

State and county	Dates
Pinellas, Hillsborough, Polk, Oseola, and Brevard Counties, Florida, and all Florida counties lying south thereof .....	September 30.
Arizona; all California counties; and all Texas counties except Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Haskell, Knox, Lamb, Parmer, Swisher, and Yoakum.	November 30.
Alabama; Georgia; Missouri; and All Florida Counties except Pinellas, Hillsborough, Polk, Oseola, and Brevard Counties, Florida, and all Florida counties to the south thereof.	December 31.
Delaware; Maryland; New Jersey; North Carolina; and Virginia .....	January 31.
Oklahoma; and Haskell and Knox Counties, Texas .....	February 28.
Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Lamb, Parmer, Swisher, and Yoakum counties, Texas; and New Mexico.	March 15.

\* \* \* \* \*  
 12. Settlement of Claim.

(b) \* \* \*  
 (7) Multiplying the result of section 12(b)(6) by your share.  
 For example:  
 You have a 100 percent share in 100 harvested acres of potatoes in the unit, with a guarantee of 150 hundredweight per acre and a price election of \$4.00 per hundredweight. You are only able to harvest 10,000 hundredweight. Your indemnity would be calculated as follows:

- (1) 100 acres × 150 hundredweight = 15,000 hundredweight guarantee;
- (2) 15,000 hundredweight × \$4.00 price election = \$60,000.00 value of guarantee;
- (4) 10,000 hundredweight × \$4.00 price election = \$40,000.00 value of production to count;
- (6) \$60,000.00 – \$40,000.00 = \$20,000.00 loss; and
- (7) \$20,000.00 × 100 percent = \$20,000.00 indemnity payment.

You also have a 100 percent share in 100 unharvested acres of potatoes in the same unit, with a guarantee of 150 hundredweight per acre and a price election of \$3.60 per hundredweight. (The price election for unharvested acreage is 90.0 percent of your elected price election (\$4.00 × 0.90 = \$3.60.)) This unharvested acreage was appraised at 35 hundredweight per acre for a total of 3500 hundredweight as production to count. Your total indemnity for the harvested and unharvested acreage would be calculated as follows:

- (1) 100 acres × 150 hundredweight = 15,000 hundredweight guarantee for the harvested acreage, and  
 100 acres × 150 hundredweight = 15,000 hundredweight guarantee for the unharvested acreage;
- (2) 15,000 hundredweight guarantee × \$4.00 price election = \$60,000.00 value of guarantee for the harvested acreage, and  
 15,000 hundredweight guarantee × \$3.60 price election = \$54,000.00 value of guarantee for the unharvested acreage;
- (3) \$60,000.00 + \$54,000.00 = \$114,000.00 total value of guarantee;

- (4) 10,000 hundredweight × \$4.00 price election = \$40,000.00 value of production to count for the harvested acreage, and 3500 hundredweight × \$3.60 = \$12,600.00 value of production to count for the unharvested acreage;
- (5) \$40,000.00 + \$12,600.00 = \$52,600.00 total value of production to count;
- (6) \$114,000.00 – \$52,600.00 = \$61,400.00 loss; and
- (7) \$61,400.00 loss × 100 percent = \$61,400.00 indemnity payment.

(e) With the exception of production with external defects, only marketable lots of mature potatoes will be production to count for loss adjustment purposes:

- (1) Production not meeting the standards for grading U.S. No. 2 due to external defects will be determined on an individual basis for all harvested and unharvested potatoes if we determine it is or would be practical to separate the damaged production;
- (2) All determinations must be based upon a grade inspection; and
- (3) Prior to any grade inspection, you must notify us of the intended use of the potatoes so the applicable United States Standard will be applied.
- (4) Marketable lots of potatoes will include any lot of potatoes that is:
  - (i) Stored;
  - (ii) Sold as seed;
  - (iii) Sold for human consumption; or
  - (iv) Harvested and not sold or that is appraised if such lots meet the standards for grading U.S. No. 2 or better on a sample basis.
- (5) Marketable lots will also include any potatoes that we determine:
  - (i) Could have been sold for seed or human consumption in the general marketing area;
  - (ii) Were not sold as a result of uninsured causes including, but not limited to, failure to meet chipper or processor standards for fry color or specific gravity; or
  - (iii) Were disposed of without our prior written consent and such disposition prevented our determination of marketability.
- (6) Unless included in section 12(e)(4) or (5), a potato lot will not be

considered marketable if, due to insurable causes of damage, it:  
 (i) Is partially damaged, and is salvageable only for starch, alcohol, or livestock feed;  
 (ii) Does not meet the standards for grading U.S. No. 2 or better due to internal defects; or  
 (iii) Does not meet the standards for grading U.S. No. 2 or better due to external defects, and it is not practical to separate the damaged production.

\* \* \* \* \*  
 Signed in Washington, DC, on July 21, 2006.

**James Callan,**  
*Acting Manager, Federal Crop Insurance Corporation.*  
 [FR Doc. 06-6527 Filed 7-27-06; 8:45 am]  
**BILLING CODE 3410-08-P**

**DEPARTMENT OF AGRICULTURE**  
**Federal Crop Insurance Corporation**

**7 CFR Part 457**  
**RIN 0563-AC02**

**Common Crop Insurance Regulations; Fresh Market Sweet Corn Crop Insurance Provisions**

**AGENCY:** Federal Crop Insurance Corporation, USDA.  
**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) proposes to amend its Fresh Market Sweet Corn Crop Insurance Provisions. The intended effect of this action is to provide policy changes to allow for the expansion of fresh market sweet corn coverage into areas where the crop is produced and when provided in the actuarial documents, and allow coverage for fresh market sweet corn when it is marketed through direct marketing. This change will be applicable for the 2008 and succeeding crop years.

**DATES:** Written comments and opinions on this proposed rule will be accepted until close of business September 26, 2006 and will be considered when the

rule is to be made final. Comments on information collection under the Paperwork Reduction Act of 1995 must be received on or before September 26, 2006.

**ADDRESSES:** Interested persons are invited to submit written comments to the Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO 64133-4676. Comments titled "Fresh Market Sweet Corn Crop Insurance Provisions" may be sent by any of the following methods:

- By Mail to: Director, Product Development Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO 64133-4676.
- E-Mail: [DirectorPDD@rma.usda.gov](mailto:DirectorPDD@rma.usda.gov).
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments. A copy of each response will be available for public inspection and copying from 7 a.m. to 4:30 p.m., c.s.t., Monday through Friday, except holidays, at the above address.

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, Risk Management Specialist, Research and Development, Product Development Division, Risk Management Agency, at the Kansas City, MO, address listed above, telephone (816) 926-7730.

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866**

The Office of Management and Budget (OMB) has determined that this rule is not significant for the purpose of Executive Order 12866 and, therefore, it has not been reviewed by OMB.

**Paperwork Reduction Act of 1995**

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this proposed rule have been approved by OMB under control number 0563-0053 through November 30, 2007.

**E-Government Act Compliance**

FCIC is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

**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 UMRA.

**Executive Order 13132**

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels or government.

**Regulatory Flexibility Act**

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

**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 proposed 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 preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 and 7 CFR part 400, subpart J for the informal administrative review process of good farming practices, as applicable, must be exhausted before any action against FCIC for judicial review 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 Environment Impact Statement is needed.

**Background**

FCIC proposes to amend the Common Crop Insurance Regulations (7 CFR part 457) by revising 7 457.129 Fresh Market Sweet Corn Crop Insurance Provisions effective for the 2008 and succeeding crop years. The principal changes to the provisions for insuring fresh market sweet corn are:

1. FCIC is proposing to remove the provisions regarding document priority because these provisions are now contained in the Basic Provisions.
2. *Section 1*—FCIC proposes to remove definitions for the terms "excess rain," "excess wind," and "freeze." These terms have been determined to be too limiting as causes of loss and have been replaced by the term "adverse weather conditions" in section 11. This will make this policy consistent with other similar policies and allow all types of adverse weather to be covered. FCIC also proposes to add a definition of "amount of insurance (per acre)" to specify the calculation utilized in computing the dollar amount of coverage. The term is used throughout the policy but was not previously defined. FCIC proposes to add definitions for "allowable cost,"

“minimum value” and “net value per container” to clarify how fresh market sweet corn will be valued for the purpose of computing production to count. Also FCIC proposes to revise the definition of “container” for clarity. FCIC also proposes to revise the definition of “harvest” to specify that it is removal of the ear from the plant and it can include either by hand or by machine. The previous definition just referred to picking of sweet corn and the new definition will clarify what is meant by picking. FCIC also proposes to revise the definition of “marketable sweet corn” to include the United States Standards for Grades of Sweet Corn. This will make sweet corn consistent with other crops for which the United States has standards and provide a clear objective standard upon which to determine whether the sweet corn is marketable.

3. *Section 2*—FCIC proposes to remove provisions which state optional units by irrigated and non-irrigated practices are not applicable. This change will allow optional units by irrigated and non-irrigated practices if the Special Provisions provide for a non-irrigated practice. This change is necessary so the fresh market sweet corn crop insurance program may be expanded into areas where the growing conditions and farming practices may not require an irrigated practice.

4. *Section 3(d)*—FCIC proposes to add a new section 3(d) to limit the amount of insurance per acre if a required minimum amount of production has not been produced in at least one of the three most recent crop years. This provision will provide a means to implement amount of insurance limits and prevent potential over-insurance in areas where sweet corn production may not be consistent with the reference maximum dollar amount contained in the actuarial documents.

5. *Section 3(f)*—FCIC proposes to add language to clarify that if sweet corn is damaged in the first stage of growth and other producers in the area would not normally care for the crop, the sweet corn will be deemed as destroyed even if the insured continues to care for the crop. There were questions regarding what occurred if the producer continued to care for the crop. This language clarifies that the crop will still be deemed destroyed, and the claim paid based on the stage the crop was in when the damage occurred, even if the producer continues to care for the crop.

6. *Section 8(c)*—FCIC proposes to add an exception to the policy to allow coverage for fresh market sweet corn that is grown for direct marketing if such practice is allowed by the Special

Provisions or by written agreement. In many areas of the mid-west and eastern states fresh market sweet is grown and marketed directly to the public by way of farmers markets and roadside stands. This change will allow coverage for, and make the policy consistent with many other crops that are marketed by direct marketing.

7. *Section 9(a)*—FCIC proposes to remove paragraph (a), which previously allowed coverage for sweet corn planted in newly cleared land or former pasture land. Coverage for such acreage is normally precluded but fresh market sweet corn provided an exception because of the locations in which it was normally grown. However, as the production of the crop and coverage expand into new areas, there is concern that allowing coverage on newly cleared acreage or former pasture land will create program vulnerabilities. Therefore, FCIC is proposing to eliminate coverage for such acreage, which is consistent with most other crop policies. The following paragraphs are redesignated and restructured for clarity.

8. *Section 9(b)*—FCIC proposes to revise the provisions previously contained in section 9(b)(2), now redesignated as section 9(b), to specify that in areas with fall or winter planting periods, not only must the final planting date have passed, it must be considered practical to replant. If both conditions are met, the producer will have the option to replant and receive the replant payment or not replant and accept an indemnity based on the stage of growth when the damage occurred. Previously the provision only referred to the final planting date having passed and did not specify that it still must be practical to replant. This change will eliminate any ambiguity in the provision.

9. *Section 10(f)*—FCIC proposes to revise the provision that states that the end of the insurance period is 100 days after the date of planting or replanting. Flexibility is needed because there may be new varieties or the program may be expanded into areas where the sweet corn may take shorter or longer to mature. This change will allow FCIC to set the appropriate end of the insurance period in the Special Provisions.

10. *Section 11(a)*—FCIC is proposing to add “adverse weather conditions,” “wildlife,” “volcanic eruption,” and “earthquake” as insured causes of loss. This change will provide consistency in the causes of loss found in other crop insurance policies. The previous list provided the predominate causes of loss that posed a risk to the production of sweet corn in the limited areas where insurance was available. However, if

sweet corn gets expanded into other areas, these other causes of loss may become a risk to the crop and there is no reason that such causes should not also be covered. They pose no greater risk to sweet corn than they do to any other crop and the risks will be included in the premium rates. FCIC also proposes to remove the terms “excess rain,” “excess wind,” “freeze,” “hail,” and “tornado.” As stated above, the term “adverse weather conditions” includes the individually named causes of loss that are being removed.

11. *Section 11(b)(1)*—FCIC proposes to move the provisions that specify that any loss of production due to insects and disease will not be insured unless there is no effective control measures to section 11(a) and allow such causes to be covered unless damage occurs due to insufficient or improper application of pest or disease control measures. This change will standardize provisions among other crop insurance policies.

12. *Section 11(b)*—FCIC proposes to add a new section 11(b)(1) that would specify that failure to harvest in a timely manner is not an insured cause of loss unless harvest is prevented by one of the other insurable causes of loss. Since fresh market sweet corn is a perishable commodity, failure to timely harvest can cause damage even though no other cause of loss may have occurred. This change will ensure that only damage due to natural causes are covered. FCIC also proposes to revise section 11(b)(2) to add provisions that clarify that an indemnity will not be paid for a quarantine, boycott or refusal to accept production. This is consistent with language in other crop policies and ensures that coverage is only provided for natural causes.

13. *Section 13(b)*—FCIC proposes to restructure the current provisions into section 13(a) and add a new section 13(b) to require notice of loss be given at least 15 days before any production will be sold by direct marketing so an appraisal can be made. If damage occurs after this appraisal, an additional appraisal will be made. The appraisals and any acceptable production records will be used to determine production to count. Since insurance is now being provided for direct marketed crops, and there may not be any verifiable records associated with such sales, this change is necessary to more accurately determine the value of production to count.

14. *Section 13(c)*—FCIC proposes to add a new section 13(c) to specify that failure to give timely notice of loss when sweet corn will be sold by direct marketing will result in an amount of production to count that is not less than

the dollar amount of insurance per acre for the applicable stage if such failure results in the inability to properly determine the value of the production. Without the ability to appraise the crop before any is sold in direct marketing it will make it difficult to impossible to determine whether production was accurately reported because, unlike crops not sold through direct marketing, there are no independent sources to verify production.

15. *Section 14(b)(4)(ii)*—FCIC proposes to remove the provisions pertaining to the 1998 and 1999 crop years because they are obsolete and specifying the coverage level of fifty-five percent, which is the coverage level for catastrophic risk protection coverage.

16. *Section 14(b)(5)*—FCIC proposes to add an example of the claim for indemnity calculations at the end of paragraph (b)(5) for clarity.

17. *Section 14(c)(1)(v)*—FCIC is proposing to add a new section 14(c)(1)(v) that specifies that the value of production to count for direct marketed production will not be less than the dollar amount of insurance per acre for such production if the producers fails to provide timely notice that the production will be sold through direct marketing. Because of the inability to verify records of sales, approved insurance providers must have the opportunity to appraise the production before any of it is sold. This is consistent with other crops sold through direct marketing.

18. *Section 14(c)(2)*—FCIC is proposing to clarify that to be considered as production to count, the unharvested sweet corn must be marketable. If marketable, the value of appraised unharvested sweet corn production will not be less than the dollar amount obtained by multiplying the number of containers appraised by the minimum value per container shown in the actuarial. However, even if not marketable, the unharvested production will be considered as production to count if the production is later harvested and sold. This ensures that the producer is only indemnified for actual losses.

19. *Section 14(c)(3)*—FCIC is proposing to modify and clarify that the value of all harvested production that is marketable and sold (except production sold by direct marketing) and unsold. The value of sold production will be the greater of: (1) The dollar amount obtained by multiplying the total number of containers harvested by the minimum value; or (2) the dollar amount obtained by multiplying the average net value per container from all sweet corn sold by the total number of

containers of sweet corn sold. The value of sweet corn that is unsold but is marketable will be the dollar amount obtained by multiplying the total number of containers harvested by the minimum value. Should the actual value for each container of sold production be used and the allowable costs then subtracted it would be time consuming and complex. FCIC is proposing to use the average net value, which will allow the approved insurance provider to average the prices received and use this single price to calculate the value of all sold production, except that sold through direct marketing. This will simplify the calculation and ensure that the producer receives the proper value for the production. The provision also is intended to clarify that if the production is sold, it will be considered as production to count, regardless of whether or not it is marketable. It is only if the production is damaged or defective due to an insurable cause, not marketable and not sold will it not be included as production to count.

20. *Section 14(c)(4)*—FCIC is proposing to add provisions specifying the value of production that is sold by direct marketing. If all conditions are met for insurability and timely notice is given, the value will be the greater of the actual value received by the insured, or the dollar amount obtained by multiplying the total number of containers of sweet corn sold by direct market by the minimum value per container. Since it is impossible to obtain verifiable sales records, it would create a program vulnerability to allow the sales price for the direct marketed production to be used.

21. *Section 16(b)(1)*—FCIC is proposing to specify the value of harvested production insured under the Minimum Value Option will be the dollar amount obtained by multiplying the average net value per container from all sweet corn by the total number of containers of sweet corn sold. As stated above, should the actual value for each container of sold production be used and the allowable costs then subtracted would be time consuming and complex. FCIC is proposing to use the average net value, which will allow the approved insurance provider to average the prices received and use this single price to calculate the value of all sold production, except that sold through direct marketing. This will simplify the calculation and ensure that the producer receives the proper value for the production.

22. *Section 16(b)(2)*—FCIC is proposing to specify that the value of marketable production that is not sold

will be the dollar amount obtained by the total number of containers of such sweet corn by the minimum value shown in the actuarial documents. This will ensure consistency with other policy provisions that require all sold production to be considered as production to count, regardless of whether such production is marketable. It is only if the production is damaged or defective due to an insurable cause, not marketable, and not sold will it not be included as production to count.

23. *Section 16(c)*—FCIC is proposing to add provisions to specify that if the Minimum Value Option is applicable, the total value of any production that is sold by direct marketing will be the greater of the actual value received by the insured or the dollar amount obtained by multiplying the total number of containers of sweet corn sold by direct market by the minimum value per container shown in the actuarial documents. As stated above, since it is impossible to obtain verifiable sales records, it would create a program vulnerability to allow the sales price for the direct marketed production to be used.

#### List of Subjects in 7 CFR Part 457

Crop insurance, Fresh market sweet corn, Reporting and recordkeeping requirements.

#### Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 457 for the 2008 and succeeding crop years as follows:

#### PART 457—COMMON CROP INSURANCE REGULATIONS

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

**Authority:** 7 U.S.C. 1506(1), 1506(p).

2. Amend 457.129 as follows:

A. Revise the introductory text.

B. Remove the paragraph regarding priority preceding section 1.

C. Remove the reference of “457.8” from the definitions of “Crop year,” and “Practical to replant;” and from sections 3(a), 3(c), 4, 5, 6, 7, 8, 9(a), 9(b), 10, 11(a), 11(b), 12(a), 12(c), and 13.

D. Add definitions in section 1 for “Allowable cost,” “amount of insurance (per acre),” “minimum value;” and “net value per container;” and remove the definitions of “excess rain,” “excess wind,” and “freeze;” revise the definitions of “container,” “harvest,” and “marketable sweet corn,” and amend the definition of “crop year” by removing the word “(Definitions).”

E. Revise section 2.

F. Amend section 3(a) by removing the words “(Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities)”.

G. Amend section 3(c) by removing the words “(Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities)”.

H. Redesignate section 3 paragraphs (d) and (e) as paragraph (e) and (f), add a new paragraph (d), and revise newly redesignated paragraph (f).

I. Amend section 4 by removing the words “(Contract Changes)”.

J. Amend section 5 by removing the words “(Life of Policy, Cancellation, and Termination)”.

K. Amend section 6 by removing the words “(Report of Acreage)”.

L. Amend section 7 by removing the words “(Annual Premium)”.

M. Amend opening paragraph of section 8 by removing the words “(Insured Crop)”.

N. Revise section 8(c)(3).

O. Revise section 9.

P. Amend opening paragraph in section 10 by removing the words “(Insurance Period)”.

Q. Revise section 10(f).

R. Revise section 11.

S. Amend sections 12(a) and (c) by removing the words “(Replanting Payment)”.

T. Revise section 13.

U. Amend section 14(b)(2) by removing the words (see section 3(d)), and adding in its place “(see section 3(e)).

V. In section 14, revise paragraphs (b)(4)(ii), (b)(5), (c)(1)(iii), (c)(1)(iv), (c)(2) introductory text, (c)(2)(i), and (c)(3). Add new paragraphs (c)(1)(v), (c)(4), and add an example immediately following paragraph (b)(5).

W. In section 16, revise paragraph (b); redesignate current paragraph (c) as (d), and add a new paragraph (c).

The revisions and additions to § 457.129 to read as follows:

**§ 457.129 Fresh market sweet corn crop insurance provisions.**

The fresh market sweet corn crop insurance provisions for the 2008 and succeeding crop years are as follows:

\* \* \* \* \*

1. Definitions.

*Allowable cost.* The dollar amount per container for harvesting, packing, and handling as shown in the Special Provisions.

*Amount of insurance (per acre).* The dollar amount of coverage per acre obtained by multiplying the reference maximum dollar amount shown on the actuarial documents by the coverage level percentage you elect.

*Container.* The unit of measurement for the insured crop as specified in the Special Provisions.

\* \* \* \* \*

*Harvest.* Separation of ears of sweet corn from the plant by hand or machine.

*Marketable sweet corn.* Sweet corn that is sold or grades U.S. No. 1 or better in accordance with the requirements of the United States Standards for Grades of Sweet Corn.

*Minimum Value.* The dollar amount per container shown in the actuarial documents that we will use to value marketable production to count.

*Net value per container.* The dollar value of packed and sold fresh market sweet corn obtained by subtracting the allowable cost and any additional charges specified in the Special Provisions from the gross value per container of sweet corn sold (this result may not be less than zero).

\* \* \* \* \*

2. Unit Division

A basic unit, as defined in section 1 of the Basic Provisions, will also be established for each planting period.

3. Amounts of Insurance and Production Stages

\* \* \* \* \*

(d) If specified in the Special Provisions, we will limit your amount of insurance per acre if you have not produced the minimum amount of production of fresh market sweet corn contained in the Special Provisions in at least one of the most recent three crop years.

\* \* \* \* \*

(f) Any acreage of sweet corn damaged in the first stage to the extent that the majority of producers in the area would not normally further care for it, will be deemed to have been destroyed even though you continue to care for it. The indemnity payable for such acreage will be based on the stage the plants had achieved when the damage occurred.

\* \* \* \* \*

8. Insured Crop

\* \* \* \* \*

(c) \* \* \*

(3) Grown for direct marketing, unless otherwise provided in the Special Provisions or by written agreement.

9. Insurable Acreage

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

(a) Any acreage of sweet corn damaged during the planting period in which initial planting took place must be replanted if:

(1) Less than 75 percent of the plant stand remains;

(2) It is practical to replant; and

(3) If, at the time the crop was damaged, the final day of the planting period has not passed.

(b) Whenever sweet corn initially is planted during the fall or winter planting periods and the final planting date for the planting period has passed, but it is considered practical to replant, you may elect:

(1) To replant such acreage and collect any replant payment due as specified in section 12. The initial planting period coverage will continue for such replanted acreage; or

(2) Not to replant such acreage and receive an indemnity based on the stage of growth the plants had attained at the time of damage. However, such an election will result in the acreage being uninsurable in the subsequent planting period.

10. Insurance Period

\* \* \* \* \*

(f) 100 days after the date of planting or replanting, unless otherwise provided in the Special Provisions.

11. 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 during the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Wildlife;

(4) Volcanic eruption;

(5) Earthquake;

(6) Insects, but not damage due to insufficient or improper application of pest control measures;

(7) Plant disease, but not damage due to insufficient or improper application of disease control measures; or

(8) Failure of the irrigation water supply, if caused by an insured cause of loss that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 of the Basic Provisions, we will not insure against damage or loss due to:

(1) Failure to harvest in a timely manner unless harvest is prevented by one of the insurable causes of loss specified in section 11(a); or

(2) Failure to market the sweet corn unless such failure is due to actual physical damage caused by an insured cause of loss specified in section 11(a) that occurs during the insurance period. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

\* \* \* \* \*

13. Duties In The Event of Damage or Loss

In addition to the requirements contained in section 14 of the Basic Provisions, if you intend to claim an indemnity on any unit:

(a) You also must give us notice not later than 72 hours after the earliest of:  
 (1) The time you discontinue harvest of any acreage on the unit;  
 (2) The date harvest normally would start if any acreage on the unit will not be harvested; or  
 (3) The calendar date for the end of the insurance period.

(b) If insurance is permitted by the Special Provisions or by written agreement on acreage with production that will be sold by direct marketing, you must notify us at least 15 days before any production from any unit will be sold by direct marketing. We will conduct an appraisal that will be used to determine the value of your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal if you notify us that additional damage has occurred. These appraisals, and any acceptable production records provided by you, will be used to determine the value of your production to count.

(c) Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count of not less than the dollar amount of insurance (per acre) for the applicable stage if such failure results in our inability to accurately determine the value of production.

14. Settlement of Claim

\* \* \* \* \*

(b) \* \* \*  
 (4) \* \* \*

(ii) For catastrophic risk protection coverage, the result of multiplying the total value of production to be counted (see section 14(c)) by fifty-five percent; and

(5) Multiplying the result of section 14(b)(4) by your share.

For example:

You have a 100 percent share in 65.3 acres of fresh market sweet corn in the unit (15.0 acres in stage 1 and 50.3 acres in the final stage), with a dollar amount of insurance of \$600 per acre. You are only able to harvest 5,627 containers of sweet corn. The net value of all sweet corn production sold (\$3.11 per container) is greater than the Minimum Value per container (\$2.50). The 5,627 containers sold  $\times$  \$3.11 average net value per container = \$17,500 value of your production to count. Your indemnity would be calculated as follows:

- 1 15.0 acres  $\times$  \$600 amount of insurance = \$9,000 and 50.3 acres  $\times$  \$600 amount of insurance = \$30,180;
- 2 \$9,000  $\times$  .65 (percent for stage 1) = \$5,850 and \$30,180  $\times$  1.00 (percent for final stage) = \$30,180;

- 3 \$5,850 + \$30,180 = \$36,030 amount of insurance for the unit;
- 4 \$36,030 - \$17,500 value of production to count = \$18,530 loss;
- 5 \$18,530  $\times$  100 percent share = \$18,530 indemnity payment.

(c) \* \* \*  
 (1) \* \* \*

(iii) That is damaged solely by uninsured causes;  
 (iv) For which you fail to provide acceptable production records; or  
 (v) From which insurable production is sold by direct marketing and you fail to meet the requirements contained in section 13(b) of these Crop Provisions;

(2) The value of appraised sweet corn production as follows, which will not be less than the dollar amount obtained by multiplying the number of containers of appraised sweet corn by the minimum value per container shown in the actuarial documents for the planting period:

(i) Unharvested marketable sweet corn production (unharvested production that is damaged or defective due to insurable causes and is not marketable will not be counted as production to count unless such production is later harvested and sold);

\* \* \* \* \*

(3) The value of all harvested production of sweet corn from the insurable acreage, except production that is sold by direct marketing as specified in section (c)(4) below:

(i) For sold production, will be the greater of:

(A) The dollar amount obtained by multiplying the total number of containers of sweet corn sold by the minimum value contained in the actuarial documents; or

(B) The dollar amount obtained by multiplying the average net value per container from all sweet corn sold by the total number of containers of sweet corn sold.

(ii) For marketable sweet corn production that is not sold, will be the dollar amount obtained by multiplying the number of containers of such sweet corn by the minimum value shown in the actuarial documents for the planting period. Harvested production that is damaged or defective due to insurable causes and is not marketable will not be counted as production to count unless such production is sold.

(4) If all the requirements of insurability are met, the value of insurable production that is sold by direct marketing will be the greater of:

- (i) The actual value received by you for direct marketed production; or
- (ii) The dollar amount obtained by multiplying the total number of

containers of sweet corn sold by direct marketing by the minimum value per container shown in the actuarial documents.

\* \* \* \* \*

16. Minimum Value Option

\* \* \* \* \*

(b) In lieu of the provisions contained in section 14(c)(3) of these Crop Provisions, the total value of harvested production that is not sold by direct marketing will be determined as follows:

(1) The dollar amount obtained by multiplying the average net value per container from all sweet corn sold by the total number of containers of sweet corn sold (this result may not be less than the minimum value option amount shown in the actuarial documents);

(2) For marketable sweet corn production that is not sold, the value of such production will be the dollar amount obtained by multiplying the total number of containers of such sweet corn by the minimum value shown in the actuarial documents for the planting period. Harvested production that is damaged or defective due to insurable causes and is not marketable will not be included as production to count.

(c) If all the requirements of insurability are met, the value of insurable production that is sold by direct marketing will be the greater of:

(1) The actual value received by you for direct marketed production; or

(2) The dollar amount obtained by multiplying the total number of containers of sweet corn sold by direct marketing by the minimum value per container shown in the actuarial documents.

\* \* \* \* \*

Signed in Washington, DC, on July 21, 2006.

**James Callan,**

*Acting Manager, Federal Crop Insurance Corporation.*

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