

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 400

RIN 0563-AB74

#### General Administrative Regulations; Interpretations of Statutory and Regulatory Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) is amending the General Administrative Regulations to implement the statutory mandates of section 533 of the Agricultural Research, Extension, and Education Reform Act of 1998 (1998 Research Act). The intended effect of this final rule is to provide procedures for responding to requests for final agency interpretations regarding any provision of the Federal Crop Insurance Act (Act) or any regulation promulgated thereunder.

**EFFECTIVE DATE:** This rule is effective September 16, 1999.

**FOR FURTHER INFORMATION CONTACT:** Marian Jenkins, Assistant Deputy Administrator for Regional Service Offices, Federal Crop Insurance Corporation, United States Department of Agriculture, Stop Code 0805, 1400 Independence Avenue, SW, Washington, DC 20250-0805, telephone (202) 720-5290.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

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

##### Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501

*et seq.*), the information collection and record keeping requirements included in this final rule have been submitted for approval to OMB. OMB has assigned control number 0563-0055 to the information collection and record keeping requirements.

##### 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 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 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 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 economic impact on a substantial number of small entities. The regulation does not require any more action on the part of the small entities than is required on the part of large entities. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

##### Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

##### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

##### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 and 7 CFR 400.169 must be exhausted before any action for judicial review of any determination made by FCIC may be brought.

##### Environmental Evaluation

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

##### Background

This rule finalizes the procedures required by the 1998 Research Act, enacted June 23, 1998. On Monday, December 21, 1998, FCIC published an interim rule in the **Federal Register** at 63 FR 70312-70313 to establish procedures under which FCIC will provide a final agency determination in response to an inquiry regarding the interpretation of any provision of the Act or any regulation promulgated thereunder.

Following publication of the interim rule, the public was afforded 60 days to submit written comments. A total of four comments were received from one reinsured company. The comments received and FCIC's responses are as follows:

*Comment:* The reinsured company stated that the sentence in the Background section that read "Since these procedures are required by statute, it is impractical and contrary to the public interest to publish this rule for notice and comment prior to making the rule effective" is incorrect. The comment further states that section 533 of the 1998 Research Act does not require FCIC to establish procedures under which FCIC will provide a final agency determination.

*Response:* The 1998 Research Act specifically requires FCIC to establish procedures under which FCIC shall provide a final agency determination

not later than 180 days after enactment of the subsection.

*Comment:* The reinsured company stated that FCIC may not make its rule retroactive. Retroactive rule making requires specific statutory authority. By its retroactive rule making, the FCIC clouds every determination it made for the past four years.

*Response:* The fact that reinsured companies can seek interpretation of provisions that previously existed does not mean that the rule is retroactive. This rule is intended to provide the mechanism for FCIC to consider requests for interpretation and this mechanism was not given a retroactive effect. Since Congress has mandated FCIC to provide such interpretation, there can be no avoidance of the consequences of their issuance on previous decisions, regardless of when such decisions were made. To limit requests to the interpretation of only new statutory or regulatory provisions would essentially render Section 533 of the 1998 Research Act ineffective.

*Comment:* The reinsured company states that § 400.768(g) is confusing. The suggestion was made that the subsection should be divided into two subsections, with the first, subsection (g), applicable to reinsured companies and should state "All final agency determinations that are not appealable to the National Appeals Division (NAD) are considered matters of general applicability." The second sentence of the current subsection (g) should be designated subsection (h) and identified as applicable to participants other than "a private insurance company with a reinsurance agreement with FCIC or their agents, loss adjusters, employees or contractors."

*Response:* There is nothing in this subsection that affects the jurisdiction of NAD and NAD has no authority to hear disputes between reinsured companies and FCIC. Therefore, by its very terms, the provision is limited to persons other than reinsured companies. Therefore, no change has been made.

*Comment:* The reinsured company states the word "person" in § 400.768(g) is not defined and it should be limited to policyholders and applicants for crop insurance.

*Response:* It is unnecessary since the NAD regulations are only applicable to participants as defined in 7 CFR part 11. Therefore, no change has been made. Section 400.765(b) has been revised by FCIC to clarify the applicable regulations for which a final agency determination will be provided.

**List of Subjects in 7 CFR Part 400**

Administrative practice and procedure.

**Final Rule**

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation is adopting the interim rule amending 7 CFR part 400 which was published at 63 FR 70312 in the **Federal Register** of December 21, 1998 as final with the following changes:

**PART 400—GENERAL ADMINISTRATIVE REGULATIONS**

**Subpart X—Interpretations of Statutory and Regulatory Provisions**

1. The authority citation for 7 CFR part 400 continues to read as follows:

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

2. Revise § 400.765(b) to read as follows:

**§ 400.765 Basis and applicability.**

\* \* \* \* \*

(b) Requesters may seek interpretations of those provisions of the Act and the regulations promulgated thereunder that are in effect for the crop year in which the request under this subpart is being made and the three previous crop years.

\* \* \* \* \*

**§ 400.767 [Amended]**

3. Amend § 400.767(a)(1), to remove the word "faximile" and to add the word "facsimile".

Signed in Washington, DC, on September 7, 1999.

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

[FR Doc. 99-23796 Filed 9-15-99; 8:45 am]  
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**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Office of Federal Housing Enterprise Oversight**

**12 CFR Part 1730**

RIN 2550-AA07

**Debt Collection**

**AGENCY:** Office of Federal Housing Enterprise Oversight, HUD.

**ACTION:** Final regulation.

**SUMMARY:** The Office of Federal Housing Enterprise Oversight is adopting the interim regulation that was published at 64 FR 34968 on June 30, 1999, as final

without change. The final regulation sets forth procedures for use by OFHEO in collecting debts owed to the Federal Government. The Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, requires agencies to issue a regulation on their debt collection procedures. The final regulation includes procedures for collection of debts through salary offset, administrative offset, and tax refund offset.

**DATES:** This final regulation is effective October 18, 1999.

**FOR FURTHER INFORMATION CONTACT:** Isabella W. Sammons, Associate General Counsel, Office of General Counsel; or Gail Palestine, Financial Management Officer, Office of Finance and Administration, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552, telephone (202) 414-3800 (not a toll-free number). The toll-free telephone number for the Telecommunications Device for the Deaf is (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** The Office of Federal Housing Enterprise Oversight (OFHEO) published an interim regulation at 64 FR 34968 on June 30, 1999, that implemented the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996. OFHEO requested comments on the interim regulation, but did not receive any. Accordingly, the interim regulation, which amended Chapter XVII of title 12 of the Code of Federal Regulations by adding part 1730, is adopted as a final regulation without change.

Dated: September 9, 1999.

**Mark A. Kinsey,**

*Acting Director, Office of Federal Housing Enterprise Oversight.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Airspace Docket No. 99-ACE-33]

**Amendment to Class E Airspace; North Platte, NE**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Direct final rule; confirmation of effective date.