

quality for crop insurance purposes. Section 11(d)(3) of the Crop Provisions has been amended in accordance with the provisions of the 2002 Farm Bill. Therefore, no change has been made.

*Comment.* Two reinsured companies recommended, for quality adjustment purposes, that the test weight for oats be changed to 32 pounds per bushel in the Special Provisions to be more in line with current market requirements.

*Response.* Section 508(m) of the Act requires FCIC to contract with a qualified person to review quality loss adjustment procedures to determine if such procedures accurately reflect local quality discounts. Based on recommendations, FCIC may revise quality adjustment provisions for oats and other grain crops. Until recommendations are analyzed, FCIC does not have sufficient information to make the requested change. Therefore, no change has been made.

*Comment.* A grower group commented RMA is proposing changes to the Settlement of Claim section to allow adjustment for excess moisture before any adjustment for quality deficiencies. They asked if production would also be adjusted in the case of a drought.

*Response.* The provisions of section 11(d) apply when any insured production is damaged due to any insured cause of loss, including drought. The proposed changes just set the order in which such adjustment will occur, with moisture adjustment, if applicable, occurring before any other adjustments.

*Comment.* Two reinsured companies do not agree with the quality adjustment procedures which allow a local elevator to determine the salvage price for low quality grain. This process will result in indemnity differences for similar grain from area to area and may increase loss adjustment expenses as adjusters canvas local elevators for the highest salvage bid price.

*Response.* FCIC has not found reliable data on which discount factors for extremely low quality grain can be based. Therefore, quality adjustment methods based on the value of the damaged grain will continue to be used when grain is of such low quality that discount factors for it are not contained in the Special Provisions. No changes have been made.

*Comment.* A grower association asked whether the definition of "heat damaged kernels" is the same as used by the Grain Inspection, Packer and Stockyards Administration (GIPSA), for consistency and lack of confusion, or whether RMA has a different definition. The provisions in section 11(d)(2)(i)(A-E)

specify that "heat damaged kernels" will not be considered to be damaged.

*Response.* The definition of "heat damage" is the same as that used in the Official United States Standards for Grain. Section 11(d)(2)(i) has been clarified to reflect this.

*Comment.* A grower association recommended that FCIC continue to review quality loss adjustment factors for barley. Market losses from weather-related quality degradation generally far exceed those permitted under current quality loss adjustment provisions.

*Response.* As stated above, FCIC has contracted to conduct a review of the quality loss adjustment procedures. Once the review is completed and fully analyzed, FCIC will make appropriate changes to the quality loss adjustment factors.

*Comment.* A reinsured company asked if the provisions in section 11(d)(2)(iii) mean that the test weight for durum wheat will start at 54.0 pounds when the test weight normally starts at 50.9 pounds for durum wheat?

*Response.* Under the existing quality provisions, durum wheat quality adjustment for test weight begins when the test weight falls below 54.0 pounds. Therefore, this rule is not a change from the previous provisions. The language in this rule simply provides that the same quality adjustment threshold applies to Khorasan. Provisions have been added to clarify that quality adjustment discount factors for U.S. grades specified in the Special Provisions will also apply to Khorasan at the same levels applicable to durum wheat. The same clarification has been made for hull-less barley and hull-less oats.

*Comment.* A reinsured company recommended that quality adjustment factors for durum wheat (milling) should be addressed. Low quality on durum has a more adverse effect on marketing than on regular wheat.

*Response.* FCIC understands discounts for low quality durum wheat are significant. As stated above, FCIC has contracted for a review of the quality loss adjustment procedures. Once the review and FCIC's analysis is completed, FCIC will revise that procedure as appropriate. However, no change is being made to this rule.

*Comment.* A reinsured company asked if the proposed provisions in section 11(d)(4) replace all of the current provisions in section 11(d)(4)(i)-(iii) or just the sentence in (4).

*Response.* The proposed revision will replace sections 11(d)(4)(i), (ii) and (iii).

*Comment.* A reinsured company agreed late planting provisions should apply to winter wheat. However, the

company is concerned with how the time period for late planting will be determined and what the reduction percentage will be. The company recommends the reduction be not less than the prevented planting reduction percentage. In addition, two companies stated that in previous policies, winter wheat in counties with only a fall final planting date did not have a late planting period or replanting payments as the final planting dates were so late. The companies asked whether under the current proposed changes, the final planting dates will be revised to earlier dates and what will be the length of the late planting period for winter wheat.

*Response.* The late planting period reduction is already provided in section 16 of the Basic Provisions of the Common Crop Insurance Policy. This rule simply makes it applicable to certain winter wheat. The length of the late planting period or the final planting date for certain winter wheat will be adjusted in the Special Provisions where necessary. Therefore, no change has been made.

*Comment.* A grower's association recommended prevented planting payments be based on winter wheat guarantees when producers are prevented from planting in the fall and also cannot plant in the spring.

*Response.* Since a proposal to change the basis of prevented planting payments was not included in the proposed rule, and the public was not given the opportunity to comment, the recommended change cannot be adopted in this final rule.

*Comment.* Two reinsured companies asked if companies would have an opportunity to review and comment on any significant changes to the Special Provisions.

*Response.* FCIC does not anticipate significant changes to the Special Provisions as a result of this rule. Special provisions vary from county to county due to differing rotation requirements, planting dates, etc. This results in large numbers of documents being generated each year, sometimes within short time frames. Due to these time restrictions and the large number of documents involved, it is not practical to provide a comment period for the Special Provisions.

*Comment.* A growers association recommended products that represent significant product revisions should be in place and available to agents and growers 90 days prior to sales closing dates. The sales closing date for fall planted wheat in the Pacific Northwest is September 30. Program prices are futures based and are not established until mid-September leaving farmers