

§ 400.406

where such SSN is required, the premium subsidy payable for administrative and operating expenses under the Standard Reinsurance Agreement, or any other reinsurance agreement, will not be paid on those policies lacking the correct SSN.

[62 FR 28609, May 27, 1997]

§ 400.406 Insurance provider responsibilities.

The insurance provider is required to collect and record the SSN or EIN on each application or on any other form required by FCIC.

[62 FR 28609, May 27, 1997]

§ 400.407 Restricted access.

The Manager, other officer, or employee of FCIC or an authorized person may have access to the SSNs and EINs obtained pursuant to this subpart, only for the purpose of establishing and maintaining a system of records necessary for the effective administration of the Act.

[62 FR 28609, May 27, 1997]

§ 400.408 Safeguards and storage.

Records must be maintained in secured storage with proper safeguards sufficient to enforce the restricted access provisions of this subpart.

[62 FR 28609, May 27, 1997]

§ 400.409 Unauthorized disclosure.

Anyone having access to the records identifying a participant's SSN or EIN will abide by the provisions of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)), and section 6109(f), Internal Revenue Code of 1986 (26 U.S.C. 6109(f) and the Privacy Act of 1974 (5 U.S.C. 552a). All records are confidential, and are not to be disclosed to unauthorized personnel.

[57 FR 46297, Oct. 8, 1992. Redesignated at 62 FR 28608, May 27, 1997]

§ 400.410 Penalties.

Unauthorized disclosure of SSN's or EIN's by any person may subject that person, and the person soliciting the unauthorized disclosure, to civil or criminal sanctions imposed under various Federal statutes, including 26

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U.S.C. 7613, 5 U.S.C. 552a, and 42 U.S.C. 408.

[57 FR 46297, Oct. 8, 1992. Redesignated at 62 FR 28608, May 27, 1997]

§ 400.411 Obtaining personal records.

Policyholders, agents, and loss adjusters in the crop insurance program will be able to review and correct their records as provided by the Privacy Act. Records may be requested by:

(a) Mailing a signed written request to the headquarters office of FCIC; the FCIC Regional Service Office, or the insurance provider; or

(b) Making a personal visit to the above mentioned establishments and showing valid identification.

[57 FR 46297, Oct. 8, 1992. Redesignated and amended at 62 FR 28608, 28609, May 27, 1997]

§ 400.412 Record retention.

(a) FCIC or the insurance provider will retain all records of policyholders for a period of not less than 3 years from the date of final action on a policy for the crop year, unless further maintenance of specific records is requested by FCIC. Final actions on insurance policies include conclusion of insurance events, such as the latest of termination of the policy, completion of loss adjustment, or satisfaction of claim.

(b) The statute of limitations for FCIC contract claims may permit litigation to be instituted after the period of record retention. Destruction of records prior to the expiration of the statute of limitations will not provide a defense to any action by FCIC against any private insurance company.

[62 FR 28609, May 27, 1997]

§ 400.413 [Reserved]

Subpart R—Sanctions

AUTHORITY: 7 U.S.C. 1506(l).

SOURCE: 58 FR 53110, Oct. 14, 1993, unless otherwise noted.

§ 400.451 General.

(a) The Federal Crop Insurance Corporation (FCIC) has implemented a system of sanctions to prevent waste,

fraud, and abuse within its programs and insurance delivery systems. Such sanctions include civil penalties and disqualification from the crop insurance program under the Federal Crop Insurance Act, 7 U.S.C. 1506(m); government wide debarment and suspension; and civil penalties and assessments under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801—31 U.S.C. 3812.

(b) The provisions of this subpart apply to all contracts and agreements to which FCIC is a party unless otherwise specifically provided for in this subpart, including those in which FCIC provides administrative expense reimbursement, premium subsidy, or reinsurance benefits.

(c) The provisions of this subpart are in addition to any other sanctions specifically provided in applicable contracts and agreements.

(d) This subpart is applicable to any act or omission by any affected party after October 14, 1993.

§ 400.452 Definitions.

For purposes of this subpart, a person means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a state, a political subdivision of a state, or any agency thereof.

§ 400.453 Exhaustion of administrative remedies.

All administrative remedies contained herein or incorporated herein by reference must be exhausted before Judicial Review in the United States Courts may be sought, unless review is specifically required by statute.

§ 400.454 Civil penalties.

(a) Any person who willfully and intentionally provides any materially false or inaccurate information to FCIC or to any approved insurance provider reinsured by FCIC with respect to an insurance plan or policy issued under the authority of the Federal Crop Insurance Act, as amended, (7 U.S.C. 1501 *et seq.*) may be subject to a civil fine of up to an amount specified in § 3.91(b)(7) of this title and disqualification from participation in:

(1) The catastrophic risk protection plan of insurance and the noninsured

crop disaster assistance program for a period not to exceed two (2) years; or

(2) Any plan of insurance providing protection in excess of that provided under the catastrophic risk protection plan of insurance for a period not to exceed ten (10) years.

(b) FCIC may make the payment of a civil penalty under this section a prior condition for the issuance, renewal, restoration, or continuing validity of any crop insurance policy or other approval.

(c) FCIC may compromise, modify, settle, collect, or remit with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section whenever it considers it to be appropriate or advisable.

(d) If a director, officer, or agent of a corporation provides false or inaccurate information, they may be separately subject to the fine specified in paragraph (a) of this section without regard to any penalties to which the corporation may be subject.

(e) The liability of any person for any penalty under this subpart or any related charges arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other statute or provision of law.

(f) Proceedings under this § 400.454 will be in accordance with subpart H of 7 CFR part 1, "Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary under Various Statutes," by which the Manager, FCIC, shall initiate proceedings by filing a complaint with the Hearing Clerk, United States Department of Agriculture.

[58 FR 53110, Oct. 14, 1993, as amended at 60 FR 37323, July 20, 1995; 62 FR 40928, July 31, 1997]

§ 400.455 Governmentwide debarment and suspension (procurement).

(a) This section prescribes the terms and conditions under which persons or business entities may be debarred or suspended by FCIC from contracting with the Federal government.

(b) This section is in accordance with 48 CFR part 9, subpart 9.4 and 48 CFR