

## § 400.702

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*Risk subsidy.* That portion of the FCIC approved insurance premium for the risk of loss paid by FCIC on behalf of the policyholders to the insurance provider.

*Secretary.* The Secretary of the United States Department of Agriculture.

*Stochastic.* A randomly determined sequence of observations, each of which is considered as a sample of one element for a probability distribution.

*Submission.* Any policy provisions, rates of premium, and related material submitted to FCIC that differs from the present MPCI program or replacement programs or that request a material change in an existing insurance program.

*Supplemental program.* A submission requesting reinsurance only that provides coverage in addition to, and is written concurrently with, an MPCI policy or a replacement program.

### § 400.702 Confidentiality of submission.

(a) A submission made to the Board under section 508(h) of the Act will be considered as confidential, commercial, or financial information for purposes of 5 U.S.C. 552(b)(4) until approved by the Board. An applicant may waive such confidentiality by advising FCIC in writing, or by releasing such information to a person or entity other than FCIC.

(b) Once a submission is approved, all information provided by the applicant to the Board, including statistical modeling and data, will be made public.

(c) Any submission disapproved by the Board will remain confidential, commercial, or financial information in accordance with 5 U.S.C. 552(b)(4).

### § 400.703 Timing of submission.

Any submission for Board review must be received not later than 240 days prior to the first sales closing date for which sales are requested for a crop to provide adequate time for review, approval, and marketing of the program. If the submission applies to more than one crop, the earliest applicable crop sales closing date controls. However, any submission received by FCIC less than 240 days prior to the

first sales closing date may be considered if all parties agree the submission can be reviewed, approved, and information disseminated to insurance providers in a timely manner without creating excessive risk and exposure to the crop insurance program or disruptions in the market place. Such a submission must meet all statutory requirements, specifically that the approved submission can be made available to all persons reinsured by FCIC in a manner permitting the persons to participate in the sales of the product in the first crop year for which it is approved by the Board for reinsurance, premium subsidy, or other support offered by the Act. Otherwise, the submission will be considered for the subsequent crop year. Since submissions vary in complexity and availability of required data, FCIC makes no assurances that approval will be given in time for sales in any crop year. In the event FCIC receives more submissions than it can process for an upcoming crop year, the date received, complexity, and completeness of the submission will determine when FCIC's review of the submission will be initiated and the crop year for which the submission is approved.

### § 400.704 Type of submission.

An applicant may submit to the Board:

(a) Policies and related material identified as one of the following types:

- (1) A supplemental program;
- (2) A replacement program; or

(3) Any other submission authorized under section 508(h) of the Act but not classified by paragraphs (a) and (b) of this section.

(b) One or more proposed revisions of any MPCI policy, revenue insurance policy, or any other policy approved by the Board; and

(c) Premium or rates of premiums for MPCI policies.

### § 400.705 Contents of submission.

(a) Each submission may contain any information that the applicant wishes to provide but, at a minimum, must include the following material:

- (1) Applicant's name;
- (2) Type of submission;

(3) Proposed crops, types, varieties, or practices, as applicable, to be covered by the submission;

(4) Geographical areas in which the submission will be applicable;

(5) Potential crop acreage, production, and liability that could be written (estimated by crop and state);

(6) Percentage of the crop acreage, production, and liability that is expected to be written (estimated by crop and state);

(7) Crop year in which the submission is proposed to be effective;

(8) Proposed duration of the approval, if applicable;

(9) A statement of the applicant's intent to expand the program in future crop years to different geographical areas or crops, types, varieties, or practices, as applicable;

(10) A statement of whether the applicant is requesting reinsurance, risk subsidy, or A&O subsidy for the submission, and if so, the proposed methods of calculating the risk subsidy or A&O subsidy (The allowable subsidies cannot exceed the amount authorized by law);

(11) A determination whether:

(i) The submission will be filed with the applicable Commissioner of Insurance for each state proposed for sales, and if not, the reasons such submission will not be forwarded for review by the Commissioner; and

(ii) The submission complies in all material respects with the standards established by FCIC for processing and acceptance of data as specified in its Manual 13 "Data Acceptance System Handbook," unless FCIC has agreed otherwise as part of the development process (This handbook is available from the Actuarial Division, P.O. Box 419293, Kansas City, MO 64141);

(12) Identification of:

(i) Parties responsible for addressing the policy and procedural issues and questions that may arise in administering the approved program; and

(ii) Parties responsible for the product liability and the basis for such responsibility including liability for flaws in product design if such results in litigation against the applicant or FCIC;

(13) Procedures for annual reviews to ensure compliance with all require-

ments of the Act, this subpart, and any agreements executed between the applicant and FCIC:

(i) The title of the person responsible for completing each task;

(ii) The date by which each task will be completed; and

(iii) The date by which the information or documents will be made available to FCIC, the policyholder, other insurance providers, or the Commissioner of Insurance, if applicable (Policy information, forms and other related documents must be made available to the producer at least 30 days prior to the earliest crop sales closing date for the crops to which the submission applies.);

(14) A description of the benefits of the submission:

(i) To producers that demonstrate how the submission offers coverages or costs that differ significantly from existing programs and that such coverage is generally not available from the private sector (Such descriptions should be supported by market research results from producers, producer groups, agents, lending institutions, and other interested parties, which should also include a summary of those persons or organizations contacted and the number of persons or organizations responding) that provides verifiable evidence of the demand for the submitted product; and

(ii) To taxpayers that demonstrate how the submission meets the public policy goals and objectives as stated in the Act, the statements of the Secretary, or similar officials and laws (This must include the rationale and data supporting the request for FCIC's financial commitment to the submission);

(15) Any accumulated insurance experience from all years and in all states in which the submission has been offered for sale and a comparison of the submission's performance with other crop insurance programs; and

(16) An explanation of those provisions not authorized under the Act and the premium apportioned to those provisions.

(b) With respect to any submission that impacts the amount of premium charged to the producer, the applicant must provide with the submission:

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(1) A detailed description of the rating methodology, including all mathematical formulae and equations used in determining all unsubsidized and subsidized premiums or rates of premium;

(2) A list of the assumptions used in the formulation of the premiums or rates of premium;

(3) Simulations of the performance of the proposed premiums or rates of premium based on one or more of the following:

(i) By determining the total premiums and anticipated losses that would be paid under the submission and comparing these totals to a comparable insurance plan offered under the authority of the Act (Such simulations must use all experience available to the applicant and must include at least one year in which indemnities for the submission and the comparable crop exceed total premiums);

(ii) By means of a stochastic simulation of the submission that is based on the same assumptions as those used to develop the premiums or rates of premium, including sensitivity tests with regard to each assumption that demonstrates the probable impact of an erroneous assumption; or

(iii) By means of any simulation that can be proven to provide results comparable to those described in paragraphs (b)(3)(i) and (ii) of this section;

(4) Worksheets that provide the calculations in sequential order and in sufficient detail to allow verification that the premiums charged for the coverage are consistent with policy provisions (Any unique premium component must be explained in sufficient detail to determine whether the existence or amount of the premium or premium rate is appropriate); and

(5) A certification that includes, but is not limited to, an evaluation of all supporting documentation and analysis from an accredited associate or fellow of the Casualty Actuarial Society or a similar uninterested third party who did not participate in the primary development, or peer review panel or both. The evaluation must demonstrate that the submission is consistent with sound insurance principles, practices, and requirements of the Act.

(c) With respect to those submissions that involve new crop insurance programs or revision of an existing crop insurance program:

(1) The applicant must provide with the submission:

(i) An application and related policy forms together with the instructions for completing and processing such forms;

(ii) The insurance policy provisions;

(iii) A sample of the actuarial documents;

(iv) The underwriting rules, including but not limited to:

(A) The procedures for accepting the application;

(B) The rules for determining program eligibility, including but not limited to, minimum acreage, premium requirements, sales closing dates, production reporting requirements, and inception or termination dates of the policy;

(C) The application of administrative fees as required by the Act;

(D) A description of available options that are different from any existing crop insurance program;

(E) Any information needed to establish coverage and determine claims, including prices that must be made available during the insurance period (This information must specify how and when such determination is made and that the process is in compliance with policy provisions);

(F) Any other applicable underwriting requirements that may be required by FCIC; and

(G) The agent training plans;

(2) The applicant may be required to submit statements from at least three commercial reinsurers or reinsurance brokers regarding the availability of commercial reinsurance, the amount of commercial reinsurance available, and the proposed terms of reinsurance;

(3) Loss adjustment procedures and calculations that include, but are not limited to:

(i) Procedures that clearly specify the methods for determining the existence of and the amount of any payable loss under the submission and that demonstrate that such determinations are consistent with policy provisions; and

(ii) Examples and worksheets that provide the steps for calculating the amounts of any payment for indemnity (loss in yield or price), prevented planting payment or replant payment in sequential order and in sufficient detail to allow review and verification that the indemnity calculations are consistent with policy provisions. Any unique component must be explained in sufficient detail to determine whether the existence or amount of the claim is appropriate;

(4) A detailed calculation for determining commodity prices, coverage levels, the amounts of insurance, and production guarantees; and

(5) A detailed description of the causes of loss covered and excluded under the submission.

(d) The submission must be sent to the Deputy Administrator, Research and Development, Federal Crop Insurance Corporation, 9435 Holmes Road, Kansas City, MO 64131. The submission must also include computer disks or other electronic media in a format acceptable to RMA.

#### § 400.706 FCIC review.

Each submission will be reviewed by FCIC to determine if all necessary and appropriate documentation is included. The submission may be returned to the applicant if it does not comply in all material respects with these requirements. Any returned submission must be resubmitted in its entirety unless otherwise determined by FCIC.

#### § 400.707 Presentation to and review by the Board for approval or disapproval.

(a) Upon completion of staff review, all recommendations will be forwarded to the Board.

(b) After scheduling the submission to be presented to the Board, the Manager will inform the applicant of the date, time, and place of such meeting.

(c) The applicant will be given the opportunity to present the submission to the Board. The applicant must notify FCIC in writing in advance of the Board meeting as to whether the applicant will present the submission to the Board. If the applicant plans to present the submission and fails to appear, or if the applicant requests FCIC to present

the submission, an FCIC representative will present the submission to the Board.

(d) The Board may consider for approval the submission for sale to producers as an additional risk management tool if:

(1) Producers interests are adequately protected;

(2) Premiums charged are actuarially appropriate;

(3) The applicant agrees to make any requested FCIC substantive changes in the submission to ensure compliance with the Act and to protect the interests of producers and the integrity of the program. FCIC will categorize recommended changes in a submission into substantive and non-substantive. (Failure of the applicant to incorporate non-substantive changes suggested by FCIC will not serve as a basis for the Board to disapprove the submission);

(4) The insurance provider's resources, procedures, and internal controls are adequate to make the product available to producers in a timely manner in the proposed market areas; and

(5) The applicant provides rates, defining each variable used in any rating formulae, forms, guidelines, standards, actuarial material, rating procedures, indemnity procedures, and related documents.

(e) The Board may disapprove the submission for financial assistance if all the requirements of paragraph (d) of this section are not met. When the Board indicates its intention to disapprove, it will:

(1) Notify the applicant in writing of its intent to disapprove the submission at least 30 days prior to taking such action (Such notice will contain the basis for disapproval, and may include changes necessary for Board approval);

(2) Consider any resubmission as a new proposal and complete the review process at a later time; and

(3) Reserve the right to act upon an applicant's revised submission or defer action to a later time or for a subsequent crop year.

#### § 400.708 Approved submission.

(a) Within 30 days of Board approval, the following must be completed:

(1) A Memorandum of Understanding or other such agreement between the