

# 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.fcic.usda.gov](mailto:DirectorPDD@rm.fcic.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

broker to have all licenses and permits required by the state in which it operates, and to have a written contract with a processor to purchase processing tomatoes on behalf of the processor and to deliver such tomatoes to the processor. Additionally, the proposed rule allows Special Provision statements to provide a replant payment amount that more adequately reflects the regional cost of replanting tomatoes. The replant payment amount remains limited to the producer's actual costs as provided in the Basic Provisions.

**List of Subjects in 7 CFR Part 457**

Crop insurance, processing tomatoes, reporting and record keeping requirements.

*Proposed Rule*

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 457 Common Crop Insurance Regulations effective for the 2005 and succeeding crops years, to read as follows:

**PART 457—COMMON CROP INSURANCE REGULATIONS**

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

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

2. Amend 457.160 as follows:

- a. Revise the heading and the introductory text.
  - b. Amend section 1 by adding a definition for "broker".
  - c. Amend section 1 by revising the definition of "processor contract".
  - d. Revise section 8(c).
  - e. Revise section 12(b).
- The revisions read as follows:

**§ 457.160 Processing tomato crop insurance provisions.**

The Processing Tomato Crop Insurance Provisions for the 2005 and succeeding crop years are as follows:

\* \* \* \* \*

1. Definitions

\* \* \* \* \*

*Broker.* An enterprise in the business of selling and buying tomatoes possessing all the licenses and permits required by the state in which it operates, and that has a written contract with a processor to purchase processing tomatoes on behalf of the processor and to deliver such tomatoes to the processor.

\* \* \* \* \*

*Processor contract.* A written agreement between the producer and a processor, or between the producer and a broker, containing at a minimum:

(a) The producer's commitment to plant and grow processing tomatoes, and to deliver the tomato production to the processor or broker;

(b) The processor's, or broker's, commitment to purchase all the production stated in the processor contract; and

(c) A price per ton that will be paid for the production.

\* \* \* \* \*

8. Insured Crop

\* \* \* \* \*

(c) A tomato producer who is also a processor or broker may establish an insurable interest if the following requirements are met:

(1) The processor or broker, as applicable, must comply with these Crop Provisions;

(2) Prior to the sales closing date, the Board of Directors or officers of the processor or the broker must execute and adopt a resolution that contains the same terms as an acceptable processor contract. (Such resolution will be considered a processor contract under this policy); and

(3) As applicable, our inspection reveals that the processing facilities comply with the definition of a processor contained in these Crop Provisions.

\* \* \* \* \*

12. Replanting Payment

\* \* \* \* \*

(b) The maximum amount of the replanting payment per acre will be determined as follows:

(1) the amount if shown on the Special Provisions; or

(2) if an amount is not contained in the Special Provisions, the lesser of 20 percent of the production guarantee or three tons, multiplied by your third stage (final) price election, multiplied by your share; and

(3) in no event will the replanting payment per acre exceed your actual cost of replanting.

\* \* \* \* \*

Signed in Washington, DC, on November 4, 2003.

**Ross J. Davidson,**  
*Manager, Federal Crop Insurance Corporation.*

[FR Doc. 03-28219 Filed 11-13-03; 8:45 am]

**BILLING CODE 3410-08-P**

**FEDERAL ELECTION COMMISSION**

**11 CFR Parts 110, 113, 9004, and 9034**

**[Notice 2003-21]**

**Mailing Lists of Political Committees**

**AGENCY:** Federal Election Commission.

**ACTION:** Notice of disposition; termination of rulemaking.

**SUMMARY:** On September 4, 2003, the Commission issued a Notice of Proposed Rulemaking seeking comment on proposed rules that addressed the rental, sale, and exchange of political committee mailing lists, and the treatment and use of proceeds from such transactions. The Commission is not amending its current rules and is terminating this rulemaking at this time for several reasons, including the lack of perceived need by political committees for guidance beyond what has been presented in Commission advisory opinions. Further information is provided in the supplementary information that follows.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mai T. Dinh, Acting Assistant General Counsel, or Mr. Jonathan M. Levin, Senior Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** On September 4, 2003, the Commission issued a Notice of Proposed Rulemaking ("NPRM"), 68 FR 52531 (Sept. 4, 2003). The proposed rules would have set forth the conditions under which the proceeds from the sale, rental, or exchange of a political committee's mailing list would not be contributions to that political committee. The proposed rules would also have prohibited the conversion of an authorized committee's mailing list, or any proceeds from the rental or sale of the list, to the personal use of the candidate or any other person. In addition, the proposed rules would have addressed the sale or rental of mailing lists owned by the authorized committee of a publicly funded presidential candidate. The NPRM sought comments on these rules generally and asked for comments as to specific aspects of mailing list transactions. In particular, the Commission asked for comment on whether the final rules should list specific factors to determine the usual and normal charge for the mailing lists involved in the transactions, and what those factors should be.

The Commission received nine comments in response to the NPRM. These were from: (1) Charles R. Spies on behalf of the Republican National Committee; (2) Stephen M. Hoerstring on behalf of the National Republican Senatorial Committee; (3) Donald F. McGahn II, on behalf of the National Republican Congressional Committee; (4) Joseph E. Sandler and Robert F. Bauer on behalf of the Democratic National Committee, the Democratic