

Signed in Washington, D.C., on October 27, 1997.

Suzette M. Dittrich,
Deputy Manager, Federal Crop Insurance Corporation.

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 450 and 457

Prune Crop Insurance Regulations; and Common Crop Insurance Regulations, Prune Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of prunes. 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 prune crop insurance regulations with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current prune crop insurance regulations to the 1997 and prior crop years.

EFFECTIVE DATE: October 30, 1997.

FOR FURTHER INFORMATION CONTACT: Linda Williams, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64313, telephone (816) 926-7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Following publication of the proposed rule, the public was afforded 60 days to submit written comments and opinions on information collection requirements currently being reviewed by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35)

under OMB control number 0563-0053. No public comments were received.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates 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. 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. Therefore, 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 economic impact on a substantial number of small entities. The amount of work required of insurance companies will not increase because the information used to determine eligibility is already maintained at their office. The other information required is already being gathered as a result of the present policy. No additional requirements are imposed on the producer or reinsured company as a result of this regulation. Additionally, the regulation does not impose any burden on small entities than it does on large entities. 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. 12988

This rule has been reviewed in accordance with Executive Order No. 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

On Thursday, July 10, 1997, FCIC published a proposed rule in the **Federal Register** at 62 FR 37000 to add to the Common Crop Insurance Regulations (7 CFR part 457) a new section, 7 CFR 457.133, Prune 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 prunes found at 7 CFR part 450 (Prune Crop Insurance Regulations). FCIC also amends 7 CFR part 450 to limit its effect to the 1997 and prior crop years.

Following publication of the proposed rule, the public was afforded 30 days to submit written comments and opinions. A total of 13 comments were received from the reinsured companies and an insurance service organization. The comments received and FCIC's responses are as follows:

Comment: An insurance service organization recommended that several definitions common to most crops be put into the Basic Provisions.

Response: The Basic Provisions, which are currently in the regulatory review process, will include definition of commonly used terms and this rule will be revised to delete those definitions when the Basic Provisions are published as a final rule.

Comment: A reinsured company and an insurance service organization expressed concern with the definition of "good farming practice," which states

“* * * recognized by the Cooperative State Research, Education, and Extension Service as compatible * * *” since there may be accepted practices not so recognized. The commenters suggested revising the language to state “generally recognized * * *,” and changing the term “county” to “area.”

Response: The Cooperative State Research, Education, and Extension Service (CSREES) recognizes farming practices that are considered acceptable for producing prunes. If a producer is following practices currently not recognized as acceptable by the CSREES, such recognition can be sought by interested parties. Use of the term “generally recognized” will only make the policy more difficult to administer. Although the cultural practices recognized by CSREES may only pertain to specific areas within a county, actuarial documents are on a county basis. Therefore, no change has been made.

Comment: A reinsured company recommended that in the definition of “irrigated practice,” the words “and quality” should be added after the words “* * * providing the quantity.”

Response: There are no established criteria regarding the quality of water necessary to produce a crop. The highly variable factors involved would make such criteria difficult to develop and administer. The provisions regarding good farming practices can be applied in situations in which the insured person failed to exercise due care and diligence. Therefore, no change has been made to the definition.

Comment: An insurance service organization and a reinsured company questioned whether the references in section 2(e)(2) to “measurement of stored production” is applicable to prunes. The commenter stated it was not a common practice to store prunes.

Response: FCIC agrees measurement of stored production does not apply to prunes. The provisions have been amended accordingly.

Comment: An insurance service organization expressed concern in discrepancies regarding the provisions contained in section 2(e)(3). The commenter indicated that the proposed rule summary of changes stated section 2(e) contained changes in the provisions to allow optional units on non-contiguous land and for land located in separate sections. The commenter stated 2(e)(3) refers to “one or more of the following criteria,” but 2(e)(3)(ii) states that optional units by non-contiguous land are in lieu of establishing optional units by section, section equivalent or FSA Farm Serial Number. The commenter also stated policyholders

will need to understand they must qualify for separate optional units and could lose optional units if production was commingled.

Response: FCIC agrees that the provisions in section 2(e)(3) were confusing and that the proposed rule summary of changes did not accurately describe the changes in section 2(e)(3). FCIC has amended the wording contained in section 2(e)(3) to clarify that each optional unit “must also meet one of the following criteria as applicable * * *” In addition, section 2(e)(3)(ii) has been amended to remove language which stated “In lieu of establishing optional units by section, section equivalent or FSA Farm Serial Number.” These changes will clarify that optional unit may be established if each optional unit meets one of the following criteria: (1) by section, FSA Farm Serial Number, or their equivalent; or (2) by non-contiguous land.

Comment: An insurance service organization stated that the language in section 10(c) does not address timely notice if damage is discovered less than 15 days prior to harvest.

Response: Section 10(c) provides the notice requirements in the event the insured intends to file a claim for indemnity. Section 10(c) states that notice must be given 15 days prior to the beginning of harvest or immediately if damage is discovered during harvest. In addition, Section 10 states that the requirements contained in section 14 of the Basic Provisions, which requires notice of loss within 72 hours of initial discovery of damage, are applicable. Therefore, no change has been made.

Comment: An insurance service organization stated that it seems unnecessary to refer to previous items by number in section 11. All references make it difficult to follow the calculation sequence.

Response: This section has been explicitly worded to eliminate any misunderstanding or confusion. However, to provide clarification in the calculations, an example of the indemnity calculation has been included.

Comment: An insurance service organization stated that section 11(c)(1)(iv) should not allow the insured to defer settlement and wait for a later, generally lower, appraisal.

Response: A later appraisal will only be necessary if the insurance provider agrees that such an appraisal would result in a more accurate determination and if the producer continues to care for the crop. If the producer does not continue to care for the crop, the original appraisal will be used. Therefore, no change has been made.

Comment: An insurance service organization and two reinsured companies recommended removal of the requirement that written agreements be renewed each year if there are no significant changes to the farming operation. One reinsured company suggested that the written agreement should contain the effective period for each specific agreement because limiting the effective period to one year only increases administrative cost, complexity and the opportunity for misunderstanding.

Response: Written agreements are intended to supplement policy terms or permit insurance in unusual situations that require modification of the otherwise standard insurance provisions. If such practices continue year to year, they should be incorporated into the policy or Special Provisions. It is important to minimize written agreement exceptions to assure that the insured is well aware of the specific terms of the policy. Therefore, no change will be made.

In addition to the changes described above, FCIC has made minor editorial changes and has amended the following provisions:

1. Amended the paragraph preceding section 1 to include the Catastrophic Risk Protection Endorsement for the purpose of clarification.

2. Section 2(e)(3)(i)—Revised the language for clarification.

3. Section 9(a)(3)—Clarified wildlife as a cause of loss by deleting the language “unless proper measures to control wildlife have not been taken.”

4. Section 9(a)(6)—To be consistent with causes of loss in other Crop Provisions, clarified that failure of the irrigation water supply must be “due to a cause specified in section 9(a)(1) through (5).”

5. Section 11(d)—Clarify any prune production harvested for fresh fruit will be converted to a dried prune weight basis by dividing the total amount (in tons) of fresh fruit production by 3.0. Evidence compiled by FCIC after publication of the proposed rule indicated that 3.0 is a more accurate conversion factor than the value 3.1 contained in the proposed rule.

Good cause is shown to make this rule effective upon publication in the **Federal Register**. This rule improves the prune crop insurance coverage and brings it under the Common Crop Insurance Policy Basic Provisions for consistency among policies. The earliest contract change date that can be met for the 1998 crop year is October 31, 1997, and the final rule must be published as soon as possible. It is therefore, imperative that these provisions be

made final so that the reinsured companies may have sufficient time to implement these changes. Therefore, public interest requires the agency to make the rules effective upon publication.

List of Subjects in 7 CFR Parts 450 and 457

Crop insurance, Prunes.

Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation, hereby amends 7 CFR parts 450 and 457, as follows:

PART 450—PRUNE CROP INSURANCE REGULATIONS FOR THE 1996 AND SUCCEEDING CROP YEARS

1. The authority citation for 7 CFR part 450 is revised to read as follows:

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

2. The part heading is revised to read as set forth above.

3. The Subpart Heading "Subpart Regulations for the 1986 and Succeeding Crop Years" is removed.

4. Section 450.7 is amended by revising the introductory text of paragraph (d) to read as follows:

§ 450.7 The application and policy.

* * * * *

(d) The application for the 1986 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 Prune Insurance Policy for the 1986 through 1997 crop years are as follows:

* * * * *

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

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

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

6. Section 457.133 is added to read as follows:

§ 457.133 Prune crop insurance provisions.

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

FCIC policies:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Prune Crop Provisions

If a conflict exists among the policy provisions, the order of priority is as follows: (1) the Catastrophic Risk Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions (§ 457.8); with (1) controlling (2) etc.

1. Definitions

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, and permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

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

Good farming practices. The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee, and recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest. Picking of mature prunes from the trees or ground 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.

Market price for standard prunes. The price per ton shown on the processor's settlement sheet for each size count of standard prunes.

Natural condition prunes. The condition of prunes in which they are normally delivered from a dehydrator or dry yard.

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.

Production guarantee (per acre). The number of tons determined by multiplying the approved APH yield per acre by the coverage level percentage you elect.

Prunes. Any type or variety of plums that is grown in the area for the production of prunes and that meets the requirements defined in the applicable Federal Marketing Agreement Dried Prune Order.

Standard prunes. Any natural condition prunes:

(a) That grade "C" or better in accordance with the United States Standards for Grades of Fresh Plums and Prunes; or

(b) That meet or exceed the grading standards in effect for the crop year if a

Federal Marketing Agreement Dried Prune Order has been established for the area in which the insured crop is grown.

Substandard prunes. Any natural condition prunes failing to meet the applicable grading specifications for standard prunes.

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

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 of the Basic Provisions, (basic unit) may be divided into optional units if, for each optional unit, you meet all the conditions of this section.

(b) Basic units may not be divided into optional units on any basis 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 provided records by the production reporting date, that 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) For each crop year, 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 also meet one of the following criteria as applicable, unless otherwise allowed by a written agreement:

(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 such as Spanish grants, as the equivalent of sections for unit purposes. In areas that have not been surveyed using sections or their equivalent, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number; or

(ii) *Optional Units on Acreage Located on Non-Contiguous Land:* Optional units may be established if each optional unit is located on non-contiguous land.

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

In addition to the requirements of section 3 of the Basic Provisions:

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

(b) You must report, by the production reporting date designated in section 3 of the Basic Provisions, by varietal group if applicable:

(1) Any damage, removal of trees, change in practices, or any other circumstance that may reduce the expected yields 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 any time the planting pattern of such acreage is changed:

(i) The age of the interplanted crop, and varietal group 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 interplanting the perennial crop; removal of trees; damage; a change in practices, and any other circumstance that may affect 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 at any time we become aware of the circumstance.

4. Contract Changes

In accordance with section 4 of the Basic Provisions, the contract change date is October 31 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are January 31.

6. Insured Crop

In accordance with section 8 of the Basic Provisions, the crop insured will be all the prunes 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 for the production of natural condition prunes;

(c) That are grown on tree varieties that:

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

(2) Are adapted to the area;

(3) Are grown on rootstock that is adapted to the area; and

(4) Are irrigated (except where otherwise provided in the Special Provisions);

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

(e) That are grown on trees that have reached at least the seventh growing season after being set out.

7. Insurable Acreage

In lieu of the provisions in section 9 of the Basic Provisions that prohibit insurance attaching to a crop planted with another crop, prunes interplanted with another perennial crop are insurable unless we inspect the acreage and determine that it does not meet the insurability requirements contained in your policy.

8. Insurance Period

(a) In accordance with the provisions of section 11 of the Basic Provisions:

(1) Coverage begins for each crop year on March 1.

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

(i) October 1 for California; or

(ii) October 15 for Oregon.

(b) In addition to the provisions of section 11 of the Basic Provisions:

(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 share on any insurable acreage of prunes on or before the acreage reporting date for the crop year and if the acreage was insured by you the previous 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 of the Basic Provisions, insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Adverse weather conditions;

(2) Fire, unless weeds and undergrowth have not been controlled or pruning debris has not been removed from the orchard;

(3) Wildlife;

(4) Earthquake;

(5) Volcanic eruption; or

(6) Failure of the irrigation water supply, if due to a cause specified in section 9(a)(1) through (5) that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 of the Basic

Provisions, 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; or

(2) Inability to market the prunes 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 of the Basic Provisions, the following will apply:

(a) You must notify us within 3 days of the date harvest 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 or sold as fresh fruit. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing or is sold as fresh fruit 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 sold by direct marketing or sold as fresh fruit will result in an appraised amount of production to count of 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, or immediately if damage is discovered during harvest, so that we may inspect the damaged production.

(d) You must not destroy 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 units, we will combine all optional units for which such production records were not provided; or

(2) For any basic units, 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 for each varietal group, if applicable, by its respective production guarantee;

(2) Multiplying the result of 11(b)(1) by the respective price election for each varietal group, if applicable;

(3) Totaling the results of section 11(b)(2) if there is more than one varietal group;

(4) Multiplying the total production to count (see section 11(c)), of each varietal group if applicable, by its respective price election;

(5) Totaling the results of section 11(b)(4) if there is more than one varietal group;

(6) Subtracting the result of section 11(b)(4) from the result of section 11(b)(2) if there is only one varietal group or subtracting the result of section 11(b)(5) from the result of section 11(b)(3) if there is more than one varietal group; and

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

For Example

You have a 100 percent share in 50 acres of varietal group A prunes in the unit, with a guarantee of 2.5 tons per acre and a price election of \$630.00 per ton. You are only able to harvest 10.0 tons. Your indemnity would be calculated as follows:

- (1) 50 acres \times 2.5 tons = 125.0 ton guarantee;
- (2) 125.0 tons \times \$ 630.00 price election = \$78,750.00 value of guarantee;
- (4) 10.0 tons \times \$630.00 price election = \$6,300.00 value of production to count;
- (6) \$78,750.00 – \$6,300.00 = \$72,450.00 loss; and
- (7) \$72,450.00 \times 100 percent = \$72,450 indemnity payment.

You also have a 100 percent share in 50 acres of varietal group B prunes in the same unit, with a guarantee of 2.0 ton per acre and a price election of \$550.00 per ton. You are only able to harvest 5.0 tons. Your total indemnity for both varietal groups A and B would be calculated as follows:

- (1) 50 acres \times 2.5 tons = 125.0 ton guarantee for varietal group A and 50.0 acres \times 2.0 tons = 100.0 ton guarantee for varietal group B;
- (2) 125.0 ton guarantee \times \$630.00 price election = \$78,750.00 value of guarantee for varietal group A and 100.0 ton guarantee \times \$550.00 price election = \$55,000.00 value guarantee for varietal group B;
- (3) \$78,750.00 + \$55,000.00 = \$133,750.00 total value guarantee;
- (4) 10.0 tons \times \$630.00 price election = \$6,300.00 value of production to count for varietal group A and 5.0 tons \times \$550.00 price election = \$2,750.00 value of production to count for varietal group B;
- (5) \$6,300.00 + \$2,750.00 = \$9,050.00 total value of production to count;
- (6) \$133,750.00 – \$9,050.00 = \$124,700.00 loss; and
- (7) \$124,700.00 loss \times 100 percent = \$124,700 indemnity payment.

(c) The total production to count (in tons) from all insurable acreage on the unit will include all harvested and appraised production of natural condition prunes that grade substandard or better and any production that is harvested and intended for use as fresh fruit. The total production to count will include:

- (1) All appraised production as follows:
 - (i) Not less than the production guarantee per acre for acreage:

(A) That is abandoned;

(B) That is sold by direct marketing or sold as fresh fruit 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;

(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 prune production harvested for fresh fruit will be converted to a dried prune weight basis by dividing the total amount (in tons) of fresh fruit production by 3.0.

(e) Any production of substandard prunes resulting from damage by insurable causes will be adjusted based on the average size count as indicated on the applicable Dried Fruit Association (DFA) Inspection Report and Certification Form. Any insurable damage will be adjusted by:

(1) Dividing the value per ton of such substandard prunes by the market price per ton for standard prunes (of the same size count); and

(2) Multiplying the result by the number of tons of such prunes.

12. Written Agreements

Terms of this policy which are specifically designated for the use of written agreements 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 varietal group, the guarantee, premium rate, and price election;

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

(e) An application for a written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has

occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, D.C., on October 27, 1997.

Suzette M. Dittrich,

Deputy Manager, Federal Crop Insurance Corporation.

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DEPARTMENT OF AGRICULTURE

Agricultural Research Service

7 CFR Part 500

National Arboretum

AGENCY: Agricultural Research Service; USDA.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Department of Agriculture (USDA) established a schedule of fees to be charged for certain uses of the facilities, grounds, and services at the United States National Arboretum (USNA).

DATES: Sections 500.22 and 500.23 are effective October 30, 1997.

FOR FURTHER INFORMATION CONTACT: Director, National Arboretum, Beltsville Area, ARS, 3501 New York Avenue, NE., Washington, D.C. 20002; (202) 245-4539.

SUPPLEMENTARY INFORMATION: On September 3, 1997, the USNA published a final rule adopting a schedule of fees to be charged for certain uses of the facilities, grounds and services of the USNA. See 62 FR 46431, September 3, 1997. The final rulemaking document specified that sections 500.22 and 500.23 of that rule would not become effective until approval by the Office of Management and Budget (OMB) of new information collection requirements contained in those sections. The new information collection requirements were approved by OMB on October 6, 1997. See OMB No. 0518-0024. This publication satisfies the statement in the final rule that the USDA would publish a document notifying the public of the effective date of sections 500.22 and 500.23.

Done at Washington, D.C., this 24th day of October, 1997.

Edward B. Nipling,

Acting Administrator, Agricultural Research Service.

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