

CROP INSURANCE CASES

Rule 201. Scope.

These procedures govern the Board's resolution of disputes between insurance companies and the Department of Agriculture's Risk Management Agency (RMA) involving actions of the Federal Crop Insurance Corporation (FCIC). Prior to the creation of this Board, the Department of Agriculture Board of Contract Appeals resolved these disputes pursuant to statute, 7 U.S.C. 1501 et seq. (the Federal Crop Insurance Act), and regulations, 7 CFR 24.4(b) and 400.169. The Board has this authority to resolve these disputes under the Contract Disputes Act, 41 U.S.C. 7105(b)(4)(B).

Rule 202. Rules for Crop Insurance Cases.

The rules of procedure for these cases are the same as the rules of procedure for Contract Disputes Act appeals with these exceptions:

(a) Rule 1(b) (Definitions).

(1) The term "appeal" means a dispute between an insurance company that is a party to a Standard Reinsurance Agreement (or other reinsurance agreement) and the RMA, and the term "appellant" means the insurance company filing an appeal.

(2) The terms "petition" and "petitioner" do not apply to FCIC cases.

(3) Unless otherwise authorized by the Clerk, parties shall efile all submissions in accordance with Rule 1(b) ("efile; efileing").

(b) Rule 1(d) (Panels). The procedures in Rule 1(d) regarding small claims under Rule 52 and accelerated procedures under Rule 53 do not apply.

(c) Rule 2(a) (Filing an appeal). In place of Rule 2(a), substitute the following: A notice of appeal shall be in writing and signed by the appellant or by the appellant's attorney or authorized representative. If the appeal is from a determination by the Deputy Administrator of Insurance Services regarding an action alleged not to be in accordance with the provisions of a Standard Reinsurance Agreement (or other reinsurance agreement) or if the appeal is from a determination by the Deputy Administrator of Compliance concerning a determination regarding a compliance matter, the notice of appeal should describe the determination in enough detail to enable the Board to differentiate that decision from any other. The appellant can satisfy this requirement by attaching to the notice of appeal a copy of the Deputy Administrator's determination. If an appeal is taken from the failure of the Deputy Administrator to make a timely determination, the notice of appeal should describe in detail the matter that the Deputy Administrator has failed to determine. The appellant can satisfy this requirement by attaching to the notice of appeal a copy of the written request for a determination it sent to the Deputy Administrator. The notice of appeal shall also contain:

(1) The name, telephone number, and mailing and email addresses of the appellant and/or its attorney or authorized representative; and

(2) The name, telephone number, and mailing and email addresses of the Deputy Administrator who received or issued the claim. The appellant shall provide the Deputy Administrator a copy of the notice of appeal and attachments.

(d) Rule 2(b) (Filing a petition). Rule 2(b) does not apply to FCIC cases.

(e) Rule 2(d) (Time limits).

(1) In place of Rule 2(d)(1), substitute the following: An appeal from a determination of a Deputy Administrator shall be filed no later than 90 calendar days after the date the appellant receives that determination. The Board is authorized to resolve only those appeals that are timely filed.

(2) In place of Rule 2(d)(2), substitute the following: An appeal may be filed with the Board if the Deputy Administrator fails or refuses to issue a determination within 90 days after the appellant submits a request for a determination.

(3) Rule 2(d)(3) does not apply to FCIC cases.

(f) Rule 4 (Appeal file). In place of Rule 4(a), substitute the following: Within 30 days after receiving the Board's docketing notice, the respondent shall file and serve all documents relevant to the appeal, including:

(1) The determination of the Deputy Administrator that is the subject of the dispute;

(2) The reinsurance agreement (with amendments or modifications) at issue in the dispute;

(3) Pertinent correspondence between the parties that is relevant to the dispute, including prior administrative determinations and related submissions;

(4) Documents and other tangible materials on which the Deputy Administrator relied in making the underlying determination; and

(5) Any additional material pertinent to the authority of the Board or the resolution of the dispute.

(g) Rule 5 (Appearing; notice of appearance). In Rule 5(a)(2), replace "contracting officer or the contracting officer's authorized representative" with "Deputy Administrator."

(h) Rule 7 (Service of documents). The second sentence of Rule 7 does not apply to FCIC cases.

(i) Rule 16 (Subpoenas). Rules 16 (b) through (h) do not apply. Instead, upon the written request of any party filed with the Clerk of the Board, or upon the initiative of a judge, a judge is authorized by delegation from the Secretary of Agriculture to request the appropriate United States Attorney to apply to the appropriate United States District Court for the issuance of subpoenas pursuant to 5 U.S.C. 304.

(j) Rule 25 (Decisions and settlements). In Rule 25(a), the phrase, "except as allowed by Rule 52," does not apply to FCIC cases.

(k) Rule 32 (Appeal from Board decision). In place of Rules 32 (a) through (c), substitute the following:

(1) Finality of Board decision. A decision of the Board is a final administrative decision.

(2) Appeal permitted. An appellant may file suit in the appropriate United States District Court to challenge the Board's decision. An appellant filing such a suit shall provide the Board with a copy of the complaint.

(l) **Rule 51 (Alternative procedures).** Rule 51 does not apply to FCIC cases, except for the availability of alternative dispute resolution under Rule 54.

(m) **Rule 52 (Small claims procedure).** Rule 52 does not apply to FCIC cases.

(n) **Rule 53 (Accelerated procedure).** Rule 53 does not apply to FCIC cases.