

## Side-by Side Comparison of the 1999 Proposed Rules the 2005 Proposed Rules with Provisions Regarding Premium Reduction Plans

Section 508(e) (3) of the Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*) states;

If an approved insurance provider determines that the provider may provide insurance more efficiently than the expense reimbursement amount established by the Corporation, the approved insurance provider may reduce, subject to the approval of the Corporation, the premium charged the insured by an amount corresponding to the efficiency. The approved insurance provider shall apply to the Corporation for authority to reduce the premium before making such a reduction, and the reduction shall be subject to the rules, limitations, and procedures established by the Corporation.

<p><b>Proposed Rules February 24, 2005 Fed. Register Vol. 70. No.36. pg 9001</b></p>	<p><b>Proposed Rules May 12, 1999 Fed. Register Vol. 64. No.91. pg 25466 – Never Finalized After Public Comment Period (emphasis added)</b></p>
<p><b>§ 400.752 Prohibited practices.</b>  <b>(b)</b> No crop insurance policy will be eligible for FCIC reinsurance, premium subsidy, or administrative and operating subsidy if any covered person makes any of the following payments to the insured producer:  <b>(2)</b> Premium reduction, except with the prior approval of RMA</p>	
<p><b>§ 400.714 (b)</b> Plans of Operations must be received no later than April 1 before the reinsurance year, or the date RMA otherwise determines the Plan of Operations is due</p>	<p><b>§ 400.755 Reductions in premiums.</b>  <b>(a) (1)</b> Applications must be received not later than 120 days before the first sales closing date on any crop for which a premium reduction is requested. Applications filed less than 120 days before the sales closing date will be considered for the next crop year unless the application is withdrawn by the approved insurance provider or unless FCIC otherwise agrees in writing</p>

<p><b>§ 400.715 Limitations and prohibitions.</b>  <b>(a)</b> For the first two reinsurance years after [effective date of the final rule], the premium reduction plan may not offer a premium reduction based on an efficiency less than 1.0 percent nor greater than 4.0 percent of the net book premium. For subsequent reinsurance years, RMA will announce the minimum and maximum limitation on the premium reduction, if applicable. Premium reductions must be offered in .5 percent increments.</p>	
<p><b>§ 400.716 (e)</b> Plan of Operations must include a detailed marketing plan focused solely on how the premium reduction will be promoted to small producers, limited resources farmers as defined in section 1 of the Basic Provisions, 7 CFR 457.8, women and minority producers</p>	<p><b>§ 400.755 (a) (3) (vii)</b> A description of those features of the proposed premium reduction plan that will assure that it will not discriminate against small producers, limited resources farmers as defined in section 1 of the Basic Provisions, 7 CFR 457.8, or minority producers.</p>
<p><b>§ 400.716 Contents of the revised Plans of Operations for a premium reduction plan.</b>  <b>(i)</b> Plan of Operations must include a financial reserve plan that:  <b>(1)</b> Is triggered immediately upon discovery by the approved insurance provider or RMA that the total dollar amount of the actual efficiency is not sufficient to cover the total dollar amount of the premium reduction provided to producers;  <b>(2)</b> Consists of actions to be taken by the approved insurance provider that would produce cost savings or income that is at least 25 percent of the projected total dollar of premium reduction to be provided to producers immediately upon discovery under paragraph (i)(1) of this section;</p>	
<p><b>§ 400.719 (a)(11)</b> The premium reduction plan must not result in a reduction in service to policyholders</p>	<p><b>§ 400.755 (b)(2)</b> There must not be a reduction in service to policyholders;</p>

<p>§ 400.719 (a)(12) The premium reduction plan must not result in a reduction of training and supervising of agents, loss adjusters, or underwriting and quality assurance personnel</p>	<p>§ 400.755 (b)(3) There must not be a reduction in training and supervising of agents, loss adjusters, or underwriting and quality assurance personnel;</p>
<p>§ 400.719 (a) (13) There must not be a reduction in the total delivery system’s ability to serve all producers, including small producers, limited resource farmers as defined in the Basic Provisions, 7 CFR 457.8, women and minority producers, and producers located in areas with small volumes of crop insurance business</p>	<p>§ 400.755 (b)(5) There must not be a reduction in the total delivery system’s ability to serve all producers, including small producers, limited resource farmers as defined in the Basic Provisions, 7 CFR 457.8, minority producers, and producers located in areas with small volumes of crop insurance business;</p>
	<p>§ 400.755 (b)(6) There must not be a reduction in the total delivery system’s ability to provide risk management education to all producers;</p>
<p>§ 400.719(a) (7) (ii) The efficiency must not be derived from any marketing or underwriting practices that are unfairly discriminatory</p>	<p>§ 400.755 (b)(9) The efficiency must not derive from marketing or underwriting practices that are unfairly discriminatory; such as discriminating among producers on the basis of farm size or premium amount</p>
<p>§ 400.719(b)(2) Must implement the premium reduction plan beginning with the next applicable sales closing date for the reinsurance year, unless otherwise determined by RMA</p>	<p>§ 400.755 (e) (3) An approved application may be implemented by the approved insurance provider by the next sales closing date for the affected crop after approval by RMA.</p>
<p>§ 400.715 (b) If a premium reduction plan is offered it must be offered in all states where the approved insurance provider is doing business and for all crops, coverage levels, policies. (c) The amount of the premium reduction offered based on the percentage of the net book premium may not vary between states, crops, coverage levels, policies or plans of insurance, or on any other basis (For example, if the approved insurance provider can reduce costs by 2.5 percent, such reduction must be</p>	<p>§ 400.755 (d)(1) If the insurance provider proposes to offer the premium reduction to an identifiable group of producers or in a specific geographical area, then the premium reduction must be made available to all producers in that group or area, regardless of the amount of premium to be earned on the producer’s policy.  (2) No group or geographical area may be defined in such a manner as to exclude small producers, limited resource farmers, or minority producers.</p>

<p>provided to all policyholders in all states where the approved insurance provider is doing business).</p>	
<p>§ 400.718 (c)(2) May request, in writing, reconsideration of the decision with the Deputy Administrator of Insurance Services, or a designee or successor, within 30 days of disapproval and such request must provide a detailed narrative of the basis for reconsideration.</p> <p>(3) May not submit any additional revised Plans of Operations for a premium discount plan for the reinsurance year.</p>	<p>§ 400.755 (e)(1) If the application is disapproved, the approved insurance provider:</p> <p>(i) Will be notified of the reason for disapproval and will be allowed to amend the application in an effort to obtain FCIC’s approval. If the approved insurance provider amends the application, the review process starts again and it may not be possible to approve the application in time to have it applicable for the crop year for which such application was submitted; and</p> <p>(ii) May request reconsideration of the decision with the Deputy Administrator of Insurance Services within 30 days of disapproval. Such request must provide a detailed narrative of the basis for reconsideration.</p>
<p>§ 400.720 <b>Terms and conditions for approved premium reduction plans.</b></p> <p>(a) Approved revised Plans of Operations for premium reduction will only be effective for one reinsurance year.</p>	<p>§ 400.755 (i)(4) Approved applications for premium reduction will only be valid for the period specified by RMA.</p>
<p>§ 400.720 (e) All producers insured by the approved insurance provider will automatically receive the premium reduction contained in the approved premium reduction plan.</p>	
<p>§ 400.720 (f) An independent certified public accountant must certify to the reasonableness, accuracy, and completeness of all actual costs relating to the efficiencies and the total dollar in premium reduction for the reinsurance year the premium reduction plan will be offered, in a format approved by RMA, not later than April 1 after the annual</p>	<p>§ 400.755 (8) RMA must be able to verify the existence and amount of the efficiency and that it is derived from the administrative and operating subsidy and not any expected underwriting gain;</p>

<p>settlement for the reinsurance year (The costs associated with such certification will be at the approved insurance provider's expense and must be included in the approved insurance provider's projected expenses for the purposes of determining an efficiency);</p>	
<p><b>§ 400.720 (g)</b> The approved insurance provider must provide semi-annual reports, or more frequently as determined by RMA, that permit RMA to accurately evaluate the effectiveness of the premium reduction plan, in the manner specified by RMA. At a minimum, each report must contain:</p> <ul style="list-style-type: none"> <li><b>(1)</b> The number of producers making initial application for insurance by State;</li> <li><b>(2)</b> The average number of acres insured under all policies by State before and after implementation of the premium reduction plan;</li> <li><b>(3)</b> The number of small producers, limited resources farmers as defined in section 1 of the Basic Provisions, 7 CFR 457.8, women and minority producers making application as result of the implementation of the marketing plan;</li> <li><b>(4)</b> The average coverage level purchased by producers insured by the approved insurance provider before implementation of the premium reduction plan and after;</li> <li><b>(5)</b> The number of agents selling and servicing policies on behalf of the approved insurance provider by State; and</li> <li><b>(6)</b> The number, substance, and final or pending resolution of complaints from producers regarding the service received</li> </ul>	<p><b>§ 400.756. Records and Review.</b> At any time after approval, RMA may conduct a review or audit of any action approved under this subpart and require additional information or access to records pertaining to such actions. Failure to comply with this section will result in the impositions of sanctions in accordance with § 400.757.</p>

<p><b>§ 400.720 (l)</b> The approved insurance provider may be required by RMA to modify its implementation of an approved premium reduction plan to ensure compliance with 7 CFR 400.714–720, the Act, regulations, the SRA, and any applicable policy provisions and approved procedures, and to protect the interests of producers and taxpayers, and the integrity of the program.</p>	
<p><b>§ 400.720 (m)</b> At its sole discretion and upon written notice, RMA may withdraw or modify its approval of any premium reduction plan if RMA determines that:</p> <p><b>(1)</b> The approved premium reduction plan, or its implementation, no longer satisfies all the terms and conditions in 7 CFR 400.714–720;</p> <p><b>(2)</b> There have been instances of unfair discrimination;</p> <p><b>(3)</b> The stated efficiencies have not been realized or the approved premium reduction is not provided to all existing policyholders and producers as required by subsection (e); or</p> <p><b>(4)</b> The integrity of the crop insurance program is jeopardized in any way, as determined by RMA, by the premium reduction plan.</p>	<p><b>§ 400.755 (e)(5)</b> FCIC may rescind any approval at any time that it determines that the requirements imposed by this rule are no longer satisfied or if a change in the Act necessitates rescission. In such case, rescission will not take effect earlier than the date of FCIC’s written notice to the approved insurance provider.</p>

**Alternative Program Structure being considered by RMA.**

RMA is also considering an alternative program structure to that contained in this proposed rule. The main feature of this alternative is that any premium reimbursement to the producer would be based on the actual cost savings realized by the approved insurance provider after the application of the efficiencies; not projected cost savings. The approved insurance provider would apply to be able to provide a reimbursement to producers based on the intent to implement specified efficiencies, but the approved insurance provider would have to validate the cost savings and receive approval of the applicable premium reimbursement from RMA after the end of the applicable reinsurance year before the provider could announce and remit the reimbursement to the producer.

As a result, approved insurance providers would project what they intend to save through efficiencies and estimate the amount of the premium reimbursement in their revised Plan of Operations, but they would not be able to advertise or otherwise represent

the amount of the premium reimbursement to producers in advance of the sale because they would not know the final amount of savings or the approved reimbursement at the time they submitted their revised Plan of Operations. Approved insurance providers may only be able to refer to historical reimbursements in accordance with applicable State laws.

This alternative structure is intended to avoid the uncertainty resulting from reliance on cost projections and to reduce the chance that an approved insurance provider will fail to achieve the represented savings, thereby causing disruption in the marketplace. Use of actual costs would preserve program integrity and the financial stability of the approved insurance providers.

Under the alternative structure, approved insurance providers would not be able to market the plan to producers based on a guaranteed amount of premium reimbursement. The alternative structure would eliminate the need for approved insurance providers to build a reserve into the plan because the premium reimbursements would be based on actual verified savings from applied efficiencies rather than projections that may not be realized.

Because of the timing of the financial accounting of the approved insurance provider, the actual costs and savings will not be known until months after the end of the crop year and premium reimbursements cannot occur until after such accounting. This means producers will be required to pay the full amount of their premium before they receive any possible reimbursement.

RMA is soliciting comments on this alternative process to determine if such a structure should replace the proposed structure when RMA finalizes the proposed rule. RMA is particularly interested in comments that address issues relating to the benefits of using actual versus projected costs, impacts on the workload of the approved insurance providers and RMA, market conduct oversight requirements that may be required, impacts on competition, the delay in the reimbursements to producers, whether such reimbursements create any income tax issues, or any other substantial adverse or positive effect of this approach in contrast to the approach included in the proposed rule.