

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-AB50

Common Crop Insurance Regulations; Texas Citrus Tree Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes 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 and to combine the current Texas Citrus Tree 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 October 28, 1996 and will be considered when the rule is to be made final. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through October 28, 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.-4:45 p.m., EDT Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Louise Narber, Program Analyst, Research and Development Division,

Product Development Branch, FCIC, at the 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 November 1, 2000.

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 approved by 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 Tree Crop Insurance Provisions." The information to be collected includes: a crop insurance application and acreage report. Information collected from the application and acreage report is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of Texas citrus trees 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, Farm Service Agency, P.O. Box 2145, Ag Box 0572, U.S. Department of Agriculture, Washington, D.C. 20013-2415, telephone (202) 690-2857. Copies of the information collection may be obtained from Bonnie Hart at the above address.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, FCIC generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures of State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 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 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. Under the current regulations, a producer is required to complete an application and acreage report. If the trees are damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity. 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 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 in 7 CFR parts 11 and 780 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

FCIC proposes 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 the current provisions for insuring Texas citrus trees found at 7 CFR 401.134 (Texas Citrus Tree Endorsement). Upon publication of the Texas Citrus Tree Crop Provisions as a final rule, the current provisions for insuring Texas citrus trees will be removed from § 401.134 and that section will be reserved.

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

1. Section 1—Added definitions for "bud union," "days," "deductible," "FSA," "good farming practices," "interplanted," "irrigated practice," "scaffold limbs," "type," and "written agreement" for clarification purposes. Amend the definitions for "crop year," "dehorning," "freeze," "non-contiguous land," and "set out" for clarification.

2. Section 2—Added 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 is the same for both the Texas Citrus Tree Provisions and the Texas Citrus Fruit Provisions. The previous provisions only allowed basic units to be divided into more than one unit if the insured trees were located on non-contiguous land. The guidelines for optional unit division are consistent with many perennial crop provisions.

3. Section 3—Clarify that an insured may select a different coverage level for each type designated in the Special Provisions that the producer elects to insure. Also, clarify that if the insured insures trees planted at different population densities, the per acre amount of insurance for each population density must bear the same relationship (be the same percentage) to the maximum amount of insurance available for each population. In addition, add provisions for reporting the type and age, 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 production guarantee is based. If the insured fails to notify the insurance provider of any circumstance that may reduce the yield potential, the insurance provider will reduce the amount of insurance at any time the insurance provider becomes aware of the circumstance. This allows the insurance provider to limit liability based on the condition of the citrus trees at the time insurance attaches.

4. Section 4—Change the contract change date from February 28 to August 31 to correspond to the change made to the date that insurance attaches.

5. Section 5—Change the cancellation and termination dates from May 31 to November 20. This change eliminates the concerns that producers could wait until a loss is likely before purchasing insurance in the event of a pending hurricane prior to the sales closing date. Previously, insurance attached on June 1 unless the application was accepted after June 1. Insurance will now attach on November 21, except for producers who were insured in 1997 and do not cancel their insurance for the 1998 crop year.

6. Section 6—Added provisions to increase the amount of premium for the 1998 crop year for producers who were insured for the 1997 crop year and who do not cancel their insurance for the 1998 crop year. Due to the change in dates that insurance attaches and ends and to avoid a gap in coverage, these producers will have an 18 month policy in effect for the 1998 crop year, therefore, a higher premium is required. For producers who were not insured for

the 1997 crop year but obtain insurance coverage prior to the sales closing date for the 1998 crop year, the premium will be determined in accordance with section 5 of the Basic Provisions (§ 457.8).

7. Section 7—Include the insurable citrus tree type designations in the Special Provisions rather than in the Texas Citrus Tree Crop Provisions. This will avoid the need to amend the Texas Citrus Tree Crop Provisions if it is later determined that additional types need to be added.

8. Section 8—Add a provision making interplanted citrus trees insurable if planted with another perennial crop, unless after an inspection, the insurance provider determines the citrus trees do not meet the requirements for insurability contained in the crop policy and FCIC approved procedures. This change will make insurance available to more producers.

9. Section 9—Change the beginning of the insurance period from June 1 to November 21 and the end of the insurance period from May 31 to November 20. For producers who were insured for the 1997 crop year and do not cancel their coverage for the 1998 crop year, however, the insurance period for the 1998 crop year only will begin on June 1, 1997, and will end on November 20, 1998. This provision was changed because the June date corresponds with the beginning of the hurricane season and allowed producers to wait until a loss was likely before obtaining insurance. Provisions were also added to clarify the procedure for insuring acreage when an insurable share is acquired or relinquished after November 21, but on or before the acreage reporting date. Under the current Texas Citrus Tree 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. The transferee must be eligible for crop insurance.

10. Section 10—Added a clause clarifying that failure of the irrigation water supply must be caused by an insured peril occurring during the insurance period.

11. Section 12—Removed those provisions that limit coverage to 50, 65, and 75 percent to allow for the computation of losses at additional coverage level computations if a

decision is made to provide additional coverage levels.

12. Section 13—Added 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 allows written agreements in relation to this policy consistent with FCIC's usual policy.

List of Subjects in 7 CFR Part 457

Crop insurance, Texas citrus tree.

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(1) and 1506(p).

2. 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:

United States Department of Agriculture
Federal Crop Insurance Corporation

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 year—For the 1998 crop year only, a period of time that begins on June 1, 1997, and ends on November 20, 1998, provided the acreage was insured for the 1997 crop year and you do not cancel your coverage for the 1998 crop year. In all other instances, a period of time that begins on November 21 of the calendar year prior to the year the insured crop normally blooms, 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 your coverage level percentage from 100 percent. For example, if you elected a 65 percent coverage level, your deductible would be 35 percent (100% – 65% = 35%).

Dehorning—Cutting one or more scaffold limbs to a length that is not greater than 1/4 the height of the tree before such cutting.

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

Excess wind—A natural movement of air which 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 any successor agency.

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

Interplanted—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance of the insured crop.

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 appropriate 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.

Scaffold limbs—Major limbs attached directly to the trunk.

Set out—Transplanting the tree into the grove.

Type—Classes of trees 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 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 into a basic unit, that portion of the premium paid

for the purpose of electing optional units will be refunded to you for the units combined.

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

(f) Each optional unit must meet one or more 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:* 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

(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 type 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 planted at different population densities, the per acre amount of insurance for each population density must bear the same relationship (be the same percentage) to the maximum amount of insurance available for each population density as specified in the Actuarial Table. The amount of insurance for each 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 amount of insurance that is shown in the Actuarial Table for the level of coverage you select and applicable population density by:

(i) Thirty-three percent (0.33) for the year of set out or the year following dehorning. (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 or the second year following dehorning;

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

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

(3) If there is more than one population density in the unit, or if more than one factor

contained in section 3(b)(2) is applicable, 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 \$2000 and the remaining stand is 85 percent of the original stand, the amount of insurance on which any indemnity will be based is \$1700 (\$2000 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 to us within 72 hours after set out is completed for the unit the following: the acreage; practice; type; number of trees; date set out is completed; and your share.

(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:

(i) Any damage, removal of trees, change in practices, or any other circumstance that may reduce the expected yield below the yield upon which the amount of insurance is based, and the number of affected acres;

(ii) The number and type 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 ten percent (10%) 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 the following: interplanted perennial crop; removal of trees; damage; and change in practices and any other circumstance on the yield potential of the insured crop. If you fail to notify us of any circumstance that may reduce your yield potential, 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), if you were insured for the 1997 crop year and do not cancel your insurance coverage for the 1998 crop year, the premium amount otherwise payable for the 1998 crop year will be increased by forty-six (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 type 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 are types adapted to the area;

(3) That are set out for the purpose of harvesting as fresh fruit or for juice;

(4) That are irrigated; and

(5) That have the potential to produce at least 70 percent of the county average yield for the type and age, unless a written agreement is approved by us to insure the trees with less 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; and

(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 which was not insured by us 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, if you were insured for the 1997 crop year and you do not cancel your coverage for the 1998 crop year, the insurance period will begin on June 1, 1997 and end on November 20, 1998; or

(2) In all instances not covered by paragraph (a)(1) of this section, the insurance period will begin the later of the date we accept your application or November 21 of the calendar year prior to the year the insured crop normally blooms, and will end on November 20 of the crop year.

(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 will be due, and no indemnity paid 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 moisture;

(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 one of the causes of loss contained in (a) through (f) of this section that occurs during the insurance period.

11. Duties In The Event of Damage or Loss

In addition to the provisions 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 any tree and for the unit in accordance with subsections 12 (b), (c), and (d) of these provisions;

(2) Subtracting your deductible from the percentage of damage for the unit;

(3) Subtracting any percentage of damage paid previously in the same crop year from the result of (2);

(4) Dividing the result of (3) by your coverage level percentage;

(5) Multiplying the result of (4) by the amount of insurance per acre;

(6) Multiplying the result of (5) by the number of insured acres; and

(7) Multiplying the result of (6) 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 twelve (12) inches of live wood above the bud union; or

(iii) Zero percent (0%) (the tree will be considered undamaged) if more than twelve (12) inches of wood above the bud union is alive; or

(2) For damage occurring in any year following the year of set out, 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 ($\frac{1}{4}$) the height of the tree, by the total number of scaffold limbs before damage occurred. Whenever this percentage is over eighty percent (80%), the tree will be considered as one-hundred percent (100%) damaged.

(c) The percent of damage for the unit will be determined by computing the average of the determinations made for the individual trees.

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

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

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

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

Signed in Washington, D.C., on August 22, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96-22032 Filed 8-28-96; 8:45 am]

BILLING CODE 3410-FA-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96-NM-125-AD]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 757 and 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 757 and 767 series airplanes. This proposal would require replacement of the thrust management computer (TMC) with a new TMC. This proposal is prompted by reports that, due to a defective relay within the TMC, an uncommanded advancement of the throttle levers occurred. The actions specified by the proposed AD are intended to prevent an uncommanded runaway of the autothrottle during flight or ground operations, which could distract the crew from normal operation of the airplane or lead to an unintended speed or altitude change.

DATES: Comments must be received by October 7, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-125-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Forrest Keller, Senior Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227-2790; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the