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

**Proposed Rules** 

## DEPARTMENT OF AGRICULTURE

## Federal Crop Insurance Corporation 7 CFR Part 457 RIN 0563–AA96

**Common Crop Insurance Regulations; Nursery Crop Insurance Provisions AGENCY:** Federal Crop Insurance Corporation.

## ACTION: Proposed rule.

rules.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) hereby proposes specific crop provisions for the insurance of nursery to be contained in an endorsement to the Common Crop Insurance Policy which contains standard terms and conditions common to most crops. The intended effect of this action is to add a nursery frost, freeze, and cold damage exclusion option to better meet the needs of the insured.

DATES: Written comments, data, and opinions on this proposed rule must be submitted no later than February 27, 1995 to be sure of consideration. ADDRESSES: Written comments, data, and opinion on this proposed rule should be sent to Diana Moslak, Regulatory and Procedural Development Staff, Federal Crop Insurance Corporation, USDA, Washington, D.C. 20250. Hand or messenger delivery should be made to 2101 L Street, N.W., suite 500, Washington, D.C. Written comments will be available for public inspection and copying in the Office of the Manager, 2101 L Street, N.W., 5th Floor, Washington, D.C., during regular business hours, Monday through Friday. FOR FURTHER INFORMATION CONTACT: Diana Moslak, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone (202) 254-8314.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed under United States Department of Agriculture ("USDA") procedures established by Executive Order 12866 and Departmental Regulation 1512–1. This action constitutes a review as to the

need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is January 1, 2000.

This rule has been determined to be "not significant" for the purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget ("OMB").

The information collection or recordkeeping requirements contained in these regulations (7 CFR part 457) have been submitted to the OMB in accordance with the provisions of 44 U.S.C. § 35 and will be assigned an OMB control number.

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

Under the Regulatory Flexibility Act (5 U.S.C. § 605), this regulation will not have a significant impact on a substantial number of small entities. This action reduces the paperwork burden on the insured farmer and the reinsured company. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act and no Regulatory Flexibility Analysis was prepared.

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

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsections (2)(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions located at 7 CFR part 400, subpart J or promulgated by the National Appeals Division must be exhausted before judicial action may be brought. Federal Register Vol. 60, No. 18 Friday, January 27, 1995

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

## Background

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR Part 457), two new sections to be known as 7 CFR 457.114, the Nursery Crop Insurance Provisions and 7 CFR 457.115, the Nursery Frost, Freeze, and Cold Damage Exclusion Option. The provisions and option will be effective for the 1996 and succeeding crop years.

The proposed Nursery Crop Insurance Provisions will replace the provisions found at 7 CFR part 406. By separate rule, FCIC will amend these regulations to restrict the crop years of application to those prior to the crop year for which this rule will be effective and later remove the nursery crop insurance regulations contained in 7 CFR part 406.

This rule makes minor editorial and format changes to improve its compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing other changes in the provisions for insuring nursery crops:

1. Subsection 1.(a)—Revises the definition of "amount of insurance" to allow a maximum amount of insurance based on the highest reported monthly market value of inventory plus any additional inventory added during the year, or which is restocked, if approved by the insurer. Presently, the maximum amount of insurance is based on 90 percent of the average monthly market value of inventory reported at the beginning of the crop year. The 10 percent reduced valuation in the current regulations is eliminated to recognize the abnormal expenses incurred in disposing of damaged inventory.

2. Subsection 1.(b)—Revises the definition of "annual loss deductible" by replacing the term "field market value" with the term "highest reported monthly market value."

3. Subsection 1.(e)—Revises the definition, "field market value A" to no longer contain the 10 percent reduced valuation contained in the current regulations due to the change stated in item 1. above. Language specifies that the insurer reserves the right to review the insured's wholesale price list taking into consideration maximum discounts