Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 425 and 457

RIN 0563–AA85

Peanut Crop Insurance Regulations; and Common Crop Insurance Regulations, Peanut Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of peanuts. The provisions will be used in conjunction with the Common Crop Insurance Policy, Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current peanut crop insurance regulations with the Common Crop Insurance Policy for ease of use and consistency of terms, and restrict the effect of the current peanut crop insurance regulations to the 1998 and prior crop years.

EFFECTIVE DATE: July 9, 1998.

FOR FURTHER INFORMATION CONTACT: Gary Johnson, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be exempt for the purpose of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C., chapter 35), the collections of information for this rule have been approved by the Office of Management and Budget (OMB) under control number 0563–0053 through October 31, 2000.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the producer is required to give notice of loss and provide the necessary information to complete a claim for indemnity.

The producer must also annually certify to the previous years production if adequate records are available to support the certification. The producer must maintain the production records to support the certified information for at least three years. This regulation does not alter those requirements.

The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. No additional actions are required as a result of this rule on the part of either the insured or the insurance companies. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review of any determination made by FCIC may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

On Thursday, May 1, 1997, FCIC published a notice of proposed rule making, in the **Federal Register** at 62 FR 23685 to add to the Common Crop Insurance Regulations (7 CFR part 457),

new section, 7 CFR 457.134, Peanut Crop Insurance Provisions. The new provisions will be effective for the 1999 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring peanuts found at 7 CFR part 425 (Peanut Crop Insurance Regulations). FCIC also amends 7 CFR part 425 to limit its effect to the 1998 and prior crop years.

Following publication of the proposed rule, the public was afforded 30 days to submit written comments and opinions. A total of 204 comments were received from the National Crop Insurance Peanut Advisory Committee, Peanut Growers Cooperative Marketing Association, National Peanut Growers Group, Agricultural Commodity Commission for Peanuts, State Peanut Growers Association, Production Farm Credit Association, reinsured companies, and an insurance service organization. The comments received and FCIC's responses are as follows:

Comment: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended revising the definition of ''average price per pound'' to delete the words ''and insured,'' in part 1 and delete the words ''all non-quota'' and ''and insured,'' in part 2.

Response: FCIC has amended the definition accordingly.

Comment: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization expressed concerns with the definition of ''good farming practices,'' which makes reference to ''cultural practices generally in use in the county * * * recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.'' The commenters questioned whether cultural practices exist that are not necessarily recognized (or possibly known) by the Cooperative State Research, Education, and Extension Service. The commenters also indicated that the term ''county'' in the definition of ''good farming practices'' should be changed to ''area.''

Response: The Cooperative State Research, Education, and Extension Service (CSREES) recognizes farming practices that are considered acceptable for producing peanuts. If a producer is following practices currently not recognized as acceptable by the CSREES, such recognition can be sought by interested parties. Although the cultural practices recognized by the CSREES may only pertain to specific areas within a county, the actuarial documents are on a county basis. Therefore, no change has been made. However, the definition of ''good farming practices'' has been removed from these Crop Provisions and is now contained in the Basic Provisions.

Comment: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended deleting the second sentence of the definition of ''green peanuts,'' because not all producers who grow green peanuts market them exclusively as boiled peanuts.

Response: FCIC has amended the definition accordingly.

Comment: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended deleting ''marketing window'' from the definition of ''practical to replant.'' The commenters indicated that peanuts are unlike other crops, such as processor and fresh market crops, where the producer only has a certain amount of time to market the crop. The commenters stated that the ability to contract peanuts with a sheller guarantees a market for the crop.

Response: The concept of a ''marketing window'' is most applicable to processor and fresh market crops, and FCIC recognizes that peanuts are unlike these crops. However, § 508(j)(4) of the Federal Crop Insurance Act mandates that marketing windows be considered in determining whether it is feasible to require replanting during a crop year. The definition of ''practical to replant'' has been moved to the Basic Provisions.

Comment: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended adding a definition for ''farm yield,'' rewrite the term ''farm yield,'' or perhaps change to ''yield established by the actuarial table'' in the definition of ''production guarantee.'' Commenters indicated that since peanuts are based on a producer listing, and not the producer's actual production history (APH), the term ''production guarantee'' is inappropriate. A producer's classification (guarantee) is determined by combining history from all farms in which he has grown peanuts in the county.

Response: FCIC has revised the definition of ''production guarantee'' to read ''* * * yield per acre contained in the actuarial documents or the approved yield * * *''

Comment: An insurance service organization recommended deleting from the definition of ''quota peanuts,'' the phrase, ''marketed for domestic edible use, seed, or other related uses.'' Under the current peanut policy, peanuts that are not eligible to be marketed for domestic edible use or seed could be valued as quota. For example: if peanuts grade segregation III, the remaining production from the farm serial number (FSN) is not sufficient to satisfy the quota, and the producer signs a waiver, the peanuts will be subject to a quality adjustment against the support price. However, those peanuts would not meet the definition of ''quota peanuts'' in the proposed rule.

Response: FCIC has amended the definition for ''quota peanuts'' accordingly.

Comment: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended that the definition of ''replanting'' be modified to include a requirement that replanted peanuts be planted in rows wide enough apart to permit cultivation and harvest in the same manner as the initially planted peanuts. Commenters indicated that broadcast or drilled peanuts are not acceptable methods of planting (or replanting) because such methods do not permit mechanical cultivation or allow digging the crop.

Response: Section 12(b) of these Crop Provisions clearly states the consequences of improperly replanting the crop. If the peanuts are replanted using a practice that is uninsurable as an original planting, the liability for the unit will be reduced by the amount of the replanting payment, with no reduction in the premium owed. Further, section 14(e)(1)(v), has been revised to specify that any production from the improperly replanted acreage will count against the remaining liability for the unit.

Comment: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended revision in the proposed definition of ''value per pound'' because the definition is incomplete and somewhat vague.

Response: FCIC has revised the definition for clarification.

Comment: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended the current unit structure remain based on the FSN unit. Commenters suggested that more optional units will increase the loss ratio. It will be necessary to add procedures to show how to split the quota of one FSN between separate basic units by share and to show what verifiable records are required to support optional units and how those records must be maintained because the APH program is not applicable for

peanuts. Also, the commenters indicated that if a producer commingles production now, the company apportions the production between the units, whereas under the proposed rule, the insured will lose units with commingled production at loss time.

Response: FCIC understands the complexity of the substantive change toward converting units by FSN to a basic unit by share and optional unit by FSN. The procedure to split the quota for basic units should be no more difficult than any other crop permitting basic units. Further, the producer receives records when production is delivered. The delivered production and records must be maintained separately or the producer will not qualify for optional units. Although FCIC and the reinsured companies may be precluded from obtaining the producer's production records from the Farm Service Agency, nothing precludes the producer from providing such records as a condition of insurance. FCIC is charged to maintain an actuarially sound program and one that is consistent with provisions of other crop policies. The premium charged will reflect any additional risks associated with basic and optional units. Therefore, no changes will be considered until such information is provided.

Comment: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended that section 3(c) be revised to incorporate the current producer listing process for peanuts, and remove any references to ''annual production reports'' and ''establish an approved yield.'' It was also suggested that section 3(c) be deleted.

Response: Section 3(c) only requires an annual production report when stated in the Special Provisions. The current method of establishing yields will continue in these Crop Provisions. However, the peanut price support program could be discontinued or modified and in such an event, an alternative method for establishing production guarantees may be needed. Therefore, no change has been made.

Comment: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended the contract change date be revised in section 4 from November 30 to October 31 because of the short time frame between the contract change date and sales closing date. The commenters indicated that with the changing of sales closing dates, actuarial documents are needed earlier to allow sales agents time to make quotes and proposals to producers and lenders, especially since more producers are making loan applications before the end of the year. Also, the November 30 contract change date does not allow adequate time for companies to determine changes, develop training materials, train agents, advise carryover insureds of changes and sell to potential insureds.

Response: November 30 has always been the contract change date for all counties that do not have an April 15 cancellation date under the present peanut provisions. The proposed rule simply changed the contract change date from December 31 to November 30 for all remaining counties to maintain the same time period between the contract change date and the revised cancellation dates and to achieve consistency with other annual crop insurance policies. This time frame has proven to be adequate to allow the necessary preparation for the sale of these policies. Therefore, no change has been made.

Comment: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended the cancellation and termination date for Virginia to be changed to March 15. Commenters indicated that these dates were originally April 15 and not February 28.

Response: FCIC has revised the cancellation and termination date for Virginia accordingly.

Comment: An insurance service organization stated that the current peanut policy establishes units by FSN, so reporting the effective marketing quota by FSN on the acreage report made sense. The proposed rule changes unit structure, but it does not address the resulting complications of the unit requirement for reporting acreage in the new peanut Crop Provisions.

Response: In addition to the requirements of section 6 of the Basic Provisions, the insured is required to report the effective marketing quota, if any, that is applicable to each unit for the current crop year. This would include all basic and optional units. FCIC has revised the provision to require the reporting of the effective poundage marketing quota for each basic and optional unit.

Comment: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended section 7(e) be revised to read ''multiplying the result of section 7(d) by your share at the time coverage begins.'' The commenters indicated that this will be consistent with section 7 of the Basic Provisions and clarifies when premium is earned. Also, the commenters recommended that a new section 7(f) be added to read as follows: ''multiplying the result of section 7(e) times any premium adjustment percentage that may apply.'' This is needed for those policies that continue to qualify for a premium discount or qualify for the hail and fire exclusion reduction.

Response: FCIC has amended the provisions accordingly.

Comment: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended changing the word ''harvested'' to ''planted'' in section 8(b) so that it reflects the planted peanuts with the intent of harvesting farmers' stock peanuts. The commenters also recommended that section 8(d)(1) be amended to state that if a crop is harvested for use as green peanuts, such peanuts are insured and premium is earned and due. If the intent is to harvest green peanuts, then the acreage should not be insurable. Insurable acreage must be established at the time coverage attaches (when planted), not at harvest.

Response: Section 8(b) already requires that the peanuts be planted as farmers' stock peanuts. Therefore, no change has been made. FCIC agrees with the recommendation to amend section 8(d)(1) to only exclude coverage for peanuts planted for the purpose of harvesting as green peanuts.

Comment: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended that section 9(b)(1) be rewritten as follows: ''On which peanuts are grown using no-till or minimum tillage farming methods, unless a written agreement allows otherwise or as provided on the Special Provisions.'' The commenters indicated that the reference to the Special Provisions will allow for adding a statement if needed, making written agreements for these practices unnecessary. This would reduce paperwork caused by having to request a written agreement for each individual case. The commenter also suggested that section 9(b)(2) be deleted. The commenters stated that there are no rotation requirements for peanuts. If requirements are established in the future, the requirements could be added either to the Special Provisions or by endorsement.

Response: FCIC has amended section 9(b)(1) accordingly. However, there are peanut types and in different areas of production where it is essential that peanuts be rotated with other crops in order to insure continuous successful

production. Therefore, no change has been made in the rotation provision.

Comment: A reinsured company and an insurance service organization questioned the reference to ''removed from the field'' in section 10(b). The commenters asked whether coverage continues after the peanuts are threshed or harvested but still in the field. The current provision had the wording ''threshed or removed from the field.'' The commenters suggested only the words, ''threshed or harvested'' be referenced and the words, ''removed from the field'' be deleted.

Response: Peanuts may be left in the field for a short period time after combining or threshing for the purpose of drying. These Crop Provisions provide coverage on such peanuts until they are removed from the field for shelling, storing, and processing. Therefore, no change has been made.

Comment: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended that FCIC: (1) keep the current minimum requirement of 10 acres or 10 percent of the unit to qualify for a replanting payment by adding that information to section 12; (2) add the words ''multiplied by the number of acres and by your insured share'' to section 12(a)(2)(i); and (3) delete section 12(a)(2)(iii), thereby making the replanting payment per acre the lesser of $80.00 or actual cost multiplied by the producer's share. Commenters indicated that producers incur the same cost to replant whether quota or non-quota acreage is being replanted. Since peanuts must be planted in rows to allow proper cultivation and harvest practices, the commenters recommended that section 12(b), which requires replanting in rows far enough apart to cultivate, be deleted.

Response: The increase in the requirement from the lesser of 10 percent or 10 acres to 20 percent or 20 acres is consistent with other crop provisions. This revision, coupled with the change in the amount of replant payment, simplifies the program and does not significantly affect the insured. Previous analyses of replant payments paid in major peanut producing states showed that a small amount of peanut acreage was replanted. FCIC has revised section 12(a)(2)(i) accordingly. Inclusion of section 12(a)(2)(iii) is consistent with other annual crops that have replant payments, plus it maintains an equitable payment for replanted acreage. Section 12(b) is necessary to ensure that the insured properly replants the crop. Further, this provision is consistent with other annual crops that have replanting provisions. Therefore, no changes have been made.

Comments: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended deleting the provision addressing combining optional units in section 14(a)(1).

Response: FCIC is maintaining the requirement that the producer keep separate records by unit. If a producer fails to maintain separate production records there is no way to authenticate the reported production to count for each optional unit. Since production to count cannot be accurately determined, the optional units must be combined. Therefore, no change has been made.

Comments: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommend that the Farm Service Agency (FSA) procedures that allow producers to make ''fall'' transfers of their farm quota to another farm or producer be revised. Commenters also recommended that sections 14(b)(1), (2), and (3) should be revised because it adversely affects acreage reporting and claims processing.

Response: FCIC cannot require another agency to revise its provisions. However, FCIC will share the commenter's recommendation regarding the revision of FSA procedure with FSA. To assure there is not an indemnity paid for quota that is later transferred from one farm to another farm or another producer, the provisions must limit the effective poundage marketing quota for each unit to reflect such transfers. Therefore, no change has been made.

Comments: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended that the peanut quota pounds indemnified by insurance be removed from the quota pounds of the FSN at the FSA office. The commenters indicated that this recommendation is to prevent insureds from collecting an insurance indemnity and then collecting an additional benefit by selling or transferring those quota pounds to another farm or producer.

Response: Sections 14(b)(1), (2), and (3) of these Crop Provisions should ensure that insureds are not collecting an insurance indemnity and then collecting an additional benefit by selling or transferring their quota pounds to another farm or producer. Therefore, no change has been made. However, FCIC will share this recommendation with FSA.

Comments: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization states that the calculation in 14(c) is cumbersome and makes a difference in how production is counted against the guarantee. Commenters indicated that the calculation uses Segregation II and III production and that production would be counted against the non-quota guarantee, but current procedure counts all production against quota first. This new calculation results in a different indemnity payment than current procedure.

Response: The commenters are correct that all production does not count against the quota first. This policy calculates the value of all production and subtracts it from the value of the quota and non-quota peanut guarantees. If Segregation II and III peanut production are not eligible to be valued and insured as quota peanut production, it would be unequitable to count such production against the quota guarantee. Therefore, no change has been made.

Comments: An insurance service organization commented that the language in section 14(c)(5) suggests that the peanut crop provision is a ''dollar'' policy rather than ''guaranteed'' production policy. The commenter suggested revising the following: ''pounds production to count subtracted from pounds guaranteed multiplied by the quota price election and non-quota price election.''

Response: This policy does not insure a specific dollar amount. However, since there are more than one type of peanuts insured, the value of the guarantee and production to count for each type is calculated separately to ensure that the correct price is applied to the specific type. Therefore, no change has been made.

Comments: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization suggest that unharvested production should not be adjusted for quality. Commenters indicated that quality adjustment should be restricted to mature harvested production. Comments were made that United States Department of Agriculture (USDA) inspectors do not accept unharvested samples for grading purposes. Furthermore, it should be made clear that all appraised production will be counted as quota as current procedure requires.

Response: Producers should not be required to incur the costs associated with harvest just to receive a quality adjustment when there is no dispute that the production has been damaged. These Crop Provisions are consistent with other crops that have quality adjustment provisions. As stated above, appraised production of non-quota

peanuts will count against the value of the quota if there is insufficient quota peanuts since the total value of all production to count is subtracted from the total value of the quota and non-quota guarantees. Therefore, no change has been made.

Comments: Three producer groups, a lending institution, two reinsured companies, and an insurance service organization recommended that section 14(d)(2)(iv) be revised to not allow the insured to defer settlement of a claim and wait for a later, generally lower, appraisal, especially on crops that have a short ''shelf life.''

Response: This provision allows deferment of a claim only if the insurance provider and the insured do not agree on the appraisal or if the insurance provider believes that the crop needs to be further cared for. The insured must continue to care for the entire crop. If the insured does not provide sufficient care for the crop, the original appraisal will be used. Therefore, no change has been made.

Comments: An insurance service organization and a reinsured company suggest that the requirement for a written agreement to be renewed each year should be removed in section 15(d). Terms of the agreement should be stated in the agreement to fit the particular situation for the policy, or if no substantive changes occur from one year to the next, allow the written agreement to be continuous.

Response: Written agreements are intended to supplement policy terms or permit insurance in unusual situations that require modification of the otherwise standard insurance provisions. If the condition creating need for a written agreement continues from year to year, it should be incorporated into the policy or the Special Provisions. FCIC has moved the written agreement provisions to the Basic Provisions but no change has been made.

Comments: Four producer groups, a lending institution, and two reinsured companies ask: (1) whether the Late Planting Agreement Option is still available; and (2) why late and prevented planting language provisions were not included as they have been in other crops.

Response: The Late Planting Agreement Option is no longer available. The late and prevented planting provisions in the Basic Provisions will apply.

In addition to the changes indicated above, FCIC has made the following changes:

1. Section 1. Definitions—Deleted the definitions of ''days'', ''final planting date,'' ''FSA,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''practical to replant,'' ''replanting,'' ''timely planted,'' ''USDA,'' and ''written agreement'' since their definitions have been moved to the Basic Provisions. Revised the definition of ''planted acreage'' to remove those provisions that have been moved to the Basic Provisions and added the definition of ''approved yield'' for clarification. Deleted the definition of ''harvest'' because language was added in section 10(c) of these crop provisions and section 11 of the Basic Provisions to mark the end of the insurance period for peanuts.

2. Section 2—Delete those provisions that have been moved to the Basic Provisions.

3. Section 14—Added a note to inform policyholders with the Catastrophic Risk Protection level of coverage on the limitation of multiple benefits for the same crop loss.

List of Subjects in 7 CFR Parts 425 and 457

Crop insurance, Peanuts, Reporting and record keeping requirements.

Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR parts 425 and 457, as follows:

PART 425—PEANUT CROP INSURANCE REGULATIONS FOR THE 1993 THROUGH 1998 CROP YEARS

1. The authority citation for 7 CFR part 425 is revised to read as follows:

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

2. The part heading is revised to read as set forth above.

3. Subpart heading ''Subpart—Regulations for the 1993 and Succeeding Crop Years'' is removed.

4. Section 425.7 is amended by revising the introductory text of paragraph (d) to read as follows:

§ 425.7 The application and policy.

* * * * *

(d) The application for the 1993 and succeeding crop years is found at subpart D of part 400-General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Peanut Insurance Policy for the 1993 through 1998 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1998 AND SUBSEQUENT CONTRACT YEARS

5. The authority citation for 7 CFR part 457 continues to read as follows:

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

6. Section 457.134 is added to read as follows:

§ 457.134 Peanut crop insurance provisions.

The Peanut Crop Insurance Provisions for the 1999 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:

Peanut 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.

Approved yield. The yield calculated in accordance with 7 CFR part 400, subpart G, if required by section 3(c) of these provisions.

Average price per pound:

(1) The average CCC support price per pound, by type, for Segregation I peanuts and Segregation II and III peanuts eligible to be valued as quota peanuts; or

(2) The highest non-quota price election contained in the Special Provisions for all Segregation I, II, and III peanuts not eligible to be valued as quota peanuts.

Average support price per pound. The average price per pound for each type of quota peanuts announced by the USDA under the peanut price support program.

CCC. Commodity Credit Corporation, a wholly owned government corporation within USDA.

County. In addition to the definition contained in the Basic Provisions, ''county'' also includes any land identified by a FSA farm serial number for such county but physically located in another county.

Effective poundage marketing quota. The number of pounds reported on the acreage report as eligible for the average support price per pound (including transfers of quota peanuts from one farm serial number to another farm serial number), not to exceed the Marketing Quota established by FSA for the farm serial number.

Farmers' stock peanuts. Peanuts customarily marketed by producers, produced in the United States, and which are not shelled, crushed, cleaned, or otherwise changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the condition in which peanuts are harvested.

Green peanuts. Peanuts that are harvested and marketed prior to maturity without drying or removal of moisture either by natural or artificial means.

Inspection certificate and sales memorandum. A USDA form that records the inspection grading results and marketing record for the net weight of peanuts delivered to a buyer.

Non-quota peanuts. Peanuts other than quota peanuts.

Planted acreage. In addition to the requirement in the definition in the Basic Provisions, peanuts must initially be planted in rows wide enough apart to permit mechanical cultivation. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

Production guarantee (per acre). In addition to the definition of ''production guarantee (per acre)'' in the Basic Provisions, the production guarantee (per acre) is the number of pounds determined by multiplying the yield per acre contained in the actuarial documents or the approved yield multiplied by the coverage level percentage you elect.

Quota peanuts. Peanuts that are eligible to be valued at the average support price per pound.

Segregation I, II, or III. Grades designated and defined for peanuts by the Agricultural Marketing Service of USDA.

Value per pound. A price determined by USDA as shown on the USDA ''Inspection Certificate and Sales Memorandum'' or other value accepted by us.

2. Unit Division.

(a) In lieu of the provisions in section 34 of the Basic Provisions that permit optional unit by section, section equivalent, irrigated or non-irrigated acreage, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number.

(b) We may reject or modify any FSA reconstitution for the purpose of the unit definition, if we determine the reconstitution was done in whole or in part to defeat the purpose of the Federal crop insurance program or to gain a disproportionate advantage under this policy.

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

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

(a) The price elections you choose for the quota and non-quota peanuts must have the same percentage relationship to the maximum price election offered by us for quota and non-quota peanuts. For example, if you choose 100 percent of the maximum quota peanut price election, you must also choose 100 percent of the maximum non-quota election.

(b) The maximum pounds that may be insured at the quota price election are the lesser of :

(1) The effective poundage marketing quota; or

(2) The insured acreage multiplied by the production guarantee. If the insured acres multiplied by the production guarantee exceeds the effective poundage marketing quota, the difference will be insured at the non-quota peanut price election.

(c) You may be required to file an annual production report to us, if required by the Special Provisions, to establish an approved yield in lieu of the yield published in the actuarial documents. If we require you to file an annual production report, you must do so in accordance with section 3(c) of the Basic Provisions.

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:

CANCELLATION AND TERMINATION

State and county	Dates
Jackson, Victoria, Golliad, Bee, Live Oak, Mullen, La Salle, and Dimmit Counties, Texas and all Texas Counties lying south thereof.	January 15
El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas, and all Texas counties south and east thereof; and all other states.	February 28
New Mexico; Oklahoma; Virginia; and all other Texas counties	March 15

6. Report of Acreage.

In addition to the requirements of section 6 of the Basic Provisions, you must report the effective poundage marketing quota, if any, that is applicable to each basic and optional unit for the current crop year.

7. Annual Premium

In lieu of the premium amount determinations contained in section 7(c) of the Basic Provisions, the annual premium will be determined by:

(a) Multiplying the insured effective poundage marketing quota by the price election for quota peanuts;

(b) Multiplying the insured pounds of non-quota peanuts by the price election for non-quota peanuts;

(c) Totaling the results of section 7(a) and 7(b);

(d) Multiplying the total of section 7(c) by the applicable premium rate stated in the actuarial documents;

(e) Multiplying the result of section 7(d) by your share at the time coverage begins; and

(f) Multiplying the result of section 7(e) by any premium adjustment percentages that may apply.

8. Insured Crop

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

(a) In which you have a share;

(b) That are planted for the purpose of marketing as farmers' stock peanuts;

(c) That are a type of peanut designated in the Special Provisions as being insurable; and

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

(1) Planted for the purpose of harvesting as green peanuts;

(2) Interplanted with another crop; or

(3) Planted into an established grass or legume.

9. Insurable Acreage

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

(a) Any acreage of the insured crop damaged before the final planting date, to the extent that the majority of producers in the area would normally not further care for the crop, must be replanted unless we agree that replanting is not practical.

(b) We will not insure any acreage:

(1) On which peanuts are grown using no-till or minimum tillage farming methods unless allowed by the Special Provisions or written agreement; or

(2) Which does not meet the rotation requirements, if any, contained in the Special Provisions.

10. 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 the date immediately following planting as follows:

(a) November 30 in all states except New Mexico, Oklahoma, and Texas; and

(b) December 31 in New Mexico, Oklahoma, and Texas.

(c) ''Removal of peanuts from the field'' replaces ''harvest'' as an event marking the end of the insurance period in section 11 of the Basic Provisions.

11. 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 that 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; or

(h) Failure of the irrigation water supply, if due to a cause of loss contained in section 11(a) through (g) that occurs during the insurance period.

12. Replanting Payments

(a) In accordance with section 13 of the Basic Provisions:

(1) A replanting payment is allowed if the crop is damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the production guarantee for the acreage and it is practical to replant.

(2) The maximum amount of the replanting payment for the unit will be the lesser of :

(i) Eighty dollars ($80.00) per acre multiplied by the number of acres replanted and multiplied by your insured share;

(ii) The actual cost of replanting per acre multiplied by the number of acres replanted and multiplied by your insured share; or

(iii) Twenty percent (20%) of the production guarantee multiplied by your quota price election, multiplied by the number of acres replanted, and multiplied by your insured share.

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

13. Duties In The Event of Damage or Loss

In accordance with the requirements of section 14 of the Basic Provisions, the representative samples of the unharvested crop that we may require must be at least 10 feet wide and extend the entire length of each field in the unit. If you intend to put the acreage to another use or not harvest the crop, the samples must not be harvested or destroyed until our inspection.

14. 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; and

(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) When settling your claim, the effective poundage marketing quota, if any, for each unit will be limited to the lesser of:

(1) The amount of the effective poundage marketing quota reported on the acreage report;

(2) The amount of the FSA effective poundage marketing quota; or

(3) The amount determined at the final settlement of your claim.

(c) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage for the unit by the production guarantee per acre, by type if applicable;

(2) Subtracting the insured effective poundage marketing quota from the result of section 14(c)(1) to determine the amount of insured non-quota peanuts;

(3) Multiplying the insured effective poundage marketing quota and the result of section 14(c)(2) by the respective price election by type, if applicable, for quota and non-quota peanuts, respectively;

(4) Totaling the results of section 14(c)(3) (This amount will be the same as (3) if there is only one type);

(5) Multiply the production to count for quota and non-quota peanuts (see section 14(d)), for each type if applicable, by the respective price elections;

(6) Totaling the results of section 14(c)(5) (This amount will be the same as (5) if there is only one type);

(7) Subtracting the result of section 14(c)(6) from section 14(c)(4); and

(8) Multiplying the result in section 14(b)(7) and section 14(b)(8) by your share.

For example:

You have 100 percent share in 25 acres of Valencia peanuts in the unit, with a 2000 pounds per acre guarantee, an effective poundage marketing quota of 40,000 pounds, and a price election of $0.34 per pound for quota and $0.15 per pounds for non-quota. You are able to harvest 43,000 pounds in which 40,000 pounds are quota segregation I and 3,000 pounds are non-quota segregation II and III due to quality adjustment. Your indemnity would be calculated as follows:

(1) 25 acres × 2,000 pounds per acre = 50,000 pounds guarantee;

(2) 50,000 pounds guarantee − 40,000 pounds of effective marketing quota = 10,000 pounds of non-quota guarantee;

(3) 40,000 pounds × $.34 price election for quota = $13,600.00 value of guarantee; 10,000 pounds × $.15 price election for non-quota = $1,500.00 value of guarantee;

(4) $13,600.00 + $1,500.00 = $15,100.00 total of value of guarantee;

(5) 40,000 pounds of quota production to count × .34 = $13,600.00 quota value of production to count;

3,000 pounds of non-quota production to count × .15 = $450.00 non-quota value of production to count;

(6) $13,600.00 + $450.00 = $14,050.00 total value of production to count;

(8) $15,100.00 total value guarantee − $14,050.00 total value of production to count = $1,050.00 loss; and

(9) $1,050.00 value of loss × 100 percent = $1,050.00 indemnity payment.

(d) The total production to count (in pounds) from all insurable acreage on the unit will include all appraised and harvested production.

(e) All appraised production will include:

(1) Not less than the production guarantee for acreage:

(i) That is abandoned;

(ii) Put to another use without our consent;

(iii) Damaged solely by uninsured causes; or

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

(v) Not replanted as required by this policy.

(2) Production lost due to uninsured causes;

(3) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 14(f)); and

(4) 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:

(i) 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

(ii) 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

(5) All harvested production from the insurable acreage.

(f) Mature peanut production that is damaged by insurable causes and for which the value per pound is less than the average support price per pound for the type will be adjusted by:

(1) Dividing the value per pound for the insured type of peanuts by the applicable average price per pound; and

(2) Multiplying this result by the number of pounds of such production.

(g) To enable us to determine the net weight and quality of production of any peanuts for which an ''Inspection Certificate and Sales Memorandum'' has not been issued, we must be given the opportunity to have such peanuts inspected and graded before you dispose of them. If you dispose of any production without giving us the opportunity to have the peanuts inspected and graded, the gross weight of such production will be used in determining total production to count unless you submit a marketing record satisfactory to us which clearly shows the net weight and quality of such peanuts.

(**Note:** In accordance with the Federal Crop Insurance Act, in the event of a crop loss, policyholders with the Catastrophic Risk Protection level of coverage must elect to either receive benefits under these Crop Provisions or if applicable, the Commodity Credit Corporation Quota Loan Pool Regulations.)

Signed in Washington, D.C., on June 3, 1998.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

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