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**PART I—FEDERAL CROP INSURANCE AND NONINSURED  
CROP ASSISTANCE**

[As Amended Through Public Law 109–97, Nov. 10, 2005]

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November 16, 2005

## 1. FEDERAL CROP INSURANCE ACT

[The Federal Crop Insurance Act is title V of the Agricultural Act of 1938, Public Law 430, 75th Congress, 52 Stat. 31, Feb. 16, 1938. Consequently, references within the Federal Crop Insurance Act are addressed to “this title” rather than to “this Act”.]

### SHORT TITLE AND APPLICATION OF OTHER PROVISIONS

SEC. 501. [7 U.S.C. 1501] This title may be cited as the “Federal Crop Insurance Act”. Except as otherwise expressly provided the provisions in titles I to IV, inclusive, shall not apply with respect to this title, and the term “Act” wherever it appears in such titles shall not be construed to include this title.

### SEC. 502. [7 U.S.C. 1502] PURPOSE AND DEFINITIONS.

(a) PURPOSE.—It is the purpose of this title to promote the national welfare by improving the economic stability of agriculture through a sound system of crop insurance and providing the means for the research and experience helpful in devising and establishing such insurance.

(b) DEFINITIONS.—As used in this title:

(1) ADDITIONAL COVERAGE.—The term “additional coverage” means a plan of crop insurance coverage providing a level of coverage greater than the level available under catastrophic risk protection.

(2) APPROVED INSURANCE PROVIDER.—The term “approved insurance provider” means a private insurance provider that has been approved by the Corporation to provide insurance coverage to producers participating in the Federal crop insurance program established under this title.

(3) BOARD.—The term “Board” means the Board of Directors of the Corporation established under section 505(a).

(4) CORPORATION.—The term “Corporation” means the Federal Crop Insurance Corporation established under section 503.

(5) DEPARTMENT.—The term “Department” means the United States Department of Agriculture.

(6) LOSS RATIO.—The term “loss ratio” means the ratio of all sums paid by the Corporation as indemnities under any eligible crop insurance policy to that portion of the premium designated for anticipated losses and a reasonable reserve, other than that portion of the premium designated for operating and administrative expenses.

(7) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(8) TRANSITIONAL YIELD.—The term “transitional yield” means the maximum average production per acre or equivalent measure that is assigned to acreage for a crop year by the Corporation in accordance with the regulations of the Corporation whenever the producer fails—

(A) to certify that acceptable documentation of production and acreage for the crop year is in the possession of the producer; or

(B) to present the acceptable documentation on the demand of the Corporation or an insurance company reinsured by the Corporation.

(c) PROTECTION OF CONFIDENTIAL INFORMATION.—

(1) GENERAL PROHIBITION AGAINST DISCLOSURE.—Except as provided in paragraph (2), the Secretary, any other officer or employee of the Department or an agency thereof, an approved insurance provider and its employees and contractors, and any other person may not disclose to the public information furnished by a producer under this title.

(2) AUTHORIZED DISCLOSURE.—

(A) DISCLOSURE IN STATISTICAL OR AGGREGATE FORM.—Information described in paragraph (1) may be disclosed to the public if the information has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

(B) CONSENT OF PRODUCER.—A producer may consent to the disclosure of information described in paragraph (1). The participation of the producer in, and the receipt of any benefit by the producer under, this title or any other program administered by the Secretary may not be conditioned on the producer providing consent under this paragraph.

(3) VIOLATIONS; PENALTIES.—Section 1770(c) of the Food Security Act of 1985 (7 U.S.C. 2276(c)) shall apply with respect to the release of information collected in any manner or for any purpose prohibited by this subsection.

(d) RELATION TO OTHER LAWS.—

(1) TERMS AND CONDITIONS OF POLICIES AND PLANS.—The terms and conditions of any policy or plan of insurance offered under this title that is reinsured by the Corporation shall not—

(A) be subject to the jurisdiction of the Commodity Futures Trading Commission or the Securities and Exchange Commission; or

(B) be considered to be accounts, agreements (including any transaction that is of the character of, or is commonly known to the trade as, an “option”, “privilege”, “indemnity”, “bid”, “offer”, “put”, “call”, “advance guaranty”, or “decline guaranty”), or transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market for the purposes of the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(2) EFFECT ON CFTC AND COMMODITY EXCHANGE ACT.—Nothing in this title affects the jurisdiction of the Commodity Futures Trading Commission or the applicability of the Com-

modity Exchange Act (7 U.S.C. 1 et seq.) to any transaction conducted on a contract market under that Act by an approved insurance provider to offset the approved insurance provider's risk under a plan or policy of insurance under this title.

CREATION OF FEDERAL CROP INSURANCE CORPORATION

SEC. 503. [7 U.S.C. 1503] To carry out the purposes of this title, there is hereby created as an agency of and within the Department a body corporate with the name "Federal Crop Insurance Corporation". The principal office of the Corporation shall be located in the District of Columbia, but there may be established agencies or branch offices elsewhere in the United States under rules and regulations prescribed by the Board.

CAPITAL STOCK

SEC. 504.<sup>1</sup> [7 U.S.C. 1504] (a) The Corporation shall have a capital stock of \$500,000,000 subscribed by the United States of America, payment for which shall, with the approval of the Secretary, be subject to call in whole or in part by the Board.

(b) There is hereby authorized to be appropriated such sums as are necessary for the purpose of subscribing to the capital stock of the Corporation.

(c) Receipts for payments by the United States of America for or on account of such stock shall be issued by the Corporation to the Secretary of the Treasury and shall be evidence of the stock ownership by the United States of America.

(d) Within thirty days after the date of enactment of the Federal Crop Insurance Act of 1980, the Secretary of the Treasury shall cancel, without consideration, receipts for payments for or on account of the stock of the Corporation outstanding on such date of enactment and such receipts shall cease to be liabilities of the Corporation.

SEC. 505. [7 U.S.C. 1505] MANAGEMENT OF CORPORATION.

(a) BOARD OF DIRECTORS.—

(1) ESTABLISHMENT.—The management of the Corporation shall be vested in a Board of Directors subject to the general supervision of the Secretary.

(2) COMPOSITION.—The Board shall consist of only the following members:

(A) The manager of the Corporation, who shall serve as a nonvoting ex officio member.

(B) The Under Secretary of Agriculture responsible for the Federal crop insurance program.

(C) One additional Under Secretary of Agriculture (as designated by the Secretary).

(D) The Chief Economist of the Department of Agriculture.

<sup>1</sup>The Capital stock of the Corporation was increased from \$100,000,000 to \$200,000,000 by P.L. 95-181, 91 Stat. 1373, Nov. 15, 1977, and increased again to \$500,000,000 by P.L. 96-365, 94 Stat. 1312, Sept. 26, 1980. The Act of June 27, 1940 (54 Stat. 640) provides that "The payment for capital stock in the Federal Crop Insurance Corporation shall be effected by transfer of funds on the books of the Treasury Department to the credit of the Corporation."

(E) One person experienced in the crop insurance business.

(F) One person experienced in reinsurance or the regulation of insurance.

(G) Four active producers who are policy holders, are from different geographic areas of the United States, and represent a cross-section of agricultural commodities grown in the United States, including at least one specialty crop producer.

(3) APPOINTMENT OF PRIVATE SECTOR MEMBERS.—The members of the Board described in subparagraphs (E), (F), and (G) of paragraph (2)—

(A) shall be appointed by, and hold office at the pleasure of, the Secretary;

(B) shall not be otherwise employed by the Federal Government;

(C) shall be appointed to staggered 4-year terms, as determined by the Secretary; and

(D) shall serve not more than two consecutive terms.

(4) CHAIRPERSON.—The Board shall select a member of the Board to serve as Chairperson.

(b) Vacancies in the Board so long as there shall be four members in office shall not impair the powers of the Board to execute the functions of the Corporation, and four of the members in office shall constitute a quorum for the transaction of the business of the Board.

(c) The Directors of the Corporation who are employed in the Department shall receive no additional compensation for their services as such Directors, but may be allowed necessary traveling and subsistence expenses when engaged in business of the Corporation, outside of the District of Columbia. The Directors of the Corporation who are not employed by the Federal Government shall be paid such compensation for their services as Directors as the Secretary shall determine, but such compensation shall not exceed the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5 of the United States Code when actually employed, and actual necessary traveling and subsistence expenses, or a per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of title 5 of the United States Code for persons in Government service employed intermittently, when on the business of the Corporation away from their homes or regular places of business.

(d) The manager of the Corporation shall be its chief executive officer, with such power and authority as may be conferred by the Board. The manager shall be appointed by, and hold office at the pleasure of, the Secretary.

(e) EXPERT REVIEW OF POLICIES, PLANS OF INSURANCE, AND RELATED MATERIAL.—

(1) REVIEW BY EXPERTS.—The Board shall establish procedures under which any policy or plan of insurance, as well as any related material or modification of such a policy or plan of insurance, to be offered under this title shall be subject to independent reviews by persons experienced as actuaries and in underwriting, as determined by the Board.

(2) REVIEW OF CORPORATION POLICIES AND PLANS.—Except as provided in paragraph (3), the Board shall contract with at least five persons to each conduct a review of the policy or plan of insurance, of whom—

(A) not more than one person may be employed by the Federal Government; and

(B) at least one person must be designated by approved insurance providers pursuant to procedures determined by the Board.

(3) REVIEW OF PRIVATE SUBMISSIONS.—If the reviews under paragraph (1) cover a policy or plan of insurance, or any related material or modification of a policy or plan of insurance, submitted under section 508(h)—

(A) the Board shall contract with at least five persons to each conduct a review of the policy or plan of insurance, of whom—

(i) not more than one person may be employed by the Federal Government; and

(ii) none may be employed by an approved insurance provider; and

(B) each review must be completed and submitted to the Board not later than 30 days prior to the end of the 120-day period described in section 508(h)(4)(D).

(4) CONSIDERATION OF REVIEWS.—The Board shall include reviews conducted under this subsection as part of the consideration of any policy or plan of insurance, or any related material or modification of a policy or plan of insurance, proposed to be offered under this title.

(5) FUNDING OF REVIEWS.—Each contract to conduct a review under this subsection shall be funded from amounts made available under section 516(b)(2)(A)(ii).

(6) RELATION TO OTHER AUTHORITY.—The contract authority provided in this subsection is in addition to any other contracting authority that may be exercised by the Board under section 506(l).

**SEC. 506. [7 U.S.C. 1506] GENERAL POWERS.**

(a) SUCCESSION.—The Corporation shall have succession in its corporate name.

(b) CORPORATE SEAL.—The Corporation may adopt, alter, and use a corporate seal, which shall be judicially noticed.

(c) PROPERTY.—The Corporation may purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business and may dispose of such property held by it upon such terms as it deems appropriate.

(d) SUIT.—The Corporation, subject to the provisions of section 508(j), may sue and be sued in its corporate name, but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property. The district courts of the United States, including the district courts of the District of Columbia and of any territory or possession, shall have exclusive original jurisdiction, without regard to the amount in controversy, of all suits brought by or against the Corporation. The Corporation may intervene in any court in any suit, action, or

proceeding in which it has an interest. Any suit against the Corporation shall be brought in the District of Columbia, or in the district wherein the plaintiff resides or is engaged in business.

(e) **BYLAWS AND REGULATIONS.**—The Corporation may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers granted to it by law may be exercised and enjoyed.

(f) **MAILS.**—The Corporation shall be entitled to the use of the United States mails in the same manner as the other executive agencies of Government.

(g) **ASSISTANCE.**—The Corporation, with the consent of any board, commission, independent establishment, or executive department of the Government, including any field service thereof, may avail itself of the use of information, services, facilities, officials, and employees thereof in carrying out the provisions of this title.

(h) **COLLECTION AND SHARING OF INFORMATION.**—

(1) **SURVEYS AND INVESTIGATIONS.**—The Corporation may conduct surveys and investigations relating to crop insurance, agriculture-related risks and losses, and other issues related to carrying out this title.

(2) **DATA COLLECTION.**—The Corporation shall assemble data for the purpose of establishing sound actuarial bases for insurance on agricultural commodities.

(3) **SHARING OF RECORDS.**—Notwithstanding section 502(c), records submitted in accordance with this title and section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333) shall be available to agencies and local offices of the Department, appropriate State and Federal agencies and divisions, and approved insurance providers for use in carrying out this title, such section 196, and other agricultural programs.

(i) **EXPENDITURES.**—The Corporation shall determine the character and necessity for its expenditures under this title and the manner in which they shall be incurred, allowed, and paid, without regard to the provisions of any other laws governing the expenditure of public funds and such determinations shall be final and conclusive upon all other officers of the Government.

(j) **SETTLING CLAIMS.**—The Corporation shall have the authority to make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation.

(k) **OTHER POWERS.**—The Corporation shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation and all such incidental powers as are customary in corporations generally.

(l) **CONTRACTS.**—The Corporation may enter into and carry out contracts or agreements, and issue regulations, necessary in the conduct of its business, as determined by the Board. State and local laws or rules shall not apply to contracts, agreements, or regulations of the Corporation or the parties thereto to the extent that such contracts, agreements, or regulations provide that such laws or rules shall not apply, or to the extent that such laws or rules are inconsistent with such contracts, agreements, or regulations.

(m) **SUBMISSION OF CERTAIN INFORMATION.**—



(1) SOCIAL SECURITY ACCOUNT AND EMPLOYER IDENTIFICATION NUMBERS.—The Corporation shall require, as a condition of eligibility for participation in the multiple peril crop insurance program, submission of social security account numbers, subject to the requirements of section 205(c)(2)(C)(iii)<sup>1</sup> of the Social Security Act, and employer identification numbers, subject to the requirements of section 6109(f) of the Internal Revenue Code of 1986.

(2) NOTIFICATION BY POLICYHOLDERS.—Each policyholder shall notify each individual or other entity that acquires or holds a substantial beneficial interest in such policyholder of the requirements and limitations under this title.

(3) IDENTIFICATION OF HOLDERS OF SUBSTANTIAL INTERESTS.—The Manager of the Corporation may require each policyholder to provide to the Manager, at such times and in such manner as prescribed by the Manager, the name of each individual that holds or acquires a substantial beneficial interest in the policyholder.

(4) DEFINITION.—For purposes of this subsection, the term “substantial beneficial interest” means not less than 5 percent of all beneficial interests in the policyholder.

(n) PENALTIES.—

(1) FALSE INFORMATION.—If a person willfully and intentionally provides any false or inaccurate information to the Corporation or to any insurer with respect to an insurance plan or policy under this title, the Corporation may, after notice and an opportunity for a hearing on the record—

(A) impose a civil fine of not to exceed \$10,000 on the person; and

(B) disqualify the person from purchasing catastrophic risk protection or receiving noninsured assistance for a period of not to exceed 2 years, or from receiving any other benefit under this title for a period of not to exceed 10 years.

(2) ASSESSMENT OF PENALTY.—In assessing penalties under this subsection, the Corporation shall consider the gravity of the violation.

(o) ACTUARIAL SOUNDNESS.—

(1) PROJECTED LOSS RATIO AS OF OCTOBER 1, 1995.—The Corporation shall take such actions as are necessary to improve the actuarial soundness of Federal multiperil crop insurance coverage made available under this title to achieve, on and after October 1, 1995, an overall projected loss ratio of not greater than 1.1, including—

(A) instituting appropriate requirements for documentation of the actual production history of insured producers to establish recorded or appraised yields for Federal crop insurance coverage that more accurately reflect the associated actuarial risk, except that the Corporation may not carry out this paragraph in a manner that would pre-

<sup>1</sup> Clause (iii) of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) was redesignated as clause (iv) by section 321(a)(9) of Public Law 103-296 (108 Stat. 1536).

vent beginning farmers (as defined by the Secretary) from obtaining Federal crop insurance;

(B) establishing in counties, to the extent practicable, a crop insurance option based on area yields in a manner that allows an insured producer to qualify for an indemnity if a loss has occurred in a specified area in which the farm of the insured producer is located;

(C) establishing a database that contains the social security account and employee identification numbers of participating producers, agents, and loss adjusters and using the numbers to identify insured producers, agents, and loss adjusters who are high risk for actuarial purposes and insured producers who have not documented at least 4 years of production history, to assess the performance of insurance providers, and for other purposes permitted by law; and

(D) taking any other measures authorized by law to improve the actuarial soundness of the Federal crop insurance program while maintaining fairness and effective coverage for agricultural producers.

(2) PROJECTED LOSS RATIO AS OF OCTOBER 1, 1998.—The Corporation shall take such actions, including the establishment of adequate premiums, as are necessary to improve the actuarial soundness of Federal multiperil crop insurance made available under this title to achieve, on and after October 1, 1998, an overall projected loss ratio of not greater than 1.075.

(3) NONSTANDARD CLASSIFICATION SYSTEM.—To the extent that the Corporation uses the nonstandard classification system, the Corporation shall apply the system to all insured producers in a fair and consistent manner.

(p) REGULATIONS.—The Secretary and the Corporation are each authorized to issue such regulations as are necessary to carry out this title.

(q) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased by the Corporation using funds made available to the Corporation should be American-made.

(2) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity for the purchase of equipment and products to carry out this title, the Corporation, to the greatest extent practicable, shall provide to the entity a notice describing the statement made in paragraph (1).

(r) PROCEDURES FOR RESPONDING TO CERTAIN INQUIRIES.—

(1) PROCEDURES REQUIRED.—The Corporation shall establish procedures under which the Corporation will provide a final agency determination in response to an inquiry regarding the interpretation by the Corporation of this title or any regulation issued under this title.

(2) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this subsection, the Corporation shall

issue regulations to implement this subsection. At a minimum, the regulations shall establish—

(A) the manner in which inquiries described in paragraph (1) are required to be submitted to the Corporation; and

(B) a reasonable maximum number of days within which the Corporation will respond to all inquiries.

(3) EFFECT OF FAILURE TO TIMELY RESPOND.—If the Corporation fails to respond to an inquiry in accordance with the procedures established pursuant to this subsection, the person requesting the interpretation of this title or regulation may assume the interpretation is correct for the applicable reinsurance year.

#### PERSONNEL

SEC. 507. [7 U.S.C. 1507] (a) The Secretary shall appoint such officers and employees as may be necessary for the transaction of the business of the Corporation pursuant to civil-service laws and regulations, fix their compensation in accordance with the provisions of the Classification Act of 1923<sup>1</sup>, as amended, define their authority and duties, and delegate to them such of the powers vested in the Corporation as the Secretary may determine appropriate. However, personnel paid by the hour, day, or month when actually employed may be appointed and their compensation fixed without regard to civil-service laws and regulations or the Classification Act of 1923, as amended.

(b) Insofar as applicable, the benefits of the Act entitled “An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes,” approved September 7, 1916, as amended (5 U.S.C. Chapter 8, subchapter I), shall extend to persons given employment under the provisions of this title, including the employees of the committees and associations referred to in subsection (c) of this section and the members of such committees.

(c) In the administration of this title, the Board shall, to the maximum extent possible, (1) establish or use committees or associations of producers and make payments to them to cover the administrative and program expenses, as determined by the Board, incurred by them in cooperating in carrying out this title, (2) contract with private insurance companies, private rating bureaus, and other organizations as appropriate for actuarial services, services relating to loss adjustment and rating plans of insurance, and other services to avoid duplication by the Federal Government of services that are or may readily be available in the private sector and to enable the Corporation to concentrate on regulating the provision of insurance under this title and evaluating new products and materials submitted under section 508(h) or 523, and reim-

<sup>1</sup> Section 1106(a) of the Classification Act of 1949 (63 Stat. 972) provides as follows: “Whenever reference is made in any other law to the Classification Act of 1923, as amended, such reference shall be held and considered to mean [the Classification Act of 1949]. Whenever reference is made in any other law to a grade of the Classification Act of 1923, as amended, such reference shall be held and considered to mean the corresponding grade shown in section 604 of the Classification Act of 1949.” The Classification Act of 1949 is now codified as Chapter 51 and subchapter III of Chapter 53 of title 5, United States Code. See section 7(b) of Public Law 89-554 (80 Stat. 631).

burse such companies for the administrative and program expenses, as determined by the Board, incurred by them, under terms and provisions and rates of compensation consistent with those generally prevailing in the insurance industry, and (3) encourage the sale of Federal crop insurance through licensed private insurance agents and brokers and give the insured the right to renew such insurance for successive terms through such agents and brokers, in which case the agent or broker shall be reasonably compensated from premiums paid by the insured for such sales and renewals recognizing the function of the agent or broker to provide continuing services while the insurance is in effect: *Provided*, That such compensation shall not be included in computations establishing premium rates. The Board shall provide such agents and brokers with indemnification, including costs and reasonable attorney fees, from the Corporation for errors or omissions on the part of the Corporation or its contractors for which the agent or broker is sued or held liable, except to the extent the agent or broker has caused the error or omission. Nothing in this subsection shall permit 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 508(h).

(d) The Secretary may allot to bureaus and offices of the Department or transfer to such other agencies of the State and Federal Governments as he may request to assist in carrying out this title any funds made available pursuant to the provisions of section 516.

(e) In carrying out the provisions of this title the Board may, in its discretion, utilize producer-owned and producer-controlled cooperative associations.

(f) The Board should use, to the maximum extent possible, the resources, data, boards, and the committees of (1) the Soil Conservation Service, in assisting the Board in the classification of land as to risk and production capability and in the development of acceptable conservation practices; (2) the Forest Service, in assisting the Board in the development of a timber insurance plan; (3) the Agricultural Stabilization and Conservation Service, in assisting the Board in the determination of individual producer yields and in serving as a local contact point for farmers where the Board deems necessary; and (4) other Federal agencies in any way the Board deems necessary in carrying out this title.

(g)(1) The Corporation shall establish a management-level position to be known as the Specialty Crops Coordinator.

(2) The Specialty Crops Coordinator shall have primary responsibility for addressing the needs of specialty crop producers, and for providing information and advice, in connection with the activities of the Corporation to improve and expand the insurance program for specialty crops. In carrying out this paragraph, the Specialty Crops Coordinator shall act as the liaison of the Corporation with representatives of specialty crop producers and assist the Corporation with the knowledge, expertise, and familiarity of the producers with risk management and production issues pertaining to specialty crops.

(3) The Specialty Crops Coordinator shall use information collected from Corporation field office directors in States in which spe-

cialty crops have a significant economic effect and from other sources, including the extension service and colleges and universities.

**SEC. 508. [7 U.S.C. 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)<sup>1</sup> **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.

<sup>1</sup>Section 760 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (P.L. 107-76; 115 Stat. 743), provides as follows:

SEC. 760. During fiscal year 2002, subsection (a)(2) of section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) shall be applied as though the term “and potatoes” read as follows: “, potatoes, and sweet potatoes”.

## (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 title (including a policy or plan of insurance approved by the Board under subsection (h)) 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 title 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 the date of enactment of this paragraph, 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 the date of enactment of this paragraph, and annually thereafter, the Corporation shall report to Congress on the progress and expected timetable for expanding crop insurance coverage under this title to new and specialty crops.

(C) ADDITION OF DIRECT SALE PERISHABLE CROPS.—Not later than 1 year after the date of enactment of this paragraph, 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 the date of enactment of this subparagraph, 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 title 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 title, 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 title 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.

(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).

(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 the date of enactment of this subparagraph, 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 policies 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)<sup>1</sup> BASIC FEE.—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.

(B) PAYMENT ON BEHALF OF PRODUCERS.—

(i) PAYMENT AUTHORIZED.—If State law permits a licensing fee or other payment to be paid by an insurance provider to a cooperative association or trade association and rebated to a producer with catastrophic risk protection or additional coverage, 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) TREATMENT OF LICENSING FEES.—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.

(iii) 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).

(iv) DELIVERY OF INSURANCE.—A policy or plan of insurance for which a payment is made under clause (i) shall be delivered by a licensed insurance agent or other approved insurance provider.

(v) ADDITIONAL COVERAGE ENCOURAGED.—A cooperative association or trade association, and any approved insurance provider with whom a licensing fee or other arrangement under this subparagraph is made, shall encourage producer members to purchase appropriate levels of additional coverage in order to meet the risk management needs of the member producers.

(vi) REPORT.—Not later than April 1, 2002, the Secretary shall submit to the Committee on Agri-

<sup>1</sup>Section 748 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105-277; 7 U.S.C. 1508 note), and amended by section 103(b)(2) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 114 Stat. 365), provides as follows: “Notwithstanding the provisions of section 508(b)(5)(A) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(5)(A)), for the 1999 reinsurance and subsequent reinsurance years, no producer shall pay more than \$100 per crop per county as an administrative fee for catastrophic risk protection under section 508(b)(5)(A) of the Act.” Although the limitation is contained in a one-year appropriations Act, because of the reference to “the 1999 reinsurance and subsequent reinsurance years”, the limitation continues to apply in fiscal year 2000 and subsequent fiscal years.

culture 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.

(C) TIME FOR PAYMENT.—The administrative fee required by this paragraph shall be paid by the producer on the date that 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 516(c), 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, for the conservation reserve program, or for any benefit described in section 371 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008f), 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) DEFINITION OF CROP OF ECONOMIC SIGNIFICANCE.—

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 to obtain catastrophic risk protection for the crop. On enactment 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 title then in effect, shall be eligible for the same benefits to which a producer would be entitled under comparable additional coverage under subsection (c).

(10) SIMPLIFICATION.—

(A) CATASTROPHIC RISK PROTECTION PLANS.—In developing and carrying out the policies and procedures for a catastrophic risk protection plan under this title, 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 title 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 8 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 title, the Corporation shall establish or approve the price level (referred to in this title 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.

(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) shall apply with respect to the collection and use of administrative fees under this paragraph.

(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 1.1 through September 30, 1998, and not greater than 1.075 after October 1, 1998.

(2) PREMIUM AMOUNTS.—The premium amounts for catastrophic risk protection under subsection (b) and additional coverage under subsection (c) 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 aver-

age 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.

(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) and the additional coverage provided under subsection (c), the Corporation shall pay a part of the premium in the amounts provided in accordance with this subsection.

(2) AMOUNT OF PAYMENT.—Subject to paragraph (4), 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).

(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) 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 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) 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 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 individual 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) 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.

(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) 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) 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) 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.

(G) Subject to subsection (c)(4), 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) 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.

(3) PREMIUM REDUCTION.—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.

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

(5) PREMIUM PAYMENT DISCLOSURE.—Each policy or plan of insurance under this title shall prominently indicate the dollar amount of the portion of the premium paid by the Corporation.

(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 title, 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) or additional coverage under subsection (c), a producer shall—

(A) provide annually records acceptable to the Secretary regarding crop acreage, acreage yields, and produc-

tion for each agricultural commodity insured under this title 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) or additional coverage under subsection (c).

(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 ac-

tual 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 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a)).

(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), 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 title, 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 insur-

ance 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:

(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, United States Code.

(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, United States Code, 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 title, 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 522, or conducted under section 523 (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) 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).

(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 522, or conducted under section 523 (other than a policy or plan of insurance applicable to livestock), and first approved by the Board after the date of the enactment of this subparagraph, 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) (consistent with subsection (c)(5), as in effect on the day before the date of the enactment of this subparagraph).

(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 title consistent with section 507(c)(2).

(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) 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, 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, including 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.

(k) **REINSURANCE.**—

(1) IN GENERAL.—Notwithstanding any other provision of this title, 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) 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 provided in subparagraph (B), 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.

(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 the date of enactment of this paragraph.

(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, United States Code.

(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.

(l) 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 title includes quality loss adjustment coverage, the coverage shall provide for a reduction in the quantity of production of the agricultural commodity considered 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 title.

(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 title, 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.

(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) 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 title or under the other program, but not both. A producer who purchases additional coverage under subsection (c) 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.).

**SEC. 508A. [7 U.S.C. 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 pre-

vented from being planted, on specific acreage during a crop year and insured under this title.

(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), if a first crop insured under this title 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), if a first crop insured under this title 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), 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.

(5) PLANTING DATE.—If a producer plants the second crop before the latest planting date established by the Corporation for the first crop, the Corporation shall not make a prevented planting payment with regard to the first crop.

(d) EXCEPTION FOR ESTABLISHED DOUBLE CROPPING PRACTICES.—A producer may receive full indemnity payments on two or more crops planted for harvest in the same crop year and insured under this title if each of the following conditions are met:

(1) There is an established practice of planting two or more crops for harvest in the same crop year in the area, as determined by the Corporation.

(2) An additional coverage policy or plan of insurance is offered with respect to the agricultural commodities planted on the same acreage for harvest in the same crop year in the area.

(3) The producer has a history of planting two or more crops for harvest in the same crop year or the applicable acreage has historically had two or more crops planted for harvest in the same crop year.

(4) The second or more crops are customarily planted after the first crop for harvest on the same acreage in the same year in the area.

(e) **SUBSEQUENT CROPS.**—Except in the case of double cropping described in subsection (d), if a producer elects to plant a crop (other than a replanted crop) subsequent to a second crop on the same acreage as the first crop and second crop for harvest in the same crop year, the producer shall not be eligible for insurance under this title, or noninsured crop assistance under section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333), for the subsequent crop.

#### INDEMNITIES EXEMPT FROM LEVY

**SEC. 509. [7 U.S.C. 1509]** Claims for indemnities under this title shall not be liable to attachment, levy, garnishment, or any other legal process before payment to the insured or to deduction on account of the indebtedness of the insured or the estate of the insured to the United States except claims of the United States or the Corporation arising under this title.

#### DEPOSIT OF FUNDS

**SEC. 510. [7 U.S.C. 1510]** All money of the Corporation not otherwise employed may be deposited with the Treasurer of the United States or in any bank approved by the Secretary of the Treasury, subject to withdrawal by the Corporation at any time, or with the approval of the Secretary of the Treasury may be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States. Subject to the approval of the Secretary of the Treasury, the Federal Reserve banks are hereby authorized and directed to act as depositories, custodians, and fiscal agents for the Corporation in the performance of its powers conferred by this title.

#### TAX EXEMPTION

**SEC. 511. [7 U.S.C. 1511]** The Corporation, including its franchise, its capital, reserves, and surplus, and its income and property, shall be exempt from all taxation now or hereafter imposed by the United States or by any Territory, dependency, or possession thereof, or by any State, county, municipality or local taxing authority. A contract of insurance of the Corporation, and a contract of insurance reinsured by the Corporation, shall be exempt from taxation imposed by any State, municipality, or local taxing authority.

#### FISCAL AGENCY OF GOVERNMENT

**SEC. 512. [7 U.S.C. 1512]** When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by said Secretary; and it may also

be employed as a financial agent of the Government; and it shall perform all such reasonable duties, as a depository of public money and financial agent of the Government, as may be required of it.

## ACCOUNTING BY CORPORATION

SEC. 513. [7 U.S.C. 1513] The Corporation shall at all times maintain complete and accurate books of account and shall file annually with the Secretary a complete report as to the business of the Corporation.

## CRIMES AND OFFENSES

SEC. 514. [7 U.S.C. 1514] [Subsections (a) through (e) repealed by 62 Stat. 859.] [See criminal provisions at the end of this Act.]

(f) The provisions of section 22 of title 41 shall not apply to any crop insurance agreements made under this title.

## SEC. 515. [7 U.S.C. 1515] PROGRAM COMPLIANCE AND INTEGRITY.

(a) PURPOSE.—

(1) IN GENERAL.—The purpose of this section is to improve compliance with, and the integrity of, the Federal crop insurance program.

(2) ROLE OF INSURANCE PROVIDERS.—The Corporation shall work actively with approved insurance providers to address program compliance and integrity issues as such issues develop.

(b) NOTIFICATION OF COMPLIANCE PROBLEMS.—

(1) NOTIFICATION OF ERRORS, OMISSIONS, AND FAILURES.—The Corporation shall notify in writing an approved insurance provider of any error, omission, or failure to follow Corporation regulations or procedures for which the approved insurance provider may be responsible and which may result in a debt owed the Corporation.

(2) TIME FOR NOTIFICATION.—Notice under paragraph (1) shall be given within 3 years after the end of the insurance period during which the error, omission, or failure is alleged to have occurred, except that this time limitation shall not apply with respect to an error, omission, or procedural violation that is willful or intentional.

(3) EFFECT OF FAILURE TO TIMELY NOTIFY.—Except as provided in paragraph (2), the failure to timely provide the notice required under this subsection shall relieve the approved insurance provider from the debt owed the Corporation.

(c) RECONCILING PRODUCER INFORMATION.—The Secretary shall develop and implement a coordinated plan for the Corporation and the Farm Service Agency to reconcile all relevant information received by the Corporation or the Farm Service Agency from a producer who obtains crop insurance coverage under this title. Beginning with the 2001 crop year, the Secretary shall require that the Corporation and the Farm Service Agency reconcile such producer-derived information on at least an annual basis in order to identify and address any discrepancies.

(d) IDENTIFICATION AND ELIMINATION OF FRAUD, WASTE, AND ABUSE.—

(1) FSA MONITORING PROGRAM.—The Secretary shall develop and implement a coordinated plan for the Farm Service Agency to assist the Corporation in the ongoing monitoring of programs carried out under this title, including—

(A) at the request of the Corporation or, subject to paragraph (2), on its own initiative if the Farm Service Agency has reason to suspect the existence of program fraud, waste, or abuse, conducting fact finding relative to allegations of program fraud, waste, or abuse;

(B) reporting to the Corporation, in writing in a timely manner, the results of any fact finding conducted pursuant to subparagraph (A), any allegation of fraud, waste, or abuse, and any identified program vulnerabilities; and

(C) assisting the Corporation and approved insurance providers in auditing a statistically appropriate number of claims made under any policy or plan of insurance under this title.

(2) FSA INQUIRY.—If, within five calendar days after receiving a report submitted under paragraph (1)(B), the Corporation does not provide a written response that describes the intended actions of the Corporation, the Farm Service Agency may conduct its own inquiry into the alleged program fraud, waste, or abuse on approval from the State director of the Farm Service Agency of the State in which the alleged fraud, waste, or abuse occurred. If as a result of the inquiry, the Farm Service Agency concludes further investigation is warranted, but the Corporation declines to proceed with the investigation, the Farm Service Agency may refer the matter to the Inspector General of the Department of Agriculture.

(3) USE OF FIELD INFRASTRUCTURE.—The plan required by paragraph (1) shall provide for the use of the field infrastructure of the Farm Service Agency. The Secretary shall ensure that relevant Farm Service Agency personnel are appropriately trained for any responsibilities assigned to the personnel under the plan. At a minimum, the personnel shall receive the same level of training and pass the same basic competency tests as required of loss adjusters of approved insurance providers.

(4) MAINTENANCE OF PROVIDER EFFORT.—

(A) IN GENERAL.—The activities of the Farm Service Agency under this subsection do not affect the responsibility of approved insurance providers to conduct any audits of claims or other program reviews required by the Corporation.

(B) NOTIFICATION OF PROVIDERS.—The Corporation shall notify the appropriate approved insurance provider of a report from the Farm Service Agency regarding alleged program fraud, waste, or abuse, unless the provider is suspected to be included in, or a party to, the alleged fraud, waste, or abuse.

(C) RESPONSE.—An approved insurance provider that receives a notice under subparagraph (B) shall submit a report to the Corporation, within an appropriate time period determined by the Secretary, describing the actions

taken by the provider to investigate the allegations of program fraud, waste, or abuse contained in the notice.

(5) CORPORATION RESPONSE TO PROVIDER REPORTS.—

(A) PROMPT RESPONSE.—If an approved insurance provider reports to the Corporation that the approved insurance provider suspects intentional misrepresentation, fraud, waste, or abuse, the Corporation shall make a determination and provide, within 90 calendar days after receiving the report, a written response that describes the intended actions of the Corporation.

(B) COOPERATIVE EFFORT.—The approved insurance provider and the Corporation shall take coordinated action in any case where misrepresentation, fraud, waste, or abuse is alleged.

(C) FAILURE TO TIMELY RESPOND.—If the Corporation fails to respond as required by subparagraph (A), an approved insurance provider may request the Farm Service Agency to assist the provider in an inquiry into the alleged program fraud, waste, or abuse.

(e) CONSULTATION WITH STATE FSA COMMITTEES.—The Secretary shall establish procedures under which the Corporation shall consult with the State committee of the Farm Service Agency for a State with respect to policies, plans of insurance, and material related to such policies or plans of insurance (including applicable sales closing dates, assigned yields, and transitional yields) offered in that State under this title.

(f) DETECTION OF DISPARATE PERFORMANCE.—

(1) COVERED ACTIVITIES.—The Secretary shall establish procedures under which the Corporation will be able to identify the following:

(A) Any agent engaged in the sale of coverage offered under this title where the loss claims associated with such sales by the agent are equal to or greater than 150 percent (or an appropriate percentage specified by the Corporation) of the mean for all loss claims associated with such sales by all other agents operating in the same area, as determined by the Corporation.

(B) Any person performing loss adjustment services relative to coverage offered under this title where such loss adjustments performed by the person result in accepted or denied claims equal to or greater than 150 percent (or an appropriate percentage specified by the Corporation) of the mean for accepted or denied claims (as applicable) for all other persons performing loss adjustment services in the same area, as determined by the Corporation.

(2) REVIEW.—

(A) REVIEW REQUIRED.—The Corporation shall conduct a review of any agent identified pursuant to paragraph (1)(A), and any person identified pursuant to paragraph (1)(B), to determine whether the higher loss claims associated with the agent or the higher number of accepted or denied claims (as applicable) associated with the person are the result of fraud, waste, or abuse.



(B) REMEDIAL ACTION.—The Corporation shall take appropriate remedial action with respect to any occurrence of fraud, waste, or abuse identified in a review conducted under this paragraph.

(3) OVERSIGHT OF AGENTS AND LOSS ADJUSTERS.—The Corporation shall develop procedures to require an annual review by an approved insurance provider of the performance of each agent and loss adjuster used by the approved insurance provider. The Corporation shall oversee the conduct of annual reviews and may consult with an approved insurance provider regarding any remedial action that is determined to be necessary as a result of the annual review of an agent or loss adjuster.

(g) SUBMISSION OF INFORMATION TO CORPORATION TO SUPPORT COMPLIANCE EFFORTS.—

(1) TYPES OF INFORMATION REQUIRED.—The Secretary shall establish procedures under which approved insurance providers shall submit to the Corporation the following information with respect to each policy or plan of insurance offered under this title:

(A) The name and identification number of the insured.

(B) The agricultural commodity to be insured.

(C) The elected coverage level, including the price election, of the insured.

(2) TIME FOR SUBMISSION.—The information required by paragraph (1) with respect to a policy or plan of insurance shall be submitted so as to ensure receipt by the Corporation not later than the Saturday of the week containing the calendar day that is 30 days after the applicable sales closing date for the crop to be insured.

(h) SANCTIONS FOR PROGRAM NONCOMPLIANCE AND FRAUD.—

(1) FALSE INFORMATION.—A producer, agent, loss adjuster, approved insurance provider, or other person that willfully and intentionally provides any false or inaccurate information to the Corporation or to an approved insurance provider with respect to a policy or plan of insurance under this title may, after notice and an opportunity for a hearing on the record, be subject to one or more of the sanctions described in paragraph (3).

(2) COMPLIANCE.—A person may, after notice and an opportunity for a hearing on the record, be subject to one or more of the sanctions described in paragraph (3) if the person is a producer, agent, loss adjuster, approved insurance provider, or other person that willfully and intentionally fails to comply with a requirement of the Corporation.

(3) AUTHORIZED SANCTIONS.—If the Secretary determines that a person covered by this subsection has committed a material violation under paragraph (1) or (2), the following sanctions may be imposed:

(A) CIVIL FINES.—A civil fine may be imposed for each violation in an amount not to exceed the greater of—

(i) the amount of the pecuniary gain obtained as a result of the false or inaccurate information provided

or the noncompliance with a requirement of this title;  
or

(ii) \$10,000.

(B) PRODUCER DISQUALIFICATION.—In the case of a violation committed by a producer, the producer may be disqualified for a period of up to 5 years from receiving any monetary or nonmonetary benefit provided under each of the following:

(i) This title.

(ii) The Agricultural Market Transition Act (7 U.S.C. 7201 et seq.), including the noninsured crop disaster assistance program under section 196 of that Act (7 U.S.C. 7333).

(iii) The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(iv) The Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.).

(v) The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

(vi) Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

(vii) The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(viii) Any law that provides assistance to a producer of an agricultural commodity affected by a crop loss or a decline in the prices of agricultural commodities.

(C) DISQUALIFICATION OF OTHER PERSONS.—In the case of a violation committed by an agent, loss adjuster, approved insurance provider, or other person (other than a producer), the violator may be disqualified for a period of up to 5 years from participating in any program, or receiving any benefit, under this title.

(4) ASSESSMENT OF SANCTION.—The Secretary shall consider the gravity of the violation of the person covered by this subsection in determining—

(A) whether to impose a sanction under this subsection; and

(B) the type and amount of the sanction to be imposed.

(5) DISCLOSURE OF SANCTIONS.—Each policy or plan of insurance under this title shall provide notice describing the sanctions prescribed under paragraph (3) for willfully and intentionally—

(A) providing false or inaccurate information to the Corporation or to an approved insurance provider; or

(B) failing to comply with a requirement of the Corporation.

(6) INSURANCE FUND.—Any funds collected under this subsection shall be deposited into the insurance fund established under section 516(c).

(i) ANNUAL REPORT ON PROGRAM COMPLIANCE AND INTEGRITY EFFORTS.—

(1) REPORT REQUIRED.—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 an annual report describing the operation of this section during the preceding year and efforts undertaken by the Secretary and the Corporation to carry out this section.

(2) INFORMATION REGARDING FRAUD, WASTE, AND ABUSE.—The report shall identify specific occurrences of waste, fraud, or abuse and contain an outline of actions that have been or are being taken to eliminate the identified waste, fraud, or abuse.

(j) INFORMATION MANAGEMENT.—

(1) SYSTEMS UPGRADES.—The Secretary shall upgrade the information management systems of the Corporation used in the administration and enforcement and this title. In upgrading the systems, the Secretary shall ensure that new hardware and software are compatible with the hardware and software used by other agencies of the Department to maximize data sharing and promote the purpose of this section.

(2) USE OF AVAILABLE INFORMATION TECHNOLOGIES.—The Secretary shall use the information technologies known as data mining and data warehousing and other available information technologies to administer and enforce this title.

(3) USE OF PRIVATE SECTOR.—The Secretary may enter into contracts to use private sector expertise and technological resources in implementing this subsection.

(k) FUNDING.—

(1) AVAILABLE FUNDS.—To carry out this section and sections 502(c), 506(h), 508(a)(3)(B), and 508(f)(3)(A), the Corporation may use, from amounts made available from the insurance fund established under section 516(c), not more than \$23,000,000 during the period of fiscal years 2001 through 2005, of which not more than \$9,000,000 shall be available for fiscal year 2001.

(2) PROHIBITION.—None of the funds made available under paragraph (1) may be used to pay the salaries of employees of the Corporation.

**SEC. 516. [7 U.S.C. 1516] FUNDING.**

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) DISCRETIONARY EXPENSES.—There are authorized to be appropriated for fiscal year 1999 and each subsequent fiscal year such sums as are necessary to cover the salaries and expenses of the Corporation.

(2) MANDATORY EXPENSES.—There are authorized to be appropriated such sums as are necessary to cover for each of the 1999 and subsequent reinsurance years the following:

(A) The administrative and operating expenses of the Corporation for the sales commissions of agents.

(B) Premium subsidies, including the administrative and operating expenses of an approved insurance provider for the delivery of policies with additional coverage.

(C) Costs associated with the conduct of livestock and wild salmon pilot programs carried out under section 523, subject to the limitations in subsections (a)(3)(E)(ii) and (b)(10) of section 523.

- (D) Costs associated with the reimbursement, contracting, and partnerships for research and development under section 522.
- (b) PAYMENT OF CORPORATION EXPENSES FROM INSURANCE FUND.—
- (1) EXPENSES GENERALLY.—For each of the 1999 and subsequent reinsurance years, the Corporation may pay from the insurance fund established under subsection (c) all expenses of the Corporation (other than expenses covered by subsection (a)(1) and expenses covered by paragraph (2)(A)), including the following:
- (A) Premium subsidies and indemnities.
- (B) Administrative and operating expenses of the Corporation necessary to pay the sales commissions of agents.
- (C) All administrative and operating expense reimbursements due under a reinsurance agreement with an approved insurance provider.
- (D) Costs associated with the conduct of livestock and wild salmon pilot programs carried out under section 523, subject to the limitations in subsections (a)(3)(E)(ii) and (b)(10) of section 523.
- (E) Costs associated with the reimbursement, contracting, and partnerships for research and development under section 522.
- (2) POLICY CONSIDERATION AND IMPLEMENTATION.—
- (A) IN GENERAL.—For each of the 1999 and subsequent reinsurance years, the Corporation may use the insurance fund established under subsection (c), but not to exceed \$3,500,000 for each fiscal year, to pay the following:
- (i) Costs associated with the consideration and implementation of policies, plans of insurance, and related materials submitted under section 508(h) or developed under section 522 or 523.
- (ii) Costs to contract for the review of policies, plans of insurance, and related materials under section 505(e) and to contract for other assistance in considering policies, plans of insurance, and related materials.
- (B) DAIRY OPTIONS PILOT PROGRAM.—Amounts necessary to carry out the dairy options pilot program shall not be counted toward the limitation on expenses specified in subparagraph (A).
- (c) INSURANCE FUND.—
- (1) IN GENERAL.—There is established an insurance fund, for the deposit of premium income, amounts made available under subsection (a)(2), and civil fines collected under section 515(h), to be available without fiscal year limitation.
- (2) COMMODITY CREDIT CORPORATION FUNDS.—If at any time the amounts in the insurance fund are insufficient to enable the Corporation to carry out subsection (b), to the extent the funds of the Commodity Credit Corporation are available—
- (A) the Corporation may request the Secretary to use the funds of the Commodity Credit Corporation to carry out subsection (b); and

(B) the Secretary may use the funds of the Commodity Credit Corporation to carry out subsection (b).

## SEPARABILITY

SEC. 517. [7 U.S.C. 1517] The sections of this title and subdivisions of sections are hereby declared to be separable, and in the event any one or more sections or parts of the same of this title be held to be unconstitutional, the same shall not affect the validity of other sections or parts of sections of this title.

## AGRICULTURAL COMMODITY

SEC. 518. [7 U.S.C. 1518] “Agricultural commodity”, as used in this title, means wheat, cotton, flax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugar cane, tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, potatoes, timber and forests, nursery crops, citrus, and other fruits and vegetables, nuts, tame hay, native grass, aquacultural species (including, but not limited to, any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant propagated or reared in a controlled or selected environment), or any other agricultural commodity, excluding stored grain, determined by the Board, or any one or more of such commodities, as the context may indicate.

## SEC. 519. NONINSURED CROP DISASTER ASSISTANCE PROGRAM.

[Repealed by P.L. 104-127, §196(j), Apr. 4, 1996, 110 Stat. 950. Such section 196 provides for the administration and operation of a new noninsured crop assistance program by the Farm Service Agency. A compilation is available of this section.]

## SEC. 520. [7 U.S.C. 1520] PRODUCER ELIGIBILITY.

Except as otherwise provided in this title, a producer shall not be denied insurance under this title if—

- (1) for purposes of catastrophic risk protection coverage, the producer is a “person” (as defined by the Secretary); and
- (2) for purposes of any other plan of insurance, the producer is 18 years of age and has a bona fide insurable interest in a crop as an owner-operator, landlord, tenant, or sharecropper.

## SEC. 521. [7 U.S.C. 1521] INELIGIBILITY FOR CATASTROPHIC RISK AND NONINSURED ASSISTANCE PAYMENTS.

If the Secretary determines that a person has knowingly adopted a material scheme or device to obtain catastrophic risk, additional coverage, or noninsured assistance benefits under this title to which the person is not entitled, has evaded this title, or has acted with the purposes of evading this title, the person shall be ineligible to receive all benefits applicable to the crop year for which the scheme or device was adopted. The authority provided by this section shall be in addition to, and shall not supplant, the authority provided by section 506(n).

**SEC. 522. [7 U.S.C. 1522] RESEARCH AND DEVELOPMENT.**

(a) **DEFINITION OF POLICY.**—In this section, the term “policy” means a policy, plan of insurance, provision of a policy or plan of insurance, and related materials.

(b) **REIMBURSEMENT OF RESEARCH, DEVELOPMENT, AND MAINTENANCE COSTS.**—

(1) **RESEARCH AND DEVELOPMENT REIMBURSEMENT.**—The Corporation shall provide a payment to reimburse an applicant for research and development costs directly related to a policy that is—

(A) submitted to the Board and approved by the Board under section 508(h) for reinsurance; and

(B) if applicable, offered for sale to producers.

(2) **EXISTING PLANS.**—The Corporation shall reimburse costs associated with research and development costs directly related to a policy that was approved by the Board prior to the date of the enactment of this section.

(3) **MARKETABILITY.**—The Corporation shall approve a reimbursement under paragraph (1) or (2) only after determining that the policy is marketable based on a reasonable marketing plan, as determined by the Board.

(4) **MAINTENANCE PAYMENTS.**—

(A) **REQUIREMENT.**—The Corporation shall reimburse maintenance costs associated with the annual cost of underwriting for a policy described in paragraphs (1) and (2).

(B) **DURATION.**—Payments with respect to maintenance costs may be provided for a period of not more than four reinsurance years subsequent to Board approval for payment under this subsection.

(C) **OPTIONS FOR MAINTENANCE.**—On the expiration of the 4-year period described in subparagraph (B), the approved insurance provider responsible for maintenance of the policy may—

(i) maintain the policy and charge a fee to approved insurance providers that elect to sell the policy under this subsection; or

(ii) transfer responsibility for maintenance of the policy to the Corporation.

(D) **FEE.**—

(i) **AMOUNT.**—Subject to approval by the Board, the amount of the fee that is payable by an approved insurance provider that elects to sell the policy shall be an amount that is determined by the approved insurance provider maintaining the policy.

(ii) **APPROVAL.**—The Board shall approve the amount of a fee determined under clause (i) for maintenance of the policy unless the Board determines that the amount of the fee—

(I) is unreasonable in relation to the maintenance costs associated with the policy; or

(II) unnecessarily inhibits the use of the policy.

(5) **TREATMENT OF PAYMENT.**—Payments made under this subsection for a policy shall be considered as payment in full

by the Corporation for the research and development conducted with regard to the policy and any property rights to the policy.

(6) REIMBURSEMENT AMOUNT.—The Corporation shall determine the amount of the payment under this subsection for an approved policy based on the complexity of the policy and the size of the area in which the policy or material is expected to be sold.

(c) RESEARCH AND DEVELOPMENT CONTRACTING AUTHORITY.—

(1) AUTHORITY.—The Corporation may enter into contracts to carry out research and development to—

(A) increase participation in States in which the Corporation determines that—

(i) there is traditionally, and continues to be, a low level of Federal crop insurance participation and availability; and

(ii) the State is underserved by the Federal crop insurance program;

(B) increase participation in areas that are underserved by the Federal crop insurance program; and

(C) increase participation by producers of underserved agricultural commodities, including specialty crops.

(2) UNDERSERVED AGRICULTURAL COMMODITIES AND AREAS.—

(A) AUTHORITY.—The Corporation may enter into contracts under procedures prescribed by the Corporation with qualified persons to carry out research and development for policies that promote the purposes of paragraph (1).

(B) CONSULTATION.—Before entering into a contract under subparagraph (A), the Corporation shall consult with groups representing producers of agricultural commodities that would be served by the policies that are the subject of the research and development.

(3) QUALIFIED PERSONS.—A person with experience in crop insurance or farm or ranch risk management (including a college or university, an approved insurance provider, and a trade or research organization), as determined by the Corporation, shall be eligible to enter into a contract with the Corporation under this subsection.

(4) TYPES OF CONTRACTS.—A contract under this subsection may provide for research and development regarding new or expanded policies, including policies based on adjusted gross income, cost-of-production, quality losses, and an intermediate base program with a higher coverage and cost than catastrophic risk protection.

(5) USE OF RESULTING POLICIES.—The Corporation may offer any policy developed under this subsection that is approved by the Board.

(6) RESEARCH AND DEVELOPMENT PRIORITIES.—The Corporation shall establish as one of the highest research and development priorities of the Corporation the development of a pasture, range, and forage program.

(7) STUDY OF MULTIYEAR COVERAGE.—

(A) IN GENERAL.—The Corporation shall contract with a qualified person to conduct a study to determine whether offering policies that provide coverage for multiple years would reduce fraud, waste, and abuse by persons that participate in the Federal crop insurance program.

(B) REPORT.—Not later than 1 year after the date of the enactment of this section, the Corporation 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 describes the results of the study conducted under subparagraph (A).

(8) CONTRACT FOR REVENUE COVERAGE PLANS.—The Corporation shall enter into a contract for research and development regarding one or more revenue coverage plans that are designed to enable producers to take maximum advantage of fluctuations in market prices and thereby maximize revenue realized from the sale of an agricultural commodity. A revenue coverage plan may include the use of existing market instruments or the development of new market instruments. Not later than 15 months after the date of the enactment of this section, the Corporation 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 describes the results of the contract entered into under this paragraph.

(9) CONTRACT FOR COST OF PRODUCTION POLICY.—

(A) AUTHORITY.—The Corporation shall enter into a contract for research and development regarding a cost of production policy.

(B) RESEARCH AND DEVELOPMENT.—The research and development shall—

- (i) take into consideration the differences in the cost of production on a county-by-county basis; and
- (ii) cover as many commodities as is practicable.

(10) RELATION TO LIMITATIONS.—A policy developed under this subsection may be prepared without regard to the limitations of this title, including—

(A) the requirement concerning the levels of coverage and rates; and

(B) the requirement that the price level for each insured agricultural commodity must equal the expected market price for the agricultural commodity, as established by the Board.

(d) PARTNERSHIPS FOR RISK MANAGEMENT DEVELOPMENT AND IMPLEMENTATION.—

(1) PURPOSE.—The purpose of this subsection is to authorize the Corporation to enter into partnerships with public and private entities for the purpose of increasing the availability of loss mitigation, financial, and other risk management tools for producers, with a priority given to risk management tools for producers of agricultural commodities covered by section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333), specialty crops, and underserved agricultural commodities.



(2) **AUTHORITY.**—The Corporation may enter into partnerships with the Cooperative State Research, Education, and Extension Service, the Agricultural Research Service, the National Oceanic Atmospheric Administration, and other appropriate public and private entities with demonstrated capabilities in developing and implementing risk management and marketing options for producers of specialty crops and underserved agricultural commodities.

(3) **OBJECTIVES.**—The Corporation may enter into a partnership under paragraph (2)—

(A) to enhance the notice and timeliness of notice of weather conditions that could negatively affect crop yields, quality, and final product use in order to allow producers to take preventive actions to increase end product profitability and marketability and to reduce the possibility of crop insurance claims;

(B) to develop a multifaceted approach to pest management and fertilization to decrease inputs, decrease environmental exposure, and increase application efficiency;

(C) to develop or improve techniques for planning, breeding, planting, growing, maintaining, harvesting, storing, shipping, and marketing that will address quality and quantity challenges associated with year-to-year and regional variations;

(D) to clarify labor requirements and assist producers in complying with requirements to better meet the physically intense and time-compressed planting, tending, and harvesting requirements associated with the production of specialty crops and underserved agricultural commodities;

(E) to provide assistance to State foresters or equivalent officials for the prescribed use of burning on private forest land for the prevention, control, and suppression of fire;

(F) to provide producers with training and informational opportunities so that the producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools; and

(G) to develop other risk management tools to further increase economic and production stability.

(e) **FUNDING.**—

(1) **REIMBURSEMENTS.**—Of the amounts made available from the insurance fund established under section 516(c), the Corporation may use to provide reimbursements under subsection (b) not more than \$10,000,000 for each of fiscal years 2001 and 2002 and not more than \$15,000,000 for fiscal year 2003 and each subsequent fiscal year.

(2) **CONTRACTING.**—

(A) **AUTHORITY.**—Of the amounts made available from the insurance fund established under section 516(c), the Corporation may use to carry out contracting and partnerships under subsections (c) and (d) not more than \$20,000,000 for each of fiscal years 2001 through 2003 and

not more than \$25,000,000 for fiscal year 2004 and each subsequent fiscal year.

(B) **UNDERSERVED STATES.**—Of the amount made available under subparagraph (A) for a fiscal year, the Corporation shall use not more than \$5,000,000 for the fiscal year to carry out contracting for research and development to carry out the purpose described in subsection (c)(1)(A).

(3) **UNUSED FUNDING.**—If the Corporation determines that the amount available to provide either reimbursement payments or contract payments under this section for a fiscal year is not needed for such purposes, the Corporation may use the excess amount to carry out another function authorized under this section.

(4) **PROHIBITED RESEARCH AND DEVELOPMENT BY CORPORATION.**—

(A) **NEW POLICIES.**—Notwithstanding subsection (d), on and after October 1, 2000, the Corporation shall not conduct research and development for any new policy for an agricultural commodity offered under this title.

(B) **EXISTING POLICIES.**—Any policy developed by the Corporation under this title before that date may continue to be offered for sale to producers.

**SEC. 523. [7 U.S.C. 1523] PILOT PROGRAMS.**

(a) **GENERAL PROVISIONS.**—

(1) **AUTHORITY.**—Except as otherwise provided in this section, the Corporation may conduct a pilot program submitted to and approved by the Board under section 508(h), or that is developed under subsection (b) or section 522, to evaluate whether a proposal or new risk management tool tested by the pilot program is suitable for the marketplace and addresses the needs of producers of agricultural commodities.

(2) **PRIVATE COVERAGE.**—Under this section, the Corporation shall not conduct any pilot program that provides insurance protection against a risk if insurance protection against the risk is generally available from private companies.

(3) **COVERED ACTIVITIES.**—The pilot programs described in paragraph (1) may include pilot programs providing insurance protection against losses involving—

(A) reduced forage on rangeland caused by drought or insect infestation;

(B) livestock poisoning and disease;

(C) destruction of bees due to the use of pesticides;

(D) unique special risks related to fruits, nuts, vegetables, and specialty crops in general, aquacultural species, and forest industry needs (including appreciation);

(E) after October 1, 2001, wild salmon, except that—

(i) any pilot program with regard to wild salmon may be carried out without regard to the limitations of this title; and

(ii) the Corporation shall conduct all wild salmon programs under this title so that, to the maximum extent practicable, all costs associated with conducting

the programs are not expected to exceed \$1,000,000 for fiscal year 2002 and each subsequent fiscal year.

(4) SCOPE OF PILOT PROGRAMS.—The Corporation may—

(A) approve a pilot program under this section to be conducted on a regional, State, or national basis after considering the interests of affected producers and the interests of, and risks to, the Corporation;

(B) operate the pilot program, including any modifications of the pilot program, for a period of up to 4 years;

(C) extend the time period for the pilot program for additional periods, as determined appropriate by the Corporation; and

(D) provide pilot programs that would allow producers—

(i) to receive a reduced premium for using whole farm units or single crop units of insurance; and

(ii) to cross State and county boundaries to form insurable units.

(5) EVALUATION.—

(A) REQUIREMENT.—After the completion of any pilot program under this section, the Corporation shall evaluate the pilot program and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the operations of the pilot program.

(B) EVALUATION AND RECOMMENDATIONS.—The report shall include an evaluation by the Corporation of the pilot program and the recommendations of the Corporation with respect to implementing the program on a national basis.

(b) LIVESTOCK PILOT PROGRAMS.—

(1) DEFINITION OF LIVESTOCK.—In this subsection, the term “livestock” includes, but is not limited to, cattle, sheep, swine, goats, and poultry.

(2) PROGRAMS REQUIRED.—Subject to paragraph (7), the Corporation shall conduct two or more pilot programs to evaluate the effectiveness of risk management tools for livestock producers, including the use of futures and options contracts and policies and plans of insurance that protect the interests of livestock producers and that provide—

(A) livestock producers with reasonable protection from the financial risks of price or income fluctuations inherent in the production and marketing of livestock; or

(B) protection for production losses.

(3) PURPOSE OF PROGRAMS.—To the maximum extent practicable, the Corporation shall evaluate the greatest number and variety of pilot programs described in paragraph (2) to determine which of the offered risk management tools are best suited to protect livestock producers from the financial risks associated with the production and marketing of livestock.

(4) TIMING.—The Corporation shall begin conducting livestock pilot programs under this subsection during fiscal year 2001.

(5) RELATION TO OTHER LIMITATIONS.—Any policy or plan of insurance offered under this subsection may be prepared without regard to the limitations of this title.

(6) ASSISTANCE.—As part of a pilot program under this subsection, the Corporation may provide reinsurance for policies or plans of insurance and subsidize the purchase of futures and options contracts or policies and plans of insurance offered under the pilot program.

(7) PRIVATE INSURANCE.—No action may be undertaken with respect to a risk under this subsection if the Corporation determines that insurance protection for livestock producers against the risk is generally available from private companies.

(8) LOCATION.—The Corporation shall conduct the livestock pilot programs under this subsection in a number of counties that is determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among producers for the risk management tools evaluated in the pilot programs.

(9) ELIGIBLE PRODUCERS.—Any producer of a type of livestock covered by a pilot program under this subsection that owns or operates a farm or ranch in a county selected as a location for that pilot program shall be eligible to participate in that pilot program.

(10) LIMITATION ON EXPENDITURES.—The Corporation shall conduct all livestock programs under this title so that, to the maximum extent practicable, all costs associated with conducting the livestock programs (other than research and development costs covered by section 522) are not expected to exceed the following:

(A) \$10,000,000 for each of fiscal years 2001 and 2002.

(B) \$15,000,000 for fiscal year 2003.

(C) \$20,000,000 for fiscal year 2004 and each subsequent fiscal year.

(c) REVENUE INSURANCE PILOT PROGRAM.—

(1) IN GENERAL.—Subject to section 522(e)(4), the Secretary shall carry out a pilot program in a limited number of counties, as determined by the Secretary, for crop years 1997 through 2001, under which a producer of wheat, feed grains, soybeans, or such other commodity as the Secretary considers appropriate may elect to receive insurance against loss of revenue, as determined by the Secretary.

(2) ADMINISTRATION.—Revenue insurance under this subsection shall—

(A) be offered through reinsurance arrangements with private insurance companies;

(B) offer at least a minimum level of coverage that is an alternative to catastrophic crop insurance;

(C) be actuarially sound; and

(D) require the payment of premiums and administrative fees by an insured producer.

(d) PREMIUM RATE REDUCTION PILOT PROGRAM.—

(1) PURPOSE.—The purpose of the pilot program established under this subsection is to determine whether approved insurance providers will compete to market policies or plans of

insurance with reduced rates of premium, in a manner that maintains the financial soundness of approved insurance providers and is consistent with the integrity of the Federal crop insurance program.

(2) ESTABLISHMENT.—

(A) IN GENERAL.—Beginning with the 2002 crop year, the Corporation shall establish a pilot program under which approved insurance providers may propose for approval by the Board policies or plans of insurance with reduced rates of premium—

(i) for one or more agricultural commodities; and

(ii) within a limited geographic area, as proposed by the approved insurance provider and approved by the Board.

(B) DETERMINATION BY BOARD.—The Board shall approve a policy or plan of insurance proposed under this subsection that involves a premium reduction if the Board determines that—

(i) the interests of producers are adequately protected within the pilot area;

(ii) rates of premium are actuarially appropriate, as determined by the Board;

(iii) the size of the proposed pilot area is adequate;

(iv) the proposed policy or plan of insurance would not unfairly discriminate among producers within the proposed pilot area;

(v) if the proposed policy or plan of insurance were available in a geographic area larger than the proposed pilot area, the proposed policy or plan of insurance would—

(I) not have a significant adverse impact on the crop insurance delivery system;

(II) not result in a reduction of program integrity;

(III) be actuarially appropriate; and

(IV) not place an additional financial burden on the Federal Government; and

(vi) the proposed policy or plan of insurance meets other requirements of this title determined appropriate by the Board.

(C) TIME LIMITATIONS AND PROCEDURES.—The time limitations and procedures of the Board established under section 508(h) shall apply to a proposal submitted under this subsection.

(e) ADJUSTED GROSS REVENUE INSURANCE PILOT PROGRAM.—

(1) IN GENERAL.—The Corporation shall carry out, through at least the 2004 reinsurance year, the adjusted gross revenue insurance pilot program in effect for the 2002 reinsurance year.

(2) ADDITIONAL COUNTIES.—

(A) IN GENERAL.—In addition to counties otherwise included in the pilot program, the Corporation shall include in the pilot program for the 2003 reinsurance year at least 8 counties in the State of California and at least 8 counties in the State of Pennsylvania.

(B) SELECTION CRITERIA.—In carrying out subparagraph (A), the Corporation shall work with the respective State Departments of Agriculture to establish criteria to determine which counties to include in the pilot program.

**SEC. 524. [7 U.S.C. 1524] EDUCATION AND RISK MANAGEMENT ASSISTANCE.**

(a) EDUCATION ASSISTANCE.—

(1) IN GENERAL.—Subject to the amounts made available under paragraph (4)—

(A) the Corporation shall carry out the program established under paragraph (2); and

(B) the Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall carry out the program established under paragraph (3).

(2) EDUCATION AND INFORMATION.—The Corporation shall establish a program under which crop insurance education and information is provided to producers in States in which (as determined by the Secretary)—

(A) there is traditionally, and continues to be, a low level of Federal crop insurance participation and availability; and

(B) producers are underserved by the Federal crop insurance program.

(3) PARTNERSHIPS FOR RISK MANAGEMENT EDUCATION.—

(A) AUTHORITY.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall establish a program under which competitive grants are made to qualified public and private entities (including land grant colleges, cooperative extension services, and colleges or universities), as determined by the Secretary, for the purpose of educating agricultural producers about the full range of risk management activities, including futures, options, agricultural trade options, crop insurance, cash forward contracting, debt reduction, production diversification, farm resources risk reduction, and other risk management strategies.

(B) BASIS FOR GRANTS.—A grant under this paragraph shall be awarded on the basis of merit and shall be subject to peer or merit review.

(C) OBLIGATION PERIOD.—Funds for a grant under this paragraph shall be available to the Secretary for obligation for a 2-year period.

(D) ADMINISTRATIVE COSTS.—The Secretary may use not more than 4 percent of the funds made available for grants under this paragraph for administrative costs incurred by the Secretary in carrying out this paragraph.

(4) FUNDING.—From the insurance fund established under section 516(c), there is transferred—

(A) for the education and information program established under paragraph (2), \$5,000,000 for fiscal year 2001 and each subsequent fiscal year; and

(B) for the partnerships for risk management education program established under paragraph (3),

- \$5,000,000 for fiscal year 2001 and each subsequent fiscal year.
- (b) AGRICULTURAL MANAGEMENT ASSISTANCE.—
- (1) AUTHORITY.—The Secretary shall provide financial assistance to producers in the States of Connecticut, Delaware, Maryland, Massachusetts, Maine, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming.
- (2) USES.—A producer may use financial assistance provided under this subsection to—
- (A) construct or improve—
    - (i) watershed management structures; or
    - (ii) irrigation structures;
  - (B) plant trees to form windbreaks or to improve water quality;
  - (C) mitigate financial risk through production or marketing diversification or resource conservation practices, including—
    - (i) soil erosion control;
    - (ii) integrated pest management;
    - (iii) organic farming; or
    - (iv) to develop and implement a plan to create marketing opportunities for the producer, including through value-added processing;
  - (D) enter into futures, hedging, or options contracts in a manner designed to help reduce production, price, or revenue risk;
  - (E) enter into agricultural trade options as a hedging transaction to reduce production, price, or revenue risk; or
  - (F) conduct any other activity relating to an activity described in subparagraphs (A) through (E), as determined by the Secretary.
- (3) PAYMENT LIMITATION.—The total amount of payments made to a person (as defined in section 1001(5) of the Food Security Act (7 U.S.C. 1308(5))) under this subsection for any year may not exceed \$50,000.
- (4) COMMODITY CREDIT CORPORATION.—
- (A) IN GENERAL.—The Secretary shall carry out this subsection through the Commodity Credit Corporation.
  - (B) FUNDING.—
    - (i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Commodity Credit Corporation shall make available to carry out this subsection not less than \$10,000,000 for each fiscal year.
    - (ii) EXCEPTION.—For each of fiscal years 2003 through 2007, the Commodity Credit Corporation shall make available to carry out this subsection \$20,000,000.
    - (iii) CERTAIN USES.—Of the amounts made available to carry out this subsection for each of fiscal years 2004 through 2007 the Commodity Credit Corporation shall use not less than—

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(I) \$14,000,000 to carry out subparagraphs (A), (B), and (C) of paragraph (2) through the Natural Resources Conservation Service;

(II) \$1,000,000 to provide organic certification cost share assistance through the Agricultural Marketing Service; and

(III) \$5,000,000 to conduct activities to carry out subparagraph (F) of paragraph (2) through the Risk Management Agency.

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## 2. NONINSURED CROP ASSISTANCE PROGRAM

[This section was enacted as part of title I of the Federal Agriculture Improvement and Reform Act of 1996 (the Agricultural Market Transition Act). See Public Law 104-127; 110 Stat. 947]

### SEC. 196. [7 U.S.C. 7333] ADMINISTRATION AND OPERATION OF NON-INSURED CROP ASSISTANCE PROGRAM.

#### (a) OPERATION AND ADMINISTRATION OF PROGRAM.—

(1) IN GENERAL.—In the case of an eligible crop described in paragraph (2), the Secretary of Agriculture shall operate a noninsured crop disaster assistance program to provide coverage equivalent to the catastrophic risk protection otherwise available under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)). The Secretary shall carry out this section through the Consolidated Farm Service Agency (in this section referred to as the “Agency”).

#### (2) ELIGIBLE CROPS.—

(A) IN GENERAL.—In this section, the term “eligible crop” means each commercial crop or other agricultural commodity (except livestock)—

(i) for which catastrophic risk protection under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) is not available; and

(ii) that is produced for food or fiber.

(B) CROPS SPECIFICALLY INCLUDED.—The term “eligible crop” shall include floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, seed crops, aquaculture (including ornamental fish), sea grass and sea oats, and industrial crops.

(C) COMBINATION OF SIMILAR TYPES OR VARIETIES.—At the option of the Secretary, all types or varieties of a crop or commodity, described in subparagraphs (A) and (B), may be considered to be a single eligible crop under this section.

(3) CAUSE OF LOSS.—To qualify for assistance under this section, the losses of the noninsured commodity shall be due to drought, flood, or other natural disaster, as determined by the Secretary.

#### (b) APPLICATION FOR NONINSURED CROP DISASTER ASSISTANCE.—

(1) TIMELY APPLICATION.—To be eligible for assistance under this section, a producer shall submit an application for noninsured crop disaster assistance at a local office of the Department. The application shall be in such form, contain such information, and be submitted not later than 30 days before

the beginning of the coverage period, as determined by the Secretary.

(2) RECORDS.—To be eligible for assistance under this section, a producer shall provide annually to the Secretary records of crop acreage, acreage yields, and production for each crop, as required by the Secretary.

(3) ACREAGE REPORTS.—A producer shall provide annual reports on acreage planted or prevented from being planted, as required by the Secretary, by the designated acreage reporting date for the crop and location as established by the Secretary.

(c) LOSS REQUIREMENTS.—

(1) CAUSE.—To be eligible for assistance under this section, a producer of an eligible crop shall have suffered a loss of a noninsured commodity as the result of a cause described in subsection (a)(3).

(2) ASSISTANCE.—On making a determination described in subsection (a)(3), the Secretary shall provide assistance under this section to producers of an eligible crop that have suffered a loss as a result of the cause described in subsection (a)(3).

(3) PREVENTED PLANTING.—Subject to paragraph (1), the Secretary shall make a prevented planting noninsured crop disaster assistance payment if the producer is prevented from planting more than 35 percent of the acreage intended for the eligible crop because of drought, flood, or other natural disaster, as determined by the Secretary.

(4) AREA TRIGGER.—The Secretary shall provide assistance to individual producers without any requirement of an area loss.

(d) PAYMENT.—The Secretary shall make available to a producer eligible for noninsured assistance under this section a payment computed by multiplying—

(1) the quantity that is less than 50 percent of the established yield for the crop; by

(2)(A) in the case of each of the 1996 through 1998 crop years, 60 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); or

(B) in the case of each of the 1999 and subsequent crop years, 55 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); by

(3) a payment rate for the type of crop (as determined by the Secretary) that—

(A) in the case of a crop that is produced with a significant and variable harvesting expense, reflects the decreasing cost incurred in the production cycle for the crop that is—

(i) harvested;

(ii) planted but not harvested; and

(iii) prevented from being planted because of drought, flood, or other natural disaster (as determined by the Secretary); and

(B) in the case of a crop that is not produced with a significant and variable harvesting expense, as determined by the Secretary.

(e) YIELD DETERMINATIONS.—

(1) ESTABLISHMENT.—The Secretary shall establish farm yields for purposes of providing noninsured crop disaster assistance under this section.

(2) ACTUAL PRODUCTION HISTORY.—The Secretary shall determine yield coverage using the actual production history of the producer over a period of not less than the 4 previous consecutive crop years and not more than 10 consecutive crop years. Subject to paragraph (3), the yield for the year in which noninsured crop disaster assistance is sought shall be equal to the average of the actual production history of the producer during the period considered.

(3) ASSIGNMENT OF YIELD.—If a producer does not submit adequate documentation of production history to determine a crop yield under paragraph (2), the Secretary shall assign to the producer a yield equal to not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Secretary for continuous years), as specified in regulations issued by the Secretary based on production history requirements.

(4) PROHIBITION ON ASSIGNED YIELDS IN CERTAIN COUNTIES.—

(A) IN GENERAL.—

(i) DOCUMENTATION.—If sufficient data are available to demonstrate that the acreage of a crop in a county for the crop year has increased by more than 100 percent over any year in the preceding 7 crop years or, if data are not available, if the acreage of the crop in the county has increased significantly from the previous crop years, a producer must provide such detailed documentation of production costs, acres planted, and yield for the crop year for which benefits are being claimed as is required by the Secretary. If the Secretary determines that the documentation provided is not sufficient, the Secretary may require documenting proof that the crop, had the crop been harvested, could have been marketed at a reasonable price.

(ii) PROHIBITION.—Except as provided in subparagraph (B), a producer who produces a crop on a farm located in a county described in clause (i) may not obtain an assigned yield.

(B) EXCEPTION.—A crop or a producer shall not be subject to this subsection if—

(i) the planted acreage of the producer for the crop has been inspected by a third party acceptable to the Secretary; or

(ii)(I) the County Executive Director and the State Executive Director recommend an exemption from the requirement to the Administrator of the Agency; and

(II) the Administrator approves the recommendation.

(5) LIMITATION ON RECEIPT OF SUBSEQUENT ASSIGNED YIELD.—A producer who receives an assigned yield for the current year of a natural disaster because required production

records were not submitted to the local office of the Department shall not be eligible for an assigned yield for the year of the next natural disaster unless the required production records of the previous 1 or more years (as applicable) are provided to the local office.

(6) YIELD VARIATIONS DUE TO DIFFERENT FARMING PRACTICES.—The Secretary shall ensure that noninsured crop disaster assistance accurately reflects significant yield variations due to different farming practices, such as between irrigated and nonirrigated acreage.

(f) CONTRACT PAYMENTS.—A producer who has received a guaranteed payment for production, as opposed to delivery, of a crop pursuant to a contract shall have the production of the producer adjusted upward by the amount of the production equal to the amount of the contract payment received.

(g) USE OF COMMODITY CREDIT CORPORATION.—The Secretary may use the funds of the Commodity Credit Corporation to carry out this section.

(h) EXCLUSIONS.—Noninsured crop disaster assistance under this section shall not cover losses due to—

- (1) the neglect or malfeasance of the producer;
- (2) the failure of the producer to reseed to the same crop in those areas and under such circumstances where it is customary to reseed; or
- (3) the failure of the producer to follow good farming practices, as determined by the Secretary.

(i) PAYMENT AND INCOME LIMITATIONS.—

(1) DEFINITIONS.—In this subsection:

(A) PERSON.—The term “person” has the meaning provided the term in regulations issued by the Secretary. The regulations shall conform, to the extent practicable, to the regulations defining the term “person” issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308).

(B) QUALIFYING GROSS REVENUES.—The term “qualifying gross revenues” means—

(i) if a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue from the farming, ranching, and forestry operations of the person; and

(ii) if less than a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue of the person from all sources.

(2) PAYMENT LIMITATION.—The total amount of payments that a person shall be entitled to receive annually under this section may not exceed \$100,000.

(3) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—

(A) IN GENERAL.—Except as provided in subparagraph

(B), if a producer who is eligible to receive benefits under 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 section or under the other program, but not both.

(B) EXCEPTION.—Subparagraph (A) shall not apply to emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

(4) INCOME LIMITATION.—A person who has qualifying gross revenues in excess of the amount specified in section 2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) (as in effect on November 28, 1990) during the taxable year (as determined by the Secretary) shall not be eligible to receive any noninsured assistance payment under this section.

(5) REGULATIONS.—The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and equitable application of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), the general payment limitation regulations of the Secretary, and the limitations established under this subsection.

(j) CONFORMING REPEAL.—Section 519 of the Federal Crop Insurance Act (7 U.S.C. 1519) is repealed.

(k) SERVICE FEE.—

(1) IN GENERAL.—To be eligible to receive assistance for an eligible crop for a crop year under this section, a producer shall pay to the Secretary (at the time at which the producer submits the application under subsection (b)(1)) a service fee for the eligible crop in an amount that is equal to the lesser of—

(A) \$100 per crop per county; or

(B) \$300 per producer per county, but not to exceed a total of \$900 per producer.

(2) WAIVER.—The Secretary shall waive the service fee required under paragraph (1) in the case of a limited resource farmer, as defined by the Secretary.

(3) USE.—The Secretary shall deposit service fees collected under this subsection in the Commodity Credit Corporation Fund.