minimum acceptance standards specified in the malting barley contract for percentage of protein, plump kernels, thin kernels, germination, blight damage, mold injury or damage, sprout damage, frost injury or damage, and parts per million of substances or conditions, including mycotoxins, that are identified by the Food and Drug Administration as being injurious to human or animal health, or the standards specified in this section, will be considered production to count.

11. Section 5–Specifies that a claim cannot be settled until final disposition of all production can be determined, or May 31 of the calendar year following the crop year. Production stored after this date will be adjusted based on the quality specifications indicated in subsection 4(b) of the option. This extended settlement period is intended to prevent the payment of an indemnity for production that does not meet quality specifications but that is ultimately used for malting purposes due to a shortage of quality malting barley. If barley is used for malting purposes regardless of quality it is production to count against the guarantee.

List of Subjects in 7 CFR Part 457

Crop insurance, Malting Barley Price and Quality Endorsement Crop Provisions

## **Proposed Rule**

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. § 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Common Crop Insurance Regulations (7 CFR part 457), effective for the 1996 and succeeding crop years, as follows:

## PART 457—[AMENDED]

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

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

2. Section 457.103 is revised to read as follows:

## §457.103 Malting Barley Crop Insurance.

The malting barley crop insurance provisions for the 1996 and succeeding crop years are as follows:

United States Department of Agriculture; Federal Crop Insurance Corporation; Small Grains Crop Insurance; Malting Barley Price and Quality Endorsement

(This is a continuous endorsement. Refer to section 2 of the Common Crop Insurance Policy.)

In return for your payment of premium for the coverage contained herein, this endorsement will be attached to and made part of the Common Crop Insurance Policy (§ 457.8) and Small Grains Crop Provisions (§ 457.101), subject to the terms and conditions described herein.

1. You must have the Common Crop Insurance Policy (§ 457.8) and the Small Grains Crop Insurance Provisions (§ 457.101) in force to elect to insure malting barley under this endorsement.

2. You must select either option A or option B before the sales closing date. Failure to select either option A or option B, or failure to qualify for coverage under the terms of the option selected, will result in no coverage under this endorsement for the applicable crop year. For example, if you elect option B but fail to have a binding malting barley contract by the acreage reporting date, no coverage will be provided under this endorsement for the crop year. The selection will continue from year to year unless you cancel or change your selection prior to the sales closing date.

3. You must select an added value price election at the time of application.

4. The additional premium amount for this coverage will be determined by multiplying your malting barley production guarantee per acre times your selected additional value price election, times the premium rate, times the insured acreage, times your share at the time coverage begins.

5. In addition to the acreage reporting requirements contained in section 6 of the Common Crop Insurance Policy (§ 457.8), you must provide the information required by your selected option.

6. All barley acreage that is planted to approved malting varieties, and that is insurable under the feed barley crop provisions and the selected option must be insured under this endorsement and, on the acreage report, will be designated as, and limited to, one unit.

7. In lieu of provisions in the Common Crop Insurance Policy (§ 457.8) that require you to submit a claim for indemnity not later than 60 days after the end of the insurance period, you must submit a claim for indemnity declaring the amount of your loss not later than May 31 of the calendar year immediately following the crop year.

8. Prevented planting coverage is not provided by this endorsement but is available only under the terms of the Small Grains Crop Provisions for barley.

9. Definitions:

(a) APH—Actual Production History as determined in accordance with 7 CFR part 400, subpart G.

(b) Approved malting variety—A variety of barley specified as such in the Special Provisions.

(c) Brewery—A facility where malt beverages are commercially produced for human consumption.

(d) Contracted production—The quantity of malting barley the insured producer agrees to grow and deliver, and the buyer agrees to accept, under the terms of the malting barley contract.

(e) Licensed grain grader—A person who is authorized to inspect and grade barley under the United States Grain Standards Act or the United States Warehouse Act.

(f) Malting barley contract—A written contract with a brewery or business that

produces or sells malt or processed mash to a brewery or a company owned by such brewery or business, in which is stated the production contracted and a purchase price or a method to be used in determining such price.

(g) Objective test—A determination made by a qualified person using standardized equipment that is widely used in the malting industry, and following a procedure approved by the American Society of Brewing Chemists when determining percent germination or protein content; grading performed following a procedure approved by the Federal Grain Inspection Service when determining quality factors other than percent germination or protein content; or by the Food and Drug Administration when determining parts per million of mycotoxins or other substances or conditions that are identified as being injurious to human or animal health.

(h) Subjective test—A determination made using olfactory, visual, touch or feel, masticatory, or other senses unless performed by a licensed grain grader; or that uses nonstandardized equipment, or that does not follow a procedure approved by the American Society of Brewing Chemists, the Federal Grain Inspection Service, or the Food and Drug Administration.

(i) Value per bushel—The highest price per bushel received or that could be received for the malting barley in the local market area.

(j) Unit—All insurable acreage of approved malting varieties in the county on the date coverage begins for the crop year.

Option A (for Non-Contracted Production or a Combination of Contracted and Non-Contracted Production)

This option provides coverage for malting barley production losses at a price per bushel greater than that available under the Small Grains Crop Provisions.

1. To be eligible for coverage under this option you must provide us acceptable records of the sale of malting barley and the number of acres planted to malting varieties for at least the four crop years prior to the crop year immediately preceding the current crop year. For example, to determine your production guarantee for the 1995 crop year, records must be provided for the 1990 through the 1993 crop years, if malting barley was planted in each of those crop years. You must provide these records to us no later than the production reporting date.

2. Your malting barley production guarantee per acre will be the lesser of:

(a) The production guarantee for feed barley for acreage planted to approved malting varieties calculated in accordance with the Small Grains Crop Provisions and APH regulations; or

(b) A production guarantee calculated in accordance with APH procedures using the malting barley sales and acreage records provided by you.

3. The additional value price per bushel elected cannot exceed the maximum price designated in the Special Provisions.

4. The amount of production to count against your malting barley production guarantee will include all: