

# 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-AB56

#### Common Crop Insurance Regulations; Texas Citrus Fruit Crop Insurance Provisions

**AGENCY:** Federal Crop Insurance Corporation, Agriculture.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) proposes 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.

**DATES:** Written comments, data, and opinions on this proposed rule will be accepted until close of business July 5, 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 August 5, 1996.

**ADDRESSES:** Interested persons are invited to submit written comments to the Chief, Product Development Branch, Federal Crop Insurance Corporation, United States Department of Agriculture, 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., 8:15 a.m.-5:45 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Louise Narber, Program Analyst, Research and Development Division, Product Development Branch, FCIC,

Kansas City, MO, address listed above, 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

The information collection requirements contained in these regulations were previously submitted to OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563-0003 through September 30, 1998.

The amendments set forth in this proposed rule do not contain additional information collections that require clearance by OMB under the provisions of 44 U.S.C. chapter 35.

The title of this information collection is "Catastrophic Risk Protection Plan and Related Requirements including, Common Crop Insurance Regulations; Texas Citrus Fruit Crop Insurance Provisions." The information to be collected includes: a crop insurance acreage report, an insurance application, and continuous contract. Information collected from the acreage report and application is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of Texas citrus fruit that are eligible for Federal crop insurance.

The information requested is necessary for the reinsured companies and FCIC to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts, and pay benefits.

All information is reported annually. The reporting burden for this collection of information is estimated to average 16.9 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 2,676,932 hours.

The comment period for information collections under the Paperwork Reduction Act of 1995 continues 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 gathering technology.

Comments regarding paperwork reduction should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Bonnie Hart, Advisory and Corporate Operations Staff, Regulatory Review Group, USDA, Farm Service Agency, P.O. Box 2145, Ag Box 0570, Washington, D.C. 20013-2415. Telephone (202) 690-2857. Copies of the information collection may be obtained from Bonnie Hart at the above stated address.

#### 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) 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, an insured 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 use actual records of production or receive a transitional yield. This regulation does not alter those requirements. Therefore, the amount of work required of the insurance companies and Farm Service Agency (FSA) offices 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 insured. 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 in 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

FCIC proposes 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 provisions will be effective for the 1998 and succeeding crop years. The proposed provisions will replace those found at 7 CFR § 401.115 (Texas Citrus Endorsement). Upon publication of 7 CFR § 457.119 as a final rule, the provisions for insuring Texas citrus fruit contained herein will supersede the current provisions contained in 7 CFR § 401.115. By separate rule, FCIC will revise 7 CFR § 401.115 to restrict its effect through the 1997 crop year and later remove that section.

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

1. Section 1—Add definitions for “days,” “direct marketing,” “FSA,” “good farming practices,” “interplanted,” “irrigated practice,” “local market price,” “production guarantee (per acre),” “type,” “ton,” and “written agreement” for clarification purposes.
2. Section 1—Change the definitions for “freeze,” “harvest,” “hedged,” “non-

contiguous land,” and “topped,” for clarification.

3. Section 1—Delete the definition for “frost” because frost as a cause of loss has been eliminated as unnecessary. The definition of “freeze” includes damage from frost. Also, replace the definition of “excess moisture” with “excess rain” for clarification.

4. Section 2—Add provisions to allow optional unit division by section, section equivalent, or FSA Farm Serial Number, or by non-contiguous land so that the unit structure will be the same in both the Texas Citrus Fruit Provisions and the Texas Citrus Tree Provisions. The previous provisions only allowed basic units to be divided into more than one unit by section if each unit was non-contiguous.

5. Section 3(a)—Clarify that an insured may select one price election for each citrus type, and that the price election selected for each type need not bear the same percentage relationship to the maximum price offered for each type. Since each type of Texas citrus fruit is considered a separate crop, it should not be treated any differently than any other crop with a separate price election. The insured may select any available price election. However, if separate price elections are available by variety within each type, the price elections the insured chooses within the type must have the same percentage relationship to the maximum price offered by the insurance provider for each variety within the type.

6. Section 3(b)—Add a provision for a 1-year lag period for the insured to report citrus production for Actual Production History (APH) because all of the fruit will not be harvested until after the production reporting date.

7. Section 3(c)—Add provisions for reporting the age and type, if applicable, of any interplanted perennial crop, its planting pattern, and any other information that the insurance provider requests in order to establish the yield upon which the insurance guarantee is based. If the producer fails to notify the insurance provider of any circumstances that may cause the expected yield to fall below the yield upon which the insurance guarantee is based, the insurance provider will reduce the production guarantee at any time the insurance provider becomes aware of the circumstances. This allows the insurance provider to limit liability before insurance attaches based on the condition of the citrus trees.

8. Section 3(d)—The yield upon which the guarantee is based will be determined from APH yields unless previous damage requires establishment of the yield based on the appraised yield

for the insured acreage. Currently the guarantee is based on crop appraisals because a hard freeze severely damaged the citrus trees a few years ago. Enough time has passed to determine the producers' guarantee based on the producers' individual yield.

9. Section 5—Change the cancellation and termination dates from November 30 to November 20 to be consistent with other perennial crops.

10. Section 6—Clarify that all premium computations will be based on the final stage production guarantee.

11. Section 7—Include the insurable citrus type designations in the Special Provisions rather than in the Texas Citrus Fruit Provisions. This will prevent the need for an amendment to the Texas Citrus Fruit Crop Provisions if it is later determined that additional types need to be added. Also, eliminate the provision that requires acceptable production records for the previous crop year for insurance to attach. There is a 1 year lag period for reporting production.

12. Section 8—Add a provision making interplanted citrus insurable if planted with another perennial crop unless after an inspection, the insurance provider determines it does not meet insurability requirements. This clause will make insurance available to more producers and will reduce the number of acres for which coverage would only be available under the noninsured crop disaster assistance program (NAP).

13. Section 9—Change the beginning of the insurance period from December 1 to November 21 to be consistent with other perennial crops. However, for the 1st crop year for which insurance is sought, if the application is accepted by the insurance provider after November 20, insurance will attach on the 10th day after the application is received in the insurance provider's local office. The current requirement that insurance will not attach for 30 days after the application is received if not received until after November 30, creates an unnecessary lag time during which the crop is not covered. Add provisions to clarify the procedure for insuring acreage when an insurable share is acquired or relinquished on or before the acreage reporting date. Under the current Texas Citrus Endorsement for acreage acquired (for which an application is in place) on or before the acreage reporting date, coverage would attach at the time the insurer considers the crop inspection as being acceptable provided it was on or after November 30 (and not a late filed application and the first year of insurance). In the same situation under these new provisions, coverage will have started on November

21 (except for a late filed application and the 1st year of insurance) even if the insurer considers the inspection as being acceptable on January 14. Under the current Texas Citrus Endorsement for acreage relinquished on or before the acreage reporting date but after coverage had attached, the premium would still be due from the insured even if the insured no longer had an insurable interest. In the same situation under these new provisions, insurance will not be considered to have attached so the premium will not be due unless a transfer of right to an indemnity was completed.

14. Section 10—Add a clause clarifying that any failure of the irrigation water supply must be caused by an insured peril occurring during the insurance period. Delete "frost" as a cause of loss because the definition of freeze also includes damage from frost. Also, delete damage by Mediterranean Fruit Fly as an insurable cause and specify that we will not insure against damage or loss of production due to disease or insect infestation, unless an insured cause of loss prevents the proper application of control measures, causes properly applied control measures to be ineffective, or causes disease or insect infestation for which no effective control mechanism is available.

15. Section 11—Require the producer to give notice at least 15 days before any production from any unit will be marketed directly to consumers because insureds usually have inadequate records of such marketing and an appraisal is necessary to accurately determine the direct marketed production.

16. Section 12—Add a provision clarifying the procedure for when the insured intends to abandon or not care for the acreage. If the insured and the insurer agree on potential production on acreage the insured wishes to abandon or no longer care for, the insurance period for that acreage will end. If agreement is not reached, the claim may be deferred if the insured agrees to continue to care for the crop. The insurance provider will make another appraisal when the insured notifies them of further damage or that harvest is general in the area unless the crop is harvested, in which case the harvested production will be used to determine the production to count. If the insured does not continue to care for the crop the appraisal made prior to deferring the claim will be used to determine the production to count. Also add a provision to clarify that if individual records of juice content are not available, the average juice content will

be obtained from the nearest juice plant, if available, or from an appraisal to determine the average juice content. Delete the provision which allows the contract price to be an applicable price for undamaged citrus fruit if the contract was executed between the producer and buyer before damage occurred because it allowed a potential for abuse and was seldom used.

17. Section 13—Add provisions for providing insurance coverage by written agreement. FCIC has a long standing policy of permitting certain modifications of the insurance contract by written agreement for some policies. This amendment will extend this practice to Texas citrus fruit and will make it possible to tailor the policy to a specific insured in certain instances.

#### List of Subjects in 7 CFR Part 457

Crop insurance, Texas 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 part 457), effective for the 1998 and succeeding crop years, 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. A new § 457.119 is added 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 year*—The period beginning with the date insurance attaches to the citrus crop and extends through normal harvest time, and will be 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 or a farmer's market, and permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

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

*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 tree 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 branches 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 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 by a public or private right-of way, waterway or irrigation canal will be considered to be touching.

*Production guarantee (per acre)*:

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

(b) Second stage production guarantee—The quantity of citrus (in tons) determined by multiplying the approved yield per acre by the coverage level percentage you elect.

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

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

*Type*—Classes of fruit with similar characteristics that are grouped for insurance purposes as specified 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 type 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, that portion of the premium paid for the purpose of electing optional units will be refunded to you pro rata for the units combined.

(e) All optional units must be identified on the acreage report for each 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;

(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; and

(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 1 price election and coverage level for each citrus fruit type designated in the Special Provisions that you elect to insure. The price election you choose for each type need not bear the same percentage relationship to the maximum price offered by us for each type. 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 type, the price elections you choose within the type must have the same percentage relationship to the maximum price offered by us for each variety within the type.

(b) 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.

(c) 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 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; and change in practices 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.

(d) 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 previous damage or changes to the grove or trees require establishment of the yield by another method. In the event of such damage, your production guarantee will be established based on our appraisal of the yield potential for the insured acreage.

(e) 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 40 percent of the yield calculated in paragraph (d) of this section 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 paragraph (d) of this section multiplied by your coverage level.

(f) 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. The production guarantee for such acreage will be the guarantee for the stage in which such damage occurs.

#### 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 type 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 types 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, unless the trees are inspected by us and we agree in writing to insure such acreage with less potential; and
- (e) That is grown in a grove that, if inspected, is considered acceptable by us.

#### 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 for insurability contained in these crop provisions.

#### 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 first crop year, 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.

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

(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 any 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 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; and
- (ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date. If you relinquish your share, no premium will be due and no indemnity paid unless a transfer of coverage is properly executed.

#### 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; and
- (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), you must notify us at least 15 days before any production from any unit will be marketed directly to consumers. We will conduct an appraisal that will be used to determine your production to count for direct marketed production. 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 marketed directly to consumers will result in an appraised amount of production to count that is not less than the production guarantee per acre if such failure results in our inability to make an accurate appraisal.

#### 12. 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 on a unit basis by:

(1) Multiplying the insured acreage for each type crop by its respective production guarantee (see sections 1 and 3);

(2) Multiplying each result in section 12(b)(1) by the respective price election for each type, or variety within a type;

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

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

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

(6) Subtracting the total of section 12(b)(5) from the total in paragraph (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) Marketed directly to consumers if you fail to meet the requirements contained in section 11;
- (C) Damaged solely by uninsured causes; or
- (D) For which you fail to provide acceptable production records;

(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 for, 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. The following conditions will apply:

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

(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 1 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.

(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, D.C., on May 23, 1996.

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

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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### 10 CFR Part 430

#### Energy Conservation Program for Consumer Products: Public Workshop on the Rulemaking Priority Setting for the Appliance Standards Rulemaking Process

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notice of public workshop.

**SUMMARY:** The Department of Energy (the Department or DOE) will hold a public workshop to discuss rulemaking priority setting for the appliance standards rulemaking process. The Department is developing a straw man list prioritizing the appliance standards rulemakings for stakeholder review and comment. The Department will discuss issues that should be considered in determining the rulemaking priority and the order of priority proposed in the straw man listing. In addition, there may be other issues the participants will want to address. All persons are hereby given notice of the opportunity to attend the public workshop.

**DATES:** The public workshop will be held on Friday, June 14, 1996, from 9:00 a.m. to 4:30 p.m.

**ADDRESSES:** The workshop will be held at the Embassy Row Hotel, 2015 Massachusetts Avenue NW., Washington DC 20036, (202) 265-1600.

Copies of the straw man listing of appliance standards rulemakings and this notice may be viewed at the DOE Freedom of Information Reading Room, Forrestal Building, Room 1E-190, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6020 between the hours of 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency

and Renewable Energy, Forrestal Building, Mail Station EE-43, 1000 Independence Avenue SW., Washington, DC 20585-0121, (202) 586-0371

Douglas W. Smith, U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC-70, 1000 Independence Avenue SW., Washington, DC 20585-0103, (202) 586-3410

Deborah E. Miller, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE-1, 1000 Independence Avenue SW., Washington, DC 20585-0121, (202) 586-8888.

**SUPPLEMENTARY INFORMATION:** The Department has initiated a comprehensive process improvement effort to examine, through a series of stakeholder meetings and interviews, issues surrounding the appliance standards program. A workshop was held on March 19-20, 1996, to discuss the initial findings from these meetings and interviews. Discussion topics included the planning and prioritization process, data collection and analysis, and decision making criteria. A preliminary draft report of the "Interim Results of the Appliance Rulemaking Process Improvement Effort" dated April 26, 1996, was circulated for review.

Based on the criteria discussed in the March workshop and addressed in the preliminary draft report, the Department has developed a straw man list prioritizing the appliance standards rulemakings for stakeholder review and comment.

The Department will be holding a workshop on June 14, 1996, at the Embassy Row Hotel in Washington D.C. to discuss issues that should be considered in determining the rulemaking priority and the order of priority proposed in the straw man listing. The finalized priority listing will be published in the Department's Regulatory Agenda which will be issued in October 1996.

The workshop will be professionally facilitated to encourage discussion and comments on the topics.

Copies of the straw man listing and this notice are available in the DOE Freedom of Information Reading Room. A copy of the workshop transcript will be available in the DOE public reading room approximately 10 days after the workshop.

The straw man listing will be sent to all participants that notify the Department in advance that they will attend and to other interested parties