

§ 457.113

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

(2) Harvested production that you deliver as commercial hybrid sorghum seed to the seed company stated in your hybrid sorghum seed processor contract, regardless of quality, unless the production has inadequate germination.

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

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

(1) Commercial hybrid sorghum seed production will be:

(i) Increased 0.12 percent for each 0.1 percentage point of moisture below 13.0 percent; or

(ii) Decreased 0.12 percent for each 0.1 percentage point of moisture in excess of 13.0 percent.

(2) When records of commercial hybrid sorghum seed production provided by the seed company have been adjusted to a basis of 13.0 percent moisture and 56 pound avoirdupois bushels, section 12(f)(1) above will not apply to harvested production. In such cases, records of the seed company will be used to determine the amount of production to count, provided that the moisture and weight of such production are calculated on the same basis as that used to determine the approved yield.

13. Prevented Planting

Your prevented planting coverage will be 60 percent of your amount of insurance for timely planted acreage. If you have limited or additional levels of coverage as specified in 7 CFR part 400, subpart T, and pay an additional premium, you may increase your prevented planting coverage to a level specified in the actuarial documents.

[62 FR 65318, Dec. 12, 1997]

§ 457.113 Coarse grains crop insurance provisions.

The coarse grains crop insurance provisions for the 2003 and succeeding crop years are as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Coarse Grains Crop Provisions

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Catastrophic Risk Protection Endorse-

7 CFR Ch. IV (1-1-03 Edition)

ment, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions with (1) controlling (2), etc.

1. Definitions

Coarse grains— Corn, grain sorghum, and soybeans.

Grain sorghum— The crop defined as sorghum under the United States Grain Standards Act.

Harvest— Combining, threshing, or picking the insured crop for grain, or cutting for hay, silage, or fodder.

Local market price— The cash grain price per bushel for the U.S. No. 2 yellow corn, U.S. No. 2 grain sorghum, or U.S. No. 1 soybeans, offered by buyers in the area in which you normally market the insured crop. The local market price will reflect the maximum limits of quality deficiencies allowable for the U.S. No. 2 grade for yellow corn and grain sorghum, or U.S. No. 1 grade for soybeans. Factors not associated with grading under the Official United States Standards for Grain, including but not limited to protein and oil, will not be considered.

Planted acreage—In addition to the definition contained in the Basic Provisions, coarse grains must initially be planted in rows (corn must be planted in rows far enough apart to permit mechanical cultivation), unless otherwise provided by the Special Provisions, actuarial documents, or by written agreement.

Production guarantee(per acre)—In lieu of the definition contained in the Basic Provisions, the number of bushels (tons for corn insured a silage) determined by multiplying the approved actual production history (APH) yield per acre, calculated in accordance with 7 CFR part 400, subpart G, by the coverage level percentage you elect.

Silage— A product that results from severing the plant from the land and chopping it for the purpose of livestock feed.

Ton— Two thousand (2000) pounds avoirdupois.

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

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8) you may select:

(1) For grain sorghum and soybeans, only one price election for each crop in the county insured under this policy; and

(2) For corn, only one price election for all the corn in the county insured as grain under this policy, and only one price election for all the corn in the county insured as silage under this policy. The price elections you choose for grain and silage must have the same percentage relationship to the maximum price election offered by us for grain

Federal Crop Insurance Corporation, USDA

§ 457.113

and silage. For example, if you choose one hundred percent (100%) of the maximum grain price election and you also insure corn on a silage basis, you must choose one hundred percent (100%) of the maximum silage price election.

(b) For corn only, if you harvest the crop in a manner other than the manner you reported (for example, you reported grain but harvested as silage) and you did not select a price election for the type harvested, we will assign a price election for the type harvested that bears the same percentage relationship to the maximum price election you selected for the type reported (for example, if you selected a grain price election in the amount of eighty percent (80%) of the maximum price election for grain and you did not select a silage price election, we will assign a silage price election in the amount of eighty

percent (80%) of the maximum price election for silage specified in the Special Provisions if you harvest for silage). This assigned price election will be used only to determine the dollar value of production to count for indemnity purposes and will not be used to determine the amount of insurance or premium.

3. Contract Changes

The contract change date is November 30 (December 17 for the 1998 crop year only) preceding the cancellation date (see the provisions of Section 4 (Contract Changes) of the Basic Provisions).

4. Cancellation and Termination Dates

In accordance with section 2 of the Basic Provisions (§457.8), the cancellation and termination dates are:

State and county	Cancellation and termination dates
(a) For corn and grain sorghum: Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson 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 lying south and east thereof to and including Terrell, Crockett, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	February 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; and South Carolina.	February 28.
All other Texas counties and all other states	March 15.
(b) For soybeans: Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, LaSalle, and Dimmit Counties, Texas and all Texas counties lying south thereof.	February 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; and South Carolina; and 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 lying south and east thereof to and including Maverick, Zavala, Frio, Atascosa, Karnes, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	February 28.
All other Texas counties and all other states	March 15.

5. Insured Crop

(a) In accordance with section 8 (Insured Crop) of the Basic Provisions (§457.8), the crop insured will be each coarse grain crop you elect to insure for which premium rates are provided by the actuarial documents:

- (1) In which you have a share;
- (2) That is adapted to the area based on days to maturity and is compatible with agronomic and weather conditions in the area; and
- (3) That is not (unless allowed by the Special Provisions or by written agreement):
 - (i) Interplanted with another crop except as allowed in paragraph 5(b)(1); or
 - (ii) Planted into an established grass or legume.

(b) For corn only, in addition to the provisions of subsection 5(a), the corn crop insured will be all corn that is:

- (1) Planted for harvest either as grain or as silage (see subsection 5(c)). A mixture of corn and sorghum (grain or forage-type) will be insured as corn silage if the sorghum does not constitute more than twenty percent (20%) of the plants;
- (2) Yellow dent or white corn, including mixed yellow and white, waxy or high-lysine corn, and excluding:
 - (i) High-amylose, high-oil, high-protein, flint, flour, Indian, or blue corn, or a variety genetically adapted to provide forage for wildlife or any other open pollinated corn, unless a written agreement allows insurance of such excluded crops.
 - (ii) A variety of corn adapted for silage use only when the corn is reported for insurance as grain.
- (c) For corn only, if the actuarial documents for the county provide a premium rate for:

§457.113

7 CFR Ch. IV (1-1-03 Edition)

(1) Both grain and silage, all insurable acreage will be insured as the type or types reported by you on or before the acreage reporting date;

(2) Grain but not silage, all insurable acreage will be insured as grain unless a written agreement allows insurance on all or a portion of the insurable acreage as silage; or

(3) Silage but not grain, all insurable corn acreage will be insured as silage unless a written agreement allows insurance on all or a portion of the insurable acreage as grain.

(d) For grain sorghum only, in addition to the provisions of subsection 5(a), the grain sorghum crop insured will be all of the grain sorghum in the county:

(1) That is planted for harvest as grain;

(2) That is a combine-type hybrid grain sorghum (grown from hybrid seed); and

(3) That is not a dual-purpose type of grain sorghum (a type used for both grain and forage), unless a written agreement allows insurance of such grain sorghum.

(a) For corn insured as grain:

(1) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof. September 30.

(2) Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Pierce, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom Counties, Washington. October 31.

(3) All other counties and states December 10.

(b) For corn insured as silage:

All states September 30.

(c) For grain sorghum:

(1) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof. September 30.

(2) All other Texas counties and all other states December 10.

(d) For soybeans: All states December 10.

(e) For soybeans only, in addition to the provisions of subsection 5(a), the soybean crop insured will be all of the soybeans in the county that are planted for harvest as beans.

6. Insurable Acreage

In addition to the provisions of section 9 of the Basic Provisions, any acreage of the insured crop damaged before the final planting date, to the extent that a majority of producers in the area would not normally further care for the crop, must be replanted unless we agree that it is not practical to replant.

7. Insurance Period

In accordance with the provisions under section 11 (Insurance Period) of the Basic Provisions (§457.8), the calendar date for the end of the insurance period is the date immediately following planting as follows:

8. Causes of Loss

In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§457.8), insurance is provided only against the following causes of loss which occur within 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 applicable, due to an unavoidable cause of loss occurring within the insurance period.

9. Replanting Payments

(a) In accordance with section 13 of the Basic Provisions, replanting payments for coarse grains are allowed if the coarse grains are 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.

(b) The maximum amount of the replanting payment per acre will be the lesser of twenty percent (20%) of the production guarantee or the number of bushels (tons for corn insured as silage) set out herein, multiplied by your price election multiplied by your insured share or the share determined under 9(c), if applicable. The number of bushels or tons are 8 bushels for corn grain; 1 ton for corn silage; 7 bushels for grain sorghum; and 3 bushels for soybeans.

(c) When more than one person insures the same crop on a share basis, a replanting payment based on the total shares insured by us may be made to the insured person who incurs the total cost of replanting. Payment will be made in this manner only if an agreement exists between the insured persons which:

(1) Requires one person to incur the entire cost of replanting; or

(2) Gives the right to all replanting payments to one person.

(d) When the insured crop is 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 which is attributable to your share. The premium amount will not be reduced.

10. Duties in the Event of Damage or Loss

(a) In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§457.8), if you initially discover damage to any insured crop within 15 days of or during harvest, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 10 feet wide and extend the entire length of each field in the unit, and must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

(b) For any corn unit that has separate dates for the end of the insurance period (grain and silage):

(1) In lieu of paragraph 14.(a)(2) of the Basic Provisions (§457.8), if damage occurs:

(i) Before the earliest end of insurance period date (grain or silage), you must give us notice within 72 hours of your initial discovery of damage (but not later than 15 days after that earliest end of insurance period date); or

(ii) If damage does not occur before the earliest end of insurance period date (grain or silage), but occurs before the latest end of insurance period date (grain or silage), you must give notice within 72 hours of your initial discovery of damage (but not later than 15 days after that latest end of insurance period date).

(2) In lieu of subsection 14.(c) of the Basic Provisions (§457.8), in addition to complying with all other notice requirements, you must submit a claim for indemnity declaring the amount of your loss not later than 60 days after the latest date for the end of insurance period for the unit. This claim must include all the information we require to settle the claim.

11. Settlement of Claim

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

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

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

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

(1) For grain sorghum and soybeans by:

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

(ii) Subtracting from this the total production to count;

(iii) Multiplying the remainder by your price election; and

(iv) Multiplying this result by your share.

(2) For corn by:

(i) Multiplying the insured acreage of each type (grain/silage) by the production guarantee for the applicable type;

(ii) Multiplying each result by the price election for the applicable type;

(iii) Adding these values;

(iv) Multiplying the production to count of each type (see subsection 11(d)) by the price election for that type (see the provisions under section 2 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities));

(v) Adding these dollar values;

(vi) Subtracting the result of step (v) from the result of step (iii); and

(vii) Multiplying the result by your share.

(c) The total production in bushels (tons for corn silage) (see subsection 11(d)) to count from all insurable acreage on the unit will include:

(1) All appraised production as follows:

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

(A) That is abandoned;

(B) Put to another use without our consent;

(C) Damaged solely by uninsured causes; or

(D) For which you fail to provide records of production that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with subsection 11(e)); and

(iv) Potential production on insured acreage you want to put to another use or you wish to abandon and no longer care for, if you and we agree on the appraised amount of production. Upon such agreement the insurance period for that acreage will end if you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will

§ 457.113

7 CFR Ch. IV (1-1-03 Edition)

be used to determine the amount of production to count); or

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

(2) All harvested production from the insurable acreage.

(d) The production to count for corn will be in bushels for grain and in tons for silage as follows:

(1) For harvested acreage, according to the method of harvest; and

(2) For unharvested acreage, according to the information contained on your acreage report;

except as otherwise provided in paragraph 11(c)(1).

(e) Mature coarse grain production (excluding corn insured or harvested as silage) may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable it will be made prior to any adjustment for quality. Corn insured or harvested as silage will be adjusted for excess moisture and quality only as specified in subsection 11(f).

(1) Production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of:

(i) Fifteen percent (15%) for corn (If moisture exceeds 30 percent (30%), production will be reduced 0.2 percent for each 0.1 percentage point above 30 percent (30%));

(ii) Fourteen percent (14%) for grain sorghum; and

(iii) Thirteen percent (13%) for soybeans.

We may obtain samples of the production to determine the moisture content.

(2) Production will be eligible for quality adjustment if:

(i) Deficiencies in quality, in accordance with the Official United States Standards for Grain, result in:

(A) Corn not meeting the grade requirements for U.S. No. 4 (grades U.S. No. 5 or worse) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor;

(B) Grain sorghum not meeting the grade requirements for U.S. No. 4 (grades U.S. Sample grade) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor (except smut odor), or meets the special grade requirements for smutty grain sorghum; or

(C) Soybeans not meeting the grade requirements for U.S. No. 4 (grades U.S. Sample grade) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor (except garlic odor), or which meet the special grade requirements for garlicky soybeans; or

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

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

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is provided under these crop provisions;

(ii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us;

(iii) With regard to deficiencies in quality (except test weight, which may be determined by our loss adjuster), the samples are analyzed by:

(A) A grain grader licensed under the United States Grain Standards Act or the United States Warehouse Act;

(B) A grain grader licensed under State law and employed by a warehouse operator who has a storage agreement with the Commodity Credit Corporation; or

(C) A grain grader not licensed under State law, but who is employed by a warehouse operator who has a commodity storage agreement with the Commodity Credit Corporation and is in compliance with State law regarding warehouses; and

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

(4) Coarse grain production that is eligible for quality adjustment, as specified in paragraphs 11.(e) (2) and (3), will be reduced by the quality adjustment factor contained in the Special Provisions.

(f) For corn insured or harvested as silage:

(1) Whenever our appraisal of grain content is less than 4.5 bushels of grain per ton of silage, the silage production will be reduced by 1 percentage point for each 0.1(1/10) of a bushel less than 4.5 bushels per ton (If we cannot make a grain appraisal before harvest and you do not leave a representative unharvested sample, in accordance with the policy no reduction for grain-deficient silage will be made.); and

(2) If the normal silage harvesting period has ended, or for any acreage harvested as silage or appraised as silage after September 30 of the crop year we may increase the silage production to count to 65 percent (65%) moisture equivalent to reflect the normal moisture content of silage harvested during the normal silage harvesting period.

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

12. Prevented Planting

Your prevented planting coverage will be 60 percent of your production guarantee for timely planted acreage, if you have limited or additional levels of coverage, as specified in 7 CFR part 400, subpart T, and pay an additional premium, you may increase your prevented planting coverage to a level specified in the actuarial documents.

[59 FR 49161, Sept. 27, 1994; 59 FR 60063, Nov. 22, 1994, as amended at 60 FR 62728, 62729, Dec. 7, 1995; 62 FR 63633, Dec. 2, 1997; 62 FR 65168, Dec. 10, 1997; 67 FR 55690, Aug. 30, 2002]

§ 457.114 Nursery crop insurance provisions.

The Nursery Crop Insurance Provisions for the 1999 crop year only are as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Nursery Crop Provisions

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Catastrophic Risk Protection Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions with (1) controlling (2), etc.

1. Definitions

Amount of insurance—The result of multiplying the highest monthly market value reported on the nursery plant inventory summary (including inventory reported by you and accepted by us on a revised nursery plant inventory summary) by .9, multiplied by the percentage for the coverage level you elect.

Brownout—A reduction in electric power that affects the unit.

Crop year—The 12 month period beginning October 1 and extending through September 30 of the next calendar year, designated by the year in which it ends. (The 1996 crop year begins October 1, 1995, and ends September 30, 1996).

Crop year loss deductible—The value calculated by multiplying the highest monthly market value reported on the nursery plant inventory summary by .9 and subtracting from this product the amount of insurance.

Field market value A—Ninety percent (90%) of the wholesale market value for the insured plants in the unit immediately prior to the occurrence of the loss.

Field market value B—Ninety percent (90%) of the wholesale market value remaining for the insurable plants in the unit immediately following the occurrence of the loss as determined by our appraisal conducted as soon as reasonably possible after the loss is reported.

Irrigated practice—In lieu of the definition contained in the Basic Provisions, 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 maintain the amount of insurance on the nursery plant inventory.

Largest dimension—The distance measured at the top of the standard nursery container from one side directly across to the opposite at the widest point.

Monthly loss deductible—The smaller of: (1) The highest monthly market value reported on the nursery plant inventory summary multiplied by .9; or (2) field market value A; multiplied by the number derived by subtracting the coverage level percent from one hundred percent (100%), not to exceed the crop year loss deductible.

Monthly market value—The dollar amount determined by multiplying the quantity of each insurable plant by its wholesale market value for that month, less the maximum discount (stated in dollar terms) granted to any buyer, and totalling the resulting values for all insurable plants in the unit.

Nursery—A business enterprise that produces ornamental plants in standard nursery containers for the wholesale market.

Nursery eligible plant listing—A listing contained in the Actuarial Table that specifies the plants eligible for insurance and any mandatory or recommended storage required for such plants in each hardiness zone defined by the United States Department of Agriculture.

Nursery plant inventory summary—A report that specifies the numbers, growing locations, and wholesale prices of plants included in the nursery inventory.

Standard nursery containers—Rigid containers not less than three (3) inches across the largest dimension at the top of the container, and which are appropriate in size and with proper drainage holes for the plant contained. Grow bags, trays, cellpacks, and burlap are not standard nursery containers under these crop provisions.

Stock plants—Plants used for reproduction, for growing cuttings, for air layering or for propagating.

Wholesale market value—The total dollar valuation of the insurable plants actually contained within the unit at any time. The values used will be based on your wholesale price list if properly supported by your records, less the maximum discount (stated in dollar terms) granted to any buyer.

2. Unit Division

In lieu of the definition of "basic unit" and section 34 of the Basic Provisions, a unit consists of all growing locations in the county within a five mile radius of the named insured locations designated on your nursery