

Rules and Regulations

Federal Register

Vol. 62, No. 19

Wednesday, January 29, 1997

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

RIN 0563-AB50

Common Crop Insurance Regulations, Texas Citrus Tree Crop Insurance Provisions; and Texas Citrus Tree Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of Texas citrus trees. 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, include the current Texas citrus tree endorsement with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current Texas citrus tree endorsement to the 1997 and prior crop years.

EFFECTIVE DATE: January 29, 1997.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

This action has been reviewed under United States Department of Agriculture (USDA) procedures established by Executive Order No. 12866. 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 August 3, 2002.

This rule has been determined to be exempt 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 056-0003 through September 30, 1998. No public comments were received.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 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. 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 various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, all producers are required to complete an application and acreage report. If the trees are damaged or destroyed, insureds are required to give notice of loss and provide the necessary

information to complete a claim for indemnity. 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 part 11 must be exhausted before any 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 Thursday, August 29, 1996, FCIC published a proposed rule in the

Federal Register at 61 FR 45369-45373 to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR § 457.106 Texas Citrus Tree Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supercede the current provisions for insuring Texas citrus trees found at 7 CFR § 401.134 (Texas Citrus Tree Endorsement). FCIC also amends 7 CFR 401.134 to limit its effect to the 1997 and prior crop years. FCIC will later publish a regulation to remove and reserve § 401.134.

Following publication of the proposed rule, the public was afforded 60 days to submit written comments, data, and opinions. A total of 20 comments were received from the crop insurance industry and FCIC. The comments received and FCIC's responses are as follows:

Comment: A representative of FCIC 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 and has also deleted the definition of type.

Comment: The crop insurance industry suggested that the definition of "deductible" be defined in the Basic Provisions rather than the crop provisions.

Response: "Deductible" must be defined in the crop provisions until the Basic Provisions are revised. No change has been made to the provisions.

Comment: The crop insurance industry questioned the definition of "dehorning." They stated that the definition previously was "The cutting back of each scaffold limb * * *"; the proposed rule stated "* * * one or more scaffold limbs * * *." This affects the amount of insurance per acre. The commenters questioned if the intent was to limit the amount of insurance per acre to 33 percent for any tree with only one scaffold limb dehorned.

Response: FCIC agrees that the definition of "dehorning" as published in the proposed rule is confusing. The definition has been revised to read "Cutting all scaffold limbs to a length not longer than 1/4 the height of the tree before such cutting."

Comment: The crop insurance industry recommended that the definition of "irrigated practice" should also address the quality of the water being applied.

Response: FCIC disagrees. There are no established criteria regarding the quality of water necessary to produce a crop. Such criteria would be difficult to develop and administer due to the complexity of the factors involved. No change has been made in the definition.

Comment: The crop insurance industry suggested defining "root stock."

Response: FCIC agrees and has added a definition of "root stock."

Comment: The crop insurance industry stated that section 2(f) needs to be revised to say "Each optional unit must meet one of the following criteria, as applicable * * *" instead of "* * * one or more of the following * * *" so that the policyholder may choose to have optional units either by non-contiguous land or by legal description but not by both.

Response: FCIC agrees and has made the recommended change. Also, the phrase "In lieu of establishing optional units by section, section equivalent or FSA Farm Serial Number," has been deleted from section 2(f)(2) for clarification.

Comment: The crop insurance industry questioned if there should be some reference to type in section 3(b) in regard to amount of insurance for each population density.

Response: FCIC agrees that the per acre amount of insurance for each variety or population density within a crop must bear the same relationship to the maximum amount of insurance available for each variety and population density of the crop as specified in the Actuarial Table. This change has been made.

Comment: The crop insurance industry suggested clarifying section 3(b)(4) by adding the phrase "the premium and" before the phrase "any indemnity will be based is \$1,700 (\$2,000 multiplied by 0.85)."

Response: FCIC agrees and has made the recommended change.

Comment: The crop insurance industry suggested changing "and" to "or" in section 7(b)(1) because items 1 and 2 are two separate conditions.

Response: FCIC agrees and has made the change.

Comment: The crop insurance industry questioned whether there were any guidelines to exclude or limit coverage on any acreage that was not insured the previous year.

Response: The M8-Texas Citrus Tree Handbook contains provisions for excluding or limiting the amount of insurance on Texas citrus trees.

Comment: The crop insurance industry stated that since the term "excess moisture" is not defined in the

provisions whereas the term "excess precipitation" was defined in the existing regulation, they assumed that excess moisture would be determined on a case by case basis.

Response: "Excess moisture" was an insurable cause of loss in the Texas Citrus Tree Endorsement published in 7 CFR § 401.134 for the 1989 and subsequent crop years and in the proposed rule for these crop provisions. However, the term was not defined. The term is changed to "excess precipitation" and is defined as "An amount of precipitation sufficient to directly damage the tree."

Comment: The crop insurance industry stated that the covered peril of "failure of the irrigation water supply" basically has been eliminated and they questioned if this was the intent and, if so, if the premium would be adjusted accordingly.

Response: It was not the intent to eliminate the covered peril of "failure of the irrigation water supply" due to drought. This provision has been revised consistent with the Texas Citrus Fruit Crop Insurance Provisions. It now reads "Failure of the irrigation water supply if caused by an insured peril or drought that occurs during the insurance period."

Comment: The crop insurance industry suggested deleting the word "actual" in section 12(a)(1) because sections 12(b)(2) and 12(c) may adjust the actual percentages.

Response: FCIC believes that the provisions are clearly stated. No changes have been made.

Comment: The crop insurance industry stated that the existing provisions established the condition that any grove sustaining more than 80 percent actual damage would be considered 100 percent damaged, but the proposed rule establishes this condition on an individual tree basis. If this is an intended change it must be identified as such.

Response: When appraising damage, a sample of trees is selected. Damage to individual scaffold limbs on each tree is assessed to establish the percent of damage for the unit. FCIC has not changed the procedure. These crop provisions have been revised to more accurately identify the process with the addition of the following sentence: "If this percent of damage is more than 80 percent, the unit will be considered 100 percent damaged."

Comment: The crop insurance industry questioned whether a tree that has 85 percent actual damage is considered to be 100 percent damaged. They wondered which figure is used

when calculating the average percentage of damage for the unit.

Response: Any tree that sustains more than 80 percent damage following the year of set out will be considered 100 percent damaged. The percent of damage on the unit will be determined by computing the average of the determinations made for the individual trees within each sample, thus any tree with over 80 percent of damage will be regarded as having 100 percent of damage. If the total samples have an average of more than 80 percent damage, the damage will be determined to be 100 percent for the unit.

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: Written agreements are, by design, temporary and intended to address unusual circumstances. If the conditions for which a written agreement is needed exists each crop year, the policy or Special Provisions should be amended to reflect this condition. Therefore, no change will be made to the provisions.

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

Response: FCIC believes that the current provisions are clearly stated and has not opted to combine them.

Comment: The crop insurance industry suggested addressing the extended insurance period for the 1998 crop year in the 1998 Special Provisions or an amendatory endorsement, instead of 3 references in these crop provisions.

Response: The policy itself is the best place to notify the insured of the insurance period to avoid any confusion. FCIC believes that these provisions are clearly stated and the provisions have not been changed.

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

1. Section 1—Added a definition for “crop” and amended the definitions of “crop year,” “deductible,” “destroyed,” “excess wind,” “FSA,” “good farming practices,” “interplanted,” and “written agreement” for clarification.

2. Section 9—Revised the provisions to allow all insureds to obtain coverage for the extended 1998 crop year. Previously new insureds would not have had an opportunity to insure their crop from June 1 through November 20, which may have resulted in some losses paid under the crop insurance policy and others under the noninsured crop disaster assistance program.

3. Section 12—Clarified how an indemnity is computed by adding a statement to specify that the result of subtracting the insured’s deductible from the percent of damage for the unit must be greater than zero to receive an indemnity. Deleted the provision specifying that any percent of damage paid previously in the same crop year be subtracted. These provisions do not allow an initial payment prior to the final indemnity.

Good cause is shown to make this rule effective upon publication in the Federal Register and without the 30-day period required by the Administrative Procedure Act. This rule improves the Texas citrus tree insurance coverage and brings it under the Common Crop Insurance Policy Basic Provisions for consistency among policies. This rule will allow optional unit division by section, section equivalent, or FSA Farm Serial Number; or by non-contiguous land, but not by both. The unit structure will now be the same for both the Texas Citrus Tree Provisions and the Texas Citrus Fruit Provisions.

List of Subjects in 7 CFR Parts 401 and 457

Crop insurance, Texas citrus tree, Texas citrus tree endorsement.

Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR parts 401 and 457 as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS—REGULATIONS FOR THE 1988 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. The introductory text of § 401.134 is revised to read as follows:

§ 401.134 Texas Citrus Tree Endorsement.

The provisions of the Texas Citrus Tree Endorsement for the 1989 through 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

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

Authority: 7 U.S.C. 1506(l), 1506(p).

4. 7 CFR part 457 is amended by adding a new § 457.106 to read as follows:

§ 457.106 Texas Citrus Tree Crop Insurance Provisions.

The Texas Citrus Tree Crop Insurance Provisions for the 1998 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:

Texas Citrus Tree 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

Bud union—The location on the tree trunk where a bud from one tree variety is grafted onto root stock of another variety.

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

Crop year—For the 1998 crop year only, a period of time that begins on June 1, 1997, and ends on November 20, 1998. For all other crop years, a period of time that begins on November 21 of the calendar year prior to the year the trees normally bloom, and ends on November 20 of the following calendar year. The crop year is designated by the year in which the insurance period ends.

Days—Calendar days.

Deductible—The amount determined by subtracting the coverage level percentage you choose from 100 percent. For example, if you elected a 65 percent coverage level, your deductible would be 35 percent (100% – 65% = 35%).

Dehorning—Cutting all scaffold limbs to a length not longer than 1/4 the height of the tree before such cutting.

Destroyed—Trees damaged to the extent that removal is necessary.

Excess precipitation—An amount of precipitation sufficient to directly damage the tree.

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

Freeze—The formation of ice in the cells of the trees caused by low air temperatures.

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

Good farming practices—The cultural practices generally in use in the county for the trees to have normal growth and vigor and recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

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

Irrigated practice—A method by which the normal growth and vigor of the insured trees is maintained by artificially applying adequate quantities of water during the

growing season using the appropriate irrigation systems at the proper times.

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.

Root stock—A root or a piece of a root of one tree variety onto which a bud from another tree variety is grafted.

Scaffold limbs—Major limbs attached directly to the trunk.

Set out—Transplanting the tree into the grove.

Written agreement—A written document that alters designated terms of this 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 additional 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 additional premium paid for optional units that have been combined will be refunded to you for the units combined.

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

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

(1) *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

(2) *Optional Units on Acreage Located on Non-Contiguous Land:* 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

(a) In lieu of the requirement of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), that prohibits you from selecting more than one coverage level for each insured crop, you may select a different coverage level for each crop designated in the Special Provisions that you elect to insure.

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

(1) If you insure trees within a crop which are either of a different variety or are planted at a different population density, the per acre amount of insurance for each variety or population density for the crop must bear the same relationship to the maximum amount of insurance available for each variety and population density of the crop as specified in the Actuarial Table. For example, if you elect 100 percent of the maximum amount of insurance for a variety within a population density for the crop, you must select 100 percent of the maximum amount of insurance for that variety for all population densities for the crop. The amount of insurance for each variety and population density must be multiplied by any applicable factor contained in section 3(b)(2).

(2) The amount of insurance per acre will be the product obtained by multiplying the reference maximum dollar amount of insurance that is shown in the Actuarial Table for the applicable population density by the percentage for the level of coverage you select and by:

(i) Thirty-three percent (0.33) for the year of set out, the year following dehorning, or the year following grafting of a set out tree. (Insurance will be limited to this amount until trees that are set out are one year of age or older on the first day of the crop year);

(ii) Sixty percent (0.60) for the first growing season after being set out, the second year following dehorning, or the second year following grafting of a set out tree;

(iii) Eighty percent (0.80) for the second growing season after being set out, the third year following dehorning, or the third year following grafting of a set out tree; or

(iv) Ninety percent (0.90) for the third growing season after being set out, the fourth year following dehorning, or the fourth year following grafting of a set out tree.

(3) The amount of insurance per acre for each population density, or factor as appropriate, will be multiplied by the applicable number of insured acres. These results will then be added together to determine the amount of insurance for the unit.

(4) The amount of insurance will be reduced proportionately for any unit on which the stand is less than 90 percent, based on the original planting pattern. For example, if the amount of insurance you selected is \$2,000 and the remaining stand is 85 percent of the original stand, the amount of insurance on which the premium and any indemnity will be based is \$1,700 (\$2,000 multiplied by 0.85).

(5) If any insurable acreage of trees is set out after the first day of the crop year, and

you elect to insure such acreage during that crop year, you must report the acreage, practice, crop, number of trees, date set out is completed, and your share to us within 72 hours after set out is completed for the unit.

(6) Production reporting requirements contained in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), are not applicable.

(7) You must report, by the sales closing date contained in the Special Provisions, by type if applicable:

(i) Any damage, removal of trees, change in practices, or any other circumstance that may reduce the amount of insurance, and the number of affected acres;

(ii) The number of trees on insurable and uninsurable acreage;

(iii) The date of original set out and the planting pattern;

(iv) The date of replacement or dehorning, if more than 10 percent of the trees on any unit have been replaced or dehorned in the previous 5 years; and

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

(A) The age of the interplanted crop, and type if applicable;

(B) The planting pattern; and

(C) Any other information that we request in order to establish your amount of insurance.

We will reduce the amount of insurance as necessary, based on our estimate of the effect of interplanting a perennial crop; removal of trees; damage; change in practices and any other circumstance on the potential of the insured crop. If you fail to notify us of any circumstance that may reduce the potential for the insured crop, we will reduce your amount of insurance as necessary at any time we become aware of the circumstance.

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 addition to the provisions of section 5 (Annual Premium) of the Basic Provisions (§ 457.8), for the 1998 crop year, the premium amount otherwise payable for the 1998 crop year will be increased by 46 percent as a result of the additional six months of coverage for that crop year.

7. Insured Crop

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

- (1) In which you have an ownership share;
- (2) That is adapted to the area;

(3) That is set out for the purpose of growing fruit to be harvested for the commercial production of fresh fruit or for juice;

(4) That is irrigated; and

(5) That have the potential to produce at least 70 percent of the county average yield for the crop and age, unless a written agreement is approved to insure the trees with lesser potential.

(b) In addition to section 8 (Insured Crop) of the Basic Provisions (§ 457.8), we do not insure any citrus trees:

(1) During the crop year the application for insurance is filed, unless we inspect the acreage and consider it acceptable; or

(2) That have been grafted onto existing root stock or nursery stock within the one-year period prior to the date insurance attaches.

(c) We may exclude from insurance or limit the amount of insurance on any acreage that was not insured the previous year.

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 trees 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.

9. Insurance Period

In lieu of the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(a) The insurance period is as follows:

(1) For the 1998 crop year only, coverage will begin on June 1, 1997, and will end on November 20, 1998.

(2) For all subsequent crop years, coverage begins on November 21 of the calendar year prior to the year the insured crop normally blooms, 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 the requirements for insurability contained in your policy. You must provide any information that we require for the crop or to determine the condition of the grove.

(3) The calendar date for the end of the insurance period for each crop year is November 20.

(b) 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.

(c) If you relinquish your insurable share on any insurable acreage of citrus trees 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:

(1) A transfer of coverage and right to an indemnity, or a similar form approved by us, is completed by all affected parties;

(2) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date; and

(3) The transferee is eligible for crop insurance.

10. Causes of Loss

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:

(a) Excess precipitation;

(b) Excess wind;

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

(d) Freeze;

(e) Hail;

(f) Tornado; or

(g) Failure of the irrigation water supply if caused by an insured peril or drought that occurs during the insurance period.

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), in case of damage or probable loss, if you intend to claim an indemnity on any unit, you must allow us to inspect all insured acreage before pruning, dehorning, or removal of any damaged trees.

12. Settlement of Claim

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

(1) Determining the actual percent of damage for the unit in accordance with sections 12 (b), (c), and (d);

(2) Subtracting your deductible from the percent of damage for the unit (this result must be greater than zero to receive an indemnity);

(3) Dividing the result of section 12(a)(2) by your coverage level percentage;

(4) Multiplying the result of section 12(a)(3) by the amount of insurance per acre determined in accordance with section 3(b)(2);

(5) Multiplying the result of section 12(a)(4) by the number of insured acres; and

(6) Multiplying the result of section 12(a)(5) by your share.

(b) The percent of damage for any tree will be determined as follows:

(1) For damage occurring during the year of set out (trees that have not been set out for at least one year at the time insurance attaches):

(i) One-hundred percent (100%) whenever there is no live wood above the bud union;

(ii) Ninety percent (90%) whenever there is less than 12 inches of live wood above the bud union; or

(iii) The tree will be considered undamaged whenever there is more than 12 inches of live wood above the bud union; or

(2) For damage occurring in any year following the year of set out:

(i) The percentage of damage will be determined by dividing the number of scaffold limbs damaged in an area from the trunk to a length equal to one-fourth (1/4) the height of the tree, by the total number of

scaffold limbs before damage occurred.

Whenever this percentage exceeds 80 percent, the tree will be considered as 100 percent damaged.

(ii) The percent of damage for the unit will be determined by computing the average of the determinations made for the individual trees. If this percent of damage exceeds 80 percent, the unit will be considered 100 percent damaged.

(c) The percent of damage on the unit will be reduced by the percentage of damage due to uninsured causes.

13. Written Agreement

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 a written agreement must contain all variable 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 a 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, D.C., on January 22, 1997.

Kenneth D. Ackerman,
Manager, Federal Crop Insurance Corporation.

[FR Doc. 97-2040 Filed 1-28-97; 8:45 am]

BILLING CODE 3410-FA-P

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 96-043-2]

Brucellosis in Cattle; State and Area Classifications; Louisiana

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Louisiana from Class A to Class Free.