

shipment will be suspended from the export program until appropriate measures, agreed upon by the NPPO of the exporting country and APHIS, have been taken.

(g) *Commercial consignments.* The pitaya fruit may be imported in commercial consignments only.

(h) *Phytosanitary certificate.* Each consignment of pitaya fruit must be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country, containing an additional declaration stating that the fruit in the consignment was produced in accordance with requirements in 7 CFR 319.56–55.

(Approved by the Office of Management and Budget under control number 0579–0378)

Done in Washington, DC, this 9th day of April 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2012–9066 Filed 4–13–12; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

[Docket No. FCIC–11–0006]

RIN 0563–AC32

Common Crop Insurance Regulations; Fresh Market Tomato (Dollar Plan) Crop Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes the Common Crop Insurance Regulations, Fresh Market Tomato (Dollar Plan) Crop Provisions. The intended effect of this action is to provide policy changes and clarify existing policy provisions to better meet the needs of insured producers, and to reduce vulnerability to program fraud, waste, and abuse. The changes will apply for the 2013 and succeeding crop years.

DATES: This rule is effective April 16, 2012.

FOR FURTHER INFORMATION CONTACT: Tim Hoffmann, Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, P.O. Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563–0053.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

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.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small

entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

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 final 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 direct action taken by FCIC or action by FCIC directing the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11, or 7 CFR part 400, subpart J for the informal administrative review process of good farming practices as applicable, 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 economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

This rule finalizes changes to the Common Crop Insurance Regulations (7 CFR part 457), Fresh Market Tomato (Dollar Plan) Crop Provisions that were published by FCIC on November 17, 2011, as a notice of proposed rulemaking in the **Federal Register** at 76 FR 71271–71276. The public was afforded 30 days to submit comments after the regulation was published in the **Federal Register**.

A total of 136 comments were received from 14 commenters. The commenters were farmers, trade associations, an insurance agent, an insurance company, and other interested parties.

The public comments received regarding the proposed rule and FCIC's responses to the comments are as follows:

Section 1—Definitions

Comment: In regard to the definition of “acre” commenters asked for additional information regarding how unplanted acreage (e.g., field irrigation canals and furrows, or field roads for spraying and handling harvested tomatoes) should be deducted when reporting planted acres.

Response: It would not be possible to include this information in this rule because of the complexities involved. However, FCIC provides several sources of information and examples to be used by the insurance providers, agents and their producers for determining planted acreage for fresh market tomatoes. The Risk Management Agency (RMA) published Manager's Bulletin MGR–09–010 on November 18, 2009, which provided appropriate methods for determining “planted acreage.” The clarifying information and additional examples in this bulletin were incorporated into the 2010 Loss Adjustment and Standards Handbook (LASH) and is available for the insurance providers, their agents and producers to use in calculating and reporting their planted acreage.

Comment: In regard to the new “fresh market tomatoes” definition, a few commenters recommended that other types or varieties of tomatoes should be insured under this policy (greenhouse, hydroponic, heirlooms, etc.).

Response: FCIC disagrees with these recommendations to insure these other types of tomatoes. FCIC added the new definition of “fresh market tomatoes” to clarify the Fresh Market Tomato (Dollar Plan) Crop Provisions is primarily designed to insure “field grown mature green or ripe fresh market tomatoes.” These are the traditional large “round” or “globe” field grown tomatoes that account for approximately 90 percent of the fresh market tomato production. In addition, there must be standards for determining the fresh market tomatoes and the U.S. Standards for Grades of Fresh Tomatoes, and the AMS Federal Marketing Order (FMO #966) are the primary federal regulations that govern these traditional “round or globe” field grown fresh market tomatoes. These other tomatoes are not field grown and there are no such established standards for these other types or varieties of tomatoes. No change has been made.

Comment: In regard to the definitions of “harvest” and “penhookers”, some commenters recommended tomatoes that are field packed as “ripe” tomatoes, and tomatoes salvaged by penhookers should be considered a harvest.

Response: Field packed “ripe” tomatoes meet the definition of “fresh market tomatoes” so they qualify as harvested. FCIC considers all “penhooked” tomatoes as salvage value, since the penhookers pay the producer directly and should be treated separately from harvested fresh market tomatoes because they usually have less value. However, the revenue received from the penhookers must still be reported in their total dollar value of production to count. No change has been made.

Section 8—Insured Crop

Comment: Commenters recommended that field grown cherry, grape, plum or roma types of fresh market tomatoes be insured under this policy by including these types in the Special Provisions.

Response: FCIC agrees and proposed to include the cherry, grape, plum or roma types of tomatoes via the Special Provisions. This provision was left unchanged in this final rule.

Section 10—Insurance Period

Comment: Commenters recommended the calendar date for the end of the insurance period be increased to 140 days after transplanting. Under the current policy the end of the insurance period is 125 days after transplanting.

Response: No changes were proposed to section 10(f) regarding the end of the insurance period for transplanted or replanted tomatoes. FCIC only proposed to remove the provisions regarding

direct seeded tomatoes. Since the public was not provided an opportunity to comment on the extension of the end of the insurance period to 145 days and the recommendation does not address a conflict or vulnerability in the crop provisions, FCIC cannot consider the recommended change. No change has been made to the final rule.

Section 12—Replanting Payments

Comment: Commenters recommended raising the current replanting payments from \$600 to \$900 per acre.

Response: No changes were proposed to sections 12(a), 12(b), and 12(c). Since the public was not provided an opportunity to comment on an increase of replanting payments and the recommendation does not address a conflict or vulnerability in the provisions, FCIC cannot consider the recommended change. No change has been made.

Section 14—Settlement of Claim

Comment: Commenters recommended under “Section 14(c)(2)(i) that appraised potential production, as currently in the policy, allows up to 30 cartons that do not count against the grower if tomatoes have been picked 3 times.”

Response: FCIC disagrees with this recommendation. There is no language in the current policy that indicates there should be a 30 carton reduction in the grower's production to count if tomatoes are harvested more than three times. FCIC is revising the language in section 14(c)(2)(i) to clarify and state potential production on any fresh market tomato acreage that has not been harvested the required number of times as specified in the Special Provisions will be included in the total appraised production. This will allow flexibility for future harvest requirements for specialty tomatoes such as cherry, grape, plum or roma tomatoes.

Comment: Commenters asked for clarification on new policy wording in section 14(c)(3).

Response: FCIC is not sure what needs clarifying. Section 14(c)(3) provides the method for valuing sold harvested production and is the same type of calculation used for the Summary of Harvested Production Worksheet in the current LASH to determine the total dollar value per load. Therefore, this calculation should already be familiar to producers, agents and insurance providers.

Comment: Under Section 14(c)(4) commenters recommended unsold harvested production should not be counted as production to count if these tomatoes are “inspected and dumped” due to quality defects.

Response: The Proposed Rule makes it clear that harvested production that is damaged due to insurable causes such that it is unmarketable or unsold is not counted as production to count. This would include tomatoes that are dumped due to quality defects resulting from insured causes that render the tomato unmarketable. It is only unsold harvested production that is not damaged by an insured cause of loss is considered as production to count. No change has been made.

Comment: Under Section 14(c)(5) commenters recommended field packed/penhooked tomatoes or salvage value count as value received, for there is no picking cost involved.

Response: FCIC considers field packed tomatoes as production to count under sections 14(c)(3) and 14(c)(4) because producers do incur harvesting costs. Section 14(c)(5) clarifies penhooked tomatoes are a salvage operation and any salvage value paid to the producer by penhookers will be added to the total dollar value of production to count. Since no harvest costs are incurred for penhooked tomatoes, they do not reduce their value for the purposes of establishing the total dollar value of the production to count. No change has been made.

Section 16—Minimum Value Option

Comment: Commenters recommended that both Minimum Value Options (MVO I) and (MVO II) remain in the policy.

Response: As stated in the Proposed Rule, FCIC is removing the Minimum Value Option II (MVO II) provision because allowing the MVO II price to go down to zero has resulted in unfavorable loss experience and program abuse. Under the current policy there are two Minimum Value Option choices (MVO I) and (MVO II). The producer can purchase either Minimum Value Option and pay additional premium. The current 2012 MVO I reduces the Minimum Value price to \$4.75 per carton while the current 2012 MVO II reduces the Minimum Value price to \$1.00 per carton, from the current Minimum Value price of \$6.95. Historically, producers chose MVO II and it has resulted in excessive losses because tomatoes slightly damaged due to rain are valued at the MVO II price of \$1.00 per carton for claims settlement; however, producers are often able to salvage or market such production in excess of \$1.00 per carton. These excess loss payments unnecessarily increase premium rates for all producers leading to overall increased program costs. Additionally,

having two options adds unnecessary complexity to the program.

Therefore, this final rule eliminates the current MVO II and will offer one MVO price as specified in the Special Provisions. The Risk Management Agency will be diligent in establishing and maintaining a fair and equitable MVO price in future crop years. No change has been made.

In addition to the changes described above, FCIC has made minor editorial changes.

Good cause is shown to make this rule effective less than 30 days after publication in the **Federal Register**. Good cause to make a rule effective less than 30 days after publication in the **Federal Register** exists when the 30 day delay in the effective date is impractical, unnecessary, or contrary to the public interest.

With respect to the provisions of this final rule, it would be contrary to public interest to delay implementation because public interest is served by improving the insurance product as follows: (1) Increasing insurance flexibility by providing coverage for specific types of tomatoes via the Special Provisions instead of by written agreement; (2) providing simplification and clarity to the Fresh Market Tomato (Dollar Plan) crop insurance program so it is easier for producers and agents to understand; and (3) only offering one Minimum Value Option that more accurately reflects the salvage value of slightly damaged tomatoes for claim purposes which addressed concerns raised about the Fresh Market Tomato claims process.

If FCIC is required to delay implementation of this rule after the date it is published, the provisions of this rule could not be implemented until the 2014 crop year. This would mean the affected producers would be without the benefits described above for an additional year.

For reasons stated above, good cause exists to make these policy changes effective less than 30 days after publication in the **Federal Register**.

List of Subjects in 7 CFR Part 457

Crop insurance, Fresh market tomato (dollar plan), Reporting and recordkeeping requirements.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 457 effective for the 2013 and succeeding crop years 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(l), 1506(o).

- 2. Amend § 457.139 as follows:
- a. Revise the introductory text;
 - b. Remove the paragraph immediately preceding section 1;
 - c. Amend section 1 by:
 - i. Adding definitions for “allowable cost”, “amount of insurance per acre”, “fresh market tomatoes”, “minimum value”, “penhookers”, “price received”, and “registered handler”;
 - ii. Removing the definitions of “planted acreage” and “practical to replant”;
 - iii. Revising the definitions of “acre”, “direct marketing”, “harvest”, “plant stand”, and “potential production”; and
 - iv. Amending the definition of “crop year” by removing the phrase “of ‘crop year’ contained in section 1 (Definitions) of the Basic Provisions (§ 457.8)” and adding the phrase “contained in the Basic Provisions (§ 457.8)” in its place.
 - d. Amend section 3 by:
 - i. Removing the phrases “(Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities)” and “(§ 457.8)” in paragraphs (a) and (c);
 - ii. Remove the comma following “Basic Provisions” in paragraphs (a) and (c);
 - iii. Revising the table in paragraph (d); and
 - iv. Revising paragraph (e).
 - e. Amend section 4 by removing the phrases “(Contract Changes)” and “(§ 457.8)”.
 - f. Amend section 5 by removing the phrases “(Life of Policy, Cancellation, and Termination)” and “(§ 457.8)”.
 - g. Amend section 6 introductory text by removing the phrases “(Report of Acreage)” and “(§ 457.8)”.
 - h. Amend section 7 by:
 - i. Removing the phrases “(Annual Premium)” and “(§ 457.8)”; and
 - ii. Removing the phrase “(e.g., fall direct-seeded irrigated)” and adding the phrase “(e.g., fall transplanted irrigated)” in its place.
 - i. Amend section 8 by:
 - i. Revising the introductory text; and
 - ii. Revising paragraph (c)(4).
 - j. Amend section 9 by:
 - i. Removing the phrases “(Insurable Acreage)” and “(§ 457.8)” in paragraphs (a) and (b);
 - ii. Removing the phrase “or 60 days of direct seeding” in paragraph (b)(1)(iii);
 - iii. Removing the word “satisfied” and adding the word “met” in its place in paragraph (b)(2) introductory text; and

- iv. Revising paragraph (b)(3).
- k. Amend section 10 by:
 - i. Revising the introductory text;
 - ii. Revising paragraph (e); and
 - iii. Revising paragraph (f).
- l. Amend section 11 by:
 - i. Removing the phrases “(Causes of Loss)” and “(§ 457.8)” in paragraphs (a) introductory text and (b); and
 - ii. Revising paragraph (b)(2).
- m. Amend section 12(a) and 12(c) by removing the phrases “(Replanting Payment)” and “(§ 457.8)”.
- n. Amend section 13 introductory text by removing the phrases “(Duties in the Event of Damage or Loss)” and “(§ 457.8)”.
- o. Amend section 14 by:
 - i. Revising paragraph (b)(4)(ii);
 - ii. Adding an example following paragraph (b)(5);
 - iii. Revising paragraph (c)(2)(i);
 - iv. Revising paragraph (c)(3);
 - v. Adding a new paragraph (c)(4); and
 - vi. Adding a new paragraph (c)(5).
- p. Revise section 16.
- q. Add an example following paragraph 16(c).

The revised and added text reads as follows:

§ 457.139 Fresh market tomato (dollar plan) crop insurance provisions.

The fresh market tomato (dollar plan) crop insurance provisions for the 2013 and succeeding crop years are as follows:

* * * * *

1. Definitions.

Acre. 43,560 square feet of planted acreage when row widths do not exceed

six feet. If row widths exceed six feet, the land area on which at least 7,260 linear feet of rows are planted.

Allowable cost. The dollar amount per carton for harvesting, packing, and handling as stated in the Special Provisions.

Amount of insurance per acre. The dollar amount of insurance per acre obtained by multiplying the reference maximum dollar amount shown in the actuarial documents by the coverage level percentage you elect.

* * * * *

Direct marketing. The sale of the insured crop directly to consumers without the intervention of an intermediary such as a registered handler, 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.

* * * * *

Fresh market tomatoes. Field grown mature green or ripe fresh market tomatoes that meet the Agricultural Marketing Service United States Standards for Grades of Fresh Tomatoes; and the applicable Federal Marketing Order and Florida Tomato Committee Regulations, or their successors.

Harvest. The picking of fresh market tomatoes from the plants, excluding tomatoes salvaged by penhookers.

* * * * *

Minimum value. The dollar amount per carton shown in the Special Provisions we will use to value appraised and unsold harvested production to count.

Penhookers. Individuals who purchase the right to salvage tomatoes remaining in the field after commercial harvests are completed.

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

* * * * *

Potential production. The number of cartons of field grown mature green or ripe fresh market tomatoes that the tomato plants will or would have produced per acre assuming normal growing conditions and practices by the end of the insurance period.

Price received. The gross dollar amount per carton received by the producer before deductions of allowable costs.

Registered handler. A person or entity officially certified by the Florida Tomato Committee, or successor entity, to inspect and enforce all the handling regulations for fresh market tomatoes, and report the required packout data to the Florida Tomato Committee.

* * * * *

3. Amounts of Insurance and Production Stages.

* * * * *

(d) * * *

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

(e) Any acreage of fresh market 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 the crop, the indemnity payable for such acreage will be based on the stage the plants had achieved when the insured damage occurred, even if the producer continues to care for the damaged tomatoes.

* * * * *

8. Insured Crop.

In accordance with section 8 of the Basic Provisions, the crop insured will be all the field grown mature green or ripe fresh market tomato types in the county as specified in the Special

Provisions for which a premium rate is provided in the actuarial documents:

* * * * *

(c) * * *

(4) Direct seeded fresh market tomatoes, unless insured by written agreement.

* * * * *

9. Insurable Acreage.

* * * * *

(3) We will not insure any acreage on which tomatoes (except for replanted tomatoes in accordance with sections 9(b)(1) and (2)), peppers, eggplants, strawberries or tobacco have been grown and the soil was not fumigated or otherwise properly treated before planting the insured tomatoes.

10. Insurance Period.

In lieu of section 11 of the Basic Provisions, 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 on each unit at the earliest of:

* * * * *

(e) Final harvest on the unit; or

(f) The calendar date for the end of the insurance period that is 125 days after the date of transplanting or replanting with transplants.

11. Causes of Loss.

* * * * *

(b) * * *

(2) Failure to harvest in a timely manner or failure to sell the tomatoes, unless such failure is due to actual physical damage caused by an insured cause of loss that occurs during the insurance period. For example, we will not pay an indemnity if you are unable to sell the insured crop due to

quarantine, boycott, or refusal of any person to accept production.

* * * * *

14. Settlement of Claim.

* * * * *

(b) * * *

(4) * * *

(ii) For catastrophic risk protection coverage, the result of multiplying the total value of production to count determined in accordance with section 14(c) by the percentage contained in the Special Provisions.

(5) * * *

For Example: You have a 100 percent share in 10.0 acres of fresh market tomatoes. You select a 70% coverage level of the reference maximum dollar amount of \$7,500 per acre. The average price received is \$10.00 per carton of tomatoes. Allowable costs are \$4.25 per carton. Minimum value is \$5.00 per carton. Your total sold production is 5,000 cartons (5,000 ÷ 10.0 = 500 cartons per acre) and you have an additional 1,000 cartons of unsold harvested production (1,000 ÷ 10.0 = 100 cartons per acre). Your loss occurred in the final stage of production. Your total indemnity is calculated as follows:

| | | |
|----------------|--|---------|
| 14(c)(3) | \$7,500 × 70% = dollar amount of insurance per acre | \$5,250 |
| 14(c)(4) | 500 cartons × \$5.75 = value of sold production (\$10 selling price minus \$4.25 allowable cost) | 2,875 |
| | 100 cartons of unsold harvested production × \$5 minimum value per carton | +500 |
| | Total value of production to count | 3,375 |
| 14(b)(5) | Indemnity per acre = (\$5,250 – \$3,375) × 100% share | 1,875 |
| | \$1,875 × 10.0 acres = \$18,750 total indemnity payment | 18,750 |

(c) * * *

(2) * * *

(i) Potential production on any fresh market tomato acreage that has not been harvested the required number of times as specified in the Special Provisions.

* * * * *

(3) The total value of all sold 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 fresh market tomatoes in the load (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 fresh market tomatoes harvested.

(4) The total value of all unsold harvested production will be 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 an

insured cause of loss and is not sold will not be counted as production to count.

(5) Any penhooker salvage value paid to you will be added to the total dollar value of production to count.

* * * * *

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 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 documents 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) and 14(c)(4) of these Crop Provisions, the total value of harvested production will be determined as follows:

(1) For sold harvested production, the dollar amount obtained by subtracting the allowable cost contained in the Special Provisions from the price received for each carton of fresh market tomatoes in the load (this result may not be less than the minimum value option price contained in the Special Provisions for any carton of tomatoes sold), and multiplying this result by the number of cartons of fresh market tomatoes sold; and

(2) For unsold harvested production, the dollar amount obtained by multiplying the number of cartons of such fresh market 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 an insured cause of loss and is not sold will not be counted as production to count.

(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.

Example with Minimum Value Option: You have a 100 percent share in 10.0 acres of fresh market tomatoes. You select a 70% coverage level of the reference maximum dollar amount of \$7,500 per acre. The average price received is \$6.00 per carton of tomatoes. Allowable costs are \$4.25 per carton. Minimum value is \$5.00 per carton. The Minimum Value Option price is \$2.00 per carton. Your total sold production is 5,000 cartons (5,000 ÷ 10.0 = 500 cartons per acre) and you have an additional 1,000 cartons of unsold harvested production (1,000 ÷ 10.0 = 100 cartons per acre). Your loss occurred in the final stage of production. Your total indemnity is calculated as follows:

| | | |
|----------------|--|---------|
| 16(b)(1) | \$7,500 × 70% = dollar amount of insurance per acre | \$5,250 |
| | 500 cartons × \$2 = value of sold production (\$6 price received minus \$4.25 allowable costs = \$1.75). \$2.00 minimum value option price is greater than \$1.75). | 1,000 |
| 16(b)(2) | 100 cartons of unsold harvested production × \$5 minimum value per carton | 500 |
| | Total value of production to count | 1,500 |
| 16(b) | Indemnity per acre = \$5,250 – \$1,500 = \$3,750 × 100% share | 3,750 |
| | \$3,750 × 10.0 acres = \$37,500 total indemnity payment | 37,500 |

Signed in Washington, DC, on April 5, 2012.

William J. Murphy,
Manager, Federal Crop Insurance Corporation.

[FR Doc. 2012-8902 Filed 4-13-12; 8:45 am]

BILLING CODE 3410-08-P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE-2008-BT-STD-0005]

RIN 1904-AB57

Energy Conservation Program: Energy Conservation Standards for Certain External Power Supplies; Correction

AGENCY: Department of Energy.

ACTION: Final rule; technical amendment.

SUMMARY: The Department of Energy (DOE) is publishing this correction to its regulations pertaining to the energy conservation standards for certain external power supplies to re-insert a table that had been inadvertently deleted by a technical amendment published on September 19, 2011. That table contained the statutorily-prescribed energy conservation standards for all Class A external power supplies to meet.

DATES: This correction is effective April 16, 2012.

FOR FURTHER INFORMATION CONTACT:

Mr. Victor Petrolati, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE-2J, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-4549. Email: *Victor.Petrolati@ee.doe.gov*.

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC-71, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-8145. Email: *michael.kido@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Energy Independence and Security Act of 2007 (Pub. L. 110-140)

amended section 325(u)(3) of the Energy Policy and Conservation Act (EPCA) to establish energy conservation standards for all Class A external power supplies. (42 U.S.C. 6295(u)(3)) Those standards consisted of minimum efficiency levels that these products must meet during active mode (i.e. when an external power supply is in actual use) and no-load mode (i.e. when an external power supply is plugged into AC mains but its output is not connected to an electrical load). DOE added these standards to its regulations as part of a final rule that incorporated a series of statutorily-prescribed changes made by the Energy Independence and Security Act of 2007 (Pub. L. 110-140) (Dec. 19, 2007). That final rule was published on March 23, 2009. See 74 FR 12058.

Subsequently, Congress revisited elements of the no-load standards that it had prescribed for Class A external power supplies. On January 4, 2011, Congress enacted Public Law 111-360, which amended section 325(u)(3) of EPCA (42 U.S.C. 6295(u)(3)) by defining a new term—"security or life safety alarm or surveillance system"—and excluding those external power supplies used in certain security or life safety alarms or surveillance system components from the no-load mode requirements Congress had previously set. To address this change, DOE issued a technical amendment to codify verbatim in regulation these statutory changes. See 76 FR 57897 (Sept. 19, 2011).

Recently, DOE discovered that the amendatory language used in modifying the regulatory text to account for the January 2011 statutory changes to EPCA resulted in the Office of the Federal Register removing the statutory Class A external power supply standards from the regulations. Today's document addresses that error by re-inserting these pre-existing statutory standards into the regulations at 10 CFR 430.32(w)(1)(i) where they were located previously. DOE notes that, in spite of this inadvertent removal, the standards have remained in effect by virtue of their continued existence as a statutory requirement. See 42 U.S.C. 6295(u)(3)(A).

Pursuant to authority at 5 U.S.C. 553(b)(B), the DOE finds good cause to waive the requirement for prior notice and an opportunity for public comment on this rulemaking because such procedures would be unnecessary. As DOE is merely re-inserting into the Code of Federal Regulations statutory standards already applicable to these products prior notice and an opportunity for public comment would serve no useful purpose. For the same reason, DOE finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make this rule effective immediately.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, and Small businesses.

Issued in Washington, DC, on April 9, 2012.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE corrects 10 CFR part 430 as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291-6309; 28 U.S.C. 2461 note.

■ 2. Section 430.32 is amended by revising paragraph (w)(1)(i) to read as follows:

§ 430.32 Energy and water conservation standards and their effective dates.

* * * * *

(w) *Class A external power supplies.* (1)(i) Except as provided in paragraphs (w)(1)(ii) and (w)(1)(iii) of this section, all Class A external power supplies manufactured on or after July 1, 2008, shall meet the following standards:

| Nameplate output | Required efficiency (decimal equivalent of a percentage) |
|---|--|
| Active Mode | |
| Less than 1 watt | 0.5 times the Nameplate output. |
| From 1 watt to not more than 51 watts | The sum of 0.09 times the Natural Logarithm of the Nameplate Output and 0.5. |
| Greater than 51 watts | 0.85. |