

**DEPARTMENT OF AGRICULTURE****Federal Crop Insurance Corporation****7 CFR Part 457****Common Crop Insurance Regulations; Fig, Pear, Walnut, Almond, Prune, Table Grape, Peach, Plum, Apple and Stonefruit Crop Insurance Provisions**

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) finalizes crop provisions for the insurance of the Figs, Pears, Walnuts, Almonds, Prunes, Table Grapes, Peaches, Plums, Apples and Stonefruit. The intended effect of this action is to provide policy changes to better meet the needs of the insured. The changes will be effective for the 2001 and subsequent crop years.

**EFFECTIVE DATE:** August 4, 2000.

**FOR FURTHER INFORMATION CONTACT:** Gary Johnson, Insurance Management Specialist, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO, 64131, telephone (816) 926-7730.

**SUPPLEMENTARY INFORMATION:****Executive Order 12866**

This rule has been determined to be exempt for the purpose of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

**Paperwork Reduction Act of 1995**

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563-0053 through April 30, 2001.

**Unfunded Mandates Reform Act of 1995**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) 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 13132**

The policies contained in this rule do not have any substantial direct effect on

states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

**Regulatory Flexibility Act**

This regulation will not have a significant economic impact on a substantial number of small entities. Additionally, the regulation does not require any greater action on the part of small entities than is required on the part of large entities. The amount of work required of the insurance companies will not increase because the information must already be collected under the present policy. No additional work is required as a result of this action on the part of either the insured or the insurance companies. 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 12372**

This program is not subject to the provisions of Executive Order 12372, which requires 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 12988**

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. 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 of any determination made by FCIC may be brought.

**Environmental Evaluation**

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

**Background**

On February 8, 2000, FCIC published a notice of proposed rulemaking in the **Federal Register** at 65 FR 6033-6040 to revise 7 CFR 457.110 Fig Crop Insurance Provisions, section 457.111 Pear Crop Insurance Provisions, section 457.122 Walnut Crop Insurance Provisions, section 457.123 Almond Crop Insurance Provisions, section 457.133 Prune Crop Insurance Provisions, section 457.149 Table Grape Crop Insurance Provisions, section 457.153 Peach Crop Insurance Provisions, section 457.157 Plum Crop Insurance Provisions, section 457.158 Apple Crop Insurance Provisions, and section 457.159 Stonefruit Crop Insurance Provisions, effective for the 2001 and succeeding crop years.

Following publication of the proposed rule the public was afforded 30 days to submit written comments and opinions. A total of 10 comments were received from 2 reinsured companies and a trade association. The comments received and FCIC's responses are as follows:

*Comment.* A reinsured company questioned if the wording "could or would reduce the yield" in section 2 or 3 of the applicable crop provisions (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities), is subject to interpretation. The commenter questioned: (1) If all of the acreage of the crop will need to be inspected if the producer requests a higher level of coverage or an increased price election; (2) if FCIC will determine that coverage cannot be increased in a specified area and publish this information in a bulletin, or if the company will be allowed to make the determination; and (3) when the determination must be made.

*Response.* The provisions require the insurance provider to determine whether a cause of loss occurred that "could or would reduce the yield." The producer is not allowed to increase the coverage level or price election if it is evident that a cause of loss had occurred prior to the producer's request for such increase. There is no requirement to inspect any acreage to determine if a loss occurred. The insurance provider must simply determine whether a cause of loss has occurred prior to accepting the application for increased coverage. Therefore, no change has been made.

*Comment.* A reinsured company recommended changing the word "unshelled" to "in-shell" in the definition of "meat pounds" in section 1 of the Almond Crop Insurance Provisions because this is the common term used by the almond industry.

*Response.* FCIC has incorporated the change.

*Comment.* A reinsured company recommended that there should be one specific calendar date for the end of the insurance period for all of the crops listed in this final rule. The commenter stated there are so many dates represented by different varieties, crops, etc., that administrative problems are caused.

*Response.* Changing the end of insurance period to one specific date for all of the crops listed in this final rule is not feasible. The insurance period is set to provide insurance during the time when the crop is at risk from normal causes of loss. This period is not the same for all crops. There needs to be variance in the beginning and ending of insurance periods to reflect differences in the crops being insured and the areas where they are grown. The calendar date for the end of insurance period must reflect the normal harvest date for each crop. Therefore, no change has been made.

*Comment.* A reinsured company recommended that claim examples for almonds and walnuts listed in this final rule should not be included in the Settlement of Claim section. The commenter stated the examples are too simple and do not provide any explanation of "Quality Adjustment or Stage."

*Response.* FCIC does not agree with the comment. Claim examples were added to the Settlement of Claim section to provide a general explanation of how the indemnity payment would be calculated. There is no quality adjustment on almonds. Quality Adjustment for walnuts is provided only for mold damage and is rarely used. The claim examples for almonds and walnuts are consistent with other crop policies. Therefore, no change has been made.

*Comment.* A reinsured company recommended that almond rejects be counted as production to count and should remain part of the Almond Crop Insurance Provisions.

*Response.* FCIC disagrees with the idea that all rejects should be counted as production to count. Rejects that are due to an insured cause of loss which is beyond the control of the producer should not be counted as production to count. However, FCIC does agree that rejects due to uninsured causes of loss should be counted as production to count. Therefore, FCIC has revised section 11(c)(2) to include meat pounds damaged due to uninsured causes of loss as production to count.

*Comment.* A reinsured company recommended revising section 14 of the

Apple Crop Insurance Provisions which allows optional units and price elections by varietal group. The commenter stated that apple trees may be planted in a block that consists of only a few trees in a row being the same variety or a few rows of trees being the same variety, or even a single tree of a variety that was planted as a replacement. To allow units by variety would create problems for determining production and acreage.

*Response.* A block of apples may include different varieties. However, producers harvest and market apples by variety. The provisions in this final rule provide producers with optional units and price elections based on varietal groups. These varietal groups, which currently consist of two groups, are listed in the Special Provisions. Producers have the responsibility of identifying the acreage of each varietal group and separately maintaining production records. FCIC has revised the option to specify that producers are not eligible if they do not have separate production records for each varietal group or cannot identify the acreage upon which each varietal group is produced.

*Comment.* A reinsured company questioned if the provisions under section 14 of the Apple Crop Insurance Provisions that provide prices and units by varietal group will be available under the Fresh Fruit Option B.

*Response.* Prices and units by varietal group under section 14 are available under Fresh Fruit Option B provided that both Option B and C are elected.

*Comment.* A reinsured company stated the requirement to give notice of loss 15 days prior to harvest of walnuts when there is mold damage will be very difficult. Walnuts will not show mold damage prior to removal from the tree, so the grower generally will not know there will be mold before harvest.

*Response.* FCIC has changed the policy to give notice when knowledge is obtained or 15 days prior to harvest. The 15 day requirement allows the insurance provider adequate time to inspect the damaged production. Therefore, no change will be made.

In addition to the changes described above, FCIC has made the following changes:

1. *Section 457.110 Fig crop insurance provisions.*

a. Added a definition of "Interplanted" to standardize the term interplanted between other perennial crop provisions and the Fig Crop Insurance Provisions.

b. Added a section 3(c) that requires the insured to report damage, removal of trees, change in practices or any other

circumstance that may reduce yields. The insured must 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 type, if applicable, of any interplanted crop, the planting pattern, and any other information needed to establish the approved yield. If the insured fails to report these changes, the acreage or yield used to establish the production guarantee, or both, may be adjusted when the insurance provider becomes aware of the situation.

c. Redesignated sections 8 through 11 as sections 9 through 12 respectively and added a new section 8 to allow interplanting as an insurable farming practice if the fig crop is interplanted with another perennial crop. This change makes insurance available on more acreage and reduces reliance on the noninsured crop disaster assistance program (NAP) for protection for crop losses.

d. Removed language in previous designated sections 8(a), (c), (d), (e), as this language is in the Basic Provisions. Previous designated sections 8(b) and (d) have been added to new section 9(a)(2) of these provisions.

e. Added language to redesignated section 9(a) to clarify the date on which coverage begins for the year the application is first signed.

2. *Section 457.111 Pear crop insurance provisions.*

Section 8(c)—Added the phrase "Notwithstanding paragraph (a)(1) of this section" to the beginning of the provisions contained in section 8(c) to clarify that the dates insurance attaches contained in section 8(a)(1) do not apply to subsequent crop years. The dates contained in section 8(a)(1) apply only to the initial crop year. This change clarifies when year round coverage begins for each crop year.

3. *Section 457.122 Walnut crop insurance provisions.*

a. Section 4—Revised to state that October 31 is the contract change date for California only and added the contract change date of August 31 for all other states. This change will promote the walnut crop insurance program in states outside California.

b. Section 5—Revised to state that January 31 is the cancellation and termination dates for California only and added the cancellation and termination dates of November 20 for all other states. This change will promote the walnut crop insurance program in states outside of California.

c. Section 8(a)(1), (2) and (3)—Revised (a)(1) to state that February 1 is the date when insurance attaches in California

and added November 21 when insurance attaches in all other states. This change will promote the walnut crop insurance program in states outside of California. Added to (a)(2) the words, “(Exceptions, if any, for specific counties, or varieties or varietal group are contained in the Special Provisions.)” Added the phrase “Notwithstanding paragraph (a)(1) of this section” to the beginning of proposed section 8(a)(3) to clarify that the dates insurance attach under paragraph (a)(1) do not apply to subsequent crop years. The dates contained in paragraph (a)(1) apply only to the initial crop year. These changes provide insurance periods similar to other perennial crops and clarify when year round coverage begins.

**4. Section 457.123 Almond crop insurance provisions.**

Section 8(a)(3)—Added the phrase “Notwithstanding paragraph (a)(1) of this section” to the beginning of proposed section 8(a)(3) to clarify that the dates insurance attach contained in paragraph (a)(1) do not apply to subsequent crop years. The dates contained in paragraph (a)(1) apply only to the initial crop year. This paragraph as changed clarifies when year round coverage begins.

**5. Section 457.133 Prune crop insurance provisions.**

Section 8(c)—Added the phrase “Notwithstanding paragraph (a)(1) of this section” to the beginning of proposed section 8(c) to clarify that the dates insurance attach contained in paragraph (a)(1) do not apply to subsequent crop years. The dates contained in paragraph (a)(1) apply only to the initial crop year. This paragraph as changed clarifies when year round coverage begins.

**6. Section 457.149 Table grape crop insurance provisions.**

Section 9(c)—Added the phrase “Notwithstanding paragraph (a)(1) of this section” to the beginning of proposed section 9(c) to clarify that the dates insurance attach contained in paragraph (a)(1) do not apply to subsequent crop years. The dates contained in paragraph (a)(1) apply only to the initial crop year. This paragraph as changed clarifies when year round coverage begins.

**7. Section 457.153 Peach crop insurance provisions.**

Section 7(c)—Added the phrase “Notwithstanding paragraph (a)(1) of this section” to the beginning of proposed section 7(c) to clarify that the dates insurance attach contained in paragraph (a)(1) do not apply to subsequent crop years. The dates contained in paragraph (a)(1) apply only

to the initial crop year. This paragraph as changed clarifies when year round coverage begins.

**8. Section 457.157 Plum crop insurance provisions.**

Section 8(c)—Added the phrase “Notwithstanding paragraph (a)(1) of this section” to the beginning of proposed section 8(c) to clarify that the dates insurance attach contained in paragraph (a)(1) do not apply to subsequent crop years. The dates contained in paragraph (a)(1) apply only to the initial crop year. This paragraph as changed clarifies when year round coverage begins.

**9. Section 457.158 Apple crop insurance provision.**

a. Section 8(c)—Added the phrase “Notwithstanding paragraph (a)(1) of this section” to the beginning of proposed section 8(c) to clarify that the dates insurance attach contained in paragraph (a)(1) do not apply to subsequent crop years. The dates contained in paragraph (a)(1) apply only to the initial crop year. This paragraph as changed clarifies when year round coverage begins.

b. Section 11(c)(1)(iii)—Revised to read “unharvested marketable production;” This change provides clarification that quality standards for appraisals of unharvested production are based on the definition of “marketable.”

**10. Section 457.159 Stonefruit crop insurance provisions.**

a. Section 1—Revised the definition of “grading standards” to refer to the Special Provisions. This change provides recognition of all other states grading standards. The current regulation contains only grading standards for the state of California.

b. Section 4—Revised to state that October 31 is the contract change date for California only and added the contract change date of August 31 for all other states. This change will promote the stonefruit crop insurance program in states outside of California and provide a contract change date similar to that for other perennial crops.

c. Section 5—Revised to state that January 31 is the cancellation and termination dates for California only and added the cancellation and termination dates of November 20 for all other states. This change provides cancellation and termination dates similar to other perennial crops.

d. Section 6(e)—Revised to provide for the recognized grading standards for all states, not just California. This change provides for the recognition of other states’ grading standards. The current regulation contains only grading standards for the state of California.

e. Section 8(a)(1), (a)(2)(iii) and (c)—Revised (a)(1) to state that February 1 is the date when insurance attaches in California only and added November 21 for when insurance attaches for all other states. Added (a)(2)(iii) with regard to the end of insurance period to read “As otherwise provided for specific counties or types in the Special Provisions.” These changes will promote the stonefruit crop insurance program in states outside California. Added the phrase “Notwithstanding paragraph (a)(1) of this section” to the beginning of proposed section 8(c) to clarify that the dates insurance attach contained in paragraph (a)(1) do not apply to subsequent crop years. The dates contained in paragraph (a)(1) apply only to the initial crop year. This change provides insurance periods similar to other perennial crops and clarify when year round coverage begins.

Good cause is shown to make this rule effective upon publication in the Office of the Federal Register. This rule must be effective prior to the August 31, 2000, contract change date for Almond and Walnut, to be effective for the 2001 crop year. Therefore, public interest requires that FCIC act immediately to make these provisions available.

**List of Subjects in 7 CFR Part 457**

Almond, Apple, Crop insurance, Fig, Peach, Pear, Plum, Prune, Reporting and recordkeeping requirements, Stonefruit, Table Grape, and Walnut.

**Final Rule**

Accordingly, as set forth in the preamble, The Federal Crop Insurance Corporation amends the Common Crop Insurance Regulations (7 CFR part 457) for the 2001 and succeeding crop years as follows:

**PART 457—COMMON CROP INSURANCE REGULATIONS**

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

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

2. Amend 457.110 as follows:

a. Revise the first sentence of the introductory text;

b. Add a definition of “Interplanted” in section 1 of the crop insurance provisions;

c. Redesignate sections 8 through 11 of the crop insurance provisions as sections 9 through 12;

d. Add a new section 8 to the crop insurance provisions;

e. Revise section 3 and newly designated section 9 of the crop insurance provisions to read as follows:

**§ 457.110 Fig crop insurance provisions.**

The Fig Crop Insurance Provisions for the 2001 and succeeding crop years are as follows:

\* \* \* \* \*

## 1. Definitions.

\* \* \* \* \*

Interplanted—Acreage on which two or more crops are planted in any form of alternating or mixed pattern.

\* \* \* \* \*

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

(a) In addition to the requirements under section 3 of the Basic Provisions, you may select only one price election for each fig type designated in the Special Provisions and insured in the county under this policy.

(b) You may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election if a cause of loss that could or would reduce the yield of the insured crop has occurred prior to the time you request the increase.

(c) You must report, by the production reporting date designated in section 3 of the Basic Provisions, by type 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;

(4) 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 of the crop that is interplanted with the figs, and type if applicable, and the planting pattern; and

(5) 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 the following: Interplanted perennial crop; removal of trees; damage; change in practices and any other circumstance on the yield potential of the insured crop. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce your production guarantee as necessary at any time we become aware of the circumstance.

\* \* \* \* \*

## 8. 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, figs interplanted with another perennial crop are insurable unless we inspect the acreage and determine that it does not meet the requirements contained in your policy.

## 9. Insurance Period

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

(1) Coverage begins on March 1, except that for the year of application, if your application is received after February 19 but prior to March 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 October 31 or the date harvest of the figs (by type) should have started on any acreage that will not be harvested (Exceptions, if any, for specific counties or varieties or varietal group are contained in the Special Provisions).

(b) Notwithstanding paragraph (a)(1) of this section, for each subsequent crop year that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring to a different insurance provider for a subsequent crop year will not be considered a break in continuous coverage.

(c) If your fig policy is canceled or terminated for any crop year, in accordance with the terms of the policy, after insurance attached for that crop year but on or before the cancellation and termination dates whichever is later, insurance will not be considered to have attached for that crop year and no premium, administrative fee, or indemnity will be due for such crop year.

\* \* \* \* \*

## 3. Amend 457.111 as follows:

a. Revise the first sentence of the introductory text;

b. In the crop insurance provisions add sections 3(c) and 8(c) and (d); all to read as follows:

**§ 457.111 Pear crop insurance provisions.**

The Pear Crop Insurance Provisions for the 2001 and succeeding crop years are as follows:

\* \* \* \* \*

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

\* \* \* \* \*

(c) You may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election if a cause of loss that could or would reduce the yield of the insured crop has occurred prior to the time that you request the increase.

\* \* \* \* \*

## 8. Insurance Period.

\* \* \* \* \*

(c) Notwithstanding paragraph (a)(1) of this section, for each subsequent crop year that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring to a different insurance provider for a subsequent crop year will not be considered a break in continuous coverage.

(d) If your pear policy is canceled or terminated for any crop year, in accordance with the terms of the policy, after insurance attached for that crop year but on or before the cancellation and termination dates whichever is later, insurance will not be considered to have attached for that crop year

and no premium, administrative fee, or indemnity will be due for such crop year.

\* \* \* \* \*

## 4. Amend 457.122 to:

a. Revise the first sentence of the introductory text;

b. Amend the introductory text of section 3 and section 3(b) of the crop provisions by removing in each place the parenthetical phrase, “(Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities);”

c. Add new section 3(c);

d. Revise sections 4 and 5 of the crop provisions;

e. Amend the introductory text to section 6 of the crop provisions, by removing the parenthetical phrase, “(Insured Crop);”

f. Amend the introductory text to section 7 of the crop provisions, by removing the parenthetical phrase, “(Insurable Acreage);”

g. In section 8 of the crop provisions, revise paragraph (a);

h. Amend the introductory text to section 9 of the crop provisions paragraph (a), by removing the parenthetical phrase “(Causes of Loss);”

i. Revise section 10 of the crop provisions; and

j. In the crop provisions add an example of settlement of claim in section 11 after paragraph (b)(7) and revise paragraph (d) to read as follows:

**§ 457.122 Walnut crop insurance provisions.**

The Walnut Crop Insurance Provisions for the 2001 and succeeding crop years are as follows:

\* \* \* \* \*

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

\* \* \* \* \*

(c) You may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election if a cause of loss that could or would reduce the yield of the insured crop has occurred prior to the time that you request the increase.

## 4. Contract Changes

In accordance with section 4 of the Basic Provisions, the contract change dates are October 31 for California and August 31 preceding the cancellation date for all other states.

## 5. Cancellation and Termination Dates

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are January 31 for California and November 20 for all other states.

\* \* \* \* \*

## 8. Insurance Period

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

(1) Coverage begins on February 1 in California and November 21 in all other states of each crop year, except that for the year of application, if your application is

received after January 22 but prior to February 1 in California or after November 11 but prior to November 21 in all states, 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 November 15 (Exceptions, if any, for specific counties or varieties or varietal group are contained in the Special Provisions).

(3) Notwithstanding paragraph (a)(1) of this section, for each subsequent crop year that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring to a different insurance provider for a subsequent crop year will not be considered a break in continuous coverage.

(4) If your walnut policy is canceled or terminated for any crop year, in accordance with the terms of the policy, after insurance attached for that crop year but on or before the cancellation and termination dates whichever is later, insurance will not be considered to have attached for that crop year and no premium, administrative fee, or indemnity will be due for such crop year.

\* \* \* \* \*

#### 10. Duties in the Event of Damage or Loss.

(a) In addition to the requirements of section 14 of the Basic Provisions, if you intend to claim an indemnity on any unit:

(1) You must notify us prior to the beginning of harvest so that we may inspect the damaged production;

(2) You must give notice when knowledge is obtained of any mold damage or 15 days prior to harvest so that we may inspect the mold damaged production; and

(3) You must not sell or dispose of the damaged crop until we have given you written consent to do so.

(b) If you fail to meet the requirements of this section, all such production will be considered undamaged and included as production to count.

#### 11. Settlement of Claim

\* \* \* \* \*

(b) \* \* \*

(7) \* \* \*

For example:

You have a 100 percent share in 100 acres of walnuts in the unit, with a guarantee of 2,500 pounds per acre and a price election of \$0.61 per pound. You are only able to harvest 200,000 pounds. Your indemnity would be calculated as follows:

(1) 100 acres  $\times$  2,500 pounds = 250,000 pound insurance guarantee;

(2 & 3) 250,000 pounds  $\times$  \$0.61 price election = \$152,500 total value of insurance guarantee;

(4 & 5) 200,000 pounds production to count  $\times$  \$0.61 price election = \$122,000 total value of production to count;

(6) \$152,500 total value guarantee—\$122,000 total value of production to count = \$30,500 loss; and

(7) \$30,500  $\times$  100 percent share = \$30,500 indemnity payment.

\* \* \* \* \*

(d) Mature walnut production damaged due to an insurable cause of loss which occurs within the insurance period may be adjusted for quality based on an inspection by the Dried Fruit Association or during our loss adjustment process. Walnut production that has mold damage greater than 8 percent, based on the net delivered weight, will be reduced by the quality adjustment factors contained in the Special Provisions. Walnut production that exceeds 30 percent mold damage and will not be sold, the production to count will be zero.

\* \* \* \* \*

#### 5. Amend 457.123 as follows:

a. Revise the first sentence of the introductory text;

b. In the crop provisions in section 1 revise the definition of "meat pounds;"

c. In the crop provisions amend section 3, the introductory text and paragraph (b), by removing in each place the parenthetical phrase, "(Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities);"

d. In the crop provisions add section 3(c);

e. In the crop provisions amend section 4 by removing the parenthetical phrase, "(Contract Changes);"

f. In the crop provisions amend section 5 by removing the parenthetical phrase, "(Life of Policy, Cancellation and Termination);"

g. In the crop provisions amend section 6 by removing the parenthetical phrase, "(Insured Crop);"

h. In the crop provisions amend section 7 by removing the parenthetical phrase, "(Insurable Acreage);"

i. In the crop provisions amend section 8(a), by removing the parenthetical phrase, "(Insurance Period);"

j. In the crop provisions add section 8(a)(3) and (4);

k. In the crop provisions amend section 9(a), by removing the parenthetical phrase, "(Causes of Loss);"

l. In the crop provisions amend section 10 by removing the parenthetical phrase, "(Duties In the Event of Damage or Loss);"

m. In the crop provisions add an example of settlement of claim in section 11 after paragraph (b)(7) and revise paragraph (c)(2) to read as follows:

#### **§ 457.123 Almond crop insurance provisions.**

The Almond Crop Insurance Provisions for the 2001 and succeeding crop years are as follows:

\* \* \* \* \*

#### 1. Definitions

\* \* \* \* \*

*Meat pounds.* The total pounds of almond meats (whole, chipped and broken, and in-shell meats). In-shell almonds will be converted to meat pounds in accordance with FCIC approved procedures.

\* \* \* \* \*

#### 3. Insurance Guaranteed, Coverage Levels, and Prices for Determining Indemnities

\* \* \* \* \*

(c) You may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election if a cause of loss that would or could reduce the yield of the insured crop has occurred prior to the time that you request the increase.

\* \* \* \* \*

#### 8. Insurance Period

\* \* \* \* \*

(a) \* \* \*

(3) Notwithstanding paragraph (a)(1) of this section, for each subsequent crop year that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring to a different insurance provider for a subsequent crop year will not be considered a break in continuous coverage.

(4) If your almond policy is canceled or terminated for any crop year, in accordance with the terms of the policy, after insurance attached for that crop year but on or before the cancellation and termination dates whichever is later, insurance will not be considered to have attached for that crop year and no premium, administrative fee, or indemnity will be due for such crop year.

\* \* \* \* \*

#### 11. Settlement of Claim.

\* \* \* \* \*

(b) \* \* \*

(7) \* \* \*

For example:

You have a 100 percent share in 100 acres of almonds in the unit, with a guarantee of 1,200 pounds per acre and a price election of \$1.70 per pound. You are only able to harvest 100,000 pounds. Your indemnity would be calculated as follows:

(1) 100 acres  $\times$  1,200 pounds = 120,000 pound insurance guarantee;

(2 & 3) 120,000 pounds  $\times$  \$1.70 price election = \$204,000 total value of insurance guarantee;

(4 & 5) 100,000 pounds production to count  $\times$  \$1.70 price election = \$170,000 total value of production to count;

(6) \$204,000 total of value guarantee—\$170,000 total value of production to count = \$34,000 loss; and

(7) \$34,000  $\times$  100 percent share = \$34,000 indemnity payment.

(c) \* \* \*

(2) All harvested meat pounds, including meat pounds damaged due to uninsured causes of loss.

\* \* \* \* \*

#### 6. Amend 457.133 to:

a. Revise the first sentence of the introductory text;

b. In the crop provisions add sections 3(c), 8(c) and (d); all to read as follows:

**§ 457.133 Prune crop insurance provisions.**

The Prune Crop Insurance Provisions for the 2001 and succeeding crop years are as follows:

\* \* \* \* \*

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

\* \* \* \* \*

(c) You may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election if a cause of loss that could or would reduce the yield of the insured crop has occurred prior to the time that you request the increase.

\* \* \* \* \*

8. Insurance Period.

\* \* \* \* \*

(c) Notwithstanding paragraph (a)(1) of this section, for each subsequent crop year that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring to a different insurance provider for a subsequent crop year will not be considered a break in continuous coverage.

(d) If your prune policy is canceled or terminated for any crop year, in accordance with the terms of the policy, after insurance attached for that crop year but on or before the cancellation and termination dates whichever is later, insurance will not be considered to have attached for that crop year and no premium, administrative fee, or indemnity will be due for such crop year.

\* \* \* \* \*

7. Amend 457.149 to:

a. Revise the first sentence of the introductory text;

b. In the crop provisions add sections 3(c), 9(c) and (d); all to read as follows:

**§ 457.149 Table grape crop insurance provisions.**

The Table Grape Crop Insurance Provisions for the 2001 and succeeding crop years are as follows:

\* \* \* \* \*

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

\* \* \* \* \*

(c) You may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election if a cause of loss that could or would reduce the yield of the insured crop has occurred prior to the time that you request the increase.

\* \* \* \* \*

9. Insurance Period.

\* \* \* \* \*

(c) Notwithstanding paragraph (a)(1) of this section, for each subsequent crop year that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring to a different insurance provider for a subsequent crop

year will not be considered a break in continuous coverage.

(d) If your table grape policy is canceled or terminated for any crop year, in accordance with the terms of the policy, after insurance attached for that crop year but on or before the cancellation and termination dates whichever is later, insurance will not be considered to have attached for that crop year and no premium, administrative fee, or indemnity will be due for such crop year.

\* \* \* \* \*

8. Amend 457.153 to:

a. Revise the first sentence of the introductory text;

b. In the crop provisions add a definition for "marketable" in section 1;

c. In the crop provisions add sections 2(c), and 7(c) and (d); all to read as follows:

**§ 457.153 Peach crop insurance provisions.**

The Peach Crop Insurance Provisions for the 2001 and succeeding crop years are as follows:

\* \* \* \* \*

1. Definitions.

\* \* \* \* \*

*Marketable.* Peach production acceptable for processing or other human consumption even if failing to meet any U.S. or applicable state grading standard.

\* \* \* \* \*

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

\* \* \* \* \*

(c) You may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election if a cause of loss that could or would reduce the yield of the insured crop has occurred prior to the time that you request the increase.

\* \* \* \* \*

7. Insurance Period.

\* \* \* \* \*

(c) Notwithstanding paragraph (a)(1) of this section, for each subsequent crop year that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring to a different insurance provider for a subsequent crop year will not be considered a break in continuous coverage.

(d) If your peach policy is canceled or terminated for any crop year, in accordance with the terms of the policy, after insurance attached for that crop year but on or before the cancellation and termination dates whichever is later, insurance will not be considered to have attached for that crop year and no premium, administrative fee, or indemnity will be due for such crop year.

\* \* \* \* \*

9. Amend 457.157 to:

a. Revise the first sentence of the introductory text; and

b. In the crop provisions add sections 3(c) and 8(c) and (d); all to read as follows:

**§ 457.157 Plum crop insurance provisions.**

The Plum Crop Insurance Provisions for the 2001 and succeeding crop years are as follows:

\* \* \* \* \*

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

\* \* \* \* \*

(c) You may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election if a cause of loss that could or would reduce the yield of the insured crop has occurred prior to the time that you request the increase.

\* \* \* \* \*

8. Insurance Period.

\* \* \* \* \*

(c) Notwithstanding paragraph (a)(1) of this section, for each subsequent crop year that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring to a different insurance provider for a subsequent crop year will not be considered a break in continuous coverage.

(d) If your plum policy is canceled or terminated for any crop year, in accordance with the terms of the policy, after insurance attached for that crop year but on or before the cancellation and termination dates whichever is later, insurance will not be considered to have attached for that crop year and no premium, administrative fee, or indemnity will be due for such crop year.

\* \* \* \* \*

10. Amend 457.158 to:

a. Revise the first sentence of the introductory text;

b. In the crop provisions add a definition for "varietal group" in section 1;

c. In the crop provisions revise section 2;

d. In the crop provisions section 3 revise paragraphs (a), (b) introductory text and (b)(4), and add paragraph (c);

e. In the crop provisions add sections 8(c) and (d);

f. In the crop provisions revise section 11(c)(1)(iii); and

g. In the crop provisions add a new section 14; all to read as follows:

**§ 457.158 Apple crop insurance provisions.**

The Apple Crop Insurance Provisions for the 2001 and succeeding crop years are as follows:

\* \* \* \* \*

1. Definitions.

\* \* \* \* \*

*Varietal group.* Apple varieties with similar characteristics that are grouped for

insurance purposes as specified in the Special Provisions.

## 2. Unit Division.

In addition to the requirements of section 34(b) of the Basic Provisions, optional units may be established if each optional unit is located on non-contiguous land. Optional units may also be established by varietal group in accordance with section 14 of these provisions.

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

\* \* \* \* \*

(a) You may select only one price election for all the apples in the county insured under this policy unless the Special Provisions provide different price elections by type or varietal group, in which case you may select one price election for each apple type or varietal group designated in the Special Provisions. 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 or varietal group, you must also choose 100 percent of the maximum price election for all other types or varietal group.

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

\* \* \* \* \*

(4) The separate acreage for each varietal group of apples intended for fresh-market or processing, for each varietal group as shown on the actuarial documents; and

\* \* \* \* \*

(c) You may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election if a cause of loss that could or would reduce the yield of the insured crop has occurred prior to the time that you request the increase.

\* \* \* \* \*

## 8. Insurance Period.

\* \* \* \* \*

(c) Notwithstanding paragraph (a)(1) of this section, for each subsequent crop year that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring to a different insurance provider for a subsequent crop year will not be considered a break in continuous coverage.

(d) If your apple policy is canceled or terminated for any crop year, in accordance with the terms of the policy, after insurance attached for that crop year but on or before the cancellation and termination dates whichever is later, insurance will not be considered to have attached for that crop year and no premium, administrative fee, or indemnity will be due for such crop year.

\* \* \* \* \*

## 11. Settlement of Claim.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(iii) Unharvested marketable production; and

\* \* \* \* \*

## 14. Option C—Prices and Units by Varietal Group.

(a) Exclusive of other options, optional units and price elections by varietal group apply only if the following conditions are met:

(1) You have not elected to insure your apples under the Catastrophic Risk Protection (CAT) Endorsement;

(2) You or we did not cancel the option in writing on or before the cancellation date. Your election of CAT coverage for any crop year after this endorsement is effective will be considered notice of cancellation of the option by you; and

(3) You have maintained separate records of production for each varietal group and you can identify the acreage upon which each varietal group is produced.

(b) If you select the Fresh Fruit Option A for all insurable acreage, Option C is not available.

## 11. Amend 457.159 to:

a. Revise the first sentence of the introductory text;

b. In the crop provisions revise definition of “grading standards” in section 1;

c. In the crop provisions add section 3(c);

d. In the crop provisions revise sections 4, 5 and 6(e);

e. In the crop provisions in section 8 revise paragraphs (a)(1) and (a)(2)(ii) and add paragraphs (a)(2)(iii), (c) and (d); all to read as follows:

## **§ 457.159 Stonefruit crop insurance provisions.**

The Stonefruit Crop Insurance Provisions for the 2001 and succeeding crop years are as follows:

\* \* \* \* \*

## 1. Definitions.

\* \* \* \* \*

Grading standards—As specified in the Special Provisions.

\* \* \* \* \*

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

\* \* \* \* \*

(c) You may not increase your elected or assigned coverage level or the ratio of your price election to the maximum price election we offer if a cause of loss that could or would reduce the yield of the insured crop is evident prior to the time that you request the increase.

## 4. Contract Changes.

In accordance with section 4 of the Basic Provisions, the contract change date is October 31 for California and August 31 preceding the cancellation date for all other states.

## 5. Cancellation and Termination Dates.

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are January 31 for California and November 20 for all other states.

## 6. Insured Crop.

\* \* \* \* \*

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

\* \* \* \* \*

## 8. Insurance Period.

(a) \* \* \*

(1) Coverage begins on February 1 in California and November 21 for all other states of each crop year, except that for the year of application, if your application is received after January 22 but prior to February 1 in California or after November 11 but prior to November 21 in all other states, 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) \* \* \*

(ii) September 30 for all nectarines and peaches; and

(iii) As otherwise provided for specific counties or types in the Special Provisions.

\* \* \* \* \*

(c) Notwithstanding paragraph (a)(1) of this section, for each subsequent crop year that the policy remains continuously in force, coverage begins on the day immediately following the end of the insurance period for the prior crop year. Policy cancellation that results solely from transferring to a different insurance provider for a subsequent crop year will not be considered a break in continuous coverage.

(d) If your stonefruit policy is canceled or terminated for any crop year, in accordance with the terms of the policy, after insurance attached for that crop year but on or before the cancellation and termination dates whichever is the later, insurance will not be considered to have attached for that crop year and no premium, administrative fee, or indemnity will be due for such crop year.

\* \* \* \* \*

Signed in Washington, DC on July 27, 2000.

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

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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

### 7 CFR Part 1479

### RIN 0560-AG14

### Agricultural Disaster and Market Assistance; Correction

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Interim rule; correction.