growing conditions where such crop is grown, we will reimburse you for your actual expense of replanting whether the crop is replanted or not.

The limit of insurance will be reduced by the replanting award. Insurance remaining above the cost of replanting will, subject to the conditions of this policy, insure the replanted crop if of like kind. If not of like kind, the insurance remaining will be transferred to the substitute crop at the appropriate premium upon approval by us. No Excess Over Loss or Deductible provision will apply to any replant award.

6. LOSS ADJUSTMENT.

The adjustment of any loss or claim for damage will not commence prior to the eighth day after the date of the occurrence of such claimed loss, except that this provision will not apply if replanting is necessary or if loss occurs after August 10.

In any stage of growth, coverage will apply only to marketable, commercial leaves. The individual leaf will be the unit of measurement of leaf area destroyed.

If a fractional part of one leaf is destroyed the leaf area destroyed will be the proportion that the fractional part bears to the whole of that leaf.

If adjustment is made before the tobacco is topped, adjustment will be based on an average leaf production of not less than 24 leaves on burley tobacco and not less than 14 leaves on dark-fired tobacco and not less than 20 leaves on dark air-cured tobacco.

Provisions Applying to the Harvested Tobacco

7. LOSS DEDUCTIBLE.

The sum of \$100 will be deducted from the amount of loss for each occurrence.

8. EXCLUSIONS.

We do not cover loss resulting directly or indirectly from:

- a. *Neglect*, meaning neglect of the insured to use all reasonable means to save and preserve the tobacco at and after the time of a loss or when the tobacco is endangered by a peril insured against.
- b. *Water damage*, meaning flood, surface water waves, tidal water, overflow of a body of water, whether or not driven by wind.
- c. *War*, including undeclared war, civil war, insurrection, rebellion, revolution, warlike act by a military force or military personnel, destruction or seizure or use for a military purpose, and including any consequences of any of these. Discharge of a nuclear weapon will be deemed a warlike act even if accidental.

Other Provisions Applying to Unharvested and Harvested Tobacco

9. FIRE DEPARTMENT SERVICE CHARGE.

We will pay up to \$250 for your obligation assumed by contract or agreement for fire department charges incurred when the fire department is called to save or protect the insured tobacco. No Excess Over Loss or Deductible will apply.

10. NOTICE OF LOSS. (Exception to General Provisions)

In case of probable loss to crops you must give written notice to us within 5 days after the occurrence.

11. EXPIRATION OF INSURANCE.

We will not cover unharvested tobacco after 12:01 a.m., October 15 of the current year. We will not cover harvested tobacco after 12:01 a.m., March 15 or the closing of the market, whichever is later, of the year following the inception date of this policy.

We will not cover harvested tobacco after it has arrived inside a sales warehouse or public stripping house for curing, stripping and storage, or has been sold or otherwise marketed or abandoned.

OPTIONAL PROVISION

Your application and rate of premium determine whether your coverage will be amended by the following optional provision.

EXCESS OVER 10% LOSS – INCREASING PAYMENT PROVISION – (SYMBOL: XS10IP)

The Provision "*Excess Over 5% Loss—Increasing Payment*" is hereby deleted and the following substituted therefore:

We do not cover loss of unharvested tobacco caused by hail or wind with hail until the percent of loss per acre exceeds 10%. The percentage per acre then payable will be the percent in excess of 10%. Once the percent of loss exceeds 70%, an additional 1% will be paid for each percent of loss in excess of 70%. The payable percentage may not exceed 100%.

**Endorsement to
NCIS Crop-Hail
Insurance Policy -
Companion Plan
Hail Insurance 2002
NCIS 653**

ENDORSEMENT TO NCIS CROP-HAIL INSURANCE POLICY

Optional Endorsement
Crop-Hail Insurance

2002-NCIS 653

COMPANION PLAN HAIL INSURANCE

The purpose of this Companion Hail Insurance Plan is to cover on an acre basis the portion of the crop not insured under your policy reinsured or approved by the Federal Crop Insurance Corporation (FCIC). Therefore, your NCIS Crop-Hail policy is amended by both the following provisions and conditions and the Schedule of Insurance of the application for Companion Hail Insurance coverage.

1. TERM, ACREAGE REPORT AND CHANGE OF COVERAGE.

Your coverage will be in effect for the first crop year specified in the application and will continue for each succeeding crop year until canceled or terminated as provided in the policy. However, you are required to furnish us a revised Schedule of Insurance at the beginning of each growing season.

If you do not furnish us a revised Schedule of Insurance each year by May 1 for fall-seeded crops and June 1 for spring-seeded crops, we may elect to determine the insured acreage and share or declare the insured acreage to be "zero."

The revised Schedule of Insurance must provide the number of acres of each insured crop. You may change the insurance per Acre and/or the Increasing Payment Factor as to any crop season but not later than May 1 for fall-seeded crops and June 1 for spring-seeded crops. This provision replaces any reference in the NCIS Crop-Hail Policy to "Multiple-Term Policies."

We reserve the right to change any terms and provisions of the policy contract from year to year. You will be notified of changes not later than May 1 preceding the crop year for which the changes are to become effective. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the policy.

2. General Provision No. 8, Variation in Acreage in Case of Loss, is deleted and the following substituted therefore:

Revision of Acreage if incorrectly stated: If the actual acreage of a crop differs from the number of acres stated by Item in the Companion Schedule of Insurance:

- A revised Companion Schedule of Insurance per acre will be obtained by dividing the limit of insurance by the actual acreage at the location for such item.
- The total insurance per acre on your interest in the crop cannot exceed the normal market value of your interest in the portion of the crop insured as indicated by the elected increasing payment factor.

For the purpose of this insurance the relationship of Limit of Insurance, Increasing Payment Factor election, and coverage under your policy reinsured or approved by FCIC is recommended as follows:

| Policy reinsured or approved by FCIC | Increasing Payment Factor Elected | Limit of Insurance Not to Exceed Normal Market Value of your Interest in the |
|--------------------------------------|-----------------------------------|--|
| Level of Coverage | | |
| 50% | 2.0 | top 1/2 of the crop |
| 65% | 3.0 | top 1/3 of the crop |
| 75% | 4.0 | top 1/4 of the crop |

If you choose to insure under this plan of coverage then the Limit of Insurance should conform to the elected Increasing Payment Factor.

3. The following Special Provisions of your NCIS Crop-Hail policy are deleted and do not apply to coverage under this plan:

Provisions identified as "Catastrophe Loss Award." Any Special Provision identified as "Multiple-Term Policies." Any Special Provision identified as "Minimum Loss." All Excess Over Loss or Deductible optional provisions.

4. REPLANTING DESTROYED CROPS.

- When any acre of crop has been damaged by hail to the extent that replanting is necessary, and replanting to the same crop is feasible under the growing conditions where such crop is grown, any replanting indemnity under this policy will be limited to an appraisal for any percentage of loss due to a delay in replanting according to tables, if any, published in the appropriate crop loss procedures. We do not cover the actual cost of replanting.
- The 5% Excess Over Loss provision and Increasing Payment Factor (2.0, 3.0, 4.0) will apply to any delay for replanting, as determined in Provision 4.a.
- The limit of insurance per acre will be reduced by the dollar amount paid as determined in Provision 4.a. The remaining insurance, if any, will be transferred to the replanted crop.

5. Item 12 of Explanation of Policy Terms (inside policy jacket), "Unit of Insurance," is deleted and the following substituted therefore:

"Unit of Insurance." Throughout this COMPANION HAIL plan of insurance the acre is the unit of insurance. This means that the limit of insurance applying to loss on any acre may not exceed the Limit of Insurance shown in the Companion Schedule of Insurance.

This also means that, to the extent that the amount of insurance you specify for your interest in the portion of the crop insured is less than its normal market value, you are self insured.

As an example of how this works, assume that you have 160 acres of corn with a normal market value of \$50,000 and you wish to insure the top ¼ (25%) of the crop under the COMPANION HAIL insurance plan. At full market value the Limit of Insurance would be \$12,500; if a hail loss averaged 30% over the 160 acres, the amount payable would be \$12,500. But if you insured at a value of only \$6,250 or half the market value of the top ¼ (25%), you would be self insured for the \$6,250 difference.

6. General Provision No. 4, Loss Payment, is deleted and the following substituted therefore:

DETERMINATION OF AMOUNT PAYABLE FOR LOSS.

- a. We do not cover loss hereunder until the loss per acre caused by perils named herein exceeds 5 percent. Once the loss exceeds 5 percent the amount then payable will be determined by:

1. taking the percent of loss which exceeds 5 percent times the elected increasing payment factor; and
2. taking this percentage, but in no event more than 100%, times the Limit of Insurance shown in the Companion Schedule of Insurance.

For example:

| Determined Percentage of Loss | Excess Over 5% | Multiplied by the Elected Increasing Payment Factor | | |
|-------------------------------------|----------------------|--|------------|------------|
| | | factor 4.0 | factor 3.0 | factor 2.0 |
| | | = percent to be applied to amount of insurance | | |
| 5.0% | 0% | 0% | 0% | 0% |
| 7.0% | 2.0% | 8.0% | 6.0% | 4.0% |
| 27.0% | 22.0% | 88.0% | 66.0% | 44.0% |
| 30.0% | 25.0% | 100.0% | 75.0% | 50.0% |
| 40.0% | 35.0% | 100.0% | 100.0% | 70.0% |
| 50.0% | 45.0% | 100.0% | 100.0% | 90.0% |
| 55.0% | 50.0% | 100.0% | 100.0% | 100.0% |

- b. If a loss payable hereunder is also covered by other crop-hail insurance we will pay only the proportion of the loss that our applicable limit of insurance bears to the total amount of insurance applying to the loss, except that no policy reinsured or approved by FCIC will be prorated with this policy. If a crop loss is also covered by other insurance, including but not limited to the following examples, farm property insurance or farm and ranch insurance, then we will pay only for the excess of such loss beyond the amount due from such other insurance, whether collectible or not, and not exceeding our limits of insurance.
- c. The amount payable per acre may not exceed the actual cash value of the portion of the crop not insured under your policy reinsured or approved by FCIC.

**Kentucky Property
and Casualty
Insurance License
Exam Manual
Kaplan - 2006**

heading of loss prevention. Or, installing a sprinkler system in a factory won't prevent a fire from occurring, but it will limit the severity of any fire that does occur. Risk control techniques that limit loss severity come under the heading of risk reduction.

In some cases, people simply retain a risk. That is, if any loss occurs, they will pay for it themselves. Sometimes people retain only a portion of a risk—the portion that remains after other means of managing the risk have been employed. If people are aware of a risk and decide to retain it (or a portion of it), then they do so intentionally. If people are not aware of a risk, they may retain it unintentionally, and they may be surprised if a loss occurs.

The final method of managing risk is to transfer it. This option includes, but is not limited to, insurance. For example, a hold harmless agreement may shift liability from an owner or contractor to a tenant or subcontractor. (A hold harmless agreement is a contractual arrangement where one party assumes the liability of a situation and relieves the other party of responsibility.) However, for many risks, the best way to transfer them is through insurance. We'll focus on this way of handling the possibility of loss in the rest of this unit.

Exercise

Match the method of managing risk on the left with its correct description on the right.

- | | | |
|-----------------|-------|--|
| 1. Avoid risk | _____ | A. George always wears his seat belt in the car. |
| 2. Control risk | _____ | B. Terry's car is not insured. |
| 3. Retain risk | _____ | C. Gretchen doesn't own a car because she doesn't know how to drive. |

Answers: 2 A.; 3 B.; 1 C.

INSURANCE

You learned that one way of managing risk is to transfer it. This is what insurance does. The purpose of insurance is not to avoid or eliminate risk, but to transfer risk. To see how it works, let's look at the hypothetical town of Middlefield.

Middlefield has 200 homes, each worth \$100,000. Usually, one home in Middlefield burns to the ground each year. If the homeowner has to pay for the house, the owner will suffer a \$100,000 loss. However, if that loss were divided among each of Middlefield's homeowners, it would be only \$500. Wouldn't you agree to pay \$500, knowing that if your house burned down, you would receive \$100,000?

This is basically how insurance works. Instead of paying each other, people pay insurance companies, thus transferring the risk and responsibility for paying for any losses that occur to the company in exchange for a premium. The

ELEMENTS OF INSURABILITY

Pure Risk, Speculative Risk

Although theoretically almost anyone could purchase insurance to cover almost any risk, there are certain rules that establish a practical basis regarding who can be insured and for what.

For instance, insurance cannot be used to handle **speculative risks**. Speculative risks are risks in which there exists both the possibility of gain and the possibility of loss. A poker game is an example of a speculative risk. Insurance can only be used to manage **pure risks**, which involve only the possibility of loss. A person can buy insurance to protect against loss if a fur coat is stolen (pure risk) but not to protect against loss if the price of stock goes down (speculative risk).

Exercise

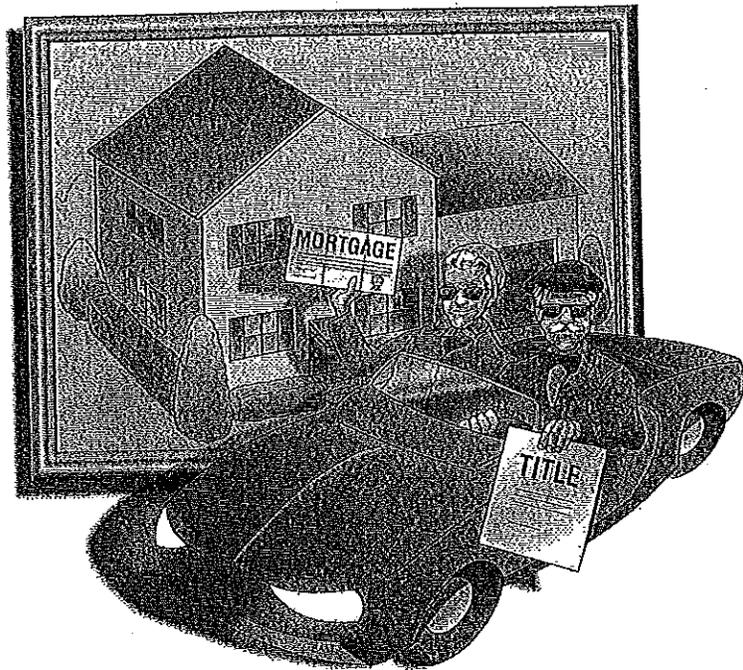
For each of the examples listed below, indicate whether it is a pure risk (P) or a speculative risk (S).

- ___ A. Harry feels lucky, so he buys a lottery ticket at the neighborhood convenience store.
- ___ B. Joan hopes her fur coat is safe at the storage warehouse.
- ___ C. The lightning rods aren't up on Frank's new house yet, and a severe thunderstorm has been predicted.
- ___ D. Donna purchases several shares of stock in a computer company.

Answers: S A.; P B.; P C.; S D.

Insurable Interest

A basic rule concerning *who* can be insured states that before you can benefit from insurance, you must have a chance of financial loss or a financial interest in the property. This is called an **insurable interest**. You have an insurable interest in your own home, but not your neighbor's home.

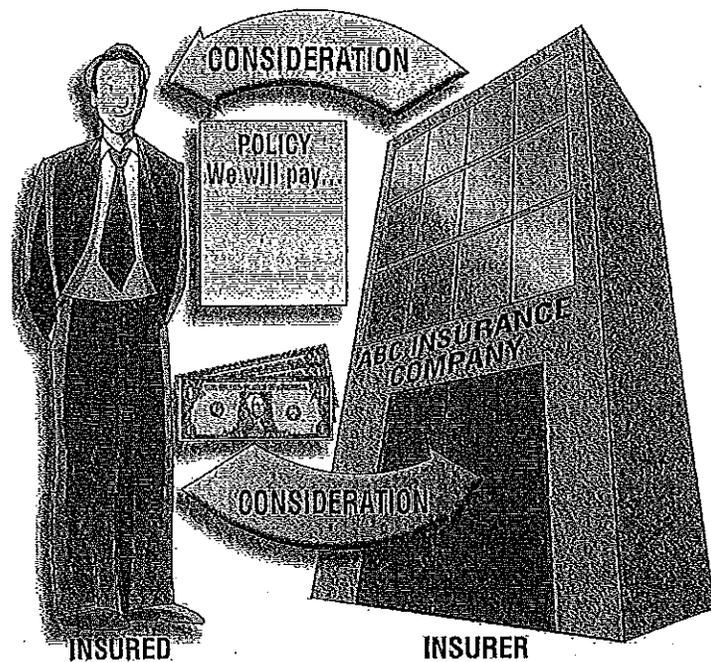


Other Elements of Insurability

There are additional rules that govern what risks are considered suitable subjects for insurance. Risks that do not meet these criteria are probably better handled using an alternate method of risk management.

- The risk of loss must be definite as to time and place, and difficult to counterfeit or falsify. Death is probably the best example of a definite loss.
- The risk must be unexpected. In fact, as we mentioned earlier, if the results are expected, it does not qualify as a risk. The risk of a train wreck could be insured, while the risk that your suitcase will eventually wear out is not really a risk at all and, therefore, is not insurable.
- The risk must be large enough to create a financial hardship for the individual involved. A financially insignificant risk, such as the chance that you might lose a pair of inexpensive sunglasses, is not insurable.
- The loss must be calculable. In addition to requiring adequately "large" risks, only risks for which the cost of loss is calculable may be insured. Risks that involve loss that can't be assigned a financial value are uninsurable.
- The cost of the insurance must be "affordable" to the insured. If the risk is so severe that it requires the insurance company to charge prohibitively high premiums to accumulate enough money to pay losses, it is not an insurable risk. Even if the person purchasing the insurance could afford to pay it, the cost should be only a fraction of the value of the item itself.
- There must be a large number of persons with a similar potential loss available for the insurance so that overall, losses become predictable. The law of large numbers applies here. To accumulate adequate funds to

Now that you're familiar with some of the principles of insurance, let's look more closely at the insurance contract itself.



You're probably familiar with the term "contract." A contract is a legal agreement between two competent parties that promises a certain performance in exchange for a certain consideration. When an insurance company agrees to pay for an insured's losses in exchange for a certain premium, the two parties have entered into a contract. Although a contract of insurance may be oral, it is usually written in the form of an insurance policy.

ELEMENTS OF A VALID CONTRACT

Competent Parties

Insurance contracts, like all other contracts, must exhibit certain characteristics to be legally enforceable. These characteristics are:

- Competent parties
- Legal purpose
- Offer and acceptance (agreement)
- Consideration

A contract is not valid unless it is made between two parties who are considered competent under the law. In most cases, a person who is a minor, insane or under the influence of alcohol or drugs is considered incompetent.

**Kentucky
Administrative
Regulations
Title 806**

806 KAR 2:070. Preservation of records.

RELATES TO: KRS 304.2-210-304.2-230, 304.13-320, 304.24-290

STATUTORY AUTHORITY: KRS 304.2-110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Executive Director of Insurance may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation requires the preservation of records of insurers, holding companies, and advisory organizations for a minimum period of five (5) years and in a specified form.

Section 1. In order to enable the executive director to perform the duties and execute the powers placed upon him by KRS 304.2-210, 304.2-220, 304.2-230, 304.13-320, and 302.24-290 and to enforce compliance therewith, the accounts, records, documents, experience, statistics, rating plans, rating systems, underwriting rules, policy or bond forms, surveys, and inspections mentioned therein shall be preserved in their entirety and kept available and open to the executive director's inspection, unless specifically excused by the executive director, for a period of not less than five (5) years following creation of the material or the completion of the purpose for which it was created, whichever shall occur last.

Section 2. Nothing in this administrative regulation is intended to encourage the destruction of or failure to preserve material at any time, particularly in view of the fact that statutory periods of time in which causes of action accrue or may be brought often exceed a five (5) year period.

Section 3. With reference to domestic insurers, the term "principal records" as used in KRS 304.24-290 shall include the material referred to in Section 1 of this administrative regulation, and the material shall not be removed from this state except in compliance with this administrative regulation.

Section 4. Records required by this administrative regulation may be maintained in their original forms, on microfilm, on data processing tapes or cards, or by means of other forms of electronic storage. All records maintained by electronic storage shall be capable of duplication to legible hard copy. (1-2-07; 1 Ky.R. 855; eff. 5-14-75; Am. 19 Ky.R. 258; eff. 9-10-92; TAm eff. 8-9-2007.)

**Kentucky Revised
Statutes
Chapter 304 -
Insurance Code**

304.9-020 Definitions for subtitle.

As used in this subtitle:

- (1) "Agent" means an individual or business entity appointed by an insurer to sell or to solicit applications for insurance or annuity contracts or to negotiate insurance or annuity contracts on its behalf;
- (2) "Appointment" means a notification filed with the insurance office that an insurer has established an agency relationship with a producer;
- (3) "Appointment renewal" means continuation of an insurer's existing appointment based on payment of the required fee without submission of an appointment form;
- (4) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, employer group, professional employer organization, or other legal entity;
- (5) "Crop insurance" means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils provided by the private insurance market or that is subsidized by the Federal Crop Insurance Corporation, including multi-peril crop insurance;
- (6) "Home state" means the District of Columbia and any state or territory of the United States in which a licensee maintains his or her principal place of residence or principal place of business and is licensed by that state;
- (7) "Insurance producer" means an individual or business entity required to be licensed under the laws of Kentucky to sell, solicit, or negotiate insurance or annuity contracts. Insurance producer includes agent, managing general agent, surplus lines broker, reinsurance intermediary broker and manager, rental vehicle agent and managing employee, specialty credit producer and managing employee, and consultant;
- (8) "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the executive director determines should be designated a form of limited line credit insurance;
- (9) "Limited line credit insurance agent" means an individual or business entity who sells, solicits, or negotiates one (1) or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy;
- (10) "Limited lines insurance" means the lines of insurance defined in subsections (5), (8), (14), and (16) of this section and any other line of insurance that the executive director identifies in accordance with KRS 304.9-230(1)(e) or recognizes for the purpose of complying with KRS 304.9-140(5);
- (11) "Negotiate" means the act of conferring directly with, or offering advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract;

- (12) "Sell" means to exchange a contract of insurance by any means, for money or other valuable consideration, on behalf of an insurer;
- (13) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular insurer;
- (14) "Surety" means insurance or bond that covers obligation to pay the debts of, or answer for the default of another, including faithlessness in a position of public or private trust. Surety also includes surety insurance as defined in KRS 304.5-060;
- (15) "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of an insurance producer's authority to transact insurance;
- (16) "Travel insurance" means insurance coverage for trip cancellation, trip interruption, baggage, life, sickness and accident, disability, and personal effects if limited to a specific trip and sold in connection with transportation provided by a common carrier;
- (17) "Uniform business entity application" means the current version of the National Association of Insurance Commissioners uniform business entity application for resident and nonresident business entities; and
- (18) "Uniform individual application" means the current version of the National Association of Insurance Commissioners uniform individual application for resident and nonresident individuals.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 143, sec. 2, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 273, sec. 4, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 393, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 341, sec. 43, effective July 15, 1998. -- Created 1970 Ky. Acts ch. 301, subtit. 9, sec. 2, effective June 18, 1970.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.

304.9-200 Contents of license -- Change of address -- Refundability of fees.

- (1) The license issued under this subtitle or to a surplus lines broker, life settlement broker, or life settlement provider shall contain the licensee's name, city and state of principal place of business address, personal identification number, and the date of issuance, the lines of authority, and any other information the executive director deems necessary.
- (2) The licensee shall inform the executive director in writing in a format acceptable to the executive director of a change of address or change of legal name within thirty (30) days of the change.
- (3) After completion of application for a license, completion of any prelicensing education required under this chapter, payment of applicable fees, and the taking and passing of any examination required under this chapter, the executive director shall promptly consider the application. If the executive director finds that the applicant has fully met the requirements for licensure, the executive director shall promptly issue the license to the applicant; otherwise, the executive director shall refuse to issue the license and promptly notify the applicant of the refusal, stating the grounds thereof.
- (4) If a license is refused, the executive director shall promptly refund any appointment fee tendered with the license application. All other fees for application for license or examination shall be deemed earned when paid and shall not be refundable.
- (5) In order to assist in the performance of the executive director's duties, the executive director may contract with nongovernmental entities, including the National Association of Insurance Commissioners or its affiliate or subsidiary, to perform ministerial functions, including the collection of fees or data related to licensing.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 32, sec. 16, effective July 15, 2008. -- Amended 2002 Ky. Acts ch. 273, sec. 21, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 393, sec. 17, effective July 14, 2000. -- Created 1970 Ky. Acts ch. 301, subtit. 9, sec. 20, effective June 18, 1970.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.

304.9-400 Reporting and accounting for premiums.

That portion of all premiums or moneys which an insurance producer collects from an insured and which is to be paid to an insurer, its agents, its managing general agents or his or her principal because of the assumption of liability through the issuance of policies or contracts for insurance, shall be held by the insurance producer in a fiduciary capacity and shall not be misappropriated or converted to his or her own use or illegally withheld by the insurance producer.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 273, sec. 31, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 393, sec. 29, effective July 14, 2000. -- Amended 1986 Ky. Acts ch. 307, sec. 6, effective July 15, 1986. -- Created 1970 Ky. Acts ch. 301, subtit. 9, sec. 40, effective June 18, 1970.

**304.9-440 Probation, suspension, revocation, and refusal of license -- Grounds --
Penalty.**

- (1) The executive director may place on probation, suspend, or may impose conditions upon the continuance of a license for not more than twenty-four (24) months, revoke, or refuse to issue or renew any license issued under this subtitle or any surplus lines broker, life settlement broker, or life settlement provider license, or may levy a civil penalty in accordance with KRS 304.99-020, or any combination of actions for any one (1) or more of the following causes:
 - (a) Providing incorrect, misleading, incomplete, or materially untrue information in the license application;
 - (b) Violating any insurance laws, or violating any administrative regulations, subpoena, or order of the executive director or of another state's insurance executive director;
 - (c) Obtaining or attempting to obtain a license through misrepresentation or fraud;
 - (d) Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance or the business of life settlements;
 - (e) Intentionally misrepresenting the terms of an actual or proposed insurance contract, life settlement contract, or application for insurance;
 - (f) Having been convicted of or having pled guilty or nolo contendere to any felony;
 - (g) Having admitted or been found to have committed any unfair insurance trade practice, insurance fraud, or fraudulent life settlement act;
 - (h) Using fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility; or being a source of injury or loss to the public in the conduct of business in this state or elsewhere;
 - (i) Having an insurance license, life settlement license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;
 - (j) Surrendering or otherwise terminating any license issued by this state or by any other jurisdiction, under threat of disciplinary action, denial, or refusal of the issuance of or renewal of any other license issued by this state or by any other jurisdiction; or revocation or suspension of any other license held by the licensee issued by this state or by any other jurisdiction;
 - (k) Forging another's name to an application for insurance, to any other document related to an insurance transaction, or to any document related to the business of life settlements;
 - (l) Cheating, including improperly using notes or any other reference material to complete an examination for license;

- (m) Knowingly accepting insurance or life settlement business from an individual or business entity who is not licensed, but who is required to be licensed under this subtitle;
 - (n) Failing to comply with an administrative or court order imposing a child support obligation;
 - (o) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax;
 - (p) Having been convicted of a misdemeanor for which restitution is ordered in excess of three hundred dollars (\$300), or of any misdemeanor involving dishonesty, breach of trust, or moral turpitude;
 - (q) Failing to no longer meet the requirements for initial licensure;
 - (r) If a life settlement provider, demonstrating a pattern of unreasonable payments to owners or failing to honor contractual obligations set out in a life settlement contract;
 - (s) Entering into any life settlement contract or using any form that has not been approved pursuant to Subtitle 15 of this chapter;
 - (t) If a licensee, having assigned, transferred, or pledged a policy subject to a life settlement contract to a person other than a life settlement provider licensed in this state, an accredited investor or qualified institutional buyer as defined, respectively, in Regulation D, Rule 501 or Rule 144a of the Federal Securities Act of 1933, as amended, a financing entity, a special purpose entity, or a related provider trust; or
 - (u) Any other cause for which issuance of the license could have been refused, had it then existed and been known to the executive director.
- (2) The license of a business entity may be suspended, revoked, or refused for any cause relating to an individual designated in or registered under the license if the executive director finds that an individual licensee's violation was known or should have been known by one (1) or more of the partners, officers, or managers acting on behalf of the business entity and the violation was not reported to the Office of Insurance nor corrective action taken.
 - (3) The applicant or licensee may make written request for a hearing in accordance with KRS 304.2-310.
 - (4) The executive director shall retain the authority to enforce the provisions and penalties of this chapter against any individual or business entity who is under investigation for or charged with a violation of this chapter, even if the individual's or business entity's license has been surrendered or has lapsed by operation of law.
 - (5) The executive director may suspend, revoke, or refuse to renew the license of a licensed insurance agent operating as a life settlement broker, pursuant to KRS 304.15-700, if the executive director finds that such insurance agent has violated the provisions of KRS 304.15-700 to 304.15-725.
 - (6) If the executive director denies a license application or suspends, revokes, or refuses to renew the license of a life settlement provider or life settlement broker, or suspends, revokes, or refuses to renew the license of a licensed life insurance agent

operating as a life settlement broker pursuant to KRS 304.15-700, the executive director shall comply with the provisions of this section and KRS Chapter 13B.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 32, sec. 19, effective July 15, 2008. -- Amended 2005 Ky. Acts ch. 58, sec. 5, effective June 20, 2005; and ch. 143, sec. 17, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 273, sec. 36, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 393, sec. 34, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 213, sec. 4, effective July 15, 1998. -- Amended 1982 Ky. Acts ch. 123, sec. 6, effective July 15, 1982. -- Created 1970 Ky. Acts ch. 301, subtit. 9, sec. 44, effective June 18, 1970.

Legislative Research Commission Note (7/15/2008). 2008 Ky. Acts ch. 32 intended to change all existing references in the KRS from "viatical settlements" to "life settlements" and from "viator" to "owner." References to "viatical settlements" and to "viator" in this section were overlooked during the bill drafting process. The Reviser of Statutes has made these changes upon the authority of KRS 7.136(1)(h).

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.

304.12-190 Illegal dealing in premiums.

- (1) No person shall willfully collect any sum as premium or charge for insurance, which insurance is not then provided or is not in due course to be provided (subject to acceptance of the risk by the insurer) by an insurance policy issued by an insurer as authorized by this code.
- (2) No person shall willfully collect as premium or charge for insurance any sum in excess of the amount actually expended or in due course to be expended for insurance applicable to the subject on account of which the premium was collected or charged.
- (3) No person shall willfully or knowingly fail to return to the person entitled thereto within a reasonable time any sum collected as premium or charge for insurance in excess of the amount actually expended for insurance, or for medical examination in the case of life insurance, applicable to the subject on account of which the premium or charge was collected.
- (4) Each violation of this section shall be punishable as provided in Subtitle 99.

Effective: June 18, 1970

History: Created 1970 Ky. Acts ch. 301, subtit. 12, sec. 19, effective June 18, 1970.

304.12-230 Unfair claims settlement practices.

It is an unfair claims settlement practice for any person to commit or perform any of the following acts or omissions:

- (1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
- (2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;
- (3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- (4) Refusing to pay claims without conducting a reasonable investigation based upon all available information;
- (5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- (6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;
- (7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;
- (8) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;
- (9) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;
- (10) Making claims payments to insureds or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made;
- (11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
- (12) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;
- (13) Failing to promptly settle claims, where liability has become reasonably clear, under one (1) portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;
- (14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement;
- (15) Failing to comply with the decision of an independent review entity to provide coverage for a covered person as a result of an external review in accordance with KRS 304.17A-621, 304.17A-623, and 304.17A-625;

- (16) Knowingly and willfully failing to comply with the provisions of KRS 304.17A-714 when collecting claim overpayments from providers; or
- (17) Knowingly and willfully failing to comply with the provisions of KRS 304.17A-708 on resolution of payment errors and retroactive denial of claims.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 169, sec. 7, effective July 15, 2008. -- Amended 2000 Ky. Acts ch. 262, sec. 18, effective July 14, 2000. -- Amended 1988 Ky. Acts ch. 225, sec. 19, effective July 15, 1988. -- Created 1984 Ky. Acts ch. 171, sec. 2, effective July 13, 1984.

304.20-340 Declination or termination prohibited, when.

The declination or termination of a policy of insurance subject to KRS 304.20-300 to 304.20-350 by an insurer or agent is prohibited if the declination or termination is:

- (1) Based solely upon the race, religion, nationality, ethnic group, age, sex, or marital status of the applicant or named insured;
- (2) Based solely upon the lawful occupation or profession of the applicant or named insured, except that this provision shall not apply to an insurer which limits its market to one (1) lawful occupation or profession or to several related lawful occupations or professions or to an insurer that does not provide the kind of insurance sought by the applicant;
- (3) Based solely upon the age or location of the residence or property of the applicant or named insured, unless such decision is for a business purpose which is not a mere pretext for unfair discrimination;
- (4) Based solely upon the fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured;
- (5) Based solely upon the fact that the applicant or named insured previously obtained insurance through a residual market mechanism;
- (6) Based solely upon the fact that the applicant or named insured has previously obtained property or casualty insurance from a carrier providing nonstandard coverage; or
- (7) Based solely upon the fact that the applicant or named insured has sustained one (1) or more losses that immediately result from a natural cause without the intervention of any person and that could not have been prevented by the exercise of prudence, diligence, and care.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 540, sec. 3, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 212, sec. 2, effective July 15, 1998. -- Created 1986 Ky. Acts ch. 426, sec. 5, effective July 15, 1986.