

# 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 Part 457

RIN 0563-AC01

#### Common Crop Insurance Regulations; Florida Citrus Fruit Crop Insurance Provisions

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

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) proposes to replace the provisions currently found at 7 CFR 457.107 with a new Florida Citrus Fruit Crop Insurance Provisions. The intended effect of this action is to provide policy changes, and clarify existing policy provisions to better meet the needs of insureds and to restrict the effect of the current Florida Citrus Fruit Crop Insurance Provisions to the 2007 and prior crop years.

**DATES:** Written comments and opinions on this proposed rule will be accepted until close of business November 27, 2006 and will be considered when the rule is to be made final.

**ADDRESSES:** Interested persons are invited to submit comments, titled "Florida Citrus Fruit Crop Insurance Provisions", by any of the following methods:

- *By Mail to:* Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO 64133-4676.

- *E-mail:* [DirectorPDD@rma.usda.gov](mailto:DirectorPDD@rma.usda.gov).
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

A copy of each response will be available for public inspection from 7 a.m. to 4:30 p.m., c.s.t. Monday through Friday except holidays at the above address.

#### FOR FURTHER INFORMATION CONTACT:

William Klein, Risk Management Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, at the Kansas City, MO, address listed above, telephone (816) 926-7730.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is not significant for the purpose of Executive Order 12866 and, therefore, it has not been reviewed by OMB.

##### Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been previously approved by OMB under control number 0563-0053 through November 30, 2007.

##### E-Government Act Compliance

FCIC is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

##### 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 UMRA.

##### Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

#### Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees, and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure small entities are given the same opportunities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities and therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

#### 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 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 12988

This proposed 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. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the

crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 or 7 CFR part 400, subpart J for the informal administrative review process of good farming practices as applicable, must be exhausted before any action against 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

FCIC proposes to amend the Common Crop Insurance Regulations (7 CFR part 457) by revising 7 CFR 457.107 (Florida Citrus Fruit Crop Insurance Provisions) to clarify existing policy provisions and to improve the program for producers by making the program dates consistent with the Nursery Crop Provisions; adding "other diseases, if specified in the Special Provisions," as a cause of loss; and making other policy modifications to better meet the needs of insureds. The proposed changes are as follows:

1. *Section 1—Definitions*—FCIC is proposing to revise the definition "amount of insurance (per acre)" to clarify that the Reference Maximum Dollar Amount of Insurance shown on the actuarial documents is specified by fruit type and age of trees. Different citrus fruit types have different values and the age of the fruit tree has an impact on its ability to produce the fruit. The different amounts of insurance reflect the different values for insurable fruit. FCIC is proposing to revise the definition of "box" to allow FCIC to make the determination if the situation ever arises where the information is not contained in the State of Florida Citrus Fruit Laws. FCIC is also proposing to revise the definition "citrus fruit type" to "citrus fruit crop," and redesignated the crops from "Type" to "Citrus." A term "Citrus Fruit Crop Type (Fruit Type)" is also added. These changes are necessary because what was previously designated as a citrus fruit type is further broken down into the individual citrus fruits for the purposes of determining the amount of insurance. Since insurance is now provided by category of citrus, it makes more sense to refer to the categories as citrus crops and the individual citrus fruits as types, under a citrus crop. FCIC is also proposing to add a new category to allow additional citrus fruit crops to be designated in the Special Provisions to

be consistent with section 3(a). FCIC is proposing to move Navel Oranges from Citrus IV to a new crop "*Citrus VIII—Navel Oranges*," because producers have requested navel oranges be designated as a separate crop since navel oranges as a citrus fruit type do not fit well within a crop that includes tangelos and tangerines. Also, FCIC is proposing to revise the definition of "potential production" to move those provisions regarding undamaged potential production previously contained in section 10(b)(2)(i) through (iii) to the definition of potential production because potential production was intended to include all production from the unit, whether damaged or undamaged. This change will place all the provisions in one place and eliminate a potential conflict between potential production and undamaged potential production, because the production used to determine the percent of damage must include all production, including lost and damaged production, to avoid skewing the percent of damage. FCIC is also revising the definition to ensure the amount of potential production is converted to boxes so that the calculation of the percentage of damage uses the same basis for the damaged and potential production. FCIC is proposing to add definitions for the terms "scion" and "top worked" because the term "top worked" is now used in section 6 and the term "scion" is used in the definition of "top worked" to define the criteria for a tree to be considered "top worked." FCIC is proposing to remove the terms "good farming practices" and "interplanted" because these terms are defined in the Common Crop Insurance Policy, Basic Provisions and no changes to these definitions are required for the purpose of insurance for Florida citrus fruit.

2. *Section 3*—FCIC is proposing to move the sales closing date from April 30 to May 1 in the Special Provisions to be consistent with the Florida Fruit Tree pilot crop insurance policy and the Nursery Crop Provisions. These crops are all grown in the same areas of Florida and are subject to the same perils so it would greatly ease the administration of these policies to have their terms and conditions be the same where practical. FCIC is also proposing to add provisions for carryover policies providing that for the 2008 and succeeding crop years, coverage changes must be requested on or before the May 1 sales closing date and that such changes will take effect on June 1 unless a loss occurs prior to May 31. FCIC has also added provisions to specify that if

the request for increased coverage is rejected the previous year's coverage will remain in effect. This change prevents producers from increasing their coverage levels when they have information that a potential cause of loss is likely to occur. Premium rating depends on the fact causes of loss are random and the producer will not have any more information regarding the probability of a cause of loss than the person calculating the rates. This thirty day window before the changes take effect will effectively eliminate the possibility of producer's forecasting disasters and adversely affecting program integrity, while still providing insureds with a specific time frame, that unless notified otherwise, their requested changes will become effective. Again, this makes Florida Citrus Fruit crop insurance policy requirements consistent with Nursery Crop Provisions and the Florida Fruit Tree Pilot crop insurance policies for ease of administration.

3. *Section 4*—FCIC is proposing to move the contract change date to January 31, preceding the cancellation date. Previously the contract change date was March 15, but with an April 30 sales closing date, it was believed that this was too short of a period of time for approved insurance providers to fully disseminate information so producers could make informed buying decisions. RMA believes the proposed 3-month period between January 31 and May 1 is adequate time for approved insurance providers to timely familiarize themselves with program changes, modify automated systems if necessary, and train sales agents and loss adjustment personnel. Additionally, this makes the Florida Citrus Fruit crop insurance policy requirements consistent with the Nursery Crop Provisions and Florida Fruit Tree Pilot crop insurance policies for ease of administration.

4. *Section 5*—FCIC is proposing to move the cancellation and termination dates from April 30 to May 31. This makes the Florida Citrus Fruit crop insurance policy requirements consistent with the Nursery Crop Provisions and Florida Fruit Tree Pilot crop insurance policies for ease of administration.

5. *Section 6*—FCIC is proposing to add provisions to specify when the first year after set out can be considered a growing season. Previously there has been confusion whether the year of set out is considered the first growing season and the provision now clarifies that such year is only considered a growing season if the set out occurred before May 1. FCIC is also proposing to

specify that if any citrus fruit is damaged prior to the start of the insurance period, the amount of insurance will be reduced commensurate with the amount of damage. This will ensure that the policy only indemnifies losses that occur during the insurance period. As stated above, FCIC also proposes to add provisions regarding the insurability of citrus fruit produced on trees that have been top worked. Such trees are not insurable until the third crop year after top working.

6. *Section 7*—FCIC is proposing to add provisions to clarify acreage for interplanted crops will be prorated according to the insurable land acres occupied by the crops interplanted, and that insured land acreage cannot exceed the physical land acreage. These provisions were added in response to questions RMA has received regarding acreage determination when trees are interplanted

7. *Section 8*—FCIC is proposing to modify provisions to specify insurance attaches on June 1, including requests to increase coverage, beginning with the 2008 crop year, unless the approved insurance provider inspects the acreage and determines it does not meet the insurability requirements contained in the policy or a damage occurred prior to the start of the insurance period. This thirty day window before coverage attaches will ensure that producers do not obtain insurance just because they have information that an insurable cause of loss is likely to occur. This makes the Florida Citrus Fruit crop insurance policy requirements consistent with the Nursery and Florida Fruit Tree Pilot crop insurance policies for ease in administration. FCIC also proposes to modify the provisions to move the calendar date for the end of the insurance period for tangelos from April 30 to January 31 for Orlando Tangelos and February 28 for all other tangelos; to March 31 for Mid Season and Temple Oranges, and to April 30 for Murcott Honey Oranges. The revised dates more accurately reflect the maturity dates for these fruit types.

8. *Section 9*—FCIC is proposing to add diseases as a cause of loss if specified in the Special Provisions. This allows RMA to respond more rapidly to diseases affecting citrus fruit when it is determined feasible and appropriate to provide insurance coverage for an existing or new disease.

9. *Section 10*—FCIC is proposing to remove provisions addressing citrus fruit considered undamaged potential production and placed it more appropriately under the definition of “potential production” in section 1. As

stated above, there was previously a potential conflict between the definition of potential production and undamaged potential production and placing all the provisions in the definition removes any potential conflict. FCIC has also replaced the designation of “Type” with “Citrus” to be consistent with previous revisions. FCIC is proposing to clarify damage to fresh fruit is determined on an individual fruit-by-fruit basis and then converted to boxes so that the number of boxes of damaged citrus fruit can be compared to the number of boxes of potential production to obtain the percent of damage. Calculating damage based on the individual citrus fruit prevents the confusion of considering damage on a “lot” basis, *i.e.* a load or other container of fresh fruit, especially when the lot is rejected, even though there may be a significant amount of undamaged fresh fruit in the lot. FCIC is also proposing to add provisions to specify fresh fruit types damaged by wind caused by a hurricane or tornado that do not meet the standard for packing as fresh fruit will be considered 100 percent damaged.

RMA considered adding Asiatic Citrus Canker (ACC) as a cause of loss, based on requests from growers and grower groups. However, due to the significant spread of ACC resulting from numerous hurricanes over the last several years, the citrus industry is transitioning away from an ACC eradication program to various measures and initiatives aimed at management of the disease. Before RMA can determine whether an insurance program can be developed to address fruit production losses due to ACC, the ACC situation needs to stabilize. This would include agreed upon rules and regulations, consistent inspection and verification processes, and agreed upon measures to be carried out when ACC is discovered. Once an effective ACC management plan is implemented, RMA is willing to consider insurance coverage for loss of fruit production due to ACC. RMA seeks input or comments regarding potential ACC coverage on fruit, key features to cover, and potential pitfalls or other aspects of ACC’s affect on fruit that must be considered.

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

Crop insurance, Florida citrus fruit.

#### Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 457, Common Crop Insurance Regulations effective for the 2008 and succeeding crop years, to read 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(l), 1506(p).

2. Section 457.107 is revised to read as follows:

#### §457.107 Florida citrus fruit crop insurance provisions.

The Florida citrus fruit crop insurance provisions for the 2008 and succeeding crop years are as follows:

##### 1. Definitions

*Amount of insurance (per acre).* The dollar amount determined by multiplying the Reference Maximum Dollar Amount shown on the actuarial documents for each fruit type and age of trees, within a citrus fruit crop, times the coverage level percent that you elect, times your share.

*Box.* A standard field box as prescribed in the State of Florida Citrus Fruit Laws or contained in standards issued by FCIC.

*Citrus fruit crop.* Any of the following:

- (1) Citrus I—Early and mid-season oranges;
- (2) Citrus II—Late oranges juice;
- (3) Citrus III—Grapefruit for which freeze damage will be adjusted on a juice basis;
- (4) Citrus IV—Tangelos and Tangerines;
- (5) Citrus V—Murcott Honey Oranges (also known as Honey Tangerines) and Temple Oranges;
- (6) Citrus VI—Lemons and Limes;
- (7) Citrus VII—Grapefruit for which freeze damage will be adjusted on a fresh fruit basis, and late oranges fresh;
- (8) Citrus VIII—Navel Oranges; and
- (9) Any other citrus fruit crop designated in the Special Provisions.

*Citrus fruit crop type (fruit type).* Any of the separate citrus fruit listed in the actuarial documents and contained within one of the citrus fruit crops shown as Roman Numerals I through VIII.

*Freeze.* The formation of ice in the cells of the fruit caused by low air temperatures.

*Harvest.* The severance of mature citrus fruit from the tree by pulling, picking, shaking, or any other means, or collecting the marketable citrus fruit from the ground.

*Hurricane.* A windstorm classified by the U.S. Weather Service as a hurricane.

*Potential production.* The amount, converted to boxes, of citrus fruit that would have been produced had damage not occurred, including citrus fruit that:

- (1) Was harvested before damage occurred;

(2) Remained on the tree after damage occurred;

(3) Was lost or damaged from either an insured or uninsured cause;

(4) Was marketed or could be marketed as fresh citrus fruit;

(5) Was harvested prior to inspection by us; or

(6) Was harvested within 7 days after a freeze;

But not including citrus fruit that:

(1) Was lost before insurance attached for any crop year;

(2) Was lost by normal dropping; or

(3) Any tangerines that normally would not meet the 210 pack size (2 and  $\frac{1}{16}$  inch minimum diameter) under United States Standards by the end of the insurance period for tangerines.

*Scion.* A detached living portion of a plant joined to a stock in grafting.

*Top worked.* A buckhorned citrus tree with a new scion grafted onto the interstock.

## 2. Unit Division

(a) A basic unit, as defined in section 1 of the Basic Provisions, will be divided into additional basic units by each citrus fruit crop designated in the Special Provisions.

(b) Provisions in the Basic Provisions that allow optional units by irrigated and non-irrigated practices are not applicable.

(c) In addition to establishing optional units by section, section equivalent, or FSA farm serial number, optional units may be established if each optional unit is located on non-contiguous land.

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

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

(a) You may select only one coverage level for each citrus fruit crop shown in section 1 of these Crop Provisions, or designated in the Special Provisions, that you elect to insure. If different amounts of insurance are available for fruit types within a citrus fruit crop, you must select the same coverage level for each fruit type. For example, if you choose the 75 percent coverage level for one fruit type, you must also choose the 75 percent coverage level for all other fruit types within that citrus fruit crop.

(b) In lieu of the production reporting date contained in section 3 of the Basic Provisions, potential production for each unit will be determined during loss adjustment.

(c) For the first year of insurance for acreage interplanted with another citrus fruit crop, and anytime the planting pattern of such acreage is changed, you must report, by the sales closing date, the following:

(1) The age and fruit type of the interplanted citrus trees, as applicable;

(2) The planting pattern; and

(3) Any other information we request in order to establish your amount of insurance.

(d) We will reduce acreage or the amount of insurance or both, as necessary, based on our estimate of the effect of the interplanted citrus fruit trees on the insured citrus fruit crop. If you fail to notify us of any circumstance that may reduce the acreage or amount of insurance, we will reduce the acreage or amount of insurance or both as necessary any time we become aware of the circumstance.

(e) For carryover policies:

(1) For the 2008 and succeeding crop years, any changes to your coverage must be requested on or before the sales closing date;

(2) Requested changes will take effect on June 1, the first day of the crop year unless we reject the requested increase because a loss occurs on or before May 31 (Rejection can occur at any time we discover a loss has occurred on or before May 31); and

(3) If the increase is rejected, coverage will remain at the same level as the previous crop year.

(f) If your citrus fruit was damaged prior to the beginning of the insurance period, your amount of insurance (per acre) will be reduced by the amount of damage that occurred.

## 4. Contract Changes

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

## 5. Cancellation and Termination Dates

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

## 6. Insured Crop

(a) In accordance with section 8 of the Basic Provisions, the crop insured will be all acreage of each citrus fruit crop that you elect to insure, in which you have a share, that is grown in the county shown on the application, and for which a premium rate is quoted in the actuarial documents.

(b) In addition to the citrus fruit not insurable in section 8 of the Basic Provisions, we do not insure any citrus fruit:

(1) That cannot be expected to mature each crop year within the normal maturity period for the fruit type;

(2) Produced by citrus trees that have not reached the fifth growing season after being set out, unless otherwise provided in the Special Provisions or by

a written agreement to insure such citrus fruit (In order for the year of set out to be considered as a growing season, citrus trees must be set out on or before May 1 of the calendar year);

(3) Of "Meyer Lemons" and oranges commonly known as "Sour Oranges" or "Clementines";

(4) Of the Robinson tangerine variety, for any crop year in which you have elected to exclude such tangerines from insurance (You must elect this exclusion prior to the crop year for which the exclusion is to be effective, except that for the first crop year you must elect this exclusion by the later of the sales closing date or the time you submit the application for insurance); or

(5) That is produced on citrus trees that have been topworked until the third crop year after topworking. The Special Provisions will specify the appropriate rate class for trees insurable following topworking, but that have not reached full production.

(c) Prior to the date insurance attaches, and upon our approval, you may elect to insure or exclude from insurance any insurable citrus acreage that has a potential production of less than 100 boxes per acre. If you elect to:

(1) Insure such acreage, we will consider the potential production to be 100 boxes per acre when determining the amount of loss; or

(2) Exclude such acreage, we will disregard the acreage for all purposes related to this policy.

(d) In addition to the provisions in Section 6 of the Basic Provisions, if you fail to notify us of your election to insure or exclude citrus acreage, and the potential production from such acreage is 100 or more boxes per acre, we will determine the percent of damage on all of the insurable acreage for the unit, but will not allow the percent of damage for the unit to be increased by including such acreage.

## 7. Insurable Acreage

In lieu of the provisions in section 9 of the Basic Provisions, that prohibit insurance attaching to a crop planted with another crop:

(a) Citrus fruit from trees interplanted with another crop is insurable unless we inspect the acreage and determine it does not meet the requirements contained in your policy.

(b) If the citrus fruit is from trees interplanted with another crop, acreage will be prorated according to the percentage of the acres occupied by each of the interplanted crops (For example, if grapefruit have been interplanted with oranges on 100 acres and the grapefruit trees are on 50 percent of the acreage, grapefruit will be

considered planted on 50 acres and oranges will be considered planted on 50 acres).

(c) The combination of the citrus fruit acreage and the interplanted crop acreage cannot exceed the physical amount of acreage.

### 8. Insurance Period

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

(1) Coverage begins on June 1 of each crop year, beginning with the 2008 crop year, unless:

(i) We inspect the acreage and determine it does not meet the requirements for insurability contained in your policy (You must provide any information we require for the crop, so we may determine the condition of the grove to be insured); or

(ii) You report additional citrus acreage, or a greater share, such that the amount of insurance will increase by more than 10 percent and we notify you all or a part of your citrus acreage is not insurable.

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

(i) January 31 for early and navel oranges, Orlando tangelos and tangerines;

(ii) February 28 for all other tangelos;

(iii) March 31 for mid-season and temple oranges;

(iv) April 30 for lemons, limes, and murcott honey oranges; and

(v) June 30 for grapefruit and late season oranges.

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

(1) If you acquire an insurable share in any insurable acreage of citrus fruit after coverage begins, but on or before acreage reporting date of any crop year, and if after inspection we consider the acreage acceptable, then 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 citrus fruit on or before the acreage reporting date of any crop year, insurance will not be considered to have attached, no premium will be due, and no indemnity payable, for such acreage for that crop year unless:

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

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

(iii) The transferee is eligible for crop insurance.

### 9. Causes of Loss

(a) In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided only against the following causes of loss to citrus fruit that occur within the insurance period:

(1) Fire, unless weeds and other forms of undergrowth have not been controlled or pruning debris has not been removed from the grove;

(2) Freeze;

(3) Hail;

(4) Hurricane;

(5) Tornado; or

(6) Diseases, only if specified in the Special Provisions.

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

(1) Damage to the blossoms or trees; or

(2) Inability to market the citrus fruit 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. 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) If any citrus fruit within a unit is damaged by an insurable cause of loss, we will settle your claim by:

(1) Calculating the amount of insurance for the unit by multiplying the number of acres by the respective dollar amount of insurance per acre for the fruit type and multiplying that result by your share;

(2) Calculating the average percent of damage to the citrus fruit within each respective fruit type, rounded to the nearest tenth of a percent (0.1%) (The percent of damage will be the amount of damaged citrus fruit, converted to boxes, damaged from an insured cause, divided by the undamaged potential production);

(3) Subtracting the deductible from the result of section (10)(b)(2); and

(4) If the result of section (10)(b)(3) is positive, dividing this result by the coverage level percentage;

(5) Multiplying the result of section (10)(b)(4) by the amount of insurance for

the unit for the respective fruit type, to determine the value of all damage.

(6) Totaling all such results of section (10)(b)(5) for all fruit types and subtracting any indemnities paid for the current crop year to determine the amount payable for the unit.

(For example, assume a unit sustains late season damage on the 55 acres. No previous damage has occurred on the 55 acres during the crop year and no fruit has been harvested. The producer elects the 75 percent coverage level and has a 100 percent share. The amount of insurance is \$1,180 per acre, based on the 75 percent coverage level for the citrus type and age of trees. The amount of potential production is 24,530 boxes and the amount of damaged production is 17,171 boxes. The loss would be calculated as follows:

1.  $55 \text{ acres} \times \$1,180 = \$64,900$  amount of insurance for the unit;

2.  $17,171 \div 24,530 = 70$  percent average percent of damage;

3.  $70$  percent damage  $- 25$  percent deductible  $(100 \text{ percent} - 75 \text{ percent}) = 45$  percent;

4.  $45 \text{ percent} \div 75 \text{ percent} = 60$  percent adjusted damage; and

5.  $60 \text{ percent} \times \$64,900 = \$38,940$  indemnity.

(c) Citrus fruit crops IV, V, VII, and VIII, that are seriously damaged by freeze, as determined by a fresh-fruit cut of a representative sample of fruit in the unit in accordance with the applicable provisions of the State of Florida Citrus Fruit Laws, or contained in standards issued by FCIC, and that are not or could not be marketed as fresh fruit, will be considered damaged to the following extent:

(1) If less than 16 percent of the fruit in a sample shows serious freeze damage, the fruit will be considered undamaged; or

(2) If 16 percent or more of the fruit in a sample shows serious freeze damage, the fruit will be considered 50 percent damaged, except that:

(i) For tangerines of Citrus IV, damage in excess of 50 percent will be the actual percent of damaged fruit; and

(ii) Citrus IV (except tangerines), V, VII, and VIII, if it is determined that the juice loss in the fruit exceeds 50 percent, such percent will be considered the percent of damage.

(d) Notwithstanding the provisions of section 10(c) of these crop provisions as to citrus fruit of Citrus IV, V, VII, and VIII, in any unit that is mechanically separated using the specific-gravity (floatation) method into undamaged and freeze-damaged fruit, the amount of damage will be the actual percent of freeze-damaged fruit not to exceed 50 percent and will not be affected by

subsequent fresh-fruit marketing. However, the 50 percent limitation on mechanically separated, freeze-damaged fruit will not apply to tangerines of Citrus IV.

(e) Any citrus fruit of Citrus I, II, III, and VI damaged by freeze, but that can be processed into products for human consumption, will be considered as marketable for juice. The percent of damage will be determined by relating the juice content of the damaged fruit to:

(1) The average juice content of the fruit produced on the unit for the three previous crop years based on your records, if they are acceptable to us; or

(2) The following juice content, if acceptable records are not furnished:

(i) Citrus I—52 pounds of juice per box;

(ii) Citrus II—54 pounds of juice per box;

(iii) Citrus III—45 pounds of juice per box; and

(iv) Citrus VI—43 pounds of juice per box;

(f) Any individual citrus fruit on the ground that is not collected and marketed will be considered as 100 percent damaged if the damage was due to an insured cause.

(g) Any individual citrus fruit that is unmarketable either as fresh fruit or as juice because it is immature, unwholesome, decomposed, adulterated, or otherwise unfit for human consumption due to an insured cause will be considered as 100 percent damaged.

(h) Individual citrus fruit of Citrus IV, V, VII, and VIII, that are unmarketable as fresh fruit due to serious damage from hail as defined in the applicable United States Standards for Grades of Florida fruit, or wind damage from a hurricane or tornado that results in the fruit not meeting the standards for packing as fresh fruit, will be considered 100 percent damaged.

## 11. Late and Prevented Planting

The late and prevented planting provisions of the Basic Provisions are not applicable.

Signed in Washington, DC, on September 29, 2006.

**Eldon Gould,**

Manager, Federal Crop Insurance Corporation.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2006-26051; Directorate Identifier 2006-NM-154-AD]

RIN 2120-AA64

#### Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Airplanes

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

**DATES:** We must receive comments on this proposed AD by November 13, 2006.

**ADDRESSES:** You may send comments by any of the following methods:

- *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- *Fax:* (202) 493-2251.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://dms.dot.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647-5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Tim Dulin, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2141; fax (425) 227-1149.

#### SUPPLEMENTARY INFORMATION:

##### Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

##### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2006-26051; Directorate Identifier 2006-NM-154-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

##### Discussion

The European Aviation Safety Agency (EASA), which is the airworthiness authority for the European Union, has issued Airworthiness Directive 2006-0153, dated May 30, 2006 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states that an operator reported black smoke at the rear of the fuselage during taxi after landing. The smoke was caused by a fire in the auxiliary power unit (APU) air intake. Analysis has demonstrated that following numerous unsuccessful APU start attempts in flight, there is a risk of reverse flow, leading to flame propagation to the APU air inlet and air intake duct. If this zone is