

SENSE OF THE BOARD

As stated in the May 24, 2018, Sense of the Board, expansions of existing 508(h) policies or plan of insurance into new locations or to a new commodity are maintenance. This is supported by the definition of “maintenance” contained in 7 C.F.R. § 400.701, which states in relevant part that maintenance includes “adding a new commodity under similar policy terms and conditions with similar rating and pricing methodology, or expanding a plan or policy to additional states and counties.” Questions have been raised regarding the practical effect of this interpretation of this definition.

For any concept or submission submitted to the Board before May 24, 2018, the Board will still individually consider these as eligible for research and development and four years of maintenance if approved by the Board. For any concept or submission submitted to the Board after May 24, 2018, where there has been a prior 508(h) submission from the submitter/developer that offers similar coverage for a different commodity or in a different location (for example, Actual Revenue History or tree insurance products), the first submission approved by the Board after the date of this Sense of the Board will be eligible for reimbursement for research and development costs in accordance with applicable regulations and procedures. All other similar submissions will be considered as maintenance unless the submitter/developer can demonstrate that it is impossible or impractical to insure the new commodity under the existing 508(h) policy or plan of insurance. Regardless of the number of similar policies submitted, the Board is limited to four maintenance payments and then the submitter/developer has the choice to turn all or some of the policies over to RMA or charge a user fee for each of the policies approved by the Board in accordance with regulations and procedures. The maintenance payment can include the costs needed to develop the new commodity policies.

For example, a submitter/developer provides a submission for Georgia citrus trees in October 2018 and it is approved by the Board in May 2019. The submitter/developer also submits a California plum tree policy in January 2019 and an Alabama peach tree policy in April 2019 that are approved in May 2020 and November 2020 respectively. The Georgia citrus tree policy would be eligible for reimbursement for research and development in September 2019, and the California plum policy and Georgia citrus tree policy would be eligible for the first year maintenance in September 2020. The California plum policy, Georgia citrus tree policy, and Alabama peach tree policy will be eligible for second, third and fourth year maintenance in September 2021, 2022 and 2023. After 2023, all products must be turned over to RMA or seek user fees.