

Proposed Rules

Federal Register

Vol. 61, No. 186

Tuesday, September 24, 1996

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

Common Crop Insurance Regulations; Grape 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 grapes. 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 include the current Grape 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 November 25, 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 November 22, 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. to 4:45 p.m., est Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: John Meyer, 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

This action has been reviewed under United States Department of Agriculture (USDA) procedures established by Executive Order No. 12866. 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 these regulations were previously approved by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563-0003 through September 30, 1998.

Section 8 of the 1998 Grape 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 present Grape Endorsement or 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 0.5 percent of the 5,408 insureds who interplant their grape 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 most perennial crop producers and, as a result, less acreage will need to be placed into the noninsured crop disaster assistance program (NAP).

The amendments set forth in this proposed rule do not contain additional information collections that require clearance by OMB under the provisions of 44 U.S.C. chapter 35.

The title of this information collection is "Catastrophic Risk Protection Plan and Related Requirements including, Common Crop Insurance Regulations; Grape Crop Insurance Provisions." The information to be collected include: a

crop insurance application and acreage report. Information collected from the application and acreage report is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of grapes 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 16.9 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 hours.

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, USDA, FSA, Advisory and Corporate Operations Staff, Regulatory Review Group, P.O. Box 2415, STOP 0572, Washington, D.C. 20013-2415, telephone (202) 690-2857. Copies of the information collection may be obtained from Bonnie Hart at the above address.

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 implications 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. The amount of work required of the insurance companies 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 sections 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 published at 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, 7 CFR 457.138, Grape Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will supersede and replace the current provisions for insuring grapes found at 7 CFR 401.130 (Grape Endorsement) thereby limiting the effect of the current provisions to the 1997 and prior crop years. Upon publication of the Grape Crop Provisions as a final rule, the current provisions for insuring grapes will be removed from § 401.130 and that section will be reserved.

This rule makes minor editorial and format changes to improve the Grape Endorsement's compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive

changes in the provisions for insuring grapes as follows:

1. Section 1—Add definitions for the terms "days," "FSA," "good farming practice," "interplanted," "irrigated practice," "production guarantee," "set out," "varietal group," and "written agreement" for the purpose of clarification.

2. Section 3(a)—Specify that the insured may select only one price election for all the grapes in the county insured under the policy, unless the Special Provisions provide different price elections by variety or varietal group, in which case the insured may select one price election for each grape variety or varietal group designated in the Special Provisions. The price election the insured selects for each grape type must have the same relationship to the maximum price offered. This helps protect against adverse selection and simplifies administration of the program.

3. Section 3(b)—Specify that in California only, an insured may apply for a written agreement to establish a price election for a variety they wish to insure, when that specific variety does not have a separate price election on the Special Provisions.

4. Section 3(c)—Specify that the insured must report damage, removal of bearing vines, and any change in practice that may reduce yields. For the first year of insurance for acreage interplanted with another perennial crop or anytime the planting pattern of such acreage is changed, the insured must also report, the age and type, if applicable, of the interplanted crop, its planting pattern, and any other information needed to establish the approved yield. If the insured fails to notify the insurer of factors that may reduce yields from previous levels, the insurer will reduce the production guarantee at any time the insurer becomes aware of damage, removal of vines, or change in practices. This allows the insurance provider to limit liability, if necessary, before insurance attaches.

5. Section 5—The cancellation and termination dates are changed to February 28 in California, and to November 20 in all other States except Idaho, Oregon, and Washington. Currently, the policy states January 31 in California, and December 10 in all other States except Idaho, Oregon, and Washington. The change in some States from December 10 to November 20 was made to standardize the perennial crop policies. In California, the change was made at the request of a grower organization and will allow additional time for growers to make decisions

regarding their insurance coverage without compromising program integrity.

6. Section 7(e)—Specify that at least an average of 2 tons of grapes per acre must have been produced in at least 1 of the 3 most recent crop years of the actual production history base period for the crop to be insured, unless we inspect such acreage and give our approval in writing. Previous endorsement required a minimum of 2 tons per acre but did not clearly state that the minimum must have been produced in 1 of the 3 most recent crop years.

7. Section 8—Allow insurance for grapes interplanted with another perennial crop 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.

8. Section 9(a)—Change the date insurance attaches from February 1 to March 1 in California, and from December 11 to November 21 in all other States to be consistent with other perennial crops. Clarifies that for the year of application, if an application is received after February 19 (February 20 in years when February has 29 days) but prior to March 1 in California, or after November 11 but prior to November 21 in all other States, insurance will attach on the 10th day after the properly completed application is received in the insurance provider's local office, unless we inspect the acreage during the 10 day period and determine that it does not meet insurability requirements.

9. Section 9(b)—Add provisions to clarify insurability when an insurable share is acquired or relinquished on or before the acreage reporting date.

10. Section 10(b)—Clarify that disease and insect infestation 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. Damage caused by phylloxera is not covered regardless of cause.

11. Section 11(b)—Add provisions that require an insured to notify the insurer of damage prior to harvest in order to permit a timely appraisal. Also add provisions that prohibit the insured from selling or otherwise disposing of any damaged production until written consent is provided by the insurance provider.

12. Section 12(c)—Add provisions for converting grape production harvested and dried for raisins to a fresh weight basis.

13. Section 12(e)—Add provisions indicating that the average market price will be determined in all States by averaging the prices being paid by usual marketing outlets for the area during the week in which the damaged grapes were valued. In the current grape endorsement, in California the average market price is the price shown by the Federal State Market News California Wine Report for the same week in which the damaged grapes were valued.

Also add provisions indicating that the value per ton of the qualifying damaged production and the average market price of undamaged grapes will be determined on the earlier of the date the damaged production is sold or the date of final inspection for the unit. The current grape endorsement does not list a specific time.

14. Section 13—Add provisions for providing insurance coverage by written agreement. FCIC has a long-standing policy of permitting certain modifications of the insurance contract by written agreement. Written agreements are not available under the current Grape Endorsement. This amendment allows FCIC to tailor the policy to a specific insured in certain instances. The new section will cover the procedures for and duration of written agreements.

List of Subjects in 7 CFR Part 457

Crop insurance, grape.

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, to read 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), and 1506(p).

2. 7 CFR part 457 is amended by adding a new § 457.138 to read as follows:

§ 457.138 Grape Crop Insurance Provisions.

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

United States Department of Agriculture
Federal Crop Insurance Corporation

Grape 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) *Days*—Calendar days.

(b) *FSA*—The Farm Service Agency, an agency of the United States Department of Agriculture, or any successor agency.

(c) *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 generally recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

(d) *Graft*—To unite a shoot or bud (scion) with a rootstock or an existing vine in accordance with recommended practices to form a living union.

(e) *Harvest*—Picking the clusters of grapes from the vines either by hand or machine.

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

(g) *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.

(h) *Non-contiguous*—Any two or more tracts 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.

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

(j) *Set out*—Physically planting the desired variety of grape plant in the ground in a desired planting pattern.

(k) *Ton*—Two thousand (2000) pounds avoirdupois.

(l) *Varietal group*—Grapes with similar characteristics that are grouped for insurance purposes as specified in the Special Provisions.

(m) *Written agreement*—A written document that alters designated terms of this policy in accordance with section 13.

2. Unit Division.

(a) In California only, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), will be divided into basic units by each variety that you insure.

(b) Unless limited by the Special Provisions, these basic units 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.

(c) 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.

(d) 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 into a basic unit, that portion of the premium paid for the purpose of electing optional units will be refunded to you for the units combined.

(e) All optional units established for a crop year must be identified on the acreage report for that crop year.

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

(1) You must have records, that 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; and

(2) You must have records of marketed production or measurement of 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.

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

(1) In California only, optional units may be established if each optional unit is located on non-contiguous land.

(2) In all states except California, each optional unit must meet one or more of the following criteria:

(i) *Optional Units by Section, Section Equivalent, or FSA 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 that 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 discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number.

(ii) *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 FSA 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 FSA 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 the guarantee is based and you may not continue into non-irrigated acreage in the same rows or planting pattern.

(iii) *Optional Units on Acreage Located on Non-contiguous Land:* In addition to, or instead of, establishing optional units by section, section equivalent, FSA Farm Serial Number, or irrigated/non-irrigated land, optional units may be established if each optional unit is located on non-contiguous land.

(iv) *Optional Units on Acreage by Varietal Group:* In addition to, or instead of,

establishing optional units by section, section equivalent, FSA Farm Serial Number, irrigated/non-irrigated land or on non-contiguous land, optional units may be established by varietal group when separate varietal groups are specified in the Special Provisions.

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) In California, you may select only one price election and coverage level for each grape variety in the county insured under this policy. In all other states, you may select only one price election for all the grapes in the county insured under this policy unless the Special Provisions provide different price elections by varietal group, in which case you may select one price election for each varietal group designated in the Special Provisions. The price elections you choose for each varietal group must have the same percentage relationship to the maximum price offered by us for each varietal group. For example, if you choose 100 percent (100%) of the maximum price election for one varietal group, you must also choose 100 percent (100%) of the maximum price election for all other varietal groups.

(b) In California only, if the Special Provisions do not provide a separate price election for a specific variety you wish to insure, you may apply for a written agreement to establish a price election. Your application for the written agreement must include:

(1) The number of tons sold for at least the two most recent crop years; and

(2) The price received for all production of the variety in the years for which production records are provided.

(c) 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 variety or varietal group, if applicable:

(1) Any damage, removal of bearing vines, 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 vines on insurable and uninsurable acreage;

(3) The age of the vines 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 the type or variety or varietal group, if applicable;

(ii) The planting pattern; and

(iii) Any other information that we request to establish the yield upon which your production guarantee is based.

We will reduce the yield used to establish your production guarantee, based on our estimate of the effect of the following: interplanted perennial crop; removal of vines; 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 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 for all States except California, and October 31 preceding the cancellation date for California.

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 February 28 (February 29 in years when February has 29 days) in California and November 20 in all other states.

6. Report of Acreage.

In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report the grape varieties in California or the varietal groups in all other States.

7. Insured Crop.

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the grapes (In California, any insurable variety that you elect to insure; in all other States, all insurable varieties.) 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 wine, juice, raisins, or canning;

(c) That are grown in a vineyard that, if inspected, is considered acceptable by us;

(d) That, after being set out or grafted, have reached the number of growing seasons designated by the Special Provisions; or

(e) That have produced an average of two tons of grapes per acre during at least one of the three crop years immediately preceding the insured crop year, unless we inspect and allow insurance on such acreage.

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

9. Insurance Period.

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

(1) Coverage begins on March 1 in California and November 21 in all other States of each crop year, except that for the year of application if your application is received after February 19 (February 20 in years when February has 29 days) but prior to March 1 in California, or after November 11 but prior to November 21 in all other States, insurance will attach on the 10th day after your properly completed application is received in our local office, unless we inspect the acreage during the 10 day period and determine that it does not meet insurability requirements. You must provide any

information that we require for the crop or to determine the condition of the vineyard.

(2) The calendar date for the end of the insurance period for each crop year is the date during the calendar year in which the grapes are normally harvested, as follows:

- (i) October 10 in Mississippi and Texas;
- (ii) November 10 in California, Idaho, Oregon, and Washington; and
- (iii) November 20 in all other states.

(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 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 grapes 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;
- (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 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 vineyard;
- (3) Wildlife;
- (4) Earthquake;
- (5) Volcanic eruption; or
- (6) Failure of irrigation water supply, if caused by an insured peril 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 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) Phylloxera, regardless of cause; or
- (3) Inability to market the grapes 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) You must notify us within 3 days of the date harvest should have started if the crop will not be harvested.

(b) If you intend to claim an indemnity on any unit, you must notify us at least 15 days prior to the beginning of harvest if you previously gave notice in accordance with section 14 of the Basic Provisions (§ 457.8), 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 section and such failure results in our inability to inspect the damaged production, 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 by:

- (1) Multiplying the insured acreage by its respective production guarantee;
- (2) Multiplying each result in section 12(b)(1) by the respective price election for each variety or varietal group;
- (3) Totaling the results in section 12(b)(2);
- (4) Multiplying the total production to count of each variety or varietal group, if applicable, (see section 12 (c)–(e)) by the respective price election;
- (5) Totaling the results of section 12(b)(4);
- (6) Subtracting the total in section 12(b)(5) from the total in section 12(b)(3); and
- (7) Multiplying the result in 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:
 - (i) Not less than the production guarantee per acre for acreage:
 - (A) That is abandoned;
 - (B) That is damaged solely by uninsured causes; or
 - (C) For which you fail to provide production records;
- (ii) Production lost due to uninsured causes;
- (iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies in accordance with subsection 12(e)); 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) All harvested production from the insurable acreage. Grape production that is harvested and dried for raisins will be converted to a fresh weight basis by multiplying the number of tons of raisin production by 4.5.

(d) If any grapes are harvested before normal maturity or for a special use (such as Champagne or Botrytis-affected grapes), the production of such grapes will be increased by the factor obtained by dividing the price per ton received for such grapes by the price per ton for fully matured grapes of the type for which the claim is being made.

(e) Mature marketable grape production may be adjusted for quality deficiencies as follows:

(1) Production will be eligible for quality adjustment if, due to insurable causes, it has a value of less than 75 percent of the average market price of undamaged grapes of the same or similar variety. The value per ton of the qualifying damaged production and the average market price of undamaged grapes will be determined on the earlier of the date the damaged production is sold or the date of final inspection for the unit. The average market price of undamaged production will be calculated by averaging the prices being paid by usual marketing outlets for the area during the week in which the damaged grapes were valued.

(2) Grape production that is eligible for quality adjustment, as specified in subsection 12(e)(1) will be reduced by:

- (i) Dividing the value per ton of the damaged grapes by the maximum price election available for such grapes to determine the quality adjustment factor; and
- (ii) Multiplying this result (not to exceed 1.000) by the number of tons of the eligible damaged grapes.

13. Written Agreement.

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 13(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us 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 one 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); and

(e) An application for a 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 and written agreement provisions.

Signed in Washington, DC, on September 12, 1996.
Phyllis W. Honor,
Acting Manager, Federal Crop Insurance Corporation.
[FR Doc. 96-23993 Filed 9-23-96; 8:45 am]
BILLING CODE 3410-FA-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL-5614-2]

Standards of Performance for New Stationary Sources Rescission of Alternate Opacity Standard for Omaha Public Power District—Nebraska City Power Station, Nebraska City, Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This rule would rescind the alternate opacity emission limit established for the Nebraska City Power Station in Nebraska City, Nebraska, owned and operated by Omaha Public Power District (OPPD), pursuant to the New Source Performance Standards (NSPS) under the Clean Air Act. In the final rules section of the Federal Register, the EPA is promulgating this revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

Commenters should also indicate whether they wish to request a public hearing on this action, including the reasons for the request and the nature of the comments which would be presented at any public hearing. If a hearing is requested, the EPA will determine whether to hold a public hearing, and will announce the time and location of any hearing in a subsequent Federal Register document.

DATES: Comments and requests for public hearing must be submitted on or before October 24, 1996.

ADDRESSES: Written comments on this action should be addressed to Angela Ludwig, Air Permits and Compliance Branch, Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. Comments should be strictly limited to the subject matter of this proposal, the scope of which is discussed below.

Docket: Pursuant to sections 307(d)(1)(C) of the CAA, 42 U.S.C. sections 7607(d)(1)(C), this action is subject to the procedural requirements of section 307(d). Therefore, the EPA has established a public docket for this action, Docket # A-96-31. Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Permits and Compliance Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 10460.

FOR FURTHER INFORMATION CONTACT: Angela Ludwig, Air Permits and Compliance Branch, Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551-7411.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule, which is located in the rules section of the Federal Register.

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Fossil-fuel-fired steam generating units, Intergovernmental relations.

Authority: Sections 111 and 301(a) of the CAA, 42 U.S.C. sections 7411 and 7601(a).

Dated: September 16, 1996.

Carol Browner,
Administrator.

For the reasons set forth in the preamble, subpart D of part 60 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 60—[Amended]

1. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601

Subpart D—[AMENDED]

§ 60.42 [Amended]

2. Section 60.42 is amended by removing paragraph (b)(3).

§ 60.45 [Amended]

3. Section 60.45 is amended by removing paragraph (g)(1)(iii).

[FR Doc. 96-24282 Filed 9-23-96; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 96-187 ; FCC 96-367]

Implementation of Section 402(b)(1)(a) of the Telecommunications Act of 1996 (Tariff Streamlining Provisions for Local Exchange Carriers)

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In light of the passage of the Telecommunications Act of 1996 (1996 Act), which provides for streamlining tariff filings by local exchange carriers (LECs), the Commission is issuing this Notice of Proposed Rulemaking (NPRM) to implement the specific streamlining requirements of the Act. Specifically, the NPRM seeks comment on the statutory effect of LEC tariffs subject to streamlined regulation being "deemed lawful." In addition, the NPRM seeks comment on the types of tariffs eligible for filing on a streamlined basis and measures to streamlining the administration of LEC tariff process.

DATES: Comments must be submitted on or before October 9, 1996. Reply comments must be submitted on or before October 24, 1996. Written comments on the Initial Regulatory Flexibility Analysis must be filed in accordance with the same filing deadlines set for comments on the other issues in the NPRM. Written comments by the public on the proposed and/or modified information collections are also due at the same time as other comments on this NPRM. Written comments must be submitted by OMB on the proposed and/or modified information collections within 60 days of publication of this NPRM in the Federal Register.

ADDRESSES: Comments and Reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Jerry McKoy of the Common Carrier Bureau, 1919 M Street, N.W., Room 518, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's commercial copy contractor,