

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the peas on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share of the bona fide share of any other person having an interest therein.

n. *Vining* or *combining* means separating the peas from the pods.

#### 18. Descriptive Headings

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

#### 19. Determinations

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

#### 20. Notices

All notices required to be given by you must be in writing and received by your service office 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.

21. Notwithstanding the terms of the crop insurance policy and any contract for crop insurance under the provisions of this part, coverage under the terms of such crop insurance policy will be effective subject to the availability of appropriations.

[50 FR 7729, Feb. 26, 1985, as amended at 50 FR 49027, Nov. 29, 1985; Amdt. 1, 50 FR 49921, Dec. 6, 1985; 50 FR 52758, Dec. 26, 1985; Amdt. 1, 51 FR 7546, 7547, Mar. 5, 1986; 51 FR 29205—29207, Aug. 15, 1986; 51 FR 45296, Dec. 18, 1986; 52 FR 3214, Feb. 3, 1987; 54 FR 20507, May 12, 1989; 55 FR 35888, Sept. 4, 1990; 62 FR 61903, Nov. 20, 1997]

**PARTS 417–421 [RESERVED]**

## PART 422—POTATO CROP INSURANCE REGULATIONS

**Subpart—Regulations for the 1986 (1987 in certain California Counties and Florida) through 1997 Crop Years (1998 in Alabama; Arizona; certain California Counties; Delaware; Florida; Maryland; Missouri; New Jersey; New Mexico; North Carolina; Oklahoma; Texas; and Virginia)**

Sec.

- 422.1 Availability of potato crop insurance.
- 422.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
- 422.3 OMB control numbers.
- 422.4 Creditors.
- 422.5 Good faith reliance on misrepresentation.
- 422.6 The contract.
- 422.7 The application and policy.
- 422.8 Certified seed potato option amendment.
- 422.9 Quality potato option.
- 422.10 Frost/freeze option.
- 422.11 Processing potato quality option.

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

SOURCE: 51 FR 5690, Feb. 18, 1986, unless otherwise noted.

**Subpart—Regulations for the 1986 (1987 in certain California Counties and Florida) through 1997 Crop Years (1998 in Alabama; Arizona; certain California Counties; Delaware; Florida; Maryland; Missouri; New Jersey; New Mexico; North Carolina; Oklahoma; Texas; and Virginia)**

### **§ 422.1 Availability of potato crop insurance.**

Insurance shall be offered under the provisions of this subpart on potatoes in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

**§ 422.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.**

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for potatoes which will be included in the actuarial table on file in the applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

**§ 422.3 OMB control numbers.**

The OMB control numbers are contained in subpart H of part 400, title 7 CFR.

**§ 422.4 Creditors.**

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

**§ 422.5 Good faith reliance on misrepresentation.**

Notwithstanding any other provision of the potato insurance contract, whenever:

(a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation:

(1) Is indebted to the Corporation for additional premiums; or

(2) Has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(b) The Board of Directors of the Corporation, or the Manager in cases in-

volving not more than \$100,000.00, finds that:

(1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice;

(2) Said insured relied thereon in good faith; and

(3) To require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

**§ 422.6 The contract.**

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the potato crop as provided in the policy. The contract shall consist of the application, the policy, the Certified Seed Potato Option Amendment, if applicable, the Quality Potato Option Amendment, if applicable, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

**§ 422.7 The application and policy.**

(a) Application for insurance on a form prescribed by the Corporation must be made by any person to cover such person's share in the potato crop as landlord, owner-operator, or tenant if the person wishes to participate in the program. The application shall be submitted to the Corporation at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date

on file in the applicable service offices and publishing a notice in the FEDERAL REGISTER upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during the such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1986 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a potato insurance contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1986 and succeeding crop year is found at subpart D of part 400—General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Potato Crop Insurance Policy for the 1986 (1987 in certain California counties and Florida) through 1997 Crop Years (1998 in Alabama; Arizona; certain California counties; Delaware; Florida; Maryland; Missouri; New Jersey; New Mexico; North Carolina; Oklahoma; Texas; and Virginia) are as follows:

#### DEPARTMENT OF AGRICULTURE

#### FEDERAL CROP INSURANCE CORPORATION

#### *Potato—Crop Insurance Policy*

(This is a continuous contract. Refer to section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

#### TERMS AND CONDITIONS

##### 1. Causes of Loss

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

- (1) Adverse weather conditions;
- (2) Fire;
- (3) Insects;
- (4) Plant disease;
- (5) Wildlife;
- (6) Earthquake;

(7) Volcanic eruption; or

(8) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are expected, excluded, or limited by the actuarial table or section 9e(5).

b. We will not insure against any loss of production due to:

(1) Damage that occurs or becomes evident after the potatoes have been placed in storage;

(2) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(3) The failure to follow recognized good potato irrigation practices;

(4) The failure or breakdown of irrigation equipment or facilities;

(5) The failure to follow recognized good potato farming practices;

(6) The impoundment of water by any governmental, public, or private dam or reservoir project; or

(7) Any cause not specified in section 1a as an insured loss.

##### 2. Crop, Acreage, and Share Insured

a. The crop insured will be potatoes planted for harvest as certified seed stock or for human consumption, grown on insured acreage, and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be potatoes planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured potatoes at the time of each planting period. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

- (1) The time of loss; or
- (2) The beginning of harvest.

d. We do not insure any acreage:

(1) Planted with noncertified seed unless allowed by the actuarial table;

(2) Which does not meet the rotation procedures required by the actuarial table;

(3) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(4) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(5) Which is destroyed, it is practical to replant to potatoes, and such acreage is not replanted;

(6) Initially planted after the final planting date set by the actuarial table unless you

agree, in writing, on our form to coverage reduction;

(7) Of volunteer potatoes;

(8) Planted to a type or variety of potatoes not established as adapted to the area or excluded by the actuarial table;

(9) Planted with a crop other than potatoes; or

(10) Planted for the development or production of hybrid seed or for experimental purposes.

e. If insurance is provided for an irrigated practice, you must report as irrigated only the acreage for which you have adequate facilities and water, at the time of planting, to carry out a good potato irrigation practice.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

### 3. Report of Acreage, Share, and Practice

You must report at the time of each planting period on our form:

a. All the acreage of fall, winter, spring, and summer-planted potatoes in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any potatoes planted in the county. This report must be submitted for each planting period on or before the reporting date established by the actuarial table for each planting period. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, for each planting period, the insured acreage, share, and practice or we may deny liability on any unit for any planting. Any report submitted by you may be revised only upon our approval.

### 4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the sales closing date as established by the actuarial table for submitting applications for the crop year.

d. You must furnish a report of production to us for the previous crop year prior to the sales closing date for the subsequent crop year as established by the actuarial table. If you do not provide the required production report we will assign a yield for the crop year for which the report is not furnished. The production report or assigned yield will be used to compute your production history

for the purpose of determining your guarantee for the subsequent crop year. The yield assigned by us will be 75% of the yield assigned for the purpose of determining your guarantee for the present crop year. If you have filed a claim for the previous crop year, the yield determined in adjusting your indemnity claim will be used as your production report.

### 5. Annual Premium

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. Interest will accrue at the rate of one and one-quarter percent (1¼%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1983 crop year under the terms of the experience table contained in the potato policy for the 1984 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1991 crop year.

(2) The premium reduction will not increase because of favorable experience.

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1984 crop year.

(4) Once the loss ratio exceeds .80, no further premium reduction will apply.

(5) Participation must be continuous.

### 6. Deductions for Debt

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

### 7. Insurance Period

a. Insurance attaches when the potatoes are planted (in Alabama, California and Florida insurance attaches when the potatoes are planted in each planting period).

b. Insurance ends at the earliest of:

(1) Total destruction of the potatoes on the unit;

(2) Harvesting or removal from the field;

(3) Final adjustment of a loss;

(4) The following dates of the calendar year in which the potatoes are normally harvested:

(a) Missouri and all Texas counties except Bailey, Castro, Dallam, Deaf Smith, Floyd,

Gaines, Hale, Hartley, Knox, Lamb, and Parmer—July 15;

(b) North Carolina—July 25;

(c) Virginia, and Knox County, Texas—August 15;

(d) Alaska—October 1;

(e) Nebraska and Wyoming—October 10;

(f) Connecticut, Massachusetts, Nevada, New York and Pennsylvania—October 31;

(g) Idaho, Maine, Oregon, and Washington (Russett type only)—October 31;

(h) Idaho, Maine, Oregon, and Washington (all other types)—October 15;

(i) Alabama, California, and Florida, the dates established by the actuarial table for each planting period; and

(j) Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Lamb, and Parmer Counties, Texas, and all other states—October 15.

#### 8. Notice of Damage or Loss

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the potatoes on any unit are damaged and you decide not to further care for or harvest any part of them;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the potatoes and given written consent. We will not consent to another use until it is too late to replant for that planting period. You must notify us when such acreage has been put to another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is determined within 15 days prior to or during harvest, immediate notice must be given and a representative sample of the unharvested potatoes (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, you must give us notice not later than 10 days after the earliest of:

(a) Total destruction of the potatoes on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. We must be given the opportunity to inspect any harvested production on any unit for which you have given notice of probable loss if such production will not be delivered directly to a processing plant.

c. You must obtain written consent from us before you destroy any of the potatoes which are not to be harvested.

d. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

#### 9. Claim for Indemnity

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the potatoes on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of potatoes on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

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

(2) Subtracting therefrom the total production of potatoes to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported, but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (in hundredweight) to be counted for a unit will include all harvested and appraised production.

(1) The extent of any loss may be determined at the time the potatoes are placed in storage or delivered to a processor.

(2) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production loss due to uninsured causes;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Not less than the guarantee for any acreage from which the harvested production is disposed of without our prior written consent and such disposition prevents accurate determination of production; and

(d) Any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage for which we have given written consent for another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of potatoes becomes general in the county for the planting period and reappraised by us;

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

(4) The amount of production of any unharvested potatoes may be determined on the basis of field appraisals conducted after the end of the insurance period.

(5) If you elect to exclude hail and fire as insured causes of loss and the potatoes are damaged by hail or fire, appraisals will be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire."

f. You must not abandon any acreage to us.

g. Any suit against us for an indemnity must be brought in accordance with the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial of the claim is received by you.

h. An indemnity will not be paid unless all policy provisions are complied with.

i. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, 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. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

j. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the potatoes are planted for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

#### 10. Concealment of Fraud

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

#### 11. Transfer of Right to Indemnity on Insured Share

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

#### 12. Assignment of Indemnity

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

#### 13. 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 right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expense, the excess will be paid to you.

#### 14. Records and Access to Farm

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all potatoes produced on each unit, including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply, assignment

Federal Crop Insurance Corporation, USDA

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of production to units by us, or a determination that no indemnity is due. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of Contract: Cancellation and Termination

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due if deducted from:

(1) An indemnity will be the date you sign the claim; or

(2) Payment under another program administered by the United States Department of Agriculture will be the date both such other payment and setoff are approved.

d. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Manatee, Hardee, Highlands, Okeechobee, and St. Lucie Counties, Florida, and all Florida counties lying south thereof.	Sept. 30.
Contra Costa, San Joaquin, Calaveras, and Alpine Counties, California, and all California counties lying south thereof, and all Texas counties except Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Knox, Lamb, and Parmer.	Nov. 30.
Alabama, Delaware, Maryland, Missouri, New Jersey, North Carolina, Virginia, and all other Florida counties.	Dec. 31.
Knox County, Texas (effective beginning with the 1988 crop year).	Feb. 28.
Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Lamb, and Parmer counties, Texas, all other California counties and all other states.	Apr. 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership un-

less 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.

f. The contract will terminate if no premium is earned for 3 consecutive years.

16. Contract Changes

We may change any terms provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by:

a. August 15 prior to the cancellation date for counties with a September 30 cancellation date;

b. September 30 preceding the cancellation date for counties with a November 30 or December 31 cancellation date; or

c. December 31 preceding the cancellation date for counties with an April 15 cancellation date.

Acceptance of changes will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of Terms

For the purposes of potato crop insurance:

a. *Actuarial table* means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding potato insurance in the county.

b. *ASCS* means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. *County* means:

(1) The county shown on the application;

(2) Any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(3) Any land identified by the same ASCS farm serial number for the county but physically located in another county within the State.

d. *Crop year* means the period within which the potatoes are normally grown and is designated by the calendar year in which the spring-planted potatoes are normally harvested.

e. *Harvest* means the digging of potatoes on the unit.

f. *Insurable acreage* means the land classified as insurable by us and shown as such by the actuarial table.

g. *Insured* means the person who submitted the application accepted by us.

h. *Loss ratio* means the ratio of indemnity to premium.

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i. *Person* means 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.

j. *Planting period* means potatoes planted within the dates set by the actuarial table, as fall-planted, winter-planted, spring-planted, or summer-planted

k. *Service office* means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

l. *Tenant* means a person who rents land from another person for a share of the potatoes or a share of the proceeds therefrom.

m. *Unit* means all insurable acreage of potatoes in the county on the date of planting for the crop year:

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

(2) Which is owed by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the potatoes on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive Headings

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

19. Determinations

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices

All notices required to be given by you must be in writing and received by your service office 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.

21. Notwithstanding the terms of the crop insurance policy and any contract for crop insurance under the provisions of this part, coverage under the terms of such crop insurance policy will be effective subject to the availability of appropriations.

[51 FR 5690, Feb. 18, 1986, as amended at 51 FR 29205-29207, Aug. 15, 1986; 51 FR 45296, Dec. 18, 1986; 52 FR 3214, Feb. 3, 1987; 52 FR 23425, June 22, 1987; 53 FR 6115, Mar. 1, 1988; 54 FR 20508, May 12, 1989; 54 FR 43277, Oct. 24, 1989; 55 FR 35888, Sept. 4, 1990; 58 FR 33508, June 18, 1993; 62 FR 65331, Dec. 12, 1997]

§ 422.8 Certified seed potato option amendment.

(a) Notwithstanding the provisions of § 422.7(d)(9)(e) of this part, an insured producer may, upon submission and approval of a Certified Seed Potato Option Amendment elect to insure all of the insurable acreage of potatoes grown for certified seed in which the insured has a share, under the provisions of the Certified Seed Potato Option Amendment. To be eligible for this amendment:

(1) Insurance must be in effect under the provisions of the potato policy,

(2) All potatoes grown for seed must be insured;

(3) The insured must be a certified seed producer having acceptable production records; and

(4) The management practices required for the production of certified seed potatoes as stated in the amendment must be met.

The Certified Seed Potato Option Amendment shall be applicable only for one crop year. A new amendment must be submitted for each subsequent crop year.

(b) For those insureds who elect to insure potatoes under this Amendment, all provisions of the Potato crop insurance policy shall apply except those in conflict with the amendment. The terms of the amendment are:

DEPARTMENT OF AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

Potato Crop Insurance Policy

Certified Seed Potato Option Amendment

Insured's Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Contract No. \_\_\_\_\_

Crop Year \_\_\_\_\_

Federal Crop Insurance Corporation, USDA

§ 422.9

Identification No. \_\_\_\_\_  
SSN — Tax — \_\_\_\_\_

When you submit this Amendment each crop year on or before the final date for accepting applications and we approve such amendment, your insurable acreage of potatoes grown for certified seed will be insured, if:

1. You are currently insured under the potato insurance program;
2. All potatoes which are grown for certified seed on insurable acreage are insured;
3. You are a person whose potatoes have qualified for entry into the Certified Seed program for the previous 3 years. (After initial approval, you will be exempt from this requirement provided you have discontinued participation in the program for not more than one crop year out of any three consecutive crop years);
4. You provide acceptable records of your certified seed potato acreage and production for at least the previous 3 years;
5. Potatoes for seed are not grown on the same land on which potatoes of the same variety as the seed potatoes have been grown more than 2 years out of the preceding 4 years;
6. Elite or high-grade foundation seed potatoes or seed potatoes having a winter test reading of not more than 3 percent common virus are used in planting; and
7. Your acreage insured for certified seed production is managed in accordance with standard practices and procedures required for certification as prescribed by the certifying agency and applicable state regulations regarding seed potato certification.

Your production guarantee and premium rate will be provided by the actuarial table for certified seed potatoes. If, due to insurable causes occurring within the insurance period, potato production will not qualify as certified seed on any insured certified seed potato acreage within a unit, we will pay you one dollar (\$1.00) per cwt., times your production guarantee for such acreage, times your share. Any production which will not qualify as certified seed because of your failure to carry out the standard practices and procedures required for certification will be considered lost due to uninsured causes.

Insurable acreage grown under the provisions of this amendment may be designated as a separate unit.

Any claim for indemnity on a unit must be submitted to us on our form no later than 10 working days after you receive your records from the certification agency.

All provisions of the potato policy not in conflict with this amendment are applicable.

This amendment is not continuous. A new amendment must be submitted each crop year to take advantage of the certified seed potato option.

The insured estimates that the Certified Seed Potato Acreage for the \_\_\_ crop year will be \_\_\_\_

Insured's Signature \_\_\_\_\_  
Date \_\_\_\_\_

Corporation Representative's  
Signature and Code Number \_\_\_\_\_  
Date \_\_\_\_\_

Field Actuarial Office

Approval \_\_\_\_\_  
Date \_\_\_\_\_

Following is the Privacy Act Statement found on the reverse side of the Certified Seed Potato Option Amendment:

COLLECTION OF INFORMATION AND DATA  
(PRIVACY ACT)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)):

The authority for requesting the information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and the regulations for insuring potatoes under the Potato Crop Insurance Regulations (7 CFR part 422). The information requested is necessary for the Federal Crop Insurance Corporation (FCIC) to process the amendment to insure certified seed potatoes, determine the correct premium and indemnity, and to determine the correct parties to the insurance contract. The information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S. Department of Agriculture agencies, Internal Revenue Service, Department of Justice, other State and Federal law enforcement agencies if litigation becomes necessary, a court in response to its orders, an administrative tribunal, or opposing counsel as evidence in the course of litigation.

Furnishing the Social Security Number is voluntary and no adverse action will result from failure to do so. Furnishing the information, other than the Social Security Number, is also voluntary; however, failure to furnish the correct, complete information requested, except the Social Security Number, may result in rejection of the amendment for insuring certified seed potatoes, and/or subsequent denial of any claim for indemnity which may be filed under such amendment or may substantially delay acceptance of the Certified Seed Potato Option Amendment, and any subsequent claim for indemnity.

**§ 422.9 Quality potato option.**

(a) Notwithstanding the provisions of subsection § 422.7(d)9.e. of this part, an insured producer may, upon submission to the Corporation or a reinsured company and subsequent approval of a

Quality Potato Option (Option), elect to insure all insurable acreage of potatoes under this option. The Option is continuous and will remain in effect until the underlying potato insurance policy (basic policy) is cancelled or terminated in accordance with the basic policy's terms, or until the Option is cancelled or terminated by the insured or the Corporation in the same manner as the basic policy may be cancelled or terminated.

(b) For those who elect to insure potatoes under this Option, all provisions of the basic policy will apply except those in conflict with this Option. The terms of the Option are:

UNITED STATES DEPARTMENT OF  
AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

*Potato Crop Insurance Policy, Quality Potato  
Option*

(This is a continuous Option. Refer to section 15 of the Potato Crop Insurance Policy)

Insured's Name \_\_\_\_\_  
Contract No. \_\_\_\_\_  
Address \_\_\_\_\_  
Crop Year \_\_\_\_\_  
Identification No. \_\_\_\_\_  
SSN \_\_\_\_\_  
TAX \_\_\_\_\_

1. You must have a Federal Crop Insurance Potato Policy (basic policy) in force. This Quality Potato Option (Option) provides guaranteed production on a hundredweight (cwt.) basis only.

2. This Option must be submitted to us on or before the sales closing date for the initial crop year in which you wish to insure your potatoes under this Option.

3. If you elect this Option, all acreage of potatoes insured under the basic policy must be insured under this Option except for any acreage:

a. Specifically excluded by the Actuarial Table;

b. Grown for seed if you elect to exclude the acreage from coverage; or;

c. Insured under the Processing Potato Quality Option.

4. Production to count determined under subsection 9.e. of the basic policy will be further modified as follows:

a. Production to count, unharvested appraised production, production stored after an acceptable inspection, and marketed production containing potatoes that grade less than U.S. No. 2<sup>1</sup> will be determined by divid-

ing the actual percentage of potatoes grading U.S. No. 2<sup>1</sup> or better by the percentage factor, and multiplying the result, not to exceed 1.000, by the number of weight (cwt.) of such potatoes; or

b. Production to count of potatoes stored without an acceptable inspection will be 100 percent of the gross cwt. of such potatoes.

5. If you have a Frost/Freeze Potato Option and this Option in effect on the same production, the production to count will be based on the Option which results in the least production to count.

6. All sampling and grade determinations must be made by a potato grader licensed or certified by the applicable State or United States Department of Agriculture. However, if such a grader is not available to sample or grade the potatoes, the sampling or grading for the purposes of this Option will be performed by us.

7. Your premium rate for this Option will be contained in the Actuarial Table.

8. "Acceptable Inspection" means that prior to storage the potatoes are evaluated by us and grade determinations are made in accordance with section 6 of this Option.

9. "Percentage factor" means the historical average percentage of potatoes grading U.S. No. 2<sup>1</sup> or better, by type, determined from your records as established by us. If at least four continuous years of records are available, the percentage factor will be the simple average of the available records not to exceed 10 years. If less than four years of records are available, the percentage factor will be the one contained in the actuarial table. The Actuarial Table may provide different percentage factors by type.

Insured's Signature \_\_\_\_\_

Date \_\_\_\_\_

Corporation Representative's Signature and

Code Number \_\_\_\_\_

Date \_\_\_\_\_

COLLECTION OF INFORMATION AND DATA  
(PRIVACY ACT)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)). The authority for requesting information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), or any of the crop insurance regulations contained in 7 CFR part 400 *et seq.*

The information requested is necessary for the Federal Crop Insurance Corporation (FCIC) to process this form to provide insurance, determine eligibility, determine the correct parties to the agreement or contract, collect premiums, pay indemnities, or other purposes. Furnishing the Social Security number is voluntary and no adverse action will result from failure to do so.

Furnishing the information required by this form, other than the Social Security

<sup>1</sup>The actuarial table may provide for U.S. No. 1 in place of U.S. No. 2.

Federal Crop Insurance Corporation, USDA

§ 422.10

number, is also voluntary; however, failure to furnish the correct, complete information requested may result in rejection of this form, rejection of any claim for indemnity, or the ineligibility of any applicant for insurance. Failure to provide certain requested information may result in appropriate action being taken, including suit against the policyholder/debtor to recover an indebtedness. The information contained in this form will be used by Federal Agency Officers and FCIC employees who have a need for such information in the performance of their duties.

The information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S. Department of Agriculture agencies, Internal Revenue Service, Department of Justice, or other State and Federal law enforcement agencies if litigation becomes necessary, credit reporting agencies and U.S. Government contract collection agencies, and in response to orders of a court, magistrate, administrative tribunal or opposing counsel as evidence in the course of discovery in litigation.

[54 FR 3417, Jan. 24, 1989]

**§ 422.10 Frost/freeze option.**

(a) Notwithstanding the provisions of § 422.7(d)9.e. of this part, an insured producer may, upon submission to the Corporation or a reinsured company and subsequent approval of a Frost-Freeze Potato Option (Option), elect to insure all insurable acreage of potatoes under this Option. The Option is continuous and will remain in effect until the underlying potato insurance policy (basic policy) is cancelled or terminated in accordance with the basic policy's terms, or until the Option is cancelled or terminated by the insured or the Corporation in the same manner as the basic policy may be cancelled or terminated.

(b) For those who elect to insure potatoes under this Option, all provisions of the basic policy will apply except those in conflict with this Option. The terms of the Option are:

UNITED STATES DEPARTMENT OF AGRICULTURE  
 FEDERAL CROP INSURANCE CORPORATION  
*Potato Crop Insurance Policy, Frost/Freeze Potato Option*

(This is a continuous Option. Refer to section 15 of the Potato Crop Insurance Policy)  
 Insured's Name \_\_\_\_\_  
 Contract No. \_\_\_\_\_  
 Address \_\_\_\_\_

Crop Year \_\_\_\_\_  
 Identification No. \_\_\_\_\_  
 SSN \_\_\_\_\_  
 TAX \_\_\_\_\_

1. You must have a Federal Crop Insurance Potato Policy (basic policy) in force. This Frost-Freeze Potato Option (Option) provides guaranteed protection on a hundred-weight (cwt.) basis only.

2. This Option must be submitted to us on or before the sales closing date of the initial crop year in which you wish to insure your potatoes under this Option.

3. If you elect this Option, all acreage of potatoes insured under the basic policy must be insured under this Option.

4. If the actuarial table provides a date after which loss of production due to frost or freeze damage is not insurable, this Option will provide coverage only with such date.

5. Production to count for a unit damaged by frost or freeze will be determined by applying the percentage obtained from the following table to the production to count determined under the basic policy:

Percent damage due to frost or freeze	Percent of production to count
0-5 .....	100
6 .....	90
7 .....	80
8 .....	70
9 .....	60
10 .....	50
11 .....	45
12 .....	40
13 .....	35
14 .....	30
15 .....	25
16 .....	20
17 .....	15
18 .....	10
19 .....	5
20 .....	0

The adjusted production to count will then be counted against your production guarantee to determine the amount of loss. We must inspect the production prior to harvest to determine the amount of frost or freeze damage.

If the frost or freeze damage is determined to be 20 percent or more at the time of harvest, you may with our written permission, destroy the crop, (it will be considered a total loss) and you will be indemnified accordingly. You may also elect to market or store the crop and apply the total harvested production minus the frost or freeze damaged potatoes against the guarantee. This decision must be made by you on the day the potatoes are determined to be 20 percent or more frost or freeze damaged.

6. If you have the Potato Quality Option or the Processing Potato Quality Option and this Option in effect, the production to count will be based on the Option which results in the least production to count.

7. Your premium rate for this Option will be established by the actuarial table.

Insured's Signature \_\_\_\_\_

Date \_\_\_\_\_

Corporation Representative's Signature and Code Number \_\_\_\_\_

Date \_\_\_\_\_

COLLECTION OF INFORMATION AND DATA  
(PRIVACY ACT)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)). The authority for requesting information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), or any of the crop insurance regulations contained in 7 CFR part 400 *et seq.*

The information requested is necessary for the Federal Crop Insurance Corporation (FCIC) to process this form to provide insurance, determine eligibility, determine the correct parties to the agreement or contract, collect premiums, pay indemnities, or other purposes. Furnishing the Social Security number is voluntary and no adverse action will result from failure to do so. Furnishing the information required by this form, other than the Social Security number, is also voluntary; however, failure to furnish the correct, complete information requested may result in rejection of this form, rejection of any claim for indemnity, or the ineligibility of any applicant for insurance. Failure to provide certain requested information may result in appropriate action being taken, including suit against the policyholder/debtor to recover an indebtedness. The information contained in this form will be used by Federal Agency Officers and FCIC employees who have a need for such information in the performance of their duties.

The information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S. Department of Agriculture agencies, Internal Revenue Service, Department of Justice, or other State and Federal law enforcement agencies if litigation becomes necessary, credit reporting agencies and U.S. Government contract collection agencies, and in response to orders of a court, magistrate, administrative tribunal or opposing counsel as evidence in the course of discovery in litigation.

[54 FR 3418, Jan. 24, 1989]

**§ 422.11 Processing potato quality option.**

(a) Notwithstanding the provisions of § 422.7(d)9.e. of this part, an insured producer may, upon submission to the Corporation or a reinsured company and subsequent approval of a Processed Potato Quality Option (Option), elect

to insure all insurable acreage of potatoes contracted with a processor under this option. The Option is continuous and will remain in effect until the underlying potato insurance policy (basic policy) is cancelled or terminated in accordance with the basic policy's terms, or until the Option is cancelled or terminated by the insured or the Corporation in the same manner as the basic policy may be cancelled or terminated.

(b) For those who elect to insure potatoes under this Option, all provisions of the basic policy will apply except those in conflict with this Option. The terms of the Option are:

UNITED STATES DEPARTMENT OF  
AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

*Potato Crop Insurance Policy, Processing  
Potato Quality Option*

(This is a continuous Option. Refer to section 15 of the Potato Crop Insurance Policy)

1. You must have a Federal Crop Insurance Potato Policy (basic policy) in force. This Processing Potato Quality Option (Option) provides guaranteed production on a hundredweight (cwt.) basic only.

2. This Option must be submitted to us on or before the sales closing date for the initial crop year in which you wish to insure your potatoes under this Option.

3. A written contract must be executed with a processor for the potato types insured under this Option and a copy submitted to us on or before the acreage reporting date for potatoes. If you elect this Option, all insurable acreage of the types of potatoes under contract with a processor must be insured under this Option.

4. This Option does not apply to potatoes damaged by frost or freeze.

5. Production to count, determined in accordance with subsection 9.e. of the policy, will be further modified as follows:

a. Production to count of unharvested appraised potatoes, potatoes stored after an acceptable inspection, and potatoes marketed (unless the potatoes were marketed to a processor for human consumption) which grade less than U.S. No. 2<sup>2</sup>:

(1) For factors other than those listed in subsection (2) below, will be determined by dividing the percentage of potatoes grading

<sup>2</sup>The actuarial table may provide for U.S. No. 1 grade in place of U.S. No. 2.

U.S. No. 2<sup>2</sup> or better by the percentage factor, and multiplying the result, not to exceed 1.000, by the number of cwt. of such potatoes, or:

(2) Due to internal defects, because of a specific gravity of less than 1.070, or have a fry color of No. 3 or darker due to either sugar exceeding 10% or sugar ends exceeding 19%, production will be:

(i) Zero for unharvested appraised potatoes;

(ii) Twenty five percent (25%) of the gross weight for potatoes stored after an acceptable inspection; or

6. All grade determinations for the purposes of this Option will be made using the United States Standards for Grades of Potatoes for Processing.

7. If you have the Frost/Freeze Potato Option and this Option in effect, the production to count will be based on the Option which results in the least production to count.

8. All sampling and grade determinations must be made by a potato grader licensed or certified by the applicable State or United States Department of Agriculture. However, if such a grader is not available, sampling or grading for the purposes of this Option will be performed by us.

9. Your premium rate for this Option will be established by the actuarial table.

10. "Acceptable Inspection" means that prior to storage the potatoes are evaluated by us and grades determined in accordance with section 8 of this Option.

11. "Percentage Factor" means the historical average percentage of potatoes grading U.S. No. 2<sup>2</sup> or better, by type, determined from your records or established by us. If at least four continuous years of records are available, the percentage factor will be the simple average of the available records not to exceed 10 years. If less than four years of records are available, the percentage factor will be the one contained in the actuarial table. The Actuarial Table may provide different percentage factors by type.

Insured's Signature \_\_\_\_\_  
DATE \_\_\_\_\_

Corporation Representative's Signature and  
Code Number \_\_\_\_\_

DATE \_\_\_\_\_

COLLECTION OF INFORMATION AND DATA  
(PRIVACY ACT)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)). The authority for requesting information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), or any of the crop insurance regulations contained in 7 CFR part 400 *et seq.*

The information requested is necessary for the Federal Crop Insurance Corporation (FCIC) to process this form to provide insurance, determine eligibility, determine the correct parties to the agreement or contract, collect premiums, pay indemnities, or other purposes. Furnishing the Social Security number is voluntary and no adverse action will result from failure to do so. Furnishing the information required by this form, other than the Social Security number, is also voluntary; however, failure to furnish the correct, complete information requested may result in rejection of this form, rejection of any claim for indemnity, or the ineligibility of any applicant for insurance. Failure to provide certain requested information may result in appropriate action being taken, including suit against the policyholder/debtor to recover an indebtedness. The information contained in this form will be used by Federal Agency Officers and FCIC employees who have a need for such information in the performance of their duties.

The information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S. Department of Agriculture agencies, Internal Revenue Service, Department of Justice, or other State and Federal law enforcement agencies if litigation becomes necessary, credit reporting agencies and U.S. Government contract collection agencies, and in response to orders of a court, magistrate, administrative tribunal or opposing counsel as evidence in the course of discovery in litigation.

[54 FR 3419, Jan. 24, 1989]

**PARTS 423-424 [RESERVED]**

**PART 425—PEANUT CROP INSURANCE REGULATIONS**

**Subpart—Regulations for the 1993 and Succeeding Crop Years**

- Sec.
- 425.1 Availability of peanut crop insurance.
- 425.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities will be computed.
- 425.3 OMB control numbers.
- 425.4 Creditors
- 425.5 Good faith reliance on misrepresentation.
- 425.6 The contract.
- 425.7 The application and policy.

AUTHORITY: 7 U.S.C. 1506, 1516.

SOURCE: 57 FR 52585, Nov. 4, 1992, unless otherwise noted.