

the Corporation to contract with other persons to carry out the responsibility of the Corporation to review and approve policies, rates, and other materials submitted under section 1508(b) of this title.”

1980—Subsec. (c). Pub. L. 96-365, §104(1), inserted “shall, to the maximum extent possible”, incorporated existing provisions in cl. (1), including in cl. (1) provision for payment of program expenses, but omitting provision for inclusion of estimated expenses in insurance premiums, and added cls. (2) and (3) and provisions for exclusion of compensation from premium rates and indemnification of agents and brokers for errors or omissions of Commission or its contractors.

Subsec. (f). Pub. L. 96-365, §104(2), added subsec. (f).

1972—Subsec. (a). Pub. L. 92-310 struck out provisions which empowered Secretary to require bonds of officers and employees.

1949—Act Oct. 28, 1949, substituted “Classification Act of 1949” for “Classification Act of 1923”.

Act Aug. 25, 1949, inserted requirement that officers and employees be appointed subject to civil service laws and regulations, and exempted personnel paid by hour, day, or month when employed, and county crop-insurance committeemen from civil-service laws and regulations or the Classification Act of 1923.

1947—Act Aug. 1, 1947, provided for selection and designation of county employees and agencies and their direct responsibility.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103-354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-365 effective Sept. 26, 1980, see section 112 of Pub. L. 96-365, set out as a note under section 1504 of this title.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

§ 1508. Crop insurance

(a) Authority to offer insurance

(1) In general

If sufficient actuarial data are available (as determined by the Corporation), the Corporation may insure, or provide reinsurance for insurers of, producers of agricultural commodities grown in the United States under 1 or more plans of insurance determined by the Corporation to be adapted to the agricultural

commodity concerned. To qualify for coverage under a plan of insurance, the losses of the insured commodity must be due to drought, flood, or other natural disaster (as determined by the Secretary).

(2) Period

Except in the cases of tobacco, potatoes, and sweet potatoes, insurance shall not extend beyond the period during which the insured commodity is in the field. As used in the preceding sentence, in the case of an aquacultural species, the term “field” means the environment in which the commodity is produced.

(3) Exclusion of losses due to certain actions of producer

(A) Exclusions

Insurance provided under this subsection shall not cover losses due to—

(i) the neglect or malfeasance of the producer;

(ii) the failure of the producer to reseed to the same crop in such areas and under such circumstances as it is customary to reseed; or

(iii) the failure of the producer to follow good farming practices, including scientifically sound sustainable and organic farming practices.

(B) Good farming practices

(i) Informal administrative process

A producer shall have the right to a review of a determination regarding good farming practices made under subparagraph (A)(iii) in accordance with an informal administrative process to be established by the Corporation.

(ii) Administrative review

(I) No adverse decision

The determination shall not be considered an adverse decision for purposes of subtitle H of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6991 et seq.).

(II) Reversal or modification

Except as provided in clause (i), the determination may not be reversed or modified as the result of a subsequent administrative review.

(iii) Judicial review

(I) Right to review

A producer shall have the right to judicial review of the determination without exhausting any right to a review under clause (i).

(II) Reversal or modification

The determination may not be reversed or modified as the result of judicial review unless the determination is found to be arbitrary or capricious.

(C) Limitation on revenue coverage for potatoes

No policy or plan of insurance provided under this subchapter (including a policy or plan of insurance approved by the Board

under subsection (h) of this section) shall cover losses due to a reduction in revenue for potatoes except as covered under a whole farm policy or plan of insurance, as determined by the Corporation.

(4) Expansion to other areas or single producers

(A) Area expansion

The Corporation may offer plans of insurance or reinsurance for production of agricultural commodities in the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau in the same manner as provided in this section for production of agricultural commodities in the United States.

(B) Producer expansion

In an area in the United States or specified in subparagraph (A) where crop insurance is not available for a particular agricultural commodity, the Corporation may offer to enter into a written agreement with an individual producer operating in the area for insurance coverage under this subchapter if the producer has actuarially sound data relating to the production by the producer of the commodity or similar commodities and the data is acceptable to the Corporation.

(5) Dissemination of crop insurance information

(A) Available information

The Corporation shall make available to producers through local offices of the Department—

- (i) current and complete information on all aspects of Federal crop insurance; and
- (ii) a listing of insurance agents and companies offering to sell crop insurance in the area of the producers.

(B) Use of electronic methods

(i) Dissemination by Corporation

The Corporation shall make the information described in subparagraph (A) available electronically to producers and approved insurance providers.

(ii) Submission to Corporation

To the maximum extent practicable, the Corporation shall allow producers and approved insurance providers to use electronic methods to submit information required by the Corporation.

(6) Addition of new and specialty crops

(A) Data collection

Not later than 180 days after October 13, 1994, the Secretary shall issue guidelines for publication in the Federal Register for data collection to assist the Corporation in formulating crop insurance policies for new and specialty crops.

(B) Addition of new crops

Not later than 1 year after October 13, 1994, and annually thereafter, the Corporation

shall report to Congress on the progress and expected timetable for expanding crop insurance coverage under this subchapter to new and specialty crops.

(C) Addition of direct sale perishable crops

Not later than 1 year after October 13, 1994, the Corporation shall report to Congress on the feasibility of offering a crop insurance program designed to meet the needs of specialized producers of vegetables and other perishable crops who market through direct marketing channels.

(D) Addition of nursery crops

Not later than 2 years after April 4, 1996, the Corporation shall conduct a study and limited pilot program on the feasibility of insuring nursery crops.

(7) Adequate coverage for States

(A) Definition of adequately served

In this paragraph, the term “adequately served” means having a participation rate that is at least 50 percent of the national average participation rate.

(B) Review

The Board shall review the policies and plans of insurance that are offered by approved insurance providers under this subchapter to determine if each State is adequately served by the policies and plans of insurance.

(C) Report

(i) In general

Not later than 30 days after completion of the review under subparagraph (B), the Board shall submit to Congress a report on the results of the review.

(ii) Recommendations

The report shall include recommendations to increase participation in States that are not adequately served by the policies and plans of insurance.

(8) Special provisions for cotton and rice

Notwithstanding any other provision of this subchapter, beginning with the 2001 crops of upland cotton, extra long staple cotton, and rice, the Corporation shall offer plans of insurance, including prevented planting coverage and replanting coverage, under this subchapter that cover losses of upland cotton, extra long staple cotton, and rice resulting from failure of irrigation water supplies due to drought and saltwater intrusion.

(9) Premium adjustments

(A) Prohibition

Except as provided in subparagraph (B), no person shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, either as an inducement to procure insurance or after insurance has been procured, any rebate, discount, abatement, credit, or reduction of the premium named in an insurance policy or any other valuable consideration or inducement not specified in the policy.

(B) Exceptions

Subparagraph (A) does not apply with respect to—

(i) a payment authorized under subsection (b)(5)(B);

(ii) a performance-based discount authorized under subsection (d)(3); or

(iii) a patronage dividend, or similar payment, that is paid—

(I) by an entity that was approved by the Corporation to make such payments for the 2005, 2006, or 2007 reinsurance year, in accordance with subsection (b)(5)(B) as in effect on the day before the date of enactment of this paragraph; and

(II) in a manner consistent with the payment plan approved in accordance with that subsection for the entity by the Corporation for the applicable reinsurance year.

(10) Commissions

(A) Definition of immediate family

In this paragraph, the term “immediate family” means an individual’s father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, the spouse of the foregoing, and the individual’s spouse.

(B) Prohibition

No individual (including a subagent) may receive directly, or indirectly through an entity, any compensation (including any commission, profit sharing, bonus, or any other direct or indirect benefit) for the sale or service of a policy or plan of insurance offered under this subchapter if—

(i) the individual has a substantial beneficial interest, or a member of the individual’s immediate family has a substantial beneficial interest, in the policy or plan of insurance; and

(ii) the total compensation to be paid to the individual with respect to the sale or service of the policies or plans of insurance that meet the condition described in clause (i) exceeds 30 percent or the percentage specified in State law, whichever is less, of the total of all compensation received directly or indirectly by the individual for the sale or service of all policies and plans of insurance offered under this subchapter for the reinsurance year.

(C) Reporting

Not later than 90 days after the annual settlement date of the reinsurance year, any individual that received directly or indirectly any compensation for the service or sale of any policy or plan of insurance offered under this subchapter in the prior reinsurance year shall certify to applicable approved insurance providers that the compensation that the individual received was in compliance with this paragraph.

(D) Sanctions

The procedural requirements and sanctions prescribed in section 1515(h) of this title shall apply to the prosecution of a violation of this paragraph.

(E) Applicability

(i) In general

Sanctions for violations under this paragraph shall only apply to the individuals or entities directly responsible for the certification required under subparagraph (C) or the failure to comply with the requirements of this paragraph.

(ii) Prohibition

No sanctions shall apply with respect to the policy or plans of insurance upon which compensation is received, including the reinsurance for those policies or plans.

(b) Catastrophic risk protection

(1) In general

The Corporation shall offer a catastrophic risk protection plan to indemnify producers for crop loss due to loss of yield or prevented planting, if provided by the Corporation, when the producer is unable, because of drought, flood, or other natural disaster (as determined by the Secretary), to plant other crops for harvest on the acreage for the crop year.

(2) Amount of coverage

(A) In general

Subject to subparagraph (B)—

(i) in the case of each of the 1995 through 1998 crop years, catastrophic risk protection shall offer a producer coverage for a 50 percent loss in yield, on an individual yield or area yield basis, indemnified at 60 percent of the expected market price, or a comparable coverage (as determined by the Corporation); and

(ii) in the case of each of the 1999 and subsequent crop years, catastrophic risk protection shall offer a producer coverage for a 50 percent loss in yield, on an individual yield or area yield basis, indemnified at 55 percent of the expected market price, or a comparable coverage (as determined by the Corporation).

(B) Reduction in actual payment

The amount paid to a producer on a claim under catastrophic risk protection may reflect a reduction that is proportional to the out-of-pocket expenses that are not incurred by the producer as a result of not planting, growing, or harvesting the crop for which the claim is made, as determined by the Corporation.

(3) Alternative catastrophic coverage

Beginning with the 2001 crop year, the Corporation shall offer producers of an agricultural commodity the option of selecting either of the following:

(A) The catastrophic risk protection coverage available under paragraph (2)(A).

(B) An alternative catastrophic risk protection coverage that—

(i) indemnifies the producer on an area yield and loss basis if such a policy or plan of insurance is offered for the agricultural commodity in the county in which the farm is located;

(ii) provides, on a uniform national basis, a higher combination of yield and

price protection than the coverage available under paragraph (2)(A); and

(iii) the Corporation determines is comparable to the coverage available under paragraph (2)(A) for purposes of subsection (e)(2)(A) of this section.

(4) Sale of catastrophic risk coverage

(A) In general

Catastrophic risk coverage may be offered by—

(i) approved insurance providers, if available in an area; and

(ii) at the option of the Secretary that is based on considerations of need, local offices of the Department.

(B) Need

For purposes of considering need under subparagraph (A)(ii), the Secretary may take into account the most efficient and cost-effective use of resources, the availability of personnel, fairness to local producers, the needs and convenience of local producers, and the availability of private insurance carriers.

(C) Delivery of coverage

(i) In general

In full consultation with approved insurance providers, the Secretary may continue to offer catastrophic risk protection in a State (or a portion of a State) through local offices of the Department if the Secretary determines that there is an insufficient number of approved insurance providers operating in the State or portion of the State to adequately provide catastrophic risk protection coverage to producers.

(ii) Coverage by approved insurance providers

To the extent that catastrophic risk protection coverage by approved insurance providers is sufficiently available in a State (or a portion of a State) as determined by the Secretary, only approved insurance providers may provide the coverage in the State or portion of the State.

(iii) Timing of determinations

Not later than 90 days after April 4, 1996, the Secretary shall announce the results of the determinations under clause (i) for policies for the 1997 crop year. For subsequent crop years, the Secretary shall make the announcement not later than April 30 of the year preceding the year in which the crop will be produced, or at such other times during the year as the Secretary finds practicable in consultation with affected crop insurance providers for those States (or portions of States) in which catastrophic coverage remains available through local offices of the Department.

(iv) Current policies

This clause shall take effect beginning with the 1997 crop year. Subject to clause (ii) all catastrophic risk protection poli-

cies written by local offices of the Department shall be transferred to the approved insurance provider for performance of all sales, service, and loss adjustment functions. Any fees in connection with such policies that are not yet collected at the time of the transfer shall be payable to the approved insurance providers assuming the policies. The transfer process for policies for the 1997 crop year with sales closing dates before January 1, 1997, shall begin at the time of the Secretary's announcement under clause (iii) and be completed by the sales closing date for the crop and county. The transfer process for all subsequent policies (including policies for the 1998 and subsequent crop years) shall begin at a date that permits the process to be completed not later than 45 days before the sales closing date.

(5) Administrative fee

(A) Basic fee

Each producer shall pay an administrative fee for catastrophic risk protection in the amount of \$300 per crop per county.

(B) Payment of catastrophic risk protection fee on behalf of producers

(i) Payment authorized

If State law permits a licensing fee to be paid by an insurance provider to a cooperative association or trade association and rebated to a producer through the payment of catastrophic risk protection administrative fees, a cooperative association or trade association located in that State may pay, on behalf of a member of the association in that State or a contiguous State who consents to be insured under such an arrangement, all or a portion of the administrative fee required by this paragraph for catastrophic risk protection.

(ii) Selection of provider

Nothing in this subparagraph limits the option of a producer to select the licensed insurance agent or other approved insurance provider from whom the producer will purchase a policy or plan of insurance or to refuse coverage for which a payment is offered to be made under clause (i).

(iii) Delivery of insurance

Catastrophic risk protection coverage for which a payment is made under clause (i) shall be delivered by a licensed insurance agent or other approved insurance provider.

(iv) Additional coverage encouraged

A cooperative association or trade association, and any approved insurance provider with whom a licensing fee is made, shall encourage producer members to purchase appropriate levels of coverage in order to meet the risk management needs of the member producers.

(C) Time for payment

The administrative fee required by this paragraph shall be paid by the producer on

the same date on which the premium for a policy of additional coverage would be paid by the producer.

(D) Use of fees

(i) In general

The amounts paid under this paragraph shall be deposited in the crop insurance fund established under section 1516(c) of this title, to be available for the programs and activities of the Corporation.

(ii) Limitation

No funds deposited in the crop insurance fund under this subparagraph may be used to compensate an approved insurance provider or agent for the delivery of services under this subsection.

(E) Waiver of fee

The Corporation shall waive the amounts required under this paragraph for limited resource farmers, as defined by the Corporation.

(6) Participation requirement

A producer may obtain catastrophic risk coverage for a crop of the producer on land in the county only if the producer obtains the coverage for the crop on all insurable land of the producer in the county.

(7) Eligibility for Department programs

(A) In general

Effective for the spring-planted 1996 and subsequent crops (and fall-planted 1996 crops at the option of the Secretary), to be eligible for any payment or loan under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.], for the conservation reserve program, or for any benefit described in section 2008f of this title, a person shall—

(i) obtain at least the catastrophic level of insurance for each crop of economic significance in which the person has an interest; or

(ii) provide a written waiver to the Secretary that waives any eligibility for emergency crop loss assistance in connection with the crop.

(B) “Crop of economic significance” defined

As used in this paragraph, the term “crop of economic significance” means a crop that has contributed, or is expected to contribute, 10 percent or more of the total expected value of all crops grown by the producer.

(8) Limitation due to risk

The Corporation may limit catastrophic risk coverage in any county or area, or on any farm, on the basis of the insurance risk concerned.

(9) Transitional coverage for 1995 crops

Effective only for a 1995 crop planted or for which insurance attached prior to January 1, 1995, the Corporation shall allow producers of the crops until not later than the end of the 180-day period beginning on the date of enactment of the Federal Crop Insurance Reform Act of 1994 [Oct. 13, 1994] to obtain catastrophic risk protection for the crop. On en-

actment of such Act, a producer who made timely purchases of a crop insurance policy before the date of enactment of such Act, under the provisions of this subchapter then in effect, shall be eligible for the same benefits to which a producer would be entitled under comparable additional coverage under subsection (c) of this section.

(10) Simplification

(A) Catastrophic risk protection plans

In developing and carrying out the policies and procedures for a catastrophic risk protection plan under this subchapter, the Corporation shall, to the maximum extent practicable, minimize the paperwork required and the complexity and costs of procedures governing applications for, processing, and servicing of the plan for all parties involved.

(B) Other plans

To the extent that the policies and procedures developed under subparagraph (A) may be applied to other plans of insurance offered under this subchapter without jeopardizing the actuarial soundness or integrity of the crop insurance program, the Corporation shall apply the policies and procedures to the other plans of insurance within a reasonable period of time (as determined by the Corporation) after the effective date of this paragraph.

(11) Loss adjustment

The rate for reimbursing an approved insurance provider or agent for expenses incurred by the approved insurance provider or agent for loss adjustment in connection with a policy of catastrophic risk protection shall not exceed 6 percent of the premium for catastrophic risk protection that is used to define loss ratio.

(c) General coverage levels

(1) Additional coverage generally

(A) In general

The Corporation shall offer to producers of agricultural commodities grown in the United States plans of crop insurance that provide additional coverage.

(B) Purchase

To be eligible for additional coverage, a producer must apply to an approved insurance provider for purchase of additional coverage if the coverage is available from an approved insurance provider. If additional coverage is unavailable privately, the Corporation may offer additional coverage plans of insurance directly to producers.

(2) Transfer of relevant information

If a producer has already applied for catastrophic risk protection at the local office of the Department and elects to purchase additional coverage, the relevant information for the crop of the producer shall be transferred to the approved insurance provider servicing the additional coverage crop policy.

(3) Yield and loss basis

A producer shall have the option of purchasing additional coverage based on an individual

yield and loss basis or on an area yield and loss basis, if both options are offered by the Corporation.

(4) Level of coverage

The level of coverage shall be dollar denominated and may be purchased at any level not to exceed 85 percent of the individual yield or 95 percent of the area yield (as determined by the Corporation). Not later than the beginning of the 1996 crop year, the Corporation shall provide producers with information on catastrophic risk and additional coverage in terms of dollar coverage (within the allowable limits of coverage provided in this paragraph).

(5) Expected market price

(A) Establishment or approval

For the purposes of this subchapter, the Corporation shall establish or approve the price level (referred to in this subchapter as the “expected market price”) of each agricultural commodity for which insurance is offered.

(B) General rule

Except as otherwise provided in subparagraph (C), the expected market price of an agricultural commodity shall be not less than the projected market price of the agricultural commodity, as determined by the Corporation.

(C) Other authorized approaches

The expected market price of an agricultural commodity—

(i) may be based on the actual market price of the agricultural commodity at the time of harvest, as determined by the Corporation;

(ii) in the case of revenue and other similar plans of insurance, may be the actual market price of the agricultural commodity, as determined by the Corporation;

(iii) in the case of cost of production or similar plans of insurance, shall be the projected cost of producing the agricultural commodity, as determined by the Corporation; or

(iv) in the case of other plans of insurance, may be an appropriate amount, as determined by the Corporation.

(D) Grain sorghum price election

(i) In general

The Corporation, in conjunction with the Secretary (referred to in this subparagraph as the “Corporation”), shall—

(I) not later than 60 days after the date of enactment of this subparagraph, make available all methods and data, including data from the Economic Research Service, used by the Corporation to develop the expected market prices for grain sorghum under the production and revenue-based plans of insurance of the Corporation; and

(II) request applicable data from the grain sorghum industry.

(ii) Expert reviewers

(I) In general

Not later than 120 days after the date of enactment of this subparagraph, the

Corporation shall contract individually with 5 expert reviewers described in subclause (II) to develop and recommend a methodology for determining an expected market price for sorghum for both the production and revenue-based plans of insurance to more accurately reflect the actual price at harvest.

(II) Requirements

The expert reviewers under subclause (I) shall be comprised of agricultural economists with experience in grain sorghum and corn markets, of whom—

(aa) 2 shall be agricultural economists of institutions of higher education;

(bb) 2 shall be economists from within the Department; and

(cc) 1 shall be an economist nominated by the grain sorghum industry.

(iii) Recommendations

(I) In general

Not later than 90 days after the date of contracting with the expert reviewers under clause (ii), the expert reviewers shall submit, and the Corporation shall make available to the public, the recommendations of the expert reviewers.

(II) Consideration

The Corporation shall consider the recommendations under subclause (I) when determining the appropriate pricing methodology to determine the expected market price for grain sorghum under both the production and revenue-based plans of insurance.

(III) Publication

Not later than 60 days after the date on which the Corporation receives the recommendations of the expert reviewers, the Corporation shall publish the proposed pricing methodology for both the production and revenue-based plans of insurance for notice and comment and, during the comment period, conduct at least 1 public meeting to discuss the proposed pricing methodologies.

(iv) Appropriate pricing methodology

(I) In general

Not later than 180 days after the close of the comment period in clause (iii)(III), but effective not later than the 2010 crop year, the Corporation shall implement a pricing methodology for grain sorghum under the production and revenue-based plans of insurance that is transparent and replicable.

(II) Interim methodology

Until the date on which the new pricing methodology is implemented, the Corporation may continue to use the pricing methodology that the Corporation determines best establishes the expected market price.

(III) Availability

On an annual basis, the Corporation shall make available the pricing meth-

odology and data used to determine the expected market prices for grain sorghum under the production and revenue-based plans of insurance, including any changes to the methodology used to determine the expected market prices for grain sorghum from the previous year.

(6) Price elections

(A) In general

Subject to subparagraph (B), insurance coverage shall be made available to a producer on the basis of any price election that equals or is less than the price election established by the Corporation. The coverage shall be quoted in terms of dollars per acre.

(B) Minimum price elections

The Corporation may establish minimum price elections below which levels of insurance shall not be offered.

(C) Wheat classes and malting barley

The Corporation shall, as the Corporation determines practicable, offer producers different price elections for classes of wheat and malting barley (including contract prices in the case of malting barley), in addition to the standard price election, that reflect different market prices, as determined by the Corporation. The Corporation shall, as the Corporation determines practicable, offer additional coverage for each class determined under this subparagraph and charge a premium for each class that is actuarially sound.

(7) Fire and hail coverage

For levels of additional coverage equal to 65 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, a producer may elect to delete from the additional coverage any coverage against damage caused by fire and hail if the producer obtains an equivalent or greater dollar amount of coverage for damage caused by fire and hail from an approved insurance provider. On written notice of the election to the company issuing the policy providing additional coverage and submission of evidence of substitute coverage on the commodity insured, the premium of the producer shall be reduced by an amount determined by the Corporation to be actuarially appropriate, taking into account the actuarial value of the remaining coverage provided by the Corporation. In no event shall the producer be given credit for an amount of premium determined to be greater than the actuarial value of the protection against losses caused by fire and hail that is included in the additional coverage for the crop.

(8) State premium subsidies

The Corporation may enter into an agreement with any State or agency of a State under which the State or agency may pay to the approved insurance provider an additional premium subsidy to further reduce the portion of the premium paid by producers in the State.

(9) Limitations on additional coverage

The Board may limit the availability of additional coverage under this subsection in any

county or area, or on any farm, on the basis of the insurance risk involved. The Board shall not offer additional coverage equal to less than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage.

(10) Administrative fee

(A) Fee required

If a producer elects to purchase coverage for a crop at a level in excess of catastrophic risk protection, the producer shall pay an administrative fee for the additional coverage of \$30 per crop per county.

(B) Use of fees; waiver

Subparagraphs (D) and (E) of subsection (b)(5) of this section shall apply with respect to the collection and use of administrative fees under this paragraph.

(C) Time for payment

Subsection (b)(5)(C) shall apply with respect to the collection date for the administrative fee.

(d) Premiums

(1) Premiums required

The Corporation shall fix adequate premiums for all the plans of insurance of the Corporation at such rates as the Board determines are actuarially sufficient to attain an expected loss ratio of not greater than—

(A) 1.1 through September 30, 1998;

(B) 1.075 for the period beginning October 1, 1998, and ending on the day before the date of enactment of the Food, Conservation, and Energy Act of 2008; and

(C) 1.0 on and after the date of enactment of that Act.

(2) Premium amounts

The premium amounts for catastrophic risk protection under subsection (b) of this section and additional coverage under subsection (c) of this section shall be fixed as follows:

(A) In the case of catastrophic risk protection, the amount of the premium shall be sufficient to cover anticipated losses and a reasonable reserve.

(B) In the case of additional coverage equal to or greater than 50 percent of the recorded or appraised average yield indemnified at not greater than 100 percent of the expected market price, or a comparable coverage for a policy or plan of insurance that is not based on individual yield, the amount of the premium shall—

(i) be sufficient to cover anticipated losses and a reasonable reserve; and

(ii) include an amount for operating and administrative expenses, as determined by the Corporation, on an industry-wide basis as a percentage of the amount of the premium used to define loss ratio.

(3) Performance-based discount

The Corporation may provide a performance-based premium discount for a producer of an agricultural commodity who has good insurance or production experience relative to

other producers of that agricultural commodity in the same area, as determined by the Corporation.

(4) Billing date for premiums

Effective beginning with the 2012 reinsurance year, the Corporation shall establish August 15 as the billing date for premiums.

(e) Payment of portion of premium by Corporation

(1) In general

For the purpose of encouraging the broadest possible participation of producers in the catastrophic risk protection provided under subsection (b) of this section and the additional coverage provided under subsection (c) of this section, the Corporation shall pay a part of the premium in the amounts provided in accordance with this subsection.

(2) Amount of payment

Subject to paragraphs (4), (6), and (7), the amount of the premium to be paid by the Corporation shall be as follows:

(A) In the case of catastrophic risk protection, the amount shall be equivalent to the premium established for catastrophic risk protection under subsection (d)(2)(A) of this section.

(B) In the case of additional coverage equal to or greater than 50 percent, but less than 55 percent, of the recorded or appraised average yield indemnified at not greater than 100 percent of the expected market price, or a comparable coverage for a policy or plan of insurance that is not based on individual yield, the amount shall be equal to the sum of—

(i) 67 percent of the amount of the premium established under subsection (d)(2)(B)(i) of this section for the coverage level selected; and

(ii) the amount determined under subsection (d)(2)(B)(ii) of this section for the coverage level selected to cover operating and administrative expenses.

(C) In the case of additional coverage equal to or greater than 55 percent, but less than 65 percent, of the recorded or appraised average yield indemnified at not greater than 100 percent of the expected market price, or a comparable coverage for a policy or plan of insurance that is not based on individual yield, the amount shall be equal to the sum of—

(i) 64 percent of the amount of the premium established under subsection (d)(2)(B)(i) of this section for the coverage level selected; and

(ii) the amount determined under subsection (d)(2)(B)(ii) of this section for the coverage level selected to cover operating and administrative expenses.

(D) In the case of additional coverage equal to or greater than 65 percent, but less than 75 percent, of the recorded or appraised average yield indemnified at not greater than 100 percent of the expected market price, or a comparable coverage for a policy or plan of insurance that is not based on in-

dividual yield, the amount shall be equal to the sum of—

(i) 59 percent of the amount of the premium established under subsection (d)(2)(B)(i) of this section for the coverage level selected; and

(ii) the amount determined under subsection (d)(2)(B)(ii) of this section for the coverage level selected to cover operating and administrative expenses.

(E) In the case of additional coverage equal to or greater than 75 percent, but less than 80 percent, of the recorded or appraised average yield indemnified at not greater than 100 percent of the expected market price, or a comparable coverage for a policy or plan of insurance that is not based on individual yield, the amount shall be equal to the sum of—

(i) 55 percent of the amount of the premium established under subsection (d)(2)(B)(i) of this section for the coverage level selected; and

(ii) the amount determined under subsection (d)(2)(B)(ii) of this section for the coverage level selected to cover operating and administrative expenses.

(F) In the case of additional coverage equal to or greater than 80 percent, but less than 85 percent, of the recorded or appraised average yield indemnified at not greater than 100 percent of the expected market price, or a comparable coverage for a policy or plan of insurance that is not based on individual yield, the amount shall be equal to the sum of—

(i) 48 percent of the amount of the premium established under subsection (d)(2)(B)(i) of this section for the coverage level selected; and

(ii) the amount determined under subsection (d)(2)(B)(ii) of this section for the coverage level selected to cover operating and administrative expenses.

(G) Subject to subsection (c)(4) of this section, in the case of additional coverage equal to or greater than 85 percent of the recorded or appraised average yield indemnified at not greater than 100 percent of the expected market price, or a comparable coverage for a policy or plan of insurance that is not based on individual yield, the amount shall be equal to the sum of—

(i) 38 percent of the amount of the premium established under subsection (d)(2)(B)(i) of this section for the coverage level selected; and

(ii) the amount determined under subsection (d)(2)(B)(ii) of this section for the coverage level selected to cover operating and administrative expenses.

(3) Prohibition on continuous coverage

Notwithstanding paragraph (2), during each of the 2001 and subsequent reinsurance years, additional coverage under subsection (c) of this section shall be available only in 5 percent increments beginning at 50 percent of the recorded or appraised average yield.

(4) Premium payment disclosure

Each policy or plan of insurance under this subchapter shall prominently indicate the dollar amount of the portion of the premium paid by the Corporation.

(5) Enterprise and whole farm units**(A) In general**

The Corporation may carry out a pilot program under which the Corporation pays a portion of the premiums for plans or policies of insurance for which the insurable unit is defined on a whole farm or enterprise unit basis that is higher than would otherwise be paid in accordance with paragraph (2).

(B) Amount

The percentage of the premium paid by the Corporation to a policyholder for a policy with an enterprise or whole farm unit under this paragraph shall, to the maximum extent practicable, provide the same dollar amount of premium subsidy per acre that would otherwise have been paid by the Corporation under paragraph (2) if the policyholder had purchased a basic or optional unit for the crop for the crop year.

(C) Limitation

The amount of the premium paid by the Corporation under this paragraph may not exceed 80 percent of the total premium for the enterprise or whole farm unit policy.

(6) Premium subsidy for area revenue plans

Subject to paragraph (4), in the case of a policy or plan of insurance that covers losses due to a reduction in revenue in an area, the amount of the premium paid by the Corporation shall be as follows:

(A) In the case of additional area coverage equal to or greater than 70 percent, but less than 75 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

(i) 59 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

(B) In the case of additional area coverage equal to or greater than 75 percent, but less than 85 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

(i) 55 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

(C) In the case of additional area coverage equal to or greater than 85 percent, but less than 90 percent, of the recorded county yield

indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

(i) 49 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

(D) In the case of additional area coverage equal to or greater than 90 percent of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

(i) 44 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

(7) Premium subsidy for area yield plans

Subject to paragraph (4), in the case of a policy or plan of insurance that covers losses due to a loss of yield or prevented planting in an area, the amount of the premium paid by the Corporation shall be as follows:

(A) In the case of additional area coverage equal to or greater than 70 percent, but less than 80 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

(i) 59 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

(B) In the case of additional area coverage equal to or greater than 80 percent, but less than 90 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

(i) 55 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

(C) In the case of additional area coverage equal to or greater than 90 percent,¹ of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

(i) 51 percent of the amount of the premium established under subsection

¹ So in original. The comma probably should not appear.

(d)(2)(B)(i) for the coverage level selected; and

(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

(f) Eligibility

(1) In general

To participate in catastrophic risk protection coverage under this section, a producer shall submit an application at the local office of the Department or to an approved insurance provider.

(2) Sales closing date

(A) In general

For coverage under this subchapter, each producer shall purchase crop insurance on or before the sales closing date for the crop by providing the required information and executing the required documents. Subject to the goal of ensuring actuarial soundness for the crop insurance program, the sales closing date shall be established by the Corporation to maximize convenience to producers in obtaining benefits under price and production adjustment programs of the Department.

(B) Established dates

Except as provided in subparagraph (C), the Corporation shall establish, for an insurance policy for each insurable crop that is planted in the spring, a sales closing date that is 30 days earlier than the corresponding sales closing date that was established for the 1994 crop year.

(C) Exception

If compliance with subparagraph (B) results in a sales closing date for an agricultural commodity that is earlier than January 31, the sales closing date for that commodity shall be January 31 beginning with the 2000 crop year.

(3) Records and reporting

To obtain catastrophic risk protection under subsection (b) of this section or additional coverage under subsection (c) of this section, a producer shall—

(A) provide annually records acceptable to the Secretary regarding crop acreage, acreage yields, and production for each agricultural commodity insured under this subchapter or accept a yield determined by the Corporation; and

(B) report acreage planted and prevented from planting by the designated acreage reporting date for the crop and location as established by the Corporation.

(g) Yield determinations

(1) In general

Subject to paragraph (2), the Corporation shall establish crop insurance underwriting rules that ensure that yield coverage, as specified in this subsection, is provided to eligible producers obtaining catastrophic risk protection under subsection (b) of this section or additional coverage under subsection (c) of this section.

(2) Yield coverage plans

(A) Actual production history

Subject to subparagraph (B), the yield for a crop shall be based on the actual production history for the crop, if the crop was produced on the farm without penalty during each of the 4 crop years immediately preceding the crop year for which actual production history is being established, building up to a production data base for each of the 10 consecutive crop years preceding the crop year for which actual production history is being established.

(B) Assigned yield

If the producer does not provide satisfactory evidence of the yield of a commodity under subparagraph (A), the producer shall be assigned—

(i) a yield that is not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Corporation for continuous years), as specified in regulations issued by the Corporation based on production history requirements; or

(ii) a yield determined by the Corporation, in the case of—

(I) a producer that has not had a share of the production of the insured crop for more than two crop years, as determined by the Secretary;

(II) a producer that produces an agricultural commodity on land that has not been farmed by the producer; or

(III) a producer that rotates a crop produced on a farm to a crop that has not been produced on the farm.

(C) Area yield

The Corporation may offer a crop insurance plan based on an area yield that allows an insured producer to qualify for an indemnity if a loss has occurred in an area (as specified by the Corporation) in which the farm of the producer is located. Under an area yield plan, an insured producer shall be allowed to select the level of area production at which an indemnity will be paid consistent with such terms and conditions as are established by the Corporation.

(D) Commodity-by-commodity basis

A producer may choose between individual yield or area yield coverage or combined coverage, if available, on a commodity-by-commodity basis.

(3) Transitional yields for producers of feed or forage

(A) In general

If a producer does not provide satisfactory evidence of a yield under paragraph (2)(A), the producer shall be assigned a yield that is at least 80 percent of the transitional yield established by the Corporation (adjusted to reflect the actual production history of the producer) if the Secretary determines that—

(i) the producer grows feed or forage primarily for on-farm use in a livestock, dairy, or poultry operation; and

(ii) over 50 percent of the net farm income of the producer is derived from the operation.

(B) Yield calculation

The Corporation shall—

(i) for the first year of participation of a producer, provide the assigned yield under this paragraph to the producer of feed or forage; and

(ii) for the second year of participation of the producer, apply the actual production history or assigned yield requirement, as provided in this subsection.

(C) Termination of authority

The authority provided by this paragraph shall terminate on the date that is 3 years after the effective date of this paragraph.

(4) Adjustment in actual production history to establish insurable yields

(A) Application

This paragraph shall apply whenever the Corporation uses the actual production records of the producer to establish the producer's actual production history for an agricultural commodity for any of the 2001 and subsequent crop years.

(B) Election to use percentage of transitional yield

If, for one or more of the crop years used to establish the producer's actual production history of an agricultural commodity, the producer's recorded or appraised yield of the commodity was less than 60 percent of the applicable transitional yield, as determined by the Corporation, the Corporation shall, at the election of the producer—

(i) exclude any of such recorded or appraised yield; and

(ii) replace each excluded yield with a yield equal to 60 percent of the applicable transitional yield.

(C) Premium adjustment

In the case of a producer that makes an election under subparagraph (B), the Corporation shall adjust the premium to reflect the risk associated with the adjustment made in the actual production history of the producer.

(5) Adjustment to reflect increased yields from successful pest control efforts

(A) Situations justifying adjustment

The Corporation shall develop a methodology for adjusting the actual production history of a producer when each of the following apply:

(i) The producer's farm is located in an area where systematic, area-wide efforts have been undertaken using certain operations or measures, or the producer's farm is a location at which certain operations or measures have been undertaken, to detect, eradicate, suppress, or control, or at least to prevent or retard the spread of, a plant disease or plant pest, including a plant pest (as defined in section 7759² of this title).

(ii) The presence of the plant disease or plant pest has been found to adversely affect the yield of the agricultural commodity for which the producer is applying for insurance.

(iii) The efforts described in clause (i) have been effective.

(B) Adjustment amount

The amount by which the Corporation adjusts the actual production history of a producer of an agricultural commodity shall reflect the degree to which the success of the systematic, area-wide efforts described in subparagraph (A), on average, increases the yield of the commodity on the producer's farm, as determined by the Corporation.

(h) Submission of policies and materials to Board

(1) In general

In addition to any standard forms or policies that the Board may require be made available to producers under subsection (c) of this section, a person (including an approved insurance provider, a college or university, a cooperative or trade association, or any other person) may prepare for submission or propose to the Board—

(A) other crop insurance policies and provisions of policies; and

(B) rates of premiums for multiple peril crop insurance pertaining to wheat, soybeans, field corn, and any other crops determined by the Secretary.

(2) Submission of policies

A policy or other material submitted to the Board under this subsection may be prepared without regard to the limitations contained in this subchapter, including the requirements concerning the levels of coverage and rates and the requirement that a price level for each commodity insured must equal the expected market price for the commodity as established by the Board.

(3) Review and approval by the Board

A policy or other material submitted to the Board under this subsection shall be reviewed by the Board and, if the Board finds that the interests of producers are adequately protected and that any premiums charged to the producers are actuarially appropriate, shall be approved by the Board for reinsurance and for sale by approved insurance providers to producers as an additional choice at actuarially appropriate rates and under appropriate terms and conditions. The Corporation may enter into more than 1 reinsurance agreement with the approved insurance provider simultaneously to facilitate the offering of the new policies.

(4) Guidelines for submission and review

The Corporation shall issue regulations to establish guidelines for the submission, and Board review, of policies or other material submitted to the Board under this subsection. At a minimum, the guidelines shall ensure the following:

² See References in Text note below.

(A) Confidentiality**(i) In general**

A proposal submitted to the Board under this subsection (including any information generated from the proposal) shall be considered to be confidential commercial or financial information for the purposes of section 552(b)(4) of title 5.

(ii) Standard of confidentiality

If information concerning a proposal could be withheld by the Secretary under the standard for privileged or confidential information pertaining to trade secrets and commercial or financial information under section 552(b)(4) of title 5, the information shall not be released to the public.

(iii) Application

This subparagraph shall apply with respect to a proposal only during the period preceding any approval of the proposal by the Board.

(B) Personal presentation

The Board shall provide an applicant with the opportunity to present the proposal to the Board in person if the applicant so desires.

(C) Notification of intent to disapprove**(i) Time period**

The Board shall provide an applicant with notification of intent to disapprove a proposal not later than 30 days prior to making the disapproval.

(ii) Modification of application**(I) Authority**

An applicant that receives the notification may modify the application, and such application, as modified, shall be considered by the Board in the manner provided in subparagraph (D) within the 30-day period beginning on the date the modified application is submitted.

(II) Time period

Clause (i) shall not apply to the Board's consideration of the modified application.

(iii) Explanation

Any notification of intent to disapprove a policy or other material submitted under this subsection shall be accompanied by a complete explanation as to the reasons for the Board's intention to deny approval.

(D) Determination to approve or disapprove policies or materials**(i) Time period**

Not later than 120 days after a policy or other material is submitted under this subsection, the Board shall make a determination to approve or disapprove the policy or material.

(ii) Explanation

Any determination by the Board to disapprove any policy or other material shall be accompanied by a complete explanation

of the reasons for the Board's decision to deny approval.

(iii) Failure to meet deadline

Notwithstanding any other provision of this subchapter, if the Board fails to make a determination within the prescribed time period, the submitted policy or other material shall be deemed approved by the Board for the initial reinsurance year designated for the policy or material, unless the Board and the applicant agree to an extension.

(5) Premium schedule**(A) Payment by Corporation**

In the case of a policy or plan of insurance developed and approved under this subsection or section 1522 of this title, or conducted under section 1523 of this title (other than a policy or plan of insurance applicable to livestock), the Corporation shall pay a portion of the premium of the policy or plan of insurance that is equal to—

- (i) the percentage, specified in subsection (e) of this section for a similar level of coverage, of the total amount of the premium used to define loss ratio; and
- (ii) an amount for administrative and operating expenses determined in accordance with subsection (k)(4) of this section.

(B) Transitional schedule

Effective only during the 2001 reinsurance year, in the case of a policy or plan of insurance developed and approved under this subsection or section 1522 of this title, or conducted under section 1523 of this title (other than a policy or plan of insurance applicable to livestock), and first approved by the Board after June 20, 2000, the payment by the Corporation of a portion of the premium of the policy may not exceed the dollar amount that would otherwise be authorized under subsection (e) of this section (consistent with subsection (c)(5) of this section, as in effect on the day before June 20, 2000).

(6) Additional prevented planting policy coverage**(A) In general**

Beginning with the 1995 crop year, the Corporation shall offer to producers additional prevented planting coverage that insures producers against losses in accordance with this paragraph.

(B) Approved insurance providers

Additional prevented planting coverage shall be offered by the Corporation through approved insurance providers.

(C) Timing of loss

A crop loss shall be covered by the additional prevented planting coverage if—

- (i) crop insurance policies were obtained for—
 - (I) the crop year the loss was experienced; and
 - (II) the crop year immediately preceding the year of the prevented planting loss; and

(ii) the cause of the loss occurred—

(I) after the sales closing date for the crop in the crop year immediately preceding the loss; and

(II) before the sales closing date for the crop in the year in which the loss is experienced.

(i) Adoption of rates and coverages

(1) In general

The Corporation shall adopt, as soon as practicable, rates and coverages that will improve the actuarial soundness of the insurance operations of the Corporation for those crops that are determined to be insured at rates that are not actuarially sound, except that no rate may be increased by an amount of more than 20 percent over the comparable rate of the preceding crop year.

(2) Review of rating methodologies

To maximize participation in the Federal crop insurance program and to ensure equity for producers, the Corporation shall periodically review the methodologies employed for rating plans of insurance under this subchapter consistent with section 1507(c)(2) of this title.

(3) Analysis of rating and loss history

The Corporation shall analyze the rating and loss history of approved policies and plans of insurance for agricultural commodities by area.

(4) Premium adjustment

If the Corporation makes a determination that premium rates are excessive for an agricultural commodity in an area relative to the requirements of subsection (d)(2) of this section for that area, then, for the 2002 crop year (and as necessary thereafter), the Corporation shall make appropriate adjustments in the premium rates for that area for that agricultural commodity.

(j) Claims for losses

(1) In general

Under rules prescribed by the Corporation, the Corporation may provide for adjustment and payment of claims for losses. The rules prescribed by the Corporation shall establish standards to ensure that all claims for losses are adjusted, to the extent practicable, in a uniform and timely manner.

(2) Denial of claims

(A) In general

Subject to subparagraph (B), if a claim for indemnity is denied by the Corporation or an approved provider on behalf of the Corporation, an action on the claim may be brought against the Corporation or Secretary only in the United States district court for the district in which the insured farm is located.

(B) Statute of limitations

A suit on the claim may be brought not later than 1 year after the date on which final notice of denial of the claim is provided to the claimant.

(3) Indemnification

The Corporation shall provide approved insurance providers with indemnification, in-

cluding costs and reasonable attorney fees incurred by the approved insurance provider, due to errors or omissions on the part of the Corporation.

(4) Marketing windows

The Corporation shall consider marketing windows in determining whether it is feasible to require planting during a crop year.

(5) Settlement of claims on farm-stored production

A producer with farm-stored production may, at the option of the producer, delay settlement of a crop insurance claim relating to the farm-stored production for up to 4 months after the last date on which claims may be submitted under the policy of insurance.

(k) Reinsurance

(1) In general

Notwithstanding any other provision of this subchapter, the Corporation shall, to the maximum extent practicable, provide reinsurance to insurers approved by the Corporation that insure producers of any agricultural commodity under 1 or more plans acceptable to the Corporation.

(2) Terms and conditions

The reinsurance shall be provided on such terms and conditions as the Board may determine to be consistent with subsections (b) and (c) of this section and sound reinsurance principles.

(3) Share of risk

The reinsurance agreements of the Corporation with the reinsured companies shall require the reinsured companies to bear a sufficient share of any potential loss under the agreement so as to ensure that the reinsured company will sell and service policies of insurance in a sound and prudent manner, taking into consideration the financial condition of the reinsured companies and the availability of private reinsurance.

(4) Rate

(A) In general

Except as otherwise provided in this paragraph, the rate established by the Board to reimburse approved insurance providers and agents for the administrative and operating costs of the providers and agents shall not exceed—

(i) for the 1998 reinsurance year, 27 percent of the premium used to define loss ratio; and

(ii) for each of the 1999 and subsequent reinsurance years, 24.5 percent of the premium used to define loss ratio.

(B) Proportional reductions

A policy of additional coverage that received a rate of reimbursement for administrative and operating costs for the 1998 reinsurance year that is lower than the rate specified in subparagraph (A)(i) shall receive a reduction in the rate of reimbursement that is proportional to the reduction in the rate of reimbursement between clauses (i) and (ii) of subparagraph (A).

(C) Other reductions

Beginning with the 2002 reinsurance year, in the case of a policy or plan of insurance approved by the Board that was not reinsured during the 1998 reinsurance year but, had it been reinsured, would have received a reduced rate of reimbursement during the 1998 reinsurance year, the rate of reimbursement for administrative and operating costs established for the policy or plan of insurance shall take into account the factors used to determine the rate of reimbursement for administrative and operating costs during the 1998 reinsurance year, including the expected difference in premium and actual administrative and operating costs of the policy or plan of insurance relative to an individual yield policy or plan of insurance and other appropriate factors, as determined by the Corporation.

(D) Time for reimbursement

Effective beginning with the 2012 reinsurance year, the Corporation shall reimburse approved insurance providers and agents for the allowable administrative and operating costs of the providers and agents as soon as practicable after October 1 (but not later than October 31) after the reinsurance year for which reimbursements are earned.

(E) Reimbursement rate reduction

In the case of a policy of additional coverage that received a rate of reimbursement for administrative and operating costs for the 2008 reinsurance year, for each of the 2009 and subsequent reinsurance years, the reimbursement rate for administrative and operating costs shall be 2.3 percentage points below the rates in effect as of the date of enactment of the Food, Conservation, and Energy Act of 2008 for all crop insurance policies used to define loss ratio, except that only $\frac{1}{2}$ of the reduction shall apply in a reinsurance year to the total premium written in a State in which the State loss ratio is greater than 1.2.

(F) Reimbursement rate for area policies and plans of insurance

Notwithstanding subparagraphs (A) through (E), for each of the 2009 and subsequent reinsurance years, the reimbursement rate for area policies and plans of insurance widely available as of the date of enactment of this subparagraph shall be 12 percent of the premium used to define loss ratio for that reinsurance year.

(5) Cost and regulatory reduction

Consistent with section 118 of the Federal Crop Insurance Reform Act of 1994, and consistent with maintenance of program integrity, prevention of fraud and abuse, the need for program expansion, and improvement of quality of service to customers, the Board shall alter program procedures and administrative requirements in order to reduce the administrative and operating costs of approved insurance providers and agents in an amount that corresponds to any reduction in the reimbursement rate required under paragraph (4)

during the 5-year period beginning on October 13, 1994.

(6) Agency discretion

The determination of whether the Corporation is achieving, or has achieved, corresponding administrative cost savings shall not be subject to administrative review, and is wholly committed to agency discretion within the meaning of section 701(a)(2) of title 5.

(7) Plan

The Corporation shall submit to Congress a plan outlining the measures that will be used to achieve the reduction required under paragraph (5). If the Corporation can identify additional cost reduction measures, the Corporation shall describe the measures in the plan.

(8) Renegotiation of standard reinsurance agreement**(A) In general**

Except as provided in subparagraph (B), notwithstanding section 536 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 1506 note; Public Law 105-185) and section 148 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1506 note; Public Law 106-224), the Corporation may renegotiate the financial terms and conditions of each Standard Reinsurance Agreement—

- (i) to be effective for the 2011 reinsurance year beginning July 1, 2010; and
- (ii) once during each period of 5 reinsurance years thereafter.

(B) Exceptions**(i) Adverse circumstances**

Subject to clause (ii), subparagraph (A) shall not apply in any case in which the approved insurance providers, as a whole, experience unexpected adverse circumstances, as determined by the Secretary.

(ii) Effect of Federal law changes

If Federal law is enacted after the date of enactment of this paragraph that requires revisions in the financial terms of the Standard Reinsurance Agreement, and changes in the Agreement are made on a mandatory basis by the Corporation, the changes shall not be considered to be a renegotiation of the Agreement for purposes of subparagraph (A).

(C) Notification requirement

If the Corporation renegotiates a Standard Reinsurance Agreement under subparagraph (A)(iii),³ the Corporation shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the renegotiation.

(D) Consultation

The approved insurance providers may confer with each other and collectively with the Corporation during any renegotiation under subparagraph (A).

³ So in original. Subpar. (A) does not contain a cl. (iii).

(E) 2011 reinsurance year**(i) In general**

As part of the Standard Reinsurance Agreement renegotiation authorized under subparagraph (A)(i), the Corporation shall consider alternative methods to determine reimbursement rates for administrative and operating costs.

(ii) Alternative methods

Alternatives considered under clause (i) shall include—

(I) methods that—

(aa) are graduated and base reimbursement rates in a State on changes in premiums in that State;

(bb) are graduated and base reimbursement rates in a State on the loss ratio for crop insurance for that State; and

(cc) are graduated and base reimbursement rates on individual policies on the level of total premium for each policy; and

(II) any other method that takes into account current financial conditions of the program and ensures continued availability of the program to producers on a nationwide basis.

(9) Due date for payment of underwriting gains

Effective beginning with the 2011 reinsurance year, the Corporation shall make payments for underwriting gains under this subchapter on—

(A) for the 2011 reinsurance year, October 1, 2012; and

(B) for each reinsurance year thereafter, October 1 of the following calendar year.

(I) Optional coverages

The Corporation may offer specific risk protection programs, including protection against prevented planting, wildlife depredation, tree damage and disease, and insect infestation, under such terms and conditions as the Board may determine, except that no program may be undertaken if insurance for the specific risk involved is generally available from private companies.

(m) Quality loss adjustment coverage**(1) Effect of coverage**

If a policy or plan of insurance offered under this subchapter includes quality loss adjustment coverage, the coverage shall provide for a reduction in the quantity of production of the agricultural commodity considered produced during a crop year, or a similar adjustment, as a result of the agricultural commodity not meeting the quality standards established in the policy or plan of insurance.

(2) Additional quality loss adjustment**(A) Producer option**

Notwithstanding any other provision of law, in addition to the quality loss adjustment coverage available under paragraph (1), the Corporation shall offer producers the option of purchasing quality loss adjustment coverage on a basis that is smaller than a

unit with respect to an agricultural commodity that satisfies each of the following:

(i) The agricultural commodity is sold on an identity-preserved basis.

(ii) All quality determinations are made solely by the Federal agency designated to grade or classify the agricultural commodity.

(iii) All quality determinations are made in accordance with standards published by the Federal agency in the Federal Register.

(iv) The discount schedules that reflect the reduction in quality of the agricultural commodity are established by the Secretary.

(B) Basis for adjustment

Under this paragraph, the Corporation shall set the quality standards below which quality losses will be paid based on the variability of the grade of the agricultural commodity from the base quality for the agricultural commodity.

(3) Review of criteria and procedures**(A) Review**

The Corporation shall contract with a qualified person to review the quality loss adjustment procedures of the Corporation so that the procedures more accurately reflect local quality discounts that are applied to agricultural commodities insured under this subchapter.

(B) Procedures

Effective beginning not later than the 2004 reinsurance year, based on the review, the Corporation shall make adjustments in the procedures, taking into consideration the actuarial soundness of the adjustment and the prevention of fraud, waste, and abuse.

(4) Quality of agricultural commodities delivered to warehouse operators

In administering this subchapter, the Secretary shall accept, in the same manner and under the same terms and conditions, evidence of the quality of agricultural commodities delivered to—

(A) warehouse operators that are licensed under the United States Warehouse Act (7 U.S.C. 241 et seq.);

(B) warehouse operators that—

(i) are licensed under State law; and

(ii) have entered into a storage agreement with the Commodity Credit Corporation; and

(C) warehouse operators that—

(i) are not licensed under State law but are in compliance with State law regarding warehouses; and

(ii) have entered into a commodity storage agreement with the Commodity Credit Corporation.

(5) Special provisions for malting barley

The Corporation shall promulgate special provisions under this subsection specific to malting barley, taking into consideration any changes in quality factors, as required by applicable market conditions.

(n) Limitation on multiple benefits for same loss**(1) In general**

Except as provided in paragraph (2), if a producer who is eligible to receive benefits under catastrophic risk protection under subsection (b) of this section is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this subchapter or under the other program, but not both. A producer who purchases additional coverage under subsection (c) of this section may also receive assistance for the same loss under other programs administered by the Secretary, except that the amount received for the loss under the additional coverage together with the amount received under the other programs may not exceed the amount of the actual loss of the producer.

(2) Exception

Paragraph (1) shall not apply to emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

(o) Crop production on native sod**(1) Definition of native sod**

In this subsection, the term “native sod” means land—

(A) on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing; and

(B) that has never been tilled for the production of an annual crop as of the date of enactment of this subsection.

(2) Ineligibility for benefits**(A) In general**

Subject to subparagraph (B) and paragraph (3), native sod acreage that has been tilled for the production of an annual crop after the date of enactment of this subsection shall be ineligible during the first 5 crop years of planting, as determined by the Secretary, for benefits under—

- (i) this subchapter; and
- (ii) section 7333 of this title.

(B) De minimis acreage exemption

The Secretary shall exempt areas of 5 acres or less from subparagraph (A).

(3) Application

Paragraph (2) may apply to native sod acreage in the Prairie Pothole National Priority Area at the election of the Governor of the respective State.

(Feb. 16, 1938, ch. 30, title V, §508, 52 Stat. 74; June 22, 1938, ch. 563, 52 Stat. 835; June 21, 1941, ch. 214, §§3-7, 10, 55 Stat. 255, 256; Dec. 23, 1944, ch. 713, §§1-3, 58 Stat. 918, 919; Aug. 1, 1947, ch. 440, §§1-3, 61 Stat. 718; Aug. 25, 1949, ch. 512, §§1-3, 63 Stat. 663; Aug. 13, 1953, ch. 431, 67 Stat. 575; Pub. L. 85-111, July 23, 1957, 71 Stat. 309; Pub. L. 86-131, Aug. 4, 1959, 73 Stat. 278; Pub. L. 88-589, Sept. 12, 1964, 78 Stat. 933; Pub. L. 96-365, title I, §§105, 106, 107(b), Sept. 26, 1980, 94 Stat. 1314, 1315, 1317; Pub. L. 100-387, title II, §208(a),

Aug. 11, 1988, 102 Stat. 941; Pub. L. 101-624, title XXII, §§2203-2205, Nov. 28, 1990, 104 Stat. 3955-3957; Pub. L. 102-237, title VI, §601(4), (5), Dec. 13, 1991, 105 Stat. 1878; Pub. L. 103-66, title XIV, §1403(b)(1), (2), Aug. 10, 1993, 107 Stat. 333, 334; Pub. L. 103-354, title I, §106, Oct. 13, 1994, 108 Stat. 3183; Pub. L. 104-127, title I, §§193(a)(1), (2), (c), (d), (f), 195, Apr. 4, 1996, 110 Stat. 943-946; Pub. L. 105-185, title V, §§532, 534, June 23, 1998, 112 Stat. 581, 583; Pub. L. 105-277, div. A, §101(a) [title VIII, §803(a)], Oct. 21, 1998, 112 Stat. 2681, 2681-38; Pub. L. 106-113, div. B, §1000(a)(5) [title II, §§205(a), 206], Nov. 29, 1999, 113 Stat. 1536, 1501A-294; Pub. L. 106-224, title I, §§101-103(b)(1), (c), (d), 104-107, 123, 124(a), 144-146, 161, 162, June 20, 2000, 114 Stat. 360-368, 378, 391, 392, 395; Pub. L. 107-171, title X, §§10001-10003, May 13, 2002, 116 Stat. 486; Pub. L. 109-97, title VII, §780, Nov. 10, 2005, 119 Stat. 2162; Pub. L. 110-234, title XII, §§12003(b)-12006(a), 12007-12014(a), 12015-12020(a), 12033(c)(2)(B), May 22, 2008, 122 Stat. 1372-1381, 1405; Pub. L. 110-246, §4(a), title XII, §§12003(b)-12006(a), 12007-12014(a), 12015-12020(a), 12033(c)(2)(B), June 18, 2008, 122 Stat. 1664, 2133-2142, 2167.)

REFERENCES IN TEXT

The Department of Agriculture Reorganization Act of 1994, referred to in subsec. (a)(3)(B)(ii)(I), is title II of Pub. L. 103-354, Oct. 13, 1994, 108 Stat. 3209, as amended. Subtitle H of the Act is classified principally to subchapter VIII (§6991 et seq.) of chapter 98 of this title. For complete classification of this Act to the Code, see Tables.

The date of enactment of the Food, Conservation, and Energy Act of 2008, the date of enactment of this subsection, the date of enactment of this paragraph, and the date of enactment of this subparagraph, referred to in subsecs. (a)(9)(B)(iii)(I), (c)(5)(D)(i)(I), (ii)(I), (d)(1)(B), (C), (k)(4)(E), (F), (8)(B)(ii), and (o)(1)(B), mean the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

The Agricultural Market Transition Act, referred to in subsec. (b)(7)(A), is title I of Pub. L. 104-127, Apr. 4, 1996, 110 Stat. 896, which is classified principally to chapter 100 (§7201 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 7201 of this title and Tables.

For the effective date of this paragraph, referred to in subsecs. (b)(10)(B) and (g)(3)(C), as being Oct. 13, 1994, see Effective Date of 1994 Amendment note below.

Section 7759 of this title, referred to in subsec. (g)(5)(A)(i), was amended by Pub. L. 106-224, title IV, §438(a)(3), June 20, 2000, 114 Stat. 454, and, as amended, no longer contains provisions defining the term “plant pest”. See section 7702 of this title.

Section 118 of the Federal Crop Insurance Reform Act of 1994, referred to in subsec. (k)(5), is section 118 of Pub. L. 103-354, which is set out as a note under section 1506 of this title.

The United States Warehouse Act, referred to in subsec. (m)(4)(A), is part C of act Aug. 11, 1916, ch. 313, 39 Stat. 486, as amended, which is classified generally to chapter 10 (§241 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 241 of this title and Tables.

The Consolidated Farm and Rural Development Act, referred to in subsec. (n)(2), is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended. Subtitle C of the Act is classified generally to subchapter III (§1961 et seq.) of chapter 50 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub.

L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-246, § 12033(c)(2)(B), substituted “this subchapter” for “this chapter” wherever appearing.

Subsec. (a)(9), (10). Pub. L. 110-246, §§ 12004, 12005, added pars. (9) and (10).

Subsec. (b)(5)(A). Pub. L. 110-246, § 12006(a)(1), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: “Each producer shall pay an administrative fee for catastrophic risk protection in an amount equal to 10 percent of the premium for the catastrophic risk protection or \$100 per crop per county, whichever is greater, as determined by the Corporation.”

Subsec. (b)(5)(B). Pub. L. 110-246, § 12006(a)(2)(A), substituted “Payment of catastrophic risk protection fee on behalf of producers” for “Payment on behalf of producers” in heading.

Subsec. (b)(5)(B)(i). Pub. L. 110-246, § 12006(a)(2)(B), struck out “or other payment” after “licensing fee” and substituted “through the payment of catastrophic risk protection administrative fees” for “with catastrophic risk protection or additional coverage”.

Subsec. (b)(5)(B)(ii). Pub. L. 110-246, § 12006(a)(2)(C), (D), redesignated cl. (iii) as (ii) and struck out former cl. (ii). Prior to amendment, text read as follows: “A licensing fee or other payment made by an insurance provider to the cooperative association or trade association in connection with the issuance of catastrophic risk protection or additional coverage to members of the cooperative association or trade association shall be subject to the laws regarding rebates of the State in which the fee or other payment is made.”

Subsec. (b)(5)(B)(iii) to (v). Pub. L. 110-246, § 12006(a)(2)(D)–(F), redesignated cls. (iv) and (v) as (iii) and (iv), respectively, in cl. (iii), substituted “Catastrophic risk protection coverage” for “A policy or plan of insurance”, and, in cl. (iv), struck out “or other arrangement under this subparagraph” after “licensing fee” and “additional” before “coverage”. Former cl. (iii) redesignated (ii).

Subsec. (b)(5)(B)(vi). Pub. L. 110-246, § 12006(a)(2)(C), struck out cl. (vi). Prior to amendment, text read as follows: “Not later than April 1, 2002, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that evaluates—

“(I) the operation of this subparagraph; and

“(II) the impact of this subparagraph on participation in the Federal crop insurance program, including the impact on levels of coverage purchased.”

Subsec. (b)(5)(C). Pub. L. 110-246, § 12007(1), substituted “the same date on which the premium” for “the date that premium”.

Subsec. (b)(9), (10). Pub. L. 110-246, § 12033(c)(2)(B), substituted “this subchapter” for “this chapter” wherever appearing.

Subsec. (b)(11). Pub. L. 110-246, § 12008, substituted “6 percent” for “8 percent”.

Subsec. (c)(5)(A). Pub. L. 110-246, § 12033(c)(2)(B), substituted “this subchapter” for “this chapter” in two places.

Subsec. (c)(5)(D). Pub. L. 110-246, § 12009, added subpar. (D).

Subsec. (c)(10)(C). Pub. L. 110-246, § 12007(2), added subpar. (C).

Subsec. (d)(1). Pub. L. 110-246, § 12003(b), substituted “not greater than—” for “not greater than 1.1 through September 30, 1998, and not greater than 1.075 after October 1, 1998.” and added subpars. (A) to (C).

Subsec. (d)(4). Pub. L. 110-246, § 12007(3), added par. (4).

Subsec. (e)(2). Pub. L. 110-246, § 12012(1), which directed amendment of par. (2) by substituting “paragraphs (4), (6), and (7)” for “paragraph (4)” in introductory provisions, was executed by making the substitution for “paragraph (3)” to reflect the probable in-

tent of Congress and the intervening amendment by Pub. L. 110-246, § 12010(1). See below.

Pub. L. 110-246, § 12010(1), substituted “paragraph (3)” for “paragraph (4)” in introductory provisions.

Subsec. (e)(3). Pub. L. 110-246, § 12010(2), (3), redesignated par. (4) as (3) and struck out former par. (3). Prior to amendment, text read as follows: “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.”

Subsec. (e)(4). Pub. L. 110-246, § 12033(c)(2)(B), substituted “this subchapter” for “this chapter”.

Pub. L. 110-246, § 12010(3), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Subsec. (e)(5). Pub. L. 110-246, § 12011, added par. (5).

Pub. L. 110-246, § 12010(3), redesignated par. (5) as (4).

Subsec. (e)(6), (7). Pub. L. 110-246, § 12012(2), added pars. (6) and (7).

Subsecs. (f), (h), (i). Pub. L. 110-246, § 12033(c)(2)(B), substituted “this subchapter” for “this chapter” wherever appearing.

Subsec. (j)(2)(A). Pub. L. 110-246, § 12013, inserted “on behalf of the Corporation” after “approved provider”.

Subsec. (j)(5). Pub. L. 110-246, § 12014(a), added par. (5).

Subsec. (k)(1). Pub. L. 110-246, § 12033(c)(2)(B), substituted “this subchapter” for “this chapter”.

Subsec. (k)(4)(A). Pub. L. 110-246, § 12016(1), substituted “Except as otherwise provided in this paragraph” for “Except as provided in subparagraph (B)” in introductory provisions.

Subsec. (k)(4)(D). Pub. L. 110-246, § 12015, added subpar. (D).

Subsec. (k)(4)(E), (F). Pub. L. 110-246, § 12016(2), added subpars. (E) and (F).

Subsec. (k)(8). Pub. L. 110-246, § 12017, added par. (8).

Subsec. (k)(9). Pub. L. 110-246, § 12033(c)(2)(B), substituted “this subchapter” for “this chapter” in introductory provisions.

Pub. L. 110-246, § 12018, added par. (9).

Subsec. (m). Pub. L. 110-246, § 12033(c)(2)(B), substituted “this subchapter” for “this chapter” wherever appearing.

Subsec. (m)(5). Pub. L. 110-246, § 12019, added par. (5).

Subsec. (n)(1). Pub. L. 110-246, § 12033(c)(2)(B), substituted “this subchapter” for “this chapter”.

Subsec. (o). Pub. L. 110-246, § 12020(a), added subsec. (o).

Subsec. (o)(2)(A)(i). Pub. L. 110-246, § 12033(c)(2)(B), substituted “this subchapter” for “this chapter”.

2005—Subsec. (a)(4)(B). Pub. L. 109-97 inserted “or similar commodities” after “the commodity”.

2002—Subsec. (a)(2). Pub. L. 107-171, § 10001, substituted “, potatoes, and sweet potatoes” for “and potatoes”.

Subsec. (e)(4). Pub. L. 107-171, § 10002, substituted “Prohibition” for “Temporary prohibition” in heading and “and subsequent reinsurance years” for “through 2005 reinsurance years” in text.

Subsec. (m)(3). Pub. L. 107-171, § 10003(1), designated first sentence of par. (3) as subpar. (A) and inserted heading and designated second sentence of par. (3) as subpar. (B), inserted heading, and substituted “Effective beginning not later than the 2004 reinsurance year, based on” for “Based on” in text.

Subsec. (m)(4). Pub. L. 107-171, § 10003(2), added par. (4).

2000—Subsec. (a)(3). Pub. L. 106-224, § 123, added par. (3) and struck out heading and text of former par. (3). Text read as follows: “Insurance provided under this subsection shall not cover losses due to—

“(A) the neglect or malfeasance of the producer;

“(B) the failure of the producer to reseed to the same crop in such areas and under such circumstances as it is customary to reseed; or

“(C) the failure of the producer to follow good farming practices (as determined by the Secretary).”

Subsec. (a)(3)(C). Pub. L. 106-224, §161, added subpar. (C).

Subsec. (a)(5). Pub. L. 106-224, §144, designated existing provisions as subpar. (A) and inserted heading, redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, and realigned their margins, and added subpar. (B).

Subsec. (a)(7). Pub. L. 106-224, §145, added par. (7).

Subsec. (a)(8). Pub. L. 106-224, §162, added par. (8).

Subsec. (b)(3). Pub. L. 106-224, §103(a), added par. (3) and struck out heading and text of former par. (3). Text read as follows: “A producer shall have the option of basing the catastrophic coverage of the producer on an individual yield and loss basis or on an area yield and loss basis, if both options are offered by the Corporation.”

Subsec. (b)(5)(A). Pub. L. 106-224, §103(b)(1)(A), substituted “\$100” for “\$50”.

Subsec. (b)(5)(B). Pub. L. 106-224, §103(b)(1)(B), (c), added subpar. (B) and struck out heading and text of former subpar. (B). Text read as follows: “In addition to the amount required under subparagraph (A), the producer shall pay a \$10 fee for each amount determined under subparagraph (A).”

Subsec. (b)(5)(C). Pub. L. 106-224, §103(b)(1)(C), substituted “administrative fee required by this paragraph” for “amounts required under subparagraphs (A) and (B)”.

Subsec. (b)(11). Pub. L. 106-224, §103(d), substituted “8 percent” for “11 percent”.

Subsec. (c)(5). Pub. L. 106-224, §101(a), added par. (5) and struck out heading and text of former par. (5). Text read as follows: “The Corporation shall establish a price level for each commodity on which insurance is offered that—

“(A) shall not be less than the projected market price for the commodity (as determined by the Corporation); or

“(B) at the discretion of the Corporation, may be based on the actual market price at the time of harvest (as determined by the Corporation).”

Subsec. (c)(10). Pub. L. 106-224, §104, added par. (10) and struck out former par. (10), which required administrative fee where producer elected to purchase additional coverage for crop at level that was less than 65 percent of recorded or appraised average yield indemnified at 100 percent of expected market price, or equivalent coverage, and provided for exception to fee if producer elected to purchase additional coverage for crop equal to 65 percent or more of recorded or appraised average yield indemnified at 100 percent of expected market price, or equivalent coverage, additional fee if producer elected to purchase additional coverage for crop equal to or exceeding 65 percent of recorded or appraised average yield and 100 percent of expected market price or equivalent coverage, and for deposit of fees.

Subsec. (d)(2)(B), (C). Pub. L. 106-224, §101(b)(1), added subpar. (B) and struck out former subpars. (B) and (C), which described premium amounts in the case of additional coverage below, equal to, or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage.

Subsec. (d)(3). Pub. L. 106-224, §101(b)(2), added par. (3).

Subsec. (e)(2). Pub. L. 106-224, §101(c)(1), substituted “Subject to paragraph (4), the amount” for “The amount” in introductory provisions.

Subsec. (e)(2)(B) to (G). Pub. L. 106-224, §101(c)(2), added subpars. (B) to (G) and struck out former subpars. (B) and (C), which set forth amount of premium to be paid by Corporation in the case of coverage below, equal to, or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage.

Subsec. (e)(4). Pub. L. 106-224, §101(d), added par. (4) and struck out former par. (4), which authorized Cor-

poration to allow approved providers to offer insurance plan to producers that would combine both individual and area yield coverage at a premium rate determined under certain conditions.

Subsec. (e)(5). Pub. L. 106-224, §101(e), added par. (5).

Subsec. (f)(3)(A). Pub. L. 106-224, §124(a), added subpar. (A) and struck out former subpar. (A) which read as follows: “provide, to the extent required by the Corporation, records acceptable to the Corporation of historical acreage and production of the crops for which the insurance is sought or accept a yield determined by the Corporation; and”.

Subsec. (g)(2)(B). Pub. L. 106-224, §105(a), designated existing provisions of subpar. (B) as cl. (i) and added cl. (ii).

Subsec. (g)(2)(D). Pub. L. 106-224, §101(f), struck out “(as provided in subsection (e)(4) of this section)” after “combined coverage”.

Subsec. (g)(4), (5). Pub. L. 106-224, §105(b), added pars. (4) and (5).

Subsec. (h)(1). Pub. L. 106-224, §146(a), inserted “(including an approved insurance provider, a college or university, a cooperative or trade association, or any other person)” after “a person” in introductory provisions.

Subsec. (h)(2). Pub. L. 106-224, §102(a)(1), struck out at end “In the case of such a policy, the payment by the Corporation of a portion of the premium of the policy may not exceed the amount that would otherwise be authorized under subsection (e) of this section.”

Subsec. (h)(3). Pub. L. 106-224, §146(b), inserted “by approved insurance providers” after “for sale” in first sentence.

Subsec. (h)(4)(A). Pub. L. 106-224, §146(c)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: “A proposal submitted to the Board under this subsection shall be considered as confidential commercial or financial information for purposes of section 552(b)(4) of title 5 until approved by the Board. A proposal disapproved by the Board shall remain confidential commercial or financial information.”

Subsec. (h)(4)(B). Pub. L. 106-224, §146(c)(2), inserted subpar. heading.

Subsec. (h)(4)(C), (D). Pub. L. 106-224, §146(c)(3), added subpars. (C) and (D) and struck out former subpars. (C) and (D), which required notice of intent to disapprove, provided that modification would be considered an original application, and directed that specific guidelines were to prescribe timely submission and consideration of proposals.

Subsec. (h)(5). Pub. L. 106-224, §102(a)(2), added par. (5) and struck out heading and text of former par. (5). Text read as follows: “Any policy, provision of a policy, or rate approved under this subsection shall be published as a notice in the Federal Register and made available to all persons contracting with or reinsured by the Corporation under the terms and conditions of the contract between the Corporation and the person originally submitting the policy or other material.”

Subsec. (h)(6) to (10). Pub. L. 106-224, §146(d), redesignated par. (7) as (6) and struck out former pars. (6) which related to pilot cost of production risk protection plan, (8) which related to pilot program of assigned yields for new producers, (9) which related to revenue insurance pilot program, and (10) which related to time limits for response to submission of new policies.

Subsec. (i). Pub. L. 106-224, §106, designated existing provisions as par. (1), inserted heading, and added pars. (2) to (4).

Subsec. (k)(4)(C). Pub. L. 106-224, §102(b), added subpar. (C).

Subsec. (m). Pub. L. 106-224, §107, added subsec. (m) and struck out former subsec. (m), which authorized research, surveys, pilot programs, and investigations relating to crop insurance and agriculture-related risks and losses and required evaluation of pilot programs and submission of reports, including recommendations with respect to implementation of programs on a national basis.

1999—Subsec. (f)(2). Pub. L. 106-113, §1000(a)(5) [title II, §206], designated existing provisions as subpar. (A), inserted heading, struck out “Beginning with the 1995 crop year, the Corporation shall establish, for an insurance policy for each insurable crop that is planted in the spring, a sales closing date that is 30 days earlier than the corresponding sales closing date that was established for the 1994 crop year.” after “price and production adjustment programs of the Department.”, and added subpars. (B) and (C).

Subsec. (h)(9)(A). Pub. L. 106-113, §1000(a)(5) [title II, §205(a)], substituted “1997 through 2001” for “1997, 1998, 1999, and 2000”.

1998—Subsec. (b)(5). Pub. L. 105-185, §532(a), added par. (5) and struck out heading and text of former par. (5) which, in subpar. (A) required payment of \$50 fee per crop per county up to a maximum of \$200 per producer per county and \$600 per producer for all counties, in subpar. (B) directed crediting of fees up to \$100 collected by USDA offices to appropriations account, retention of fees up to \$100 collected by approved insurance providers, and deposit of fees in excess of \$100 in crop insurance fund, and in subpar. (C) waived fee for limited resource farmers as defined by Corporation.

Subsec. (b)(11). Pub. L. 105-185, §532(d), added par. (11).
 Subsec. (c)(10)(A). Pub. L. 105-185, §532(b)(1), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: “Except as otherwise provided in this paragraph, if a producer elects to purchase additional coverage for a crop at a level that is less than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the producer shall pay an administrative fee for the additional coverage. Subsection (b)(5) of this section shall apply in determining the amount and use of the administrative fee or in determining whether to waive the administrative fee.”

Subsec. (c)(10)(C). Pub. L. 105-185, §532(b)(2), substituted “\$20” for “\$10” in first sentence.

Subsec. (h)(10). Pub. L. 105-185, §534, added par. (10).
 Subsec. (k)(4). Pub. L. 105-185, §532(c), added par. (4) and struck out heading and text of former par. (4). Text read as follows: “The rate established by the Board to reimburse approved insurance providers and agents for the administrative and operating costs of the providers and agents shall not exceed—

“(A) for the 1997 reinsurance year, 29 percent of the premium used to define loss ratio;

“(B) for the 1998 reinsurance year, 28 percent of the premium used to define loss ratio; and

“(C) for the 1999 reinsurance year, 27.5 percent of the premium used to define loss ratio.”

Subsec. (n). Pub. L. 105-277 designated existing provisions as par. (1), inserted heading, substituted “Except as provided in paragraph (2), if a producer” for “If a producer”, and added par. (2).

1996—Subsec. (a)(6)(D). Pub. L. 104-127, §193(c), added subpar. (D).

Subsec. (b)(4)(C). Pub. L. 104-127, §193(a)(1), added subpar. (C).

Subsec. (b)(7)(A). Pub. L. 104-127, §193(a)(2), added subpar. (A) and struck out heading and text of former subpar. (A). Prior to amendment, text read as follows: “To be eligible for any price support or production adjustment program, the conservation reserve program, or any benefit described in section 2008f of this title, the producer must obtain at least the catastrophic level of insurance for each crop of economic significance grown on each farm in the county in which the producer has an interest, if insurance is available in the county for the crop.”

Subsec. (h)(9). Pub. L. 104-127, §195, added par. (9).

Subsec. (j)(4). Pub. L. 104-127, §193(d), added par. (4).

Subsec. (n). Pub. L. 104-127, §193(f), added subsec. (n).

1994—Pub. L. 103-354 amended section generally, substituting present provisions for former provisions which related to: in subsec. (a), authority to offer insurance; in subsec. (b), submission of policies and materials to Board; in subsec. (c), actuarial soundness; in

subsec. (d), adoption of rates and coverages; in subsec. (e), premiums; in subsec. (f), claims for losses; in subsec. (g), special rule for cotton; in subsec. (h), reinsurance; in subsec. (i), application to other areas; in subsec. (j), optional coverages; in subsec. (k), research; in subsec. (l), crop insurance for dry edible beans; in subsec. (m), information collection on crop insurance; and in subsec. (n), area yield plan.

1993—Subsec. (h). Pub. L. 103-66, §1403(b)(1), substituted fifth sentence for former fifth sentence which read as follows: “The Corporation shall also pay operating and administrative costs to insurers of policies on which the Corporation provides reinsurance to the same extent that such costs are covered by the Corporation on the Corporation’s policies of insurance.”

Subsec. (n). Pub. L. 103-66, §1403(b)(2), added subsec. (n).

1991—Subsec. (a). Pub. L. 102-237, §601(4), struck out par. (1) designation.

Subsecs. (k) to (n). Pub. L. 102-237, §601(5), redesignated subsecs. (l) to (n) as (k) to (m), respectively.

1990—Pub. L. 101-624, §2204(b)(1), inserted section catchline and struck out “To carry out the purposes of this chapter the Corporation is authorized and empowered—” before subsec. (a).

Subsec. (a). Pub. L. 101-624, §2205(1), inserted heading, substituted “the Corporation may insure” for “to insure” in first sentence, and inserted provisions relating to amount of insurance to be provided in cases where Agricultural Stabilization and Conservation Service has established adjusted yields, and provisions relating to establishment of a price level for each commodity beginning with the 1992 crop year.

Subsecs. (b) to (d). Pub. L. 101-624, §2204(a)(1), (2), added subsecs. (b) to (d) and redesignated subsecs. (b) to (d) as (e) to (g), respectively.

Subsec. (e). Pub. L. 101-624, §2204(a)(1), (b)(2), redesignated subsec. (b) as (e), inserted heading, and substituted “The Corporation may fix” for “To fix” in par. (1). Former subsec. (e) redesignated (h).

Subsec. (f). Pub. L. 101-624, §2204(a)(1), redesignated subsec. (c) as (f). Former subsec. (f) redesignated (i).

Pub. L. 101-624, §2203(a), inserted heading, substituted “The Corporation may adjust and pay claims for losses as provided under subsection (a) of this section” for “To adjust and pay claims for losses”, and inserted after first sentence “The rules prescribed by the Board shall establish standards to ensure that all claims for losses are adjusted to the extent practicable in a uniform and timely manner.”

Subsec. (g). Pub. L. 101-624, §2204(a)(1), (b)(3), redesignated subsec. (d) as (g), inserted heading, and substituted “the Corporation may include” for “to include”. Former subsec. (g) redesignated (j).

Subsec. (h). Pub. L. 101-624, §2204(a)(1), redesignated subsec. (e) as (h). Former subsec. (h) redesignated (k).

Pub. L. 101-624, §2203(b), inserted heading, substituted “The Corporation is directed” for “And directed”, and inserted sentence at end relating to revision of reinsurance agreements beginning with the 1992 reinsurance year.

Subsec. (i). Pub. L. 101-624, §2204(a)(1), (b)(4), redesignated subsec. (f) as (i), inserted heading, and substituted “The Corporation may provide” for “To provide”. Former subsec. (i) redesignated (l).

Subsec. (j). Pub. L. 101-624, §2204(a)(1), (b)(5), redesignated subsec. (g) as (j), inserted heading, and substituted “The Corporation may offer” for “To offer”. Former subsec. (j) redesignated (m).

Subsec. (k). Pub. L. 101-624, §2205(2), struck out subsec. (k) which set out a special rule for calculating premiums and indemnities, with respect to insuring timber and forest yields.

Pub. L. 101-624, §2204(a)(1), (b)(6), redesignated subsec. (h) as (k), inserted heading, and substituted “The Corporation may include” for “To include”.

Subsec. (l). Pub. L. 101-624, §2204(a)(1), (b)(7), redesignated subsec. (i) as (l), inserted heading, substituted “The Corporation may conduct” for “To conduct”, and struck out second and third sentences which read as

follows: "Beginning in the 1981 crop year and ending after the 1985 crop year, the Corporation shall also conduct a pilot program of individual risk underwriting of crop insurance in not less than twenty-five counties. Under this pilot program, to the extent that appropriate yield data are available, the Corporation shall make available to producers in such counties crop insurance under this chapter based on personalized rates and with guarantees determined from the producer's actual yield history."

Subsec. (m). Pub. L. 101-624, § 2204(b)(8), added subsec. (m) and struck out former subsec. (m) which read as follows: "To accumulate, prior to the 1989 crop year, sufficient actuarial data to enable the Corporation to provide crop insurance that meets the differentiated needs of producers of different types of dry edible beans. Commencing with the 1989 crop year, the Corporation shall make such crop insurance available to producers."

Pub. L. 101-624, § 2204(a)(1), redesignated subsec. (j) as (m).

Subsec. (n). Pub. L. 101-624, § 2204(a)(3), added subsec. (n).

1988—Subsec. (j). Pub. L. 100-387 added subsec. (j).

1980—Subsec. (a). Pub. L. 96-365, § 105, authorized Corporation, if sufficient actuarial data is available, to insure producers of any agricultural commodity grown in the United States under any plan of insurance determined to be adapted to the commodity involved; defined "field" in the case of aquacultural species to mean the environment in which the commodity is produced; in revising percentage limitations for crop insurance coverage, prescribed 75 per centum protection for recorded or appraised average yield (previously protected up to such percentage), offered producers lesser levels of coverage including 50 per centum of recorded or appraised average yield as adjusted, barred protection exceeding 75 per centum, offered price election approximating (but not less than 90 per centum of) projected market price for commodity involved, and struck out requirement for downward adjustment of minimum percentage in yield which may be insured to reflect investment in crop; and struck out limitations on Federal crop insurance program which: limited crop insurance to not more than seven agricultural commodities in 1948 and to not more than three additional commodities yearly thereafter, beginning with 1954 crop authorized yearly expansion of crop insurance program to not more than 150 counties in addition to counties offered insurance the previous year, limited reinsurance for private insurance companies to 20 counties, and required counties selected by the Board for crop insurance to be representative of areas where the commodity involved normally was produced; and struck out general reinsurance provision, covered in subsec. (e) of this section.

Subsec. (b). Pub. L. 96-365, § 106(1), designated existing provisions as par. (1), struck out "in the agricultural commodity or in cash," after "premiums for insurance" and proviso from first sentence authorizing establishment of premiums on the basis of the parity or comparable price for the commodity as determined and publish by Secretary of Agriculture, or on the basis of an average market price designated by the Board and second sentence providing for collection of premiums at such time or times, or for securing in such manner, as the Board may determine, which is covered in par. (4), required the rates to be actuarially sufficient, added pars. (2) and (3), incorporated existing provision in par. (4), and added pars. (5) and (6).

Subsec. (c). Pub. L. 96-365, § 106(2), struck out "in the agricultural commodity or in cash," after "claims for losses" and provisions respecting: determination of indemnities on same price basis as premiums were determined for the crop with respect to which the indemnities were paid; requirement that the Corporation post annually for each county at the county courthouse a list of indemnities paid for losses on farms in the county; action on claims in any court of the State having general jurisdiction, sitting in the county where the in-

sured farm was located; and jurisdiction of district courts without regard to amount in controversy.

Subsec. (d). Pub. L. 96-365, § 106(3), redesignated subsec. (e) as (d) and struck out prior subsec. (d) authorizing Corporation to purchase, handle, store, insure, provide storage facilities for, and sell agricultural commodities.

Subsec. (e). Pub. L. 96-365, § 106(4), added subsec. (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 96-365, § 106(4), substituted provisions for insurance and reinsurance in the territories and possessions for prior provision for reinsurance in Puerto Rico when not available from recognized private sources.

Subsecs. (g), (h). Pub. L. 96-365, § 106(4), added subsecs. (g) and (h).

Subsec. (i). Pub. L. 96-365, § 107(b), added subsec. (i).

1964—Subsec. (a). Pub. L. 88-589 increased from 100 to 150 the number of counties into which the Federal crop insurance program may be extended.

1959—Subsec. (a). Pub. L. 86-131 struck out provision prohibiting Federal crop insurance in a county unless two hundred farms or one third of the farms normally producing the commodity apply for such insurance, excluding farms refused insurance on the basis of risk involved.

1957—Subsec. (f). Pub. L. 85-111 added subsec. (f).

1953—Subsec. (a). Act Aug. 13, 1953, authorized extension of Federal crop insurance program into an additional 100 counties, struck out commodity formula basis on which this expansion may take place, and provided an exception to the strict county limitation by providing that producers on farms situated in a local producing area bordering on a county with a crop insurance program may be included in that county's program.

1949—Subsec. (a). Act Aug. 25, 1949, § 1, provided for an annual increase in number of counties in which insurance now offered by Corporation can be issued.

Subsec. (b). Act Aug. 25, 1949, § 2, struck out provision under which Corporation's administrative expenses are restricted, after the crop year 1949, to a sum equivalent to 25 percent of the premiums collected in the preceding year.

Subsec. (c). Act Aug. 25, 1949, § 3, struck out provision which required prorating of losses beginning with crop year 1950.

1947—Subsec. (a). Act Aug. 1, 1947, § 1, amended subsec. (a) generally, and among other changes, provided for crop insurance, commencing with crops planted for harvest in 1948, made provision for reinsurance, enumerated specific crops insurable in 1948, provided for additional crops in subsequent years, limited number of counties in which certain crops were insurable, increased required number of applications in any one county from fifty to two hundred, and authorized Board to refuse insurance in any county where agricultural commodity to be insured constitutes an unimportant part of total agricultural income.

Subsec. (b). Act Aug. 1, 1947, § 2, inserted proviso relating to basis for premiums.

Subsec. (c). Act Aug. 1, 1947, § 3, inserted first proviso relating to determination of price basis for indemnities.

1944—Subsec. (a). Act Dec. 23, 1944, § 1, amended subsec. (a) generally to provide insurance against loss not only for wheat and cotton crops but also for flax, corn, oats, etc.

Subsec. (b). Act Dec. 23, 1944, § 2, provided for the establishment of such rates as would cover crop losses and build up a reasonable reserve, and inserted proviso.

Subsec. (c). Act Dec. 23, 1944, § 3, inserted first proviso, and inserted "and received" after "mailed to" in last proviso.

1941—Subsec. (a). Act June 21, 1941, §§ 3-5, struck out comma after "1939" and inserted "and with the cotton crop planted for harvest in 1942", and substituted "producers of the agricultural commodity against loss in yields of the agricultural commodity" for "producers of wheat against loss in yields of wheat" in the first

sentence, and “the agricultural commodity” for “wheat” in the third sentence, respectively.

Subsecs. (b), (c). Act June 21, 1941, §6, substituted “the agricultural commodity” for “wheat” wherever appearing.

Subsec. (d). Act June 21, 1941, §§6, 10, substituted “the agricultural commodity” for “wheat” wherever appearing, and inserted second sentence.

Subsec. (e). Act June 21, 1941, §7, added subsec. (e).

1938—Subsec. (a). Act June 22, 1938, inserted second proviso in first sentence.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by sections 101(a)–(c), 102(a), 103(a), (b)(1), (c), 104, 105(b), and 162 of Pub. L. 106-224 applicable beginning with the 2001 crop of an agricultural commodity, amendment by sections 101(d), 102(b), and 103(d) of Pub. L. 106-224 applicable beginning with the 2001 reinsurance year, amendment by sections 101(e), (f), 105(a), 106, 107, 123, 124(a), 144, 145, and 161 of Pub. L. 106-224 effective June 20, 2000, and amendment by section 146 of Pub. L. 106-224 effective Oct. 1, 2000, see section 171 of Pub. L. 106-224, set out as a note under section 1501 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-185 effective July 1, 1998, see section 537 of Pub. L. 105-185, set out as a note under section 1506 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103-354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective Oct. 1, 1993, see section 1403(c) of Pub. L. 103-66, set out as a note under section 1506 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 105 of Pub. L. 96-365 provided that the amendment made by that section is effective with respect to 1981 and subsequent crops.

Section 106 of Pub. L. 96-365 provided that the amendment made by that section is effective with respect to 1981 and subsequent crops.

Amendment by section 107(b) of Pub. L. 96-365 effective Sept. 26, 1980, see section 112 of Pub. L. 96-365, set out as a note under section 1504 of this title.

TRANSFER OF FUNCTIONS

Administration of program of Federal Crop Insurance Corporation transferred to Secretary of Agriculture by 1946 Reorg. Plan No. 3, §501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See note set out under section 1503 of this title.

Wartime consolidation of Federal Crop Insurance Corporation into Agricultural Conservation and Adjustment Administration, see note set out under section 1503 of this title.

EXPANSION OF CROP INSURANCE PILOTS

Pub. L. 106-113, div. B, §1000(a)(5) [title II, §205(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-294, provided that: “In the case of any pilot program offered under the Federal Crop Insurance Act [7 U.S.C. 1501 et seq.] that

was approved by the Board of Directors of the Federal Crop Insurance Corporation on or before September 30, 1999, the pilot program may be offered on a regional, whole State, or national basis for the 2000 and 2001 crop years notwithstanding section 553 of title 5, United States Code.”

LIMITATION ON FEE FOR CATASTROPHIC RISK PROTECTION

Pub. L. 105-277, div. A, §101(a) [title VII, §748], Oct. 21, 1998, 112 Stat. 2681, 2681-32, as amended by Pub. L. 106-224, title I, §103(b)(2), June 20, 2000, 114 Stat. 364, which directed that, for the 1999 reinsurance and subsequent reinsurance years, no producer was to pay more than \$100 per crop per county as an administrative fee for catastrophic risk protection under former subsec. (b)(5)(A) of this section, was repealed by Pub. L. 110-234, title XII, §12006(b), May 22, 2008, 122 Stat. 1374, and Pub. L. 110-246, §4(a), title XII, §12006(b), June 18, 2008, 122 Stat. 1664, 2136.

[Pub. L. 110-234 and Pub. L. 110-246 repealed Pub. L. 105-277, div. A, §101(a) [title VII, §748], formerly set out above. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.]

SPECIAL RULE FOR 1996 CROP YEAR REGARDING CATASTROPHIC RISK PROTECTION INSURANCE

Section 193(a)(3) of Pub. L. 104-127 provided that:

“(A) EFFECTIVE PERIOD.—This paragraph shall apply only to the 1996 crop year.

“(B) AVAILABILITY.—During a period of not less than 2 weeks, but not more than 4 weeks, beginning on the date of enactment of this title [Apr. 4, 1996], the Secretary shall provide producers with an opportunity to obtain catastrophic risk protection insurance under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) for a spring-planted crop, and limited additional coverage for malting barley under the Malting Barley Price and Quality Endorsement. The Federal Crop Insurance Corporation may attach such limitations and restrictions on obtaining insurance during this period as the Corporation considers necessary to maintain the actuarial soundness of the crop insurance program.

“(C) ATTACHMENT.—Insurance coverage under any policy obtained under this paragraph during the extended sales period shall not attach until 10 days after the application.

“(D) CANCELLATION.—During the extended period, a producer may cancel a catastrophic risk protection policy if—

“(i) the policy is a continuation of a policy that was obtained for a previous crop year; and

“(ii) the cancellation request is made before the acreage reporting date for the policy for the 1996 crop year.”

CROP INSURANCE PILOT PROGRAM

Section 193(b) of Pub. L. 104-127 provided that:

“(1) COVERAGE.—The Secretary of Agriculture shall develop and administer a pilot project for crop insurance coverage that indemnifies crop losses due to a natural disaster such as insect infestation or disease.

“(2) ACTUARIAL SOUNDNESS.—A pilot project under this paragraph shall be actuarially sound, as determined by the Secretary and administered at no net cost.

“(3) DURATION.—A pilot project under this paragraph shall be of two years’ duration.”

PREVENTED PLANTING

Section 116 of Pub. L. 103-354 provided that:

“(a) IN GENERAL.—Effective for the 1994 crop year, a producer described in subsection (b) shall receive compensation under the prevented planting coverage policy provision described in subsection (b)(1) by—

“(1) obtaining from the Secretary of Agriculture the applicable amount that is payable under the conserving use program described in subsection (b)(4); and

“(2) obtaining from the Federal Crop Insurance Corporation the amount that is equal to the difference between—

“(A) the amount that is payable under the conserving use program; and

“(B) the amount that is payable under the prevented planting coverage policy.

“(b) ELIGIBLE PRODUCERS.—Subsection (a) shall apply to a producer who—

“(1) purchased a prevented planting policy for the 1994 crop year from the Federal Crop Insurance Corporation prior to the spring sales closing date for the 1994 crop year;

“(2) is unable to plant a crop due to major, widespread flooding in the Midwest, or excessive ground moisture, that occurred prior to the spring sales closing date for the 1994 crop year;

“(3) had a reasonable expectation of planting a crop on the prevented planting acreage for the 1994 crop year; and

“(4) participates in a conserving use program established for the 1994 crop of wheat, feed grains, upland cotton, or rice established under section 107B(c)(1)(E), 105B(c)(1)(E), 103B(c)(1)(D), or 101B(c)(1)(D), respectively, of the Agricultural Act of 1949 ([former] 7 U.S.C. 1445b-3a(c)(1)(E), 1444f(c)(1)(E), 1444-2(c)(1)(D), or 1441-2(c)(1)(D)).

“(c) OILSEED PREVENTED PLANTING PAYMENTS.—

“(1) IN GENERAL.—Effective for the 1994 crop year, a producer of a crop of oilseeds (as defined in section 205(a) of the Agricultural Act of 1949 ([former] 7 U.S.C. 1446f(a))) shall receive a prevented planting payment for the crop if the requirements of paragraphs (1), (2), and (3) of subsection (b) are satisfied.

“(2) SOURCE OF PAYMENT.—The total amount of payments required under this subsection shall be made by the Federal Crop Insurance Corporation.

“(d) PAYMENT.—A payment under this section may not be made before October 1, 1994.”

REPORT ON IMPROVING DISSEMINATION OF CROP INSURANCE INFORMATION

Section 117 of Pub. L. 103-354 provided that: “Not later than 180 days after the date of enactment of this Act [Oct. 13, 1994] and at the end of each of the 2 1-year periods thereafter, the Federal Crop Insurance Corporation shall submit a report to Congress containing a plan to implement a sound program for producer education regarding the crop insurance program and for the dissemination of crop insurance information to producers, as required by section 508(a)(5) of the Federal Crop Insurance Act [7 U.S.C. 1508(a)(5)] (as amended by section 106).”

FEDERAL CROP INSURANCE COMMISSION

Pub. L. 100-546, Oct. 28, 1988, 102 Stat. 2730, provided for establishment, membership, compensation, etc., of Commission for the Improvement of the Federal Crop Insurance Program, directed Commission to study and determine why participation in program had not reached levels anticipated when Federal Crop Insurance Act of 1980 was enacted, to identify States and commodities to which lack of participation in program is most serious, and to prepare findings and recommendations setting forth means by which participation in program could be increased and natural protection for producers of agricultural commodities could be improved, required Commission to submit an interim report to Congressional committees and Secretary of Agriculture, not later than Apr. 1, 1989, containing findings and recommendations for immediate administrative improvement in program, aimed at improving program in 1990 sales year, and a final report, not later than July 1, 1989, to include Commission's findings and recommendation and a status report on improvement of program, authorized Commission to continue to monitor program and to submit monthly reports beginning July 1, 1989, and ending Dec. 31, 1990, and terminated Commission on Dec. 31, 1990.

LOSS ADJUSTMENT OBLIGATIONS

Pub. L. 100-203, title I, §1507, Dec. 22, 1987, 101 Stat. 1330-29, provided that: “It is the sense of Congress that, in carrying out the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation—

“(1) should not be required to assume 100 percent of all loss adjustments in the Federal crop insurance program; and

“(2) should assume and perform the loss adjustment obligations of a reinsured company if the Corporation determines that such company's loss adjustment performance and practices are not carried out in accordance with the applicable reinsurance agreement.”

NOTICE TO PRODUCERS OF RIGHT TO ELECT SUBSIDIZED CROP INSURANCE OR DISASTER PAYMENTS ON 1981 CROPS

Section 202 of Pub. L. 96-365 provided that: “The Secretary of Agriculture, after consultation with the Board of Directors of the Federal Crop Insurance Corporation, shall, at least sixty days prior to the beginning of the planting of the 1981 crops of wheat, feed grains, upland cotton, and rice, or thirty days after the date of enactment of this Act [Sept. 26, 1980], whichever is the later, notify producers of those commodities of their right to elect, with respect to the 1981 crop, between (1) declaring the farm acreage of the respective commodity eligible for disaster payments under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], or (2) covering such farm acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act [subsec. (b)(3) or (e) of this section]. Such notice shall include a statement of the percent of crop insurance premium that will be paid by the Corporation.”

STUDY OF ALTERNATIVE ALL-RISK, ALL-CROP INSURANCE PROGRAMS

Pub. L. 95-181, §2, Nov. 15, 1977, 91 Stat. 1373, provided that: “The Secretary of Agriculture shall undertake an immediate study of alternative programs which could be established for an all-risk, all-crop insurance to help provide protection to those suffering crop losses in floods, droughts, and other natural disasters, including alternative methods of administration, Federal assistance, reinsurance, rate setting and private insurance industry involvement, as well as variations on the existing crop insurance program, and such other matters as he determines are relevant, and shall report his findings and recommendations to the President for transmission to the Congress by March 1, 1978. The Secretary shall consult with the Secretary of Housing and Urban Development on behalf of the Federal Insurance Administration; the Secretary of Treasury and representatives of the private insurance industry in the course of the study and shall identify the views of each in forwarding his findings and recommendations to the President. Such sums, not exceeding \$200,000, as are appropriated for fiscal year 1978 under section 504 of the Federal Crop Insurance Act, as amended [section 1504 of this title], may be utilized to conduct such a study.”

VALIDITY AND TERMINATION OF PRIOR INSURANCE CONTRACTS

Section 5 of act Aug. 1, 1947, provided: “Nothing in this Act [amending sections 1502, 1505 (a to d), 1506(d), 1507(d), and 1508 (a to c) of this title] shall be construed to affect the validity of any insurance contract entered into prior to the enactment of this Act [Aug. 1, 1947] insofar as such contract covers the 1947 crop year. Any such contract which purports to cover a crop in the 1948 or any subsequent crop year in any county in which insurance on such crop will be discontinued pursuant to this Act is hereby terminated at the end of the 1947 crop year.”

§ 1508a. Double insurance and prevented planting

(a) Definitions

In this section:

(1) First crop

The term “first crop” means the first crop of the first agricultural commodity planted for harvest, or prevented from being planted, on specific acreage during a crop year and insured under this subchapter.

(2) Second crop

The term “second crop” means a second crop of the same agricultural commodity as the first crop, or a crop of a different agricultural commodity following the first crop, planted on the same acreage as the first crop for harvest in the same crop year, except the term does not include a replanted crop.

(3) Replanted crop

The term “replanted crop” means any agricultural commodity replanted on the same acreage as the first crop for harvest in the same crop year if the replanting is required by the terms of the policy of insurance covering the first crop.

(b) Double insurance

(1) Options on loss to first crop

Except as provided in subsections (d) and (e) of this section, if a first crop insured under this subchapter in a crop year has a total or partial insurable loss, the producer of the first crop may elect one of the following options:

(A) No second crop planted

The producer may—

(i) elect to not plant a second crop on the same acreage for harvest in the same crop year; and

(ii) collect an indemnity payment that is equal to 100 percent of the insurable loss for the first crop.

(B) Second crop planted

The producer may—

(i) plant a second crop on the same acreage for harvest in the same crop year; and

(ii) collect an indemnity payment established by the Corporation for the first crop, but not to exceed 35 percent of the insurable loss for the first crop.

(2) Effect of no loss to second crop

If a producer makes an election under paragraph (1)(B) and the producer does not suffer an insurable loss to the second crop, the producer may collect an indemnity payment for the first crop that is equal to—

(A) 100 percent of the insurable loss for the first crop; less

(B) the amount previously collected under paragraph (1)(B)(ii).

(3) Premium for first crop if second crop planted

(A) Initial premium

If a producer makes an election under paragraph (1)(B), the producer shall be responsible for a premium for the first crop

that is commensurate with the indemnity paid under paragraph (1)(B)(ii). The Corporation shall adjust the total premium for the first crop to reflect the reduced indemnity.

(B) Effect of no loss to second crop

If the producer makes an election under paragraph (1)(B) and the producer does not suffer an insurable loss to the second crop, the producer shall be responsible for a premium for the first crop that is equal to—

(i) the full premium owed by the producer for the first crop; less

(ii) the amount of premium previously paid under subparagraph (A).

(c) Prevented planting coverage

(1) Options on loss to first crop

Except as provided in subsections (d) and (e) of this section, if a first crop insured under this subchapter in a crop year is prevented from being planted, the producer of the first crop may elect one of the following options:

(A) No second crop planted

The producer may—

(i) elect to not plant a second crop on the same acreage for harvest in the same crop year; and

(ii) subject to paragraph (4), collect an indemnity payment that is equal to 100 percent of the prevented planting guarantee for the acreage for the first crop.

(B) Second crop planted

The producer may—

(i) plant a second crop on the same acreage for harvest in the same crop year; and

(ii) subject to paragraphs (4) and (5), collect an indemnity payment established by the Corporation for the first crop, but not to exceed 35 percent of the prevented planting guarantee for the acreage for the first crop.

(2) Premium for first crop if second planted

If the producer makes an election under paragraph (1)(B), the producer shall pay a premium for the first crop that is commensurate with the indemnity paid under paragraph (1)(B)(ii). The Corporation shall adjust the total premium for the first crop to reflect the reduced indemnity.

(3) Effect on actual production history

Except in the case of double cropping described in subsection (d) of this section, if a producer make an election under paragraph (1)(B) for a crop year, the Corporation shall assign the producer a recorded yield for that crop year for the first crop equal to 60 percent of the producer’s actual production history for the agricultural commodity involved, for purposes of determining the producer’s actual production history for subsequent crop years.

(4) Area conditions required for payment

The Corporation shall limit prevented planting payments for producers to those situations in which other producers, in the area where a first crop is prevented from being planted is located, are also generally affected by the conditions that prevented the first crop from being planted.