

Federal Crop Insurance Corporation, USDA

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or our reappraisal if additional damage occurs and the crop is not harvested;

(2) All harvested production (in tons) delivered to the processor which meets the quality requirements of the processor contract (expressed as usable or payable weight).

(3) All harvested tomato production delivered to processor which does not meet the quality requirements of the processor contract due to not being timely delivered.

(d) Once harvest has begun on any acreage covered by a processor contract that specifies the number of tons to be delivered, the total indemnity payable will be limited to an amount based on the lesser of the guaranteed tons, or the tons remaining unfulfilled under the processor contract.

15. Late and Prevented Planting

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

[62 FR 54342, Oct. 20, 1997, as amended at 62 FR 65177, Dec. 10, 1997; 69 FR 44576, July 27, 2004]

§457.161 Canola and rapeseed crop insurance provisions.

The canola and rapeseed crop insurance provisions for the 2011 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:

Canola and Rapeseed Crop Provisions

1. Definitions

Canola. A crop of the genus *Brassica* as defined in accordance with the Official United States Standards for Grain—Subpart C—U.S. Standards for Canola.

Harvest. Combining or threshing for seed. A crop that is swathed prior to combining is not considered harvested.

Local market price (Canola). The cash price per pound for U.S. No. 2 grade canola that reflects the maximum limits of quality deficiencies allowable for the U.S. No. 2 grade canola.

Planted acreage. In addition to the definition contained in the Basic Provisions, land on which seed is initially spread onto the soil surface by any method and subsequently is mechanically incorporated into the soil in a timely manner and at the proper depth will be considered planted. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provi-

sions, actuarial documents, or by written agreement.

Price of damaged production. The cash price per pound available if the production were sold for canola that qualifies for quality adjustment in accordance with section 12 of these crop provisions.

Rapeseed. A crop of the genus *Brassica* that contains at least 30 percent of an industrial type of oil as shown on the Special Provisions and that is measured on a basis free from foreign material.

Swathed. Severance of the stem and seed pods from the ground and placing into windrows without removal of the seed from the pod.

2. Unit Division

In addition to optional units by section, section equivalent or FSA farm serial number and by irrigated and non-irrigated practices, optional units may be by type if the type is designated on the Special Provisions.

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

In addition to the requirements of section 3 of the Basic Provisions:

(a) You must elect to insure your canola and rapeseed with either revenue protection or yield protection by the sales closing date; and

(b) In counties with both fall and spring sales closing dates for the insured crop:

(1) If you do not have any insured fall planted acreage of the insured crop, you may change your coverage level, or your percentage of projected price (if you have yield protection), or elect revenue protection or yield protection, until the spring sales closing date; or

(2) If you have any insured fall planted acreage of the insured crop, you may not change your coverage level, or your percentage of projected price (if you have yield protection), or elect revenue protection or yield protection, after the fall sales closing date.

4. Contract Changes

In accordance with section 4 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date for counties with a March 15 cancellation date, and June 30 preceding the cancellation date for all other counties.

5. Cancellation and Termination Dates

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

State and county	Cancellation and Termination dates
All counties in Alabama and Georgia	Sept. 30.

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State and county	Cancellation and Termination dates
All other counties without fall planted types specified on the actuarial table.	Mar. 15.
All other counties with fall planted types specified on the actuarial table.	Aug. 31.

6. Insured Crop

In accordance with section 8 of the Basic Provisions, the crop insured will be all canola and rapeseed in the county for which a premium rate is provided by the actuarial table:

- (a) In which you have a share;
- (b) That is planted for harvest as seed; and
- (c) That is not, unless allowed by Special Provisions or by written agreement:
 - (1) Interplanted with another crop; or
 - (2) Planted into an established grass or legume.

7. Insurable Acreage

In addition to the provisions of section 9 of the Basic Provisions:

- (a) We will not insure any acreage that does not meet the rotation requirements contained in the Special Provisions;
- (b) Whenever the Special Provisions designate only a fall final planting date, any acreage of canola or rapeseed damaged before such final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted to a fall type of the insured crop unless we agree that replanting is not practical;
- (c) Whenever the Special Provisions designate both fall and spring final planting dates:

(1) Any fall canola or rapeseed that is damaged before the spring final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted to a fall type of the insured crop to maintain insurance based on the fall type unless we agree that replanting is not practical. If it is not practical to replant to the fall type of canola or rapeseed but is practical to replant to a spring type, you must replant to a spring type to keep your insurance based on the fall type in force; and

(2) Any fall canola or rapeseed acreage that is replanted to a spring type of the same crop when it was practical to replant the fall type will be insured as the spring type and the production guarantee, premium, projected price, and harvest price applicable to the spring type will be used. In this case, the acreage will be considered to be initially planted to the spring type; and

(d) Whenever the Special Provisions designate a spring final planting date, any acreage of spring canola or rapeseed damaged before such final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted

to a spring type of the insured crop unless we agree that replanting is not practical; or

(e) Whenever the Special Provisions designate only a spring final planting date, any acreage of fall planted canola or rapeseed is not insured unless you request such coverage on or before the spring sales closing date, and we determine in writing that the acreage has an adequate stand in the spring to produce the yield used to determine your production guarantee. However, if we fail to inspect the acreage by the spring final planting date, insurance will attach as specified in section 7(e)(3):

- (1) Your request for coverage must include the location and number of acres of fall planted canola or rapeseed;
- (2) The fall planted canola or rapeseed will be insured as a spring type for the purpose of the production guarantee, premium, projected price, and harvest price, if applicable;
- (3) Insurance will attach to such acreage on the date we determine an adequate stand exists or on the spring final planting date if we do not determine adequacy of the stand by the spring final planting date;
- (4) Any acreage of such fall planted canola or rapeseed that is damaged after it is accepted for insurance but before the spring final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted to a spring type of the insured crop unless we agree it is not practical to replant; and
- (5) If fall planted acreage is not to be insured it must be recorded on the acreage report as uninsured fall planted acreage.

8. Insurance Period

In accordance with the provisions of section 11 of the Basic Provisions, the calendar date for the end of the insurance period is October 31 of the calendar year in which the crop is normally harvested.

9. Causes of Loss

In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided only against the following causes of loss which occur during 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;
- (h) Failure of the irrigation water supply due to a cause of loss specified in sections 9(a) through (g) that also occurs during the insurance period; or

(i) For revenue protection, a change in the harvest price from the projected price, unless FCIC can prove the price change was the direct result of an uninsured cause of loss specified in section 12(a) of the Basic Provisions.

10. Replanting Payment

(a) A replanting payment is allowed as follows:

(1) In lieu of provisions in section 13 of the Basic Provisions that limit the amount of a replant payment to the actual cost of replanting, the amount of any replanting payment will be determined in accordance with these Crop Provisions;

(2) Except as specified in section 10(a)(1), you must comply with all requirements regarding replanting payments contained in section 13 of the Basic Provisions;

(3) The insured crop must be damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the production guarantee for the acreage; and

(4) The replanted crop must be seeded at a rate sufficient to achieve a total (undamaged and new seeding) plant population that is considered appropriate by agricultural experts for the insured crop, type and practice.

(b) Unless otherwise specified in the Special Provisions, the amount of the replanting payment per acre will be the lesser of 20 percent of the production guarantee or 175 pounds, multiplied by your projected price, multiplied by your share.

(c) When the crop is replanted using a practice that is uninsurable for an original planting, the liability on the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

(d) If the acreage is replanted to an insured crop type that is different than the insured crop type originally planted on the acreage:

(1) The production guarantee, premium, and projected price and harvest price, as applicable, will be adjusted based on the replanted type;

(2) Replanting payments will be calculated using your projected price and production guarantee for the crop type that is replanted and insured; and

(3) A revised acreage report will be required to reflect the replanted type, as applicable.

11. Duties in the Event of Damage or Loss

Representative samples are required in accordance with section 14 of the Basic Provisions.

12. Settlement of Claim

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

(1) Optional unit, we will combine all optional units for which acceptable records of production were not provided; or

(2) Basic unit, we will allocate any comingled 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 by:

(1) Multiplying the number of insured acres of each type, as applicable, by your respective:

(i) Yield protection guarantee (per acre) if you elected yield protection; or

(ii) Revenue protection guarantee (per acre) if you elected revenue protection;

(2) Totaling the results of section 12(b)(1)(i) or 12(b)(1)(ii), whichever is applicable;

(3) Multiplying the production to count of each type, as applicable, by your respective:

(i) Projected price if you elected yield protection; or

(ii) Harvest price if you elected revenue protection;

(4) Totaling the results of section 12(b)(3)(i) or 12(b)(3)(ii), whichever is applicable;

(5) Subtracting the result of section 12(b)(4) from the result of section 12(b)(2); and

(6) Multiplying the result of section 12(b)(5) by your share.

For example:

You have 100 percent share in 50 acres of canola in the unit with a production guarantee (per acre) of 650 pounds, your projected price is \$.1220, your harvest price is \$.1110, and your production to count is 31,000 pounds.

If you elected yield protection:

(1) 50 acres × (650 pound production guarantee × \$.1220 projected price) = \$3,965.00 value of the production guarantee

(3) 31,000 pound production to count × \$.1220 projected price = \$3,782.00 value of the production to count

(5) \$3,965.00 – \$3,782.00 = \$183.00

(6) \$183.00 × 1.000 share = \$183.00 indemnity;

or

If you elected revenue protection:

(1) 50 acres × (650 pound production guarantee × \$.1220 projected price) = \$3,965.00 revenue protection guarantee

(3) 31,000 pound production to count × \$.1110 harvest price = \$3,441.00 value of the production to count

(5) \$3,965.00 – \$3,441.00 = \$524.00

(6) \$524.00 × 1.000 share = \$524.00 indemnity.

(c) The total production to count (pounds) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) For yield protection, not less than the production guarantee and for revenue protection, not less than the amount of production that when multiplied by the harvest price equals the revenue protection guarantee (per acre) for acreage:

(A) That is abandoned;

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(B) That is 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;

(i) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 12(d)); and

(iv) 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 you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage.

(d) Mature canola may be adjusted for excess moisture and quality deficiencies. Mature rapeseed may be adjusted for excess moisture only. If moisture adjustment is applicable, it will be made prior to any adjustment for quality.

(1) Canola and rapeseed production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of 8.5 percent. We must be permitted to obtain samples of the production to determine the moisture content.

(2) Canola production will be eligible for quality adjustment if:

(i) Deficiencies in quality, in accordance with the Official United States Standards for Grain, result in the canola not meeting the grade requirements for U.S. No. 3 or better (U.S. Sample grade) because of kernel damage (excluding heat damage), or a musty, sour, or commercially objectionable foreign odor; or

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(ii) Substances or conditions are present that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss in canola production only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is provided under these Crop Provisions and which occurs within the insurance period;

(ii) The deficiencies, substances, or conditions result in a net price for the damaged production that is less than the local market price;

(iii) 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;

(iv) With regard to deficiencies in quality, 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

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

(4) Canola production that is eligible for quality adjustment, as specified in sections 12(d)(2) and (3), will be reduced in accordance with the quality adjustment factors contained in the Special Provisions.

(e) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on an unadjusted weight basis.

13. Late Planting

In lieu of section 16(a) of the Basic Provisions, the production guarantee for each acre planted to the insured crop during the late planting period will be reduced by 1 percent per day for each day planted after the final planting date unless otherwise specified in the Special Provisions.

14. Prevented Planting

Your prevented planting coverage will be 60 percent of your production guarantee for timely planted acreage. If you have additional coverage and pay an additional premium, you may increase your prevented

planting coverage to a level specified in the actuarial documents.

[62 FR 65997, Dec. 17, 1997, as amended at 67 FR 43526, June 28, 2002; 75 FR 15889–15891, Mar. 30, 2010]

§ 457.162 Nursery crop insurance provisions.

The Nursery Crop Insurance Provisions for the 2006 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

Nursery 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

Act. The Federal Crop Insurance Act, 7 U.S.C. 1501 et seq.

American Standard for Nursery Stock. A publication of the American Nursery and Landscape Association, or a subsequent successor organization, issued in accordance with the rules of the American National Standards Institute, Inc. that provides common terminology and standards for nurseries.

Amount of insurance. For each basic unit, your basic unit value multiplied by the coverage level percentage you elect and multiplied by your share.

Basic unit value. The full value of all insurable plants in each basic unit as shown on your PIVR, including any revision that increases the value of your insurable plant inventory.

Container grown. Nursery plants planted and grown in standard nursery containers either above ground or that are placed in the ground, either directly or when placed in another pot in the ground (i.e., pot-in-pot).

Crop year. The period beginning the day insurance attaches and extending until the following May 31. Crop year is designated by the year in which the insurance period ends.

Crop year deductible. The deductible percentage multiplied by the sum of all plant inventory values for each basic unit. The crop year deductible will be increased for any increases in the inventory value on the PIVR or through the purchase of a Peak Inventory Endorsement, if in effect at the time

of loss. The crop year deductible will be reduced by any previously incurred deductible, except any incurred under the Rehabilitation Endorsement, if you timely report each loss to us.

Deductible percentage. An amount equal to 100 percent minus the percent of coverage you select.

Eligible Plant List. A list that includes the botanical and common names of insurable plants, the winter protection requirements for container grown material and the areas in which they apply, the hardiness zone to which field grown material is insurable, the designated hardiness zone for each county, and the unit classification for each plant on the list, published by FCIC on RMA's Web site at <http://www.rma.usda.gov>. It is also available on compact disk from your crop insurance agent.

Fabric grow bag. A fabric bag (including a woven or matted bag with a plastic or fabric bottom) used for growing woody plants in-ground or as an above-ground nursery plant container that provides adequate drainage and is appropriate in size for the plant.

FCIC. The Federal Crop Insurance Corporation, a wholly owned corporation within the USDA, or a successor agency.

Field grown. Nursery plants planted and grown in the ground without the use of an artificial root containment device. Plants grown in in-ground fabric grow bags, plants that are balled and burlapped or plants grown in containers that allow the plants to root (excluding fibrous roots) into the ground (for example, a container without a bottom) are also considered field grown.

Field market value A. The value of undamaged insurable plants, based on the lesser of: (1) The prices contained in the Plant Price Schedule; or (2) the prices contained in your catalog or price list in the basic unit immediately prior to the occurrence of any loss, as determined by our appraisal. This allows the amount of insurance under the policy to be divided among the individual units in accordance with the actual value of the plants in the unit at the time of loss to determine whether you are entitled to an indemnity for insured losses in the basic unit. This value is also used to calculate the actual value of the plants in the basic unit at the time of loss to ensure that you have not under-reported your plant values. For liners, the total value of undamaged liners is multiplied by the survival factor to determine the value of undamaged insurable plants.

Field market value B. The value of insurable plants, based on the lesser of: (1) The prices contained in the Plant Price Schedule; or (2) the prices contained in your catalog or price list in the basic unit following the occurrence of a loss, as determined by our appraisal, plus any reduction in value due to uninsured causes. This is used to determine