

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

(i) 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;

(iii) With regard to deficiencies in quality (except test weight, which may be determined by our loss adjuster), the samples are analyzed by:

(A) A grain grader licensed under the United States Grain Standards Act or the United States Warehouse Act;

(B) A grain grader licensed under State law and employed by a warehouse operator who has a storage agreement with the Commodity Credit Corporation; or

(C) A grain grader not licensed under State law, but who is employed by a warehouse operator who has a commodity storage agreement with the Commodity Credit Corporation and is in compliance with State law regarding warehouses; and

(iv) With regard to substances or conditions injurious to human or animal health, the samples are analyzed by a laboratory approved by us.

(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.

[59 FR 49161, Sept. 27, 1994; 59 FR 60063, Nov. 22, 1994, as amended at 60 FR 62728, 62729, Dec. 7, 1995; 62 FR 63633, Dec. 2, 1997; 62 FR 65168, Dec. 10, 1997; 67 FR 55690, Aug. 30, 2002]

§§ 457.114–457.115 [Reserved]

§457.116 Sugarcane crop insurance provisions.

The Sugarcane Crop Insurance Provisions for the 2004 and succeeding crop years are as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Sugarcane 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

Crop year—The period within which the insured sugarcane is normally grown and designated by the calendar year in which the harvest of sugarcane normally begins in the county.

Harvest—Cutting and removing the mature sugarcane from the field.

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

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establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Local market price—The price per pound for raw sugar offered by buyers in the area in which you normally market the sugarcane.

Plant cane—The insured crop which grows from seed planted for the crop year.

Stubble cane—The insured crop which grows from the stubble of sugarcane that was harvested the previous crop year.

Sugarcane. The grass, *Saccharum officinarum*, that is grown to produce sugar.

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 (§457.8), you may select only one price election for all the sugarcane in the county insured under this policy.

(b) Instead of reporting your sugarcane production for the previous crop year as required by subsection 3.(c) of the Basic Provisions (§457.8), there is a lag period of one year and you are required to report production from two crop years previously, e.g., 1994 crop year production must be reported by the required date for the 1996 crop year.

3. Contract Changes

In accordance with section 4 of the Basic Provisions (§457.8), the contract change date is June 30 preceding the cancellation date.

4. Cancellation and Termination Dates

In accordance with section 2 of the Basic Provisions (§457.8), the cancellation and termination dates are September 30.

5. Insured Crop

(a) In accordance with section 8 of the Basic Provisions (§457.8), the crop insured will be all the sugarcane in the county for which a premium rate is provided by the actuarial documents:

- (1) In which you have a share;
- (2) That is grown for processing for sugar or for seed; and
- (3) That is not interplanted with another crop, unless allowed by a written agreement.

(b) In addition to the crop listed as not insured in section 8(b) of the Basic Provisions (§457.8), we will not insure any sugarcane:

- (1) That was damaged the previous crop year to the extent the sugarcane is unable to produce the yield used to establish the production guarantee for the unit for the current crop year; or
- (2) That exceeds the age limitations (by variety, if applicable) contained in the Special Provisions, unless we agree in writing to insure such acreage. An agreement in writing will not be provided unless, after an appraisal, we determine that the crop is able to

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produce at least the yield used to establish the production guarantee for the unit for the current crop year.

6. Insurable Acreage

Section 9(a)(3) of the Basic Provisions (§457.8), is not applicable to the Sugarcane Crop Insurance Provisions.

7. Insurance Period

(a) In addition to the provisions of section 11 of the Basic Provisions (§457.8), insurance attaches:

(1) On the later of the day we accept your application or at the time of planting for plant cane;

(2) On the first day following harvest of the previous crop for stubble cane except as contained in sections 7(a)(3) and (4);

(3) On the later of April 15 or 30 days following harvest of the previous crop for stubble cane damaged during the previous crop year in all states (except Louisiana); and

(4) On the later of April 30 or 30 days following harvest of the previous crop for stubble cane damaged during the previous crop year in Louisiana.

(b) In accordance with the provisions of section 11 of the Basic Provisions (§457.8), the calendar date for the end of the insurance period is:

- (1) January 31 in Louisiana; and
- (2) April 30 in all other states.

8. Causes of Loss

In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§457.8), insurance is provided only against the following causes of loss that 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. Duties in the Event of Damage or Loss or Cutting the Sugarcane for Seed

(a) In addition to your duties under section 14 of the Basic Provisions (§457.8), in the event of damage or loss:

- (1) All sugarcane stubble must remain intact for our inspection; and
- (2) You must give us notice at least 15 days before you begin cutting any sugarcane for seed. Your notice must include the unit number and the number of acres you intend

to harvest as seed. Failure to give us timely notice will cause the acreage cut for seed to be considered as put to another use without consent. The production to count for such acreage will not be less than the production guarantee.

(3) You must request an appraisal if any time during the crop year sugarcane acreage cut for seed will not produce at least the production guarantee so we can determine the production to count. If you do not request an appraisal, the production to count for such acreage will be the production guarantee.

(b) In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§457.8), 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 representative samples of the unharvested crop must be at least 10 feet wide and extend the entire length of each field in the unit. The stubble must not be destroyed and the required samples must not be harvested until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

10. 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 by:

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

(2) Subtracting from this the total production to count;

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

(4) Multiplying this result by your share.

Example 1: Assume you have a 100 percent share in a unit of 100 acres of sugarcane, an approved yield of 6,000 pounds of raw sugar per acre, a coverage election of 65 percent, and a price election of \$0.12 a pound. The production guarantee would be 3,900 pounds of raw sugar per acre (6,000 × 65%). Further assume that you are only able to harvest 200,000 pounds of raw sugar because the unit was damaged by an insurable cause of loss. Your indemnity would be calculated as follows:

(1) 100 acres × 3,900 pound production guarantee = 390,000 pound production guarantee;

(2) 390,000 pound production guarantee – 200,000 pounds harvested production = 190,000 pound production loss;

(3) 190,000 pound production loss × \$0.12 price election = \$22,800 loss; and

(4) \$22,800 loss × 100 percent share = \$22,800 indemnity payment.

Example 2: Assume the same set of facts. Also, assume that you cut 20 acres of this unit for seed without giving notice that you were cutting this acreage for seed and that you are only able to harvest 200,000 pounds from the remaining 80 acres. Your indemnity would be calculated as follows:

(1) 100 acres × 3,900 pound production guarantee = 390,000 pound production guarantee;

(2) 390,000 pound production guarantee – 278,000 (200,000 pounds harvested production + 78,000 pounds production for putting acreage to another use without consent, (20 acres × 3,900 pound production guarantee per acre)) = 112,000 pound production loss;

(3) 112,000 pound production loss × \$0.12 price election = \$13,440 loss; and

(4) \$13,440 loss × 100 percent share = \$13,440 indemnity payment.

(c) The total production (pounds of sugar) 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;

(D) For which you fail to provide records of production that are acceptable to us; or

(E) On which the sugarcane stubble is destroyed within 15 days after harvest is completed without our consent;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production;

(iv) Potential production on insured acreage harvested for seed (see section 9(a)(3));

(v) 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

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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 insurable acreage. Final records of sugar production will be used to determine the amount of production to count. Preliminary mill estimates will not be used.

(d) Harvested sugarcane may be adjusted for low quality if it is damaged by one or more freezes occurring within the insurance period to the extent that it cannot be processed for sugar by the boiling house operation. The amount of production to count for such sugarcane will be determined by dividing the dollar value of the damaged production by the local market price per pound for raw sugar. The prices used for this adjustment will be determined on the earlier of the date such quality-adjusted production is sold or the date of final inspection for the unit.

11. Late and Prevented Planting

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

[60 FR 25602, May 12, 1995, as amended at 62 FR 65169, Dec. 10, 1997; 67 FR 46095, July 12, 2002; 67 FR 52841, Aug. 14, 2002]

§ 457.117 Forage production crop insurance provisions.

The Forage Production Crop Insurance Provisions for the 2001 and succeeding crop years are as follows:

FCIC Policies

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured Policies

(Appropriate title for insurance provider)

Both FCIC and Reinsured Policies

Forage Production Crop Insurance 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

Adequate stand—A population of live forage plants that equals or exceeds the minimum required number of plants per square foot as shown in the Special Provisions.

Air-dry forage—Forage that has dried in windrows by natural means to less than 13 percent moisture before being put into stacks or bales.

Crop year—The period from the date insurance attaches until harvest is normally completed, which is designated by the calendar year in which the majority of the forage is normally harvested.

Cutting. The severance of the forage plant from its roots.

Direct marketing. Sale of the forage crop directly to consumers without the intervention of an intermediary such as a wholesaler, shipper, buyer, or broker. An example of direct marketing is selling directly to other producers.

Fall planted. A forage crop seeded after June 30.

Forage—Planted perennial alfalfa, perennial red clover, perennial grasses, or a mixture thereof, or other species as shown in the Actuarial Documents.

Harvest—Removal of forage from the windrow or field. Grazing will not be considered harvested.

Spring planted. A forage crop seeded before July 1.

Ton—Two thousand (2,000) pounds avoirdupois.

Windrow. Forage that is cut and placed in a row.

Year of establishment—The period between seeding and when the forage crop has developed an adequate stand. Insurance during the year of establishment may be available under the forage seeding policy. Insurance under this policy does not attach until after the year of establishment. The year of establishment is determined by the date of seeding. The year of establishment for spring planted forage is designated by the calendar year in which seeding occurred. The year of establishment for fall planted forage is designated by the calendar year after the year in which the crop was planted.

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

In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8):

(a) You may only select one price election for all the forage in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each forage type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for a specific type, you