

7 CFR Parts 401 and 457**General Crop Insurance Regulations, Fresh Market Tomato Minimum Value Option, and Fresh Market Tomato (Dollar Plan) Endorsement; and Common Crop Insurance Regulations, Fresh Market Tomato (Dollar Plan) 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 fresh market (dollar plan) tomatoes. 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 Fresh Market Tomato (Dollar Plan) Endorsement and the Fresh Market Tomato Minimum Value Option with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current Fresh Market Minimum Value Option and the Fresh Market Tomato (Dollar Plan) Endorsement to the 1997 and prior crop years.

DATES: Written comments, data and opinions on this proposed rule will be accepted until close of business January 29, 1997, 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 February 25, 1997.

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, United States Department of Agriculture, 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: Linda Williams, Program Analyst, Research and Development Division, Product Development Branch, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926-7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

The title of this information collection is "Catastrophic Risk Protection Plan and Related Requirements including, Common Crop Insurance Regulations; Fresh Market Tomato (Dollar Plan) Crop Insurance Provisions." The information to be collected includes a crop insurance application and an 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 fresh market tomatoes 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 of 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 2,669,932 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 or 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 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. 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. 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 subsections 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 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 457.139, Fresh Market Tomato (Dollar Plan) 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 fresh market tomatoes (dollar plan) found at 7 CFR 401.137 (Fresh Market Tomato Minimum Value Option) and 7 CFR 401.139 (Fresh Market Tomato (Dollar Plan) Endorsement). FCIC also proposes to amend § 401.137 and § 401.139 to limit their effect to the 1997 and prior crop years. FCIC will later publish a regulation to remove and reserve § 401.137 and § 401.139.

This rule makes minor editorial and format changes to improve the Fresh Market Tomato Minimum Value Option and the Fresh Market Tomato (Dollar Plan) Endorsement's compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring

fresh market tomatoes (dollar plan) as follows:

1. *Section 1*—Add definitions for the terms "carton," "days," "FSA," "good farming practices," "interplanted," "irrigated practice," "planted acreage," "practical to replant," "row width," "tropical depression," and "written agreement" for clarification.

Clarify the definition of crop year to specify that the crop year begins on the first day of the earliest planting period for fall-planted tomatoes and continues through the end of the insurance period for spring-planted tomatoes.

Clarify the definition of excess rain to specify that it is an amount of precipitation that is sufficient to directly damage the crop. Previous regulations defined excessive rain as a minimum of 10 inches of rain within a 24-hour period. This change will provide coverage for crop damage that occurs when a lesser amount of precipitation is received.

Change the definition of freeze to specify that freeze occurs when low air temperatures cause ice to form in the cells of the plant or its fruit to encompass conditions found in both frost and freeze.

Change the definition of harvest to clarify and remove the term marketable. Tomatoes picked from the vine are considered harvested whether marketable or not.

2. *Section 3(a)*—Clarify that an insured may select only one coverage level (and the corresponding amount of insurance designated in the Actuarial Table for the applicable planting period and practice) for all the tomatoes planted in the county insured under the policy.

3. *Section 3(b)*—Clarify that the amounts of insurance the insured chooses for each planting period and practice must have the same percentage relationship to the maximum amount of insurance offered by FCIC for each planting period and practice.

4. *Section 8(c)(4)*—Clarify that plum or cherry tomatoes are not insurable unless allowed by a written agreement. Previous regulations did not provide crop insurance coverage for plum or cherry tomatoes. This change will allow expansion of fresh market tomato crop insurance coverage into other areas.

5. *Section 9(b)(2)*—Allow an insured to elect not to replant damaged tomatoes that were initially planted within the fall or winter planting periods, provided the final planting date for the planting period has passed and damage occurs after 30 days of transplanting or after 60 days of direct seeding. With this election, the insured may collect an indemnity and that particular acreage

will be uninsurable for the next planting period. The insured may also elect to replant such tomato acreage, collect a replanting payment under section 12, and maintain the initial planting period coverage. This change incorporates and standardizes procedures utilized in the fresh market vegetable crops.

6. *Section 10(f)(2)*—Change the calendar date for the end of the insurance period from 140 days to 125 days after the date of transplanting or replanting with transplants. This change incorporates the actual number of days for transplanted tomatoes to reach maturity and for the crop to be harvested.

7. *Section 11(a)(6)*—Tropical depression has replaced cyclone as an insured cause of loss. This change will standardize tropical depression as an insured cause of loss among fresh market vegetable crops.

8. *Section 14(b)(2)*—Modify claim for indemnity calculations by providing calculations for catastrophic risk protection coverage and for coverage other than catastrophic risk protection. This provision includes the use of the catastrophic risk protection price election equivalent to determine the total dollar of production to count for indemnity purposes. This change is necessary to assure that producers that are insured based on a dollar amount of insurance are indemnified comparable to producers that are insured based on an actual production history (APH) yield basis.

9. *Section 14(c)*—Remove the provision requiring that unharvested potential production in excess of 30 cartons after the second harvest for ground culture tomatoes (third harvest for staked tomatoes) be included in the value of appraised production to be counted. Consistent with other fresh market vegetable crops, this provision will be contained in the loss adjustment procedures.

10. *Section 14(c)(2)(iv)*—Require the insured to continue to care for acreage when the insured does not agree with the appraisal on that acreage. Production to count for such acreage will be determined using the harvested production if the crop is harvested, or our reappraisal if the crop is not harvested.

11. *Section 14(c)(3)*—Change the value to count for harvested production to the dollar amount obtained by subtracting the allowable cost from the price received (this resulting price must not be less than the minimum value shown in the Special Provisions), and multiplying this result by the number of cartons harvested. Current regulations allow the value of sold production to be

as low as zero. Also, clarify that harvested mature tomatoes that are damaged or defective due to insurable causes and are not marketable will not be counted as production. These changes are made to assure that the minimum value specified in the Special Provisions will be the lowest value considered for any marketable harvested production unless the insured selected the minimum value option.

12. *Section 15*—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 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.

13. *Section 16*—Permit the insured to select the minimum value option by electing Option I or Option II on the application. A separate form no longer will be required.

List of Subjects in 7 CFR Parts 401 and 457

Crop insurance, Fresh market tomatoes.

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(l), 1506(p).

2. Section 401.137 introductory paragraph is revised to read as follows:

§ 401.137 Fresh market tomato minimum value option.

The provisions of the Fresh Market Tomato Minimum Value Option for the 1991 through the 1997 crop years are as follows:

* * * * *

3. Section 401.139 introductory paragraph is revised to read as follows:

§ 401.139 Fresh market tomato (dollar plan) endorsement.

The provisions of the Fresh Market Tomato Crop Insurance Endorsement for the 1991 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(l), 1506(p).

5. 7 CFR part 457 is amended by adding a new § 457.139 to read as follows:

§ 457.139 Fresh Market Tomato (Dollar Plan) Crop Insurance Provisions.

The Fresh Market Tomato (Dollar Plan) Crop Insurance 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:

Fresh Market Tomato (Dollar Plan) 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

Acre—43,560 square feet of land when row widths do not exceed six feet, or if row widths exceed six feet, the land area on which at least 7,260 linear feet of rows are planted.

Carton—Twenty-five (25) pounds of the insured crop.

Crop year—In lieu of the definition of "crop year" contained in section 1 (Definitions) of the Basic Provisions (§ 457.8), crop year is a period of time that begins on the first day of the earliest planting period for fall-planted tomatoes and continues through the last day of the insurance period for spring-planted tomatoes. The crop year is designated by the calendar year in which spring-planted tomatoes are harvested.

Days—Calendar days.

Direct marketing—Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper or buyer. Examples of direct marketing include selling through an on-farm or roadside stand, farmer's market, and permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

Excess rain—An amount of precipitation sufficient to directly damage the crop.

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

Freeze—The formation of ice in the cells of the plant or its fruit, caused by low air temperatures.

Good farming practices—The cultural practices generally in use in the county for the crop to make normal progress toward maturity and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest—The picking of tomatoes on the unit.

Interplanted—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

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 for the insured crop to make normal progress toward maturity.

Mature green tomato—A tomato that:

(1) Has a glossy waxy skin that cannot be torn by scraping;

(2) Has well-formed, jelly-like substance in the locules;

(3) Has seeds that are sufficiently hard so as to be pushed aside and not cut by a sharp knife in slicing; and

(4) Shows no red color.

Plant stand—The number of live plants per acre prior to the occurrence of an insurable cause of loss.

Planted acreage—Land in which, for each planting period, transplants or seed have been placed manually or by a machine appropriate for the insured crop and planting method, at the correct depth, into soil that has been properly prepared for the planting method and production practice. For each planting period, tomatoes must initially be planted in rows. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

Planting period—The period of time designated in the Actuarial Table in which the tomatoes must be planted to be considered fall, winter or spring-planted tomatoes.

Potential production—The number of cartons of mature green or ripe tomatoes with a classification size of 6 x 7 (2-³/₃₂ inch minimum diameter) or larger, that the tomato plants will or would have produced per acre by the end of the

insurance period, assuming normal growing conditions and practices.

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, marketing windows, and time to crop maturity, that replanting to the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period (inability to obtain plants or seed will not be considered when determining if it is practical to replant).

Replanting—Performing the cultural practices necessary to replace the tomato seed or transplants and then replacing the tomato seed or transplants in the insured acreage with the expectation of growing a successful crop.

Ripe tomato—A tomato that has a definite break in color from green to tannish-yellow, pink or red.

Row width—The widest distance from the center of one row of plants to the center of an adjacent row of plants.

Tropical depression—A system identified by the U.S. Weather Service as a tropical depression, and for the period of time so designated, including tropical storms, gales, and hurricanes.

Written agreement—A written document that alters designated terms of this policy in accordance with section 15.

2. Unit Division

(a) A unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), (basic unit) will be divided by planting period.

(b) Unless limited by the Special Provisions, these basic units may be further divided into optional units if, for

each optional unit you meet all the conditions of this section or if a written agreement for such further division exists.

(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 established for a 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 records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year in which the insured crop was planted;

(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) 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; and

(4) Each optional unit must be 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.

3. Amounts of Insurance and Production Stages

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one coverage level (and the corresponding amount of insurance designated in the Actuarial Table for the applicable planting period and practice) for all the tomatoes in the county insured under this policy.

(b) The amount of insurance you choose for each planting period and practice must have the same percentage relationship to the maximum price offered by us for each planting period and practice. For example, if you choose 100 percent of the maximum amount of insurance for a specific planting period and practice, you must also choose 100 percent of the maximum amount of insurance for all other planting periods and practices.

(c) The amount of insurance available under the catastrophic risk protection plan of insurance will be specified in the Actuarial Table.

(d) The production reporting requirements contained in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), do not apply to fresh market dollar plan tomatoes.

(e) The amounts of insurance per acre are progressive by stages as follows:

| Stage | Percent of amount of insurance per acre that you selected | Length of time if direct seeded | Length of time if transplanted |
|-------------|---|---|--|
| 1 | 50 | From planting through the 59th day after planting | From planting through the 29th day after planting. |
| 2 | 75 | From the 60th day after planting until the beginning of stage 3. | From the 30th day after planting until the beginning of stage 3. |
| 3 | 90 | From the 90th day after planting until the beginning of the final stage. | From the 60th day after planting until the beginning of the final stage. |
| Final | 100 | Begins the earlier of 105 days after planting, or the beginning of harvest. | Begins the earlier of 75 days after planting, or the beginning of harvest. |

(f) Any acreage of tomatoes damaged in the first, second, or third stage to the extent that the majority of producers in

the area would not normally further care for it, will be deemed to have been destroyed. The indemnity payable for

such acreage will be based on the stage the plants had achieved when the damage occurred.

4. *Contract Changes*

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

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 July 31.

6. *Report of Acreage*

In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report on or before the acreage reporting date contained in the Special Provisions for each planting period:

- (a) All the acreage of tomatoes in the county insured under this policy in which you have a share; and
- (b) The row width.

7. *Annual Premium*

In lieu of the premium amount determinations contained in section 7 (Annual Premium) of the Basic Provisions (§ 457.8), the annual premium amount for each cultural practice (e.g. fall direct seeded irrigated) is determined by multiplying the final stage amount of insurance per acre by the premium rate for the cultural practice as established in the Actuarial Table, by the insured acreage, by your share at the time coverage begins, and by any applicable premium adjustment factors contained in the Actuarial Table.

8. *Insured Crop*

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the tomatoes in the county for which a premium rate is provided by the Actuarial Table:

- (a) In which you have a share;
- (b) That are:
 - (1) Planted to be harvested and sold as fresh market tomatoes;
 - (2) Planted within the planting periods designated in the Actuarial Table;
 - (3) Grown under an irrigated practice;
 - (4) Grown on acreage covered by plastic mulch except where the Special Provisions allows otherwise;
 - (5) Grown by a person who in at least one of the three previous crop years:
 - (i) Grew tomatoes for commercial sale; or
 - (ii) Participated in managing a fresh market tomato farming operation;
 - (c) That are not:
 - (1) Interplanted with another crop;
 - (2) Planted into an established grass or legume;

- (3) Grown for direct marketing; or
- (4) Plum or cherry type tomatoes, unless allowed by written agreement.

9. *Insurable Acreage*

(a) In lieu of the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), that prohibit insurance attaching if a crop has not been planted in at least one of the three previous crop years, we will insure newly cleared land or former pasture land planted to fresh market tomatoes.

(b) In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8):

- (1) You must replant any acreage of tomatoes damaged during the planting period in which initial planting took place whenever less than 50 percent of the plant stand remains: and
 - (i) It is practical to replant;
 - (ii) If, at the time the crop was damaged, the final day of the planting period has not passed; and
 - (iii) The damage occurs within 30 days of transplanting or 60 days of direct seeding.

(2) Whenever tomatoes initially are planted during the fall or winter planting periods and the conditions specified in sections 9(b)(1) (i) and (iii) are not satisfied, you may elect:

- (i) To replant such acreage and collect any replant payment due as specified in section 12. The initial planting period coverage will continue for such replanted acreage.

(ii) Not to replant such acreage and receive an indemnity based on the stage of growth the plants had attained at the time of damage. However, such an election will result in the acreage being uninsurable in the subsequent planting period.

(3) We will not insure any acreage which, in the preceding planting period was planted to tomatoes (except as allowed in sections 9(b) (1) and (2)), peppers, eggplants, or tobacco unless the soil has been fumigated or otherwise properly treated.

10. *Insurance Period*

In lieu of the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), coverage begins on each unit or part of a unit the later of the date we accept your application, or when the tomatoes are planted in each planting period. Coverage ends at the earliest of:

- (a) Total destruction of the tomatoes on the unit;
- (b) Abandonment of the tomatoes on the unit;
- (c) The date harvest should have started on the unit on any acreage which will not be harvested;

(d) Final adjustment of a loss on the unit;

(e) Final harvest; or

(f) The calendar date for the end of the insurance period as follows:

- (1) 140 days after the date of direct seeding or replanting with seed; and
- (2) 125 days after the date of transplanting or replanting with transplants.

11. *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) Excess rain;
- (2) Fire;
- (3) Freeze;
- (4) Hail;
- (5) Tornado;
- (6) Tropical depression; or
- (7) Failure of the irrigation water supply, if caused by an insured cause of loss 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 any loss of production due to:

- (1) Disease;
- (2) Insect infestation; or
- (3) Failure to market the tomatoes, unless such failure is due to actual physical damage caused by an insured cause of loss that occurs during the insurance period.

12. *Replanting Payments*

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), a replanting payment is allowed if, due to an insured cause of loss, more than 50 percent of the plant stand will not produce tomatoes and it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the result obtained by multiplying \$175.00 by your insured share.

(c) In lieu of the provisions contained in section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), limiting a replanting payment to one each crop year, only one replanting payment will be made for acreage planted during each planting period within the crop year.

13. *Duties in the Event of Damage or Loss*

In addition to the requirements contained in section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), if you intend to claim an indemnity on any unit you must also give us notice not later than 72 hours after the earliest of:

- (a) The time you discontinue harvest of any acreage on the unit;
- (b) The date harvest normally would start if any acreage on the unit will not be harvested; or
- (c) The calendar date for the end of the insurance period.

14. 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 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 in each stage by the amount of insurance per acre for the final stage;
 - (2) Multiplying each result in section 14(b)(1) by the percentage for the applicable stage (see section 3(e));
 - (3) Total the results of section 14(b)(2);
 - (4) Subtracting either of the following values from the result of section 14(b)(3):
 - (i) For other than catastrophic risk protection coverage, the total value of production to be counted (see section 14(c)); or
 - (ii) For catastrophic risk protection coverage, the result of multiplying the total value of production to be counted (see section 14(c)) by:
 - (A) Sixty percent for the 1998 crop year; or
 - (B) Fifty-five percent for 1999 and subsequent crop years; and
 - (3) Multiplying the result of section 14(b)(4) by your share.

(c) The total value of production to count from all insurable acreage on the unit will include:

- (1) Not less than the amount of insurance per acre for the stage for any acreage:
 - (i) That is abandoned;
 - (ii) Put to another use without our consent;
 - (iii) That is damaged solely by uninsured causes; or
 - (iv) For which you fail to provide acceptable production records;
- (2) The value of the following appraised production will not be less than the dollar amount obtained by multiplying the number of cartons of appraised tomatoes times the minimum value per carton shown in the Special Provisions for the planting period:

(i) Potential production on any acreage that has not been harvested the second time for ground-culture tomatoes (the third time for staked tomatoes);

(ii) Unharvested mature green tomatoes (unharvested production that is damaged or defective due to insurable causes and is not marketable will not be counted as production to count);

(iii) Production lost due to uninsured causes; and

(iv) Potential production on insured acreage that you intend to put to another use or abandon, 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) We may require you to continue to care for the crop so that a subsequent appraisal may be made or the crop harvested to determine actual production (If we require you to continue to care for the crop and you do not do so, the original appraisal will be used); or

(B) You may elect to continue to care for the crop, in which case the amount of production to count for the acreage will be the harvested production, or our reappraisal if the crop is not harvested.

(3) The total value of all harvested production from the insurable acreage will be the dollar amount obtained by subtracting the allowable cost contained in the Special Provisions from the price received for each carton of tomatoes (this result may not be less than the minimum value shown in the Special Provisions for any carton of tomatoes), and multiplying this result by the number of cartons of tomatoes harvested. Harvested production that is damaged or defective due to insurable causes and is not marketable, will not be counted as production to count.

15. Written Agreements

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 15(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, and premium rate;

(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.

16. Minimum Value Option

(a) The provisions of this option are continuous and will be attached to and made a part of your insurance policy, if:

(1) You elect *either* Option I or Option II of the Minimum Value Option on your application, or on a form approved by us, on or before the sales closing date for the initial crop year in which you wish to insure fresh market tomatoes (dollar plan) under this option, and pay the additional premium indicated in the Actuarial Table for this optional coverage; and

(2) You have not elected coverage under the Catastrophic Risk Protection Endorsement.

(b) In lieu of the provisions contained in section 14(c)(3), the total value of harvested production will be determined as follows:

If you selected Option I of the Minimum Value Option, the total value of harvested production will be as follows:

(i) For sold production, the dollar amount obtained by subtracting the allowable cost contained in the Special Provisions from the price received for each carton of tomatoes (this result may not be less than \$2.00 for any carton of tomatoes), and multiplying this result by the number of cartons of tomatoes sold; and

(ii) For marketable production that is not sold, the dollar amount obtained by multiplying the number of cartons of such tomatoes on the unit by the minimum value shown in the Special Provisions for the planting period (harvested production that is damaged or defective due to insurable causes and is not marketable will not be counted as production).

(2) If you selected Option II of the Minimum Value Option, the total value of harvested production will be as provided in section 16(b)(1), except that the dollar amount specified in section (16)(b)(1)(i) may not be less than zero.

(c) This option may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding

the crop year for which the cancellation of this option is to be effective.

Signed in Washington, D.C. on December 20, 1996.

Kenneth D. Ackerman,
Manager, Federal Crop Insurance
Corporation.

[FR Doc. 96-33066 Filed 12-27-96; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

[Docket No. PRM-35-14]

IsoStent, Inc.; Withdrawal of Petition for Rulemaking

AGENCY: Nuclear Regulatory
Commission.

ACTION: Petition for rulemaking:
Withdrawal.

SUMMARY: The Nuclear Regulatory Commission (NRC) is withdrawing, at the petitioner's request, a petition for rulemaking (PRM-35-14) filed by IsoStent, Inc. By a letter dated May 9, 1996, the petitioner requested that the NRC amend its regulations by adding a new section to address permanently implanted intraluminal stents, including phosphorus-32 and strontium-89 radioisotope stents. The petitioner also requested that the NRC add a new section to specify training and experience requirements for qualified physicians responsible for placing radioisotope stents in patients. The NRC published a Federal Register notice on June 27, 1996 (61 FR 33388) announcing receipt of the petition. Recently, in another letter dated October 24, 1996, the petitioner requested that the petition be withdrawn based on public comments received by the NRC on this petition, and other information.

ADDRESSES: A copy of the petitioner's letter requesting the withdrawal of the petition is available for public inspection, or copying for a fee, at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Single copies of the petitioner's letter may be obtained free of charge by writing to the Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services,

Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Telephone: 301-415-7163 or Toll Free: 800-368-5642, or E-mail MTL@NRC.GOV.

Dated at Rockville, Maryland, this 23rd day of December 1996.

For the Nuclear Regulatory Commission.
John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96-33149 Filed 12-27-96; 8:45 am]

BILLING CODE 7590-01-P

FEDERAL ELECTION COMMISSION

11 CFR Part 104

[Notice 1996-21]

Recordkeeping and Reporting by Political Committee: Best Efforts

AGENCY: Federal Election Commission.

ACTION: Extension of comment period.

SUMMARY: On October 9, 1996, the Federal Election Commission published a Notice of Proposed Rulemaking requesting comments on proposed changes to its regulations requiring treasurers of political committees to exercise best efforts to obtain and report the complete identification of each individual who contributes more than \$200 per calendar year. The Commission has decided to extend the comment period until January 31, 1997.

DATES: Comments must be received on or before January 31, 1997.

ADDRESSES: Comments must be made in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, N.W., Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Ms. Rosemary C. Smith, Senior Attorney, at (202) 219-3690 or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Commission has initiated a rulemaking to determine what changes should be made to its regulations at 11 CFR 104.7(b) (1) and (3) in light of the recent court decision in *Republican National Committee v. Federal Election Commission*, 76 F.3d 400 (D.C. Cir. 1996), *petition for cert. filed*, 65 U.S.L.W. 3186 (U.S. Sept. 9, 1996) (No. 96-415). The Notice of Proposed Rulemaking indicated that the comment period ended on December 6, 1996. 61 F.R. 52901 (Oct. 9, 1996). The Commission received several comments and one request to extend the comment period. The Commission notes that those who were engaged in general election activity or who are engaged in

concluding their 1996 election activities may not have found it possible to submit timely comments. Accordingly, the Commission has concluded that it would be appropriate to extend the comment period until January 31, 1997 to allow commenters sufficient time to prepare their comments and suggestions.

Dated: December 24, 1996.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 96-33138 Filed 12-27-96; 8:45 am]

BILLING CODE 6715-01-P

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Regulation B; Docket No. R-0876]

Equal Credit Opportunity

AGENCY: Board of Governors of the
Federal Reserve System.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Board is withdrawing a proposed amendment to Regulation B (Equal Credit Opportunity) that would have eliminated the general prohibition on collecting data relating to an applicant's sex, race, color, religion, and national origin.

DATES: This proposed rule is withdrawn December 24, 1996.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell, Sheilah Goodman or Natalie Taylor, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452-3667 or 452-2412; for the hearing impaired only, Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

I. Background

The Equal Credit Opportunity Act (ECOA) makes it unlawful for creditors to discriminate in any aspect of a credit transaction on the basis of sex, race, color, religion, national origin, marital status, age (provided the applicant has the capacity to contract), because all or part of an applicant's income derives from any public assistance, or because an applicant has in good faith exercised any right under the Consumer Credit Protection Act. The ECOA, which is implemented by the Board's Regulation B, is generally silent regarding what information a creditor may collect from an applicant. Regulation B prohibits creditors from asking for or otherwise noting an applicant's sex, race, color,