

# Procedure for the Submission and Review of New and Revised Crop Insurance Policies

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## 1 Definitions

**Act** - The Federal Crop Insurance Act (7 U.S.C. 1501 et. seq.).

**Actuary** - A person having technical competence relating to the current financial implications of future contingent events, especially as this affects the establishment of premium rates for insurance, as evidenced by: 1) membership, as either a fellow or associate, in the Casualty Actuarial Society; 2) at least 10 years of professional level work experience as an actuary setting rates for crop insurance or related lines such as hail, livestock, or farm insurance; or 3) at least 15 years of professional level insurance premium rate setting experience in, or equivalent to, the GS-1510 (Actuary) job series.

**AIP** - Approved Insurance Provider - Insurance companies approved for reinsurance by FCIC.

**AIP Pool** - Persons with expertise as actuaries or in the underwriting of insurance policies that are nominated to serve by an AIP or are currently or regularly employed by or otherwise affiliated with an AIP, or any entity associated with or controlled by one or more AIPs, and who are approved by the Board to serve as reviewers of policies.

**Board** - The Board of Directors of FCIC.

**CP** - Concept proposal - A written policy submitted under section 508(h) and authorized under section 522(b) of the Act containing enough information that the Board is able to determine that, if approved, the submission will be developed into a viable and marketable policy consistent with a PSP.

**Days** - Calendar days.

**Disapproval date** - The date by which the Board will provide notice of intent to disapprove a

PSP.

**Expert reviewers** – Actuaries and underwriters contracted by the Board who evaluate PSP’s and FPP’s in accordance with the Act and advise the Board of their findings.

**FCIC** – The Federal Crop Insurance Corporation, a wholly owned government corporation within the United States Department of Agriculture (USDA).

**FPP** – An FCIC proposed policy submitted under any section of the Act except section 508(h).

**Limited Resource Producer** - Has the same meaning as the term defined by USDA at <http://www.lrftool.sc.egov.usda.gov.htm>.

**Manager** – The Administrator of RMA.

**Notice of intent to disapprove** - Written notice from the Board to the submitter of a PSP that the Board intends to disapprove a submission.

**Original submission** - A PSP submitted for the first time to FCIC and that contains all the materials required by the submission regulations published at 7 C.F.R. Part 400, Subpart V.

**Person** – An individual; a partnership, corporation, or other business entity; or a government entity.

**Policy** - Any crop insurance policy or plan of insurance, provision of a policy or plan of insurance and related materials, whether new or revised.

**PSP** - A privately submitted policy submitted under the provisions of section 508(h) of the Act.

**Revised original submission** - An original submission that is changed by the submitter with replacement, supplemental, or new material prior to the Board taking action to approve, disapprove, or agree to an extension of time.

**Revised rejected submission** - An original or revised original submission for which the Board provided notice of intent to disapprove and that is then changed by the submitter with replacement, supplemental, or new material and resubmitted to the Board.

**RMA** - The Risk Management Agency, an agency of the U. S. Department of Agriculture.

**Secretary** – Secretary to the FCIC Board.

**Socially Disadvantage Producer** – As defined section in 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).

**Submission** - A PSP submitted to FCIC that RMA determines to contain all the materials specified in the submission regulations or a FPP submitted to the Board for approval.

**Submission date** – The date when an original submission or revised rejected submission is determined complete by the Board, in accordance with section 400.706.

**Submission regulation** – The regulation that provides the information necessary to submit a PSP to FCIC, as authorized under section 508(h) of the Act, and published in 7 C.F.R. Part 400.700, Subpart V—Submission of Policies, Provisions of Policies and Rates of Premium.

**Submitter** - A person who submits a PSP to FCIC.

**Targeted Producer** – Producers who would be considered small, socially disadvantaged, beginning, limited resource or other specific aspects designated by RMA for the review.

**Underwriter** - A person having technical competence and experience with the design of insurance policies, the classification and acceptance or rejection of risks, or the class of asset or activity (e.g. - the production risks or economics of specific crops) proposed to be insured, and who applies such knowledge to assure the proper functioning of insurance programs, as evidenced by: 1) at least 10 years of professional level work experience as a crop insurance underwriter; 2) at least 15 years of professional level work experience as a property and casualty underwriter in fields related to crop insurance, such as hail, livestock, or farm insurance; 3) at least 15 years of experience as an agricultural risk management consultant; 4) a Ph.D. in agricultural economics with at least 5 years of post doctoral work in crop insurance or agricultural risk management; or 5) a Ph.D. with at least 5 years of post-doctoral work in a field of agriculture, risk management, etc., directly related to the agricultural commodity or activity proposed to be insured.

## **2 Applicability and Precedence**

- (a) This procedure is applicable to all CP's, PSP's and FPP's unless otherwise indicated.
- (b) If there is a conflict between these procedures and either the Act or the submission regulation, the Act and the submission regulation shall take precedence.

## **3 Submission**

- (a) CP's and PSP's will be submitted in accordance with the submission regulation and applicable procedures.
- (b) Neither RMA nor the Board will accept for review and consideration any PSP that does not contain all materials required by the submission regulation, is not of sufficient quality to permit a meaningful review, or that the Office of the General Counsel determines would be in violation of the Act if approved.
- (c) When a revised original submission is submitted, the original submission will be deemed to be withdrawn and only the revised original submission will be reviewed and considered.

#### **4 Expert Reviewers**

- (a) The Secretary will nominate persons to serve as expert reviewers to the Board subject to the following limitations:
  - (1) Only one employee of the Federal Government may serve as an expert reviewer of any submission (Employees of RMA, FCIC, Office of the Chief Economist, USDA employees under the jurisdiction of any Board member or the Office of the General Counsel do not constitute expert reviewers).
  - (2) In the case of FPPs, at least one reviewer will be from the AIP pool.
  - (3) In the case of PSPs, no reviewer may be from the AIP pool.
  - (4) There must be at least one actuary and one underwriter nominated for each FPP or PSP submission requiring expert review.
- (b) Nominated person's names, qualifications, experience, availability, and any identified potential conflicts of interest will be provided along with a statement from the Secretary regarding whether the person is qualified as an actuary or underwriter in accordance with these procedures.
- (c) The Board will approve or disapprove each candidate based on whether the person meets the qualifications as an underwriter or actuary in accordance with these procedures. When approved by the Board, these expert reviewers will be placed in the general or AIP pool, as applicable.
- (d) The Secretary will acquire the services of the expert reviewers from the pools in a timely and efficient manner.
- (e) The Secretary will award contracts to qualified reviewers from the appropriate pool for each original or revised submission, taking into account known conflicts of interest and other pertinent information.
- (f) The Board will evaluate the quality and usefulness of the reports provided by expert reviewers and, based on the completeness and quality of these expert reviews, may instruct the Secretary to remove persons as expert reviewers. The Board may also direct the removal of persons who routinely decline requests to review submissions.

#### **5 Expert Reviews**

- (a) Except as specified in section 3(b), original and revised submissions determined complete by the Board, and which the Board determines that there is a reasonable possibility it may approve the submission, may be sent out for expert review. Submissions that the Board determines do not meet the criteria approval and for which it determines it is unlikely to approve do not have to be sent out for expert review.

- (b) For each FPP or PSP expert review, the Secretary will propose to the Board a list of at least 5 recommended expert reviewers, and 5 alternate expert reviewers in case any recommended reviewers are unable or unwilling to perform the review.
- (c) For each CP expert review, the Secretary will propose to the Board a list of at least 2 recommended expert reviewers, and 2 alternate expert reviewers in case any recommended reviewers are unable or unwilling to perform the review.
- (d) The Board, or its designated Chairman, will select the expert reviewers for each submission from the list provided by the Secretary consistent with the limitations contained in section 4(a).
- (e) After approval of the expert reviewers by the Board, the Secretary will make contract awards to the approved expert reviewers, and will give them each a copy of the entire submission and a copy of this procedure.
- (f) Expert reviewers may request additional materials, background information, analyses, and interpretations from the Secretary. The Secretary will contact the submitter to obtain this information.
- (g) The contract will inform the expert reviewers of confidentiality and non-disclosure requirements, instructions for destruction of data as appropriate, and penalties for non-compliance.
- (h) In accordance with the expert review contract, the expert reviewers' written reports will consist of an executive summary and a research report.
  - (1) The executive summary, not to exceed two pages in length, will summarize the findings of the reviewer, including significant weaknesses of the submission. The executive summary must be written for a layperson.
  - (2) The research report must include the following sections:
    - (A) A description of the methodology used by the expert reviewer.
    - (B) In the case of PSPs and FPPs a discussion regarding each of the items listed in section 5(j). These issues should be clearly discussed, including the rationale for any "yes" or "no" answers and any strengths and weaknesses.
    - (C) In the case of CPs a discussion regarding each of the items listed in section 5(k). These issues should be clearly discussed including any strengths and weaknesses.
    - (D) In the case of CPs a completed Complexity and Scope Worksheet (Concept Proposal Submission Procedures January 2009 Attachment A);

- (E) An appendix of any supporting material or data. All relevant discussions and analysis should be contained in the body of the report.
  - (F) Short biographies (not to exceed one page) for each person who took substantial part in the expert review. The biography should include any experience, degrees, certificates, or other information to support the qualifications of the participant.
- (3) All written reports must be provided in hard copy and electronically, in a single file in MS Office format. Emailed versions shall be sent to the Secretary. The specific email address will be provided in each task order statement of work.
  - (4) The date that expert review written reports are due will be not less than 35 days before the Board meeting scheduled to consider the submission.
- (i) The Secretary will forward the expert reviewers' reports to the Board not less than 15 days before the Board approval date.
  - (j) The expert reviewers' FPP or PSP written reports will address each of the following items within the scope of the expert reviewer's knowledge, and may include additional information at the discretion of the expert reviewer. The Board may remove or add items for the expert reviewers to analyze, depending on the nature of each submission.
    - (1) Protection of producers' interests.
      - (A) Does the policy provide meaningful coverage that is of use to all producers, and provide it in a cost-efficient manner?
      - (B) Is the policy clearly written such that producers will be able to understand the coverage that they are being offered? Does the policy language permit actuaries to form a clear understanding of the payment contingencies for which they will set rates? Is it likely that an excessive number of disputes or legal actions will arise from misunderstandings over policy language?
      - (C) Is the calculation for determining liability (i.e., the amount of coverage) clearly stated and supported by an example?
      - (D) Is the calculation for determining the amount of premium clearly stated and supported by an example?
      - (E) Is the calculation for determining the amount of indemnity clearly stated and supported by an example?
      - (F) In the case of price or revenue policies, are the mechanisms for establishing price clearly stated in the materials?
      - (G) Is adequate, credible, and reliable data available for establishing expected market

prices for insured commodities? Is it likely that the data will continue to be available on an ongoing basis and available when needed by the program? Is the data vulnerable to tampering, bias, or other aspects that will raise questions of credibility if the proposed policy is approved? Is the proposed system for publishing prices feasible?

- (H) Does the policy avoid providing coverage in excess of the expected value of the insured crop?
  - (I) Does the policy contain indemnity or other provisions that cannot be objectively verified by loss adjusters, underwriters, or auditors?
  - (J) Is the policy likely to treat all producers equally?
  - (K) Will insured's be able to comply with all requirements of the policy?
  - (L) Does the policy create vulnerabilities to waste, fraud, or abuse?
  - (M) Is the product likely to adversely affect the agricultural economy or the general marketplace of the crop that is proposed for coverage, or of other crops or areas?
  - (N) Does the policy contain provisions that would facilitate or encourage participation by targeted producers?
- (2) Actuarial soundness.
- (A) Is adequate, credible, and reliable rate-making data available? Is it likely that the data will continue to be available? Is the data vulnerable to tampering if the proposed policy is approved?
  - (B) Are the explicit and implicit assumptions used in the rating process reasonable?
  - (C) Are the technical analyses (e.g., stochastic and other simulations) correct and recognized as appropriate? Do they provide credible, relevant results?
  - (D) Is the data used for the analyses appropriate, reliable, and the best available?
  - (E) Does the actuary certifying the submission's rates provide adequate and accurate support for the certification? Does the actuary raise issues or questions that the submitter has acted upon accordingly?
  - (F) Does experience from prior years and relevant crops and areas support the validity of the proposed rates?
  - (G) Does the submission increase or shift risk to another FCIC-reinsured policy?

(H) Are the proposed premium rates likely to cover anticipated losses and a reasonable reserve?

(I) Are the actuarial methodologies for rates and prices appropriate for the risks covered by the proposed policy?

(3) Administrative burden

Does the policy place an unreasonable administrative burden on the insureds, AIPs, or the Federal crop insurance program? Administrative burden includes time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for reviewing instructions; acquiring, installing, and utilizing technology and systems; adjusting the existing ways to comply with any previously applicable instructions and requirements; searching data sources; completing and reviewing the collection of information; and transmitting or otherwise disclosing the information.

(4) Marketability

Is the submitter's determination of marketability reasonable and supported by the documentation? Is the proposed policy or plan of insurance likely to result in a viable and marketable policy that can reasonably attain levels of participation similar to other like policies?

(5) Other review areas

(A) Does this policy provide coverage that, in whole or in part, is generally available from the private sector?

(B) Does the policy propose to insure a peril that is not authorized by the Act?

(C) To the extent of the reviewer's knowledge, does the policy comply with all requirements of the Act and the public policy goals of FCIC?

(D) Questions specific to this review provided by FCIC.

(E) The expert reviewer's written report may also include additional information at the discretion of the expert reviewer.

(k) The expert reviewers' CP written reports will address each of the following items within the scope of the expert reviewer's knowledge and may include additional information at the discretion of the expert reviewer. The Board may remove or add items for the expert reviewers to analyze, depending on the nature of each submission.

(1) An assessment of the likelihood the concept proposal can be developed into a viable 508(h) submission consistent with section 508(h) of the Act;

- (2) A determination of whether the proposed policy or plan of insurance is significantly different than other available policies, endorsements, or plans of insurance or programs in the private or governmental sectors;
- (3) A determination of whether all the conditions for approval of an advance payment for a concept proposal has been met, which includes if the concept proposal will, if developed into a policy or plan of insurance and approved by the Board, provide crop insurance coverage:
  - (A) In a significantly improved form;
  - (B) To a crop or region not traditionally served by the Federal crop insurance program;  
or
  - (C) In a form that addresses a recognized flaw or problem in the program.
- (4) A determination of whether the proposed policy or plan of insurance would be in the best interests of producers and taxpayers;
- (5) A determination of the impact of the proposed policy or plan of insurance on producers, the marketplace, taxpayers, and government for the commodity to be insured (It would be helpful to include estimated impacts involving time, money, labor, and computer systems);
- (6) An analysis of the past experience available for a similar policy or plan of insurance covering the same commodity and risks, if available;
- (7) A determination explaining how the risk(s) covered by the policy or plan of insurance conform to the Act and RMA's regulations and procedures;
- (8) An assessment of the marketability of the proposed policy or plan of insurance;
- (9) An assessment of whether the data identified as available for rating and pricing purposes is from a credible source, would be available as necessary in the future, and is appropriate and sufficient for rating and pricing purposes;
- (10) An assessment that the actuarial methods identified as possibilities for rating and pricing are actuarially appropriate and will work with the specific data identified as applicable;
- (11) An assessment on any additional items the Board may deem necessary;
- (12) Any additional information determined relevant that the reviewer identifies as of potential interest for the Board consideration.

## **6 Other Reviews**

- (a) Review by the Office of the General Counsel. The Secretary will forward a copy of each original and revised submission to the Office of the General Counsel at the same time that they are delivered to the expert reviewers. The Office of the General Counsel will review the submissions for legal sufficiency and provide either an oral or a written opinion.
- (b) Review by RMA. RMA will submit to the Board a docket in accordance with the Procedure on Handling Dockets Considered by the Board of Directors, or any subsequent procedures.
- (c) In accordance with section 2(d)(6) of the Procedure on Handling Dockets Considered by the Board of Directors, the docket will contain:
  - (1) A short executive summary that contains a brief statement of the action, any background information, previous actions taken as applicable, and the reason the action is being submitted.
  - (2) A memorandum of transmittal from the Manager of FCIC approving and submitting the docket for the consideration of the Board.
  - (3) A statement of delegations of authority, which may be appropriate or required to implement the proposal.
  - (4) A budget statement indicating the availability of funds to implement the action, the amount of (or estimate of) the funds necessary to implement the action, and a statement of personnel requirements necessary to implement the action.
  - (5) A statement of legal authority and legal sufficiency of the action concurred or not concurred to by the Office of General Counsel.
  - (6) An impact analysis for the action that discusses the impacts on stakeholders, such as approved insurance providers, producers, reinsurers, and other participants in the delivery system, as a result of approval or disapproval of the action. Economic effects should be quantified to the maximum extent practicable and include the effect on stakeholders and the crop insurance program.
  - (7) Such other information as may be required by the Board.

## **7 Consideration by the Board**

- (a) The Board will consider the information provided by all expert reviewers.
- (b) Counsel to the Board will present legal findings and opinion, and answer any questions or concerns the Board may have.
- (c) RMA will present its own findings and recommendation, and answer questions requested by the Board.
- (d) The Board may request the presence of any expert reviewer in order to answer questions in person, and will pay the associated travel costs and fees.

