

**Federal Crop Insurance Corporation, USDA**

**§ 457.129**

(B) Put to another use without our consent;

(C) That is damaged solely by uninsured causes; or

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

(ii) Potential production lost due to uninsured causes;

(iii) Unharvested production of mature green and ripe tomatoes remaining after harvest has ended:

(A) With a classification size of 6 x 7 (2<sup>3</sup>/<sub>32</sub> inch minimum diameter) or larger and that would grade eighty-five percent (85%) or better U.S. No. 1 for types other than cherry, roma, or plum; or

(B) That grade in accordance with the requirements specified in the Special Provisions for cherry, roma or plum types.

(iv) Potential production on unharvested acreage and potential production on acreage when final harvest has not been completed;

(v) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

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

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

(2) All harvested production from the insurable acreage:

(i) That is marketed, regardless of grade; and

(ii) That is unmarketed and:

(A) That grades eighty-five percent (85%) or better U.S. No. 1 with a classification size of 6x7 (2-8<sup>3</sup>/<sub>32</sub> inch minimum diameter) or larger for all types except cherry, roma, or plum; or

(B) That grade in accordance with the requirements specified in the Special Provisions for cherry, roma, or plum types.

(d) Only that amount of appraised production that exceeds the difference between the

final stage guarantee and the stage guarantee applicable to the acreage will be production to count.

**14. Late and Prevented Planting**

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

[62 FR 23631, May 1, 1997; 62 FR 33539, June 20, 1997, as amended at 62 FR 65171, Dec. 10, 1997; 63 FR 36157, July 2, 1998; 63 FR 50753, Sept. 23, 1998]

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

The fresh market sweet corn crop insurance provisions for the 1999 and succeeding crop years are as follows:

**FCIC Policies**

**DEPARTMENT OF AGRICULTURE**

**Federal Crop Insurance Corporation**

*Reinsured Policies*

(Appropriate title for insurance provider)  
Both FCIC and Reinsured Policies

*Fresh Market Sweet Corn 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**

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

*Crop year*—In lieu of the definition of “crop year” contained in section 1 (Definitions) of the Basic Provisions (§457.8), crop year is a period of time that begins on the first day of the earliest planting period for fall planted sweet corn and continues through the last day of the insurance period for spring planted sweet corn. The crop year is designated by the calendar year in which spring planted sweet corn is harvested.

*Direct marketing*—Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper or buyer. Examples of direct marketing include selling through an on-farm or roadside stand, farmer’s market, and permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

*Excess rain*—An amount of precipitation sufficient to directly damage the crop.

*Excess wind*—Wind speed strong enough to prevent adequate pollination or cause lodging of stalks and prevent a normal harvest.

**§ 457.129**

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

*Freeze*—The formation of ice in the cells of the plant or its fruit, caused by low air temperatures.

*Harvest*—The picking of sweet corn on the unit.

*Marketable sweet corn*—Sweet corn that meets the standards for grading U.S. No. 1 or better and will withstand normal handling and shipping.

*Plant stand*—The number of live plants per acre prior to the occurrence of an insurable cause of loss.

*Planted acreage*—In addition to the definition contained in the Basic Provisions, for each planting period, sweet corn seed 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.

*Planting period*—The period of time designated in the actuarial documents in which fresh market sweet corn must be planted to be considered fall, winter, or spring-planted sweet corn.

*Potential production*—The number of containers of sweet corn that the sweet corn plants will or would have produced per acre by the end of the insurance period, assuming normal growing conditions and practices.

*Practical to replant*—In lieu of the definition of “Practical to replant” contained in section 1 of the Basic Provisions (§457.8), practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors, including but not limited to moisture availability, condition of the field, marketing windows, and time to crop maturity, that replanting to the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period (inability to obtain seed will not be considered when determining if it is practical to replant).

*Sweet corn*—A type of corn with kernels containing a high percentage of sugar that is

adapted for human consumption as a vegetable.

**2. Unit Division**

(a) A basic unit, as defined in section 1 of the Basic Provisions, will also be divided into additional basic units by planting period.

(b) Provisions in the Basic Provisions that allow optional units by irrigated and non-irrigated practices are not applicable.

**3. Amounts of Insurance and Production Stages**

(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 only one coverage level (and the corresponding amount of insurance designated in the actuarial documents for the applicable planting period and practice) for all the sweet corn in the county insured under this policy.

(b) The amount of insurance you choose for each planting period and practice must have the same percentage relationship to the maximum price offered by us for each planting period and practice. For example, if you choose 100 percent of the maximum amount of insurance for a specific planting period and practice, you must also choose 100 percent of the maximum amount of insurance for all other planting periods and practices.

(c) The production reporting requirements contained in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§457.8), do not apply to fresh market sweet corn.

(d) The amounts of insurance are progressive by stages as follows:

| Stage       | Percent of the amount of insurance per acre that you selected | Length of time   |
|-------------|---|--|
| 1 .....     | 65  | From planting through the beginning of tasseling (which is when the tassel becomes visible above the whorl). |
| Final ..... | 100   | From tasseling until the acreage is harvested.   |

(e) 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. The indemnity payable for such acreage will be based on the stage the plants had achieved when the damage occurred.

**4. Contract Changes**

In accordance with section 4 (Contract Changes) of the Basic Provisions (§457.8), the contract change date shown below is the date preceding the cancellation date:

**Federal Crop Insurance Corporation, USDA**

**§ 457.129**

| State and county   | Date         |
|--|--------------|
| All Florida counties; and all Georgia counties for which the Special Provisions designate a fall planting period.    | April 30.    |
| All Georgia counties for which the Special Provisions do not designate a fall planting period; and all other States. | November 30. |

**5. Cancellation and Termination dates**

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

| State and county  | Cancellation and termination Dates |
|---|------------------------------------|
| Florida; Atkinson, Baker, Berrien, Brantley, Camden, Colquitt, Cook, Early, Mitchell, and Ware Counties Georgia and all counties south thereof for which the Special Provisions designate a fall planting period. | July 31.                           |
| Alabama; South Carolina; and all Georgia Counties for which the Special Provisions do not designate a fall planting period.   | February 15.                       |
| All other States .....  | March 15.                          |

**6. Report of Acreage**

In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions (§457.8), you must report on or before the acreage reporting date contained in the Special Provisions for each planting period, all the acreage of sweet corn in the county insured under this policy in which you have a share.

**7. Annual Premium**

In lieu of the premium amount determinations contained in section 7 (Annual Premium) of the Basic Provisions (§457.8), the annual premium amount for each cultural practice (e.g., fall-planted irrigated) is determined by multiplying the final stage amount of insurance per acre by the premium rate for the cultural practice as established in the Actuarial Table, by the insured acreage, by your share at the time coverage begins, and by any applicable premium adjustment factors contained in the actuarial documents.

**8. Insured Crop**

In accordance with section 8 (Insured Crop) of the Basic Provisions (§457.8), the crop insured will be all the sweet corn in the county for which a premium rate is provided by the actuarial documents:

- (a) In which you have a share;
- (b) That is:
  - (1) Planted to be harvested and sold as fresh market sweet corn;
  - (2) Planted within the planting periods designated in the actuarial documents;

(3) Grown under an irrigated practice, unless otherwise provided in the Special Provisions;

(4) Grown by a person who in at least one of the three previous crop years:

- (i) Grew sweet corn for commercial sale; or
  - (ii) Participated in managing a sweet corn farming operation;
- (c) That is not:
- (1) Interplanted with another crop;
  - (2) Planted into an established grass or legume; or
  - (3) Grown for direct marketing.

**9. Insurable Acreage**

(a) In lieu of the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§457.8), that prohibit insurance attaching if a crop has not been planted in at least one of the three previous crop years, we will insure newly cleared land or former pasture land planted to fresh market sweet corn.

(b) In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§457.8):

(1) You must replant any acreage of sweet corn damaged during the planting period in which initial planting took place whenever less than 75 percent of the plant stand remains: and

- (i) It is practical to replant; and
- (ii) If, at the time the crop was damaged, the final day of the planting period has not passed.

(2) Whenever sweet corn initially is planted during the fall or winter planting periods and the condition specified in section 9(b)(1)(ii) is not satisfied, you may elect:

(i) 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.

(ii) 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**

In lieu of the provisions of section 11 (Insurance Period) of the Basic Provisions (§457.8), coverage begins on each unit or part of a unit the later of the date we accept your application, or when the sweet corn is planted in each planting period. Coverage ends at the earliest of:

- (a) Total destruction of the sweet corn on the unit;
- (b) Abandonment of the sweet corn on the unit;
- (c) The date harvest should have started on the unit on any acreage which will not be harvested;
- (d) Final adjustment of a loss on the unit;
- (e) Final harvest; or

## § 457.129

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

(f) 100 days after the date of planting or replanting.

### 11. Causes of Loss

(a) 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 that occur during the insurance period:

- (1) Excess rain;
- (2) Excess wind;
- (3) Fire;
- (4) Freeze;
- (5) Hail;
- (6) Tornado; or

(7) 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 (Causes of Loss) of the Basic Provisions (§457.8), we will not insure against any loss of production due to:

- (1) Disease or insect infestation, unless no effective control measure exists for such disease or insect infestation; or
- (2) Failure to market the sweet corn, unless such failure is due to actual physical damage caused by an insured cause of loss that occurs during the insurance period.

### 12. Replanting Payments

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions (§457.8), a replanting payment is allowed if, due to an insured cause of loss, more than 25 percent of the plant stand will not produce sweet corn and it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the lesser of your actual cost of replanting or the result obtained by multiplying the per acre replanting payment amount contained in the Special Provisions by your insured share.

(c) In lieu of the provisions contained in section 13 (Replanting Payment) of the Basic Provisions (§457.8), limiting a replanting payment to one each crop year, only one replanting payment will be made for acreage planted during each planting period within the crop year.

### 13. Duties In The Event of Damage or Loss

In addition to the requirements contained in section 14 (Duties In The Event of Damage or Loss) of the Basic Provisions (§457.8), if you intend to claim an indemnity on any unit you also must give us notice not later than 72 hours after the earliest of:

- (a) The time you discontinue harvest of any acreage on the unit;
- (b) The date harvest normally would start if any acreage on the unit will not be harvested; or
- (c) The calendar date for the end of the insurance period.

### 14. Settlement of Claim

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

(1) For any optional unit, we will combine all optional units for which such production records 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 by:

(1) Multiplying the insured acreage in each stage by the amount of insurance per acre for the final stage;

(2) Multiplying each result in section 14(b)(1) by the percentage for the applicable stage (see section 3(d));

(3) Total the results of section 14(b)(2);

(4) Subtracting either of the following values from the result of section 14(b)(3):

(i) For other than catastrophic risk protection coverage, the total value of production to be counted (see section 14(c)); or

(ii) For catastrophic risk protection coverage, the result of multiplying the total value of production to be counted (see section 14(c)) times:

(A) Sixty percent for the 1998 crop year; or

(B) Fifty-five percent for 1999 and subsequent crop years; and

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

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

(1) Not less than the amount of insurance per acre for the stage for any acreage:

(i) That is abandoned;

(ii) Put to another use without our consent;

(iii) That is damaged solely by uninsured causes; or

(iv) For which you fail to provide acceptable production records;

(2) The value of the following appraised production will not be less than the dollar amount obtained by multiplying the number of containers of appraised sweet corn times the minimum value per container shown in the Special Provisions for the planting period:

(i) Unharvested production (unharvested production that is damaged or defective due to insurable causes and is not marketable will not be counted as production to count);

(ii) Production lost due to uninsured causes; and

(iii) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to

another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) We may require you to continue to care for the crop so that a subsequent appraisal may be made or the crop harvested to determine actual production (If we require you to continue to care for the crop and you do not do so, the original appraisal will be used); or

(B) You may elect to continue to care for the crop, in which case the amount of production to count for the acreage will be the harvested production, or our reappraisal if the crop is not harvested.

(3) The total value of all harvested production from the insurable acreage will be the dollar amount obtained by subtracting the allowable cost contained in the Special Provisions from the price received for each container of sweet corn (this result may not be less than the minimum value shown in the Special Provisions for any container of sweet corn), and multiplying this result by the number of containers of sweet corn harvested. Harvested mature sweet corn that is damaged or defective due to insurable causes and is not marketable, will not be counted as production to count.

#### 15. Late and Prevented Planting

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

#### 16. Minimum Value Option

(a) The provisions of this option are continuous and will be attached to and made a part of your insurance policy, if:

(1) You elect the Minimum Value Option on your application, or on a form approved by us, on or before the sales closing date for the initial crop year in which you wish to insure fresh market sweet corn under this option, and pay the additional premium indicated in the actuarial documents for this optional coverage; and

(2) You have not elected coverage under the Catastrophic Risk Protection Endorsement.

(b) In lieu of the provisions contained in section 14(c)(3), the total value of harvested production will be determined as follows:

(1) For sold production, the dollar amount obtained by subtracting the allowable cost contained in the Special Provisions from the price received for each container of sweet corn (this result may not be less than zero for any container of sweet corn), and multiplying this result by the number of containers of sweet corn sold; and

(2) For marketable production that is not sold, the dollar amount obtained by multiplying the number of containers of such sweet corn on the unit by the minimum value shown in the Special Provisions 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).

(c) This option may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding the crop year for which the cancellation of this option is to be effective.

[62 FR 14783, Mar. 28, 1997; 62 FR 26205, May 13, 1997, as amended at 62 FR 65171, Dec. 10, 1997]

### § 457.130 Macadamia tree crop insurance provisions.

The macadamia tree crop insurance provisions for the 1999 and succeeding crop years are as follows:

#### FCIC Policies

##### DEPARTMENT OF AGRICULTURE

##### Federal Crop Insurance Corporation

##### *Reinsured Policies*

(Appropriate title for insurance provider).

Both FCIC and reinsured policies:

##### *Macadamia Tree 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

*Age.* The number of complete 12-month periods that have elapsed since the month the trees were set out or were grafted, whichever is later. Age determination will be made for each unit, or portion thereof, as of January 1 of each crop year.

*Crop year.* A period beginning with the date insurance attaches to the macadamia tree crop extending through December 31 of the same calendar year. The crop year is designated by the calendar year in which insurance attaches.

*Destroyed.* Trees damaged to the extent that we determine replacement, including grafts, is required.

*Good farming practices.* The cultural practices generally in use in the county for the crop to have normal growth and vigor, and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the area.

*Graft.* The uniting of a macadamia shoot to an established macadamia tree rootstock for future production of macadamia nuts.

*Interplanted.* Acreage on which two or more crops are planted in any form of alternating or mixed pattern.