

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

Fresh Plum Crop Insurance Provisions; and Common Crop Insurance Regulations; Plum 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 plums. 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 Fresh Plum Crop Insurance Endorsement with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effects of the current Fresh Plum Endorsement to the 1997 and prior crop years.

DATES: Written comments on this proposed rule will be accepted until close of business April 14, 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 April 11, 1997.

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. Written comments will be available for public inspection and copying in room 0324, South Building, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC, 8:15 a.m. to 4:45 p.m.,

est, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Stephen Hoy, Program Analyst, 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 amendments set forth in this proposed rule contain information collection that requires clearance by the Office of Management and Budget (OMB) under provisions of 44 U.S.C. chapter 35.

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 Plum Crop Provisions adds interplanting as an insurable farming practice as long as it is interplanted with another perennial crop and does not adversely affect the insured crop. This practice was not insurable under the previous fresh plum endorsement and the General Crop Insurance Policy 88-G (REV 3-91) 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 two percent of the insureds who interplant their plum crop. Standard interplanting language has been added to most perennial crops to make insurance available for more perennial crop producers and reduce the acreage that will need to be placed into the noninsured crop disaster assistance program (NAP).

The other amendments set forth in this proposed rule to 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; Plum Crop Insurance Provision." The information to be collected includes a crop insurance application and an

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 plums 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 the information collection is 2,669,932 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 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 Mandates 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, the rule is not subject to the requirements of section 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 producer must also annually certify to the previous years production, if adequate records are available to support the certification, or receive a transitional yield. The producer must maintain the production records to support the certified information for at least three 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 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 457.157, Plum 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 fresh plums found at 7 CFR 401.146 (Fresh Plum Endorsement). FCIC also proposes to amend § 401.146 to limit its effect to the 1997 and prior crop years. FCIC will later publish a regulation to remove and reserve § 401.146.

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

1. Remove the word "fresh" from the title of the policy since plums marketed for uses other than fresh packed are covered.

2. Section 1—Add definitions for the terms "days," "direct marketing," "good farming practice," "interplanted," "irrigated practice," "non-contiguous," "pitburn and sunburn," "production guarantee (per acre)," "scion," "varietal group," and "written agreement" for clarification purposes.

3. Section 2(e)(3)(ii)—Add optional units by varietal group to be consistent with other policies that offer insurance by crop variety.

4. Section 3(a)—Specify that the insured may select only one price election for all the plums in the county insured under this policy, unless the Special Provisions provide different price elections by varietal group, in which case the insured may select one price election for each varietal group. The price election the insured selects must have the same percentage relationship to the maximum price offered. This helps to protect against adverse selection and simplifies administration of the program.

5. Section 3(b)—Specify that an insured must report damage, removal of trees, and any change in practice that may reduce yields. For the first year of insurance for acreage interplanted with another perennial crop and anytime the planting pattern of such acreage is changed, the insured must report the age and varietal group, if applicable, of any interplanted perennial crop, its planting pattern, and any other information needed to establish the approved yield. If the insured fails to notify the insurer of factors that may reduce yields from previous levels, the insurer will reduce the production guarantee at any time the insurer becomes aware of damage, removal of trees, or changes in practices. This allows the insurance provider to limit liability, if necessary, before insurance attaches.

6. Section 6—Remove the provision that restricts crop insurance coverage if plums are harvested directly by the public. Section 10(b) of the proposed rule requires the insured to notify the insurance provider at least 15 days before any production from any unit will be sold by direct marketing in order to accurately determine production to count.

7. Section 6(d)—Specify that at least 200 lugs per acre must have been produced in at least one of the three most recent actual production history crop years. Previous regulations required a minimum of 200 lugs per acre of fresh market production in the previous crop year unless the acreage is inspected by us and approved for coverage. Basing the required minimum production on only the previous crop year is too restrictive considering that one year of adverse growing conditions would exclude eligibility for crop insurance.

8. Section 6(f)—Allow insurance for plums produced on scions that have not reached the fifth growing season after being grafted to established rootstock. If

all other requirements for insurability have been met, the crop should make the approved yield.

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

10. Section 8(a)(1)—Specify that the insurance period begins on February 1 of each crop year, except for the year of application, if the application is received after January 22 but prior to February 1, insurance will attach on the 10th day after the application is received in the insurance provider's local office unless the acreage is inspected during the 10 day period and does not meet insurability requirements. This provision is consistent with other perennial crops to prevent producers from obtaining insurance only when they know a loss is likely.

11. Section 8(b)—Add provisions to clarify the procedures when an insurable share is acquired or relinquished on or before the acreage reporting date.

12. Section 9(a)(2)—Add pitburn and sunburn as insured causes of loss since they are common causes of loss.

13. Section 9(c)(1)—Clarify that disease and insect infestation are excluded 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.

14. Section 10(a)—Specify the notice requirements if the orchard has suffered a loss, and the crop will not be harvested, in order to permit timely appraisal of any loss.

15. Section 10(b)—Require the producer to give notice at least 15 days prior to harvest so a preharvest inspection can be made if the insured intends to engage in direct marketing to consumers. This is necessary to permit an accurate appraisal of production to count because it is difficult to verify production that is directly marketed to consumers.

16. Section 10(c)—Require the producer to give at least 15 days notice prior to the beginning of harvest or immediately if damage is discovered during harvest to permit the insurance provider to make a timely inspection.

17. Section 10(d)—Prohibit the insured from selling or otherwise disposing of any damaged production until consent is given by the insurance provider.

18. Section 11(c)(2)(i)—Change the quality specifications for determining production to count from U.S. Number 1 standards to the California Marketing Order grade requirements in effect for the crop year, since such grade order requirements better correspond with the quality specifications used by the plum industry.

19. Sections 11(c)(2)(ii)—Specify the adjustment of the production to count for harvested production that is packed and sold as fresh fruit but does not meet California Marketing Order grade requirements.

20. Sections 11(c)(2)(iii)—Specify the adjustment of the production to count for harvested production that is or could be marketed for any use other than fresh packed plums.

21. Section 12—Add provisions for providing insurance covered by written agreement. FCC has a long standing policy of permitting certain modifications of the insurance contracts by written agreement for some policies. This amendment allows FCC to tailor the policy to a specific insured in certain instances. The new section will cover the application for and duration of written agreements.

List of Subjects in 7 CFR Parts 401 and 457

Crop insurance, Fresh plums endorsement, Plums.

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(l), 1506(p).

2. The introductory text of § 401.146 is revised to read as follows:

§ 401.146 Fresh plum endorsement.

The provisions of the Fresh Plum Crop Insurance Endorsement for the 1990 through the 1997 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(l), 1506(p).

4. 7 CFR part 457 is amended by adding a new § 457.157 to read as follows:

§ 457.157 Plum Crop Insurance Provisions.

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

FCIC policies:

Department of Agriculture

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Plum 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.

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.

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 plums 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.

Lug—Twenty-eight (28) pounds of the insured crop.

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.

Pitburn and sunburn—Damage to fresh fruit as a result of excessive heat.

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

Scion—Twig or portion of a twig of one plant that is grafted on to a stock of another.

Varietal group—Different varieties of plums that are grouped according to the normal maturity dates as specified in the Special Provisions.

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 unit), 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 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 additional premium paid for the optional units that have been combined will be refunded to you for the units combined.

(d) All optional units you selected for the 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;

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

(3) Each optional unit must meet one or more of the following criteria, as applicable:

(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.

(ii) *Optional Units on Acreage by Varietal Group*: In addition to, or instead of, establishing optional units on non-contiguous land, optional units may be established by varietal group when 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 for all the plums 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 plum 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 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), by varietal group if applicable:

(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 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 may 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 the plums 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 adapted to the area;

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

(4) Are regulated by the California Advisory Board Standards, a related crop advisory board, or the state;

(c) That are irrigated;

(d) That have produced an average of at least 200 lugs per acre in at least one of the three most recent actual production history

crop years, unless we inspect such acreage and give our approval in writing;

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

(f) That have reached at least the fifth (5th) growing season after set out. Plums produced on scions that have not reached the fifth growing season may be insured if the provisions in section 6 (a), (b), (c), and (e) are met. Such trees must have produced at least 200 lugs per acre in at least one year after being grafted.

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, plums 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 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 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 or 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 share on any insurable acreage of plums 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 during the insurance period:

(1) Adverse weather conditions;

(2) Pitburn and sunburn;

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

pruning debris has not been removed from the orchard;

(4) Wildlife;

(5) Earthquake;

(6) Volcanic eruption;

(7) An insufficient number of chilling hours to effectively break dormancy; or

(8) Failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against damage or loss of production due to:

(1) Disease or insect infestation, unless 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) Rejection of the crop by the packing house due to being undersized, immature, overripe, or mechanically damaged; or

(3) Inability to market the plums 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 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. 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 or immediately if damage is discovered during harvest, so that we may inspect the damaged production.

(d) 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 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 acceptable 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 varietal group, if applicable, by its respective production guarantee;

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

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

(4) Multiplying the total production to be counted of each 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 results in section 11(b)(5) from the results in section 11(b)(3); and

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

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

(1) All appraised production as follows:

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

(A) That is abandoned;

(B) That is sold by direct marketing directly if you fail to meet the requirement 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 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 California Marketing Order grade requirements, as amended, in effect for the applicable crop year;

(ii) That is packed and sold as fresh fruit but does not meet the grade requirements specified in section 11(c)(2)(i) due to insurable causes. Such production will be adjusted by:

(A) Dividing the value per lug of this production by the highest price election available for the applicable varietal group; and

(B) Multiplying the resulting factor, if less than 1.0, by the number of lugs of such plums.

(iii) That is damaged and is, or could be, marketed for any use other than fresh packed plums. Such production will be adjusted by:

(A) Multiplying the number of tons of such production by the value per ton of the damaged plums or \$50.00, whichever is greater; and

(B) Dividing that result by the highest price election available for the applicable varietal group.

12. Written agreement.

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

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

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

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

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

(e) An application for written agreement submitted after the sales closing date may be approved if, after 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 February 6, 1997.

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

[FR Doc. 97-3330 Filed 2-10-97; 8:45 am]

BILLING CODE 3410-FA-P

Agricultural Marketing Service

7 CFR Part 980

[Docket No. FV96-980-1 PR]

Vegetables; Import Regulations; Reopening of Comment Period for Filing Written Comments on Removal of Banana and Fingerling Types of Potatoes and Exemption of Potatoes for Potato Salad from the Potato Import Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; reopening comment period.

SUMMARY: Notice is hereby given that the comment period on the proposed removal of banana and fingerling types of potatoes and exemption of potatoes for potato salad from the potato import