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consult with FCIC to determine whether their submission can be implemented and administered through the current system;

(1) If FCIC approves the submission and determines that its system has the capacity to implement and administer the submission, the applicant must provide acceptable computer requirements, code and software, consistent with that used by FCIC, to facilitate the acceptance of producer applications and all related data;

(2) If FCIC approves the submission and determines that its system lacks the capacity to implement and administer the submission, the applicant must provide acceptable computer systems, requirements, code and software necessary to implement and administer the policy or plan of insurance;

(3) Any computer systems, requirements, code and software must be consistent with that used by FCIC and comply with the standards established in Appendix III, or any successor document, of the Standard Reinsurance Agreement or other reinsurance agreement as specified by FCIC; and

(4) These requirements are available from the Risk Management Agency, 6501 Beacon Drive, Stop 0812, Kansas City, MO, 64133-4676 or on RMA's Web site at <http://www.rma.usda.gov/data/#m13>, or a successor website.

(1) The eleventh section must contain a training package. The training package must include a thorough discussion, explanations, written exercises, and examples covering the following topics:

(1) Basic and catastrophic risk protection policy provisions;

(2) The commodity provisions and any endorsements;

(3) Underwriting under the underwriting guide;

(4) Eligibility requirements;

(5) Guarantee, indemnity, and premium calculations;

(6) Special Provisions of Insurance;

(7) Actuarial documents;

(8) Loss adjustment under the loss adjustment standards handbook;

(9) Applicable additions to the Crop Insurance Handbook (CIH); and

(10) Applicable additions to the Loss Adjustment Manual (LAM).

(m) The twelfth section submitted on separate pages and in accordance with § 400.712 must specify:

(1) On one page, the total estimated amount that will be requested for reimbursement of research and development costs (for new products only) or the estimated amount for maintenance costs for the year for which the submission will be effective (for products that are within the maintenance period); and

(2) On another page, a comprehensive estimate of maintenance costs for each future year of the maintenance period and the basis for which such maintenance costs will be incurred, including, but not limited to:

(i) Any anticipated expansion;

(ii) The generation of rates, Special Provisions, underwriting rules, etc;

(iii) The determination of prices; and

(iv) Any other costs that the applicant anticipates will be requested for reimbursement.

(n) The thirteenth section must contain executed certification statements in accordance with the following:

(1) “{Applicant’s Name} hereby claim that the amounts set forth in this section and § 400.712 are correct and due and owing to {Applicant’s Name} by FCIC under the Federal Crop Insurance Act”; and

(2) “{Applicant’s Name} understands that, in addition to criminal fines and imprisonment, the submission of false or fraudulent statements or claims may result in civil and administrative sanctions.”

[70 FR 44236, Aug. 2, 2005]

**§ 400.706 Review of submission.**

(a) Prior to providing the submission to the Board to determine whether it is a complete submission, RMA will:

(1) Review the submission to determine if all necessary and appropriate documentation is included in accordance with § 400.705;

(2) Review the submission to determine whether the submission is of sufficient quality to conduct a meaningful review;

(3) Inform the applicant of the information RMA deems necessary for the submission to comply with paragraphs (a)(1) and (2) of this section; and

(4) Forward the submission and the results of RMA's initial review to the Board.

(b) Upon the Board's receipt of the submission, the Board will:

(1) Determine if the submission is a complete submission (The date the Board votes to contract with independent reviewers is the date the submission is deemed to be a complete submission for the start of the 120 day time-period for approval);

(2) Forward the complete submission to at least five independent persons with underwriting or actuarial experience to review the submission:

(i) Of the five reviewers, no more than one will be employed by the Federal Government, and none may be employed by any approved insurance provider or their representative; and

(ii) The reviewers will each provide their assessment of whether the submission protects the interest of agricultural producers and taxpayers, is actuarially appropriate, follows appropriate insurance principles, meets the requirements of the Act, does not contain excessive risks, follows sound, reasonable, and appropriate underwriting principles, as well as other items the Board may deem necessary;

(3) Return to the applicant any submission the Board determines is not a complete submission, and provide documentation to the applicant explaining such. If the submission is resubmitted at a later date, it will be considered a new submission;

(4) For all complete submissions:

(i) Request review of the submission by RMA to provide its assessment of whether:

(A) The submission protects the interests of agricultural producers and taxpayers, is actuarially appropriate, follows appropriate insurance principles, meets the requirements of the Act, does not contain excessive risks, is consistent with USDA's public policy goals, does not increase or shift risk to any other FCIC reinsured policy, offers coverage that is similar to another policy or plan of insurance and if the producer would further benefit from the submission and can be administered and delivered efficiently and effectively;

(B) The marketing plan is reasonable;

(C) RMA has the resources to consider, implement, and administer the submission; and

(D) The requested amount of government reinsurance, risk subsidy, and administrative and operating subsidies is reasonable and appropriate for the type of coverage provided by the policy submission; and

(ii) Seek review from the Office of the General Counsel (OGC) to determine if the submission conforms to the requirements of the Act and all applicable Federal regulations.

(c) All comments and evaluations will be provided to the Board by a date determined by the Board to allow the Board adequate time for review.

(d) The Board will consider all comments, evaluations, and recommendations in its review process. Prior to making a decision, the Board may request additional information from RMA, OGC, the independent reviewers, or the applicant.

(e) An applicant may request, at any time, a time delay before the Board provides a notice of intent to disapprove the submission. The Board is not required to agree to such an extension.

(1) Any requested time delay will not be limited in the length of time or the number of delays. However, delays may make implementation of the submission for the targeted crop year impractical or impossible.

(2) The time period during which the Board must make a decision to approve or disapprove shall be extended commensurately with any time delay requested by the applicant.

(3) If the Board agrees to an extension of time, the Board and the applicant must agree to a time period in which the Board must make its decision to approve or disapprove after the expiration of any requested time delay.

(f) The applicant may withdraw a submission or a portion of a submission at any time by written request to the Board. A withdrawn submission that is resubmitted will result in the submission being deemed a new submission for the purpose of determining the amount of time that the Board must act on such submission.

(g) The Board will render a decision to approve the submission with or

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without revision or give notice of intent to disapprove within 90 days after the date the submission is considered complete by the Board in accordance with paragraph (b)(1) of this section, unless the applicant and Board agree to a time delay in accordance with paragraph (e) of this section.

(h) The Board may disapprove a submission if it determines that:

(1) The interests of producers and taxpayers are not protected, including but not limited to:

(i) The submission does not provide adequate coverage or treats producers disparately;

(ii) The applicant has not presented sufficient documentation that the submission is marketable;

(iii) Coverage would be similar to another policy or plan of insurance and the producer would not further benefit from the submission; or

(iv) The resources of FCIC or RMA are not sufficient to support the review and implementation of the product;

(2) The premium rates are not actuarially appropriate;

(3) The submission does not conform to sound insurance and underwriting principles;

(4) The risks associated with the submission are excessive or it increases or shifts risk to any other FCIC reinsured policy;

(5) The submission does not meet the requirements of the Act or is not in accordance with USDA's public policy goals; or

(6) There is insufficient time before the submission would become effective under section 508(h) of the Act for the Board to make an informed decision with respect to whether the interests of producers are protected, the premium rates are actuarially appropriate, or the risks associated with the submission are excessive;

(i) If the Board intends to disapprove the submission, the applicant will be notified in writing at least 30 days prior to the Board taking such action. The Board will provide the applicant with a written explanation for the intent to disapprove the submission.

(j) After written notice of intent to disapprove all or part of a submission has been provided by the Board, the applicant must provide written notice to

the Board not later than 30 days after the Board provided such notice, if the submission will be modified. Except as provided in paragraph (j)(3) of this section, the applicant must also include an anticipated date that the modification will be provided to the Board. If the applicant does not respond within the 30-day period, the Board will send the applicant a letter stating the submission is disapproved.

(1) If the modification is in direct response to reviewer comments, the Board may act on the modification immediately or seek further review within the 30-day time period allowed.

(2) The Board will approve or disapprove a modified submission not later than 30 days after receiving a modified submission from the applicant, unless the applicant and the Board agree to a time delay. If a time delay is agreed upon, the time period during which the Board must act on the modified submission will not be in effect during the delay.

(3) The Board will disapprove a modified submission if:

(i) All causes for disapproval stated by the Board in its notification of intent to disapprove the submission are not satisfactorily addressed;

(ii) Insufficient time is available for review of the modified submission to determine whether all causes for disapproval have been satisfactorily addressed; or

(iii) Modification is so substantial that the Board determines that additional independent review is required and a time delay can not be agreed upon to allow for such review.

(k) A submission will be disapproved if the applicant does not present a modification of the submission to the Board on the date the applicant anticipated presenting the modification or does not request an additional time delay.

(l) If the Board fails to take action on a new submission within the prescribed 90-day period in paragraph (g) of this section, or within the time period in accordance with paragraph (e)(3) of this section after receiving the revised submission, such submission will be deemed approved by the Board for the initial reinsurance year designated for

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the submission. The Board must approve the submission for it to be available for any subsequent reinsurance year.

[70 FR 44238, Aug. 2, 2005]

**§ 400.707 Presentation to the Board for approval or disapproval.**

(a) The Board will inform the applicant of the date, time, and place of the Board meeting.

(b) The applicant will be given the opportunity and is encouraged to present the submission to the Board in person. The applicant must confirm, in writing, whether the applicant will present the submission to the Board.

(c) If the applicant elects, at any time, not to present the submission to the Board, the Board will make its decision based on the submission and the reviews provided in accordance with § 400.706(b).

[66 FR 47951, Sept. 17, 2001, as amended at 70 FR 44239, Aug. 2, 2005]

**§ 400.708 Approved submission.**

(a) After a submission is approved by the Board, and prior to it being made available for sale to producers, the following items, as applicable, must be completed:

(1) If FCIC requires, an agreement between the applicant and FCIC that specifies:

(i) The responsibilities of each with respect to the implementation, delivery and oversight of the submission; and

(ii) That the property rights to the submission automatically transfers to FCIC if the applicant elects not to maintain the submission and FCIC has paid any amounts under § 400.712.

(2) A reinsurance agreement if terms and conditions differ from the available existing reinsurance agreements.

(b) A submission approved by the Board under this subpart will be made available to all approved insurance providers under the same reinsurance and subsidy terms and conditions as received by the applicant.

(c) Any solicitation, sales, marketing, or advertising of the approved submission by the applicant before FCIC has made the submission and related materials available to all inter-

ested parties through its official issuance system will result in the denial of reinsurance, risk subsidy, and A&O subsidy for those policies affected.

[66 FR 47951, Sept. 17, 2001, as amended at 70 FR 44239, Aug. 2, 2005]

**§ 400.709 Roles and responsibilities.**

(a) With respect to the applicant:

(1) The applicant is responsible for:

(i) Preparing and ensuring that all policy documents, rates of premium, and supporting materials, including actuarial documents, are submitted to FCIC in the form approved by the Board;

(ii) Annually updating and providing maintenance changes no later than 180 days prior to the earliest contract change date for the commodity in all counties or states in which the policy or plan of insurance is sold, unless FCIC assumes maintenance of the product;

(iii) Addressing responses to procedural issues, questions, problems or clarifications in regard to a policy or plan of insurance (all such resolutions will be communicated to all approved insurance providers through FCIC's official issuance system); and

(iv) Annually reviewing the policy's performance and providing a report on the policy's performance to the Board by each anniversary date of when the product was first available to be purchased by the public;

(2) Only the applicant may make changes to the policy, plan of insurance, or rates of premium approved by the Board (Any changes, both non-significant and significant, must be submitted to FCIC no later than 180 days prior to the earliest contract change date for the commodity in all counties or states in which the policy of plan of insurance is sold. Significant changes must be submitted to the Board for review in accordance with this subpart and will be considered as a new submission);

(3) Except as provided in paragraph (a)(4) of this section, the applicant is solely liable for any mistakes, errors, or flaws in the submitted policy, plan of insurance, their related materials, or the rates of premium that have been approved by the Board unless the policy or plan of insurance is transferred