

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 401 and 457

General Crop Insurance Regulations, Stonefruit Endorsement; and Common Crop Insurance Regulations, Stonefruit 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 stonefruit. 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 stonefruit endorsement with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current stonefruit endorsement to the 1998 and prior crop years.

DATES: Written comments and opinions on this proposed rule will be excepted until close of business September 22, 1997, and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131.

FOR FURTHER INFORMATION CONTACT: Ron Nesheim, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, 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

The information collection requirements contained in these regulations are being reviewed by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563-0053.

The title of this information collection is "Multiple Peril Crop Insurance."

The burden associated with stonefruit is estimated at 14 minutes per response from approximately 3,392 respondents each year for a total number of 1,196 hours.

FCIC is requesting comments on 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, DC 20503.

OMB is required to make a decision concerning the collection 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 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. 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. 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 proposed rule has been reviewed under 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

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.159, Stonefruit Crop Insurance Provisions. The new provisions will be effective for the 1999 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring stonefruit found at 7 CFR 401.122 (Stonefruit Endorsement). FCIC also proposes to amend 401.122 to limit its effect to the 1998 and prior crop years.

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

1. Section 1—Add definitions for the terms “days,” “direct marketing,” “FSA,” “good farming practices,” “interplanted,” “irrigated practice,” “marketable,” “non-contiguous,” “processor,” “production guarantee (per acre),” “stonefruit,” “type,” “USDA,” “varietal group,” and “written agreement” for clarification. The definition of “stonefruit” removes current policy type references I through VI for each stonefruit, though the same types remain insurable. Also, change the definition of “ton” for clarification. The definition is applicable to each stonefruit that can be measured in tons. Also, remove definitions of “appraisal” and “crop year” as unnecessary.

2. Section 2—Provide that stonefruit will be divided into additional basic units by each Stonefruit crop designated in the Special Provisions that the producer elects to insure. Basic units may be further divided into optional units based on non-contiguous land and by type or varietal group, if provided for in the Special Provisions.

3. Section 3(a)—Specify that the insured may select only one price election for each crop in the county insured under this policy, unless the Special Provisions provide different

price elections by type or varietal group, in which case the insured may select one price election for each type or varietal group. The price election the insured selects must have the same percentage relationship to the maximum price offered. This will help to protect against adverse selection and simplifies administration of the program.

4. Section 3(b)—Specify that the insured must report damage, removal of trees, and any change in practice that could reduce yields. The insured must also report, for the first year of insurance for acreage interplanted with another perennial crop and anytime the planting pattern of such acreage is changed, the age and varietal group, if applicable, of any interplanted crop, its planting pattern, and any other information that the insurance provider requests in order to establish the approved yield. If the insured fails to notify the insurance provider of factors that may reduce yields from previous levels, the insurance provider will reduce the production guarantee at any time the insurance provider becomes aware of damage, removal of trees, or changes in practices. This change will standardize these provisions with those in other perennial crop policies.

5. Section 6—Remove the provision that requires production records to be provided for at least the previous crop year. Transitional yields are now available to producers who do not have production records for the previous crop year.

6. Section 6(d)—Specify that at least 200 lugs per acre of fresh market production or at least 2.2 tons per acre of processing types production must have been produced in at least one of the three most recent crop years of the actual production history base period for the crop to be insured, unless the insurer inspects such acreage and gives approval in writing. This requirement requires the orchard to produce the minimum production in the most recent years which indicates the orchard is productive and is a feasible insurance risk. Previous regulations required a minimum 200 lugs fresh market production per acre (at least 2.2 tons per acre for processing types) but did not clearly state that the minimum must have been produced in one of the three most recent crop years.

7. Section 7—Allow insurance for stonefruit interplanted with another perennial crop in order to make insurance available on more acreage and reduce the reliance on noninsured crop disaster assistance (NAP) for protection against crop losses.

8. Section 8(a)(1)—Specify that the insurance period begins on February 1

of each crop year, except that for the year of application, if the producers' application is received after January 22 but prior to February 1, insurance will attach on the 10th day after the producer's application is received in the insurance provider's local office unless the insurance provider inspects the acreage and determines that it does not meet insurability requirements. These provisions were modified to avoid interpretation that late-filed applications are allowed. Ten days is sufficient to prevent adverse selection and avoid unnecessary exposure to uninsured losses during the waiting period.

9. Section 8(b)—Provide policy guidelines for attachment of insurance when insurable acreage is acquired or relinquished after coverage begins but on or before the acreage reporting date 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. Under the current endorsement for acreage relinquished on or before the acreage reporting date, the premium would still be due from the producer even if the producer 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 in effect.

10. Section 9(a)—Remove insufficient chilling hours as a specified insurable cause of loss because not enough actuarial data is available to demonstrate that a lack of chilling hours adversely affects stonefruit production. If damage or loss was due to an insufficient number of chilling hours, such loss would be covered under adverse weather. This change is consistent with other perennial crop policies.

11. Section 9(b)(1) (i) and (ii)—Clarify that damage or loss of production due to disease or insect infestation will not be an insured cause of loss, unless adverse weather prevents the proper application of control measures, causes properly applied control measures to be ineffective, or causes disease or insect infestation for which no effective control mechanism is available. This change also will be made to be consistent with other crop policies.

12. Section 10—Specify that the insured must notify the insurance provider: (1) Within 3 days of the date harvest should have started if the crop will not be harvested, (2) 15 days prior to harvest if the insured previously gave notice of loss so that an inspection can be made, (3) at least 15 days prior to

harvest so a preharvest inspection can be made if the insured intends to directly market the crop, and (4) must not destroy the damaged crop which is not marketed until after we have given written consent to do so. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in the insurance provider's inability to make the required appraisal. The current endorsement requires written notice within 72 hours of damage, immediate notice of damage if damage occurs within 72 hours of or during harvest, notice 72 hours prior to harvest, and prohibits the insured from selling or otherwise disposing of any damaged production until written consent is given by the insurance provider. These proposed changes will incorporate and standardize the notice of loss requirements used for other perennial crops.

13. Section 11(c)(2)(i)—Specify that the total production to count will include all harvested production from insurable acreage that is packed and sold as fresh fruit and that meets the grade requirements of the California Tree Fruit Agreement Marketing Order or State Department of Food and Agriculture Code of Regulations, as amended, in effect for the crop, or processing industry.

14. Section 11(c)(2)(ii)—Specify how production to count is determined for fresh fruit that is marketed and meets California Utility Grade. This change clarifies that fresh fruit that is damaged and of poor quality is eligible for quality adjustment on a fresh fruit basis.

15. Section 11(c)(2)(iii)—Specify how production to count is determined for fresh harvested production that does not meet the specific grade requirements, but is used for any use other than fresh stonefruit. This change clarifies that fresh fruit that does not meet the specific grade requirements is eligible for quality adjustment on a processing fruit basis.

16. Section 11(c)(2)(v)—Add procedure for determining the production to count for mature Processing Apricots, Processing Cling Peaches, and Processing Freestone Peaches damaged by insurable causes within the insurance period to the extent that their value is less than 75 percent of the marketable value of the corresponding undamaged crop. This change is added to allow quality adjustment for such processing fruit.

17. 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 in 7 CFR Parts 401 and 457

Crop insurance, Stonefruit endorsement.

Proposed Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation, hereby, proposes to amend 7 CFR parts 401 and 457 as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS—REGULATIONS FOR THE 1988 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

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

2. The introductory text of § 401.122 is revised to read as follows:

§ 401.122 Stonefruit endorsement.

The provisions of the Stonefruit Crop Insurance Endorsement for the 1988 through 1998 crop years are as follows:

* * * * *

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

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

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

4. Section 457.159 is added to read as follows:

§ 457.159 Stonefruit crop insurance provisions.

The Stonefruit Crop Insurance Provisions for the 1999 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:

Stonefruit Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), the crop provisions, the Special Provisions; the Catastrophic Risk Protection Endorsement, if applicable, the Special Provisions; will control these Crop Provisions and these Basic Provisions; the

Crop Provisions will control the Basic Provisions; and the Catastrophic Risk Protection Endorsement, if applicable, will control all provisions.

1. Definitions

Days. Calendar days.

Direct marketing. Sale of the insured crop directly to consumers without the intervention of an intermediary such as 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 are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest. The picking of mature stonefruit 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.

Lug. A container of fresh stonefruit of specified weight. Lugs of varying sizes will be converted to standard lug equivalents on the basis of the following net pounds of packed fruit:

Crop	Pounds/Lug
Fresh Apricots	24
Fresh Nectarines	25
Fresh Freestone Peaches	22

(Weights for Processing Apricots, Processing Cling Peaches, and Processing Freestone Peaches are specified in tons.)

Marketable. Stonefruit production acceptable for processing or other human consumption, even if it fails to meet the state Department of Food and Agriculture minimum grading standard.

Non-contiguous. 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.

Processor. A business enterprise regularly engaged in processing fruit for human consumption that possesses all licenses and permits for processing fruit required by the state in which it operates, and that possesses facilities, or has contractual access to such facilities, with enough equipment to accept

and process contracted fruit within a reasonable amount of time after harvest.

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

Stonefruit. Any of the following crops grown for fresh market or processing:

- (a) Fresh Apricots,
- (b) Fresh Freestone Peaches,
- (c) Fresh Nectarines,
- (d) Processing Apricots,
- (e) Processing Cling Peaches, or
- (f) Processing Freestone Peaches.

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

Type. Classes of a stonefruit crop with similar characteristics that are grouped for insurance purposes.

USDA. United States Department of Agriculture.

Varietal group. A subclass of type.

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

2. Unit Division

(a) A unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into additional basic units by each stonefruit crop designated in the Special Provisions that you elect to insure.

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

(c) Basic units may not be divided into optional units on any basis 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 additional premium paid for the optional units that have been combined will be refunded to you for the units combined.

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

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

- (1) You must have records, which can be independently verified, of acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;
- (2) For each crop year, records of marketed production or measurement of stored production from each optional unit must be maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us; and
- (3) Each optional unit must meet one of the following criteria, as applicable, unless otherwise specified by written agreement:

(i) *Optional Units on Acreage Located on Non-contiguous Land:* Optional units may be

established if each optional unit is located on non-contiguous land; or

(ii) *Optional Units by Type or Varietal Group:* Optional units may be established by type or varietal group if provided for in the Special Provisions.

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 and coverage level for each crop grown in the county and listed in the Special Provisions that is insured under this policy. If separate price elections are available by type or varietal group of a crop, the price elections you choose for each type or varietal group must have the same percentage relationship to the maximum price offered by us for each type or varietal group. For example, if you choose 100 percent of the maximum price election for one type of cling peaches, you must choose 100 percent of the maximum price election for all other types of cling peaches.

(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 or varietal group, if applicable, for each stonefruit crop:

(1) Any damage, removal of trees, 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 trees on insurable and uninsurable acreage; (3) The age of the trees and the planting pattern; and

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

- (i) The age of the interplanted crop, and type or 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 a perennial crop, removal of trees, damage, change in practice, and any other circumstance that could effect the yield potential of the insured crop. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce your production guarantee as necessary at any time we become aware of the circumstance.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is October 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 January 31.

6. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all of each stonefruit crop you elect to insure, that is grown in the county, and for which premium rates are provided in the actuarial table:

(a) In which you have a share; (b) That are grown on trees that:

(1) Were commercially available when the trees were set out; (2) Are adapted to the area; and

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

(c) That are irrigated;

(d) That have produced at least 200 lugs of fresh market production per acre, or at least 2.2 tons per acre for processing crops, in at least 1 of the 3 most recent actual production history crop years, unless we inspect such acreage and give our approval in writing;

(e) That are regulated by the California Tree Fruit Agreement or related crop advisory board for the state (for applicable types);

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

(g) That have reached at least the fifth growing seasons after set out. However, we may agree in writing to insure acreage that has not reached this age if it has produced at least 200 lugs fresh market production per acre or at least 2.2 tons per acre for processing types.

7. Insurable Acreage

In lieu of the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), that prohibit insurance attaching to a crop planted with another crop, stonefruit interplanted with another perennial crop is 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 February 1 of each crop year, except that for the year of application, if your application is received after January 22 but prior to February 1, insurance will attach on the 10th day after your properly completed application is received in our local office unless we inspect the acreage and determine that it does not meet insurability requirements. You must provide any information that we require for the crop or to determine the condition of the orchard.

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

- (i) July 31 for all apricots, and
- (ii) September 30 for all nectarines and peaches.

(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 share on any insurable acreage of stonefruit 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 (Causes of Loss) of the Basic Provisions (§ 457.8), 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 other forms of undergrowth have not been controlled or pruning debris has not been removed from the orchard;

(3) Wildlife, unless appropriate control measures have not been taken;

(4) Earthquake;

(5) Volcanic eruption; or

(6) Failure of irrigation water supply, if caused by an insured cause of loss 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 insured crop for any reason other than actual physical damage from an insurable cause of loss 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 3 days of the date harvest should have started if the insured 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 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 if you previously gave notice in accordance with section 14 of the Basic Provisions (§ 457.8), so that we may inspect the damaged production. You must not destroy the damaged crop until after we have given you written consent to do so. If you fail to notify us and such failure results in our inability to inspect the damaged production, we may consider all such production to be undamaged and include it 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 the units.

(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 type or varietal group, if applicable, by its respective production guarantee;

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

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

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

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

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

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

(c) The total production to count (in standard lugs equivalent or tons) from all insurable acres on a unit will include:

(1) All appraised production as follows:

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

(A) That is abandoned;

(B) 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 production records that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production; and

(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 insured 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:

(i) That is packed and sold as fresh fruit and meets the grade requirements shown in the California Tree Fruit Agreement Marketing Order, or State Department of Food and Agriculture Code of Regulations, as amended, in effect for the crop, type, or varietal group;

(ii) That is packed and sold as fresh fruit as California Utility grade, damaged by an insurable cause, and the value of the damaged crop is less than 75 percent of the marketable value of an undamaged crop, such production will be adjusted by:

(A) Dividing the marketable value per lug of this production by the highest price election available for the crop, type, or varietal group; and

(B) Multiplying the resulting factor, if less than 1.0, by the number of lugs of each crop, type, or varietal group;

(iii) That does not meet the applicable standards in section 11(c)(2)(i) due to insurable causes but is, or could be, used for any use other than fresh packed stonefruit. Such production will be determined by:

(A) Dividing the greater of the marketable value per ton, or \$50.00, by the highest price election available for the crop, type, or varietal group; and

(B) Multiplying the resulting factor by the number of tons of such crop, type, or varietal group;

(iv) That is mature production of Processing Apricots, Processing Cling Peaches, or Processing Freestone Peaches which is acceptable to the processor;

(v) That is mature production of Processing Apricots, Processing Cling Peaches, or Processing Freestone Peaches, damaged by insurable causes, and the value of the damaged crop is less than 75 percent of the marketable value of an undamaged crop, the production will be determined as follows:

(A) Divide the damaged value per ton by the highest price election available for the crop, type, or varietal group; and

(B) Multiply the resulting factor (not to exceed 1.00) by the number of tons of such production.

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 by us, the written agreement will include all variable terms of the contract, including, but not limited to,

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, DC, on July 16, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97-19214 Filed 7-21-97; 8:45 am]

BILLING CODE 3410-08-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-63-AD]

RIN 2120-AA64

Airworthiness Directives; de Havilland Model DHC-8-100, -200, and -300 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 de Havilland Model DHC-8-100, -200, and -300 series airplanes. This proposal would require modification of the attitude and heading reference systems (AHRS). This proposal is prompted by a report of loss of power to both AHRS's during flight due to a faulty terminal block to which the signal ground for the AHRS's are connected. The actions specified by the proposed AD are intended to prevent simultaneous power loss to both AHRS's, which could result in reduced controllability of the airplane.

DATES: Comments must be received by August 29, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-63-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 Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT:

Luciano Castracane, Aerospace Engineer, Systems and Equipment Branch, ANE-172, FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256-7535; fax (516) 568-2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97-NM-63-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 97-NM-63-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

Transport Canada Aviation, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain de Havilland DHC-8-100, -200, and -300 series airplanes. Transport Canada Aviation advises that an operator of one of the affected airplanes reported loss of power to both the Number 1 and Number 2 attitude and heading reference systems (AHRS) during flight. The power losses were attributed to a faulty terminal block to which the signal ground for the AHRS's are connected. This condition, if not corrected, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

Bombardier has issued Alert Service Bulletin S.B. A8-34-117, Revision 'C,' dated February 14, 1997, which describes procedures for modification of the AHRS's. The modification involves installation of separate grounds for the Number 1 and Number 2 AHRS's. Accomplishment of the modification will minimize the possibility for the simultaneous loss of both AHRS's. Transport Canada Aviation classified this alert service bulletin as mandatory and issued Canadian airworthiness directive CF-97-01R1, dated February 3, 1997, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the AHRS's. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.