

## **SUMMARY OF CHANGES FOR THE PISTACHIO CROP PROVISIONS (21-0470)**

The following is a brief description of changes to the crop provisions that will be effective for the 2021 and succeeding crop years. Please refer to the Crop Provisions for more complete information.

Minor clarifications and removal of “pilot” references were made throughout the policy.

Section 1 – Revised the definition of “set out year” for clarification that it is the actual calendar year for acreage grafted before July 1st or the calendar year following grafting when grafting occurs after July 1st.

Section 2(c) – Clarified that optional units may be allowed on contiguous land or as otherwise allowed by written agreement.

Section 3(a) – Clarified that the coverage level, price election percentage, and unit structure must be selected for the full two-year period but, by giving us written notice, you may be changed for succeeding two-year coverage periods.

Section 3(e) – Clarified how the price election and percent of price election are used to determine the amount of coverage for this two-year policy.

Section 13 – Allowed written agreements for producers with at least four years of production records.

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**Federal Crop Insurance Corporation**  
**PISTACHIO CROP PROVISIONS**



**1. Definitions.**

**Alternate bearing** – The physiological propensity of perennial species, such as pistachios (*Pistacia vera*), to produce a high yield ('on' year), typically followed the next year by a lower yield ('off' year).

**Approved yield (per acre)** – In addition to the definition contained in the Basic Provisions, the quantity of pistachios (total assessed weight in pounds per acre) determined by multiplying the actual production history (APH) yield per acre by the variability adjustment factor.

**Assessed weight** – The total pounds of edible split in-shell, total edible kernels from shelling stock and edible kernels from closed shell. Total edible kernels from shelling stock and edible kernels from closed shell are converted to in-shell equivalents in accordance with the Administrative Committee for Pistachios regulations.

**Crop year** – The calendar year in which the harvest occurs.

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

**Harvest** – Removal of the mature pistachio nuts from the tree.

**Leaf year** – A year determined by subtracting the set out year from the crop year, then adding one year.

Example: Rootstock is grafted in April of 2012.

The "set out" year is 2012. Harvestable fruit production is expected to begin in 2017, the sixth leaf year (6 = 2017-2012+1). The orchard would become insurable in 2021 the 10th leaf year (10 = 2021-2012+1).

**Set out year** – The actual calendar year for acreage grafted before July 1st or the calendar year following grafting when grafting occurs after July 1st.

**Two-year coverage period** – A two-crop-year subset of a continuous policy in which you agree to insure the crop for both years of the period, and at the same coverage level, price election percentage and unit structure.

**Variability adjustment factor** – A factor derived from the variability index that is multiplied by the APH to determine the approved yield.

- (1) If the variability index is less than or equal to 75, the variability adjustment factor will equal 1.40 unless otherwise provided in the Special Provisions.
- (2) If the variability index is greater than 75, but less than 125, the variability adjustment factor will equal 1.00 unless otherwise provided in the Special Provisions.

- (3) If the variability index is greater than or equal to 125, the variability adjustment factor will equal 0.60 unless otherwise provided in the Special Provisions.

**Variability index** – A ratio determined by dividing the yield from the most recent crop year by the average yield of the two previous crop years. Multiply the result by 100 and round to the nearest whole number. The index is used to identify units that are likely to have on versus off years.

**2. Unit Division.**

- (a) Section 34(a) of the Basic Provisions does not apply to these Crop Provisions.
- (b) Provisions in the Basic Provisions that allow optional units by section, section equivalent, or FSA farm serial number are not applicable.
- (c) In addition to section 34(c) of the Basic Provisions, optional units may be established if each optional unit is located on non-contiguous land, unless otherwise allowed by written agreement.

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

In addition to the requirements of section 3 of the Basic Provisions:

- (a) You may select only one coverage level and one price election percent for both years of the two-year coverage period for all the pistachios in the county insured under this policy. By giving us written notice by the sales closing date for the next two-year coverage period, you may change the coverage level, price election percent, and unit structure for your succeeding two-year coverage period.
- (b) Each year, we will determine the approved yield based upon the yield history in your APH database and the age of your trees.
  - (1) If the trees are 10 or 11 leaf years old, the approved yield will equal the simple average of the most recent 4 years of history;
  - (2) If the trees are 12 leaf years or older, we will calculate the variability index and corresponding variability adjustment factor to adjust the APH for alternate bearing effects to obtain the approved yield.
- (c) Each year, we will calculate your approved yield using the most recent consecutive even number of year's yields of four building to ten (e.g., 4, 6, 8, 10).
- (d) Each year, the approved yield is multiplied by the coverage level you elect for the two-year coverage period to determine the production guarantee.
- (e) Each year, the production guarantee will be multiplied by the price election and the percent of price election to determine your amount of coverage. The price election used to determine your amount of coverage will be the price election published in the actuarial documents by the

contract change date for the crop year unless you elect an additional price election in accordance with section 3(e) of the Basic Provisions.

- (f) Each year of the two-year coverage period, you must report, by the production reporting date designated in section 3 of the Basic Provisions:
  - (1) Any damage (including damage from Panicle Shoot Blight, *Botryospheria* sp.), significant pruning, removal of trees, change in practices, or any other circumstance that may reduce the expected yield below the yield upon which the insurance guarantee is based, and the number of affected acres;
  - (2) The number of bearing trees on insurable and uninsurable acreage;
  - (3) The age of the trees, orchard condition, and the planting patterns; and
  - (4) Any other information that we request in order to establish your approved yield.
- (g) We will reduce the yield used to establish your production guarantee, as necessary, based on our estimate of the effect of any situation listed in sections 3(f)(1) through (f)(4) of these crop provisions. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce your production guarantee at any time we become aware of the circumstance. If we become aware of such circumstance after the production reporting date, we will assess uninsured causes when determining any indemnity against your production guarantee equal to the amount of yield reduction (see section 11(c)(1)(ii)). We will reduce the yield used to establish your production guarantee for the subsequent crop year.
- (h) Section 3(f)(1) of the Basic Provisions does not apply.
- (i) Your request to increase the coverage level or price election percentage will not be accepted if a cause of loss that could or would reduce the yield of the insured crop is evident when your request is made.

#### **4. Contract Changes.**

In accordance with Section 4 of the Basic Provisions, the contract change date is August 31 preceding the cancellation date.

#### **5. Life of Policy, Cancellation and Termination Dates.**

- (a) In lieu of section 2(a) of the Basic Provisions, this is a continuous policy with a two-year coverage period and will remain in effect for each subsequent two-year coverage period until canceled by you in accordance with the terms of this policy or terminated by us or by the operation of the terms of this policy.
- (b) In lieu of section 2(c) of the Basic Provisions, after acceptance of your application, you may not cancel or transfer your policy to a different insurance provider during the initial two-year coverage period. Thereafter, the policy will continue in force for each succeeding two-year coverage period unless canceled, terminated, or transferred to a different insurance provider in accordance with the terms of this policy. Transfer of coverage to a different insurance provider may occur prior to the sales

closing date of each succeeding two-year coverage period.

- (c) In lieu of section 2(d) of the Basic Provisions, this contract may be canceled by either you or us for the next two-year coverage period by giving written notice on or before the cancellation date. You may not cancel your policy after the first year of the two-year coverage period. If you fail to provide a production report or any other required information for the second year of the two-year coverage period, premium for the second year will be based on the previous year's approved yield and will be owed in accordance with the policy provisions but you will not be eligible for an indemnity.
- (d) Your policy may be terminated before the end of the two-year coverage period if you are determined to be ineligible to participate in any crop insurance program authorized under the FCIC Act in accordance with section 2(f) of the Basic Provisions or 7 CFR part 400, subpart U.
- (e) The cancellation date is December 31 of the second crop year of each two-year coverage period.
- (f) The termination date is December 31 of each crop year.

#### **6. Insured Crop.**

In accordance with section 8 of the Basic Provisions, the crop insured will be all the pistachios in the county:

- (a) For which a premium rate is provided by the actuarial documents;
- (b) In which you have a share;
- (c) That are grown for harvest as pistachios;
- (d) That are adapted to the area and are grown on rootstock adapted to the area;
- (e) That are grown in an orchard that, if inspected is considered acceptable by us;
- (f) On acreage where the trees have reached at least the tenth leaf year;
- (g) On acreage for which you have provided acceptable production records for at least the four most recent crop years; and
- (h) That are not direct marketed unless allowed by Special Provisions.

#### **7. Insurable Acreage.**

In lieu of the provisions in Section 9 of the Basic Provisions that prohibit insurance attaching to a crop planted with another crop, pistachios interplanted with another perennial crop are insurable unless we inspect the acreage and determine that it does not meet the requirements contained in section 6 of these Crop Provisions.

#### **8. Insurance Period.**

- (a) In accordance with the provisions of section 11 of the Basic Provisions, insurance will attach according to the following terms:
  - (1) For the crop year you initially apply for insurance, or for the year following a break in continuity of coverage, coverage begins on the later of the twentieth day after your properly completed application is received in our local office or January 1, unless we inspect the acreage during the twenty-day period and determine that it does not meet insurability requirements.

- (2) For each subsequent two-year coverage period that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior two-year coverage period. Policy cancellation that results solely from transferring to a different insurance provider for a subsequent two-year coverage period will not be considered a break in continuous coverage.
- (3) The calendar date for the end of the insurance period for each crop year is October 31.
- (b) In addition to the provisions of section 11 of the Basic Provisions:
  - (1) If you acquire an insurable share in any insurable acreage after coverage begins, but on or before the acreage reporting date for the crop year, and after an inspection we consider the acreage acceptable, insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period. Acreage acquired after the acreage reporting date is uninsurable.
  - (2) If you relinquish your insurable share on any insurable acreage of pistachios on or before the acreage reporting date for the crop year, insurance will not be considered to have attached to, and no premium or indemnity will be due for such acreage for that crop year unless:
    - (i) A transfer of coverage and right to an indemnity, or a similar form approved by us, is completed by all affected parties;
    - (ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date; and
    - (iii) The transferee is eligible for crop insurance.
  - (3) If you relinquish your insurable share on any insurable acreage of pistachios after the acreage reporting date for the crop year, insurance coverage will be provided for any loss due to an insurable cause of loss that occurred prior to the date that you relinquished your insurable share and the whole premium will be due for such acreage for that crop year.

**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 during the insurance period:
  - (1) Adverse weather conditions;
  - (2) Fire, unless weeds and undergrowth have not been controlled or pruning debris has not been removed from the orchard;
  - (3) Wildlife;
  - (4) Earthquake;
  - (5) Volcanic eruption;
  - (6) Failure of the irrigation water supply, if caused by an insured cause of loss that occurs during the insurance period;
  - (7) Insects, but not damage due to insufficient or improper application of pest control measures;

- (8) Plant disease, but not damage due to insufficient or improper application of disease control measures.
- (b) In addition to the causes of loss excluded in section 12 of the Basic Provisions, we will not insure against damage or loss of production due to:
  - (1) Failure to harvest in a timely manner unless such delays in harvesting are due directly to an insured cause of loss;
  - (2) Inability to market production for any reason other than physical damage to the pistachios from an insured cause of loss specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

**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 in accordance with our procedures.
- (b) In addition to the requirements of section 14 of the Basic Provisions, if you intend to claim an indemnity on any unit, you must notify us at least 15 days prior to the beginning of harvest or immediately if damage is discovered during harvest. You must not sell or dispose of the damaged crop until after we have given you written consent to do so. If you fail to meet the requirements of this section, and such failure results in our inability to inspect the damaged production, all such production will be considered undamaged and included as production to count.

**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 such production records were not provided; or
  - (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;
  - (2) Multiplying the result in section 11(b)(1) by the price election;
  - (3) Multiplying the total production to be counted by the price election;
  - (4) Subtracting the result in section 11(b)(3) from the result in section 11(b)(2);
  - (5) Multiplying the result in section 11(b)(4) by your share.

For example:

You have a 100 percent share in 100 acres of pistachios in the unit. Assume the unit has an approved yield of 2,400 pounds per acre. Assume you have elected coverage of 65 percent and your price election is 100 percent of the insurance value of \$2.25 per pound. You are only able to harvest

100,000 pounds. Your indemnity would be calculated as follows:

- (1) 100 acres x 2,400 pounds x 65 percent coverage election = 156,000 pounds insurance guarantee;
  - (2) 156,000 pounds x (\$2.25 x 100%) price election = \$351,000 total value of insurance guarantee;
  - (3) 100,000 pounds production to count x (\$2.25 x 100%) price election = \$225,000 total value of production to count;
  - (4) \$351,000 total value of guarantee – \$225,000 total value of production to count = \$126,000 loss; and
  - (5) \$126,000 x 100 percent share = \$126,000 indemnity payment.
- (c) The total production to count, specified in assessed weight, 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 damaged solely by uninsured causes; or
      - (C) For which you fail to provide production records that are acceptable to us.
    - (ii) Production lost due to uninsured causes;
    - (iii) Unharvested production that would be marketable if harvested; and
    - (iv) Potential marketable production on insured acreage that you intend to abandon or no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end. If you do not agree with our appraisal, we may defer the claim only if you agree to continue to care for the crop. We will then make another appraisal when you notify us of further damage or that harvest is general in the area unless you harvested the crop, in which case we will use the harvested production. If you do not continue to care for the crop, our appraisal made prior to deferring the claim will be used to determine the production to count.
  - (2) All harvested production shall be calculated based on the assessed weight, including production damaged due to uninsured causes of loss.

**12. Late and Prevented Planting.**

Sections 16 and 17 of the Basic Provisions do not apply.

**13. Written Agreements.**

Notwithstanding the provisions of section 18 of the Basic Provisions, you must have at least four years of production records to qualify for a written agreement.

**14. Substitution of Yields.**

Section 36 of the Basic Provisions does not apply.