

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

Tobacco (Guaranteed Plan) Endorsement; and Common Crop Insurance Regulations, Guaranteed Tobacco 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 guaranteed tobacco. 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, include the current tobacco (guaranteed plan) endorsement with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current tobacco (guaranteed plan) endorsement to the 1997 and prior crop years.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business July 16, 1997 and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131.

FOR FURTHER INFORMATION CONTACT: Gary Johnson, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926-7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purpose of Executive Order 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

The amendments set forth in this proposed rule contains information collection that requires clearance by OMB under the provisions of 44 U.S.C. chapter 35.

The title of this information collection is "Multiple Peril Crop Insurance." The information to be collected includes 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 guaranteed tobacco 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 1,755,000 respondents. The total annual burden on the public for this information collection is 2,676,932 hours.

FCIC is requesting comments on 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.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates 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. 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 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. New provisions included in this rule will not impact small entities to a greater extent than large 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 also annually certify to the previous years production if adequate records are available to support the certification. The producer must maintain the

production records to support the certification information for at least three 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 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 12988

This proposed rule has been reviewed in accordance with Executive Order No. 12988 on civil justice reform. 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 part 11 must be exhausted before any 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 457.136, Guaranteed Tobacco Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current

provisions for insuring guaranteed tobacco found at 7 CFR 401.129 (Tobacco (Guaranteed Plan) Endorsement). FCIC also proposes to amend 7 CFR 401.129 to limit its effect to the 1997 and prior crop years. This rule makes minor editorial and format changes to improve the Tobacco (Guaranteed Plan) Endorsement's compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring guaranteed tobacco as follows:

1. The Late Planting Agreement Option (LPAO) has been discontinued because the final planting date is late enough to allow anyone with tobacco plants to timely transplant them, and the reduction in guarantee under the LPAO is not sufficient to cover the increased risks of a shorter growing season.

2. Section 1—Add definitions for terms “adequate stand,” “approved yield,” “average value per pound,” “carryover tobacco,” “days,” “discount variety,” “FSA,” “fair market value,” “final planting date,” “good farming practices,” “harvest,” “irrigated practice,” “planted acreage,” “practical to replant,” “priming,” “production guarantee,” “replanting,” “season average market price,” “support price per pound,” “tobacco bed,” “USDA,” and “written agreement” for clarification. The definition of “harvest” was revised to remove the requirement that 20 percent of the production guarantee per acre must be cut from each acre in order for the unit to be considered harvested. Since the harvest incentive of 35 percent of the guarantee has been deleted, this provision is no longer necessary. Added the definition of “hydroponic plants” to identify seedlings grown in a liquid nutrient solution.

3. Section 3(b)—Allow the use of actual production history to determine the approved yield for insurance purposes. The most accurate determination of the yield for the unit uses insured's records of production.

4. Section 4—Change the contract date from December 31 to November 30 in order to maintain an adequate time period between this date and the sales closing or cancellation date to permit the insured to make informed insurance decisions.

5. Section 5—Change the cancellation and termination dates to March 15. This conforms to the required movement of the spring planted crop sales closing dates 30 days earlier by the Federal Crop Insurance Reform Act of 1994.

6. Section 7(d)—Clarify that any acreage damaged prior to the final

planting date must be replanted unless replanting is not practical to replant.

7. Section 9 (c) and (d)—Clarify that insects and plant disease are insurable causes of loss, but not if damage was due to insufficient or improper application of pest or disease control measures.

8. Section 10(a)—Require the producer to leave, until the earlier of insurer's inspection or 15 days after harvest, representative samples of each unharvested tobacco types of at least 5 feet wide, (instead of 10 feet wide) the entire length of each field in the unit. The smaller sample size is reasonable given the small acreage allotments of tobacco.

9. Section 11(d)—Clarify that quality adjustment for mature tobacco damaged by insurable causes and yielding an average value per pound less than the market price will be based on USDA Official Standard Grades for the insured type.

10. Section 11(h)—Require that once the insurance provider agrees that any current year's or carryover tobacco has no market value, the insured must destroy it. This eliminates the opportunity to falsely report carryover and current year's tobacco as of no value to increase indemnity payments. This provision is consistent with FSA's requirement that tobacco that having no value must be destroyed.

11. Section 12—Provide insurance coverage by written agreement. FCIC has a long standing policy of permitting certain modifications of insurance contracts by written agreement for some policies. 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.

Good cause is shown to allow 30 days for comments after this rule is published in the **Federal Register**. This rule improves guaranteed tobacco crop insurance coverage and brings it under the Common Crop Insurance Policy Provisions for consistency among policies. Although, the contract change date is December 31, 1997, the final rule must be published by July 7, 1997. Publication is required by this date to achieve revision and timely distribution of the actuarial documents thereby allowing the reinsured companies and insureds sufficient time to implement the new provisions. Therefore, public interest requires the agency to act immediately to make these provisions available for the 1998 crop year.

List of Subjects in 7 CFR Parts 401 and 457

Crop insurance, Guaranteed tobacco, Tobacco (guaranteed plan) endorsement.

Proposed Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby proposes to amend 7 CFR parts 401 and 457, as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1988 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

2. Section 401.129 introductory paragraph is revised to read as follows:

§ 401.129 Tobacco (guaranteed plan) endorsement.

The provisions of the Tobacco (Guaranteed Plan) Endorsement for the 1990 through the 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

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

Authority: 7 U.S.C. 1506(1), 1506(p).

5. Section 457.136 is added to read as follows:

§ 457.136 Guaranteed tobacco crop insurance provisions.

The Guaranteed Tobacco Crop Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Guaranteed Tobacco Crop Provisions

If a conflict exists between 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

Adequate stand. A population of live plants per unit of acreage which will produce at least the yield used to establish your production guarantee.

Approved yield. The yield calculated in accordance with 7 CFR part 400, subpart G.

Average value. The total value of all production harvested from the unit divided by the harvested pounds.

Carryover tobacco. Any tobacco produced on the FSA Farm Serial Number in previous years that remained unsold at the end of the most recent marketing year.

Days. Calendar days.

Discount variety. Tobacco defined as such under the provisions of the United States Department of Agriculture tobacco price support program.

FSA. The Farm Service Agency, an agency of the United States Department of Agriculture, or a successor agency.

Fair market value. The current year's tobacco growing season average price for the applicable type of tobacco obtained from the sale of the tobacco through a market other than an auction warehouse.

Final planting date. The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full production guarantee.

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

Harvest. Cutting or priming and removing all insured tobacco from the field in which it was grown.

Hydroponic plants. Seedlings grown in liquid nutrient solutions.

Market price:

(a) For types 11, 12, 13, 14, 21, 22, 23, 31, 35, 36, 37, 42, 44, 54, and 55 the following price is:

(1) The support price per pound for the insured type of tobacco as announced by the USDA for its tobacco price support program or;

(2) If for any crop year a tobacco price support program is not in effect, the current year's season average market price, if available; if not available, the previous year's season average market price for the applicable insured type tobacco grown in the area.

(b) For types 32, 41, 51, 52, and 61, the current year's season average market price, if available; if not available, the previous year's season average market price for the applicable insured type of tobacco grown in the area.

Planted acreage. Land in which tobacco seedlings, including hydroponic plants, have been transplanted by hand or machine from the tobacco bed to the field.

Practical to Replant. In lieu of the definition of "Practical to replant" contained in section 1 of the Basic Provisions (§ 457.8), practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors, including but not limited to moisture availability, condition of the field, time to crop maturity, and marketing window, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be

considered practical to replant after the final planting date.

Priming. A method of harvesting tobacco by picking the leaves from the stalk as they mature.

Production guarantee (per acre). Either the number of pounds of tobacco for the tobacco type and classification shown on the county actuarial table or the approved yield, as provided in the Special Provisions, multiplied by the coverage level percentage you elect.

Replanting. Performing the cultural practices necessary to replace the tobacco plant, and then replacing the tobacco plant in the insured acreage with the expectation of growing a successful crop.

Season average market price. The average price paid by buyers for a tobacco type for all days tobacco sales occur at public markets during the tobacco sales season in the area in which the farm is located.

Support price. The average price per pound for the type of tobacco as announced by the USDA under its tobacco price support program.

Tobacco bed. An area protected from adverse weather, in which tobacco seeds are sown and seedlings are grown until transplanted into the tobacco field by hand or machine.

USDA. United States Department of Agriculture.

Written agreement. A written document that alters designated terms of this 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), will be further divided into basic units by type of tobacco. Basic units may be divided into optional units if, for each optional unit you meet all the conditions of this section.

(b) 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 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 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.

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

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

(1) You must have provided records, by the production reporting date, 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;

(2) You must plant the crop in a manner that results in a clear and discernable break

in the planting pattern at the boundaries of each optional unit;

(3) For each crop year, records of marketed production or measurement of stored production from each optional unit must be maintained in such 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

(4) Each optional unit must be located in a separate farm identified by a FSA Farm Serial Number.

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

In addition to the requirements of section 3(c) (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8):

(a) You must select only one price election and coverage level for each guaranteed tobacco type designated in the Special Provisions that you elect to insure.

(b) You may be required to file an annual production report to us, if required by the Special Provisions, to establish an approved yield in lieu of the classification published in the actuarial table. If we require you to file an annual production report, you must do so in accordance with section 3(c) (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8).

4. Contract Changes

In accordance with section 4 (Contract Changes) in the Basic Provisions (§ 457.8), the contract change date is November 30 preceding the cancellation date.

5. Report of Acreage

In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report any carryover tobacco from previous years on the acreage report.

6. 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 March 15.

7. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be one or more of the tobacco types designated in the Special Provisions, in which you have a share, that you elect to insure, and for which a premium rate is provided by the actuarial table.

8. Insurable Acreage

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), we will not insure any acreage:

(a) Planted to a discount variety;

(b) Planted to a tobacco type for which no premium rate is provided by the actuarial table;

(c) Planted in any manner other than provided in definition of "planted acreage" in section 1 of the these crop provisions, unless otherwise provided by the Special Provisions or by written agreement; or

(d) Damaged before the final planting date to the extent that the majority of producers

in the area would normally not further care for the crop, unless such crop is replanted or we agree that replanting is not practical.

9. Insurance Period

In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), insurance ceases the earliest of:

(a) Destruction of the tobacco;

(b) Weighing-in at the tobacco warehouse;

(c) Removal of the tobacco from the unit (except for curing, grading, packing, or immediate delivery to the tobacco warehouse); or

(d) The calendar date for the end of the insurance period, which is:

- (1) Types 21 and 12—November 30;
- (2) Type 13—October 31;
- (3) Type 14—October 15;
- (4) Types 31 & 36—February 28;
- (5) Types 21, 35 and 37—March 15;
- (6) Types 22 and 23—April 15;
- (7) Type 32—May 15;
- (8) All other types—April 30.

10. 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 during 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, unless proper measures to control wildlife have not been taken;
- (f) Earthquake;
- (g) Volcanic eruption; or
- (h) Failure of irrigation water supply, if caused by an insured peril that occurs during the insurance period.

11. Duties In The Event of Damage or Loss

(a) In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), any representative samples we may require of each unharvested tobacco type must be at least 5 feet wide and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

(b) If tobacco types 11, 12, 13, or 14 are insured and you have filed a notice of damage, you also must leave all tobacco stalks and stubble intact for our inspection. The stalks and stubble must not be destroyed until we give you written consent to do so or until 30 days after the end of the insurance period whichever is earlier.

12. Settlement of Claim

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

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

(2) For any basic units, we will allocate any commingled production to such units in

proportion to our liability on the harvested acreage for the units.

(b) 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 11(b)(1) by the respective price election;
- (3) Subtracting the value of the total production to be counted from section 11(c) from the total in section 11(b)(2); and
- (4) Multiplying the result of section 11(b)(3) by your share.

(c) The value of the total production to count (pounds of production appraised or harvested multiplied by the applicable price) for 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) Put to another use without our consent;
 - (C) That is damaged solely by uninsured causes;
 - (ii) For which you fail to provide acceptable production records; or
 - (E) Of types 11, 12, 13, or 14 when the stalks and stubble have been destroyed without our consent;
- (ii) Production lost due to uninsured causes;
- (iii) Potential production on insured acreage that you intend to put to another use or abandon with our consent, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when 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 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.

(d) Mature tobacco production that is damaged by insurable causes will be adjusted for quality based on the USDA Official Standard Grades for the insured type if it has an average value per pound less than the market price in the following manner:

- (1) Dividing the average value of the damaged harvested production by the market price;
- (2) Multiplying the result in section 11(d)(1) (not to exceed 1.0) by the number of pounds of damaged harvested tobacco; and

(3) Multiplying the product by your price election.

If no market price has been established for the grade of the damaged tobacco, its value will be determined by reducing the lowest market price available by 20 percent for each grade that the production falls below the grade for which the lowest price is available.

(e) To enable us to determine the fair market value of tobacco not sold through auction warehouses, we must be given the opportunity to inspect such tobacco before it is sold, contracted to be sold, or otherwise disposed of; failure to provide us the opportunity to inspect such tobacco may result in rejection of any claim for indemnity.

(f) If the best offer you receive for any such tobacco is considered by us to be inadequate, we may obtain additional offers on your behalf.

(g) Once we agree that any carryover or current year's tobacco has no market value due to insured causes, you must destroy it. If you refuse to destroy the tobacco with no value, we will determine the value and include it as production to count.

13. Written Agreements

Terms of this policy that are specifically designated for the use of written agreements 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 12(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, D.C., on June 10, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation
[FR Doc. 97-15715 Filed 6-13-97; 8:45 am]

BILLING CODE 3410-08-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 927

[Docket Nos. AO-99-A7; FV96-927-1]

Winter Pears Grown in Oregon, Washington, and California; Recommended Decision and Opportunity To File Written Exceptions To Proposed Further Amendment of Marketing Agreement and Order No. 927

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and opportunity to file exceptions.

SUMMARY: This recommended decision invites written exceptions on proposed amendments to the marketing agreement and order for winter pears grown in Oregon, Washington, and California. The proposed amendments would remove the State of California from the order and make related changes to provisions concerning the production area, districts, and establishment and membership of the Winter Pear Control Committee (Committee). Another amendment would allow the use of telecopiers or other electronic means in Committee voting procedures. The proposed amendments are intended to improve the administration, operation and functioning of the order.

DATES: Written exceptions must be filed by June 26, 1997.

ADDRESSES: Written exceptions should be filed with the Hearing Clerk, U.S. Department of Agriculture, room 1079-S, Washington, DC 20250-9200, Facsimile number (202) 720-9776. Four copies of all written exceptions should be submitted and they should reference the docket numbers and the date and page number of this issue of the **Federal Register**. Exceptions will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Kathleen M. Finn, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523-S, Washington, DC 20250-0200; telephone: (202) 720-2491, or FAX (202) 720-5698; or Teresa Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 S.W. Third Avenue, room 369, Portland, OR 97204-2807; telephone (509) 326-2724 or FAX (509) 326-7440. Small businesses may request

information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456; telephone (202) 720-2491; Fax (202) 720-5698.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued on June 24, 1996, and published in the June 26, 1996, issue of the **Federal Register** (61 FR 33047).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to the proposed further amendment of Marketing Agreement and Order No. 927, regulating the handling of winter pears grown in Oregon, Washington, and California, and the opportunity to file written exceptions thereto. Copies of this decision can be obtained from Kathleen M. Finn or Teresa Hutchinson whose addresses are listed above.

This action is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the "Act," and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR Part 900).

The proposed amendment of Marketing Agreement and Order No. 927 is based on the record of a public hearing held in Sacramento, California, on July 9, 1996, and in Portland, Oregon, on July 10, 1996. Notice of this hearing was published in the **Federal Register** on June 26, 1996. The notice of hearing contained proposals submitted by the Winter Pear Control Committee (Committee), which locally administers the order.

The Committee's proposed amendments would: (1) Revise the definition of "production area" to mean only the States of Oregon and Washington; (2) revise "district" by removing California, leaving only those districts designated in the States of Oregon and Washington; (3) revise "establishment and membership" of the Committee to be consistent with the reduction in size of the regulated production area; (4) revise "procedure of Control Committee", "(a) Quorum and voting", so that the number of members needed for a quorum is consistent with the revised Committee representation, and amend "(b) mail