

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 Parts 403 and 457

Common Crop Insurance Regulations; Peach Crop Insurance Provisions and Peach Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes specific crop provisions for the insurance of peaches. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current peach (fresh) crop insurance regulations with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect to the current peach crop insurance regulations to the 1997 and prior crop years.

DATES: Written comments, data, and opinions on this proposed rule will be accepted until close of business January 21, 1997 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 January 17, 1997.

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. to 4:45 p.m., est, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Richard Brayton, 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

This action has been reviewed under United States Department of Agriculture (USDA) procedures established by Executive Order No. 12866. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 31, 2002.

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.

Section 7 of the 1998 Peach Crop Provisions adds interplanting as an insurable farming practice as long as it is interplanted with another perennial crop. This practice was not an insurable under the previous Peach Crop Insurance Policy 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 0.5 percent of the 46 insureds who interplant their peach 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 perennial crop producers and, as a result, less acreage will need to be placed into the noninsured crop disaster assistance program (NAP).

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; Peach 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 peaches 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 2,669,970 hours.

Comments should be submitted 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, USDA, FSA, Advisory and Corporate Operations Staff, Regulatory Review Group, P.O. Box 2415, STOP 0572, Washington, D.C. 20013-2415, telephone (202) 690-2857. Copies of the

information collection may be obtained from Bonnie Hart at the above address.

The Office of Management and Budget (OMB) is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

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. 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 the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity. The insured must also annually certify to the previous years production or receive an assigned yield. The producer must maintain the production records to support the certified information for at least 3 years. This regulation does not alter those requirements. The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. This

rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

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

Executive Order No. 12372

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

Executive Order No. 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of the rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR parts 11 and 780 must be exhausted before 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 457.153, Peach Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring peaches found at 7 CFR part 403 (Peach Crop Insurance Regulation). FCIC also proposes to amend 7 CFR 403 to limit its effect to the 1997 and prior crop years. FCIC will later publish a

regulation to remove and reserve part 403.

This rule makes minor editorial and format changes to improve the Peach Crop Insurance Regulations compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring peaches as follows:

1. Section 1—Add definition for the terms “actual price per bushel,” “bushel,” “crop year,” “direct marketing,” “freight on board (FOB),” “good farming practices,” “harvest,” “interplanted,” “irrigated practice,” “production guarantee,” and “written agreement” for clarification.

2. Section 3(a)—Specify that the insured may select only one price election for all the peaches in the county insured under the policy, unless the Special Provisions provide different price elections by type, in which case the insured may select one price election for each peach type designated in the Special Provisions.

3. Section 3(b)—Amend the provisions to include any circumstance that may reduce the expected yield below the yield upon which the guarantee is based. The proposed rule requires an insured to report damage, removal of or addition of trees, and change in practices that may reduce yields. If the insured fails to notify the insurance provider of factors that may reduce yields from previous levels, the production guarantee will be reduced at any time the insurance provider becomes aware of any circumstance that may effect the yield.

4. Section 5—Change the cancellation and termination dates to November 20. Currently, the policy States November 30. This change standardizes the perennial crop policies.

5. Section 7—Allow insurance for peaches interplanted with another perennial crop subject to a pre-acceptance inspection and Regional Service Office (RSO) approved yield. Currently the peach policy does not allow coverage on interplanted acreage. This change standardizes the perennial crop policies and will have no adverse actuarial effect.

6. Section 8(a)(1)—Specify that insurance coverage begins on November 21 of each crop year, except that for the year of application, if the application is received after November 11, but prior to November 21, insurance will attach on the 10th day after the properly completed application is received in the insurer's local office.

7. Section 8(b)(2)—Add provisions to clarify that insurance will not be considered to attach and no premium

will be due if an insurable interest on any acreage of peaches is relinquished on or before the acreage reporting date for the crop year.

8. Section 9(a)(1)—Add adverse weather conditions as a cause of loss. Delete freeze, frost, hail, drought, wind and lightning because they are included in the term adverse weather. This change standardizes the perennial crop policies.

9. Section 9(b)(1)—Clarify that disease and insect infestation are excluded as causes of loss unless adverse weather prevents the proper application of control measures, causes control measures to be ineffective when properly applied, or causes disease or insect infestation for which no effective control mechanism is available.

10. Section 10(b)—Require the producer to give notice at least 15 days before any production from a unit will be sold by direct marketing.

11. Section 11(b)—Add provisions specifying the total production to be counted will be multiplied by the price election. The current policy multiplies the total production to be counted by the actual price per bushel Freight on Board (FOB) or by the price election, whichever is larger. This change standardizes the perennial crop policies.

12. Section 11(c)(3)—Add provisions to extend quality adjustment to all insurable perils. Currently the policy only allows quality adjustment for damage due to frost, freeze, and misshapen fruit.

13. Section 11(c)(3)(i)—Add provisions which allow Freight on Board (FOB) peach prices in the absence of the Market News Service prices. Currently the policy does not allow for FOB prices when the Market News Services does not establish a price.

14. Section 12—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 allows FCIC to tailor the policy to a specific insured in certain instances. The new section will cover the procedures for and duration of written agreements.

List of Subjects

7 CFR Part 403

Crop Insurance, Peaches.

7 CFR Part 457

Crop Insurance, Peaches.

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) and the Peach Crop Insurance Regulations (7 CFR part 403) effective for the 1998 and succeeding crop years, to read as follows:

PART 403—[AMENDED]

1. The authority citation for 7 CFR part 403 is amended to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

2. The heading of the subpart in part 403 is revised to read as follows:

“Subpart—Regulations for the 1986 through 1997 Crop Years.”

3. Section 403.7 is amended by revising the introductory text of paragraph (d) to read as follows:

§ 403.7 The application and policy.

* * * * *

(d) The application for the 1985 and succeeding crop years is found at subpart D of part 400, General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Peach Insurance Policy for the 1985 through 1997 crop years are as follows:

* * * * *

PART 457—[AMENDED]

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

Authority: 7 U.S.C. 1506(1), 1506(p).

5. 7 CFR part 457 is amended by adding a new § 457.153 to read as follows:

§ 457.153 Peach Crop Insurance Provisions

The Peach Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

United States Department of Agriculture
Federal Crop Insurance Corporation
Peach 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

Actual price per bushel for :

(a) Fresh peaches means the average price per three-quarter ($\frac{3}{4}$) bushel carton of U.S. Extra No. 1 “2 inch” peaches (if not available, the next larger size for which a price is available) determined from applicable prices reported by the Market News Service of the United States Department of Agriculture for seven consecutive marketing days, commencing with the day harvest of the variety begins, less the allowable cost designated by the actuarial table. In the absence of FOB shipping point price from the Market News

Service, the price per three-quarter ($\frac{3}{4}$) bushel carton of U.S. Extra No. 1 “two-inch” peaches will be the sum of the price election for the damaged peaches and the allowable cost as shown in the actuarial documents for the county; and

(b) Processing peaches means the average price per bushel for that applicable variety determined for seven consecutive marketing days, commencing with the day harvest of the variety begins, less the allowable cost designated by the actuarial table.

Bushel—Forty-eight pounds of ungraded peaches. A three-quarter ($\frac{3}{4}$) bushel of graded peaches is considered equivalent to a forty-eight pound bushel of ungraded peaches.

Crop year—The period beginning November 21 and extending through September 30 of the following year, which is designated by the calendar year in which the period ends.

Days—Calendar days.

Direct marketing—Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper or buyer. Examples of direct marketing include selling through an on-farm or roadside stand, farmer’s market, or permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

Freight on board (FOB)—A shipping point price reported by the Market News Service.

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 recognized by the USDA & Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest—The picking or removal of mature peaches from the trees either by hand or machine.

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.

Production guarantee (per acre)—The quantity of peaches (bushels) determined by multiplying the approved Actual Production History (APH) yield per acre by the coverage level percentage you elect.

Written agreement—A written document that alters designated terms of this policy in accordance with section 12.

2. Unit Division

(a) Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), (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.

(b) 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.

(c) 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.

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

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

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

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

(3) Each optional unit must meet one or more 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 discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number.

(ii) *Optional Units on Acreage Including Both Irrigated and Non-irrigated Practices:* In addition to, or instead of, establishing optional units by section, section equivalent, or FSA Farm Serial Number, optional units may be based on irrigated acreage or non-irrigated acreage if both are located in the same section, section equivalent, or FSA Farm Serial Number. The irrigated acreage may not extend beyond the point at which your irrigation system can deliver the quantity of water needed to produce the yield on which the guarantee is based and you may not continue into non-irrigated acreage in the same rows or planting pattern.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels,

and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8):

(a) You may select only one price election for all the peaches in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each peach type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent (100%) of the maximum price election for one type, you must choose 100 percent (100%) of the maximum price election for all other types.

(b) You must report, by the production reporting date designated in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), by type if applicable:

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

(2) The number of bearing and nonbearing trees on insurable and uninsurable acreage;

(3) The age of the trees, variety, type, and the planting pattern; and

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

(i) The age of the interplanted crop;

(ii) The variety, and type if applicable;

(iii) The planting pattern; and

(iv) Any other information that we request in order to establish your approved yield. We will adjust the yield used to establish your production guarantee as necessary, based on our estimate of the effect on the following: interplanted perennial crop; removal or addition of trees or varieties of trees; physical or structural tree damage; change in practices or changes in tree population and density, and any other circumstance affecting the yield potential of the insured crop. If you fail to notify us of any circumstance that may affect your yields from previous levels, we will adjust your production guarantee 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. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the peaches in the county for which a premium rate is provided by the actuarial table:

(a) In which you have a share;

(b) That are grown on tree varieties that:

(1) Were commercially available when the trees were set out;

(2) Are a sufficient chilling hour variety;

(3) Are grown on a root stock that is adapted to the area.

(c) That are grown in an orchard that, if inspected, is considered acceptable by us; and

(d) That have reached at least the fourth growing season after set out. However, we may agree in writing to insure acreage that has not reached this age if it has produced at least 100 bushels of peaches per acre.

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, peaches 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.

8. Insurance Period

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

(1) Coverage begins on November 21 of each crop year, except that for the year of application, if your application is received after November 11 but prior to November 21, insurance will attach on the 10th day after your properly completed application is received in our local office unless we inspect the acreage during the 10 day period and determine that it does not meet insurability requirements. You must provide any information that we require for the crop to determine the condition of the orchard.

(2) The calendar date for the end of the insurance period for each crop year is September 30.

(b) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) If you acquire an insurable share in any insurable acreage after coverage begins, but on or before the acreage reporting date for the crop year, and after an inspection, we consider the acreage acceptable, insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period.

(2) If you relinquish your insurable interest on any acreage of peaches on or before the acreage reporting date for the crop year, insurance will not be considered to have attached to, and no premium or indemnity will be due for, such acreage for that crop year unless:

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

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

(iii) The transferee is eligible for crop insurance.

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) Adverse weather conditions;

(2) Fire, unless weeds and other forms of undergrowth have not been controlled or

pruning debris has not been removed from the orchard;

- (3) Earthquake;
- (4) Volcanic eruption;

(5) An insufficient number of chilling hours to effectively break dormancy; or
 (6) Failure of 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 adverse weather:

(i) Prevents the proper application of control measures or causes properly applied control measures to be ineffective; or

(ii) Causes disease or insect infestation for which no effective control mechanism is available;

(2) Split pits, regardless of cause; or

(3) Inability to market the peaches 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. Duties in the Event of Damage or Loss

In addition to the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the following will apply:

(a) You must notify us within three days of the date that harvest of the damaged variety should have started if the crop will not be harvested.

(b) You must notify us at least 15 days before any production from any unit will be sold by direct marketing. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

(c) If you intend to claim an indemnity on any unit, you must notify us at least 15 days prior to the beginning of harvest of the damaged variety, if you previously gave notice in accordance with section 14 of the Basis Provisions (§ 457.8), so that we may inspect the damaged production. You must not sell or dispose of the damaged crop until after we have given you written consent to do so. If you fail to meet the requirements of this section, and such failure results in our inability to inspect the damaged production, all such production will be considered undamaged and included as production to count.

11. Settlement of Claim

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

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

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

(1) Multiplying the insured acreage by its respective production guarantee;

(2) Multiplying the result of section 11(b)(1) by the respective price election;

(3) Totaling the results of section 11(b)(2);

(4) Multiplying the total production to be counted by type, if applicable, (see subsection 11(c)) by the respective price election;

(5) Totaling the results of section 11(b)(4);

(6) Subtracting the result of section 11(b)(5) from the result in section 11(b)(3); and

(7) Multiplying the result of section 11(b)(6) by your share.

(c) The total production to count (in bushels) from all insurable acreage on the unit will include:

(1) All appraised production will be determined as follows:

(i) Not less than the production guarantee per acre for acreage:

(A) That is abandoned;

(B) That is sold by direct marketing if you fail to meet the requirements contained in section 10;

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

(D) For which you fail to provide acceptable production records that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production;

(iv) Potential production on insured acreage that 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

(v) Any appraised production on insured acreage will be considered production to count unless such production is exceeded by the actual harvested production.

(2) All harvested production from the insurable acreage.

(3) Mature marketable peach production may be reduced as a result of a loss in quality due to an insured cause of loss. The amount of production to count for such peaches will be determined as follows:

(i) Peaches grown for fresh use by:

(A) Dividing the value per $\frac{3}{4}$ bushel carton of the damaged peaches by the actual price per bushel for undamaged peaches; and

(B) Multiplying the result of section 11(c)(3)(i)(A) by the number of bushels of the eligible damaged peaches.

(ii) Peaches grown for processing by:

(A) Dividing the value per bushel of the damaged peaches by the average price per bushel of undamaged peaches for processing; and

(B) Multiplying the result of section 11(c)(3)(i)(A) by the number of bushels of the eligible damaged peaches.

(4) Peaches that cannot be marketed due to insurable causes will not be considered production to count.

12. Written Agreements

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

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 12(e);

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

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

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

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

Signed in Washington, DC, on November 13, 1996.

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

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96-1-003]

Standards for Business Practices of Interstate Natural Gas Pipelines

November 13, 1996.

AGENCY: Federal Energy Regulatory
 Commission.

ACTION: Notice of Proposed Rulemaking
 and Notice of Technical Conference.

SUMMARY: The Federal Energy
 Regulatory Commission is proposing to
 amend its open access regulations by
 incorporating by reference standards