

4. $\$1,000 + \$900 = \$1,900$ total production to count;

5. $\$4,800 - \$1,900 = \$2,900$ loss;

6. $\$2,900 \times 100$ percent share = $\$2,900$ indemnity payment.

(b) The acres with an established stand will include:

(1) Acreage that has at least 75 percent of a normal stand;

(2) Acreage abandoned or put to another use without our prior written consent;

(3) Acreage damaged solely by an uninsured cause; or

(4) Acreage that is harvested and not reseeded.

(c) The amount of indemnity on any spring planted acreage determined in accordance with section 13(a) will be reduced 50 percent if the stand is less than 75 percent but more than 55 percent of a normal stand.

14. Late and Prevented Planting

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

[62 FR 13291, Mar. 20, 1997, as amended at 62 FR 65175, Dec. 10, 1997; 65 FR 3784, Jan. 25, 2000; 65 FR 11457, Mar. 3, 2000; 66 FR 42730, Aug. 15, 2001; 66 FR 53076, Oct. 19, 2001; 67 FR 65030, Oct. 23, 2002]

EDITORIAL NOTE: At 62 FR 65175, Dec. 10, 1997, § 457.151 was amended in section 1 by revising the definition "Sales closing date", however, this definition was not included when this section was added at 62 FR 13291, Mar. 20, 1997.

§ 457.152 Hybrid seed corn crop insurance provisions.

The Hybrid Seed Corn Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC Policies

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured Policies

(Appropriate title for insurance provider)

Both FCIC and Reinsured policies

Hybrid Seed Corn 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, (§ 457.8) with (1) controlling (2), etc.

1. Definitions

Adjusted yield. An amount determined by multiplying the county yield by the coverage level factor.

Amount of insurance per acre. A dollar amount determined by multiplying the adjusted yield by the price election you select and subtracting any minimum guaranteed payment, not to exceed the total compensation specified in the hybrid seed corn processor contract. If your hybrid seed corn processor contract contains a minimum guaranteed payment that is stated in bushels, we will convert that value to dollars by multiplying it by the price election you selected.

Approved yield. In lieu of the definition contained in the Basic Provisions, an amount FCIC determines to be representative of the yield that the female parent plants are expected to produce when grown under a specific production practice. FCIC will establish the approved yield based upon records provided by the seed company and other information it deems appropriate.

Bushel. Fifty-six pounds avoirdupois of shelled corn, 70 pound avoirdupois of ear corn, or the number of pounds determined under the seed company's normal conversion chart when that chart is used to determine the approved yield and the claim for indemnity.

Certified seed test. A warm germination test performed on clean seed according to specifications of the "Rules for Testing Seeds" of the Association of Official Seed Analysts.

Commercial hybrid seed corn. The offspring produced by crossing a male and female parent plant, each having a different genetic character. This offspring is the product intended for use by an agricultural producer to produce a commercial field corn crop for grain.

County yield. An amount contained in the actuarial documents that is established by FCIC to represent the yield that a producer of hybrid seed corn would be expected to produce if the acreage had been planted to commercial field corn.

Coverage level factor. A factor contained in the Special Provisions to adjust the county yield for commercial field corn to reflect the higher value of hybrid seed corn.

Dollar value per bushel. An amount that determines the value of any seed production to count. It is determined by dividing the amount of insurance per acre by the result of multiplying the approved yield by the coverage level percentage, expressed as a decimal.

Female parent plants. Corn plants that are grown for the purpose of producing commercial hybrid seed corn and have had the stamens removed or are otherwise male sterile.

Field run. Commercial hybrid seed corn production before it has been dried, screened, or processed.

Good farming practices. In addition to the definition contained in the Basic Provisions,

good farming practices include those practices required by the hybrid seed corn processor contract.

Harvest. Combining, threshing or picking ears from the female parent plants to obtain commercial hybrid seed corn.

Hybrid seed corn processor contract. An agreement executed between the hybrid seed corn crop producer and a seed company containing, at a minimum:

(a) The producer's promise to plant and grow male and female parent plants, and to deliver all commercial hybrid seed corn produced from such plants to the seed company;

(b) The seed company's promise to purchase the commercial hybrid seed corn produced by the producer; and

(c) Either a fixed price per unit of measure (bushels, hundredweight, etc.) of the commercial hybrid seed corn or a formula to determine the value of such seed. Any formula for establishing the value must be based on data provided by a public third party that establishes or provides pricing information to the general public, based on prices paid in the open market (e.g., commodity futures exchanges), to be acceptable for the purpose of this policy.

Inadequate germination. Germination of less than 80 percent of the commercial hybrid seed corn as determined by using a certified seed test.

Insurable interest. Your share of the financial loss that occurs in the event seed production is damaged by a cause of loss specified in section 10.

Local market price. The cash price offered by buyers for any production from the female parent plants that is not considered commercial hybrid seed corn under the terms of this policy.

Male parent plants. Corn plants grown for the purpose of pollinating female parent plants.

Minimum guaranteed payment. A minimum amount (usually stated in dollars or bushels) specified in your hybrid seed corn processor contract that will be paid or credited to you by the seed company regardless of the quantity of seed produced.

Non-seed production. Production that does not qualify as seed production because of inadequate germination.

Planted acreage. In addition to the definition contained in the Basic Provisions, the insured crop must be planted in rows wide enough to permit mechanical cultivation, unless otherwise provided by the Special Provisions or by written agreement.

Planting pattern. The arrangement of the rows of the male and female parent plants in a field. An example of a planting pattern is four consecutive rows of female parent plants followed by two consecutive rows of male parent plants.

Practical to replant. In addition to the definition contained in the Basic Provisions,

practical to replant applies to either the female or male parent plant. It will not be considered practical to replant unless production from the replanted acreage can be delivered under the terms of the hybrid seed corn processor contract, or the seed company agrees that it will accept the production from the replanted acreage.

Prevented planting. In addition to the definition contained in the Basic Provisions, prevented planting applies to the female and male parent plants. The male parent plants must be planted in accordance with the requirements of the hybrid seed corn processor contract to be considered planted.

Sample. For the purpose of the certified seed test, at least 3 pounds of randomly selected field run shelled corn for each variety of commercial hybrid seed corn grown on the unit.

Seed company. A business enterprise that possesses all licenses for marketing commercial hybrid seed corn required by the state in which it is domiciled or operates, and which possesses facilities with enough storage and drying capacity to accept and process the insured crop within a reasonable amount of time after harvest. If the seed company is the insured, it must also be a corporation.

Seed production. All seed produced by female parent plants with a germination rate of at least 80 percent as determined by a certified seed test.

Shelled corn. Kernels that have been removed from the cob.

Variety. The name, number or code assigned to a specific genetic cross by the seed company or the Special Provisions for the insured crop in the county.

2. Unit Division

For any processor contract that stipulates the amount of production to be delivered:

(a) In lieu of the definition of "basic unit" contained in the Basic Provisions, a basic unit will consist of all acreage planted to the insured crop in the county that will be used to fulfill a hybrid seed corn processor contract;

(b) There will be no more than one basic unit for all production contracted with each processor contract;

(c) In accordance with section 12, all production from any basic unit in excess of the amount under contract will be included as production to count if such production is applied to any other basic unit for which the contracted amount has not been fulfilled; and

(d) Optional units will not be established.

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

(a) In addition to the requirements of section 3 of the Basic Provisions, you may select only one price election for all the hybrid

seed corn in the county insured under this policy unless the Special Provisions provide different price elections by variety, in which case you may select one price election for each hybrid seed corn variety designated in the Special Provisions. The price election you choose for each variety must have the same percentage relationship to the maximum price offered by us for each variety. For example, if you choose 100 percent of the maximum price election for one specific variety, you must also choose 100 percent of the maximum price election for all other varieties.

(b) The production reporting requirements contained in section 3 of the Basic Provisions are not applicable to this contract.

4. Contract Changes

In accordance with section 4 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are March 15.

6. Report of Acreage

In addition to the requirements of section 6 of the Basic Provisions, you must:

(a) Report by type and variety, the location and insurable acreage of the insured crop;

(b) Report any acreage that is uninsured, including that portion of the total acreage occupied by male parent plants; and

(c) Certify that you have a hybrid seed corn processor contract and report the amount, if any, of any minimum guaranteed payment.

7. Insured Crop

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

(1) In which you have a share;

(2) That are grown under a hybrid seed corn processor contract executed before the acreage reporting date;

(3) That are planted for harvest as commercial hybrid seed corn in accordance with the requirements of the hybrid seed corn processor contract and the production management practices of the seed company; and

(4) That are not (unless allowed by the Special Provisions or by written agreement):

(i) Planted with a mixture of female and male parent seed in the same row;

(ii) Planted for any purpose other than for commercial hybrid seed corn;

(iii) Interplanted with another crop; or

(iv) Planted into an established grass or legume.

(b) An instrument in the form of a "lease" under which you retain control of the acreage on which the insured crop is grown and that provides for delivery of the crop under substantially the same terms as a hybrid seed corn processor contract will be treated as a contract under which you have an insurable interest in the crop.

(c) A commercial hybrid seed corn producer who is also a seed company may be able to insure the hybrid seed corn crop if the following requirements are met:

(1) The seed company has an insurable interest in the hybrid seed corn crop;

(2) Prior to the sales closing date, the Board of Directors of the seed company has executed and adopted a corporate resolution that contains the same terms as a hybrid seed corn processor contract. This corporate resolution will be considered a contract under this policy;

(3) Sales records for at least the previous years' seed production must be provided to confirm that the seed company has produced and sold seed. If such records are not available, the crop may be insured under the Coarse Grains Crop Provisions with a written agreement; and

(4) Our inspection reveals that the storage and drying facilities satisfy the definition of a seed company.

(d) Any of the insured crop that is under contract with different seed companies may be insured under separate policies with different insurance providers provided all acreage of the insured crop in the county is insured. If you elect to insure the insured crop with different insurance providers, you agree to pay separate administrative fees for each insurance policy.

8. Insurable Acreage

In addition to the provisions of section 9 of the Basic Provisions, we will not insure any acreage of the insured crop:

(a) Planted and occupied exclusively by male parent plants;

(b) Not in compliance with the rotation requirements contained in the Special Provisions or, if applicable, required by the hybrid seed corn processor contract; or

(c) If either the female or male parent plants are damaged before the final planting date and we determine that the insured crop is practical to replant but it is not replanted.

9. Insurance Period

(a) In addition to the provisions of section 11 of the Basic Provisions, insurance attaches upon completion of planting of:

(1) The female parent plant seed on or before the final planting date designated in the Special Provisions, except as allowed in section 16 of the Basic Provisions; and

(2) The male parent plant seed.

(b) In accordance with the provisions of section 11 of the Basic Provisions, the calendar date for the end of the insurance period is the October 31 immediately following planting.

10. Causes of Loss

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

- (1) Adverse weather conditions;
- (2) Fire;
- (3) Insects, but not damage due to insufficient or improper application of pest control measures;
- (4) Plant disease, but not damage due to insufficient or improper application of disease control measures;
- (5) Wildlife;
- (6) Earthquake;
- (7) Volcanic eruption; or
- (8) Failure of the irrigation water supply, if due to a cause of loss contained in section 10(a) (1) through (7) that occurs during the insurance period.

(b) In addition to the causes of loss excluded by section 12 of the Basic Provisions, we will not insure against any loss of production due to:

- (1) The use of unadapted, incompatible, or genetically deficient male or female parent plant seed;
- (2) Frost or freeze after the date established by the Special Provisions;
- (3) Failure to follow the requirements stated in the hybrid seed corn processor contract and production management practices of the seed company;
- (4) Inadequate germination, even if resulting from an insured cause of loss, unless you have provided adequate notice as required by section 11(b)(1); or
- (5) Failure to plant the male parent plant seed at a time or in a manner sufficient to assure adequate pollination of the female parent plants, unless you are prevented from planting the male parent plant seed by an insured cause of loss.

11. Duties in the Event of Damage or Loss

(a) In accordance with the requirements of section 14 of the Basic Provisions, you must leave representative samples of at least one complete planting pattern of the female and male parent plant rows that extend the entire length of each field in the unit. If you are going to destroy any acreage of the insured crop that will not be harvested, the samples must not be destroyed until after our inspection.

(b) In addition to the requirements of section 14 of the Basic Provisions:

- (1) You must give us notice of probable loss at least 15 days before the beginning of har-

vest if you anticipate inadequate germination on any unit; and

(2) You must provide a completed copy of your hybrid seed corn processor contract unless we have determined it has already been provided by the seed company, and the seed company certifies that such contract is used for all its growers without any waivers or amendments.

12. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional units, we will combine all optional units for which such production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) You will not receive an indemnity payment on a unit if the seed company refuses to provide us with records we require to determine the dollar value per bushel of production for each variety.

(c) 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 its respective amount of insurance per acre, by type and variety if applicable;

(2) Totaling the results of section 12(c)(1) if there are more than one type or variety;

(3) Multiplying the total seed production to count (see section 12(d)) for each type and variety of commercial hybrid seed corn by the applicable dollar value per bushel for that type or variety;

(4) Multiplying the total non-seed production to count (see section 12(e)) for each type and variety by the applicable local market price determined on the earlier of the date the non-seed production is sold or the date of final inspection;

(5) Totaling the results of sections 12(c)(3) and 12(c)(4) by type and variety;

(6) Subtracting the result of section 12(c)(5) from the result of section 12(c)(1) if there is only one type or variety, or subtracting the result of 12(c)(5) from the result of section 12(c)(2) if there are more than one type or variety; and

(7) Multiplying the result of section 12(c)(6) by your share. For example:

You have a 100 percent share in 50 acres insured for the development of variety "A" hybrid seed corn in the unit, with an amount of insurance per acre guarantee of \$340 (county yield of 160 bushels times a coverage level factor of .867 for the 65 percent coverage level, times a price election of \$2.45 per bushel, minus the minimum guaranteed payment of zero). Your seed production was 1,400 bushels and the dollar value per bushel was \$9.80. Your non-seed production was 100 bushels with a local market value of \$2.00 per bushel.

Your indemnity would be calculated as follows:

- (1) 50 acres \times \$340 = \$17,000 amount of insurance guarantee;
- (3) 1,400 bushels \times \$9.80 = \$13,720 value of seed production;
- (4) 100 bushel of non-seed \times \$2.00 = \$200 of non-seed production;
- (5) \$13,720 + \$200 = \$13,920;
- (6) \$17,000 - \$13,920 = \$3,080; and
- (7) \$3,080 \times 100 percent share = \$3,080 indemnity payment.

You also have a 100 percent share in 50 acres insured for the development of variety "B" hybrid seed corn in the unit, with an amount of insurance per acre guarantee of \$297 (county yield of 140 bushels times a coverage level factor of .867 for the 65 percent coverage level, times a price election of \$2.45 per bushel, minus the minimum guaranteed payment of zero). You harvested 1,200 bushels and the dollar value per bushel for the harvested amount was \$8.56. You also harvested 200 bushels of non-seed with a market value of \$2.00 per bushel. Your indemnity would be calculated as follows:

- (1) 50 acres \times \$340 = \$17,000 amount of insurance guarantee for type "A" and 50 acres \times \$297 = \$14,850 amount of insurance guarantee for type "B";
- (2) \$17,000 + \$14,850 = \$31,850 amount of insurance guarantee;
- (3) 1,400 bushels \times \$9.80 = \$13,720 value of seed production for type "A" and 1,200 bushels \times \$8.56 = \$10,272 value of seed production for type "B";
- (4) 100 bushels of non-seed \times \$2.00 = \$200 of non-seed production for type "A" and 200 bushels of non-seed \times \$2.00 = \$400 of non-seed production for type "B";
- (5) \$13,720 + \$200 + \$10,272 + \$400 = \$24,592 value of production to count;
- (6) \$31,850 - \$24,592 = \$7,258; and
- (7) \$7,258 \times 100 percent share = \$7,258 indemnity payment.
- (d) Production to be counted as seed production will include:
 - (1) All appraised production as follows:
 - (i) Not less than the amount of insurance per acre for acreage:
 - (A) That is abandoned;
 - (B) Put to another use without our consent;
 - (C) That is damaged solely by uninsured causes; or
 - (D) For which you fail to provide acceptable production records;
 - (ii) Production lost due to uninsured causes;
 - (iii) Mature unharvested production with a germination rate of at least 80 percent of the commercial hybrid seed corn as determined by a certified seed test. Any such production may be adjusted in accordance with section 12(f);
 - (iv) Immature appraised production;

(v) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or 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 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) Harvested production that you deliver as commercial hybrid seed corn to the seed company stated in your hybrid seed corn processor contract, regardless of quality, unless the production has inadequate germination.

(e) Production to be counted as non-seed production will include all harvested or mature appraised production that does not qualify as seed production to count as specified in section 12(d). Any such production may be adjusted in accordance with section 12(f).

(f) For the purpose of determining the quantity of mature production:

(1) Shelled commercial hybrid seed corn will be:

(i) Increased 0.12 percent for each 0.1 percentage point of moisture below 15 percent; or

(ii) Decreased 0.12 percent for each 0.1 percentage point of moisture in excess of 15 percent.

(2) The weight of ear corn required to equal one bushel of shelled seed corn will be increased 1.5 pounds for each full percentage point of moisture in excess of 14 percent, and any portion of a percentage point will be disregarded. The moisture content of ear corn will be determined from a shelled sample of the ear corn.

(3) When records of commercial hybrid seed corn production provided by the seed company have been adjusted to a shelled corn basis of 15.0 percent moisture and 56 pound avoirdupois bushels, sections 12(f)(1) and (2)

§ 457.153

7 CFR Ch. IV (1–1–11 Edition)

above will not apply to harvested production. In such cases, records of the seed company will be used to determine the amount of production to count, provided that the moisture and weight of such production are calculated on the same basis as that used to determine the approved yield.

13. Prevented Planting

Your prevented planting coverage will be 50 percent of your amount of insurance 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.

[62 FR 65350, Dec. 12, 1997; 62 FR 67117, Dec. 23, 1997]

§ 457.153 Peach crop insurance provisions.

The Peach 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:

Peach 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

Actual price per bushel for:

(a) Fresh peaches means the average price per bushel of U.S. Extra No. 1 “2-inch” peaches (if not available, the next larger size for which a price is available) determined from applicable prices reported by the Market News Service of the United States Department of Agriculture for seven consecutive marketing days, commencing with the day harvest of the variety begins. In the absence of FOB shipping point price from the Market News Service, the price per bushel of U.S. Extra No. 1 “2-inch” peaches will be the total of the price election and allowable costs for the undamaged peaches; and

(b) Processing peaches means the average price per bushel received from the processor for that applicable variety determined for seven consecutive marketing days, com-

mencing with the day harvest of the variety begins.

Bearing tree. A tree in at least the 4th growing season after set out.

Bushel. Fifty pounds of ungraded peaches.

Direct marketing. Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper or buyer. Examples of direct marketing include selling through an on-farm or roadside stand, farmer’s market, or permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

Harvest. The picking or removal of mature peaches from the trees either by hand or machine.

Interplanted. Acreage on which two or more crops are planted in any form of alternating or mixed pattern.

Loss in quality. When the crop is damaged to the extent that the producer does not receive the average price for U.S. Extra No. 1 peach.

Marketable. Peach production acceptable for processing or other human consumption even if failing to meet any U.S. or applicable state grading standard.

Packing shed. A facility at which peaches are graded, packed and cooled in preparation for shipment to a wholesale market.

Set out. Transplanting the tree into the orchard.

2. Insurance Guarantees, Coverage 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 select only one price election for all the peaches 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 peach type (fresh or processing) 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 one type, you must choose 100 percent of the maximum price election for all other types.

(b) You must report, not later than the production reporting date designated in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), by type if applicable:

(1) Any damage, removal of or addition of trees, or change in practices, or any other circumstance that may reduce the expected yield below the yield upon which the insurance guarantee is based, and the number of affected acres;