petition to revoke. The petition to revoke, any answer thereto, and any ruling thereon shall not become part of the official record except upon the request of the party aggrieved by the ruling.

(f) Upon the failure of any person to comply with a subpena issued, and upon the request of the party on whose behalf the subpena was issued, the Solicitor of the FLRA shall, on behalf of such party, institute proceedings in the appropriate district court for the enforcement thereof, unless to do so would be inconsistent with law and the policies of the Federal Service Labor-Management Relations Statute. The Solicitor of the FLRA shall not be deemed thereby to have assumed responsibility for the effective prosecution of the same before the court thereafter.

(g) All papers submitted to the Executive Director under this section shall be filed in duplicate, along with a statement of service showing that a copy has been served on the other party to the dispute.

(h)(1) Witnesses (whether appearing voluntarily or under a subpena) shall be paid the fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States: Provided, that any witness who is employed by the Federal Government shall not be entitled to receive witness fees in addition to compensation received in conjunction with official time granted for such participation, including necessary travel time, as occurs during the employee's regular work hours and when the employee would otherwise be in a work or paid leave status.

(2) Witness fees and mileage allowances shall be paid by the party at whose instance the witnesses appear except when the witness receives compensation in conjunction with official time as described in paragraph (h)(1) of this section.

(5 U.S.C. 7119, 7134).

Dated: August 2, 1996.

Linda A. Lafferty,

Executive Director, Federal Service Impasses Panel.

[FR Doc. 96–20138 Filed 8–7–96; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AB56

Common Crop Insurance Regulations; Texas Citrus Fruit Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of Texas citrus fruit. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured and combine the current Texas Citrus Endorsement with the Common Crop Insurance Policy for ease of use and consistency of terms.

EFFECTIVE DATE: August 8, 1996.

FOR FURTHER INFORMATION CONTACT: Louise Narber, Program Analyst, Research and Development Division, Product Development Branch, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No.12866 and Departmental Regulation 1512–1

This action has been reviewed under United States Department of Agriculture (USDA) procedures established by Executive Order No. 12866 and Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 30, 2001.

This rule has been determined to be not significant for the purposes of Executive Order No. 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

Following publication of the proposed rule, the public was afforded 60 days to submit comments, data, and opinions on information collection requirements previously approved by OMB under OMB control number 0563–0003 through September 30, 1998. No public comments were received.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, FCIC generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures of State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FCIC to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) of State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of Government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity. An insured must also annually certify to the previous years production or receive a transitional yield. The producer must maintain the production records to support the certified information for at least 3 years. This regulation does not alter those requirements. The amount of work required of the insurance companies delivering and servicing

these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. § 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR parts 11 and 780 must be exhausted before action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

On Wednesday, June 5, 1996, FCIC published a proposed rule in the Federal Register at 61 FR 28512–28517 to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.119, Texas Citrus Fruit Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace the current provisions for insuring Texas citrus fruit found at 7 CFR 401.115 (Texas Citrus Endorsement), thereby limiting the effect of the current provisions to the 1997 and prior crop years. After this final rule becomes effective, the current provisions for insuring Texas citrus fruit will be removed from § 401.115 and that section will be reserved.

Following publication of that proposed rule, the public was afforded 30 days to submit written comments, data, and opinions. A total of 25 comments were received from producers, trade associations, the crop insurance industry and FSA. The comments received, and FCIC's responses are as follows:

Comment: A representative of FSA suggested that the word ''type'' be changed to ''crop'' throughout the provisions where appropriate since the citrus type designations used in the past will be replaced with individual crop codes beginning with the 1998 crop year.

Response: FCIC agrees and has made this change as well as deleting the definition of type.

Comment: The crop insurance industry commented that the proposed rule did not contain any reference to acreage reporting and suggested that such reference be added.

Response: Section 6 (Report of Acreage) of the Basic Provisions provides information on the reporting of acreage and specifies that the acreage reporting date will be included in the Special Provisions. No changes have been made to these provisions.

Comment: The crop insurance industry stated that the definition for ''excess rain'' is not very precise when compared to the definition for ''excess wind''.

Response: FCIC agrees, however it is impossible to specify an amount of precipitation that would damage the crop. Different soil types, temperatures, weather patterns, etc., may result in significant variation in the amount of precipitation that can be tolerated before the crop is damaged. No changes have been made to the definition.

Comment: A trade association was concerned about the deletion of ''frost'' as a cause of loss. They believed that the proposed definition for freeze appeared adequate for fruit and tree damage, but was concerned about frost damage during the bloom period.

Response: The definition of freeze is changed to also include the formation of ice in the cells of the blossoms.

Comment: The crop insurance industry stated that the provisions refer to a pro rata refund when optional units are combined into basic units whenever the insured reported optional units but does not qualify. They questioned on what basis a pro rata refund would be determined.

Response: The reference to a pro rata refund has been deleted and the sentence changed to read ''If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the premium paid for the purpose of electing optional units will be refunded to you for the units combined.''

Comment: The crop insurance industry stated that they did not understand why all optional units must be identified on the acreage report for each crop year. They said that listing every possible combination for every crop on a policy could test the limits on the number of policy lines allowed.

Response: Although more than one method is available to determine optional units, only one method may be used in any given crop year. Only those optional units determined under the selected method for the crop year for which the acreage report is completed must be listed. Optional unit designation from past years or that could have been established for the current year, should not be listed on the current crop years' acreage report. The phrase ''established for a crop year'' has been added to the provisions for clarification.

Comment: The crop insurance industry suggested that the provision, ''You must have records, which can be independently verified, of acreage and production for each optional unit for at least the last crop year used to determine your production guarantee,'' would cause confusion between the APH and policy year.

Response: The APH is based on the actual production of the producer for each crop year in which a crop is produced to a maximum of 10 crop years. There is no requirement that the producers have insured the crop before its production be included in the APH data base. FCIC believes the provision is clearly stated and has not made changes.

Comment: The crop insurance industry suggested that section 3(a) begin with the phrase ''You may select only one price percentage * * *.'' It would not then be necessary to include complex provisions regarding different varieties with different maximum prices.

Response: Methods used to select price elections vary between insurance providers. While some require selection of a percentage, others require selection of a specific dollar amount. The suggested change will not work in all

circumstances. No change has been made to the provisions.

Comment: The crop insurance industry suggested that the order of the provisions in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) be rearranged for clarity.

Response: FCIC agrees and has rearranged the provisions in this section.

Comment: The crop insurance industry questioned if the phrase ''Any acreage of citrus damaged to the extent that the majority of producers in the area would not further maintain it will be deemed to have been destroyed even though you may continue to maintain it'' is necessary to the policy and what it means.

Response: This provision is intended to limit acreage to the first stage production guarantee when the crop is damaged to the extent that a majority of producers in the area would not continue to maintain it. This intent has been clarified.

Comment: A producer and a trade association stated that establishing yields based on APH regulations will not work following a general and severe loss. They contend that the citrus trees are still recovering from the 1989 freeze and have only begun producing in the last three to four years and still have not reached peak production. Therefore, APH yields may not accurately reflect production potential. Also, some citrus tends to be alternate bearing which will make it difficult to develop acceptable T-yields and to apply APH rules. The yields of tree crops are affected by tree age, size of canopy, and other constraints, which do not affect annual crops. The planting of new trees impacts the APH yield even if the trees are not damaged. Full production for new trees generally occurs the sixth year after planting and at least 25–30% of the citrus acreage has not reached full production.

Response: FCIC believes that section 3(d) in the proposed rule (now 3(e)) provides the flexibility needed to allow yield determination by appraisal when past production history is inadequate.

Comment: The crop insurance industry questioned if the lag year should apply to the provision that requires that the acreage produce an average yield of at least 3 tons per acre the previous year to be insurable.

Response: The provision for the grove to have produced at least 3 tons per acre the previous year to be insurable will only be required if the yield is determined by APH yields. For other methods, there must be at least a 3-ton per acre appraised yield potential to be insured.

Comment: The crop insurance industry questioned why 30 days were changed to 10 days in section 9(a)(1) of the policy that states ''* * * if the application is accepted by us after November 20, insurance will attach on the 10th day after the application is received in your insurance provider's local office * * *.'' and if the 10-day period would allow enough time to complete inspections.

Response: The language in section 9(a)(1) has been changed as follows ''Coverage begins on November 21 of each crop year, except that for the year of application, if your application is received after November 11 but prior to November 21, 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 grove.'' These provisions were modified so that they will not be interpreted as allowing late-filed applications. Further, a thirty-day period was not reasonable. Ten days is sufficient to prevent adverse selection and avoid unnecessary exposure to uninsured losses during the waiting period. The insurance provider must expedite its review of the application and any supporting documentation filed by the producer, determine if a visual inspection is necessary, and perform any necessary inspections within the 10-day period. The period of 10 days is believed appropriate to meet the needs of both the producer and the insurance provider.

Comment: The crop insurance industry stated that some flexibility may be needed for obtaining signatures and for mail time if a transfer takes place shortly before the acreage reporting date but the transfer form does not reach the company office until after the acreage reporting date.

Response: Section 9(b)(2)(ii) (Insurance Period) states ''We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date * * *.'' If the transferor or the transferee signs the properly completed transfer form and gives the form to the crop insurance agent on or before the acreage reporting date, this requirement will be met. No change has been made to the provisions.

Comment: The crop insurance industry and a trade association questioned whether changing an insured cause of loss from ''failure of the irrigation water supply'' to ''failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period'' would be an insurable cause of loss if the drought started in one crop year and reduced the available water to ''barely enough'' and continued into another crop year. They also stated that drought needs to be a covered cause of loss as well as failure of the irrigation supply because producers count on rainfall, as well as irrigation to produce normal tonnage and quality of fruit. If the trees were under stress from drought in the summer or fall before bloom, which would be prior to the beginning of the insurance period, the bloom and consequently fruit set would be affected.

Response: Drought is a covered cause of loss for crops requiring irrigation to be insurable. However, the commenters are suggesting that drought be covered even though the damage from the drought occurred before insurance attached for the crop year. It is contrary to insurance principles to cover a loss that occurred prior to insurance attaching. If there is insufficient water available at the time insurance attached, the crop is not insurable. If there is sufficient water available at the time insurance attaches, but a continuing drought results in insufficient water and damage to the crop, any resulting loss would be insured. No change has been made.

Comment: The crop insurance industry suggested that the last line of section 9(b)(2)(ii) of the proposed rule should be a separate line.

Response: FCIC has reformatted and changed the wording of this provision to improve the readability.

Comment: A trade association believes that the requirement for a producer to give 15 days notice for an appraisal before any fruit is marketed directly to consumers is totally unworkable. Their biggest concern is that the appraisal may not be completed in a timely manner.

Response: The producer is required to give notice at least 15 days prior to any production being marketed directly to consumers and the insurance provider is required to complete the appraisal within that 15 day period. The production may be marketed directly to consumers any time after the end of the 15-day waiting period regardless of whether or not the insurance provider has fulfilled their responsibility of appraising the crop. FCIC believes that 15 days is appropriate to meet the needs of both the producer and the insurance provider.

Comment: The crop insurance industry believes that the policy should

not allow the producer to defer settlement and wait for a later, generally lower, appraisal on insured acreage the producer intends to abandon or no longer care for.

Response: The later appraisal will only be necessary if the insurance provider agrees that such appraisal would result in a more accurate determination, and if the producer continues to care for the crop. If the producer does not care for the crop, the original appraisal is used. If the insurance provider believes the original appraisal is accurate, resolution of the dispute may be sought through arbitration or appeal procedures, whichever is applicable. No change will be made to these provisions.

Comment: The crop insurance industry suggested combining the provisions contained in section 13(e) with the provisions in section 13(a).

Response: The provisions are clearly stated and have not been combined.

Comment: The crop insurance industry stated that they believe the written agreement should be continuous if no substantive changes occur from one year to the next.

Response: The written agreement can only be valid for one year because it must contain all the variable terms of the contract including, but not limited to, crop type or variety, the guarantee, premium rate, and price election. One or more of these variables often changes from year to year. No change has been made to these provisions. In addition, written agreements are, by design, temporary and should be replaced by applicable policy provisions.

In addition to the changes described above, FCIC has made the following changes to the Texas Citrus Fruit Provisions:

1. Section 1—Added definitions for ''crop'' and ''varieties'' for clarification.

2. Section 1—Changed the definition of ''non-contiguous land'' so that a producer who share rents acreage is not prohibited from having optional units on non-contiguous land to conform to other perennial policies.

3. Section 1—Changed the definition of '' Excess wind'' and ''production guarantee (per acre)'' for clarification.

4. Section 3(d)—Add a provision requiring the producer to report any circumstance that may reduce the yield to include other causes that may not be encompassed by the other listed events.

5. Section 7—Added a provision to state that production that is direct marketed to consumers is not insurable unless allowed by the Special Provisions or by written agreement.

6. Section 8—Changed provisions regarding interplanted acreage so that all insurability requirements contained in the policy are applicable, not just these crop provisions.

7. Section 9—Clarified that the transferee must be an eligible person.

8. Section 11—Changed the wording for clarification and added a provision requiring the producer to give notice before beginning to harvest any damaged production so the insurer may have an opportunity to inspect it if the insured intends to claim an indemnity on any unit.

9. Section 12—Changed the wording for simplification and clarity.

10. Section 13—Changed the format and wording for clarity.

Good cause is shown to make this rule effective upon publication in the Federal Register. This rule improves the Texas citrus fruit insurance coverage and brings it under the Common Crop Insurance Policy Basic Provisions for consistency among policies. The contract change date required for new policies is August 31, 1996. It is therefore imperative that these provisions be made final before that date so that the reinsured companies and insureds may have sufficient time to implement the new provisions. Therefore public interest requires the agency to act immediately to make these provisions available for the 1998 crop year.

List of Subjects in 7 CFR Part 457

Crop insurance, Texas citrus fruit.

Final 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 amends the Common Crop Insurance Regulations (7 CFR part 457), effective for the 1998 and succeeding crop years, to read 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(l), and 1506(p).

2. 7 CFR part 457 is amended by adding a new § 457.119 to read as follows:

§ 457.119 Texas Citrus Fruit Crop Insurance Provisions.

The Texas Citrus Fruit Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

United States Department of Agriculture; Federal Crop Insurance Corporation; Texas Citrus Fruit Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these crop provisions, and the Special Provisions; the Special Provisions will control these crop provisions and the Basic Provisions; and these crop provisions will control the Basic Provisions.

1. Definitions

Crop—Specific groups of citrus fruit as listed in the Special Provisions.

Crop year—The period beginning with the date insurance attaches to the citrus crop and extending through the normal harvest time. It is designated by the calendar year following the year in which the bloom is normally set.

Days—Calendar days.

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.

Excess rain—An amount of precipitation that damages the crop.

Excess wind—A natural movement of air that has sustained speeds exceeding 58 miles per hour recorded at the U. S. Weather Service reporting station operating nearest to the grove at the time of damage.

Freeze—The formation of ice in the cells of the tree, its blossoms, or its fruit caused by low air temperatures.

FSA—The Farm Service Agency, an agency of the United States Department of Agriculture, or any successor agency.

Good farming practices—The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee, and generally recognized by the Cooperative Extension Service as compatible with agronomic and weather conditions in the county.

Harvest—The severance of mature citrus fruit from the tree by pulling, picking, or any other means, or by collecting marketable fruit from the ground.

Hedged—A process of trimming the sides of the citrus trees for better or more fruitful growth of the citrus fruit.

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

Irrigated practice—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Local market price—The applicable citrus price per ton offered by buyers in the area in which you normally market the insured crop.

Non-contiguous land—Any two or more tracts of land whose boundaries do not touch at any point, except that land separated only by a public or private right-of way, waterway, or an irrigation canal will be considered as contiguous.

Production guarantee (per acre):

(a) First stage production guarantee—The second stage production guarantee multiplied by forty percent (40%).

(b) Second stage production guarantee—The quantity of citrus (in tons) determined by multiplying the yield determined in accordance with section 3 by the coverage level percentage you elect.

Ton—Two thousand (2,000) pounds avoirdupois.

Topped—A process of trimming the uppermost portion of the citrus trees for better and more fruitful growth of the citrus fruit.

Varieties—Subclasses of crops as listed in the Special Provisions.

Written agreement—A written document that alters designated terms of a policy in accordance with section 13.

2. Unit Division

(a) A unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into basic units by each citrus crop designated in the Special Provisions.

(b) Unless limited by the Special Provisions, these basic units may be divided into optional units if, for each optional unit you meet all the conditions of this section or if a written agreement to such division exists.

(c) Basic units may not be divided into optional units on any basis including, but not limited to, production practice, type, and variety, other than as described in this section.

(d) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the premium paid for the purpose of electing optional units will be refunded to you for the units combined.

(e) All optional units established for a crop year must be identified on the acreage report for that crop year.

(f) The following requirements must be met for each optional unit:

(1) You must have records, which can be independently verified, of acreage and production for each optional unit for at least the last crop year used to determine your production guarantee; and

(2) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us.

(3) Each optional unit must meet one of the following criteria, as applicable:

(i) *Optional Units by Section, Section Equivalent, or FSA Farm Serial Number:* Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands, as the equivalent of sections for unit purposes. In areas that have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernible, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number; or

(ii) *Optional Units on Acreage Located on Non-Contiguous Land:* In lieu of establishing optional units by section, section equivalent or FSA Farm Serial Number, optional units may be established if each optional unit is located on non-contiguous land.

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 and coverage level for each citrus fruit crop designated in the Special Provisions that you elect to insure. The price election you choose for each crop need not bear the same percentage relationship to the maximum price offered by us for each crop. For example, if you choose one hundred percent (100%) of the maximum price election for early oranges, you may choose seventy-five percent (75%) of the maximum price election for late oranges. However, if separate price elections are available by variety within each crop, the price elections you choose within the crop must have the same percentage relationship to the maximum price offered by us for each variety within the crop.

(b) The production guarantee per acre is progressive by stage and increases at specific intervals to the final stage production guarantee. The stages and production guarantees per acre are:

(1) The first stage extends from the date insurance attaches through April 30 of the calendar year of normal bloom. The production guarantee will be forty percent (40%) of the yield calculated in section 3(e) multiplied by your coverage level.

(2) The second or final stage extends from May 1 of the calendar year of normal bloom until the end of the insurance period. The production guarantee will be the yield calculated in section 3(e) multiplied by your coverage level.

(c) Any acreage of citrus damaged in the first stage to the extent that the majority of producers in the area would not further maintain it will be limited to the first stage production guarantee even though you may continue to maintain it.

(d) In addition to the reported production, each crop year you must report by type:

(1) The number of trees damaged, topped, hedged, pruned or removed; any 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 anytime the planting pattern of such acreage is changed:

(i) The age of the interplanted crop, and type 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 the following: interplanted perennial crop; removal, topping, hedging, or pruning of trees; damage; change in practices and any other circumstance on 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.

(e) The yield used to compute your production guarantee will be determined in accordance with Actual Production History (APH) regulations, 7 CFR part 400, subpart G, and applicable policy provisions unless damage or changes to the grove or trees, require establishment of the yield by another method. In the event of such damage or changes, the yield will be based on our appraisal of the potential of the insured acreage for the crop year.

(f) Instead of reporting your citrus production for the previous crop year, as required by section 3 of the Basic Provisions (§ 457.8), there is a one year lag period. Each crop year you must report your production from two crop years ago, *e.g.*, on the 1998 crop year production report, you will provide your 1996 crop year production.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is August 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 November 20.

6. Annual Premium

In lieu of the premium computation method in section 7 (Annual Premium) of the Basic Provisions (§ 457.8), the annual premium amount is computed by multiplying the second stage production guarantee per acre by the price election, the premium rate, the insured acreage, your share at the time coverage begins, and by any applicable premium adjustment percentages contained in the Special Provisions.

7. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the acreage in the county of each citrus crop designated in the Special Provisions that you elect to insure and for which a premium rate is provided by the actuarial table:

(a) In which you have a share;

(b) That are adapted to the area;

(c) That are irrigated;

(d) That has produced an average yield of at least three tons per acre the previous year, or we have appraised the yield potential of at least three tons per acre;

(e) That is grown in a grove that, if inspected, is considered acceptable by us; and

(f) That is not sold by direct marketing, unless allowed by the Special Provisions or by written agreement.

8. 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, citrus interplanted with another perennial crop is insurable unless we inspect the acreage and determine it does not meet the requirements contained in your policy.

9. Insurance Period

(a) In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) Coverage begins on November 21 of each crop year, except that for the year of application, if your application is received after November 11 but prior to November 21, 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 grove.

(2) The calendar date for the end of the insurance period for each crop year is the second May 31st of the crop year.

(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 citrus on or before the acreage reporting date for the crop year, insurance will not be considered to have attached to, and no premium will be due, and no indemnity paid 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.

10. 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 within the insurance period:

(1) Excess rain;

(2) Excess wind;

(3) Fire, unless weeds and other forms of undergrowth have not been controlled or pruning debris has not been removed from the grove;

(4) Freeze;

(5) Hail;

(6) Tornado;

(7) Wildlife; or

(8) 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 a cause of loss specified in section 10(a):

(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) Inability to market the citrus 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.

11. 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) If the Special Provisions permit or a written agreement authorizing direct marketing exists, 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.

(b) If you intend to claim an indemnity on any unit, you must notify us before beginning to harvest any damaged production so we may have an opportunity to inspect it. 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 all such production will be considered undamaged and included as production to count.

12. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide 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 to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim on a unit basis by:

(1) Multiplying the insured acreage for each crop, or variety if applicable, by its respective production guarantee (see sections 1 and 3);

(2) Multiplying the results of section 12(b)(1) by the respective price election for each crop or variety, if applicable;

(3) Totaling the results of section 12(b)(2);

(4) Multiplying the total production to count of each variety, if applicable (see section 12(c)) by the respective price election;

(5) Totaling the results of section 12(b)(4);

(6) Subtracting this result of section 12(b)(5) from the result of section 12(b)(3); and

(7) Multiplying the result of section 12(b)(6) by your share.

(c) The total production to count (in tons) 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) For which you fail to provide acceptable production records;

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

(D) From which production is sold by direct marketing, if direct marketing is specifically permitted by the Special Provisions or a written agreement, and you fail to meet the requirements contained in section 11;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production; and

(iv) Potential production on insured acreage 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.

(d) Any citrus fruit that is not marketed as fresh fruit and, due to insurable causes, does not contain 120 or more gallons of juice per ton, will be adjusted by:

(1) Dividing the gallons of juice per ton obtained from the damaged citrus by 120; and

(2) Multiplying the result by the number of tons of such citrus.

If individual records of juice content are not available, an average juice content from the nearest juice plant will be used, if available. If not available, a field appraisal will be made to determine the average juice content.

(e) Where the actuarial table provides, and you elect, the fresh fruit option, citrus fruit that is not marketable as fresh fruit due to insurable causes will be adjusted by:

(1) Dividing the value per ton of the damaged citrus by the price of undamaged citrus fruit; and

(2) Multiplying the result by the number of tons of such citrus fruit. The applicable price for undamaged citrus fruit will be the local market price the week before damage occurred.

(f) Any production will be considered marketed or marketable as fresh fruit unless, due solely to insured causes, such production was not marketed as fresh fruit.

(g) In the absence of acceptable records of disposition of harvested citrus fruit, the disposition and amount of production to count for the unit will be the guarantee on the unit.

(h) Any citrus fruit on the ground that is not harvested will be considered totally lost if damaged by an insured cause.

13. Written Agreements

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section (13)(e);

(b) The application for written agreement must contain all terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, DC, on August 2, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AC93

Codes and Standards for Nuclear Power Plants; Subsection IWE and Subsection IWL

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to incorporate by reference the 1992 Edition with the 1992 Addenda of Subsection IWE, ''Requirements for Class MC and Metallic Liners of Class CC Components of Light-Water Cooled Power Plants,'' and Subsection IWL, ''Requirements for Class CC Concrete Components of Light-Water Cooled Power Plants,'' of Section XI, Division 1, of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) with specified modifications and a limitation. Subsection IWE of the ASME Code provides rules for inservice inspection, repair, and replacement of Class MC pressure retaining components and their integral attachments and of metallic shell and penetration liners of Class CC pressure retaining components and their integral attachments in light-water cooled power plants. Subsection IWL of the ASME Code provides rules for inservice inspection and repair of the reinforced concrete and the post-tensioning systems of Class CC components. Licensees will be required to incorporate Subsection IWE and Subsection IWL into their inservice inspection (ISI) program. Licensees will also be required to expedite implementation of the containment examinations and to complete the expedited examination in accordance with Subsection IWE and Subsection IWL within 5 years of the effective date of this rule. Provisions have been included that will prevent unnecessary duplication of examinations between the expedited examination and the routine 120-month ISI examinations. Subsection IWE and Subsection IWL have not been previously incorporated by reference into the NRC regulations. The final rule specifies requirements to assure that the critical areas of containments are routinely inspected to detect and take corrective action for defects that could compromise a containment's structural integrity.

EFFECTIVE DATE: September 9, 1996. The incorporation by reference of certain publications listed in the regulations is approved by the Office of the Director of the Office of the Federal Register as of September 9, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. W. E. Norris, Division of Engineering Technology, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6796.

SUPPLEMENTARY INFORMATION: The NRC is amending its regulations to incorporate by reference the 1992 Edition with the 1992 Addenda of Subsection IWE and Subsection IWL to assure that the critical areas of containments are routinely inspected to detect and take corrective action for defects that could compromise a containment's structural integrity. The rate of occurrence of degradation in containments is increasing. Appendix J to 10 CFR part 50 requires a general visual inspection of the containment but does not provide specific guidance on how to perform the necessary containment examinations. This has resulted in a large variation with regard to the performance and the effectiveness of containment examinations. The rate of occurrence of corrosion and degradation of containment structures has been increasing at operating nuclear power plants. There have been 32 reported occurrences of corrosion in metal containments and the liners of concrete containments. This is one-fourth of all operating nuclear power plants. Only four of the 32 occurrences were detected by current containment inspection programs. Nine of these occurrences were first identified by the NRC through its inspections or structural audits. Eleven occurrences were detected by licensees after they were alerted to a degraded condition at another site or through activity other than containment inspection. There have been 34 reported occurrences of degradation of the concrete or of the post-tensioning systems of concrete containments. This is nearly one-half of these types of containments. It is clear that current licensee containment inspection programs have not proved to be adequate to detect the types of degradation which have been reported. Examples of degradation not found by licensees, but initially detected at plants through NRC inspections include: (1) Corrosion of steel containment shells in the drywell sand cushion region, resulting in wall thickness reduction to below the minimum design thickness; (2) corrosion of the torus of the steel containment shell (wall thickness below minimum design thickness); (3) corrosion of the liner of a concrete containment to approximately half-depth; (4) grease leakage from the tendons of prestressed concrete containments; and (5) leaching as well as excessive cracking in concrete containments.

There are several General Design Criteria (GDC) and ASME Code sections which establish minimum requirements for the design, fabrication, construction, testing, and performance of structures, systems, and components important to safety in water-cooled nuclear power plants. The GDC serve as fundamental underpinnings for many of the most safety important commitments in