

# 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 Part 457

RIN 0563-AB90

#### Common Crop Insurance Regulations; Processing Tomato Crop Insurance Provisions

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) proposes to amend the Common Crop Insurance Regulations, Processing Tomato Crop Insurance Provisions (7 CFR 457.160). The intended effect of this action is to: Clarify that producers who have production contracts with tomato brokers are eligible for insurance; allow the Special Provisions statements to provide a replant payment amount that more adequately reflects the regional cost of replanting tomatoes, and restrict the effect of the current processing tomato crop provisions to the 2004 and prior crop years.

**DATES:** Written comments and opinions on this proposed rule will be accepted until close of business on January 13, 2004, and will be considered when the rule is to be made final. The comment period for information collections under the Paperwork Reduction of 1995 continues through January 13, 2004.

**ADDRESSES:** Interested persons are invited to submit written comments to the Director, Product Development Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO. 64133-4676. Comments titled Processing Tomatoes may also be sent via the Internet to [DirectorPDD@rm.fci.usda.gov](mailto:DirectorPDD@rm.fci.usda.gov). A copy of each response will be available for public inspection and copying from 7 a.m. to 4:30 p.m., CST Monday through

Friday, except holidays, at the above address.

**FOR FURTHER INFORMATION CONTACT:** Pam Culver, Risk Management Specialist, Research and Development, Product Development Division, Risk Management Agency, at the Kansas City, MO address listed above, telephone (816) 926-7176.

#### SUPPLEMENTARY INFORMATION:

##### *Executive Order 12866*

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

##### *Paperwork Reduction Act of 1995*

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information for this rule have been previously approved by OMB under control number 0563-0053 through February 28, 2005.

##### *Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) 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. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

##### *Executive Order 13132*

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, 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. 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. 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 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 rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any action taken by FCIC under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC 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.

##### *Background*

FCIC proposes to amend § 457.160 Processing Tomato Crop Insurance Provisions of the Common Crop Insurance Regulations by adding a definition of "broker" and adding provisions to clarify producers who have production contracts with tomato brokers are eligible for insurance. Current provisions specify that producers who have production contracts with tomato processors, and tomato producers who also process tomatoes, can be eligible for insurance. The proposed rule requires the tomato