

the final planting date if no late planting period is applicable;

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[For FCIC Policies]

20. Appeals and Administrative Review.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may:

(a) Except as provided in section 20(b), obtain an administrative review of or appeal those determinations in accordance with appeal provisions published at 7 CFR part 400, subpart J or 7 CFR part 11. Disputes regarding the amount of assigned production for uninsured causes for your failure to use good farming practices must be resolved under this subsection.

(b) Request a reconsideration of our determination regarding good farming practices in accordance with the reconsideration process established for this purpose and published at 7 CFR part 400, subpart J. However, you must complete the reconsideration process before filing suit against us in the United States district court.

[For Reinsured Policies]

20. Arbitration, Appeals, and Administrative Review.

(a) If you and we fail to agree on any factual determination made by us, the disagreement will be resolved in accordance with the rules of the American Arbitration Association. Disputes regarding the amount of assigned production for uninsured causes for your failure to use good farming practices must be resolved under this subsection.

(b) Except as provided in section 20(d), you may appeal any determination made by FCIC in accordance with appeal provisions published at 7 CFR part 400, subpart J or 7 CFR part 11.

(c) No award determined by arbitration, appeal, administrative review or reconsideration process can exceed the amount of liability established or which should have been established under the policy.

(d) If you do not agree with any determination made by us or FCIC regarding whether you have used a good farming practice, you may request reconsideration of this determination in accordance with the review process established for this purpose and published at 7 CFR part 400, subpart J. However, you must complete the reconsideration process before filing suit against FCIC in the United States district court. You cannot sue us for determinations of good farming practices.

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34. Unit Division.

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(c) * * *

(3) In addition to, or instead of, establishing optional units by section, section equivalent or FSA farm serial number, or irrigated and non-irrigated acreage, separate optional units may be established for acreage of the insured crop grown and insured under an organic farming practice. Certified organic, transitional and buffer zone acreages do not individually qualify as separate units. (See section 37 for additional provisions

regarding acreage insured under an organic farming practice).

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36. Substitution of Yields.

(a) When you have actual yields in your production history database that, due to an insurable cause of loss, are less than 60 percent of the applicable transitional yield (T-yield) you may elect, on an individual actual yield basis, to exclude and replace one or more of any such yields within each database.

(b) Each election made in section 36(a) must be made on or before the sales closing date for the insured crop and each such election will remain in effect for succeeding years unless cancelled by the applicable cancellation date for the succeeding crop year. If you cancel an election, the actual yield will be used in the database. For example, if you elected to substitute yields in your database for the 1998 and 2000 crop year, for any subsequent crop year, you can elect to cancel the substitution for either or both years.

(c) Each excluded actual yield will be replaced with a yield equal to 60 percent of the applicable T-yield for the crop year in which the yield is being replaced (For example, if you elect to exclude a 2001 crop year actual yield, the T-yield in effect for the 2001 crop year in the county will be used. If you also elect to exclude a 2002 crop year actual yield, the T-yield in effect for the 2002 crop year in the county will be used). The replacement yields will be used in the same manner as actual yields for the purpose of calculating the approved yield.

(d) Once you have elected to exclude an actual yield from the database, the replacement yield will remain in effect until such time as that crop year is no longer included in the database unless this election is cancelled in accordance with section 36(b).

(e) Although your approved yield will be used to determine your amount of premium owed, the premium rate will be increased to cover the additional risk associated with the substitution of higher yields.

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37. Organic Farming Practices.

(a) In accordance with section 8(b)(2), insurance will not be provided for any crop grown using an organic farming practice, unless the information needed to determine a premium rate for an organic farming practice is specified on the actuarial table, or insurance is allowed by a written agreement.

(b) If insurance is provided for an organic farming practice as specified in section 37(a), only the following acreage will be insured under such practice:

(1) Certified organic acreage;

(2) Transitional acreage being converted to certified organic acreage in accordance with an organic plan; and

(3) Buffer zone acreage.

(c) On the date you report your acreage, you must have:

(1) For certified organic acreage, a written certification in effect from a certifying agent indicating the name of the entity certified, effective date of certification, certificate number, types of commodities certified, and name and address of the certifying agent (A certificate issued to a tenant may be used to

qualify a landlord or other similar arrangement);

(2) For transitional acreage, a certificate as described in section 37(c)(1), or written documentation from a certifying agent indicating an organic plan is in effect for the acreage; and

(3) Records from the certifying agent showing the specific location of each field of certified organic, transitional, buffer zone, and acreage not maintained under organic management.

(d) If you claim a loss on any acreage insured under an organic farming practice, you must provide us with copies of the records required in section 37(c).

(e) If any acreage qualifies as certified organic or transitional acreage on the date you report such acreage, and such certification is subsequently revoked by the certifying agent, or the certifying agent no longer considers the acreage as transitional acreage for the remainder of the crop year, that acreage will remain insured under the reported practice for which it qualified at the time the acreage was reported. Any loss due to failure to comply with organic standards will be considered an uninsured cause of loss.

(f) Contamination by application or drift of prohibited substances onto land on which crops are grown using organic farming practices will not be an insured peril on any certified organic, transitional or buffer zone acreage.

(g) In addition to the provisions contained in section 17(f), prevented planting coverage will not be provided for any acreage based on an organic farming practice in excess of the number of acres that will be grown under an organic farming practice and shown as such in the records required in section 37(c).

(h) In lieu of the provisions contained in section 17(f)(1) that specify prevented planting acreage within a field that contains planted acreage will be considered to be acreage of the same practice that is planted in the field, prevented planting acreage will be considered as organic practice acreage if it is identified as certified organic, transitional, or buffer zone acreage in the organic plan.

Signed in Washington, DC, on June 17, 2003.

Ross J. Davidson, Jr.,

Manager, Federal Crop Insurance Corporation.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV03-930-2 FR]

Tart Cherries Grown in the States of Michigan, *et al.*; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.