

(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.

Signed in Washington, D.C., on December 5, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 422 and 457

Potato Crop Insurance Regulations; and Common Crop Insurance Regulations, Northern Potato Crop Insurance Provisions, Central and Southern Potato Crop Insurance Provisions, Northern Potato Quality Endorsement Crop Insurance Provisions, Northern Processing Potato Quality Endorsement Crop Insurance Provisions, Certified Seed Potato Endorsement Crop Insurance Provisions, and Northern Potato Storage Endorsement Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes crop provisions for the insurance of potatoes. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The

intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current potato crop insurance regulations with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current potato crop insurance regulations to the 1997 and prior crop years in counties in which the Northern Potato Crop Provisions will be used and to the 1998 and prior crop years in all other states.

EFFECTIVE DATE: December 12, 1997.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget (OMB) under control number 0563-0053.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. The amount of work required of insurance companies will not increase because the information used to determine eligibility is already maintained at their office and the other information required is already being gathered as a result of the present policy. No additional actions are required as a result of this action on the part of either the producer or the reinsured company. Additionally, the regulation does not require any action on the part of the small entities than is required on the part of the large entities. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

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

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 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 No. 12988

This final rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action 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 Environmental Impact Statement is needed.

National Performance Review

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

Background

On Wednesday April 23, 1997, FCIC published a proposed rule in the Federal Register at 62 FR 19691-19701 to add to the Common Crop Insurance Regulations (7 CFR part 457), new sections: 7 CFR 457.142, Northern Potato Crop Insurance Provisions; 7 CFR 457.143, Northern Potato Quality Endorsement Crop Insurance Provisions; 7 CFR 457.144, Northern Processing Potato Quality Endorsement Crop Insurance Provisions; 7 CFR 457.145, Certified Seed Potato Endorsement Crop Insurance Provisions; 7 CFR 457.146, Northern Potato Storage Endorsement Crop Insurance Provisions; and 7 CFR 457.147, Central and Southern Potato Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years in counties in which the Northern Potato Crop Provisions will be used and for the 1999 crop year in all other counties. These provisions will replace and supersede the current provisions for insuring potatoes found at 7 CFR part 422 (Potato Crop Insurance Regulations). FCIC also has amended 7 CFR part 422 to limit its effect to the 1997 and prior crop years in counties in which the Northern Potato Crop Provisions will be used and to the 1998 crop year in all other counties.

Following publication of the proposed rule, the public was afforded 30 days to submit written comments, data, and opinions. A total of 71 comments were received from producer groups, reinsured companies and an insurance service organization. The comments received, and FCIC's responses, are as follows:

Comment: An insurance service organization indicated it had heard the revised Potato Crop Provisions would not be effective in all states for the 1998 crop year, presumably because the Final Rule would not be published by the June 30 contract change date for counties in south Florida. The commentor questioned if it is the intent to defer the Central and Southern Potato Crop Policy in all states, or just those counties with a contract change date before the final rule is published. The commentor also stated it had received comments (for crops in general) that a contract change date of 60 or 90 days before the sales closing/cancellation date does not provide enough time to identify changes, prepare training materials, provide training to staff and agents, notify policyholders and solicit new sales.

Response: FCIC will not implement the Central and Southern Potato Crop

Provisions until the 1999 crop year in all applicable counties. The Northern Potato Crop Provisions and applicable endorsements will be implemented in all applicable counties for the 1998 crop year. The 60 to 90 days before sales closing allows FCIC the opportunity to balance the need of the reinsured company to train and inform the insured, and the needs of FCIC and insured, to have the most recent data to enable FCIC to set rates, price, and other terms of the contract. Therefore, no change will be made.

Comment: A reinsured company recommended delivery of the 1998 loss adjustment manual 90 days prior to the close of sales in order to adequately and correctly advise agents and insureds regarding purchase decisions.

Response: FCIC will make all reasonable efforts to deliver supporting procedural manuals as soon as practicable after the contract change date. However, the loss adjustment manual cannot be finalized until the terms of the policy have been finalized.

Comment: A reinsured company recommended changing either the definition of "certified seed" or section 7 (Insured Crop) to allow insurance to attach to acreage planted with seed that does not meet state certification requirements. The comment cited Idaho Seed Potato Regulations which state that "Idaho growers will only be allowed to plant uncertified potatoes grown by them provided that they are no more than one generation from their own certified parent seed potatoes." Under the definition by the State of Idaho it appears that one generation past the initial certified seed is considered proper. The comment further stated that as long as State rules are followed, it should not matter if the seed is certified by the state or by a private organization.

Response: Redesignated section 6 of the Northern Potato Crop Provision and section 7 of the Central and Southern Potato Crop Provisions allows insurance for acreage that is not planted with certified seed if authorized by the Special Provisions. FCIC's Regional Service Offices (RSO) will fully analyze individual areas to determine whether or not this practice should be allowed and, then, include the authority in the Special Provisions. Although certain private organizations may be able to duplicate State procedures, FCIC believes the most logical way to maintain consistent requirements among producers is to rely on authorized State agencies for the certification process. Therefore, no changes have been made in the provisions.

Comment: A reinsured company and an insurance service organization indicated that cultural practices may exist that are not recognized (or possibly known) by the Cooperative State Research, Education and Extension Service. The comments indicated that the definition of "Good farming practices" is too restrictive since it limits acceptable farming practices to those recognized by the Cooperative State Research, Education, and Extension Service. The comments also suggested changing the last word of the definition from "county" to "area."

Response: FCIC believes that the Cooperative State Research, Education, and Extension Service (CSREES) recognizes farming practices that are considered acceptable for producing potatoes. If a producer is following practices currently not recognized as acceptable by the CSREES, there is no reason why such recognition from CSREES cannot be sought by interested parties. The term "area" is more ambiguous than the term "county" and would allow more subjective determination, and less consistent application of the provision. No substantial change has been made in the definition. However, the definition has been moved to the Basic Provisions since it is applicable to most crops.

Comment: An insurance service organization suggested the definition of "harvest" in the Northern and Central and Southern Crop Provisions be clarified to indicate if it means removing potatoes from the field or lifting them to the soil surface.

Response: The definition has been clarified to indicate that acreage will be considered to be harvested when potatoes are lifted to the soil surface.

Comment: A reinsured company suggested adding the words "and quality" after the words "providing the quantity" in the definition of "Irrigated practice" in the Northern and Central and Southern Potato Crop Insurance Provisions.

Response: FCIC agrees that water quality is an important issue. However, since no standards or procedures have been developed to measure water quality for insurance purposes, quality cannot be included in the definition. No substantial change has been made in the definition. However, the definition has been moved to the Basic Provisions since it is applicable to most crops.

Comment: An insurance service organization recommended the term "late blight" be defined.

Response: Late blight is a term commonly used in the potato industry and referenced in the U.S. Standards for Grades of Potatoes which are

incorporated herein by reference. Therefore, it is not necessary to define the term in the Crop Provisions.

Comment: An insurance service organization indicated that the definition of "marketable lot" contained in the Central and Southern Crop Provisions describes a "lot" and recommended the definition be changed to distinguish it as a "marketable lot." For the definition to be useful, it should specify that the production is saleable or grades U.S. No. 2 or better so the grade standard would be understood in all the references to "marketable lots" in section 12(e).

Response: The requirements of marketability are clearly stated in section 12(e) of the Central and Southern Crop Provisions. However, FCIC agrees that the definition contained in the proposed rule describes a "lot" rather than a "marketable lot" and has revised the section to define the term "lot."

Comment: An insurance service organization suggested clarifying the definition of "Practical to replant" in the Northern and Central and Southern Crop Insurance Provisions by changing the punctuation.

Response: FCIC has clarified the definition by changing some of the punctuation. The definition has also been moved to the Basic Provisions since it is applicable to most crops.

Comment: A reinsured company suggested revising the definition of "replanting" in the Northern and Central and Southern Crop Provisions by replacing the wording ". . . replace the potato seed and then replacing the potato seed . . ." with ". . . planting the potato seed and then replanting the potato seed . . ."

Response: The first reference to "replace the potato seed" refers to preparation of the land, not planting. No substantial change has been made in the definition. However, the definition has been moved to the Basic Provisions since it is applicable to most crops.

Comment: An insurance service organization recommended clarifying the definition of "replanting" by specifying the crop name as follows: ". . . with the expectation of growing a successful potato crop."

Response: FCIC has revised the definition of "replanting" to clarify a "successful crop" to mean at least the approved yield for the unit. The definition also has been moved to the Basic Provisions since it is applicable to most crops.

Comment: A reinsured company and a producer organization opposed the provisions in sections 3 (b) and (c) of the Northern and Central and Southern

Crop Provisions that reduce the price election for unharvested acreage. In addition, an insurance service organization had two comments from its members favoring, and two opposing, these provisions. The opposing comments indicated that the unharvested reduction provision was removed from the peanut policy and is being considered for removal from the tobacco policy. Adding it to potatoes would appear to discriminate against potato producers who are unable to harvest due to insured causes. The opposing comments also indicated that the reduced coverage would: (1) Be hard to "sell" and explain to insureds; (2) make settlement of claims more difficult; (3) be inappropriate when damage occurs just prior to harvest because the insured has incurred most normal input costs; (4) encourage insureds to harvest damaged potatoes that have no value just to collect 100 percent of the price election; and (5) be unfair to producers with multi-unit policies because, when freeze damage occurs near the end of the harvest season, several fields have already been harvested and the costs have already been incurred for the entire crop. Producers with multi-unit policies pay a 10 percent surcharge for the added protection. Therefore, 100 percent coverage is only fair. Because of the objections received from its members, the insurance service organization recommended further study or a more detailed explanation be provided.

Response: Prior to this rule, FCIC's price elections have not included harvesting costs. This means that producers have paid less premium than otherwise would have been owed. However, any loss from harvested acres has been indemnified at that lower expected market price. The Federal Crop Insurance Act authorizes FCIC to reduce the payment to producers for acreage that is not harvested or for other costs that are not incurred if the crop is lost prior to harvest. FCIC has exercised its authority to build harvesting costs into the price election but only reduce the price for those producers who do not incur harvesting costs. The price election reduction is limited to those costs associated with harvest. If the producer has already begun harvest before the cause of loss occurred that caused the discontinuance of harvest, and the producer can prove that harvesting costs have already been incurred, no reduction will occur. The change means that producers who harvest their potatoes will receive a higher price election. However, this higher price election will result in

higher premiums than in the past. Section 3 has been redesignated as section 2 in the Northern Potato Crop Provisions.

Comment: A reinsured company requested that section 3(c) of the Northern and Central and Southern Crop Provisions be clarified.

Response: FCIC has clarified the provisions in redesignated section 2(c) of the Northern Potato Crop Provisions and section 3(c) of the Central and Southern Crop Provisions.

Comment: A reinsured company asked two questions regarding the following provision contained in section 3(c) of the Northern and Central and Southern Crop Provisions.

(a) If the potatoes freeze before the end of the insurance period, is the claim settled by: (1) Using an appraisal at the 80 percent price election or (2) allowing the frozen potatoes to be taken to harvest, use the production to count, and then apply the 80 percent price election?

(b) If the potatoes have 12 percent wet breakdown, a 100 percent loss would be paid if production is discarded within seven days of harvest. Will the indemnity be based on the 80 percent unharvested price if the neighbors would have destroyed similar production but did not do so because they didn't have that problem?

The comment also recommended that the 80 percent price apply only when none of the acreage in a unit could be harvested because, once harvest on a unit has begun, the producer will have incurred costs regardless of the amount of acreage harvested.

Response: This provision is intended to recognize reduced input costs when potatoes are not harvested. Therefore, in the event that freeze damage is severe, and a majority of producers would not further care for the crop, the insurance provider should determine the amount of production to count in accordance with applicable procedures, and settle the claim using 80 percent of the elected price. If similarly situated producers in the area would continue to care for the crop, and the producer elects to continue to care for and harvests the crop, the insurance provider should determine the amount of production to count and settle the claim using 100 percent of the elected price. FCIC will only allow the 100 percent price to be used if the producer has adequate proof that he has already incurred and paid the harvesting costs. A provision has been added to allow the apportionment of acreage within a unit as harvested and unharvested and only unharvested acreage will have the price election reduced. Section 3 has been

redesignated as section 2 in the Northern Potato Crop Provisions.

Comment: A reinsured company suggested clarifying section 8(b) of the Northern and Southern and Central Potato Crop Provisions.

Response: FCIC has clarified the provision in redesignated section 7(b) of the Northern Potato Crop Provisions and section 8(b) of the Central and Southern Crop Provisions.

Comment: A producer group recommended changing the date after which frost/freezing would no longer be covered in Minnesota and North Dakota from September 30 to October 15. This is referenced in section 10(b)(2) of the Northern Potato Crop Provisions, but the actual date is contained in the Special Provisions.

Response: The Crop Provisions have been written to permit these dates to vary based on weather patterns and growing conditions. Data collected thus far by FCIC supports the current date of September 30. However, FCIC will review any additional information that can be provided. No changes can be made until such data are received and analyzed. Section 10 has been redesignated as section 9 in the Northern Potato Crop Provisions.

Comment: An insurance service organization indicated that the calculation sequence in section 12(b)(1)–(7) of the Northern Potato and Central and Southern Potato Crop Provisions is difficult to follow because it is so wordy. It seems unnecessary to refer to the previous item by number as if it were on another page.

Response: Since some of the calculations involved are not performed in sequential order, it is necessary to refer to specific section numbers. Removal of the section references would make the provisions less clear. However, an example has been added for clarity to redesignated section 11 of the Northern Potato Crop Provisions.

Comment: A reinsured company stated that new quality adjustment provisions contained in section 12 of the Northern Potato Crop Provisions would increase the amount of work required of insurance providers and greatly increase loss adjustment expense. The comment indicated that the policy is complex, contrary to simplification efforts, and that previous regulations and procedures did not require grading or adjustment to the amount of production to count when less than 5 percent of the insured production had soft rot, wet breakdown or freeze damage.

Response: The previous potato policy (without the Frost/Freeze Option) and related procedures also provided for

reductions in the amount of production to count when production had any amount of soft rot, wet breakdown, or freeze damage. Previous provisions and procedures also required grading of the production to determine appropriate reductions in the amount of production to count. The only changes in these provisions are in the adjustment factors which do not change the requirement to grade damaged production or to adjust to the amount of production to count. Therefore, FCIC does not agree that additional work or expense will be incurred as a result of the changes, and no change will be made. Section 12 has been redesignated as section 11 in the Northern Potato Crop Provisions.

Comment: An insurance service organization recommended clarification of “marketable lot” as used in section 12(e) of the Central and Southern Potato Crop Provisions. As written, it seems somewhat unclear whether all marketable lots must grade U.S. No. 2 or better, or only in certain cases, such as unsold harvested or appraised production in 12(e)(1)(iv).

Response: FCIC agrees that the provisions can be clarified and has revised section 12(e) to clearly indicate that any lot of potatoes that is stored, sold for seed, sold for human consumption, etc. will be considered to be a marketable lot.

Comment: An insurance service organization received one comment asking why, if quality adjustment has been incorporated in section 12(e) through (g) of the Northern Potato Crop Provisions, the options remain separate at the end of the proposed rule. As written, there is a lot of unnecessary duplication. The commenter would prefer to see the quality adjustment information included in the Crop Provisions and eliminate the need for endorsements and the resulting complications.

Response: Quality adjustment for tuber rot and freeze damage has been incorporated into the base coverage in redesignated section 11 of the Northern Crop Provisions. However, coverage for other types of quality losses (e.g. internal and external defects) are not included in the Crop Provisions because many producers do not wish to pay the premium amounts associated with these types of quality losses. Although some redundancy and complication results, FCIC believes that the endorsements are the best way to provide coverage for certain quality deficiencies. Without the endorsements, coverage of internal and external defects would not be available, or, if made a part of the base coverage, would require substantial premium

increases for all insureds. Therefore, no change will be made.

Comment: An insurance service organization recommended using the defined term “discarded” instead of “disposed of” in section 12(d)(1)(i)(D) of the Northern Potato and Central and Southern Potato Crop Provisions.

Response: “Discarded” is defined in the policy as disposing of production by the insured, or a person acting for the insured, without received any value for it. The term “disposed of” in redesignated section 11(d)(1)(i)(D) of the Northern Potato Crop Provisions and section 12(d)(1)(i)(D) of the Central and Southern Crop Provisions refers to any disposition, including selling the production and a definition for it has been added. Therefore, the term “discarded” cannot be used as recommended.

Comment: A reinsured company and an insurance service organization commented that subsection 12(d)(1)(iii) of the Northern and Central and Southern Crop Provisions, which requires an increase in the amount of production to count when harvest takes place prior to full maturity, will be difficult to administer. Insurance providers would be required to track harvested acreage on a daily basis in order to apply proper percentages. This would increase in complexity if multiple units, with multiple planting dates, were being harvested simultaneously. This adjustment is extremely subjective, which opens the insurance provider’s decisions to questioning and does serious harm to the policy. Also, new tracking requirements will increase loss adjustment expense. Another reinsured company concurred with the additional production to count for potatoes harvested prior to full maturity, but recommended that a date for full maturity be established by area and variety. Fifty days prior to the calendar date for the end of the insurance period was recommended for most areas. The insurance service organization asked how and when will the “normal number of days to full maturity” be determined, and by whom and whether this will vary each year depending on favorable or adverse weather conditions. The comment indicated that, if the date is not allowed to vary from year to year, the adjustment could apply even though all the production in a given area matures earlier than normal.

Response: This provision, redesignated section 11(d)(1)(iii) of the Northern Potato Crop provisions and section 12(d)(1)(iii) of the Central and Southern Crop Provisions, is intended to take into account reduced production

that is a result of harvest for the "new" or "B" potato market, for which small potatoes are required. FCIC agrees that this provision adds some complexity to the loss adjustment process. However, previous provisions did not provide any consistent method of adjustment when potatoes were harvested prior to full maturity. To lessen the administrative complications associated with this adjustment, FCIC has changed the provision to specify that full maturity will be presumed to have been reached 45 days prior to the calendar date for the end of the insurance period unless specified otherwise in the Special Provisions.

Comment: An insurance service organization is concerned that section 12(d)(1)(v) of the Northern Potato and Central and Southern Potato Crop Provisions allows insureds to defer the settlement of a claim. The policy should not allow the insured to defer settlement and wait for a later, generally lower, appraisal, especially on crops that have a short "shelf life."

Response: This provision allows deferment of a claim only if the insurance provider agrees that representative samples can be left or if the insured elects to continue to care for the entire crop. In either case, if the insured does not provide sufficient care for the remaining crop samples, the original appraisal will be used. Therefore, no changes have been made. Section 12 has been redesignated as section 11 in the Northern Potato Crop Provisions.

Comment: An insurance service organization stated section 12(d)(1)(v)(A) of the Northern and Central and Southern Potato Crop Provisions should not refer to "stage guarantee" since there are no stages in this policy, only a price reduction for unharvested acreage.

Response: FCIC agrees and has corrected the provisions in redesignated section 11(d)(1)(v)(A) of the Northern Potato Crop Provisions and section 12(d)(1)(v)(A) of the Central and Southern Crop Provisions.

Comment: An insurance service organization asked if premium will be increased to compensate for the additional risk of adding quality adjustment for freeze damage to the Northern Crop Provisions.

Response: All changes in coverage, including the addition of new freeze damage adjustment provisions, will be considered when premium rates are established.

Comment: An insurance service organization recommended combining sections 12(e)(1) and (2) since they are so similar. Combining the provisions

will avoid having to list the types of covered damage twice and reduce the chance of misinterpretation.

Response: FCIC agrees with the comment and has combined the provisions in redesignated section 11(e) of the Northern Potato Crop Provisions and section 12(e) of the Central and Southern Crop Provisions.

Comment: A reinsured company, an insurance service organization, and a producer group indicated that, in many situations, it will not be possible to determine percentages of damage or to complete grade inspections by the end of the insurance period as section 12(e)(3) of the Northern Potato Crop Provisions and the definition of "grade inspection" in the Northern and Central and Southern Potato Crop Provisions require. Producers may harvest potatoes near the end of the insurance period and, depending on the amount of potatoes in an area that require grading, it may be two to three weeks before grading of samples can be completed.

Response: FCIC agrees that the actual percentage of damage may not be obtainable prior to the end of the insurance period in all situations. Therefore, the definition of "grade inspection" in the Northern and Central and Southern Crop Provisions has been changed to require that samples of production be obtained prior to the sale, storage, or disposal of the potatoes, and to allow the actual grading of the samples to take place at a later time. Redesignated section 11(c) of the Northern Potato Crop Provisions and section 12(c) of the Central and Southern Potato Crop Provisions has also been changed to indicate that the extent of any loss, including quality adjustments, must be determined based on samples obtained no later than the time the potatoes are placed in storage, if the production is stored prior to sale, or the date it is delivered to a buyer, wholesaler, packer, broker, or other handler if it is not stored. Section 12(e)(3) of the Northern Potato Crop Provisions has been deleted.

Comment: An insurance service organization suggested changing the language in section 12(f), 12(g)(1) and 12(g)(2)(ii)(B)(1) of Northern Crop provisions from "will be adjusted 0.1 percent for each 0.1 percent of damage through 5 percent" to "will be adjusted by the same percentage" so the reader doesn't have to puzzle through the calculation to figure out that 4.5 percent damage means a 4.5 percent adjustment. Also, the existing frost/freeze potato option reduces production to count in 5 percent increments for damage from 6 percent to 20 percent. Changing this to increments of a tenth of a percent for

each tenth of a percent damage is more complicated, and indicates an unrealistic degree of precision.

Response: The use of the language "0.1 percent for each 0.1 percent of damage" is necessary to avoid any ambiguity. Further, the use of 0.1 percent increments is intended to make these determinations more accurate and should not substantially complicate the calculations. Therefore, no changes have been made.

Comment: An insurance service organization indicated that the language in section 12(g)(2) (i), (ii) & (iii) of the Northern Potato Crop Provisions is very complicated and difficult to follow and suggested that a chart might be developed to assist in understanding.

Response: Section 12(g)(2)(i) (redesignated 11(g)(2)(i)) indicates that the price received for damaged production is divided by a price election to obtain an adjustment factor. Including this information in a chart will not improve clarity. Redesignated sections 11(g)(2) (ii) and (iii) indicate that 0.1 percent damage results in a 0.1 percent reduction in the amount of production to count, that 0.2 percent damage results in a 0.2 percent reduction, etc. A chart indicating all damage amounts in 0.1 percent increments would be extremely repetitive, result in additional policy pages, and not improve understanding. Therefore, no change has been made.

Comment: An insurance service organization and a reinsured company are concerned with moral hazards, because in section 12(g)(2) of the Northern Crop Provisions, there is a different method of adjustment for production that is sold or discarded within 7 days and production that remains in storage 8 days or more. The comments indicated that a producer's production could have 11 percent damage which would result in zero production to count if it is kept more than 7 days, but, if it is sold immediately, a salvage value would count against the guarantee. The commenters also asked whether there is a way to recover some salvage value instead of showing zero production to count if production with more than 11 percent damage is sold and processed and whether the loss adjustment procedure provides a way to restrict any indemnity to the damaged acreage for a unit which includes four separate fields, and only one was damaged enough to result in significant damage for the whole unit.

Response: FCIC agrees that a salvage value should be counted when an insured elects to keep and use the damaged crop for feed, starch, etc. and

has changed redesignated section 11(g)(2)(ii)(B) so that a minimum of 15 percent of the production will be production to count in such instances. This amount is consistent with the value that is normally received for potatoes that are sold for cattle feed, starch, or other salvage uses. When only one field of a unit is damaged, the production from that field will be adjusted in accordance with the policy provisions, just as it would be for other insured crops. If that amount of damage reduces the production to count below the guarantee for the unit, an indemnity will be paid.

Comment: A reinsured company recommended retaining current procedures that allow a 60 day period to determine the disposition of potatoes with 5 percent or more tuber rot. If the producer can sell the potatoes within 60 days of harvest, the salvage value should be used to determine the loss. Also, physiological disorders such as hollow heart, leaf roll, etc., should be covered in the same manner as pathological diseases (tuber rot, soft rot, late blight, etc.)

Response: FCIC agrees that 60 days is an appropriate time period to allow for disposition of potatoes with tuber rot. However, many producers do not wish to pay the additional premium associated with the storage endorsement 60 day period. Also, many producers have indicated that they do not want to pay the additional premium associated with coverage for hollow heart and other defects. FCIC has elected to provide coverage for both of these circumstances via optional endorsements. Therefore, no changes have been made.

Comment: A reinsured company stated that section 12(g) of the Northern Crop Provisions does not indicate how to determine the amount of production to count when production has a combination of freeze and soft rot. The comment suggested determining freeze damage and tuber rot separately and using the one that yields the least production to count.

Response: FCIC agrees that a provision is needed to specify how a combination of freeze and tuber rot damage will be adjusted. However, considering only the type of damage that results in the least amount of production to count could result in the insurance provider ignoring what may be a significant amount of either freeze or tuber rot damage. Redesignated section 11(h) has been added to specify how production with more than one type of damage will be adjusted.

Comment: A reinsured company suggested that the language in section

12(g)(2)(i) of the Northern Potato Crop Provisions, 4(a)(1) of the Northern Potato Quality Endorsement, 6(a)(1)(i) of the Northern Potato Processing Quality Endorsement and 6(a) of the Northern Potato Storage Endorsement be strengthened to further define "sold" as the "date of sale" without regard to subsequent delivery or storage.

Response: Since only referring to the amount of sold production; subsequent delivery or storage is not relevant. The provisions have been clarified accordingly.

Comment: A reinsured company indicated that the 7 day time period provided in section 12(g)(2)(i) of the Northern Potato Crop Provisions, section 4(a)(1) of the Northern Potato Quality Endorsement, and section 6(a)(1)(i) of the Northern Potato Processing Quality Endorsement to sell damaged production is not long enough. The grading process often takes two or three weeks to complete and the percent damage cannot be determined until the production is graded.

Response: FCIC agrees that a longer time period is necessary and has changed the relevant provisions to reflect a time period of 21 days.

Comment: A reinsured company recommended changing section 12(g)(2)(i) of the Northern Potato Crop Provisions, and section 4(a)(1) of the Northern Potato Quality Endorsement, so that the value of damaged production is compared to the producer's price election rather than the highest price election available.

Response: This provision is intended to compare the relative value of the damaged production to the value of undamaged production. If the elected prices were used, insureds with different price election percentages could have different amounts of production to count even though they had the same amount of production and crop value. Therefore, no change has been made.

Comment: A reinsured company recommended that the salvage value provision (section 12(g)(2)(i)) applicable to production with soft rot, wet breakdown or other tuber rot condition also be applicable to product damaged by freeze.

Response: It would not be appropriate to allow potatoes with low levels of freeze damage (e.g., 5.1 percent) to be adjusted based on value, especially in years when the market value is low. Freeze damaged production, if handled correctly, can often be stored for long periods of time, sorted, and sold at full market value. In contrast, production with soft rot levels above 5 percent is much more difficult to store, sort and

sell and often must be sold soon after harvest at a much reduced price. Therefore, the suggested change has not been made. However, FCIC has determined that some salvage value should be counted when an insured elects to keep damaged production and has changed redesignated section 11(g)(1) so that a minimum of 15 percent of production is counted in such instances.

Comment: A reinsured company suggested the word "with" be inserted between "accordance" and "section" in section 12(g)(2)(iii) of the Northern Potato Crop Insurance Provisions.

Response: The provision in redesignated section 11(g)(2)(iii) has been revised accordingly.

Comment: A reinsured company suggested that "human consumption" be spelled out in the Northern Potato Crop Provisions. The commenter stated human consumption defines that potatoes are grown for consumption by human beings and any potato crop not qualifying for human consumption is a total loss; and there should be no production to count if such potatoes are harvested. Counting production may encourage a producer to leave potatoes in the soil and this is simply a poor farming practice.

Response: Potato production may be adjusted for quality deficiencies regardless of whether or not it is harvested. Production will be considered as production to count if it could have been fit for human consumption, not only if it was used or sold for human consumption. Therefore, no changes have been made.

Comment: A reinsured company asked whether the Late Planting Agreement Option is no longer available and why late and prevented planting provisions were not included as they have been in other crops.

Response: Late and prevented planting provisions will be included in the Basic Provisions and will apply to potatoes. Section 12 of the Northern Potato Crop Provisions and section 13 of the Central and Southern Crop Provisions indicate the available prevented planting coverage level percentages.

Comment: An insurance service organization and a reinsured company suggested changing section 13(d) of the Northern and Central and Southern Crop Provisions to allow written agreements to be valid for more than one year. Some written unit agreements are continuous unless there are significant changes in the farming operation and some other written agreements should also be continuous.

Response: Written agreements are intended to permit insurance coverage to be available in unusual or previously unknown situations. If the situation exists from year to year, it should be incorporated into the crop provisions or Special Provisions. It is important to minimize exceptions to the policy to ensure that the insured is well aware of the specific terms of the policy. The written agreement provisions have been moved to the Basic Provisions since they apply to most crops.

Comment: An insurance service organization asked, with respect to the proposed endorsements to the Northern Crop Provisions, whether the provisions will be printed continuously so that the endorsements are after the written agreement provisions, or whether separate pages will be printed to be inserted with the Crop Provisions when chosen. The latter is preferable to ensure policy holders don't think the endorsements automatically apply. The commenter also asked whether FCIC would authorize the insurance service organization to add a statement before the endorsements clarifying they only apply if elected by the insured.

Response: Each endorsement is a separate document and should be included in an insured's policy package only when elected. Provisions in each endorsement clearly state that additional premium is necessary and that the additional coverage must be elected on or before the sales closing date. An additional clarifying statement is not necessary. Therefore, no change will be made.

Comment: An insurance service organization asked if the Northern Potato Quality Endorsement rates would be impacted since frost/freeze coverage is now a part of the basic potato policy.

Response: Freeze damage was previously covered under the Quality Option. Removal of this coverage will be considered when establishing premium rates for the new Northern Quality Endorsement.

Comment: Two reinsured companies, an insurance service organization, and a producer group disagreed with the removal of provisions in the Northern Quality Endorsement that allow adjustment based on U.S. No. 1 quality standards and that allow insureds to base their own proven historical percentage of U.S. No. 1's or 2's. The commenter stated that a producer who can prove better quality percentages than the county average should be able to do so. The commenter further indicated that adjustment based on U.S. No. 1 standards should be provided by the policy, not just if allowed by the actuarial documents or Special

Provisions, and that if adjustment based on U.S. No. 1 standards is not allowed, or if there is no quality endorsement for seed producers, the new proposal may be abused.

Response: Quality adjustment based U.S. No. 1 standards will remain available, as will the ability of producers to certify historical quality percentages. Provisions previously used to indicate that this method of establishing a percentage factor have been added (see section 9 of the Northern Quality Endorsement). FCIC does not agree that potatoes grown for seed should be eligible for coverage under the Quality Endorsement. Seed producers often utilize production practices designed to produce small tubers. Therefore, in many instances, U.S. size standards are intentionally not achieved. FCIC also does not agree that quality adjustment based on the U.S. No. 1 grade should be available in all instances. Such coverage should not be made available universally without first determining that adequate rating information is available for all counties in which potato insurance is offered.

Comment: A reinsured company asked with respect to coverage under the Northern Quality Endorsement, whether there will be only one "default" percentage factor per county; whether a producer with good history will be able to "prove up" an average quality factor; and whether a quality data base will be maintained and, if so, will there be cups and caps.

Response: More than one percentage factor will apply in counties where coverage based on either U.S. No. 1 or 2 is available, or where separate percentage factors are specified by potato type. Producers will be able to certify, subject to verification, past records of percentages of potatoes meeting applicable standards to establish the factor.

Comment: Comments were received regarding section 4(a) of the Northern Potato Crop Insurance Quality Endorsement. A reinsured company indicated that the section requires insurance providers to decide whether or not potatoes with internal defects can be separated from undamaged production using methods normally used by potato packers or processors. As new separation methods are developed, determination of "methods normally used" becomes more and more subjective. A producer group disagreed with the provisions because equipment used to sort internal defects is not normally available to potato producers during harvest and such defects should be graded according to the United States

Standards for Grades of Potatoes (either U.S. 1 or 2 as applicable).

Response: Although producers generally do not have the equipment needed to sort internal defects, it is quite common for packers and processors to have the equipment needed to sort such defects. It would be inappropriate for the insurance provider to pay a total or near total loss for production that is later sorted and sold at full value. Therefore, no changes have been made. FCIC agrees that the use of new technology varies among packers and processors, and that it would be difficult to administer a provision that requires the reinsured company to be familiar with all methods. The provision has been changed to indicate that the potatoes with internal defects must not be separable from undamaged production by methods used by the potato packers or processors to which the insured person normally delivers production.

Comment: A reinsured company asked for clarification regarding language in section 4(a) of the Northern Potato Crop Insurance Quality Endorsement that indicates internal defects must exceed the tolerance allowed for a certain U.S. grade. The U.S. grade standards contain a 6 percent tolerance. However, in another section ("Application of Tolerances"), the standards indicate that individual samples cannot have more than double the specified tolerance amount.

Response: The individual samples referred to in the Application of Tolerances are individual samples of a lot that has been prepared for shipping (bagged, boxed, etc.). The average of all samples from the lot cannot exceed the overall limits, but any of the samples may contain defects exceeding the limit. Section 4(a) specifies that tolerances are on a lot basis, not an individual sample basis.

Comment: An insurance service organization suggested editorial changes in section 4 of the Northern Quality Endorsement and section 6 of the Northern Processing Quality Endorsement. The comment indicated that, as proposed, the phrase ". . . and contains potatoes that grade less than U.S. No. 2 due to" and subsequent items (a)-(b)(3) could be read as applying only to item (3) "that is marketed after a grade inspection," and not to items (1) or (2). If this is not the intent, it would help to insert a semicolon before this phrase and change "and" to "that" to separate it from (3).

Response: FCIC agrees and has made the recommended changes.

Comment: An insurance service organization suggested defining "lot" in

section 4(a) of the Northern Potato Quality Endorsement since reference is made to "lot basis" and it is not defined in the Northern Potato Crop Provisions.

Response: FCIC has revised the defined term "marketable lot" to "lot."

Comment: An insurance service organization asked for clarification regarding language in section 4(b)(1)-(3) and (6)(b)(1)-(3) of the Northern Quality and Processing Quality Endorsements respectively. The comment suggested the following language for clarity:

(1) "Remove production damaged by freeze or a cause that results in soft rot or wet breakdown from representative samples;

(2) "Divide the remaining weight of potatoes that grade U.S. No. 2 or better by the total remaining weight;

(3) "Divide the resulting percentage by the applicable percentage factor contained in the Special Provisions."

The comment also indicated that sections (2) and (3) could be combined unless the preference is to keep separate for each step.

Response: After further study, FCIC has determined that the method of determining the percentage of damage contained in the proposed rule was inaccurate. That method removed production damaged by freeze or tuber rot before determining applicable percentages, thus reducing the sample size. The percentage of potatoes that grade U.S. No. 2 should be based on the total sample weight, and, since freeze damage and tuber rot are adjusted under the Northern Crop Provisions, potatoes with such damage should be considered sound (No. 1 or 2, as applicable) production for the purposes of the Northern Quality and Processing Quality Endorsements. Section 4(b) of the Northern Quality Endorsement and Section 6(b) of the Northern Processing Quality Endorsement have been revised accordingly.

Comment: A reinsured company asked if section 4(b)(1) of the Northern Quality Endorsement and section 6(b)(1) of the Northern Processing Quality Endorsement (Production damaged by freeze or a cause that results in soft rot or wet breakdown will be removed from representative samples of the production) would require the graders to grade the sample twice, once for freeze and tuber rot and once for all other quality considerations after they have removed the frost and tuber rot potatoes from the sample. If so, more time for grading will be required and the process will be more complex.

Response: FCIC has revised these provisions so that two separate grading procedures will not be required.

Comment: A reinsured company recommended discontinuing coverage under the Northern Quality Endorsement based on the U.S. No. 2 grade and redefining U.S. No. 1 standards to coincide with the new potato commodities future market.

Response: The potato industry still utilizes No. 2 grade standards in many circumstances and this level of quality protection provides adequate insurance coverage for many insureds. Therefore, no changes have been made.

Comment: A reinsured company commented that the Northern Processing Quality Endorsement needs to be expanded to all counties in Idaho that produce potatoes for processing.

Response: FCIC agrees that expansion of the coverage provided by the Northern Processing Quality Endorsement should be studied. Several Regional Service Offices, including the office that would recommend new counties in Idaho, are now considering such expansion. If analysis proves that adequate information is available, and the coverage can be offered in an actuarially sound manner, the coverage provided by the endorsement will be expanded to additional counties.

Comment: A reinsured company recommended that, if the potato producer does not sign a potato contract by the acreage reporting date as mandated by the Northern Potato Crop Insurance Processing Quality Endorsement, acreage automatically be covered under the Northern Potato Crop Insurance Quality Endorsement based on the U.S. No. 1 grade. This method would automatically protect the producer against quality losses even though a contract was not signed.

Response: FCIC agrees that a producer who wants insurance against quality deficiencies should have such coverage when a processor contract is not completed. The Northern Quality Endorsement was designed so that the coverage under it is automatically applicable when a processor contract is not completed by the acreage reporting date. However, the grade upon which coverage is based will be that selected by the insured (U.S. No. 1 (if available in the county) or U.S. No. 2).

Comment: An insurance service organization suggested replacing the reference to "specific gravity" in section 6(a) of the Northern Processing Quality Endorsement with "percent solids." The term "specific gravity" may not appear on settlement sheets.

Response: Most settlement sheets still refer to "specific gravity." For those that do not, a conversion chart commonly used in the potato industry will be referenced in procedural handbooks.

Comment: An insurance provider recommended that production covered under the Northern Processing Quality Endorsement be eligible for adjustment if the specific gravity is less than 1.074. Most processor contracts require a specific gravity of 1.074 or higher.

Response: FCIC agrees and has modified section 6(a)(1) (redesignated 6(a)) to indicate that production will be eligible for adjustment if it has a specific gravity that is less than the lower of 1.074 or the minimum acceptable value under the terms of the processor contract.

Comment: An insurance service organization suggested a change in the formatting of sections 6 (a) & (b) of the Northern Processing Quality Endorsement. Currently, there is no (a)(2) following (a)(1).

Response: Section 6(a)(1) has been redesignated as 6(a) and the following sections have been redesignated accordingly.

Comment: A reinsured company indicated that the Northern Quality Endorsement no longer provided quality protection for production grown for seed. This leaves the seed producer without adequate protection against losses in quality. The comment suggested developing a new certified seed endorsement based on the U.S. Certified Seed Standards in order to provide adequate protection for the seed grower.

Response: FCIC agrees that seed producers may need protection in addition to that currently provided and will work with any party interested in developing such coverage.

Comment: A producer group recommended revising the language in section 4 of the Certified Seed Endorsement from "The certified seed acreage you insure in the current crop year cannot be greater than 125 percent of the average number of acres grown for seed in the three previous years unless we agree otherwise in writing" to "The certified seed acreage you insure in the current crop year cannot be greater than 125 percent of the average number of acres entered into and passing certification in the potato certified seed program for the state in which the seed was grown in the three previous years unless we agree otherwise in writing." The group further suggested that the language in section 4(a) be changed from "Multiply the average number of acres grown for certified seed the three previous years by 1.25 and divide this result by the number of acres grown for certified seed in the current crop year; and * * *" to "Multiply the average number of acres entered into and passing certification in the potato

certified seed program for the state in which the seed was grown the three previous years by 1.25 and divide this result by the number of acres grown for certified seed in the current crop year; and * * * This change should adequately address previous program abuse and limit indemnified acreage to only that which is actually being produced for seed. A reinsured company and an insurance service organization also recommended clarifying whether "3 previous years" means "calendar" or "data base" years.

Response: FCIC has made the recommended changes and clarified the provisions to indicate the three previous calendar years.

Comment: An insurance service organization indicated section 4 of the Potato Crop Insurance Certified Seed Endorsement which limits the increase to 125 percent in certified seed acreage compared to the average of the previous three years is a good idea. The comment indicated that the overall reduction in guarantee if excess acreage is reported may be the simplest way to handle this possibility, but asked if consideration was given to allowing the insured to designate which acres within the limit would be insured as certified seed.

Response: Consideration was given to allowing insureds to designate insurable and uninsurable acreage. However, it was not considered the best alternative since identification of the source of production would be difficult, especially if insured and uninsured acreage were in the same field. Therefore, no change will be made.

Comment: A reinsured company indicated that coverage for Certified Seed should be made available in areas from which the coverage was withdrawn. The endorsement was put on hold for review and has been under review for several years. The endorsement should be consistent with certification requirements used by the states of Montana and Idaho.

Response: Coverage for certified seed was withdrawn in certain locations at the request of grower groups and potato industry representatives. FCIC will not reinstate this coverage until these groups and representatives agree that it should again be made available. FCIC believes that the endorsement is consistent with certification requirements used in Montana and Idaho. Provisions in the endorsement specify that potatoes must be produced and managed in accordance with standards, practices, and procedures required for certification by the state's certifying agency and applicable regulations. The endorsement cannot contain the specific requirements of the

certifying agencies in Montana and Idaho because the endorsement is also used in other states. No changes have been made.

Comment: An insurance service organization questioned the language in section 7 of the Potato Crop Insurance Certified Seed Endorsement. The comment stated the existing Certified Seed Potato Option Amendment specifies a payment of one dollar per hundredweight (multiplied by the guarantee and share) while the proposed language refers to "the dollar amount per hundredweight shown in the Special Provisions." The commenter asks whether this dollar amount varies by state or country, and if so, by how much. The commenter also asks whether the rates reflect any increase or decrease.

Response: Depending upon available price information for certified seed, the dollar amount of coverage per hundredweight could vary by state or county. The amount of variation would depend upon actual and expected prices for seed. Premium rate percentages should not be impacted by variation in this dollar amount since the risk of not receiving certification due to an insured cause should remain constant regardless of the dollar amount of coverage per hundredweight. However, the amount of premium may increase if the price is higher.

Comment: An insurance provider recommended that the Northern Storage Endorsement give producers time to make decisions based on a grade that was determined from sampling prior to storage and if the grading showed internal defects, then the producer should be allowed the same choices available under the Northern Quality Endorsement (section 4(a)). The comment further stated that the Northern Storage Endorsement covers quality problems that are communicable (the problem will spread throughout the storage facility, such as late blight or a tuber rot condition). Internal defects are not communicable and will not spread to other potatoes. In all cases, marketability and salvage will control the losses. Regardless of the type of problem in storage, salvage should always apply unless the crop is destroyed.

Response: FCIC agrees that when the producer elects the Northern Quality Endorsement, the coverage provided will be extended to provide the same coverage under the Northern Storage Endorsement if the requirements of such Endorsement are met. Salvage provisions have been added.

Comment: A producer group stated that the Northern Storage Coverage

Endorsement attaches to the basic policy, but should also extend the coverage provided under the Northern Potato Quality Endorsement if that endorsement is elected by the producer.

Response: FCIC agrees that coverage under the Northern Quality Endorsement should be extended when the producer also elects a Northern Storage Coverage Endorsement and has modified the Northern Storage Endorsement accordingly.

Comment: An insurance service organization asked for clarification regarding language in section 3 of the Northern Potato Storage Coverage Endorsement that indicates "all other potato production insured under the Northern Potato Crop Provisions must be insured under this endorsement unless the Special Provisions allow you to exclude certain potato varieties, types or groups from insurance under this endorsement, and you elect to exercise this option." The commenter understands this to mean that all potatoes insured under the Northern Potato Crop Provisions have to be insured under the Northern Storage Endorsement, unless a processor contract requires delivery within three days of harvest or if the producer elects to exclude other production when specifically allowed by the Special Provisions. The comment recommended starting the sentence with "If you elect this endorsement" for clarity.

Response: The provision has been clarified.

Comment: An insurance service organization questioned why coverage exclusions are required to be identified annually as stated in section 3 of the Northern Potato Storage Coverage Endorsement. It would be more consistent for such exclusions to remain in effect until otherwise notified in writing by either the insured producer or the insurance provider.

Response: Since the acreage to which exclusions apply is not likely to be identical from year to year, FCIC believes excluded varieties, types, or groups should be identified on the annual acreage report. Therefore, no change will be made.

Comment: An insurance service organization indicated that the word "prorata" in section 4 of the Northern Storage Endorsement should be two words. The comment also recommended changing the language in the example to account for the missing amount. Recommended changing to: "the production to count is 1,000 hundredweight because 500 hundredweight went bad."

Response: The editorial correction has been made. However, the

recommendation regarding the "missing amount of production" has not been incorporated. The provision is clearly stated without the recommended change.

Comment: An insurance service organization questioned how the insurance provider will be able to verify if notification was within 72 hours of discovery of damage as indicated in section 5(b) of the Northern Storage Endorsement.

Response: As with any insured loss, it is important that the insurance provider receive timely notification of damage. FCIC agrees that in many instances it is difficult to determine the exact time the insured person becomes aware of damage and therefore, some flexibility is required when administering this provision. However, if it can be clearly shown that an insured did not give timely notice, any claim could be denied.

Comment: An insurance service organization suggested that section 5(a) and 5(c) be combined in the Northern Potato Storage Coverage Endorsement since both refer to damage by an insured cause other than freeze.

Response: FCIC agrees and has combined the provisions in 5(c) with section 5(a).

Comment: An insurance service organization recommended that the insured be required to have the Quality Endorsement in order to take the Northern Potato Storage Coverage Endorsement.

Response: Since damage that may later cause tuber rot is covered under the Northern Crop Provisions, the Northern Storage Endorsement should be available to producers who elect coverage under the Northern Crop Provisions only. Therefore, no changes have been made.

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

1. The term "tuber rot" is defined in the Northern Crop Provisions to avoid duplicating provisions in the Northern Crop Provisions, Quality Endorsement, Processing Quality Endorsement, and Storage Endorsement. Added a definition for "disposed" to the Northern and Central and Southern Crop Provisions for clarification. Added definitions for the terms "buyer" and "reduction percentage" to the Northern Crop Provisions for clarification. Also removed definitions for "days" "FSA", "final planting date," "interplanted," "irrigated practice," "planted acreage," and "production guarantee (per acre)," since definitions for these terms are now contained in the Basic Provisions.

2. Section 2 of the Northern Crop Provisions is removed and section 2 of the Southern Crop Provisions is modified because provisions previously contained in section 2 regarding unit division requirements and unit structure by section, section equivalent, FSA farm serial number, and irrigated and non-irrigated practices, have been moved to the Basic Provisions.

3. Revised redesignated section 11(b)(2) of the Northern Crop Provisions and section 12(b)(2) of the Central and Southern Crop Provisions to clearly indicate that the price use to determine the amount of an indemnity may be limited.

4. The initial paragraph of the Central and Southern Crop Provisions has been revised to add Arizona and Georgia as states in which these provisions apply. These states are also added in section 5 (Cancellation and Termination Dates) and section 9 (Insurance Period) of the Central and Southern Crop Provisions.

5. Sections 4 and 5 of the Central and Southern Crop Provisions have been revised to change the contract change and cancellation/termination dates for Pinellas, Hillsborough, Polk, Oseola, and Brevard Counties, Florida, and all counties lying south thereof to June 30 and September 30 respectively. These dates were previously effective only in Manatee, Hardee, Highlands, Okeechobee, and St. Lucie Counties, and all counties lying south thereof.

6. Section 4(a)(1) of the Northern Quality Endorsement and section 6(a)(1) of the Northern Processing Quality Endorsement are revised to clarify that a "price comparison" method of adjustment will not be applicable if it has already been performed under the terms of redesignated section 11(g)(2)(i) of the Northern Potato Crop Insurance Provisions.

7. Removed provisions regarding written agreements that are now contained in the Basic Provisions.

8. Section 5 of the Northern Processing Quality Endorsement is clarified to indicate that the number of acres insured under the endorsement will not exceed the actual number of acres planted to the potato types under contract.

9. Section 6(a)(1) of the Northern Processing Quality Endorsement is revised by changing the price against which the value of damaged production is compared from the "base contract price" to the "highest available price election." This change was made because of variation in methods used to establish base contract prices. Base prices tend to be set low when substantial incentives for good quality are contained in the contract, and tend

to be set high when substantial discounts for low quality are included. Use of the price election will provide a consistent means of quality adjustment for all insureds.

10. Section 8 of the Northern Quality Endorsement and section 9 of the Northern Processing Quality Endorsement are revised to indicate that an insured may elect quality adjustment based on U.S. No. 1 or 2 by type or group, if both U.S. No. 1 and 2 are provided in the actuarial documents and if separate types or groups are specified in the Special Provisions.

11. Section 4 of the Northern Storage Endorsement is revised to clarify that pro rata allocation of stored production to units will be allowed only if verifiable records of production placed in storage are available by unit.

12. Section 6 of the Northern Storage Endorsement is removed. The proposed provisions duplicated those contained in redesignated section 11 of the Northern Crop Provisions.

Good cause is shown to make this rule effective upon publication in the **Federal Register**. This rule improves the potato insurance coverage and brings it under the Common Crop Insurance Policy Basic Provisions for consistency among policies. The earliest contract change date that can be met for the 1998 crop year is December 31, 1997. It is therefore imperative that these provisions be made final before that date so that the reinsured companies and insured may have sufficient time to implement these changes. Therefore, public interest requires the agency to act immediately to make these provisions available for the 1998 crop year.

List of Subjects in 7 CFR Parts 422 and 457

Crop insurance, Potato crop insurance regulations, Potatoes.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR parts 422 and 457 as follows:

PART 422—POTATO CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 422 is amended to read as follows:

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

2. The heading preceding § 422.1 is revised to read as follows: Subpart—Regulations for the 1986 (1987 in certain California counties and Florida) through 1997 Crop Years (1998 in Alabama; Arizona; certain California counties; Delaware; Florida; Maryland; Missouri; New Jersey; New Mexico; North

Carolina; Oklahoma; Texas; and Virginia).

3. Section 422.7 is amended by revising the introductory text of paragraph (d) to read as follows:

§ 422.7 The application and policy.

* * * * *

(d) The application for the 1986 and succeeding crop year is found at subpart D of part 400—General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Potato Crop Insurance Policy for the 1986 (1987 in certain California counties and Florida) through 1997 Crop Years (1998 in Alabama; Arizona; certain California counties; Delaware; Florida; Maryland; Missouri; New Jersey; New Mexico; North Carolina; Oklahoma; Texas; and Virginia) are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

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

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

5. Section 457.142 is added to read as follows:

§ 457.142 Northern Potato Crop Insurance Provisions.

The Northern Potato Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

United States Department of Agriculture

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Northern Potato Crop Provisions

These provisions will be applicable in: Alaska; Humboldt, Modoc, and Siskiyou Counties, California; Colorado; Connecticut; Idaho; Indiana; Iowa; Maine; Massachusetts; Michigan; Minnesota; Montana; Nebraska; Nevada; New York; North Dakota; Ohio; Oregon; Pennsylvania; Rhode Island; South Dakota; Utah; Washington; Wisconsin; and Wyoming.

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

1. Definitions.

Buyer. A business entity in the business of buying or processing potatoes, that possesses all the licenses and permits required by the state in which it operates, and has the facilities to accept the potatoes purchased.

Certified seed. Potatoes for planting a potato crop in a subsequent crop year that

have been found to meet the standards of the public agency that is responsible for the seed certification process within the state in which they were grown.

Discard. Disposal of production by you, or a person acting for you, without receiving any value for it.

Disposed. Any disposition of the crop including but not limited to sale or discard.

Grade inspection. An inspection in which samples of production are obtained by us, or a party approved by us, prior to the sale, storage, or disposal of any lot of potatoes, or any portion of a lot and the potatoes are evaluated and quality (grade) determinations are made by us, a laboratory approved by us, or a potato grader licensed or certified by the applicable State or the United States Department of Agriculture, in accordance with the United States Standards for Grades of Potatoes.

Harvest. Lifting potatoes from within the soil to the soil surface.

Hundredweight. One hundred (100) pounds avoirdupois.

Local market. The area in which the insured potatoes are normally sold.

Lot. A quantity of production that can be separated from other quantities of production by grade characteristics, load, location or other distinctive features.

Processor contract. A written agreement between the producer and a processor, containing at a minimum:

(a) The producer's commitment to plant and grow potatoes, and to deliver the potato production to the processor;

(b) The processor's commitment to purchase the production stated in the contract; and

(c) A price that will be paid to the producer for the production stated in the contract.

Reduction percentage. A factor determined based on the weight of only freeze damaged production in a sample of potatoes in relationship to the total weight of the sample, and the provisions in section 11(g)(1) of these crop provisions; and that is used to determine a quantity of potatoes that will not be included as production to count.

Tuber rot. Any soft, mushy, or leaky condition of potato tissue (soft rot or wet breakdown as defined in the United States Standards for Grades of Potatoes), including, but not limited to, breakdown caused by Southern Bacterial Wilt, Ring Rot, or Late Blight.

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

(a) In addition to the requirements of section 3 of the Basic Provisions, you may select only one price election for all the potatoes in the county insured under this policy unless the Special Provisions provide different price elections by type. If the Special Provisions provide for different price elections by type, you may select one price election for each potato type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price election offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

(b) If the production from any acreage of the insured crop is not harvested, the price used to determine your indemnity will be 80 percent of your price election.

(c) Any acreage of potatoes damaged to the extent that similarly situated producers in the area would not normally further care for the potatoes will be deemed to have been destroyed even though you may continue to care for the potatoes. The price election for unharvested acreage will apply to such acreage.

3. Contract Changes.

In accordance with section 4 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date.

4. Cancellation and Termination Dates.

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are March 15.

5. Annual Premium.

In lieu of the premium computation method contained in section 7 of the Basic Provisions, the annual premium amount (y) is computed by multiplying (a) the production guarantee by (b) the price election for harvested acreage, by (c) the premium rate, by (d) the insured acreage, by (e) your share at the time of planting, and by (f) any applicable premium adjustment factors contained in the actuarial documents ($a \times b \times c \times d \times e \times f = y$).

6. Insured Crop.

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

(a) In which you have a share;

(b) Planted with certified seed (unless otherwise permitted by the Special Provisions);

(c) Planted for harvest as certified seed stock, or for human consumption, (unless specified otherwise in the Special Provisions);

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

(1) Interplanted with another crop; or

(2) Planted into an established grass or legume.

7. Insurable Acreage.

In addition to the provisions of section 9 of the Basic Provisions, we will not insure any acreage that:

(a) Does not meet the rotation requirements contained in the Special Provisions for the crop; or

(b) Is damaged before the final planting date to the extent that similarly situated producers in the area would normally not further care for the crop, unless it is replanted or we agree that it is not practical to replant.

8. Insurance Period.

In accordance with the provisions of section 11 of the Basic Provisions, the calendar date for the end of the insurance period is the date immediately following planting as follows (exceptions, if any, for specific counties, varieties or types are contained in the Special Provisions):

(a) October 1, in Alaska;

(b) October 10 in Nebraska and Wyoming;

(c) October 15 in Colorado; Indiana; Iowa; Michigan; Minnesota; Montana; Nevada;

North Dakota; South Dakota; Utah; and Wisconsin;

(d) October 20 in Maine; and
(e) October 31 in Humboldt, Modoc, and Siskiyou Counties, California; Connecticut; Idaho; Massachusetts; New York; Ohio; Oregon; Pennsylvania; Rhode Island; and Washington.

9. 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 within the insurance period:

- (1) Adverse weather conditions;
- (2) Fire;
- (3) Insects, but only if sufficient and proper pest control measures are used;
- (4) Plant disease, but only if sufficient and proper disease control measures are used;
- (5) Wildlife;
- (6) Earthquake;
- (7) Volcanic eruption; or
- (8) Failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period (see section 9(a)(1) through (7)).

(b) In addition to the causes of loss not insured against as contained in section 12 of the Basic Provisions, we will not insure against any loss of production due to:

- (1) Damage that occurs or becomes evident after the end of the insurance period, including, but not limited to, damage that occurs or becomes evident in storage; or
- (2) Causes, such as freeze after certain dates, as limited by the Special Provisions.

10. Duties in the Event of Damage or Loss.

(a) In accordance with the requirements of section 14 of the Basic Provisions, you must leave representative samples at least 10 feet wide and extending the entire length of each field in the unit if you are going to destroy any acreage of the insured crop that will not be harvested.

(b) We must be given the opportunity to perform a grade inspection on the production from any unit for which you have given notice of damage.

11. Settlement of Claim.

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

- (1) For any optional units, we will combine all optional units for which acceptable production records were not provided; and
- (2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

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

- (1) Multiplying the insured acreage by its respective production guarantee (if there is unharvested acreage in the unit, the harvested and unharvested acreage will be determined separately);

(2) Multiplying each result in section 11(b)(1) by the respective price election (The price election may be limited as specified in section 3.);

(3) Totaling the results of section 11(b)(2);

(4) Multiplying the total production to be counted of each type, if applicable (see section 11(d)), by the respective price election;

(5) Totaling the results of section 11(b)(4);

(6) Subtracting the results of section 11(b)(5) from the result in section 11(b)(3); and

(7) Multiplying the result of section 11(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) $100 \text{ acres} \times 150 \text{ hundredweight} = 15,000 \text{ hundredweight guarantee};$
- (2) $15,000 \text{ hundredweight} \times \$4.00 \text{ price election} = \$60,000.00 \text{ value of guarantee};$
- (4) $10,000 \text{ hundredweight} \times \$4.00 \text{ price election} = \$40,000.00 \text{ value of production to count};$
- (6) $\$60,000.00 - \$40,000.00 = \$20,000.00 \text{ loss}; \text{ and}$
- (7) $\$20,000.00 \times 100 \text{ percent} = \$20,000.00 \text{ indemnity payment}.$

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 \$3.20 per hundredweight. The price election for unharvested acreage is 80.0 percent of your elected price election ($\$4.00 \times 0.80 = \3.20). 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) $100 \text{ acres} \times 150 \text{ hundredweight} = 15,000 \text{ hundredweight guarantee for the harvested acreage, and } 100 \text{ acres} \times 150 \text{ hundredweight} = 15,000 \text{ hundredweight guarantee for the unharvested acreage};$
- (2) $15,000 \text{ hundredweight guarantee} \times \$4.00 \text{ price election} = \$60,000.00 \text{ value of guarantee for the unharvested acreage, and } 15,000 \text{ hundredweight guarantee} \times \$3.20 \text{ price election} = \$48,000.00 \text{ value of guarantee for the unharvested acreage};$
- (3) $\$60,000.00 + \$48,000.00 = \$108,000.00 \text{ total value of guarantee};$
- (4) $10,000 \text{ hundredweight} \times \$4.00 \text{ price election} = \$40,000.00 \text{ value of production to count for the harvested acreage, and } 3500 \text{ hundredweight} \times \$3.20 = \$11,200.00 \text{ value of production to count for the unharvested acreage};$
- (5) $\$40,000.00 + \$11,200.00 = \$51,200.00 \text{ total value of production to count};$
- (6) $\$108,000.00 - \$51,200.00 = \$56,800.00 \text{ loss}; \text{ and}$
- (7) $\$56,800.00 \text{ loss} \times 100 \text{ percent} = \$56,800.00 \text{ indemnity payment}.$

(c) The extent of any quality loss must be determined based on samples obtained no later than the time the potatoes are placed in storage, if the production is stored prior to sale, or the date they are delivered to a buyer, wholesaler, packer, broker, or other handler if production is not stored.

(d) The total production to count (in hundredweight) from all insurable acreage on the unit will include:

- (1) All appraised production as follows:
 - (i) Not less than the production guarantee per acre for acreage;

(A) That is abandoned;

(B) That is put to another use without our consent;

(C) That is damaged solely by uninsured causes;

(D) From which any production is disposed of without a grade inspection; or

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

(ii) Production lost due to uninsured causes;

(iii) Production lost due to harvest prior to full maturity. Production to count from such acreage will be determined by increasing the amount of harvested production by 2 percent per day for each day the potatoes were harvested prior to the date the potatoes would have reached full maturity. The date the potatoes would have reached full maturity will be considered to be 45 days prior to the calendar date for the end of the insurance period, unless otherwise specified in the Special Provisions. This adjustment will not be made if the potatoes are damaged by an insurable cause of loss, and leaving the crop in the field would either reduce production or decrease quality;

(iv) Unharvested production (the value of unharvested production will be calculated using the reduced price election determined in section 2(b) and unharvested production may be adjusted in accordance with sections 11(e), (f), (g), and (h)); and

(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 price used to determine the amount of any indemnity will be limited as specified in section 2 even if the representative samples are harvested. The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(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 (the amount of production prior to the sorting or discarding of any production).

(e) Potato production is eligible for quality adjustment if:

- (1) The potatoes have freeze damage or tuber rot that is evident at, or prior to, the end of the insurance period; and
- (2) A grade inspection is performed.

(f) Potato production that is eligible for quality adjustment, as specified in section 11(e), with 5 percent damage or less (by weight) will be adjusted 0.1 percent for each 0.1 percent of damage through 5.0 percent.

(g) Potato production that is eligible for quality adjustment, as specified in section 11(e), with 5.1 percent damage or more (by weight) will be adjusted as follows:

(1) For potatoes damaged by freeze, production will be reduced 0.1 percent for each 0.1 percent of damage through 5.0 percent, 0.5 percent for each 0.1 percent of damage from 5.1 through 15.0 percent, and by 1.0 percent for each 0.1 percent of damage from 15.1 through 19.5 percent. However, if you do not discard any harvested production within 21 days of the end of the insurance period that has freeze damage in excess of 17.9 percent, we will include 15 percent of such production when determining the amount of production to count.

(2) For potatoes that have tuber rot due to an insurable cause other than freeze, production to count will be determined as follows:

(i) For potatoes for which a price is agreed upon between you and a buyer within 21 days (60 days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) if the end of the insurance period, or that are delivered to a buyer within 21 days (60 days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) of the end of the insurance period, by dividing the price received or that will be received per hundredweight by the highest price election designated in the Special Provisions for the insured potato type, and multiplying the result (not to exceed 1.0) by the number of hundredweight of sold production. If production is sold for a price lower than the value appropriate to and representative of the local market, we will determine the value of the production based on the price you could have received in the local market;

(ii) For harvested potatoes discarded within 21 days (60 days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) of the end of the insurance period and appraised unharvested production that could:

(A) Not have been sold, the production to count will be zero; or

(B) Have been sold, the production will be reduced as follows (all percentage points of damage will be rounded to the nearest 0.1 percent):

(1) 0.1 percent for each 0.1 percent of damage through 5.0 percent;

(2) 0.5 percent for each 0.1 percent of damage from 5.1 percent through 6.0 percent;

(3) 1.0 percent for each 0.1 percent of damage from 6.1 through 8.0 percent;

(4) 2.0 percent for each 0.1 percent of damage from 8.1 through 9.0 percent; and

(5) 2.5 percent for each 0.1 percent of damage from 9.1 through 10.4 percent.

(iii) For potatoes for which a price is not agreed upon between you and a buyer within 21 days (60 days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) of the end of the insurance period and that remain in storage 22 or more days (61 or more days if the Northern Potato Crop

Insurance Storage Coverage Endorsement is applicable) after the end of the insurance period, adjustment will be made in accordance with section 11(g)(2)(ii)(B).

(h) When a combination of freeze damage or a tuber rot condition is 5.1 percent (by weight) or greater, the amount of production to count for production affected by tuber rot will first be determined in accordance with section 11(g)(2). If production is not sold within the time frame specified in section 11(g)(2), this amount will be further adjusted as follows:

(1) The percentage of potatoes with freeze damage will be determined by dividing the weight of potatoes with only freeze damage in representative samples of the production by the total weight of the samples;

(2) The reduction percentage will be determined based on the result of section 11(h)(1) and section 11(g)(1); and

(3) The reduction percentage determined in section 11(h)(2) will be multiplied by the amount of production determined in accordance with section 11(g)(2).

12. Prevented Planting.

Your prevented planting coverage will be 25 percent of your production guarantee for timely planted acreage. If you have limited or additional 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.

6. Section 457.147 is added to read as follows:

§ 457.147 Central and Southern Potato Crop Insurance Provisions.

The Central and Southern Potato Crop Insurance Provisions for the 1999 and succeeding crop years are as follows:
FCIC policies:

United States Department of Agriculture

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Central and Southern Potato Crop Provisions

These provisions will be applicable in: Alabama; Arizona; all California counties except Humboldt, Modoc and Siskiyou; Delaware; Florida; Georgia; Maryland; Missouri; New Jersey; New Mexico; North Carolina; Oklahoma; Texas; and Virginia.

If a conflict exists among the policy provisions, the order of priority is as follows:

(1) The Catastrophic Risk Protection Endorsement, as applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions, with (1) controlling (2), etc.

1. Definitions.

Certified seed. Potatoes for planting a potato crop in a subsequent crop year that have been found to meet the standards of the public agency that is responsible for the seed certification process within the state in which they were grown.

Discard. Disposal of production by you, or a person acting for you, without receiving any value for it.

Disposed. Any disposition of the crop including but not limited to sale or discard.

Grade inspection. An inspection in which samples of production are obtained by us, or a party approved by us, prior to the sale, storage or disposal of any lot of potatoes, or any portion of a lot and the potatoes are evaluated and quality (grade) determinations are made by us, a laboratory approved by us, or a potato grader licensed or certified by the applicable State or the United States Department of Agriculture, in accordance with the United States Standards for Grades of Potatoes.

Harvest. Lifting potatoes from within the soil to the soil surface.

Hundredweight. One hundred (100) pounds avoirdupois.

Lot. A quantity of production that can be separated from other quantities of production by grade characteristics, load, location or other distinctive features.

Planting period. The period of time between the calendar dates designated in the Special Provisions for the planting of spring-planted, summer-planted, fall-planted, or winter-planted potatoes.

Practical to replant. In lieu of the definition of "Practical to replant" contained in section one of the Basic Provisions, 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. It will not be considered practical to replant after the end of the late planting period, or the end of the planting period in which initial planting took place in counties for which the Special Provisions designates separate planting periods, unless replanting is generally occurring in the area.

2. Unit Division.

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

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

(a) In addition to the requirements of section 2 of the Basic Provisions, you may select only one price election for all the potatoes in the county insured under this policy unless the Special Provisions provide different price elections by type. If the Special Provisions provide for different price elections by type, you may select one price election for each potato type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price election offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

(b) If the production from any acreage of the insured crop is not harvested, the price used to determine your indemnity will be 80 percent of your price election.

(c) Any acreage of potatoes damaged to the extent that similarly situated producers in the area would not normally further care for the potatoes will be deemed to have been destroyed even though you may continue to

care for the potatoes. The price election for unharvested acreage will apply to such acreage.

4. Contract Changes.

In accordance with section 4 of the Basic Provisions, the contract change date is:

(a) June 30 preceding the cancellation date for counties with a September 30 cancellation date;

(b) September 30 preceding the cancellation date for counties with a November 30 or December 31 cancellation date; and

(c) November 30 preceding the cancellation date for counties with a February 28 or March 15 cancellation date.

5. Cancellation and Termination Dates.

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

State and county	Dates
Pinellas, Hillsborough, Polk, Oseola, and Brevard Counties, Florida, and all Florida counties lying south thereof	Sep. 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.	Nov. 30.
Alabama; Delaware; Georgia; Maryland; Missouri; New Jersey; North Carolina; Virginia; and all Florida counties except Pinellas, Hillsborough, Polk, Oseola, and Brevard Counties, Florida, and all Florida counties to the south thereof.	Dec. 31.
Oklahoma; and Haskell and Knox Counties, Texas	Feb. 28.
Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Lamb, Parmer, Swisher, and Yoakum Counties, Texas; and New Mexico.	Mar. 15.

6. Annual Premium.

In lieu of the premium computation method contained in section 7 of the Basic Provisions, the annual premium amount (y) is computed by multiplying (a) the production guarantee by (b) the price election for harvested acreage, by (c) the premium rate, by (d) the insured acreage, by (e) your share at the time of planting, and by (f) any applicable premium adjustment factors contained in the actuarial documents ($a \times b \times c \times d \times e \times f = y$).

7. Insured Crop.

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

(a) In which you have a share;

(b) Planted with certified seed (unless otherwise permitted by the Special Provisions);

(c) Planted for harvest as certified seed stock, or for human consumption, (unless specified otherwise in the Special Provisions);

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

(1) Interplanted with another crop; or

(2) Planted into an established grass or legume.

8. Insurable Acreage.

In addition to the provisions of section 9 of the Basic Provisions, we will not insure any acreage that:

(a) Does not meet the rotation requirements contained in the Special Provisions for the crop; or

(b) Is damaged before the final planting date or before the end of the applicable planting period in counties for which the Special Provisions designate separate planting periods, to the extent that similarly situated producers in the area would normally not further care for the crop, unless it is replanted or we agree that it is not practical to replant.

9. Insurance Period.

In accordance with the provisions of section 11 of the Basic Provisions, the calendar date for the end of the insurance period is the date immediately following planting as follows (exceptions, if any, for specific counties, varieties or types are contained in the Special Provisions):

(a) July 15 in Missouri; North Carolina; and all Texas counties except Bailey, Castro,

Dallam, Deaf Smith, Floyd, Gaines, Hale, Haskell, Hartley, Knox, Lamb, Parmer, Swisher, and Yoakum.

(b) July 25 in Arizona; and Virginia.

(c) August 15 in Oklahoma; and Haskell and Knox Counties, Texas.

(d) In Alabama; California; Florida; and Georgia; the dates established by the Special Provisions for each planting period; and

(e) October 15 in Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Lamb, Parmer, Swisher, and Yoakum Counties, Texas; Delaware; Maryland; New Jersey; and New Mexico.

10. 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 which occur within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects, but only if sufficient and proper pest control measures are used;

(4) Plant disease, but only if sufficient and proper disease control measures are used;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period (see section 10(a) (1) through (7)).

(b) In addition to the causes of loss not insured against as contained in section 12 of the Basic Provisions, we will not insure against any loss of production due to:

(1) Damage that occurs or becomes evident after the end of the insurance period, including, but not limited to, damage that occurs after potatoes have been placed in storage; or

(2) Causes, such as freeze after certain dates, as limited by the Special Provisions.

11. Duties in the Event of Damage or Loss.

(a) In accordance with the requirements of section 14 of the Basic Provisions, you must leave representative samples at least 10 feet wide and extending the entire length of each field in the unit if you are going to destroy any acreage of the insured crop that will not be harvested.

(b) We must be given the opportunity to perform a grade inspection on the production from any unit for which you have given notice of damage.

12. Settlement of Claim.

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

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

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

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

(1) Multiplying the insured acreage by its respective production guarantee (if there is unharvested acreage in the unit, the harvested and unharvested acreage will be determined separately);

(2) Multiplying each result in section 12(b)(1) by the respective price election (the price election may be limited as specified in section 3.);

(3) Totaling the results of section 12(b)(2);

(4) Multiplying the total production to be counted of each type, if applicable, (see section 12(d)) by the respective price election;

(5) Totaling the results of section 12(b)(4);

(6) Subtracting the results of section 12(b)(5) from the result in section 12(b)(3); and

(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) $100 \text{ acres} \times 150 \text{ hundredweight} = 15,000 \text{ hundredweight guarantee};$

(2) $15,000 \text{ hundredweight} \times \$4.00 \text{ price election} = \$60,000.00 \text{ value of guarantee};$

(4) $10,000 \text{ hundredweight} \times \$4.00 \text{ price election} = \$40,000.00 \text{ value of production to count};$

(6) $\$60,000.00 - \$40,000.00 = \$20,000.00 \text{ loss}; \text{ and}$

(7) $\$20,000.00 \times 100 \text{ percent} = \$20,000.00 \text{ indemnity payment}.$

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 \$3.20 per

hundredweight. (The price election for unharvested acreage is 80.0 percent of your elected price election (\$4.00×0.80=\$3.20.) This unharvested acreage was appraised at 35 hundredweight per acre for a total of 3,500 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 × \$3.20 price election = \$48,000.00 value of guarantee for the unharvested acreage;

(3) \$60,000.00 + \$48,000.00 = \$108,000.00 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 × \$3.20 = \$11,200.00 value of production to count for the unharvested acreage;

(5) \$40,000.00 + \$11,200.00 = \$51,200.00 total value of production to count;

(6) \$108,000.00 – \$51,200 = \$56,800.00 loss; and

(7) \$56,800.00 loss × 100 percent = \$56,800.00 indemnity payment.

(c) The extent of any quality loss must be determined based on samples obtained no later than the time potatoes are placed in storage, if the production is stored prior to sale, or the date they are delivered to a buyer, wholesaler, packer, broker, or other handler if production is not stored.

(d) The total production to count (in hundredweight) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

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

(A) That is abandoned;

(B) That is put to another use without our consent;

(C) That is damaged solely by uninsured causes;

(D) From which any production is disposed of without a grade inspection; or

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

(ii) Production lost due to uninsured causes;

(iii) Production lost due to harvest prior to full maturity. Production to count from such acreage will be determined by increasing the amount of harvested production by 2 percent per day for each day the potatoes were harvested prior to the date the potatoes would have reached full maturity. The date the potatoes would have reached full maturity will be considered to be 45 days prior to the calendar date for the end of the insurance period, unless otherwise specified in the Special Provisions. This adjustment will not be made if the potatoes are damaged by an insurable cause of loss, and leaving the crop in the field would either reduce production or decrease quality.

(iv) Unharvested production (the value of unharvested production will be calculated

using the reduced price election determined in section 3(b) and unharvested production may be adjusted in accordance with section 12(e)); and

(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 price used to determine the amount of any indemnity will be limited as specified in section 3 even if the representative samples are harvested. The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(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 determined in accordance with section 12(e).

(e) With the exception of production with external defects, only marketable lots of mature potatoes will be production to count for loss adjustment purposes. Production not meeting the standards for grading U.S. No. 2 due to external defects will be determined on an individual potato basis for all unharvested potatoes and for any harvested potatoes if we determine it is practical to separate the damaged production. All determinations must be based upon a grade inspection.

(1) 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 lot meets the standards for grading U.S. No. 2 or better on a sample basis.

(2) 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.

(3) Unless included in section 12(e) (1) or (2), 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) Is left unharvested and 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, is harvested, and it is not practical to separate the damaged production.

13. Prevented Planting.

Your prevented planting coverage will be 25 percent of your production guarantee for timely planted acreage. If you have limited or additional 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.

7. Section 457.143 is added to read as follows:

§ 457.143 Northern Potato Crop Insurance—Quality Endorsement.

The Northern Potato Crop Insurance Quality Endorsement provisions for the 1998 and succeeding years are as follows:

FCIC policies:

United States Department of Agriculture

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Northern Potato Crop Insurance Quality Endorsement

1. In return for payment of the additional premium designated in the actuarial documents, this endorsement is attached to and made part of your Northern Potato Crop Provisions subject to the terms and conditions described herein. In the event of a conflict between the Northern Potato Crop Provisions and this endorsement, this endorsement will control.

2. You must elect this endorsement on or before the sales closing date for the initial crop year in which you wish to insure your potatoes under this endorsement. This endorsement will continue in effect until canceled. It may be canceled by either you or us for any succeeding crop year by giving written notice to the other party on or before the cancellation date.

3. All acreage of potatoes insured under the Northern Potato Crop Provisions will be insured under this endorsement except:

(a) Any acreage specifically excluded by the actuarial documents; and

(b) Any acreage grown for seed.

4. We will adjust production to count (determined in accordance with section 15 of the Basic Provisions and section 11 of the Northern Potato Crop Provisions) from (1) unharvested acreage; (2) harvested acreage that is stored after a grade inspection; or (3) that is marketed after a grade inspection; and that contains potatoes that grade less than U.S. No. 2 due to:

(a) Internal defects (the number of potatoes with such defects must be in excess of the tolerance allowed for U.S. No. 2 grade potatoes on a lot basis and must not be separable from undamaged production using

methods used by the potato packers or processors to whom you normally deliver your potato production), will be adjusted as follows:

(1) For potatoes for which a price is agreed upon in writing between you and a buyer within 21 days (60 days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) of the end of the insurance period, or that are delivered to a buyer within 21 days (60 days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) of the end of the insurance period, by multiplying the production to count by the factor (not to exceed 1.0) that results from dividing the price received or that will be received per hundredweight of the damaged production by the highest available price election. This method of adjustment will not be performed if it has already been performed under the terms of section 11(g)(2)(i) of the Northern Potato Crop Insurance Provisions. If production is sold for a price lower than the value appropriate to and representative of the local market, we will determine the value of the production based on the price you could have received in the local market.

(2) For harvested potatoes discarded within 21 days (60 days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) of the end of the insurance period and appraised unharvested production that could:

(i) Not have been sold, the production to count will be zero; or

(ii) Have been sold, the production to count will be determined in accordance with section 4(a)(1). The price used for the damaged production will be the price you could have received in the local market.

(3) For potatoes for which a price is not agreed upon between you and a buyer within 21 days (60 days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) of the end of the insurance period and that remain in storage 22 or more days (61 or more days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) after the end of the insurance period, production to count will be determined in accordance with section 4(b).

(b) Factors other than those specified in section 4(a), by multiplying by a factor (not to exceed 1.0) that is determined as follows:

(1) The combined weight of sampled potatoes that grade U.S. No. 2 or better and that are damaged by freeze or tuber rot will be divided by the total sample weight; and

(2) The percentage determined in section 4(b)(1) above will be divided by the applicable percentage factor determined in accordance with section 9.

5. Potatoes harvested or appraised prior to full maturity that do not grade U.S. No. 2 due solely to size will be considered to have met U.S. No. 2 standards unless the potatoes are damaged by an insurable cause of loss and leaving the crop in the field would either reduce production or decrease quality.

6. Production to count for potatoes destroyed, stored or marketed without a grade inspection will be 100 percent of the gross weight of such potatoes.

7. All determinations must be based upon a grade inspection.

8. The actuarial documents may provide "U.S. No. 1" in place of "U.S. No. 2" as used in this endorsement. If both U.S. No. 1 and 2 are available in the actuarial documents, you may elect U.S. No. 1 or 2 by potato type or group, if separate types or groups are specified in the Special Provisions.

9. *Percentage factor* means the historical average percentage of potatoes grading U.S. No. 2 or better, by type, determined from your records. If at least 4 continuous years of records are available, the percentage factor will be the simple average of the available records not to exceed 10 years. If less than four years of records are available, the percentage factor will be determined based on a combination of your records and the percentage factor contained in the Special Provisions.

8. Section 457.144 is added to read as follows:

§ 457.144 Northern Potato Crop Insurance—Processing Quality Endorsement

The Northern Potato Crop Insurance Processing Quality Endorsement provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

United States Department of Agriculture

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Northern Potato Crop Insurance Processing Quality Endorsement

1. In return for payment of the additional premium designated in the actuarial documents, this endorsement is attached to and made part of your Northern Potato Crop Provisions and Quality Endorsement subject to the terms and conditions described herein. In the event of a conflict between the Northern Potato Crop Provisions or Quality Endorsement and this endorsement, this endorsement will control.

2. You must have a Northern Potato Quality Endorsement in place and elect this endorsement on or before the sales closing date for the initial crop year in which you wish to insure your potatoes under this endorsement. This endorsement may be canceled by either you or us for any succeeding crop year by giving written notice to the other party on or before the cancellation date.

3. All terms of the Northern Potato Quality Endorsement not modified by this endorsement will be applicable to acreage covered under this endorsement.

4. A processor contract must be executed with a potato processor for the potato types insured under this endorsement and a copy submitted to us on or before the acreage reporting date for potatoes. If you elect this endorsement, all insurable acreage of production under contract with the processor must be insured under this endorsement.

5. When the processor contract requires the processor to purchase a stated amount of production, rather than all of the production from a stated number of acres, the insurable

acreage will be determined by dividing the stated amount of production by the approved yield for the acreage. The number of acres insured under this endorsement will not exceed the actual number of acres planted to the potato types and which are needed to fulfill the contract.

6. In lieu of the provisions contained in section 4 of the Northern Potato Quality Endorsement, production that is rejected by the processor will be adjusted as follows: Production to count (determined in accordance with section 15 of the Basic Provisions and section 11 of the Northern Potato Crop Provisions) from (1) unharvested acreage; (2) harvested acreage that is stored after a grade inspection; or (3) that is marketed after a grade inspection; and that contains potatoes that:

(a) Grade less than U.S. No. 2 due to internal defects, a specific gravity lower than the lesser of 1.074 or the minimum acceptable amount specified in the processor contract, or a fry color of No. 3 or darker due to either sugar exceeding 10 percent or sugar ends exceeding 19 percent (the number of potatoes with such defects must be in excess of the tolerance allowed for U.S. No. 2 grade potatoes on a lot basis and must not be separable from undamaged production using methods used by the processors to which you normally deliver your potato production), will be adjusted as follows:

(1) For potatoes for which a price is agreed upon in writing between you and a buyer within 21 days (60 days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) of the end of the insurance period, or that are delivered to a buyer within 21 days (60 days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) of the end of the insurance period, by multiplying the production to count by the factor (not to exceed 1.0) that results from dividing the price received or that will be received per hundredweight of the damaged production by the highest available price election. This method of adjustment will not be performed if it has already been performed under the terms of section 11(g)(2)(i) of the Northern Potato Crop Insurance Provisions. If production is sold for a price lower than the value appropriate and representative of the local market, we will determine the value of the production based on the price you could have received in the local market.

(2) For harvested potatoes discarded within 21 days (60 days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) of the end of the insurance period and appraised unharvested production that could:

(i) Not have been sold, the production to count will be zero; or

(ii) Have been sold, the production to count will be determined in accordance with section 6(a)(1). The price used for the damaged production will be the price you could have received in the local market.

(3) For potatoes for which a price is not agreed upon in writing between you and a buyer within 21 days (60 days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) of the end of the insurance period and that remain in storage

22 or more days (61 or more days if the Northern Potato Crop Insurance Storage Coverage Endorsement is applicable) after the end of the insurance period, production to count will be determined in accordance with section 6(b).

(b) Grade less than U.S. No. 2 due to factors other than those specified in section 6(a) will be multiplied by a factor (not to exceed 1.0) that is determined as follows:

(1) The combined weight of sampled potatoes that grade U.S. No. 2 or better and that are damaged by freeze or tuber rot will be divided by the total sample weight; and

(2) The percentage determined in section 6(b)(1) above will be divided by the applicable percentage factor determined in accordance with section 10.

7. All grade determinations for the purposes of this endorsement will be made using the United States Standards for Grades of Potatoes for Processing or Chipping.

8. All determinations must be based upon a grade inspection.

9. The actuarial documents may provide "U.S. No. 1" in place of "U.S. No. 2" as used in this endorsement. If both U.S. No. 1 and 2 are available in the actuarial documents, you may elect U.S. No. 1 or 2 by potato type or group, if separate types or groups are specified in the Special Provisions.

10. *Percentage factor* means the historical average percentage of potatoes grading U.S. No. 2 or better, by type, determined from your records. If at least 4 continuous years of records are available, the percentage factor will be the simple average of the available records not to exceed 10 years. If less than four years of records are available, the percentage factor will be determined based on a combination of your records and the percentage factor contained in the Special Provisions.

9. Section 457.145 is added to read as follows:

§ 457.145 Potato Crop Insurance—Certified Seed Endorsement.

The Potato Crop Insurance Certified Seed Endorsement provisions for the 1998 and succeeding years are as follows:

FCIC policies:

United States Department of Agriculture

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Potato Crop Insurance Certified Seed Endorsement

1. In return for payment of the additional premium designated in the actuarial documents, this endorsement is attached to and made part of your Northern Potato Crop Provisions subject to the terms and conditions described herein. In the event of a conflict between the Northern Potato Provisions and this endorsement, this endorsement will control.

2. For the purpose of this endorsement, the term "potato certified seed program" means the state program administered by the public agency responsible for the seed certification

process within the state in which the seed is produced.

3. You must elect this endorsement on or before the sales closing date for the initial crop year you wish to insure your potatoes under this endorsement. This endorsement will continue in effect until canceled. It may be canceled by either you or us for any succeeding crop year by giving written notice to the other party on or before the cancellation date.

4. All potatoes grown on insurable acreage and that are entered into the potato seed certification program administered by the state in which the seed is grown must be insured unless limited by section 5 below.

5. The certified seed acreage you insure in the current crop year cannot be greater than 125 percent of your average number of acres entered into and passing certification in the potato certified seed program in the three previous calendar years unless a written agreement provides otherwise. If you enter more than this number of acres into the certification program, your certified seed production guarantee for the current crop year will be reduced as follows:

(a) Multiply the average number of your acres entered into and passing certification in the potato certified seed program the 3 previous calendar years by 1.25 and divide this result by the number of acres grown by you for certified seed in the current crop year; and

(b) Multiply the result of section 5(a) (not to exceed 1.0) by the production guarantee for certified seed for the current crop year.

6. You must provide acceptable records of your certified seed potato acreage and production for the previous three years. These records must clearly indicate the number of your acres entered into the potato seed certification program administered by the state in which the seed is grown.

7. All potatoes insured for certified seed production must be produced and managed in accordance with standards, practices, and procedures required for certification by the state's certifying agency and applicable regulations.

8. If, due to insurable causes occurring within the insurance period, potato production does not qualify as certified seed on any insured certified seed potato acreage within a unit, we will pay you the dollar amount per hundredweight contained in the Special Provisions for that purpose, multiplied by your production guarantee for such acreage, multiplied by your share. Any production that does not qualify as certified seed because of varietal mixing or your failure to follow the standard practices and procedures required for certification will be considered as lost due to uninsured causes.

9. You must notify us of any loss under this endorsement not later than 14 days after you receive notice from the state certification agency that any acreage has failed certification.

10. Section 457.146 is added to read as follows:

§ 457.146 Northern Potato Crop Insurance—Storage Coverage Endorsement.

The Northern Potato Crop Insurance Storage Coverage Endorsement provisions for the 1998 and succeeding years are as follows:

FCIC policies:

United States Department of Agriculture

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Northern Potato Crop Insurance Storage Coverage Endorsement

1. In return for payment of the required additional premium as contained in the actuarial documents, this endorsement is attached to and made part of your Northern Potato Crop Provisions subject to the terms and conditions described herein. In the event of a conflict between the Northern Potato Crop Provisions and this endorsement, this endorsement will control.

2. You must elect this endorsement on or before the sales closing date for the initial crop year in which you wish to insure your potatoes under this endorsement. This endorsement will continue in effect until canceled. It may be canceled by either you or us for any succeeding crop year by giving written notice to the other party on or before the cancellation date.

3. Potato production grown under a contract that requires the production to be delivered to a buyer within three days of harvest will not be insured under this endorsement. When such contract requires delivery of a stated amount of production, rather than all of the production from a stated amount of acres, the number of acres not insured under this endorsement will be determined by dividing the stated amount of production by the approved yield for the acreage. All other potato production insured under the Northern Potato Crop Provisions must be insured under this endorsement unless the Special Provisions allow you to exclude certain potato varieties, types, or groups from this endorsement, and you elect to exercise this option. If you elect this endorsement, such exclusions must be shown annually on your acreage report and will be applicable to all acreage of the excluded varieties, types, or groups for the crop year.

4. When production from separate insurance units, basic or optional, is commingled in storage, the production to count for each unit will be allocated pro rata based on the production placed in storage from each unit. Such allocation will be allowed only if verifiable records of production placed in storage are available by unit. If you do not have verifiable records, all units without verifiable records will be combined in accordance with section 11 of the Northern Potato Crop Provisions. For example, if 500 hundredweight from one unit are commingled with 1,500 hundredweight from another unit and the production to count from the stored production is 1,000 hundredweight, 250 hundredweight of

production to count will be allocated to the unit contributing 500 hundredweight and 750 hundredweight to the unit contributing 1500 hundredweight to the stored production. This provision does not eliminate or change any other requirement contained in this policy to provide or maintain separate records of acreage or production by unit.

5. The extended coverage provided by this endorsement will be applicable only if:

(a) Insured potatoes are damaged within the insurance period by an insured cause other than freeze that later results in:

(1) Tuber rot as defined in the Northern Potato Crop Provisions, to the extent that 5.1 percent (by weight) or more of the insured production is affected;

(2) Internal defects to the extent that such defects are in excess of the amount allowed for the U.S. grade standard you elected for purposes of coverage under the Northern Potato Crop Insurance Quality Endorsement. Such defects must not be separable from undamaged production using methods used by the packers or processors to which you normally deliver your potato production. This coverage is applicable only to production covered under the Northern Potato Crop Insurance Quality Endorsement; or

(3) A specific gravity lower than the lesser of 1.074 or the minimum acceptable amount specified in the processor contract, or a fry color of No. 3 or darker due to either sugar exceeding 10 percent or sugar ends exceeding 19 percent. This coverage is applicable only to production covered under the Northern Potato Crop Insurance Processing Quality Endorsement.

(b) You notify us within 72 hours of your initial discovery of any damage that has or that may later result in the quality deficiencies specified in section 5(a);

(c) The percentage of production that has any of the quality deficiencies specified in section 5(a) is determined no later than 60 days after the end of the insurance period; and

(d) The potatoes are evaluated and quality (grade) determinations are made by us, a laboratory approved by us, or a potato grader licensed or certified by the applicable State or the United States Department of Agriculture, in accordance with the United States Standards for Grades of Potatoes. Samples of damaged production must be obtained by us or party approved by us prior to the sale or disposal of any lot of potatoes. Or, if production is not sold or disposed of within 60 days of the end of the insurance period, samples must be obtained within 60 days of the end of the insurance period.

Signed in Washington, D.C., on December 5, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97-32491 Filed 12-11-97; 8:45 am]

BILLING CODE 3410-08-P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 437 and 457

Sweet Corn Insurance Regulations; and Common Crop Insurance Regulations, Processing Sweet Corn Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of processing sweet corn. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current sweet corn crop insurance regulations with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current sweet corn crop insurance regulations to the 1997 and prior crop years.

DATES: Effective December 12, 1997.

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

SUPPLEMENTARY INFORMATION:

Executive Order No.12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget (OMB) under control number 0563-0053.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory

provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. The amount of work required of insurance companies will not increase because the information used to determine eligibility is already maintained at their office and the other information required is already being gathered as a result of the present policy. No additional actions are required as a result of this action on the part of either the producer or the reinsured company. Additionally, the regulation does not require any action on the part of the small entities than is required on the part of the large entities. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

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

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 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 No. 12988

This final rule has been reviewed in accordance with Executive Order No. 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be