provisions shall be further extended until November 1, 1996 or until issuance by each individual agency concerned of a supplemental regulation, whichever occurs first.

3. A new appendix D is added at the end of part 2635 to read as follows:

Appendix D to Part 2635—Agencies Entitled to Another Further (Fourth) Grace Period Extension Pursuant to Notes Following §§ 2635.403(a) and 2635.803

1. Department of the Treasury
2. Federal Energy Regulatory Commission
3. Department of the Interior
4. Department of Commerce
5. Department of Justice
6. Federal Communications Commission
7. Securities and Exchange Commission
8. United States Information Agency
9. Occupational Safety and Health Review Commission
10. Department of State
11. Department of Labor
12. National Science Foundation
13. Small Business Administration
14. Department of Transportation
15. National Transportation Safety Board
16. General Services Administration
17. Board of Governors of the Federal Reserve System
18. National Labor Relations Board
19. Peace Corps
20. Consumer Product Safety Commission
21. Executive Office of the President
22. Department of Agriculture
23. Agency for International Development
24. Social Security Administration

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BILLING CODE 6345–01–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

General Administrative Regulations; Reinsurance Agreement—Standards for Approval

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends its General Administrative Regulations by revising the Disputes clause. The intended effect of this rule is to provide reinsured companies with an informal reconsideration process through an administrative officer of FCIC and the right to appeal the administrative officer's determination to the Board of Contract Appeals.

EFFECTIVE DATE: August 7, 1996.

FOR FURTHER INFORMATION CONTACT: Diana Moslak, (202) 720–2832.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Departmental Regulation 1512–1

This action has been reviewed under United States Department of Agriculture (USDA) procedures established by Executive Order 12866 and Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is March 31, 1999.

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

Paperwork Reduction Act of 1995

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). 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. Under section 202 of the UMRA, FCIC generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FCIC to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments of the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

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

Regulatory Flexibility Act Analysis

This regulation will not have a significant impact on a substantial number of small entities. The amount of work required of the insurance companies should not increase because this action only changes the forum which determines the validity of decisions rendered by the agency. 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 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule will preempt State and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions contained in these regulations and the appeal provisions promulgated by the Board of Contract Appeals, 7 CFR part 24, subtitle A, must be exhausted before action for judicial review may be brought.

Environmental Evaluation

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

National Performance Review

This regulatory action is being taken as part of the National Performance

Review program to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

As a result of the Departmental reorganization mandated by the Department of Agriculture Reorganization Act of 1994, FCIC must amend its dispute provisions located at 7 CFR 400.169 to provide reinsured companies with a mechanism to request reconsideration of appeal of adverse decisions determined by FCIC.

On May 1, 1995, FCIC published an interim rule in the Federal Register at 60 FR 21035 to amend the General Crop Insurance Regulations, Subpart L, Reinsurance Agreement; Standards for Approval, by revising the disputes clause to provide reinsured companies with an informal appeal process through the FCIC, and a formal appeal process through the United States Department of Agriculture Board of Contract Appeals (BCA), for the purpose of resolving disputes between the FCIC and reinsured companies on Standard Reinsurance Agreement (SRA) issues. Following publication of that interim rule, the public was afforded 60 days to submit written comments, data, and opinions. On August 7, 1995, FCIC extended the comment period for these regulations to August 18, 1995 (60 FR 40055). Three comments, two from private law firms and one from a trade association were received in response to the requests for comment on the interim rule.

Comment: All 3 comments questioned the jurisdiction of the United States Department of Agriculture BCA over SRA issues in dispute since the SRA is not a typical Federal procurement contract.

Response: The BCA continues to function as the agency board pursuant to the Contract Disputes Act of 1978 (Act), *and* as the agency board pursuant to jurisdiction outside the Act as set forth in 7 CFR § 24.4. The BCA's jurisdiction is not, and never has been, limited to procurement disputes. Section 24.4 has been expanded to specifically cover appeals of final administrative determinations of FCIC pertaining to the SRAs under 7 CFR § 400.169(d). Since BCA has jurisdiction over these issues, the disputes are not ''adverse decisions'' subject to appeal before the National Appeals Division according to 7 U.S.C. § 6991. They also are specifically excluded from the scope of Farm Service Agency informal appeal regulations published at 7 CFR part 780. Disputes involving SRAs raise factual and legal questions of a contractual nature which fall within the express expertise of the BCA. The rules of procedure for these appeals are the same as for all others under 7 CFR part 24. There is no longer a distinction between ''statutory'' and ''nonstatutory'' appeals.

Comment: All 3 comments expressed concern with respect to the BCA's jurisdiction to hear appeals of final determinations rendered under § 400.169.

Response: The BCA amended its jurisdictional provisions on November 7, 1995 (60 FR 56206) to provide the BCA with jurisdiction over final administrative determinations of the FCIC pertaining to SRAs under 7 CFR § 400.169(d). That is separate from its jurisdiction to hear contract disputes under the Contract Disputes Act. Therefore, no change will be made.

Comment: Two commentors questioned the nonappealability of FCIC decisions rendered under bulletins and directives and complained that FCIC was limiting the companies' due process rights by limiting the types of disputes appealable.

Response: The interim rule does not limit the companies' due process rights or their right to appeal any decision of FCIC based on any bulletin or directive that affects, interprets, explains or restricts any term of the SRA. FCIC has the right to limit the appeal of any decision that is solely within its discretion and not required under the SRA. Bulletins or directives that *do not* affect, interpret, explain or restrict any term of the SRA include, but are not limited to, those that provide changes in crop insurance policies before the contract change date, the addition of new crop insurance policies or programs, granting relief from requirements or sanctions if such requirements or sanctions are not required by the SRA, and requiring companies to take actions to protect the integrity of the program, even if such action may cause the company to incur additional costs, provided such requirement is implemented before the start of the reinsurance year. No change will be made to the rule.

Comment: All three commentors expressed concern with respect to the propriety of permitting the Director of Compliance and the Director of Insurance Services to render final administrative decisions.

Response: Section 400.169 provides an informal mechanism for companies to challenge decisions rendered by FCIC. Reconsideration of these decisions allows the division that rendered the decision the opportunity to correct any error prior to an appeal to the BCA. The Directors of Compliance and Insurance Services are persons with the most knowledge of the programs they administer and are most qualified to render final determinations. Therefore, there is no need to amend the rule to have the Deputy Manager make final determinations.

Comment: One commentor questioned whether a FCIC decision of appealability itself should be reviewable or appealable.

Response: Nothing in this rule prohibits a company from seeking a review of a determination of nonappealability from the BCA. The issue on appeal would be limited to a determination of whether the decision of FCIC was based on a provision of the SRA, a compliance review, or a bulletin or directive which affects, interprets, explains or restricts a term of the SRA.

Comment: Two comments were received with respect to the definition of ''contracting officer.'' The commentors suggested that the term be amended to include the Directors of Insurance Services and Compliance and that these persons be given authority to settle disputes.

Response: The term ''contracting officer'' is not defined in FCIC's regulations. Further, the Manager of FCIC has the authority to designate contracting officers and provide these persons with the authority to resolve disputes between reinsured companies and FCIC. This rule provides a delegation to these Directors to resolve such disputes. Therefore, no change is necessary.

Comment: One comment suggested that the rule be amended to permit companies to bypass the BCA and go directly to the district court or the National Appeals Division (NAD).

Response: It has been determined that the BCA is the best forum to hear these appeals. Although the BCA may not be an expert with respect to the SRA, it has extensive experience in contract matters. Since NAD does not have jurisdiction to hear any matter over which the BCA has jurisdiction, the BCA acquired jurisdiction over these cases. FCIC has no authority to permit any appeal to NAD. Further, administrative appeals provide the valuable service of permitting the Department to correct any errors and, therefore, conserving judicial resources. Therefore, the rule will not be amended to permit companies to appeal directly to the Federal courts or to NAD.

Comment: One comment suggested that the rule be amended to specify the forum for an appeal of a BCA decision.

Response: An amendment to the rule is not necessary. The administrative appeals process ends with a BCA decision. The Department of Agriculture

Reorganization Act provided that once the administrative appeals process is complete, persons may bring suit. Section 506(d) of the Federal Crop Insurance Act, as amended, states that the Federal district court has exclusive original jurisdiction over any suit brought against FCIC.

The comments did not result in any change to the final rule. Therefore, the interim rule as published on May 1, 1995, at 60 FR 21035 is hereby adopted as a final rule.

List of Subjects in 7 CFR Part 400

Crop insurance.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby adopts as a final rule, the interim rule as published at 60 FR 21035 on May 1, 1995.

Signed in Washington, D.C., on August 1, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–20036 Filed 8–6–96; 8:45 am]

BILLING CODE 3410–FA–P

Agricultural Marketing Service

7 CFR Parts 922, 923, and 924

[Docket No. FV96–922–2 IFR]

Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes assessment rates for Marketing Order Nos. 922, 923 and 924 for the 1996–97 and subsequent fiscal periods. The Washington Apricot Marketing Committee, Washington Cherry Marketing Committee, and Washington-Oregon Fresh Prune Marketing Committee (Committees) are responsible for local administration of the marketing orders which regulate the handling of apricots and cherries grown in designated counties in Washington, and prunes grown in designated counties in Washington and in Umatilla County, Oregon. Authorization to assess apricot, cherry and prune handlers enables the Committees to incur expenses that are reasonable and necessary to administer the programs.

DATES: Effective on April 1, 1996. Comments received by September 6, 1996, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, room 2523–S, Washington, DC 20090–6456, FAX (202) 720–5698. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Tershirra Yeager, Marketing Assistant, Marketing Order Administrative Branch, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, Room 2522–S, Washington, DC 20090–6456, telephone (202) 720–5127, FAX (202) 720–5698, or Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, OR 97204, telephone (503) 326–2724, FAX (503) 326–7440. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, Room 2523–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax# (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 922 (7 CFR part 922), regulating the handling of apricots grown in designated counties in Washington; Marketing Order No. 923 (7 CFR part 923) regulating the handling of sweet cherries grown in designated counties in Washington; and Marketing Order No. 924 (7 CFR part 924) regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon, hereinafter referred to as the ''orders.'' The marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing orders now in effect, handlers in designated areas are subject to assessments. Funds to administer the orders are derived from such assessments. It is intended that the assessment rates as issued herein will be applicable to all assessable apricots, cherries, and prunes beginning April 1, 1996, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handlers are afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 55 handlers of Washington apricots, 55 handlers of Washington sweet cherries, and 30 handlers of Washington-Oregon fresh prunes subject to regulation under the marketing orders. In addition, there are about 190 Washington apricot producers, 1,100 Washington sweet cherry producers, and 350 Washington-Oregon fresh prune producers in the respective production areas. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Washington apricot,