

**Federal Crop Insurance Corporation, USDA**

**§ 457.157**

\$22,500.00 value of guarantee for the lima type;

(3)  $\$33,000.00 + \$22,500.00 = \$55,500.00$  total value of guarantee;

(4)  $200 \text{ tons} \times \$110.00$  price election = \$22,000.00 value of production to count for the snap type, and  $75 \text{ tons} \times \$225.00$  price election = \$16,875.00 value of production to count for the lima type;

(5)  $\$22,000.00 + \$16,875.00 = \$38,875.00$  total value of production to count;

(6)  $\$55,500.00 - \$38,875.00 = \$16,625.00$  loss; and

(7)  $\$16,625.00 \text{ loss} \times 100 \text{ percent} = \$16,625.00$  indemnity payment.

(c) The total production to count, specified in tons, from all insurable acreage on the unit will include:

(1) All appraised production as follows:

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

(A) That is abandoned;

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

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide production records that are acceptable to us.

(ii) Production lost due to uninsured causes.

(iii) Production on acreage that is bypassed unless the acreage was bypassed due to an insured cause of loss which resulted in production which would not be acceptable under the terms of the processor contract.

(iv) 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 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.

(2) All harvested processing bean production from the insurable acreage. The amount of such production will be:

(i) The usable tons of processing beans shown on the processor settlement sheet, if available; or

(ii) Determined by dividing the dollar amount paid, payable, or which should have been paid under the terms of the processor contract for the quality and quantity of beans to be delivered to the processor by the base contract price per ton; and

(3) All harvested processing bean production from any other insurable units that have been used to fulfill your processor contract for this unit.

**13. Late Planting**

A late planting period is not applicable to processing beans unless allowed by the Special Provisions and you provide written approval from the processor by the acreage reporting date that it will accept the production from the late planted acres when it is expected to be ready for harvest.

**14. Prevented Planting**

Your prevented planting coverage will be 40 percent of your production guarantee 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.

[62 FR 58625, Oct. 30, 1997, as amended at 62 FR 65176, Dec. 10, 1997]

**§ 457.156 [Reserved]**

**§ 457.157 Plum crop insurance provisions.**

The Plum Crop Insurance Provisions for the 2001 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:

*Plum Crop Provisions*

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

## 1. Definitions

*Adapted.* Varieties of the insured crop that are recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

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

*Harvest.* The picking of mature plums from the trees by hand.

*Interplanted.* Acreage on which two or more crops are planted in any form of alternating or mixed pattern.

*Lug.* Twenty-eight (28) pounds of the insured crop.

*Scion.* Twig or portion of a twig of one plant that is grafted onto a stock of another.

*Varietal group.* Different varieties of plums that are grouped according to the normal maturity dates as specified in the Special Provisions.

## 2. Unit Division

Provisions in the Basic Provisions that allow optional units by section, section equivalent, or FSA farm serial number and by irrigated and non-irrigated practices are not applicable. Optional units must meet one or more of the following, as applicable, unless otherwise provided by the Special Provisions, actuarial documents, or written agreement:

(a) Optional units may be established if each optional unit is located on non-contiguous land.

(b) In addition to, or instead of, establishing optional units for non-contiguous land, optional units may be established by varietal group when provided for in the Special Provisions. The requirements of section 34(a)(1) of the Basic Provisions are not applicable for this method of unit division.

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

In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§457.8):

(a) You may select only one price election for all the plums in the county insured under this policy unless the Special Provisions provide different price elections by varietal group, in which case you may select one price election for each plum varietal group designated in the Special Provisions. The price elections you choose for each varietal group must have the same percentage relationship to the maximum price offered by us

for each varietal group. For example, if you choose 100 percent of the maximum price election for one varietal group, you must also choose 100 percent of the maximum price election for all other varietal groups.

(b) You must report, by the production reporting date designated in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§457.8), by varietal group if applicable:

(1) Any damage, 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 and the planting pattern; and

(4) For the first year of insurance for acreage interplanted with another perennial crop, and any time the planting pattern of such acreage is changed:

(i) The age of the interplanted crop and varietal group if applicable;

(ii) The planting pattern; and

(iii) Any other information that we request in order to establish your approved yield.

We will reduce the yield used to establish your production guarantee as necessary, based on our estimate of the effect of interplanting a perennial crop, removal of trees, damage, change in practice, and any other circumstance that may effect the yield potential of the insured crop. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce your production guarantee as necessary at any time we become aware of the circumstance.

(c) You may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election if a cause of loss that could or would reduce the yield of the insured crop has occurred prior to the time that you request the increase.

## 4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§457.8), the contract change date is October 31 preceding the cancellation date.

## 5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§457.8), the cancellation and termination dates are January 31.

## 6. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§457.8), the crop insured will be all the plums in the county for

which a premium rate is provided by the actuarial documents:

- (a) In which you have a share;
- (b) That are grown on tree varieties that:
  - (1) Were commercially available when the trees were set out;
  - (2) Are adapted to the area;
  - (3) Are grown on rootstock that is adapted to the area; and
  - (4) Are regulated by the California Tree Fruit Agreement, California Advisory Board Standards, a related crop advisory board, or the State;
- (c) That are irrigated;
- (d) That have produced an average of at least 200 lugs per acre in at least one of the three most recent actual production history crop years, unless we inspect the acreage and give our approval to insure such acreage in writing;
- (e) That are grown in an orchard that, if inspected, is considered acceptable by us; and
- (f) That have reached at least the fifth (5th) growing season after set out. Plums produced on scions that have not reached the fifth growing season may be insured if the provisions in section 6(a), (b), (c), and (e) are met. Such trees must have produced at least 200 lugs per acre in at least one year after being grafted.

#### 7. Insurable Acreage

In lieu of the provisions in section 9 (Insurable Acreage) of the Basic Provisions (§457.8) that prohibit insurance attaching to a crop planted with another crop, plums interplanted with another perennial crop are insurable unless we inspect the acreage and determine that it does not meet the requirements contained in your policy.

#### 8. Insurance Period

- (a) In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§457.8):
  - (1) Coverage begins on February 1 of each crop year. Notwithstanding the previous sentence, for the year of application, if your application is received after January 22 but prior to February 1, insurance will attach on the 10th day after your properly completed application is received in our local office unless we inspect the acreage during the 10-day period and determine that it does not meet insurability requirements. You must provide any information that we require for the crop or to determine the condition of the orchard.
  - (2) The calendar date for the end of the insurance period for each crop year is September 30.
- (b) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§457.8):
  - (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.

(2) If you relinquish your insurable share on any insurable acreage of plums 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.

(c) Notwithstanding paragraph (a)(1) of this section, for each subsequent crop year that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring to a different insurance provider for a subsequent crop year will not be considered a break in continuous coverage.

(d) If your plum policy is canceled or terminated for any crop year, in accordance with the terms of the policy, after insurance attached for that crop year but on or before the cancellation and termination dates whichever is later, insurance will not be considered to have attached for that crop year and no premium, administrative fee, or indemnity will be due for such crop year.

#### 9. Causes of Loss

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§457.8), 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 other forms of undergrowth have not been controlled or pruning debris has not been removed from the orchard;
- (3) Wildlife, unless control measures have not been taken;
- (4) Earthquake;
- (5) Volcanic eruption;
- (6) An insufficient number of chilling hours to effectively break dormancy; or
- (7) Failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 (Causes of Loss) of the Basic Provisions (§457.8), we will not insure against damage or loss of production due to:

- (1) Disease or insect infestation, unless adverse weather:

- (i) Prevents the proper application of control measures or causes properly applied control measures to be ineffective; or
- (ii) Causes disease or insect infestation for which no effective control mechanism is available;
- (2) Rejection of the crop by the packing house due to being undersized, immature, overripe, or mechanically damaged; or
- (3) Inability to market the plums for any reason other than actual physical damage from an insurable cause 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

In addition to the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§457.8), the following will apply:

- (a) You must notify us within 3 days of the date harvest should have started if the crop will not be harvested.
- (b) You must notify us at least 15 days before any production from any unit will be sold by direct marketing. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.
- (c) 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, so that we may inspect the damaged production.
- (d) You must not destroy the damaged crop until after we have given you written consent to do so.
- (e) If you fail to notify us in accordance with this section, we may consider all such production to be undamaged and include it 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 unit, we will combine all optional units for which such production records were not provided; or
  - (2) For any basic unit, we will allocate any commingled production from 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 for each varietal group, if applicable, by its respective production guarantee;
- (2) Multiplying the results in section 11(b)(1) by the respective price election for each varietal group, if applicable;
- (3) Totaling the results in section 11(b)(2);
- (4) Multiplying the total production to be counted of each varietal group, if applicable, (see section 11(c)) by the respective price election;
- (5) Totaling the results in section 11(b)(4);
- (6) Subtracting the results in section 11(b)(5) from the results in section 11 (b)(3); and
- (7) Multiplying the result in section 11(b)(6) by your share.
- (c) The total production to count (in lugs) 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 sold by direct marketing directly if you fail to meet the requirement contained in section 10;
      - (C) That is damaged solely by uninsured causes; or
      - (D) For which you fail to provide production records that are acceptable to us.
    - (ii) Production lost due to uninsured causes;
    - (iii) Unharvested production; and
    - (iv) Potential 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; and
  - (2) All harvested production from the insurable acreage:
    - (i) That is packed and sold as fresh fruit and meets the U.S. No. 1 standards as modified by the California Tree Fruit Agreement publication for plums for the applicable crop year;
    - (ii) That is packed and sold as fresh fruit but does not meet the grade requirements specified in section 11(c)(2)(i) due to insurable causes. Such production will be adjusted by:
      - (A) Dividing the value per lug of this production by the highest price election available for the applicable varietal group; and

(B) Multiplying the resulting factor, if less than 1.0, by the number of lugs of such plums.

(iii) That is damaged and is, or could be, marketed for any use other than fresh packed plums. Such production will be adjusted by:

(A) Multiplying the number of tons of such production by the value per ton of the damaged plums or \$50.00, whichever is greater; and

(B) Dividing that result by the highest price election available for the applicable varietal group.

#### 12. Late and Prevented Planting

The late and prevented planting provisions of the Basic Provisions are not applicable.

[62 FR 33735, June 23, 1997, as amended at 62 FR 65177, Dec. 10, 1997; 65 FR 47839, Aug. 4, 2000]

### § 457.158 Apple crop insurance provisions.

The Apple Crop Insurance Provisions for the 2005 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:

#### *Apple Crop Insurance Provisions*

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

#### 1. Definitions

*Apple production.* All production of fresh apples and processing apples from the insurable acreage.

*Area A.* A geographic area that includes Montana, Wyoming, Utah, New Mexico and all states west thereof.

*Area B.* A geographic area that includes all states not included in Area A, except Colorado.

*Area C.* Colorado.

*Bin.* A container that contains a minimum of 875 pounds of apples or another quantity as designated in the Special Provisions.

*Box.* A container that contains 35 pounds of apples or another quantity as designated in the Special Provisions.

*Bushel.* In all states except Colorado, 42 pounds of apples. In Colorado, 40 pounds of apples.

*Damaged apple production.*

(1) With respect to losses calculated under section 12 only, the percentage of fresh or processing apple production that fails to grade U.S. No. 1 Processing or better in accordance with the grade standards, within each lot, bin, bushel or box, as applicable, due to an insurable cause of loss; or

(2) With respect to losses calculated under section 14, the percentage of fresh apple production that fails to grade U.S. Fancy or better in accordance with the grade standards, within each lot, bin, bushel, or box, as applicable, due to an insurable cause of loss.

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

*Fresh apples.* Apple production:

(1) That is sold, or could be sold, for consumption without undergoing any change in its basic form, such as peeling, juicing, crushing, etc.; and

(2) From acreage that is reported as fresh apples on the acreage report.

*Grade standards.* The United States Standards for Grades of Apples, the United States Standards for Grades of Apples for Processing, or such other standards contained in the Special Provisions.

*Harvest.* The picking of mature apples from the trees or collecting of mature apples from the ground. Apples collected from the ground that cannot be sold for human consumption will not be considered harvested.

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

*Marketable.* Apple production that is not damaged apple production.

*Mature.* Apples defined as "mature" under the applicable grade standards.

*Pounds.* Sixteen (16) ounces avoirdupois.

*Processing apples.* Apple production:

(1) That is sold after it had undergone a change to its basic structure such as peeling, juicing, crushing, etc.; and

(2) From acreage designated as processing apples on the acreage report.

*Production guarantee (per acre).* The quantity of apples in boxes or bushels determined by multiplying the approved APH yield per acre by the coverage level percentage you elect. If the production of apples has been measured in bins, the amount must be converted to boxes or bushels.