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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

[Docket ID FCIC-20-0004]

RIN 0563-AC68

Common Crop Insurance Regulations; Dry Pea Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule with request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Common Crop Insurance Regulations, Dry Pea Crop Insurance Provisions (Crop Provisions). The intended effect of this action is to update crop insurance policy provisions and definitions to better reflect current agricultural practices. The changes are to be effective for the 2021 and succeeding crop years.

DATES: *Effective date:* This rule is effective June 30, 2020.

Comment date: We will consider comments that we receive by **[Insert date 60 days after publication in the *FEDERAL REGISTER*]**. We may conduct additional rulemaking based on the comments.

ADDRESSES: We invite you to submit comments on this rule. In your comments, include the date, volume, and page number of this issue of the *Federal Register*, and the title of rule. You may submit comments by any of the following methods, although FCIC prefers that you submit comments electronically through the Federal eRulemaking Portal:

- Federal eRulemaking Portal: Go to http:/www.regulations.gov and search for Docket ID FCIC-20-0004. Follow the online instructions for submitting comments.
- Mail: Director, Product Administration and Standards Division, Risk Management Agency, US Department of Agriculture, P.O. Box 419205, Kansas City, MO 64133-6205.

All comments received, including those received by mail, will be posted without change and publicly available on http://www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Francie Tolle, telephone (816) 926–7829, email francie.tolle@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

FCIC serves America's agricultural producers through effective, market-based risk management tools to strengthen the economic stability of agricultural producers and rural communities. The Risk Management Agency (RMA) manages FCIC. FCIC is committed to increasing the availability and effectiveness of Federal crop insurance as a risk management tool. Approved Insurance Providers (AIP) sell and service Federal crop insurance policies in every state and in Puerto Rico through a public-private partnership. FCIC reinsures the AIPs who share the risks associated with catastrophic losses due to major weather events. FCIC's vision is to secure the future of agriculture by providing world class risk management tools to rural America.

Federal crop insurance policies typically consist of the Basic Provisions, the Crop Provisions, the Special Provisions, the Commodity Exchange Price Provisions, if

applicable, other applicable endorsements or options, the actuarial documents for the insured agricultural commodity, the Catastrophic Risk Protection Endorsement, if applicable, and the applicable regulations published in 7 CFR chapter IV.

FCIC amends the Common Crop Insurance Regulations by revising 7 CFR 457.140, Dry Pea Crop Insurance Provisions, to be effective for the 2021 and succeeding crop years. The intended effect of this action is to update existing policy provisions and definitions to better reflect current agricultural practices.

The changes to 7 CFR 457.140, Dry Pea Crop Insurance Provisions are as follows:

FCIC is revising the definition of "combining" to add the word "dry" before the word "peas" in both places because "dry peas" is defined in the policy.

FCIC is revising the name and definition of "contract seed peas" to "contract seed types" to allow FCIC to include specific other categories of dry peas to be included as a contract seed type in the Special Provisions. Currently, the definition of "contract seed peas" only includes the category of Peas (*Pisum sativum* L.) in the definition. This change will allow FCIC to add other categories (for example, Lentils (*Lens culinaris* Medik.), Chickpeas (*Cicer arietinum* L.), and Fava or Faba beans, (*Vicia faba L.*)) in the future. FCIC is revising any reference to "contract seed peas" to "contract seed types" throughout the Dry Pea Crop Provisions. FCIC is making conforming changes to revise any reference to "contract seed peas" to "contract seed types" throughout the regulation.

FCIC is revising the definition of "dry peas" to include Fava or Faba beans and other types of dry peas insured by written agreement. The current definition of "dry peas" does not recognize Fava or Faba beans as insurable under the Dry Pea Crop

Provisions. Currently, Fava or Faba beans are insured by written agreement under the Dry Bean Crop Provisions. However, Fava or Faba beans are a cool season crop, which more closely matches dry peas, whereas dry beans are a warm season crop. In addition, the cultural and agronomic practices to grow Fava or Faba beans are more similar to dry peas than dry beans. Therefore, adding Fava or Faba beans (*Vicia faba L.*) to the definition of "dry peas" will allow this type of bean to be insured under the Dry Pea Crop Provisions.

FCIC is adding a definition of "latest final planting date" to specify the final planting date for those counties that have only spring-planted acreage, only fall-planted acreage, or both spring-planted and fall-planted acreage. This change is consistent with other crop provisions that allow spring-planted and fall-planted acreage.

FCIC is revising the definition of "local market price" to clarify moisture content not associated with grading under the U.S. Standards will not be considered in establishing the local market price. This revision is necessary because FCIC is adding a moisture adjustment to gross production in section 13 of the Dry Pea Crop Provisions as described below. FCIC is also revising the definition to include "Beans (Chickpeas and Fava or Faba beans)" in the list of U.S. Standards. The definition currently includes factors not associated with grading under the U.S. Standards for Whole Dry Peas, Split Peas, and Lentils. However, the standards for chickpeas and Fava or Faba beans can be found in U.S. Standards for Beans. Therefore, "Beans (Chickpeas and Fava or Faba beans)" should be added to the list as chickpeas and Fava or Faba beans are defined as dry peas in these Crop Provisions.

FCIC is revising the definition of "practical to replant" for clarity and removing paragraph (c) from the definition. That paragraph of the definition is not necessary because the Common Crop Insurance Policy, Basic Provisions (Basic Provisions), already includes the information that was in paragraph (c).

FCIC is adding a definition of "prevented planting" to specify it is the same definition found in the Basic Provisions except references to "final planting date" contained in the definition in the Basic Provisions are replaced with "latest final planting date." This change is consistent with other crop provisions that allow spring-planted and fall-planted acreage.

FCIC is revising the definition of "type" to allow other types to be insured by written agreement. This change is consistent with the changes being made to the definition of "dry peas." FCIC is making conforming changes to remove references to types being found in the Special Provisions throughout the regulation because the definition of "type" contains a reference to the Special Provisions.

FCIC is replacing the phrase "Special Provisions" with "actuarial documents in sections 3(b)(1) and (2) because this section is referring to where price elections can be found. Price elections can be found in the actuarial documents.

FCIC is revising section 4 to add an additional contract change date of June 30 preceding the cancellation date for counties with an October 31 cancellation date to allow for expansion into California and specific counties in Arizona. For the same reason, FCIC is revising section 5 to add a cancellation and termination date of October 31.

FCIC is redesignating section 7(a)(3)(iv) as section 7(a)(4) and revising it to disallow written agreements on acreage that is planted with the intent to plow down,

graze, harvest as hay, or otherwise not harvest as a mature dry pea crop. In those situations, the producer is not trying to harvest the dry pea crop and a written agreement should not be allowed on the acreage.

FCIC is revising the introductory text in section 8(c) to state the provisions of 8(c) are applicable when the Special Provisions designate both fall and spring planted types and the Winter Coverage Option is not in force for the acreage. Prior to this rule, the introductory text stated it is applicable if the Special Provisions designate both fall and spring final planting dates but section 8(c)(3) stated if the Winter Coverage Option is elected, insurance is in accordance with the option. The revisions combine the provisions in the introductory text to section 8(c) and section 8(c)(3). FCIC is removing section 8(c)(3) as the section is not necessary with the revision to the introductory text to section 8(c).

FCIC is revising section 8(c)(1) to remove the phrase "fall-planted dry peas" and replacing it with the phrase "fall-planted dry pea acreage" for clarity. FCIC is also revising the section to make it clear these provisions are applicable for the replanted type to obtain insurance after it has been replanted.

FCIC is adding a new section 8(d) to clarify when the Special Provisions designate both fall and spring-planted types, and the Winter Coverage Option is in force for the acreage, insurance will be in accordance with the Winter Coverage Option. This text was previously in section 8(c)(3), but conflicted with the introductory text to section 8(c), which was discussed above.

FCIC is redesignating section 8(d) as section 8(e) and revising it to remove the phrase "spring final planting date" and replacing it with "spring-planted type" for clarity.

FCIC is making the same clarification throughout the policy by removing references to fall or spring final planting dates and changing it to reference fall or spring-planted types, where appropriate. Some counties list both spring and fall types in the Special Provisions but the final planting date for fall types is not listed. A fall final planting date is only listed if the Winter Coverage Option is elected. Therefore, there was confusion as to whether certain provisions were applicable when they referred to a fall final planting date if the Winter Coverage Option was not elected because no fall final planting date is listed. FCIC is also removing the phrase "agree in writing" as this could be misinterpreted to mean a written agreement, which is not the intent of the language, and could result in providing insurance via written agreement when it was not intended, nor appropriate. FCIC is also revising this language to clarify the AIP must inspect and determine the acreage has an adequate stand. These clarifications will reduce the likelihood of fraud, waste and abuse.

FCIC is rearranging and clarifying section 9(a). Prior to this rule, section 9(a) was not clear if a spring inspection is required nor did it address whether the insured must insure fall-planted acreage if it meets the criteria of section 8, Insurable Acreage. In a county with fall and spring types, fall types must be reported by the spring sales closing date. If there is an adequate stand of the fall-planted type in the spring, insurance will attach on the date the AIP determines there is an adequate stand or on the spring final planting date if the AIP does not make that determination prior to the spring final planting date. Fall-planted acreage must be reported and insured if it meets the requirements of section 8.

In sections 11(a)(4) and (5), FCIC is removing the reference to "final planting date" and replacing it with the phrase "type designated in the Special Provisions" for clarity as explained above for section 8(d). FCIC is also removing "are designated" at the end of paragraph as it is redundant.

In section 13, FCIC is revising the steps for settlement of a claim and the example to consistently use defined terms and clarify that some instructions only apply if there is more than one dry pea type insured.

FCIC is revising section 13(d)(1)(iii) to clarify mature unharvested production of dry peas may be adjusted for excess moisture. This revision is necessary because FCIC is adding a moisture adjustment to gross production in section 13(e) of the Dry Pea Crop Provisions as described below.

FCIC is revising section 13(e), at the request of producers, to add a moisture adjustment to gross production; similar to other crops (for example, Dry Beans; Coarse Grains, Small Grains). Dry peas are sometimes harvested with moisture content above 14 percent. Most processors will apply a discount to either production or price due to excess moisture. The current Dry Pea policy does not allow for such reduction causing insureds to believe they are not being treated fairly. Applying moisture adjustment results in a reduction to production to count[1] of 0.12 percent for each 0.1 percentage points of moisture in excess of 14 percent. The adjustment for moisture is made prior to applying any qualifying quality adjustment(s). Applying moisture adjustment to gross

[1]Production to count is harvested or appraised quantities of a crop produced (including appraised production from uninsured causes of loss) from a unit, which is subtracted from the unit's production guarantee in computing an indemnity.

production is proactive and consistent with other similar crop provisions. This adjustment will also lead to more accurate loss determinations. Adjustments for excess moisture should have no significant impacts to producers' rates or indemnities.

In section 14, FCIC is adding a new paragraph (a) to clarify that in counties for which the Special Provisions designate both fall-planted and spring-planted types, the policyholder's prevented planting production guarantee will be based on their approved yield for spring-planted acreage of the insured crop.

FCIC is revising section 15(d) to remove the reference to "final planting date" and replacing it with the phrase "planted type." As explained above, this change will eliminate any confusion of whether a fall final planting date exists in the actuarial documents if the Winter Coverage Option is not selected.

Effective Date and Notice and Comment

The Administrative Procedure Act (APA, 5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves specified actions, including matters relating to contracts. This rule governs contracts for crop insurance policies and therefore falls within that exemption.

For major rules, the Congressional Review Act requires a delay the effective date of 60 days after publication to allow for Congressional review. This rule is not a major rule under the Congressional Review Act, as defined by 5 U.S.C. 804(2). Therefore, this final rule is effective June 30, 2020. Although not required by APA or any other law, FCIC has chosen to request comments on this rule.

Executive Orders 12866, 13563, 13771, and 13777

Executive Order 12866, "Regulatory Planning and Review," and Executive Order 13563, "Improving Regulation and Regulatory Review," direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The requirements in Executive Orders 12866 and 13563 for the analysis of costs and benefits apply to rules that are determined to be significant. Executive Order 13777, "Enforcing the Regulatory Reform Agenda," established a federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866, "Regulatory Planning and Review," and therefore, OMB has not reviewed this rule and analysis of the costs and benefits is not required under either Executive Order 12866 or 1356.

Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs," requires that in order to manage the costs required to comply with Federal regulations that for every new significant or economically significant regulation issued, the new costs must be offset by savings from deregulatory actions. As this rule is designated as not significant, it is not subject to Executive Order 13771. In a general response to the requirements of Executive Order 13777, USDA created a Regulatory Reform Task Force, and USDA agencies were directed to remove barriers, reduce

burdens, and provide better customer service both as part of the regulatory reform of existing regulations and as an ongoing approach. FCIC reviewed this regulation and made changes to improve any provision that was determined to be outdated, unnecessary, or ineffective.

Clarity of the Regulation

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this rule, we invite your comments on how to make the rule easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601-612), as amended by SBREFA, generally requires an agency to prepare a regulatory analysis of any rule whenever an

agency is required by APA or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because as noted above, this rule is exempt from APA and no other law requires that a proposed rule be published for this rulemaking initiative.

Environmental Review

In general, the environmental impacts of rules are to be considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321-4347) and the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508). FCIC conducts programs and activities that have been determined to have no individual or cumulative effect on the human environment. As specified in 7 CFR 1b.4, FCIC is categorically excluded from the preparation of an Environmental Analysis or Environmental Impact Statement unless the FCIC Manager (agency head) determines that an action may have a significant environmental effect. The FCIC Manager has determined this rule will not have a significant environmental effect. Therefore, FCIC will not prepare an environmental assessment or environmental impact statement for this action and this rule serves as documentation of the programmatic environmental compliance decision.

Executive Order 12372

Executive Order 12372, "Intergovernmental Review of Federal Programs," requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and

local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice regarding 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities in this rule are excluded from the scope of Executive Order 12372.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, "Civil Justice Reform." This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. Before any judicial actions may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 are to be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, "Federalism." The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including

regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

RMA has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our knowledge, have Tribal implications that require Tribal consultation under EO 13175. The regulation changes do not have Tribal implications that preempt Tribal law and are not expected have a substantial direct effect on one or more Indian Tribes. If a Tribe requests consultation, RMA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes and additions identified in this rule are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104-4) requires Federal agencies to assess the effects of their regulatory actions of State, local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including cost benefits analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Federal Assistance Program

The title and number of the Federal Domestic Assistance Program listed in the Catalog of Federal Domestic Assistance to which this rule applies is No. 10.450 – Crop Insurance.

Paperwork Reduction Act of 1995

In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, subchapter I), the rule does not change the information collection approved by OMB under control number 0563-0053.

E-Government Act Compliance

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

List of Subjects in 7 CFR Part 457

Acreage allotments, Crop insurance, Reporting and recordkeeping requirements.

For the reasons discussed above, FCIC amends 7 CFR part 457, effective for the 2021 and succeeding crop years, as follows:

PART 457 - COMMON CROP INSURANCE REGULATIONS

1. The authority citation for part 457 is revised to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(o).

2. Amend § 457.140 as follows:

a. In the introductory text, remove the year "2017" and add "2021" in its place;

b. In section 1:

i. In the definition of "Combining", remove the phrase "the peas" and add "dry peas" in its place in both places it appears;

ii. Remove the definition of "Contract seed peas";

iii. Add a definition for "Contract seed types" in alphabetical order;

iv. Revise the definition of "Dry peas";

v. Add a definition for "Latest final planting date" in alphabetical order;

vi. Revise the definitions of "Local market price" and "Practical to replant";

vii. Add a definition for "Prevented planting" in alphabetical order;

viii. In the definitions of "Price election", "Processor/seed company", and "Processor/seed company contract" remove the phrase "contract seed peas" and add "contract seed types" in its place each time it appears; and

ix. Revise the definition of "Type";

c. In section 2:

i. Remove the phrase "as specified on the Special Provisions" at the end of the first sentence; and

ii. Remove the phrase, "Contract seed peas" and add "Contract seed types" in its place in the second sentence;

d. In section 3:

i. In paragraph (a), remove the phrase "listed on the Special Provisions" in the first sentence;

ii. In paragraph (b)(1), remove the phrase "Special Provisions" and add "actuarial documents" in its place; and

iii. Revise paragraph (b)(2);

e. Revise section 4;

f. Revise section 5;

g. In section 6, remove the phrase “contract seed peas” and “contract seed types” in its place;

h. In section 7:

i. In paragraph (a)(2)(ii), remove the phrase “Contract seed peas” and add the phrase “Contract seed types” in its place and add the word “date” after “reporting”; and

ii. Redesignate paragraph (a)(3)(iv) as paragraph (a)(4) and revise it;

i. In section 8:

i. Revise paragraph (c) introductory text;

ii. Revise paragraph (c)(1);

iii. Remove paragraph (c)(3);

iv. Redesignate paragraph (d) as paragraph (e);

v. Add a new paragraph (d);

vi. Revise newly redesignated paragraph (e) introductory text; and

vii. In newly redesignated paragraph (e)(3), remove the word “growers” and add “producers” in its place;

j. In section 9, revise paragraph (a);

k. In section 11:

i. In paragraph (a)(4), remove the phrase, “final planting date” and add “type designated in the Special Provisions” in its place;

ii. In paragraph (a)(5), remove the phrase "a fall and spring final planting date are designated" and add "fall and spring types are designated in the Special Provisions" in its place; and

iii. In paragraph (a)(6), remove the phrase, "fall planted" and add "fall-planted" in its place;

l. In section 13:

i. Revise paragraph (b);

ii. In paragraph (c) introductory text, remove the phrase "contract seed pea" and add "contract seed type" in its place;

ii. Revise paragraph (d)(1)(iii);

iii. Revise paragraph (e) introductory text;

iv. Redesignate paragraph (e)(3)(iv) as paragraph (f);

v. Redesignate paragraphs (e)(1) through (3) as paragraphs (e)(2) through (4), respectively;

vi. Add a new paragraph (e)(1);

vii. In newly redesignated paragraph (e)(2)(i), remove the phrase "Split Peas" and add "Split Peas, Beans (Chickpeas, Fava or Faba beans)" in its place;

viii. In newly redesignated paragraph (e)(4) introductory text, remove the phrase "12(e)(1) and (2)" and add "13(e)(2) and (3)" in its place;

ix In newly redesignated paragraph (e)(4)(ii), add the word "and" at the end; and

x. Revise newly redesignated paragraph (e)(4)(iii);

m. In section 14:

i. Redesignate the undesignated paragraph as paragraph (b); and

ii. Add paragraph (a);

n. In section 15:

i. In paragraph (d), remove the phrase "both a fall final planting date and a spring final planting date" and add "both fall and spring-planted types" in its place; and

ii. In paragraphs (e)(4) and (i) remove the phrase "fall planted" and add "fall-planted" in its place wherever it appears;

The revisions and additions read as follows:

§ 457.140 Dry pea crop insurance provisions.

* * * * *

1. Definitions

* * * * *

Contract seed types. Peas (Pisum sativum L.) or other categories of dry peas identified in the Special Provisions grown under the terms of a processor/seed company contract for the purpose of producing seed to be used in planting a future year's crop.

Dry peas. Peas (*Pisum sativum* L.), Austrian Peas (*Pisum sativum spp arvense*), Fava or Faba beans (*Vicia faba* L.), Lentils (*Lens culinaris* Medik.), Chickpeas (*Cicer arietinum* L.), and other types as listed in the Special Provisions or insured by written agreement.

* * * * *

Latest final planting date. (a) The final planting date for spring-planted acreage in all counties for which the Special Provisions designate a spring-planted type only;

(b) The final planting date for fall-planted acreage in all counties for which the Special Provisions designate a fall-planted type only; or

(c) The final planting date for spring-planted acreage in all counties for which the Special Provisions designate both spring-planted and fall-planted types.

Local market price. The cash price per pound for the U.S. No. 1 grade of dry peas as determined by us. This price will be considered the prevailing dollar amount buyers are willing to pay for dry peas containing the maximum limits of quality deficiencies allowable for the U.S. No. 1 grade. Moisture content and factors not associated with grading under the United States Standards for Whole Dry Peas, Split Peas, Beans (Chickpeas, Fava or Faba beans), and Lentils will not be considered, unless otherwise specified in the Special Provisions.

* * * * *

Practical to replant. In addition to the definition contained in the Basic Provisions, it will be considered practical to replant:

(a) Contract seed types only if the processor/seed company will accept the production under the terms of the processor/seed company contract.

(b) Fall-planted types 25 days or less after the final planting date for the corresponding spring-planted type of dry peas.

Prevented planting. As defined in the Basic Provisions, except that the references to "final planting date" contained in the definition in the Basic Provisions are replaced with the "latest final planting date."

* * * * *

Type. A category of dry peas identified as a type in the Special Provisions or insured by written agreement.

* * * * *

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

* * * * *

(b) * * *

(2) If the actuarial documents designate separate price elections by type, you may select one price election for each dry pea type even if the prices for each type are the same. The price elections you choose for each type are not required to have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you may choose 75 percent of the maximum price election for another type.

4. Contract Changes.

In accordance with section 4 of the Basic Provisions, the contract change date is June 30 preceding the cancellation date for counties with an October 31 cancellation date, or November 30 preceding the cancellation date for counties with a March 15 cancellation date.

5. Cancellation and Termination Dates.

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

State & County	Cancellation Date	Termination Date
All counties in California and Arizona Counties: La Paz, Maricopa, Mohave, Pima, Pinal, and Yuma.	10/31	10/31
All other Arizona counties and all other states.	3/15	3/15

* * * * *

7. Insured Crop.

(a) * * *

(4) That is not planted to plow down, graze, harvest as hay, or otherwise not planted to harvest as a mature dry pea crop.

* * * * *

8. Insurable Acreage.

* * * * *

(c) When the Special Provisions designate both fall and spring-planted types, and the Winter Coverage Option is not in force for the acreage:

(1) Any fall-planted dry pea acreage that is damaged before the spring final planting date, to the extent that producers in the area would normally not further care for the crop, must be replanted to a fall-planted type of dry peas to obtain insurance based on the fall-planted type unless we agree that replanting is not practical. If it is not practical to replant to a fall-planted type of dry peas but it is practical to replant to a spring-planted type, you must replant to a spring-planted type to obtain insurance coverage based on the fall-planted type.

* * * * *

(d) When the Special Provisions designate both fall and spring-planted types, and the Winter Coverage Option is in force for the acreage, insurance will be in accordance with the Winter Coverage Option (see section 15).

(e) Whenever the Special Provisions designate only a spring-planted type, any acreage of a fall-planted dry pea crop is not insured unless you request such coverage on or before the spring sales closing date, and we inspect and determine that the acreage has

an adequate stand in the spring to produce the yield used to determine your production guarantee.

* * * * *

9. Insurance Period.

* * * * *

(a) If the Special Provisions designate both fall and spring-planted types, and the Winter Coverage Option is not in force for the acreage, you must report fall-planted acreage to your crop insurance agent on or before the spring sales closing date. Fall-planted types are only insurable if there is an adequate stand in the spring. Insurance will attach to such acreage on the date we determine an adequate stand exists or on the spring final planting date if we do not make that determination prior to the spring final planting date, unless otherwise specified in the Special Provisions. Fall-planted acreage must be reported and insured if it meets the requirements of section 8.

* * * * *

13. Settlement of Claim.

* * * * *

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

(1) Multiplying the insured acreage of each dry pea type, if applicable, excluding contract seed types, by its respective production guarantee;

(2) Multiplying each result of section 13(b)(1) by the respective price election;

(3) Totaling the results of section 13(b)(2) if there is more than one type;

(4) Multiplying the insured acreage of each contract seed type variety by its respective production guarantee;

(5) Multiplying each result of section 13(b)(4) by the applicable base contract price;

(6) Multiplying each result of section 13(b)(5) by your selected price election percentage;

(7) Totaling the results of section 13(b)(6) if there is more than one type;

(8) Totaling the results of section 13(b)(3) and section 13(b)(7);

(9) Multiplying the total production to be counted of each dry pea type, excluding contract seed types, if applicable (see section 13(d)), by the respective price elections;

(10) Totaling the value of all contract seed type production (see section 13(c));

(11) Totaling the results of section 13(b)(9) and section 13(b)(10);

(12) Subtracting the result of section 13(b)(11) from the result in section 13(b)(8); and

(13) Multiplying the result of section 13(b)(12) by your share.

Example 1:

In this example, you have not elected optional units by type. You have a 100 percent share in 100 acres of spring-planted smooth green dry edible peas in the unit, with a production guarantee of 4,000 pounds per acre and a price election of $0.09 per pound. Your selected price election percentage is 100 percent. You are only able to harvest 200,000 pounds. Your indemnity would be calculated as follows:

(1) 100 acres x 4,000 pounds = 400,000-pound guarantee;

(2) 400,000–pound guarantee x $0.09 price election = $36,000 value of guarantee;

(9) 200,000-pound production to count x $0.09 price election = $18,000 value of production to count;

(12) $36,000 value of guarantee - $18,000 value of production to count = $18,000 loss; and

(13) $18,000 x 100 percent share = $18,000 indemnity payment.

Example 2:

Assume the same facts in example 1. Also assume you have a 100 percent share in 100 acres of contract seed types in the same unit, with a production guarantee of 5,000 pounds per acre and a base contract price of $0.40 per pound. Your selected price election percentage is 100 percent. You are only able to harvest 450,000 pounds. Your total indemnity for both spring-planted smooth green dry edible peas and contract seed types would be calculated as follows:

(1) 100 acres x 4,000 pounds = 400,000-pound guarantee for the spring-planted smooth green dry edible pea type;

(2) 400,000-pound guarantee x $0.09 price election = $36,000 value of guarantee for the spring-planted smooth green dry edible pea type;

(3) $36,000 (only one spring-planted smooth green dry edible pea type, no other types in this example to total)

(4) 100 acres x 5,000 pounds = 500,000-pound guarantee for the contract seed type;

(5) 500,000-pound guarantee x $0.40 base contract price = $200,000 gross value of guarantee for the contract seed type;

(6) $200,000 x 1.0 price election percentage = $200,000 value of guarantee for the contract seed type;

(7) $200,000 (only one contract seed type, no other types in this example to total);

(8) $36,000 + $200,000 = $236,000 total value of guarantee;

(9) 200,000–pound production to count x $0.09 price election = $18,000 value of production to count for the spring-planted smooth green dry edible pea type;

(10) 450,000–pound production to count x $0.40 = $180,000 value of production to count for the contract seed type;

(11) $18,000 + $180,000 = $198,000 total value of production to count;

(12) $236,000 - $198,000 = $38,000 loss; and

(13) $38,000 loss x 100 percent share = $38,000 indemnity payment.

* * * * *

(d) * * *

(1) * * *

(iii) Unharvested production (mature unharvested production of dry peas may be adjusted for quality deficiencies and excess moisture in accordance with section 13(c) or (e), or as specified in the Special Provisions if applicable); and

* * * * *

(e) Mature dry pea production to count may be adjusted for excess moisture and quality deficiencies. If applying a moisture adjustment, it will be made prior to any

adjustment for quality. Adjustment for excess moisture and quality deficiencies will not be applicable to contract seed types.

(1) Production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of 14 percent. We may obtain samples of the production to determine the moisture content.

* * * * *

(4) * * *

(iii) The number of pounds remaining after any reduction due to excess moisture (the moisture-adjusted gross pounds, if appropriate) of the damaged or conditioned production will then be multiplied by the quality adjustment factor to determine the net production to count to be included in section 13(d);

* * * * *

14. Prevented Planting.

(a) In counties for which the Special Provisions designate both fall and spring-planted types, your prevented planting production guarantee will be based on your approved yield for spring-planted acreage of the insured crop.

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