

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) Mature walnut production damaged due to an insurable cause of loss which occurs within the insurance period may be adjusted for quality based on an inspection by the Dried Fruit Association or as determined by us. Walnut production that has mold damage greater than 8 percent (8%), based on the net delivered weight, will be reduced by the factor contained in the Special Provisions. Walnut production that has mold damage greater than 30 percent (30%), based on the net delivered weight, will not be considered as production to count.

12. Written Agreements

Designated terms of this policy may be altered by written agreement. The following conditions will apply:

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

(b) The application for written agreement must contain all terms of the contract between the insurance provider and the insured that will be in effect if the written agreement is not approved.

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

(d) Each written agreement will only be valid for 1 year. If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy.

(e) An application for written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy provisions.

Signed in Washington D.C., on August 1, 1996.

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

[FR Doc. 96-20194 Filed 8-8-96; 8:45 am]

BILLING CODE 3410-FA-P

7 CFR Part 457

Common Crop Insurance Regulations; Almond Crop Insurance Provisions

AGENCY: Federal Crop Insurance
Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance
Corporation (FCIC) proposes specific

crop provisions for the insurance of almonds. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured and to combine the current Almond Endorsement with the Common Crop Insurance Policy for ease of use and consistency of terms.

DATES: Written comments, data, and opinions on this proposed rule will be accepted until close of business September 9, 1996, and will be considered when the rule is to be made final. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through October 7, 1996.

ADDRESSES: Interested persons are invited to submit written comments to the Chief, Product Development Branch, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131. Written comments will be available for public inspection and copying in room 0324, South Building, USDA, 14th and Independence Avenue, S.W., Washington, D.C., 8:15 a.m.-4:45 p.m., EDT Monday through Friday. For addresses see the Paperwork Reduction Act paragraph under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:
Arden Routh, Program Analyst,
Research and Development Division,
Product Development Branch, FCIC, at
the Kansas City, MO address listed
above. Telephone (816) 926-7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866 and
Departmental Regulation 1512-1

This action has been reviewed under United States Department of Agriculture (USDA) procedures established by Executive Order No. 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 April 30, 2001.

This rule has been determined to be not significant for the purposes of Executive Order No. 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

The information collection
requirements contained in the Almond
Crop Insurance Provisions have been

submitted to OMB for approval under section 3507(j) of the Paperwork Reduction Act of 1995. This proposed rule will amend the information collection requirements under OMB control number 0563-0003 through September 30, 1998. The Federal Crop Insurance Corporation will be amending the information collection to adjust the estimated reporting hours and revising the usage of FCI-12-P, Pre-Acceptance Perennial Crop Inspection Report as it applies to the Almond Crop Insurance Provisions.

Section 7 of the 1998 Almond Crop Provisions adds interplanting as an insurable farming practice as long as it is interplanted with another perennial crop. This practice was not insurable under the previous Almond Endorsement or and the General Crop Insurance Policy to which it attached. Consequently, interplanting information will need to be collected using the FCI-12-P Pre-Acceptance Perennial Crop Inspection Report form for approximately 3 percent (3%) of the almond insureds who interplant their almond crop. Standard interplanting language has been added to most perennial crops. Interplanting is an insurable practice as long as it does not adversely affect the insured crop. This is a benefit to agriculture because insurance is now available for more perennial crop producers and, as a result, less acreage will need to be placed into the noninsured crop disaster assistance program (NAP).

Revised reporting estimates and requirements for usage of OMB control number 0563-0003 will be submitted to OMB for approval under the provisions of 44 U.S.C., chapter 35. Public comments are due by October 7, 1996.

The title of this information collection is "Catastrophic Risk Protection Plan and Related Requirements including, Common Crop Insurance Regulations; Almond Crop Insurance Provisions." The information to be collected includes a crop insurance acreage report, insurance application, and a continuous contract. Information collected from the acreage report and application is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of almonds that are eligible for Federal crop insurance.

The information requested is necessary for the reinsured companies and FCIC to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts, and pay benefits.

All information is reported annually. The reporting burden for this collection of information is estimated to average 25 minutes per response for each of the 3.6 responses from approximately 1,755,015 respondents. The total annual burden on the public for this information collection is 2,669,970.

FCIC is requesting comments for the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information gathering technology.

Comments regarding paperwork reduction should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Bonnie Hart, Advisory and Corporate Operations Staff, Regulatory Review Group, Farm Service Agency, P.O. Box 2415, Ag Box 0572, U.S. Department of Agriculture, Washington, D.C. 20013-2415. Copies of the information collection may be obtained from Bonnie Hart at the above address, telephone (202) 690-2857.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, FCIC generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FCIC to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for

State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implication to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity. The insured must certify to the number of acres and production on an annual basis or receive a transitional yield. The producer must maintain the records to support the certified information for at least 3 years. This regulation does not alter those requirements. Therefore, the amount of work required of the insurance companies and FSA offices delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

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

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372 which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsections 2(a) and 2(b)(2) of Executive Order No. 12778. The provisions of this

rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions in 7 CFR parts 11 and 780 must be exhausted before action for judicial review may be brought.

Environmental Evaluation

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

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section to be known as 7 CFR 457.123, Almond Crop Insurance Provisions. The provisions will be effective for the 1998 and succeeding crop years. The proposed provisions will supersede and replace those found at 7 CFR 401.110 (Almond Endorsement). By separate rule, FCIC will revise § 401.110 to restrict its effect through the 1997 crop year and later remove that section.

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

1. Section 1—Add the definitions for the terms "days," "good farming practices," "insurable rejects," "interplanted," "irrigated practice," "production guarantee (per acre)," "rejects (inedible meats)," "set out," and "written agreement" for the purpose of clarification.

2. Section 2—Revise the unit language for clarity. There is no change in the unit structure.

3. Section 3(a)—Specify that the insured may select only one price election for all the almonds in the county insured under the policy, unless the Special Provisions provide different price elections by type, in which case the insured may select one price election for each almond type designated in the Special Provisions. The price election the insured selects for each almond type must have the same percentage relationship to the

maximum price offered. This helps protect against adverse selection and simplifies administration of the program.

4. Section 3(b)—Specify that the insured must report damage, removal of trees, and any change in practice that may reduce yields. The insured must also report, for the first year of insurance for acreage interplanted with another perennial crop and anytime the planting pattern of such acreage is changed, the age and type, if applicable, of any interplanted crop, the planting pattern, and any other information needed to establish the approved yield. The acreage or the yield used to establish your production guarantee, or both, may be adjusted by us when the insurance provider become aware of the situation if the insured has not previously reported it. Interplanting is not provided under the current Almond Endorsement. Section 7 of these crop provisions allows interplanting almonds with another perennial crop. The change in policy language is based on FCIC's desire to insure the maximum amount of acreage.

5. Section 7—Add interplanting as an insurable farming practice if the almond crop is interplanted with another perennial in order to make insurance available on more acreage and reduce reliance on the noninsured crop disaster assistance program (NAP) for protection for crop losses.

6. Section 8(a)—Clarify that if an application is accepted by us after December 31, insurance will attach on the 10th day after the application is received in the insurance provider's local office. However, full premium will be due for the partial year.

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

8. Section 9(a)—Remove direct Mediterranean Fruit Fly damage as a cause of loss because insect infestations are no longer covered.

9. Section 9(b)(1)—Clarify that disease and insect infestations are excluded causes of loss unless adverse weather prevents the proper application of control measures, causes control measures to be ineffective when properly applied, or causes disease or insect infestation for which no effective control mechanism is available.

10. Section 10—Add provisions that require an insured to notify the insurer of damage prior to harvest so that an inspection can be made in order to permit a timely appraisal. The provisions also prohibit the insured from selling or otherwise disposing of

any damaged production until consent to do so is provided by the insurer.

11. Section 12—Add provisions for providing insurance coverage by written agreement. FCIC has a long standing policy of permitting modification of certain provisions of insurance contracts by written agreement. Written agreements are not available in the current Almond Endorsement. The new section will cover application for, and duration of, written agreements.

List of Subjects in 7 CFR Part 457

Crop insurance, Almonds.

Proposed Rule

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 proposes to amend the Common Crop Insurance Regulations (7 CFR part 457), effective for the 1998 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(1), 1506(p).

2. 7 CFR part 457 is amended by adding a new § 457.123 to read as follows:

§ 457.123 Almond crop insurance provisions.

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

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Almond Crop Provisions

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

1. Definitions

Days—Calendar days.

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

Harvest—The removal of mature almonds from the orchard.

Insurable rejects—Inedible meats that due to an insurable cause of loss will not be considered as production to count.

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

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

Non-contiguous land—Any two or more tracks of land whose boundaries do not touch at any point, except that land separated only by a public or private right-of-way, waterway or an irrigation canal will be considered as contiguous.

Production guarantee (per acre)—The quantity of almonds (total meat pounds) determined by multiplying the approved yield per acre by the coverage level percentage you elect.

Rejects (inedible meats)—As defined by the USDA Agricultural Marketing Service for Handling of Almonds Grown in California.

Set out—Transplanting the tree into the orchard.

Total meat pounds—The total pounds of almond meats (whole, chipped and broken, and in-shell meats) and rejects, excluding insurable rejects. Unshelled almonds will be converted to meat pounds in accordance with FCIC approved procedures.

Written agreement—A written document that alters designated terms of a policy in accordance with section 12.

2. Unit Division

(a) Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), may be divided into optional units if, for each optional unit, you meet all the conditions of this section or if a written agreement to such division exists.

(b) Basic units may not be divided into optional units on any basis including, but not limited to, production practice, type, and variety, other than as described in this section.

(c) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined, that portion of the premium paid for the purpose of electing optional units will be refunded to you pro rata for the units combined.

(d) All optional units must be identified on the acreage report for each crop year.

(e) The following requirements must be met for each optional unit:

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

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

(3) Each optional unit must be 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 for all the almonds in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each almond type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent (100%) of the maximum price election for a specific type, you must also choose 100 percent (100%) of the maximum price election for all other types.

(b) You must report, by the production reporting date designated in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), by type if applicable:

(1) Any damage, removal of trees, or change in practices 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 patterns; 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 interplanted perennial crop, removal of trees, damage, or change in practices on the yield potential of the insured crop. If you fail to notify us of any circumstances that may reduce yields from previous levels, we will reduce your production guarantee as necessary at any time we become aware of the circumstance.

4. Contract Changes

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

6. Insured Crop

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

- (a) In which you have a share;
- (b) That are grown for harvest as almonds;
- (c) That are irrigated;
- (d) That are grown in an orchard that, if inspected, is considered acceptable to us; and
- (e) That are grown on trees that have reached at least the seventh growing season after set out, unless we agree in writing to insure such acreage.

7. Insurable Acreage

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

8. Insurance Period

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

(1) Coverage begins on January 1 of each crop year, except that for the first crop year, if the application is accepted by us after December 31, insurance will attach on the 10th day after the application is received in our local agent's office.

(2) The calendar date for the end of the insurance period for each crop year is November 30.

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

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

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

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

9. Causes of Loss

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

(1) Adverse weather conditions;

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

(3) Wildlife;

(4) Earthquake;

(5) Volcanic eruption; or

(6) Failure of the irrigation water supply, if due to a cause of loss covered by this policy and occurring within the insurance period.

(b) In addition to the causes of loss excluded in section 12 (Causes of Loss) of the

Basic Provisions (§ 457.8), we will not insure against damage or loss of production due to:

(1) Disease or insect infestation, unless adverse weather:

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

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

(2) Inability to market the almonds for any reason other than actual physical damage from an insurable cause specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

10. Duties in the Event of Damage or Loss

In addition to the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), if you intend to claim an indemnity on any unit, you must notify us prior to the beginning of harvest so that we may inspect the damaged production. 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 subsection, all such production will be considered undamaged and included as production to count.

11. Settlement of Claim

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

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

(1) Multiplying the insured acreage by its respective production guarantee;

(2) Multiplying each result in paragraph (1) by the respective price election for the type;

(3) Totaling the results in paragraph (2);

(4) Multiplying the total production to be counted of each type, if applicable, (see subsection 11(c)) by the respective price election;

(5) Totaling the results in paragraph (4);

(6) Subtracting the total in paragraph (5) from the total in paragraph (3); and

(7) Multiplying the result of paragraph (6) by your share.

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

(i) All appraised production as follows:

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

(A) That is abandoned;

(B) Damaged solely by uninsured causes; or

(C) For which you fail to provide records of production that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production; and

(iv) Potential production on insured acreage that you intend to abandon or no longer care for, if you and we agree on the appraised amount of production. Upon such

agreement, the insurance period for that acreage will end. If you do not agree with our appraisal, we may defer the claim only if you agree to continue to care for the crop. We will then make another appraisal when you notify us of further damage or that harvest is general in the area unless you harvested the crop, in which case we will use the harvested production. If you do not continue to care for the crop, our appraisal made prior to deferring the claim will be used to determine the production to count; and

(2) The total meat pounds harvested from the insurable acreage.

12. Written Agreements

Designated terms of this policy may be altered by written agreement. The following conditions will apply:

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

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

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

(d) Each written agreement will only be valid for 1 year. If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy.

(e) An application for written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy provisions.

Signed in Washington D.C., on August 1, 1996.

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

[FR Doc. 96-20193 Filed 8-8-96; 8:45 am]

BILLING CODE 3410-FA-P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 934

[No. 96-53]

Amendment of Budgets Regulation

AGENCY: Federal Housing Finance Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its regulation governing approval of Federal Home Loan Bank (FHLBank) budgets by removing the requirement that the FHLBanks' budgets be approved by the Finance Board. In order to ensure sufficient data to carry out its

supervisory responsibility to ensure the safety and soundness of FHLBank operations, the Finance Board is further proposing to establish specific requirements for the FHLBanks' preparation and reporting of both budget and other financial information to the Finance Board. Certain of these reporting requirements are derived and streamlined from the Finance Board's current practice for budget and financial information reporting by the FHLBanks. The proposed rule is in keeping with the Finance Board's continuing effort to devolve corporate governance authority to the FHLBanks. It also is consistent with the goals of the Regulatory Reinvention Initiative of the National Performance Review.

DATES: Comments on this proposed rule must be received in writing on or before September 9, 1996.

ADDRESSES: Send comments to Elaine L. Baker, Executive Secretary, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: John C. Waters or Christina T. Muradian, Office of Policy, (202) 408-2860 or 408-2584, or Sharon B. Like, Senior Attorney-Advisor, Office of General Counsel, (202) 408-2930, Federal Housing Finance Board.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 934.6 of the Finance Board's existing regulations provides:

As prescribed by the [Finance] Board or its designee, each Bank shall prepare and submit to the Board for its approval a budget. Each Bank will operate within such budget as approved or as it may be amended by the Bank's board of directors within limits set by the Board. Any amendment beyond such limits must be submitted to the Board for approval. The Board's designee, may approve amendments within limits set by the Board.

See 12 CFR 934.6.

The substance of § 934.6 previously appeared at § 524.6 of the regulations of the Finance Board's predecessor, the Federal Home Loan Bank Board (FHLBB). See 12 CFR 524.6 (1989) (redesignated). The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Pub. L. No. 101-73, 103 Stat. 183 (Aug. 9, 1989), amended the Federal Home Loan Bank Act (Bank Act), 12 U.S.C. 1421 to 1449, by creating the Finance Board and transferring from the FHLBB to the Finance Board the responsibility for the supervision and regulation of the twelve FHLBanks. See *id.* §§ 1422a(a), 1422b(a)(1). Section 524.6 subsequently

was redesignated as § 934.6 of the Finance Board's regulations. See 54 FR 36757 (Sept. 5, 1989).

The Bank Act does not provide explicitly for Finance Board approval of Bank budgets. See 12 U.S.C. 1432(a). Such approval authority is derived from the Finance Board's general powers and duties to supervise the FHLBanks under sections 2A(a)(3) and 2B(a)(1) of the Bank Act, as well as the Finance Board's authority to approve corporate powers granted to the FHLBanks under section 12(a) of the Bank Act. See *id.* §§ 1422a(a)(3), 1422b(a)(1), 1432(a).

II. Analysis of the Proposed Rule

A. Current Practice and Basis For Proposed Amendment

In approving the FHLBanks' budgets under current § 934.6, the Finance Board's practice, which is not codified in the regulation, has been to request from each FHLBank a report on the FHLBank's annual budget approved by its board of directors, including the following information: projected balance sheet; projected income statement (including FHLBank board-approved operating expense budget and staffing levels); FHLBank board-approved capital expenditures budget; supplemental information as requested by the Finance Board; strategic/business plan; organizational chart; FHLBank board-approved budget resolution; and management discussion of the FHLBank's expected financial performance and underlying assumptions and comparisons with the financial performance from the prior year.

The Finance Board reviews this information and, pursuant to § 934.6, approves each FHLBank's operating expense and capital expenditures budget. Generally, budgets have been approved by the Finance Board as submitted by the FHLBanks. The Finance Board also reviews and approves, pursuant to § 934.6, amendments to the FHLBanks' budgets to exceed previously approved limits.

In addition, Finance Board practice has been to require each FHLBank to submit quarterly reports that evaluate year-to-date actual performance results relative to the original approved budget projections, and reforecasted financial projections for the remainder of the year relative to the original approved budget projections. Each FHLBank also submits an annual report that evaluates the actual performance results for the year relative to the original approved budget projections.

The Finance Board has been considering ways to transfer a variety of