

Federal Crop Insurance Corporation, USDA

§401.101

from an insured cause, the insured has decided to no longer care for or harvest any part of the crop.

o. "Late planting agreement"—Available on selected crops. An amendment to the insurance contract which allows an insured whose planting has been delayed, to insure a crop planted after the final planting date in exchange for a reduction in coverage.

p. "Probable loss, notice of"—A written notice required to be filed in the service office whenever an insured believes that the insured crop has been damaged to the extent that a loss is probable (See: Section 8).

q. "Production report"—A written record showing the insured's annual production and used to determine the yield guarantee. (See: Section 4). The report contains previous year yield information including planted acreage and harvested production. This report must be supported by written records from a warehouseman or buyer of the insured crop or by measurement of farm stored production.

r. "Replanting, Notice of completion"—The notice required to be given by the insured to the Corporation when replanting is completed (See: Section 8).

s. "Reporting date"—The acreage reporting date (contained in the Actuarial Table) by which you are required to report all your insurable and uninsurable acreage in the county in which you have a share and your share at the time insurance attaches.

t. "Sales closing date"—The date contained in the actuarial table on file in the respective service office which sets out the final date when an application for insurance may be filed.

u. "Termination date"—The date upon which the Corporation may cancel the insurance policy for non-payment of premium.

(e) Notwithstanding the terms of the crop insurance endorsement and any contract for crop insurance under the provisions of this part, coverage under the terms of such crop insurance endorsement will be effective subject to the availability of appropriations.

[52 FR 28447, July 30, 1987, as amended at 52 FR 36401, Sept. 29, 1987; 53 FR 9099, Mar. 21, 1988; 53 FR 16540, May 10, 1988, and 54 FR 9766, Mar. 8, 1989; 54 FR 20370, May 11, 1989; 55 FR 6972, Feb. 28, 1990; 55 FR 50812, Dec. 11, 1990; 56 FR 13577, Apr. 3, 1991; 61 FR 39050, July 26, 1996; 62 FR 42649, Aug. 8, 1997]

§§ 401.9–401.100 [Reserved]

§ 401.101 Wheat endorsement.

The provisions of the Wheat Crop Insurance Endorsement for the 1988 through the 1994 crop years are as follows:

FEDERAL CROP INSURANCE CORPORATION

Wheat Endorsement

1. Insured Crop

a. The crop insured will be wheat planted for harvest as grain.

b. In addition to the wheat not insurable in section 2 of the general crop insurance policy, we do not insure any wheat:

(1) If the seed has not been mechanically incorporated into the soil;

(2) If the seed is planted where an established grass or legume exists unless we agree, in writing, to insure such wheat; or

(3) Destroyed or put to another use in order to comply with other U.S. Department of Agriculture programs.

2. Causes of Loss

The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

a. Adverse weather conditions;

b. Fire;

c. Insects;

d. Plant disease;

e. Wildlife;

f. Earthquake;

g. Volcanic eruption; or

h. If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

3. Annual Premium

a. The annual premium amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1984 crop year under the terms of the experience table contained in the wheat policy for the 1985 crop year, you will continue to receive the benefit of the reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1991 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

4. Insurance Period

In lieu of the provisions in section 7 of the general crop insurance policy the following will apply:

a. Insurance attaches on each unit or part of a unit when the wheat is planted except that:

(1) In counties with an April 15 cancellation date, insurance will attach on fall-planted wheat on April 16 following planting if it is determined that there is an adequate stand on this date to produce a normal crop;

(2) If you have optional winter coverage in effect, or if optional winter coverage is provided in the county and you purchase such coverage before the winter wheat sales closing date, insurance will attach at the time of planting; or

(3) If optional winter coverage is provided in the county and you fail to purchase such coverage and it is determined that there is an adequate stand on the spring final planting date to produce a normal crop, insurance will attach on the spring final planting date.

b. Insurance ends on each unit at the earliest of:

- (1) Total destruction of the wheat;
- (2) Combining, threshing, harvesting for silage or hay, or removal from the field;
- (3) Final adjustment of a loss; or
- (4) The following dates of the calendar year in which wheat is normally harvested:
 - (a) Alaska, September 25;
 - (b) All other states, October 31.

5. Unit Division

Wheat acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if you agree to pay additional premium as provided by the actuarial table and if for each proposed unit:

a. You maintain written, verifiable records of planted acreage and harvested production for at least the previous crop year and production reports based on those records are filed to obtain an insurance guarantee; and

b. Acreage planted to insured wheat is located in separate, legally identifiable sections (except in Florida) or, in the absence of section descriptions (and in all of Florida), the land is identified by separate ASCS Farm Serial Numbers, provided:

(1) The boundaries of the sections or ASCS Farm Serial Numbers are clearly identified and the insured acreage is easily determined; and

(2) The wheat is planted in such a manner that the planting pattern does not continue into the adjacent section or ASCS Farm Serial Number; or

c. The acreage planted to the insured wheat is located in a single section or ASCS Farm Serial Number and consists of acreage on which both an irrigated and nonirrigated practice are carried out, provided:

(1) Wheat planted on irrigated acreage does not continue into nonirrigated acreage in the same rows or planting pattern; and

(2) Planting, fertilizing and harvesting are carried out in accordance with recognized good dryland and irrigated farming practices for the area.

If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between optional units will cause those units to be combined.

6. Notice of Damage or Loss

a. In addition to the notices required in section 8 of the general crop insurance policy, in case of damage or probable loss you must give us written notice if you want to harvest the wheat for silage or hay. After such notice is given, we will appraise the potential grain production. If we are unable to do so before harvest, you may harvest the crop provided representative samples are left for appraisal purposes. For purposes of this section and section 8 of the general crop insurance policy the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field.

b. A replant payment is available under this endorsement only in those counties where a Wheat Winter Coverage Option is available and only if the insured has elected the Wheat Winter Coverage Option. The replant payment will be the actual cost of replanting not to exceed the lesser of 20 percent of the production guarantee or 3 bushels multiplied by the price election multiplied by your share.

7. Claim for Indemnity

a. The indemnity will be determined on each unit by:

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

(2) Subtracting therefrom the total production of wheat to be counted (see subsection 7.b.);

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

(4) Multiplying this result by your share.

b. The total production (bushels) to be counted for a unit will include all harvested and appraised production.

(1) Mature wheat production which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 13.5 percent; or

(2) Wheat, which due to insurable causes, grades not higher than U.S. No. 5 because of test weight, total damage, or shrunken and broken kernels, or which meets the special grade requirements for "garlicky", "smutty", "light smutty", or "ergoty", (all as graded by a grain grader licensed by the Federal Grain Inspection Service or a licensed

Federal Crop Insurance Corporation, USDA

§ 401.101

grader under the United States Warehouse Act) will be adjusted by:

(a) Dividing the value per bushel of the insured wheat by the price per bushel of U.S. No. 2 wheat which does not grade garlicky, smutty, or ergoty; and

(b) Multiplying the result by the number of bushels of such wheat.

The applicable price for No. 2 wheat will be the local market price on the earlier of the day the loss is adjusted or the day the insured wheat is sold.

(3) Any harvested production from other volunteer plants growing in the wheat will be counted as wheat on a weight basis.

(4) Appraised production to be counted will include:

(a) Potential production lost due to uninsured causes and failure to follow recognized good wheat farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any unharvested production.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of wheat becomes general in the county and is reappraised by us;

(b) Further damaged by an insured cause and is reappraised by us; or

(c) Harvested.

8. Cancellation and Termination Dates

The cancellation and termination dates are:

State and county	Can- cellation date	Ter- mi- nation date
All Alaska Counties except those listed below; Alamosa, Conejos, Costilla, Rio Grande, and Saguache Counties, Colorado; Maine; Minnesota; Daniels, Roosevelt, Sheridan, and Valley Counties, Montana; New Hampshire; North Dakota; Corson, Walworth, Edmunds, Faulk, Spink, Beadle, Jerauld, Aurora, Douglas, and Bon Homme Counties, South Dakota and all South Dakota Counties north and east thereof; Vermont; and Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, and Kewaunee Counties, Wisconsin and all Wisconsin Counties north and west thereof; Big Horn, Fremont, Hot Springs, Park, and Washakie Counties, Wyoming.	Apr. 15	Apr. 15.
All other Colorado Counties except those listed below; all Iowa Counties except those listed below; Kansas; Nebraska; New Mexico; Oklahoma; Texas; all other Wisconsin Counties and all other states except those listed below.	Sept. 30	Sept. 30.

State and county	Can- cellation date	Ter- mi- nation date
Archuleta, Custer, Delta, Dolores, Eagle, Garfield, Grand, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, and San Miguel Counties, Colorado; Connecticut; Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt, Wright, Franklin, Butler, Black Hawk, Buchanan, Delaware, and Dubuque Counties, Iowa and all Iowa Counties north thereof; Massachusetts; all other Montana Counties; New York; Rhode Island; all other South Dakota Counties; and all other Wyoming Counties.	Sept. 30	Nov. 30.
Matanuska-Susitna County, Alaska; Arizona; California; Idaho; Nevada; Oregon; Utah; and Washington.	Oct. 31	Nov. 30.

9. Contract Changes

The date by which contract changes will be available in your service office is December 31 preceding the cancellation date for counties with an April 15 cancellation date and August 15 preceding the cancellation date for all other counties.

10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.e.(4) and 21.o. of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to wheat during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by fifty percent (0.50)

§ 401.101

7 CFR Ch. IV (1-1-01 Edition)

and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 11.(i)). This notice must be given not later than three (3) days after:

(1) The latest wheat final planting date in the county if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For all spring-planted wheat acreage (and fall-planted wheat acreage only where insurance is not offered for spring-planted wheat) which is planted after the final planting date but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the wheat continues after the final planting date, or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting wheat (see subparagraph 11.(i)), you may elect:

(i) To plant wheat during the late planting period. The production guarantee for such acreage will be determined in accordance subparagraph 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be fifty percent (0.50) of the production guarantee for timely planted acres. In counties for which the Actuarial Table designates a spring final planting date, the prevented planting guarantee will be based on your approved yield for spring-

planted wheat. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant wheat after the late planting period. The production guarantee for such acreage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied 0.50). Production to count for such acreage will be determined in accordance with subparagraph 7.b.

(2) In addition to the provisions of section 4 (Insurance Period) of this endorsement, the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for wheat in the county.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to wheat on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(B) The ASCS base acreage for wheat reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to wheat during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under any irrigated practice will be limited to the number of wheat acres properly prepared to carry out an irrigated practice.

(iii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for wheat in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been

left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than wheat, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of wheat acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of wheat on one optional unit and 40 acres of wheat on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more wheat acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to wheat in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date for spring-planted wheat in counties for which the Actuarial Table designates a spring final planting date, or the acreage reporting date for fall-planted wheat in counties for which the Actuarial Table designates a fall final planting date only, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Adequate stand*—a sufficient population of plants to produce at least the yield used to determine the guarantee.

(b) *Days*—calendar days.

(c) *Final planting date*—the date contained in the Actuarial Table by which the insured wheat must initially be planted in order to be insured for the full production guarantee.

(d) *Harvest*—completion of combining, threshing, or cutting for hay or silage on any acreage.

(e) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated wheat acreage.

(f) *Late planted*—acreage planted during the late planting period.

(g) *Late planting period*—(applicable only to spring-planted wheat acreage and fall-planted wheat acreage only where insurance is not offered for spring-planted wheat)—the period which begins the day after the final planting date for wheat and ends twenty-five (25) days after the wheat final planting date.

(h) *Latest wheat final planting date*—

(1) The final planting date for spring-planted wheat in all counties for which the Actuarial Table designates a final planting date for spring-planted wheat only;

(2) The final planting date for fall-planted wheat in all counties for which the Actuarial Table designates a final planting date for fall-planted wheat only; or

(3) The final planting date for spring-planted wheat in all counties for which the Actuarial Table designates final planting dates for both spring-planted and fall-planted wheat.

(i) *Prevented planting*—inability to plant wheat with proper equipment by:

(1) The latest wheat final planting date in the county; or

(2) The end of the late planting period.

You must have been unable to plant wheat due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the latest wheat final planting date in the county or within the late planting period.

(j) *Production guarantee*—the number of bushels determined by multiplying the approved yield per acre by the coverage level percentage you elect.

§ 401.102

7 CFR Ch. IV (1-1-01 Edition)

(k) *Timely planted*—wheat planted by the final planting date, as established by the Actuarial Table, for wheat in the county to be planted for harvest in the crop year.

[52 FR 28447, July 30, 1987, as amended at 53 FR 36781, Sept. 22, 1988; 54 FR 20504, May 12, 1989; 58 FR 33508, June 18, 1993; 58 FR 67631, Dec. 22, 1993; 60 FR 56934, Nov. 13, 1995]

§ 401.102 The winter coverage option for wheat.

The Winter Coverage Option for wheat is available in the following counties and states beginning in the 1988 through 1994 crop years:

SOUTH DAKOTA

Table listing counties in South Dakota: Bennett, Brule, Buffalo, Butte, Stanley, Charles Mix, Custer, Dewey, Fall River, Sully, Gregory, Haakon, Hand, Harding, Todd, Hughes, Hyde, Jackson, Jones, Tripp, Lawrence, Lyman, Meade, Mellette, Ziebach, Pennington, Perkins, Potter, Shannon.

The provisions of the Winter Coverage Option for Wheat for the 1988 through 1994 crop years are as follows:

FEDERAL CROP INSURANCE CORPORATION

Wheat Endorsement—Winter Coverage Option

(This is a continuous Option)

Insured's Name _____
Address _____
Contract No. _____
Crop Year _____
Identification No. _____
SSN _____
Tax _____

In consideration of the additional premium as set by the Actuarial Table (FCI-35), the insurance provided is attached to and made part of the Wheat Endorsement subject to the following terms and conditions:

- 1. You must have a wheat endorsement.
2. Coverage under this option for fall-planted wheat will begin at the time of planting and will end on the spring final planting date for wheat in the county.
3. When there is not an adequate stand on the spring final planting date to produce the farm unit production guarantee, you have the option to:
a. Continue to provide sufficient care for the insured wheat crop through harvest;

- b. Replant all destroyed acreage to a spring variety of wheat and receive a replanting payment in accordance with subsection 9.h. of the general crop insurance policy and subsection 6.b. of the wheat endorsement; or
c. Accept our appraisal of the production to count, destroy the remaining crop on the acreage and be paid any indemnity due under the terms of the general crop insurance policy and the wheat endorsement.

4. In case of damage to the wheat under this option, you must provide us with written notice prior to the spring final planting date for wheat.

Insured's Signature _____
Date _____
Agent's Signature _____
Date _____

Insured's Signature _____
Date _____
Agent's Signature _____
Date _____

[52 FR 28447, July 30, 1987, as amended at 60 FR 56934, Nov. 13, 1995]

§ 401.103 Barley endorsement.

The provisions of the Barley Crop Insurance Endorsement for the 1988 through the 1994 crop years are as follows:

FEDERAL CROP INSURANCE CORPORATION

Barley Endorsement

1. Insured Crop

a. The crop insured will be barley planted for harvest as grain. A mixture of barley with either oats or wheat or both planted for harvest as grain may also be insured if provided by the actuarial table. The production from such mixture will be considered as barley on a weight basis.

b. In addition to the barley not insurable in section 2 of the general crop insurance policy, we do not insure any barley:

- (1) If the seed has not been mechanically incorporated into the soil;
(2) If the seed is planted where an established grass or legume exists unless we agree, in writing, to insure such barley; or
(3) Destroyed or put to another use in order to comply with other U.S. Department of Agriculture programs.

2. Causes of Loss

The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

- a. Adverse weather conditions;
b. Fire;
c. Insects;
d. Plant disease;
e. Wildlife;
f. Earthquake;
g. Volcanic eruption; or