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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563-AA79

Common Crop Insurance Regulations; Sugarcane Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation ("FCIC") hereby adopts regulations for specific crop provisions to insure sugarcane. These provisions will supplement the Common Crop Insurance Policy (§ 457.8), which contains standard terms and conditions common to most crops. The intended effect of this rule is to move specific crop provisions for insuring sugarcane from the Sugarcane Crop Insurance Regulations (7 CFR 401.133) to the Common Crop Insurance Policy (§ 457.8) for ease of use by the public and conformance among policy terms.

EFFECTIVE DATE: May 12, 1995.

FOR FURTHER INFORMATION CONTACT: Diana Moslak, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250. Telephone (202) 254-8314.

SUPPLEMENTARY INFORMATION: This action has been reviewed under United States Department of Agriculture ("USDA") procedures established by Executive Order 12866 and Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is February 1, 2000.

This rule has been determined to be "not significant" for the purposes of Executive Order 12866, and therefore,

has not been reviewed by the Office of Management and Budget ("OMB").

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*), the information collection or record keeping requirements contained in these regulations (7 CFR part 457) have been previously approved by OMB and assigned OMB No. 0563-0016.

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The policies and procedures contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

This regulation will not have a significant impact on a substantial number of small entities. This action does not require any additional reporting burden on the insured farmer and the reinsured company. 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.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

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.

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsections (2)(a) and 2(b)(2) of Executive Order 12778. 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 located at 7 CFR part 400, subpart J or promulgated by the National Appeals Division must be exhausted before judicial action may be brought.

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

By separate rule, FCIC will amend 7 CFR 401.133 to restrict the crop years of application to those prior to the crop year for which this rule will be effective and later remove that section.

On Tuesday, February 21, 1995, FCIC published a proposed rule in the **Federal Register** at 60 FR 9629 proposing to revise the Common Crop Insurance Regulations by adding new provisions for sugarcane crop insurance.

Following publication of the proposed rule, the public was afforded 30 days to submit written comments, data, and opinions. The comments received and FCIC responses are as follows:

Comment: One comment received from an insurance association recommended deleting subsection 3.(b) so that sugarcane production reporting would include the most recent crop year, the same as other crops. The "lag year" procedure now followed for sugarcane occurs because production records are not available by the production reporting date. The comment noted that procedure permits updating the Actual Production History (APH) records with a "temporary yield" when an insured is unable to complete harvesting the crop or production records are unavailable from the processor. Using the "temporary yield" for the most recent crop year for sugarcane would eliminate the need for the "lag year" and special procedure for sugarcane in the 1995 Crop Insurance Handbook.

Response: Subsection 3.(b) allows producers to delay reporting production for one year because the actual production amount for sugarcane normally is not known until after the production reporting date for all other crops. The "Temporary Yield" procedure is intended to be a measure used in extreme circumstances, not as a routine event. Using "temporary yields" for reporting sugarcane production would result in additional paperwork to revise the APH once actual records are available. Therefore, FCIC finds that the recommendation would increase rather than reduce paperwork, and is not adopting the comment.

Comment: One comment received from an insurance association questioned the language and intent of subparagraph 8.(a)(3)(ii). Was it the intent of the new language to change the date on which insurance attaches on second year stubble cane in Louisiana?

The current provision states that coverage begins on the later of April 15 or 30 days after harvest after the second crop year of stubble cane. The proposed policy stated that coverage would begin on the later of April 15 or 30 days after harvest for the second crop year. If there is no intent to change this provision, it is recommended that the words "of stubble cane" be added to subparagraph 8.(a)(3)(ii).

Response: FCIC agrees with the comment and has amended paragraph 8.(a)(3)(ii) accordingly.

Comment: One comment received from an insurance association recommended that paragraph 11.(c)(1) be revised to count the appraisal of sugarcane cut for seed.

Response: FCIC agrees with the comment and has amended paragraph 11.(c)(1) accordingly.

In addition to the changes indicated in the responses to comments, FCIC has made the following changes:

1. The definition of "crop year" has been amended by deleting references made to the length of the insurance period. This language duplicated a portion of the provisions contained in section 8 (Insurance Period).

2. Paragraph 10.(a)(2) of the proposed crop provisions indicated that if notice to cut sugarcane for seed was not given, that an appraisal equal to the production guarantee would be made. Acreage cut for seed normally produces the highest yield of any acreage in the unit. Therefore, FCIC has changed the appraisal amount for such acreage to the APH yield.

Accordingly, the rule, "Common Crop Insurance Regulations; Sugarcane Crop Insurance Provisions" published at 60 FR 9629 as revised and as set out below is hereby adopted as a final rule.

List of Subjects in 7 CFR Part 457

Crop insurance; Sugarcane.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation hereby amends the Common Crop Insurance Regulations (7 CFR part 457), effective for the 1996 and succeeding crop years, as follows:

PART 457—[AMENDED]

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

Authority: 7 U.S.C. 1506(l).

2. 7 CFR part 457 is amended by adding § 457.116 to read as follows:

§ 457.116 Sugarcane crop insurance provisions.

The Sugarcane Crop Insurance Provisions for the 1996 and succeeding crop years are as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Sugarcane Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these crop provisions, and the Special Provisions, the Special Provisions will control these crop provisions and the Basic Provisions; and these crop provisions will control the Basic Provisions.

1. Definitions

(a) *Crop year*—The period within which the insured sugarcane is normally grown and designated by the calendar year in which the harvest of sugarcane normally begins in the county.

(b) *CFSA*—Consolidated Farm Service Agency (previously the Agricultural Stabilization and Conservation Service).

(c) *Good farming practices*—The cultural practices generally in use in the county for the insured crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee and are those recognized by the Cooperative Extension Service as compatible with agronomic and weather conditions in the area.

(d) *Harvest*—Cutting and removing the mature sugarcane from the field.

(e) *Interplanted*—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

(f) *Irrigated practice*—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

(g) *Local market price*—The price per pound for raw sugar offered by buyers in the area in which you normally market the sugarcane.

(h) *Plant cane*—The insured crop which grows from seed planted for the crop year.

(i) *Production guarantee*—The number of pounds determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(j) *Stubble cane*—The insured crop which grows from the stubble of sugarcane that was harvested the previous crop year.

(k) *Sugarcane*—means either plant cane or stubble cane.

(l) *Written agreement*—Designated terms of this policy may be altered by written agreement. Each agreement must be applied for by the insured in writing no later than the sales closing date and is valid for one year only. If not specifically renewed the following year, continuous insurance will be in accordance with the printed policy. All variable terms including, but not limited to, crop variety, guarantee, premium rate and

price election must be contained in the written agreement. Notwithstanding the sales closing date restrictions contained herein, in specific instances a written agreement may be applied for after the sales closing date, and approved if, after physical inspection of the acreage, it is determined that the crop has the expectancy of making at least the guaranteed yield. All applications for written agreements as submitted by the insured must contain all variable terms of the contract between the company and the insured that will be in effect if the written agreement is disapproved.

2. Unit Division

Unless limited by the Special Provisions, a unit as defined in subsection 1.(tt) of the Basic Provisions (§ 457.8), may be divided into optional units if, for each optional unit you meet all the conditions of this section or if a written agreement to such division exists. Basic units may not be divided into optional units on any basis including, but not limited to, production practice, type, variety, and planting period other than as described under this section. If you do not comply fully with these provisions, we will combine all optional units which are not in compliance with these provisions into the basic unit from which they were formed. We may combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined, that portion of the premium paid for the purpose of electing optional units will be refunded to you pro rata for the units combined. All optional units must be reflected on the acreage report for each crop year.

(a) You must have records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your production guarantee.

(b) You must plant the crop in a manner that results in a clear and discernible break in the planting pattern at the boundaries of each optional unit.

(c) You must have records of measurement of stored or marketed production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit or the production from each unit must be kept separate until after loss adjustment under the policy is completed.

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

(1) Optional Units by Section, Section Equivalent, or Consolidated Farm Service Agency ("CFSA") Farm Serial Number: Optional units may be established if each optional unit is located in a separate legally identified Section. In the absence of Sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands as the equivalent of Sections for unit purposes. In areas which have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernible, each optional unit must be located in a separate

farm identified by a single CFSA Farm Serial Number.

(2) Optional Units on Acreage Including Both Irrigated and Non-Irrigated Practices: In addition to or instead of establishing optional units by Section, section equivalent or CFSA Farm Serial Number, optional units may be based on irrigated acreage or non-irrigated acreage if both are located in the same Section, section equivalent or CFSA Farm Serial Number. The irrigated acreage may not extend beyond the point at which your irrigation system can deliver the quantity of water needed to produce the yield on which your guarantee is based and may not continue into non-irrigated acreage in the same rows or planting pattern. Non-irrigated corners of a field in which a center-pivot irrigation system exists that do not qualify as a separate optional unit will be a part of the irrigated unit; however, other non-irrigated acreage within the unit being divided may qualify as a separate optional unit provided all requirements of this section are met.

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

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one price election for all the sugarcane in the county insured under this policy.

(b) Instead of reporting your sugarcane production for the previous crop year as required by subsection 3.(c) of the Basic Provisions (§ 457.8), there is a lag period of one year and you are required to report production from two crop years previously, e.g., 1994 crop year production must be reported by the required date for the 1996 crop year.

4. Contract Changes

The contract change date is June 30 preceding the cancellation date (see the provisions of section 4 (Contract Changes) of the Basic Provisions (§ 457.8)).

5. Cancellation and Termination Dates

In accordance with subsection 2.(f) of the Basic Provisions (§ 457.8), the cancellation and termination dates are September 30.

6. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the sugarcane in the county for which a premium rate is provided by the actuarial table:

- (a) In which you have a share;
- (b) That is grown for processing for sugar or for seed; and
- (c) That is not interplanted with another crop, unless a written agreement allows otherwise.

7. Insurable Acreage

Paragraph 9.(a)(3) of the Basic Provisions (§ 457.8) is not applicable to the Sugarcane Crop Provisions.

8. Insurance Period

(a) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), insurance attaches:

- (1) At the time of planting for plant cane unless we agree in writing to a later date;

(2) On the first day following harvest of the previous crop for stubble cane except as set out in paragraph 8.(a)(3);

(3) On the later of April 15 or 30 days following harvest of the previous crop for stubble cane:

- (i) Damaged during the previous crop year in all states (includes Louisiana); and
- (ii) In Louisiana, after the second harvest from stubble cane.

(b) In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8) the calendar date for the end of the insurance period is:

- (1) January 31 in Louisiana; and
- (2) April 30 in all other states.

9. Causes of Loss

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:

- (a) Adverse weather conditions;
- (b) Fire;
- (c) Insects, but not damage due to insufficient or improper application of pest control measures;
- (d) Plant disease, but not damage due to insufficient or improper application of disease control measures;
- (e) Wildlife;
- (f) Earthquake;
- (g) Volcanic eruption; or
- (h) Failure of the irrigation water supply, if applicable, due to an unavoidable cause of loss occurring within the insurance period.

10. Duties in the Event of Damage or Loss or Cutting the Sugarcane for Seed

(a) In addition to your duties under section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), in the event of damage or loss:

- (1) All sugarcane stubble must remain intact for our inspection; and
- (2) You must give us notice at least 15 days before you begin cutting any sugarcane for seed. Your notice must include the unit number and the number of acres you intend to harvest as seed. After we receive such notice we will appraise the sugarcane for its sugar potential. If you do not give us this notice, the production to count for such acreage will be your approved yield.

(b) In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), if you initially discover damage to any insured crop within 15 days of, or during harvest, you must leave representative samples of the unharvested crop for our inspection. The representative samples of the unharvested crop must be at least 10 feet wide and extend the entire length of each field in the unit. The stubble must not be destroyed and the required samples must not be harvested until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

11. Settlement of Claim

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

- (1) For any optional unit, we will combine all optional units for which acceptable records of production 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 any unit by:

- (1) Multiplying the insured acreage by the production guarantee;
 - (2) Subtracting from this the total production to count;
 - (3) Multiplying the remainder by your price election; and
 - (4) Multiplying this result by your share.
- (c) The total production (pounds of sugar) to count from all insurable acreage on the unit will include:

- (1) All appraised production as follows:
 - (i) Not less than the production guarantee for acreage:
 - (A) That is abandoned;
 - (B) Put to another use without our consent;
 - (C) Damaged solely by uninsured causes;
 - (D) For which you fail to provide records of production that are acceptable to us; or
 - (E) On which the sugarcane stubble is destroyed within 15 days after harvest is completed without our consent;
 - (ii) Production lost due to uninsured causes;
 - (iii) Unharvested production;
 - (iv) The difference between the production guarantee and the appraised production for acreage that has an inadequate stand. An appraisal for an inadequate stand will be made if the product of the number of stalks per acre multiplied by two and further multiplied by the percentage of sugar contained in the Special Provisions for this purpose does not equal the per-acre production guarantee; and
 - (v) Potential production on insured acreage harvested for seed (see paragraph 10.(a)(2));
 - (vi) Potential production on insured acreage you want to put to another use or you wish to abandon and 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 put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us. (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count.); or

- (B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and
- (2) All harvested production from insurable acreage. Final records of sugar

production will be used to determine the amount of production to count. Preliminary mill estimates will not be used.

(d) Harvested sugarcane may be adjusted for low quality if it is damaged by one or more freezes occurring within the insurance period to the extent that it cannot be processed for sugar by the boiling house operation. The amount of production to count for such sugarcane will be determined by dividing the dollar value of the damaged production by the local market price per pound for raw sugar. The prices used for this adjustment will be determined on the earlier of the date such quality-adjusted production is sold or the date of final inspection for the unit.

Done in Washington, DC, on May 3, 1995.

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

[FR Doc. 95-11780 Filed 5-11-95; 8:45 am]

BILLING CODE 3410-08-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-56-AD; Amendment 39-9220; AD 95-10-03]

Airworthiness Directives; Airbus Industrie Model A300, A300-600, and A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300, A300-600, and A310 series airplanes, that requires inspections to detect cracks in the lower spar axis of the pylon between ribs 9 and 10, and repair, if necessary. This amendment is prompted by a report indicating that fatigue cracks have been found on the lower spar of the pylon. The actions specified by this AD are intended to prevent such fatigue cracking, which could result in reduced structural integrity of the lower spar of the pylon.

DATES: Effective June 12, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 12, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport

Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2797; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Industrie Model A300, A300-600, and A310 series airplanes was published in the **Federal Register** on December 6, 1993 (58 FR 64200). That action proposed to require repetitive internal eddy current inspections to detect cracks in the lower spar axis of the pylon between ribs 9 and 10, and repair, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Both commenters support the proposed rule.

Since the issuance of the proposed rule, Airbus Industrie issued Revision 1, dated October 15, 1993, of the service bulletins cited in the proposal: Service Bulletin No.'s A300-54-071 (for Model A300 series airplanes), A300-54-6011 (for Model A300-600 series airplanes), and A310-54-2016 (for Model A310 series airplanes). Revision 1 of these service bulletins incorporates certain kit and technical information and revises the work hour estimate associated with repair of the lower spar. The FAA has revised the final rule to reference these latest service bulletin revisions as additional sources of service information for accomplishment of certain actions required by this AD. In addition, the FAA has revised the applicability of the final rule to specify that the AD applies to those airplanes listed in Revision 1 of the service bulletins. (This change adds no new airplanes to those specified originally in the applicability of the proposed rule.)

The service bulletin citation contained in paragraph (b) of the final rule has been revised to correct a typographical error. The correct date of the original issue of Airbus Industrie Service Bulletin No. A300-54-6011 is November 12, 1991 (rather than November 12, 1992, as indicated in the proposal).

Since the issuance of the proposed rule, Airbus Industrie also has issued Service Bulletins A300-54-0079 (for Model A300 series airplanes); A300-54-6019 (for Model A300-600 series airplanes); and A310-54-2022 (for Model A310 series airplanes); all dated October 15, 1993. These service bulletins describe procedures for modification of the lower spar between ribs 9 and 10. This modification involves installation of an outer doubler on the undamaged structure of the lower spars between ribs 9 and 10. For Model A300 and A310 series airplanes, accomplishment of the modification eliminates the need for the internal eddy current inspections specified in the Airbus service bulletins previously described (and proposed in the notice). For Model A300-600 series airplanes, accomplishment of the modification reduces the probability of cracking in the lower spar of the pylon and, thereby, allows an extension of the initial inspection threshold and interval for accomplishing the internal eddy current inspections. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, issued French airworthiness directive 92-049-130(B)R2, dated March 2, 1994, to reference these service bulletins.

Accordingly, the FAA has revised this final rule to provide operators with the option of accomplishing the modification of the lower spar as terminating action for the repetitive eddy current inspections of Model A300 and A310 series airplanes. The FAA also has revised this final rule to extend the inspection threshold and repetitive inspection intervals of Model A300-600 series airplanes on which the modification of the lower spar is accomplished.

Additionally, the FAA revised the economic impact information, below, to specify the costs associated with modifying the lower spar, should an operator elect to do so. Further, the FAA has recently reviewed the figures it has used over the past several years in calculating the economic impact of AD activity. In order to account for various inflationary costs in the airline industry, the FAA has determined that it is necessary to increase the labor rate used in these calculations from \$55 per work hour to \$60 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

Subsequent to the issuance of the notice, the FAA discovered that reference to Model A300 B2-203 series airplanes was omitted inadvertently from paragraph (a) of the proposed rule. This airplane model is not operated