

(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

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applicant and FCIC that specifies the responsibilities of each with respect to the implementation, delivery and oversight of the submission, and;

(2) A reinsurance agreement between FCIC and the applicant that specifies the amount of reinsurance coverage, risk subsidy, and A&O subsidy, as applicable.

(b) Any solicitation, sales, marketing, or advertising of the program before FCIC has made the submission and related materials available to all interested parties through its official issuance system will result in the denial of reinsurance, risk subsidy and A&O subsidy for those policies in violation of this provision.

(c) A submission approved by the Board under this subpart will be published as a notice of availability in the FEDERAL REGISTER, and be made available to all persons contracting with or reinsured by FCIC under the same terms and conditions as required of the submitting company.

§ 400.709 Review of an approved program.

(a) Responses to procedural issues, questions, problems or needed clarification regarding an approved submission shall be jointly addressed by the applicant and FCIC. All such resolutions shall be communicated to all insurance providers through FCIC's official issuance system. Any corrected material must be presented to FCIC in a format specified in § 400.705(d).

(b) Any change causing a material impact upon a submission previously approved by the Board must be resubmitted for Board consideration and approval. (A material impact is any one that may affect the premium charged or liability under the policy.)

(c) The approved submission will be administered in accordance with all terms of the reinsurance agreement, any applicable Memorandum of Understanding, or any other requirement deemed appropriate by the Board.

§ 400.710 Preemption and premium taxation.

A policy that is approved by the Board for FCIC reinsurance only, or FCIC reinsurance and risk and A&O subsidies, and published in the FED-

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ERAL REGISTER as a notice of availability is preempted from state and local taxation. Any changes to policy provisions requested under state and local laws and regulations must be submitted to FCIC for review and Board approval.

§ 400.711 Right of review, modification, and amendment.

At any time after approval, if sufficient material, documentation or cause arises, the Board may review any approved program, request additional information, and require appropriate amendments, revisions or program changes for purposes of actuarial soundness, program integrity or protection of the interests of producers.

Subpart W [Reserved]

Subpart X—Interpretations of Statutory and Regulatory Provisions

SOURCE: 63 FR 70313, Dec. 21, 1998, unless otherwise noted.

§ 400.765 Basis and applicability.

(a) The regulations contained in this subpart prescribe the rules and criteria for obtaining a final agency determination of the interpretation of any provision of the Act or the regulations promulgated thereunder.

(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.

(c) All final agency determinations issued by FCIC, and published in accordance with § 400.768(f), will be binding on all participants in the Federal crop insurance program.

[63 FR 70313, Dec. 21, 1998, as amended at 64 FR 50246, Sept. 16, 1999]

§ 400.766 Definitions.

Act. The Federal Crop Insurance Act, 7 U.S.C. 1501 *et seq.*