

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563-AB51

Common Crop Insurance Regulations; Florida Citrus Fruit Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation., USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby proposes specific crop provisions for the insurance of Florida 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, move the current Florida Citrus Endorsement from 7 CFR 401.143 to the Common Crop Insurance Policy (7 CFR 457) for ease of use by the public and conformance among policy terms, and conform to the amendments to the Federal Crop Insurance Act made by the Federal Crop Insurance Reform Act of 1994.

DATES: Written comments, data, and opinions on this proposed rule will be accepted until close of business April 15, 1996 and will be considered when the rule is to be made final. The comment period for information collections under the Paperwork Act of 1995 continues through May 13, 1996.

ADDRESSES: Interested persons are invited to submit written comments to the Chief, Product Development Branch, Federal Crop Insurance Corporation (FCIC), Farm Service Agency (FSA), United States Department of Agriculture (USDA), 9435 Holmes Road, Kansas City, MO 64131. Written comments will be available for public inspection and copying in room 0324, South Building, USDA, 14th and Independence Avenue,

S.W., Washington, D.C., during regular business hours, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

William Klein, Program Analyst, Research and Development Division, Product Development Branch, FCIC, FSA, at the address listed above, telephone (816) 926-2704.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Departmental Regulation 1512-1

This action has been reviewed under USDA procedures established by Executive Order 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 May 1, 2000.

This rule has been determined to be exempt for the purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

The information collection requirements contained in the Florida Citrus Fruit Crop Provisions have been submitted to OMB for approval under section 3507(j) of the Paperwork Reduction Act of 1995. This proposed rule will amend the information collection requirements under OMB control number 0563-0003 through September 30, 1998. The Federal Crop Insurance Corporation will be amending the information collection to adjust the estimated reporting hours and revising the usage of FCI-12-P, Pre-Acceptance Perennial Crop Inspection Report as it applies to the Florida Citrus Fruit Crop Insurance Provisions.

Section 7 of the 1997 Florida Citrus Fruit Crop provisions adds interplanting as an insurable farming practice as long as it is interplanted with another citrus fruit crop. This practice was not insurable under the previous Florida Citrus Endorsement 90-02 and the General Crop Policy 88-G (REV 3-91) to which it attached. Consequently, interplanting information will need to be collected, using the FCI-12-P Pre-Acceptance Perennial Crop Inspection Report form for approximately 20 percent of the Florida Citrus insureds who interplant their citrus crop. Standard interplanting language has

been added to most perennial crops. Interplanting is an insurable practice as long as it does not adversely affect the insured crop. This is a benefit to agriculture because insurance is now available for more citrus and fruit producers and as a result less acreage will need to be placed into the Noninsured Crop Disaster Assistance Program (NAP).

Revised reporting estimates and requirements for usage of OMB control number 0563-0003 will be submitted to OMB for approval under the provisions of 44 U.S.C 35. Public comments are due by May 13, 1996.

The title of this information collection is "Catastrophic Risk Protection Plan and Related Requirements Including Common Crop Insurance Regulations; Florida Citrus Fruit Crop Insurance Provisions." The information to be collected includes: a crop insurance acreage report, an insurance application and a continuous contract. Potential respondents to this information collection are growers of Florida citrus fruit that are eligible for Federal crop insurance.

The estimated increase in the number of respondents and total burden hours associated with the OMB information collection is the result of two new parts in chapter IV of title 7 of the Code of Federal Regulations; Part 402, Catastrophic Risk Protection Plan, and Part 404, Noninsured Crop Disaster Assistance Program. The Federal Crop Insurance Reform Act of 1994 required the Federal Crop Insurance Corporation to implement a catastrophic risk protection plan of insurance that provides a basic level of coverage to protect producers in the event that a covered disaster results in crop losses or prevented planting. As a result of the implementation of the Catastrophic Risk Protection Endorsement, increased producer participation has increased the information collections covered under OMB control number 0563-0003. The information requested is necessary for the reinsured companies and the Federal Crop Insurance Corporation to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts (or fees), and pay benefits.

All information is reported annually. The reporting burden for this collection

of information is estimated to average 25 minutes per response for each of the 3.6 responses from approximately 1,755,015 respondents. The total annual burden on the public for this information collection is 2,669,970 hours.

The comment period for information collections under the Paperwork Reduction Act of 1995 continues through May 13, 1996, for the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 and to Bonnie Hart, Advisory and Corporate Operations Staff, Regulatory Review Group, Farm Service Agency, P.O. Box 2415, Ag Box 0572, U.S. Department of Agriculture, Washington, D.C. 20013-2415. Copies of the information collection may be obtained from Bonnie Hart at the above address. Telephone (202) 690-2857.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandate 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. 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 1 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) for 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 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The policies and procedures 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. The amount of work required of the insurance companies and FSA offices delivering these policies and procedures therein will not increase significantly from the amount of work currently required to deliver previous policies to which this regulation applies. This rule does not have any greater or lesser impact on the insured farmer. 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 12372

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsections (2)(a) and 2(b)(2) of Executive Order 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 in 7 CFR part 11 and 7 CFR part 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

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section to be known as 7 CFR 457.107, Florida Citrus Fruit Crop Insurance Provisions. The provisions will be effective for the 1997 and succeeding crop years. The proposed Florida Citrus Fruit Crop Insurance provisions will replace the provisions found at 7 CFR 401.143 (Florida Citrus Endorsement). Upon publication of 7 CFR 457.107 as a final rule, the provisions for insuring Florida citrus fruit contained herein will supersede the current provisions contained in 7 CFR 401.143. By separate rule, FCIC will revise § 401.143 to restrict its effect through the 1996 crop year and later remove that section.

This rule makes minor editorial and format changes to improve the Florida Citrus Endorsement's compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring Florida citrus fruit as follows:

Florida Citrus Endorsement

1. Section 1—Add definitions for the terms "days", "freeze", "good farming practices", "hurricane", "interplanted", and "written agreement" for clarification purposes.

2. Subsection 1(b)—Add limes to the Florida Citrus Fruit Crop Provisions as an insurable citrus crop. Limes are added in response to public interest in coverage and findings of FCIC's field staff and research and development staff supporting the insurability of this additional citrus crop. Limes are grouped with Lemons under Type VI. Limes and lemons are often grown together and are similar in their growth patterns, maturity, and cultivation.

3. Section 2—Describe the guidelines under which basic units may be divided into optional units. The definition of "unit" under section 1(tt) of the Basic Provisions (§ 457.6) provides for the division of units in accordance with applicable crop provisions. The current Florida Citrus Endorsement does not

provide guidelines for determining optional units. Section 2 of these crop provisions provides guidelines for optional unit division of Florida citrus fruit basic units that are consistent with many other perennial crop provisions. Optional units may be divided on the basis of section, section equivalent, or FSA Farm Serial Number, or on acreage located on non-contiguous land, or both. Consistent with the definition of "unit" in the Basic Provisions (§ 457.6), section 10 of the Florida Citrus Fruit Crop Provisions will provide that, in settling a claim, loss will be determined on a unit basis and all optional units for which acceptable production records were not provided will be combined.

4. Subsection 3(a)—Specify that the insured may select only 1 percent of the maximum dollar amount of insurance for all fruit included in each type shown in section 1 of these crop provisions or as designated in the Special Provisions. Beginning with the 1996 crop year, certain citrus fruit within types (IV tangerines and V murcotts) were priced differently, as shown in the actuarial table. While it was not encouraged, producers could choose different percentages of the maximum amount of insurance depending on anticipated market conditions. This created administrative problems in settling claims. Section 3 of the Basic Provisions provides that the insured may select only one coverage level for each insured crop. Since FCIC considers each type to be a "crop", the language in these crop provisions clearly limits producers to 1 percent of the maximum dollar amount for each fruit within a type, regardless of variations in the maximum amount of insurance for the fruit.

5. Subsection 3(c)—Specify that the insured must report the age of any interplanted crop, the planting pattern, and any other information needed to establish the amount of insurance for the interplanted acreage. The acreage or amount of insurance, or both, may be adjusted by us when we become aware of the situation if the insured has not previously reported it. Interplanting is not provided under the current Florida Citrus Endorsement. Section 7 of these crop provisions allows interplanting a citrus fruit crop with another citrus fruit crop. The change in policy language is based on existing practices and FCIC's desire to insure the maximum amount of acreage. Interplanting, as provided in these crop provisions, is limited to existing interplanting practices, i.e., with another citrus fruit crop, and excludes other interplanting practices which may adversely impact the insured crop. This policy change necessitates a change in reporting

requirements. Insureds with interplanted citrus acreage must report information needed by the insurer to establish the amount of insurance or number of acres of the interplanted insured crop.

6. Section 4—Change the contract change date from April 15 to March 15. This change will allow insureds more time to make insurance decisions before the April 30 cancellation date.

7. Subsection 6(b)(2)—Change the insurable tree age requirement from 10 years after set out to 5 years after set out based on industry recommendations. The amounts of insurance are listed in the actuarial documents based on tree age, and are reduced proportionately for younger trees.

8. Section 7—Add "interplanting" as an insurable farming practice if the citrus fruit crop is interplanted with another citrus fruit crop.

9. Subsection 8(a)(1)—Clarify that if an application is accepted by us after April 20, insurance will attach on the 10th day after the application is received in the insurance provider's local office. Full premium, however, will be due for the partial year.

10. Section 8(b)—Provide policy guidelines for attachment of insurance when insurable acreage is acquired or relinquished. Previously this language was contained in the Crop Insurance Handbook and Catastrophic Risk Protection Handbook.

11. Section 10—Change the deductible for determining when an indemnity is due. For limited and additional coverage the indemnity had been computed based on the determination of the percent of damage less 10 percent. For the 1997 crop year, it will be the percent of damage less the deductible (25%, 30%, 35%, 40%, 45%, 50%) divided by the coverage level percent. This change makes the Florida Citrus Fruit Crop Provisions consistent with other crop provisions and with the way in which other catastrophic losses were computed for the 1995 crop year.

12. Section 11—Add provisions for providing insurance coverage by written agreement. FCIC has a long-standing policy of permitting modification of certain provisions of insurance contracts by written agreement. This provision is not documented in the current Florida Citrus Endorsement. This section will provide for the application for, and duration of, written agreements.

List of Subjects in 7 CFR Part 457

Crop insurance, Florida citrus fruit.

Proposed 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 proposes to amend the Common Crop Insurance Regulations (7 CFR 457), effective for the 1997 and succeeding crop years, as follows:

PART 457—[AMENDED]

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

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

2. 7 CFR 457 is amended by adding a new § 457.107 to read as follows:

§ 457.107 Florida Citrus Fruit Crop Insurance Provisions.

The Florida Citrus Fruit Crop Insurance Provisions for the 1997 and succeeding crop years are as follows: United States Department of Agriculture; Federal Crop Insurance Corporation; Florida 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—

(a) *Box*—A standard field box as prescribed in the State of Florida Citrus Fruit Laws.

(b) *Citrus fruit type*—Any of the following:

(1) Type I—Early and mid-season oranges;

(2) Type II—Late Oranges;

(3) Type III—Grapefruit for which freeze damage will be adjusted on a juice basis;

(4) Type IV—Navel Oranges, tangelos and tangerines

(5) Type V—Murcott Honey Oranges (also known as Honey Tangerines) and Temple Oranges;

(6) Type VI—Lemons and Limes; or

(7) Type VII—Grapefruit for which freeze damage will be adjusted on a fresh fruit basis.

(c) *Days*—Calendar days.

(d) *Freeze*—The formation of ice in the cells of the fruit caused by low air temperatures.

(e) *Good farming practices*—The cultural practices generally in use in the area for the crop to make normal progress toward maturity and produce the expected yield for the type and age of citrus fruit and are those generally recognized by the Cooperative Extension Service as compatible with agronomic and weather conditions in the area.

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

(g) *Hurricane*—A windstorm classified by the U.S. Weather Service as a hurricane.

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

(i) *Non-contiguous land*—Any land owned by you or rented by you for any consideration other than a share in the insured crop, whose boundaries do not touch at any point. Land that is separated only by a public or private right-of-way, waterway or irrigation canal will be considered to be contiguous.

(j) *Potential production*—Includes production that would have been produced had damage not occurred and includes citrus fruit that:

- (i) Was harvested before damage occurred;
- (ii) Remained on the tree after damage occurred; and
- (iii) Was lost from either an insured or uninsured cause.

Potential production does not include citrus fruit that:

- (i) Was lost before insurance attached for any crop year;
- (ii) Was lost by normal dropping; or
- (iii) Any tangerines that normally would not, by the end of the insurance period for tangerines, meet the 210 pack size (2 and 4/16 inch minimum diameter) under United States Standards.

(k) *Written agreement*—A written document that alters designated terms of a policy.

2. *Unit Division*—A unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into basic units by each citrus fruit type shown in section 1 of these crop provisions or designated in the Special Provisions. Unless limited by the Special Provisions, a basic unit may be further 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. 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. 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 may 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, that portion of the premium paid for the purpose of electing optional units will be refunded to you pro rata for the units combined. All optional units must be reflected on the acreage report for each crop year.

(a) Each optional unit must meet one or more of the following criteria as applicable:

(1) *Optional Units by Section, Section Equivalent, or Farm Service Agency (FSA) Farm Serial Number*: Optional units may be established if each optional unit is located in a separate legally identified section. The trees must be planted in such a manner that the planting does not continue into the adjacent 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 discernable, 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*: In addition to or

instead 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 1 percent of the maximum dollar amount of insurance for all citrus fruit included in each type, shown in section 1 of these crop provisions or designated in the Special Provisions, that you elect to insure.

(b) In lieu of the production reporting date contained in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), potential production for each unit will be determined during loss adjustment.

(c) For the first year of insurance for acreage interplanted with another citrus fruit crop, and anytime the planting pattern of such acreage is changed, you must report, by the sales closing date contained in the Special Provisions, the following:

(1) The age of the interplanted trees and type if applicable;

(2) The planting pattern; and

(3) Any other information we may need to establish your amount of insurance. We will reduce acreage or the amount of insurance, or both, as necessary, based on the effect of the interplanted citrus fruit trees on the insured citrus fruit crop. If you fail to notify us, we will reduce the acreage or amount of insurance, or both, any time we become aware of the interplanted crop.

4. *Contract Changes*—The contract change date is March 15 preceding the cancellation date. (See the provisions of section 4 (Contract Changes) of the Basic Provisions (§ 457.8).)

5. *Cancellation and Termination Dates*—In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation date is April 30 preceding the crop year. The termination date is April 30 of the crop year.

6. *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 fruit type that you elect to insure, in which you have a share, that are grown in the county shown on the application, and for which a premium rate is quoted in the actuarial table. If you insure grapefruit, you must insure all of your grapefruit under a single type designation (type III or type VII).

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

(1) That cannot be expected to mature each crop year within the normal maturity period for the type;

(2) Produced by trees that have not reached the fifth growing season after being set out, unless otherwise provided in the Special Provisions or by a written agreement approved by us to insure such citrus fruit;

(3) Of "Meyer Lemons" and oranges commonly known as "Sour Oranges" or "Clementines"; or

(4) Of the Robinson tangerine variety, for any crop year in which you have elected to exclude such tangerines from insurance. (You must elect this exclusion prior to the crop year for which the exclusion is to be effective, except that for the first crop year you must elect this exclusion by the later of April 30 or the time you submit the application for insurance.)

(c) Upon our approval, you may elect to insure or exclude from insurance for any crop year any insurable acreage in any unit that has a potential production of less than 100 boxes per acre. If you:

(1) Elect to insure such acreage, we will consider the potential production to be 100 boxes per acre when determining the amount of loss;

(2) Elect to exclude such acreage, we will disregard the acreage for all purposes related to this contract; or

(3) Do not elect to insure or exclude such acreage:

(i) We will disregard the acreage if the potential production is less than 100 boxes per acre; or

(ii) If the potential production from such acreage is 100 or more boxes per acre, we will determine the percent of damage on all of the insurable acreage for the unit, but will not allow the percent of damage for the unit to be increased by including such acreage.

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

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, citrus fruit interplanted with another citrus fruit crop is insurable unless we inspect the acreage and determine it does not meet insurability requirements.

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

(1) Coverage begins on May 1 of each crop year, except that for the first crop year, if the application is accepted by us after April 20, insurance will attach on the 10th day after the completed application and acreage and production reports are received in your insurance provider's local office. Full premium is due for any partial year.

(2) The calendar date for the end of the insurance period for each crop year is:

(i) January 31 for tangerines and navel oranges;

(ii) April 30 for lemons, limes, tangelos, early and mid-season oranges; and

(iii) June 30 for late oranges, grapefruit, Temple and Murcott Honey Oranges.

(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 on or before the acreage reporting date of any crop year and if we inspect and 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 interest on any acreage of insurable citrus fruit on or

before the acreage reporting date of any crop year, insurance will not be considered to have attached to such acreage for that crop year unless:

- (i) A transfer of right to an indemnity or a similar form approved by us is completed by all affected parties; and
- (ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date.

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 within the insurance period:

- (1) Fire, unless weeds and other forms of undergrowth have not been controlled or pruning debris has not been removed from the grove;
- (2) Freeze;
- (3) Hail;
- (4) Hurricane; or
- (5) Tornado.

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

- (1) Any damage to the blossoms or trees; or
- (2) Inability to market the citrus fruit 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. Settlement of Claim—

(a) We will determine your loss on a unit basis. In the event you are unable to provide production records:

- (1) For any optional unit, we will combine all optional units for which acceptable 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 for each unit by:

- (1) Multiplying the number of acres by the respective dollar amount of insurance per acre for the citrus fruit by the share;
- (2) Computing the average percent of damage to the respective citrus fruit, rounded to the nearest tenth of a percent (0.1%), without regard to any percent of damage determined in prior inspections. The percent of damage will be the ratio of the number of boxes of citrus fruit considered damaged from an insured cause, divided by the undamaged potential production. Citrus fruit will be considered undamaged potential production if it is:

- (i) Or could be marketed as fresh fruit;
- (ii) Harvested prior to inspection by us; or
- (iii) Harvested within 7 days after a freeze;

(3) Subtracting the insurance (level) deductible from the respective percent of damage and, if this result is positive, dividing this result by the coverage level percentage;

(4) Multiplying this result by the amount of insurance for the respective citrus fruit.

(For example, if the average percent of damage is 70 percent and the coverage level

is 75 percent (the deductible is 25 percent), the amount payable is 60 percent times the amount of insurance (70% damage – 25% level deductible)=45% (45%+75%)=60% adjusted damage X the amount of insurance); and

(5) Summing all such products to determine the amount payable for the unit.

(c) Pink and red grapefruit of Type III, and citrus fruit of Types IV, V, and VII, that are seriously damaged by freeze, as determined by a fresh-fruit cut of a representative sample of fruit in the unit in accordance with the applicable provisions of the State of Florida Citrus Fruit laws, and are not or could not be marketed as fresh fruit will be considered damaged to the following extent:

- (1) If less than 16 percent (16%) of the fruit in a sample shows serious freeze damage, the fruit will be considered undamaged; or
- (2) If 16 percent (16%) or more of the fruit in a sample shows serious freeze damage, the fruit will be considered 50 percent (50%) damaged, except that:

(i) For tangerines of Type IV, damage in excess of 50 percent (50%) will be the actual percent of damaged fruit; and

(ii) For pink and red grapefruit of citrus Type III, and citrus of Types IV(except tangerines), V, and VII, if it is determined that the juice loss in the fruit exceeds 50 percent (50%), such percent will be considered the percent of damage.

(d) Notwithstanding the provisions of subsection 11(c) as to any pink and red grapefruit of Type III and citrus fruit of Types IV, V, and VII, in any unit that is mechanically separated using the specific gravity "floatation" method into undamaged and freeze-damaged fruit, the amount of damage will be the actual percent of freeze-damaged fruit not to exceed 50 percent (50%) and will not be affected by subsequent fresh-fruit marketing. Notwithstanding the preceding sentence, the 50 percent (50%) limitation on freeze-damaged fruit, mechanically separated, will not apply to tangerines of citrus fruit Type IV.

(e) Any citrus fruit of Types I, II, and VI and white grapefruit of Type III that is damaged by freeze, but may be processed into products for human consumption, will be considered as marketable for juice. The percent of damage will be determined by relating the juice content of the damaged fruit as determined by analysis to:

- (1) The average juice content of the fruit produced on the unit for the three previous crop years based on your records, if they are acceptable to us; or
- (2) The following juice content, if acceptable records are not furnished:

- (i) Type I—44 pounds of juice per box
- (ii) Type II—47 pounds of juice per box
- (iii) Type III—38 pounds of juice per box
- (iv) Type VI—43 pounds of juice per box
- (f) Any citrus fruit on the ground that is not collected and marketed will be considered totally lost if the damage was due to an insured cause.

(g) Any citrus fruit that is unmarketable either as fresh fruit or as juice because it is immature, unwholesome, decomposed, adulterated, or otherwise unfit for human consumption due to an insured cause will be considered totally lost.

(h) Pink and red grapefruit of citrus fruit Type III and citrus fruit of Types IV, V, and VII that are unmarketable as fresh fruit due to serious damage from hail as defined in United States Standards for grades of Florida fruit will be considered totally lost.

11. Written Agreements—Designated terms of this policy may be altered by written agreement. You must apply in writing for each written agreement no later than the sales closing date. Each agreement is valid for one year only. 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. All variable terms, including, but not limited to, crop type and variety, guarantee, premium rate, and price election must be contained in the written agreement. Notwithstanding the sales closing date restriction contained herein, application for a written agreement may be made after the sales closing date, and approved if, after physical inspection of the acreage it is determined that the crop is insurable in accordance with policy and written agreement provisions. Applications for written agreements submitted by the insured must also contain all variable terms of the contract between the company and the insured that will be in effect if the written agreement is not approved.

Signed in Washington, D.C., on March 21, 1996.

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95-CE-83-AD]

Airworthiness Directives; JanAero Devices (formerly Janitrol, C&D, FL Aerospace, and Midland-Ross Corporation) B series combustion heaters, Models B1500, B2030, B3040, and B4050

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede AD 82-07-03, which currently requires repetitively testing (pressure decay) JanAero Devices B-Series combustion heaters, Models B1500, B2030, B3040, and B4050, that are installed on aircraft, and overhauling any heater that does not pass one of these pressure decay tests. The proposed action would retain these pressure decay tests and possible heater overhaul; and would require repetitive