

a buyer for malting purposes. For such production, the production to count may be reduced or the price used to settle the claim may be adjusted in accordance with sections 4 (b), (c), and (d) of this Option.

(b) The quantity of production that initially fails any quality standard contained in section 4(a)(2), but is sold as malting barley (except production included in section 4(c)), may be reduced as described in this subsection, provided the failure of such production to meet these standards is due to insurable causes. The production to count of production sold under section 4(a)(3) will be determined by:

(1) Adding the maximum barley price election under the Small Grains Crop Provisions and the maximum additional value price;

(2) Dividing the price per bushel received for the damaged production by the result of paragraph (1); and

(3i) Multiplying the result of paragraph (2) (not to exceed 1,000) by the number of bushels of damaged production.

(c) The production to count for production that initially fails any quality standard contained in section 4(a)(2), sold as malting barley, but is conditioned before the sale will not be reduced under section 4(b). Such production will be considered separately from all other production to count. (See section 5(d).)

(d) The additional value price election per bushel used to determine the value of the production to count for production that initially fails any quality standard contained in section 4(a)(2), but is sold as malting barley, may be reduced by the cost incurred for any conditioning required to improve the quality of production so that it is marketable as malting barley, provided the failure of such production to meet these standards is due to insurable causes.

(e) No reduction in the production to count or the additional value price election will be allowed for moisture content, damage due to uninsured causes; costs or reduced value associated with drying, handling, processing, or quality factors other than those contained in section 4(a)(2) of this Option; or any other costs associated with normal handling and marketing of malting barley.

(f) All grade and quality determinations must be based on the results of objective tests. No indemnity will be paid for any loss established by subjective tests. We may obtain one or more samples of the insured crop and have tests performed at an official grain inspection location established under the U.S. Grain Standards Act or laboratory of our choice to verify the results of any test. In the event of a conflict in the test results, our results will determine the amount of production to count.

5. In the event of loss or damage covered by this policy, we will settle your claim by:

(a) Multiplying the insured acreage times your malting barley production guarantee per acre;

(b) Multiplying the result in subsection (a) of this section times your additional value price election per bushel;

(c) Multiplying the number of bushels of production to count determined in accordance with sections 4 (a) and (b) of this Option times your elected additional value price per bushel;

(d) Multiplying the production to count determined under section 4(c) of this Option times the additional value price per bushel determined in section 4(d) of the Option;

(e) Adding the results of subsections (c) and (d) of this section;

(f) Subtracting the result of subsection (e) of this section from the result in subsection (b); and

(g) Multiplying the result of subsection (f) of this section times your share.

6. For example, assume you insure two units of barley under the Small Grains Crop Provisions in which you have a 100% share and that are planted to approved malting varieties. Assume the following:

(a) Each unit contains 40 acres;

(b) You have a contract for the sale of 2500 bushels of malting barley;

(c) You have selected the 70 percent coverage level;

(d) Your production guarantee under the Small Grains Crop Provisions and the APH regulations for feed barley is 35 bushels per acre;

(e) Your total production from all units under the Small Grains Crop Provisions is 1,000 bushels, all of which fails to meet the quality standards specified by this Option. Two hundred bushels are sold for malting purposes after conditioning. Conditioning cost \$0.05 per bushel; and

(f) Your additional value price election is \$0.60 per bushel.

Your malting barley production guarantee is 1750.0 bushels (the lesser of 35 or 21.875 (2500 contracted bushels +80 acres×70 percent coverage)×80 acres). The value of your production guarantee is \$1050.00 (1750 bushels×\$0.60 per bushel). Your production to count is 200 bushels. The value of your production to count is \$110.00 (200 bushels×\$0.55 (\$0.60—\$0.05)). Your indemnity for the malting barley unit is \$940.00 (((\$1050.00—\$110.00)×100 percent share). Any remaining loss is paid under the Small Grains Crop Provisions for feed barley.

[61 FR 8855, Mar. 6, 1996; 61 FR 27245, May 31, 1996]

#### §457.119 Texas citrus fruit crop insurance provisions.

The Texas citrus fruit crop insurance provisions for the 2000 and succeeding crop years are as follows:

## § 457.119

## 7 CFR Ch. IV (1-1-10 Edition)

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

### *Texas Citrus Fruit Crop Provisions*

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

#### 1. Definitions

*Crop.* Specific groups of citrus fruit as listed in the Special Provisions.

*Crop year.* The period beginning with the date insurance attaches to the citrus crop and extending through the normal harvest time. It is designated by the calendar year following the year in which the bloom is normally set.

*Direct marketing.* Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper, or buyer. Examples of direct marketing include selling through an on-farm or roadside stand, farmer's market, and permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

*Excess rain.* An amount of precipitation that damages the crop.

*Excess wind.* A natural movement of air that has sustained speeds exceeding 58 miles per hour recorded at the U. S. Weather Service reporting station operating nearest to the grove at the time of damage.

*Freeze.* The formation of ice in the cells of the tree, its blossoms, or its fruit caused by low air temperatures.

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

*Hedged.* A process of trimming the sides of the citrus trees for better or more fruitful growth of the citrus fruit.

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

*Local market price.* The applicable citrus price per ton offered by buyers in the area in which you normally market the insured crop.

*Production guarantee (per acre):*

(a) *First stage production guarantee.* The second stage production guarantee multiplied by forty percent (40%).

(b) *Second stage production guarantee.* The quantity of citrus (in tons) determined by multiplying the yield determined in accordance with section 3 by the coverage level percentage you elect.

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

*Topped.* A process of trimming the uppermost portion of the citrus trees for better and more fruitful growth of the citrus fruit.

*Varieties.* Subclasses of crops as listed in the Special Provisions.

#### 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 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) Instead of establishing optional units by section, section equivalent, or FSA farm serial number, 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 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§457.8):

(a) You may select only one price election and coverage level for each citrus fruit crop designated in the Special Provisions that you elect to insure. The price election you choose for each crop need not bear the same percentage relationship to the maximum price offered by us for each crop. For example, if you choose one hundred percent (100%) of the maximum price election for early oranges, you may choose seventy-five percent (75%) of the maximum price election for late oranges. However, if separate price elections are available by variety within each crop, the price elections you choose within the crop must have the same percentage relationship to the maximum price offered by us for each variety within the crop.

(b) The production guarantee per acre is progressive by stage and increases at specific intervals to the final stage production guarantee. The stages and production guarantees per acre are:

(1) The first stage extends from the date insurance attaches through April 30 of the calendar year of normal bloom. The production guarantee will be forty percent (40%) of the yield calculated in section 3(e) multiplied by your coverage level.

(2) The second or final stage extends from May 1 of the calendar year of normal bloom until the end of the insurance period. The production guarantee will be the yield calculated in section 3(e) multiplied by your coverage level.

(c) Any acreage of citrus damaged in the first stage to the extent that the majority of producers in the area would not further maintain it will be limited to the first stage production guarantee even though you may continue to maintain it.

(d) In addition to the reported production, each crop year you must report by type:

(1) The number of trees damaged, topped, hedged, pruned or removed; any change in practices or any other circumstance that may reduce the expected yield below the yield upon which the insurance guarantee is based; and the number of affected acres;

(2) The number of bearing trees on insurable and uninsurable acreage;

(3) The age of the trees and the planting pattern; and

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

(i) The age of the interplanted crop, and type if applicable;

(ii) The planting pattern; and

(iii) Any other information that we request in order to establish your approved yield.

We will reduce the yield used to establish your production guarantee as necessary, based on our estimate of the effect of the following: interplanted perennial crop; removal, topping, hedging, or pruning 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.

(e) The yield used to compute your production guarantee will be determined in accordance with Actual Production History (APH) regulations, 7 CFR part 400, subpart G, and applicable policy provisions unless damage or changes to the grove or trees, require establishment of the yield by another method. In the event of such damage or changes, the yield will be based on our appraisal of the potential of the insured acreage for the crop year.

(f) Instead of reporting your citrus production for the previous crop year, as required by section 3 of the Basic Provisions (§457.8), there is a one year lag period. Each crop year you must report your production from two crop years ago, *e.g.*, on the 1998 crop year production report, you will provide your 1996 crop year production.

#### 4. Contract Changes

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

#### 5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§457.8), the cancellation and termination dates are November 20.

#### 6. Annual Premium

In lieu of the premium computation method in section 7 (Annual Premium) of the Basic Provisions (§457.8), the annual premium amount is computed by multiplying the second stage production guarantee per acre by the price election, the premium rate, the insured acreage, your share at the time coverage begins, and by any applicable premium adjustment percentages contained in the Special Provisions.

#### 7. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§457.8), the crop insured will be all the acreage in the county of each citrus crop designated in the Special Provisions that you elect to insure and for which a premium rate is provided by the actuarial documents:

(a) In which you have a share;

(b) That are adapted to the area;

(c) That are irrigated;

(d) That has produced an average yield of at least three tons per acre the previous year, or we have appraised the yield potential of at least three tons per acre;

(e) That is grown in a grove that, if inspected, is considered acceptable by us; and

(f) That is not sold by direct marketing, unless allowed by the Special Provisions or by written agreement.

#### 8. Insurable Acreage

In lieu of the provisions in section 9 (Insurable Acreage) of the Basic Provisions (§457.8), that prohibit insurance attaching to a crop planted with another crop, citrus interplanted with another perennial crop is insurable unless we inspect the acreage and determine it does not meet the requirements contained in your policy.

#### 9. Insurance Period

(a) In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§457.8):

(1) Coverage begins on November 21 of each crop year, except that for the year of application, if your application is received after November 11 but prior to November 21, 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 grove.

(2) The calendar date for the end of the insurance period for each crop year is the second May 31st of the crop year.

(b) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§457.8):

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(1) If you acquire an insurable share in any insurable acreage after coverage begins, but on or before the acreage reporting date for the crop year, and after an inspection we consider the acreage acceptable, insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period.

(2) If you relinquish your insurable share on any insurable acreage of citrus on or before the acreage reporting date for the crop year, insurance will not be considered to have attached to, and no premium will be due, and no indemnity paid 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.

### 10. Causes of Loss

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§457.8), insurance is provided only against the following causes of loss that occur within the insurance period:

(1) Excess rain;

(2) Excess wind;

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

(4) Freeze;

(5) Hail;

(6) Tornado;

(7) Wildlife; or

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

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

(1) Disease or insect infestation, unless a cause of loss specified in section 10(a):

(i) Prevents the proper application of control measures or causes properly applied control measures to be ineffective; or

(ii) Causes disease or insect infestation for which no effective control mechanism is available;

(2) Inability to market the citrus 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.

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

In addition to the requirements of section 14 (Duties in the Event of Damage or Loss) of

the Basic Provisions (§457.8), the following will apply:

(a) If the Special Provisions permit or a written agreement authorizing direct marketing exists, you must notify us at least 15 days before any production from any unit will be sold by direct marketing. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

(b) If you intend to claim an indemnity on any unit, you must notify us before beginning to harvest any damaged production so we may have an opportunity to inspect it. You must not sell or dispose of the damaged crop until after we have given you written consent to do so. If you fail to meet the requirements of this section all such production will be considered undamaged and included as production to count.

### 12. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim on a unit basis by:

(1) Multiplying the insured acreage for each crop, or variety if applicable, by its respective production guarantee (see sections 1 and 3);

(2) Multiplying the results of section 12(b)(1) by the respective price election for each crop or variety, if applicable;

(3) Totaling the results of section 12(b)(2);

(4) Multiplying the total production to count of each variety, if applicable (see section 12(c)) by the respective price election;

(5) Totaling the results of section 12(b)(4);

(6) Subtracting this result of section 12(b)(5) from the result of section 12(b)(3); and

(7) Multiplying the result of section 12(b)(6) by your share.

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

(1) All appraised production as follows:

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

- (A) That is abandoned;
- (B) For which you fail to provide acceptable production records;
- (C) That is damaged solely by uninsured causes; or
- (D) From which production is sold by direct marketing, if direct marketing is specifically permitted by the Special Provisions or a written agreement, and you fail to meet the requirements contained in section 11;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production; and

(iv) Potential production on insured acreage you intend to abandon or no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end. If you do not agree with our appraisal, we may defer the claim only if you agree to continue to care for the crop. We will then make another appraisal when you notify us of further damage or that harvest is general in the area unless you harvested the crop, in which case we will use the harvested production. If you do not continue to care for the crop, our appraisal made prior to deferring the claim will be used to determine the production to count; and

(2) All harvested production from the insurable acreage.

(d) Any citrus fruit that is not marketed as fresh fruit and, due to insurable causes, does not contain 120 or more gallons of juice per ton, will be adjusted by:

(1) Dividing the gallons of juice per ton obtained from the damaged citrus by 120; and

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

If individual records of juice content are not available, an average juice content from the nearest juice plant will be used, if available. If not available, a field appraisal will be made to determine the average juice content.

(e) Where the actuarial documents provide, and you elect, the fresh fruit option, citrus fruit that is not marketable as fresh fruit due to insurable causes will be adjusted by:

(1) Dividing the value per ton of the damaged citrus by the price of undamaged citrus fruit; and

(2) Multiplying the result by the number of tons of such citrus fruit. The applicable price for undamaged citrus fruit will be the local market price the week before damage occurred.

(f) Any production will be considered marketed or marketable as fresh fruit unless, due solely to insured causes, such production was not marketed as fresh fruit.

(g) In the absence of acceptable records of disposition of harvested citrus fruit, the disposition and amount of production to count

for the unit will be the guarantee on the unit.

(h) Any citrus fruit on the ground that is not harvested will be considered totally lost if damaged by an insured cause.

**13. Late and Prevented Planting**

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

[61 FR 41300, Aug. 8, 1996; 61 FR 57583, Nov. 7, 1996, as amended at 62 FR 65169, Dec. 10, 1997]

**§ 457.120 [Reserved]**

**§ 457.121 Arizona-California citrus crop insurance provisions.**

The Arizona-California citrus crop insurance provisions for the 2000 and succeeding crop years are as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

*Arizona-California Citrus Crop Provisions*

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

**1. Definitions**

*Carton.* The standard container for marketing the fresh packed citrus fruit crop as shown below. In the absence of marketing records on a carton basis, production will be converted to cartons on the basis of the following average net pounds of packed fruit in a standard packed carton.

Container size	Fruit crop	Pounds
Container #58 .....	Navel oranges, Valencia oranges & Sweet oranges.	38
Container #58 .....	Lemons .....	40
Container #59 .....	Grapefruit .....	32
Container #63 .....	Tangerines (including Tangelos) & Mandarin oranges.	25

*Crop.* Citrus fruit as listed in the Special Provisions.

*Crop year.* The period beginning with the date insurance attaches to the citrus crop and extending through normal harvest time. It is designated by the calendar year following the year in which the bloom is normally set.

*Dehorning.* Cutting of any scaffold limb to a length that is not greater than one-fourth (¼) the height of the tree before cutting.

*Direct marketing.* Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper or buyer.