

# 1. FEDERAL CROP INSURANCE ACT <sup>1</sup>

[As Amended Through P.L. 111–80, Effective October 21, 2009]

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<sup>1</sup>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. Section 12033 of the Food, Conservation, and Energy Act of 2008 (P.L. 110–246; 122 Stat. 2154) added a subtitle B to the end and designated subtitle A. Consequently, references within the Federal Crop Insurance Act are addressed to “this title” or “this subtitle” rather than to “this Act”.

## Subtitle A—Federal Crop Insurance Act

### SEC. 501. [7 U.S.C. 1501] SHORT TITLE AND APPLICATION OF OTHER PROVISIONS.

This subtitle 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 subtitle, and the term “Act” wherever it appears in such titles shall not be construed to include this subtitle.

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

(a) PURPOSE.—It is the purpose of this subtitle 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 subtitle:

(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 subtitle.

(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) ORGANIC CROP.—The term “organic crop” means an agricultural commodity that is organically produced consistent with section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502).

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

(9) 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 subtitle.

(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 subtitle 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 subtitle 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 subtitle affects the jurisdiction of the Commodity Futures Trading Commission or the applicability of the Commodity 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 subtitle.

#### CREATION OF FEDERAL CROP INSURANCE CORPORATION

SEC. 503. [7 U.S.C. 1503] To carry out the purposes of this subtitle, 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. [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.

(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 subtitle 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 consid-

eration of any policy or plan or insurance, or any related material or modification of a policy or plan of insurance, proposed to be offered under this subtitle.

(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.—Subject to section 508(j)(2)(A), 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 subtitle.

(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 subtitle.

(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 subtitle 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 subtitle, such section 196, and other agricultural programs.

(i) EXPENDITURES.—The Corporation shall determine the character and necessity for its expenditures under this subtitle 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>506-1</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 subtitle.

(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) 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 subtitle to achieve, on and

<sup>506-1</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).

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 prevent 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.—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 subtitle to achieve an overall projected loss ratio of not greater than 1.0.

(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.

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

(p) 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 subtitle, 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 subtitle or any regulation issued under this subtitle.

(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 subtitle 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>507-1</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 subtitle, 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 subtitle, 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 subtitle, (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 pro-

<sup>507-1</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).

vision of insurance under this subtitle and evaluating new products and materials submitted under section 508(h) or 523, and reimburse 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 subtitle any funds made available pursuant to the provisions of section 516.

(e) In carrying out the provisions of this subtitle 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 subtitle.

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

(3) **EXCLUSION OF LOSSES DUE TO CERTAIN ACTIONS OF PRODUCER.—**

(A) **EXCLUSIONS.—**Insurance provided under this subsection shall not cover losses due to—

(i) the neglect or malfeasance of the producer;

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

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

(B) **GOOD FARMING PRACTICES.—**

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

(ii) **ADMINISTRATIVE REVIEW.—**

(I) **NO ADVERSE DECISION.—**The determination shall not be considered an adverse decision for purposes of subtitle H of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6991 et seq.).

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

(iii) **JUDICIAL REVIEW.—**

(I) **RIGHT TO REVIEW.—**A producer shall have the right to judicial review of the determination without exhausting any right to a review under clause (i).

(II) **REVERSAL OR MODIFICATION.—**The determination may not be reversed or modified as the

result of judicial review unless the determination is found to be arbitrary or capricious.

(C) LIMITATION ON REVENUE COVERAGE FOR POTATOES.—No policy or plan of insurance provided under this subtitle (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 subtitle 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 subtitle 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 subtitle 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 subtitle, 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 subtitle that cover losses of upland cotton, extra long staple cotton, and rice resulting from failure of irrigation water supplies due to drought and saltwater intrusion.

(9) PREMIUM ADJUSTMENTS.—

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

(B) EXCEPTIONS.—Subparagraph (A) does not apply with respect to—

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

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

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

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

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

(10) COMMISSIONS.—

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

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

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

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

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

(D) SANCTIONS.—The procedural requirements and sanctions prescribed in section 515(h) shall apply to the prosecution of a violation of this paragraph.

(E) APPLICABILITY.—

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

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

(b) CATASTROPHIC RISK PROTECTION.—

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

(2) AMOUNT OF COVERAGE.—

(A) IN GENERAL.—Subject to subparagraph (B)—

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

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

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

(3) ALTERNATIVE CATASTROPHIC COVERAGE.—Beginning with the 2001 crop year, the Corporation shall offer producers of an agricultural commodity the option of selecting either of the following:

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

(B) An alternative catastrophic risk protection coverage that—

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

(ii) provides, on a uniform national basis, a higher combination of yield and price protection than the coverage available under paragraph (2)(A); and

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

(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 com-



pleted not later than 45 days before the sales closing date.

(5) ADMINISTRATIVE FEE.—

(A) BASIC FEE.—Each producer shall pay an administrative fee for catastrophic risk protection in the amount of \$300 per crop per county.

(B) PAYMENT OF CATASTROPHIC RISK PROTECTION FEE ON BEHALF OF PRODUCERS.—

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

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

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

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

(C) TIME FOR PAYMENT.—The administrative fee required by this paragraph shall be paid by the producer on the same date on which the premium for a policy of additional coverage would be paid by the producer.

(D) USE OF FEES.—

(i) IN GENERAL.—The amounts paid under this paragraph shall be deposited in the crop insurance fund established under section 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 subtitle 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 subtitle, 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 subtitle without jeopardizing the actuarial soundness or integrity of the crop insurance program, the Corporation shall apply the policies and procedures to the other plans of insurance within a reasonable period of time (as determined by the Corporation) after the effective date of this paragraph.

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

(c) GENERAL COVERAGE LEVELS.—

(1) ADDITIONAL COVERAGE GENERALLY.—

(A) IN GENERAL.—The Corporation shall offer to producers of agricultural commodities grown in the United States plans of crop insurance that provide additional coverage.

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

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

(3) YIELD AND LOSS BASIS.—A producer shall have the option of purchasing additional coverage based on an individual yield and loss basis or on an area yield and loss basis, if both options are offered by the Corporation.

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

(5) EXPECTED MARKET PRICE.—

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

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

(C) OTHER AUTHORIZED APPROACHES.—The expected market price of an agricultural commodity—

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

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

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

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

(D) GRAIN SORGHUM PRICE ELECTION.—

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

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

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

(ii) EXPERT REVIEWERS.—

(I) IN GENERAL.—Not later than 120 days after the date of enactment of this subparagraph, the Corporation shall contract individually with 5 expert reviewers described in subclause (II) to develop and recommend a methodology for determining an expected market price for sorghum for both the production and revenue-based plans of insurance to more accurately reflect the actual price at harvest.

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

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

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

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

(iii) RECOMMENDATIONS.—

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

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

(III) PUBLICATION.—Not later than 60 days after the date on which the Corporation receives the recommendations of the expert reviewers, the Corporation shall publish the proposed pricing methodology for both the production and revenue-based plans of insurance for notice and comment and, during the comment period, conduct at least

1 public meeting to discuss the proposed pricing methodologies.

(iv) APPROPRIATE PRICING METHODOLOGY.—

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

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

(III) AVAILABILITY.—On an annual basis, the Corporation shall make available the pricing methodology and data used to determine the expected market prices for grain sorghum under the production and revenue-based plans of insurance, including any changes to the methodology used to determine the expected market prices for grain sorghum from the previous year.

(6) PRICE ELECTIONS.—

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

(B) MINIMUM PRICE ELECTIONS.—The Corporation may establish minimum price elections below which levels of insurance shall not be offered.

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

(7) FIRE AND HAIL COVERAGE.—For levels of additional coverage equal to 65 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, a producer may elect to delete from the additional coverage any coverage against damage caused by fire and hail if the producer obtains an equivalent or greater dollar amount of coverage for damage caused by fire and hail from an approved insurance provider. On written notice of the election to the company issuing the policy providing additional coverage and submission of evidence of substitute coverage on the commodity insured, the premium of the producer shall be reduced by an amount determined by the Corporation to be actuarially appropriate, taking into account the actuarial value of the remaining coverage provided by the

Corporation. In no event shall the producer be given credit for an amount of premium determined to be greater than the actuarial value of the protection against losses caused by fire and hail that is included in the additional coverage for the crop.

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

(9) LIMITATIONS ON ADDITIONAL COVERAGE.—The Board may limit the availability of additional coverage under this subsection in any county or area, or on any farm, on the basis of the insurance risk involved. The Board shall not offer additional coverage equal to less than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage.

(10) ADMINISTRATIVE FEE.—

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

(B) USE OF FEES; WAIVER.—Subparagraphs (D) and (E) of subsection (b)(5) shall apply with respect to the collection and use of administrative fees under this paragraph.

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

(d) PREMIUMS.—

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

(A) 1.1 through September 30, 1998;

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

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

(2) PREMIUM AMOUNTS.—The premium amounts for catastrophic risk protection under subsection (b) 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 average yield indemnified at not greater than 100 percent of the expected market price, or a comparable coverage for a policy or plan of insurance that is not based on individual yield, the amount of the premium shall—

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

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

(3) PERFORMANCE-BASED DISCOUNT.—The Corporation may provide a performance-based premium discount for a producer of an agricultural commodity who has good insurance or production experience relative to other producers of that agricultural commodity in the same area, as determined by the Corporation.

(4) BILLING DATE FOR PREMIUMS.—Effective beginning with the 2012 reinsurance year, the Corporation shall establish August 15 as the billing date for premiums.

(e) PAYMENT OF PORTION OF PREMIUM BY CORPORATION.—

(1) IN GENERAL.—For the purpose of encouraging the broadest possible participation of producers in the catastrophic risk protection provided under subsection (b) 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 (3)<sup>508-1</sup>, 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 great-

<sup>508-1</sup> Sec. 12010(1) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246, 122 Stat. 2138, May 22, 2008) amended this paragraph by striking “paragraph (4)” and inserting “paragraph (3)”. Sec. 12012(1) of that Act subsequently amended this paragraph by striking “paragraph (4)” and inserting “paragraphs (4), (6), and (7)”. Amendment could not be executed. “paragraph (3)” probably should be struck and replaced with “paragraphs (3), (6), and (7)”.

er 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) 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.

(4) PREMIUM PAYMENT DISCLOSURE.—Each policy or plan of insurance under this subtitle shall prominently indicate the



dollar amount of the portion of the premium paid by the Corporation.

(5) ENTERPRISE AND WHOLE FARM UNITS.—

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

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

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

(6) PREMIUM SUBSIDY FOR AREA REVENUE PLANS.—Subject to paragraph (4), in the case of a policy or plan of insurance that covers losses due to a reduction in revenue in an area, the amount of the premium paid by the Corporation shall be as follows:

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

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

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

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

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

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

(C) In the case of additional area coverage equal to or greater than 85 percent, but less than 90 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) 51 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

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

(f) ELIGIBILITY.—

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

(2) SALES CLOSING DATE.—

(A) IN GENERAL.—For coverage under this subtitle, 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 production for each agricultural commodity insured under this subtitle 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 actual production history of a producer when each of the following apply:

(i) The producer's farm is located in an area where systematic, area-wide efforts have been undertaken using certain operations or measures, or the producer's farm is a location at which certain operations or measures have been undertaken, to detect, eradicate, suppress, or control, or at least to prevent or retard the spread of, a plant disease or plant pest, including a plant pest (as defined in section 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 subtitle, including the requirements concerning the levels of coverage and rates and the requirement that a price level for each commodity insured must equal the expected market price for the commodity as established by the Board.

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

(4) GUIDELINES FOR SUBMISSION AND REVIEW.—The Corporation shall issue regulations to establish guidelines for the submission, and Board review, of policies or other material submitted to the Board under this subsection. At a minimum, the guidelines shall ensure the following:

(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 subtitle, 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 subtitle 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 on behalf of the Corporation, an action on the claim may be brought against the Corporation or Secretary only in the United States district court for the district in which the insured farm is located.

(B) STATUTE OF LIMITATIONS.—A suit on the claim may be brought not later than 1 year after the date on which final notice of denial of the claim is provided to the claimant.



(3) INDEMNIFICATION.—The Corporation shall provide approved insurance providers with indemnification, 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.

(5) SETTLEMENT OF CLAIMS ON FARM-STORED PRODUCTION.—A producer with farm-stored production may, at the option of the producer, delay settlement of a crop insurance claim relating to the farm-stored production for up to 4 months after the last date on which claims may be submitted under the policy of insurance.

(k) REINSURANCE.—

(1) IN GENERAL.—Notwithstanding any other provision of this subtitle, 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 otherwise provided in this paragraph, the rate established by the Board to reimburse approved insurance providers and agents for the administrative and operating costs of the providers and agents shall not exceed—

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

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

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

(C) OTHER REDUCTIONS.—Beginning with the 2002 reinsurance year, in the case of a policy or plan of insurance approved by the Board that was not reinsured during the 1998 reinsurance year but, had it been reinsured, would have received a reduced rate of reimbursement during the 1998 reinsurance year, the rate of reimbursement for ad-

ministrative and operating costs established for the policy or plan of insurance shall take into account the factors used to determine the rate of reimbursement for administrative and operating costs during the 1998 reinsurance year, including the expected difference in premium and actual administrative and operating costs of the policy or plan of insurance relative to an individual yield policy or plan of insurance and other appropriate factors, as determined by the Corporation.

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

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

(F) REIMBURSEMENT RATE FOR AREA POLICIES AND PLANS OF INSURANCE.—Notwithstanding subparagraphs (A) through (E), for each of the 2009 and subsequent reinsurance years, the reimbursement rate for area policies and plans of insurance widely available as of the date of enactment of this subparagraph shall be 12 percent of the premium used to define loss ratio for that reinsurance year.

(5) COST AND REGULATORY REDUCTION.—Consistent with section 118 of the Federal Crop Insurance Reform Act of 1994, and consistent with maintenance of program integrity, prevention of fraud and abuse, the need for program expansion, and improvement of quality of service to customers, the Board shall alter program procedures and administrative requirements in order to reduce the administrative and operating costs of approved insurance providers and agents in an amount that corresponds to any reduction in the reimbursement rate required under paragraph (4) during the 5-year period beginning on 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.

(8) RENEGOTIATION OF STANDARD REINSURANCE AGREEMENT.—

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

(i) to be effective for the 2011 reinsurance year beginning July 1, 2010; and

(ii) once during each period of 5 reinsurance years thereafter.

(B) EXCEPTIONS.—

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

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

(C) NOTIFICATION REQUIREMENT.—If the Corporation renegotiates a Standard Reinsurance Agreement under subparagraph (A)(iii)<sup>508–2</sup>, the Corporation shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the renegotiation.

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

(E) 2011 REINSURANCE YEAR.—

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

(ii) ALTERNATIVE METHODS.—Alternatives considered under clause (i) shall include—

(I) methods that—

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

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

<sup>508–2</sup> So as in original; should probably be “subparagraph (A)(ii)”.

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

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

(9) DUE DATE FOR PAYMENT OF UNDERWRITING GAINS.—Effective beginning with the 2011 reinsurance year, the Corporation shall make payments for underwriting gains under this subtitle on—

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

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

(1) 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 subtitle includes quality loss adjustment coverage, the coverage shall provide for a reduction in the quantity of production of the agricultural commodity considered produced during a crop year, or a similar adjustment, as a result of the agricultural commodity not meeting the quality standards established in the policy or plan of insurance.

(2) ADDITIONAL QUALITY LOSS ADJUSTMENT.—

(A) PRODUCER OPTION.—Notwithstanding any other provision of law, in addition to the quality loss adjustment coverage available under paragraph (1), the Corporation shall offer producers the option of purchasing quality loss adjustment coverage on a basis that is smaller than a unit with respect to an agricultural commodity that satisfies each of the following:

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

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

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

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

(B) BASIS FOR ADJUSTMENT.—Under this paragraph, the Corporation shall set the quality standards below which quality losses will be paid based on the variability of the grade of the agricultural commodity from the base quality for the agricultural commodity.

(3) REVIEW OF CRITERIA AND PROCEDURES.—

(A) REVIEW.—The Corporation shall contract with a qualified person to review the quality loss adjustment pro-

cedures of the Corporation so that the procedures more accurately reflect local quality discounts that are applied to agricultural commodities insured under this subtitle.

(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 subtitle, the Secretary shall accept, in the same manner and under the same terms and conditions, evidence of the quality of agricultural commodities delivered to—

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

(B) warehouse operators that—

(i) are licensed under State law; and

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

(C) warehouse operators that—

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

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

(5) SPECIAL PROVISIONS FOR MALTING BARLEY.—The Corporation shall promulgate special provisions under this subsection specific to malting barley, taking into consideration any changes in quality factors, as required by applicable market conditions.

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

(1) IN GENERAL.—Except as provided in paragraph (2), if a producer who is eligible to receive benefits under catastrophic risk protection under subsection (b) 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 subtitle 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.).

(o) CROP PRODUCTION ON NATIVE SOD.—

(1) DEFINITION OF NATIVE SOD.—In this subsection, the term “native sod” means land—

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

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

(2) INELIGIBILITY FOR BENEFITS.—

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

(i) this subtitle; and

(ii) section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(B) DE MINIMIS ACREAGE EXEMPTION.—The Secretary shall exempt areas of 5 acres or less from subparagraph (A).

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

**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 prevented from being planted, on specific acreage during a crop year and insured under this subtitle.

(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 subtitle 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 subtitle 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 subtitle 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 subtitle, 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 subtitle 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 subtitle.

#### 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 subtitle.

#### TAX EXEMPTION

**SEC. 511. [7 U.S.C. 1511]** The Corporation, including its franchise, its capital, reserves, and surplus, and its income and prop-



erty, 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 subtitle.

**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 subtitle. 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 subtitle, 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 subtitle.

(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 sus-

pected 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 subtitle.

(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 subtitle 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 subtitle 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 associ-

ated 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 subtitle:

(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 subtitle 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 subtitle; 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 subtitle.

(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 subtitle.

(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 subtitle 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 subtitle. 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 subtitle.

(3) USE OF PRIVATE SECTOR.—The Secretary may enter into contracts to use private sector expertise and technological resources in implementing this subsection, which shall be subject to competition on a periodic basis, as determined by the Secretary.

(k) FUNDING.—

(1) INFORMATION TECHNOLOGY.—To carry out subsection (j)(1), the Corporation may use, from amounts made available from the insurance fund established under section 516(c), not more than \$15,000,000 for each of fiscal years 2008 through 2010, and not more than \$9,000,000 for fiscal year 2011.

(2) DATA MINING.—To carry out subsection (j)(2), the Corporation may use, from amounts made available from the insurance fund established under section 516(c), not more than \$4,000,000 for fiscal year 2009 and each subsequent fiscal year.

**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 subtitle 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 subtitle

be held to be unconstitutional, the same shall not affect the validity of other sections or parts of sections of this subtitle.

AGRICULTURAL COMMODITY

SEC. 518. [7 U.S.C. 1518] “Agricultural commodity”, as used in this subtitle, 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.]

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

Except as otherwise provided in this subtitle, a producer shall not be denied insurance under this subtitle 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 subtitle to which the person is not entitled, has evaded this subtitle, or has acted with the purposes of evading this subtitle, the person shall be ineligible to receive all benefits applicable to the crop year for which the scheme or device was adopted.

**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 PAYMENT.—

(A) IN GENERAL.—The Corporation shall provide a payment to an applicant for research and development costs in accordance with this subsection.

(B) REIMBURSEMENT.—An applicant who submits a policy under section 508(h) shall be eligible for the reimbursement of reasonable research and development costs directly related to the policy if the policy is approved by the Board for sale to producers.

(2) ADVANCE PAYMENTS.—

(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Board may approve the request of an



applicant for advance payment of a portion of reasonable research and development costs prior to submission and approval of the policy by the Board under section 508(h).

(B) PROCEDURES.—The Board shall establish procedures for approving advance payment of reasonable research and development costs to applicants.

(C) CONCEPT PROPOSAL.—As a condition of eligibility for advance payments, an applicant shall submit a concept proposal for the policy that the applicant plans to submit to the Board under section 508(h), consistent with procedures established by the Board for submissions under subparagraph (B), including—

(i) a summary of the qualifications of the applicant, including any prior concept proposals and submissions to the Board under section 508(h) and, if applicable, any work conducted under this section;

(ii) a projection of total research and development costs that the applicant expects to incur;

(iii) a description of the need for the policy, the marketability of and expected demand for the policy among affected producers, and the potential impact of the policy on producers and the crop insurance delivery system;

(iv) a summary of data sources available to demonstrate that the policy can reasonably be developed and actuarially appropriate rates established; and

(v) an identification of the risks the proposed policy will cover and an explanation of how the identified risks are insurable under this subtitle.

(D) REVIEW.—

(i) EXPERTS.—If the requirements of subparagraph (B) and (C) are met, the Board may submit a concept proposal described in subparagraph (C) to not less than 2 independent expert reviewers, whose services are appropriate for the type of concept proposal submitted, to assess the likelihood that the proposed policy being developed will result in a viable and marketable policy, as determined by the Board.

(ii) TIMING.—The time frames described in subparagraphs (C) and (D) of section 508(h)(4) shall apply to the review of concept proposals under this subparagraph.

(E) APPROVAL.—The Board may approve up to 50 percent of the projected total research and development costs to be paid in advance to an applicant, in accordance with the procedures developed by the Board for the making of such payments, if, after consideration of the reviewer reports described in subparagraph (D) and such other information as the Board determines appropriate, the Board determines that—

(i) the concept, in good faith, will likely result in a viable and marketable policy consistent with section 508(h);

(ii) in the sole opinion of the Board, the concept, if developed into a policy and approved by the Board, would provide crop insurance coverage—

- (I) in a significantly improved form;
- (II) to a crop or region not traditionally served by the Federal crop insurance program; or
- (III) in a form that addresses a recognized flaw or problem in the program;
- (iii) the applicant agrees to provide such reports as the Corporation determines are necessary to monitor the development effort;
- (iv) the proposed budget and timetable are reasonable; and
- (v) the concept proposal meets any other requirements that the Board determines appropriate.

(F) SUBMISSION OF POLICY.—If the Board approves an advanced payment under subparagraph (E), the Board shall establish a date by which the applicant shall present a submission in compliance with section 508(h) (including the procedures implemented under that section) to the Board for approval.

(G) FINAL PAYMENT.—

(i) APPROVED POLICIES.—If a policy is submitted under subparagraph (F) and approved by the Board under section 508(h) and the procedures established by the Board (including procedures established under subparagraph (B)), the applicant shall be eligible for a payment of reasonable research and development costs in the same manner as policies reimbursed under paragraph (1)(B), less any payments made pursuant to subparagraph (E).

(ii) POLICIES NOT APPROVED.—If a policy is submitted under subparagraph (F) and is not approved by the Board under section 508(h), the Corporation shall—

- (I) not seek a refund of any payments made in accordance with this paragraph; and
- (II) not make any further research and development cost payments associated with the submission of the policy under this paragraph.

(H) POLICY NOT SUBMITTED.—If an applicant receives an advance payment and fails to fulfill the obligation of the applicant to the Board by not submitting a completed submission without just cause and in accordance with the procedures established under subparagraph (B)), including notice and reasonable opportunity to respond, as determined by the Board, the applicant shall return to the Board the amount of the advance plus interest.

(I) REPEATED SUBMISSIONS.—The Board may prohibit advance payments to applicants who have submitted—

- (i) a concept proposal or submission that did not result in a marketable product; or
- (ii) a concept proposal or submission of poor quality.

(J) CONTINUED ELIGIBILITY.—A determination that an applicant is not eligible for advance payments under this paragraph shall not prevent an applicant from reimbursement under paragraph (1)(B).

(3) MARKETABILITY.—The Corporation shall approve a reimbursement under paragraph (1) 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) <sup>522-1</sup>.

(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

<sup>522-1</sup> “Paragraphs (1)” resulted from the amendment made by sec. 12022(b) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 2144). Probably should be amended to read “paragraph (1)”.

(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) CONTRACTS FOR ORGANIC PRODUCTION COVERAGE IMPROVEMENTS.—

(A) CONTRACTS REQUIRED.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Corporation shall enter into 1 or more contracts for the development of improvements in Federal crop insurance policies covering crops produced in compliance with standards issued by the Department of Agriculture under the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

(B) REVIEW OF UNDERWRITING RISK AND LOSS EXPERIENCE.—

(i) REVIEW REQUIRED.—

(I) IN GENERAL.—A contract under subparagraph (A) shall include a review of the underwriting, risk, and loss experience of organic crops covered by the Corporation, as compared with the same crops produced in the same counties and during the same crop years using nonorganic methods.

(II) REQUIREMENTS.—The review shall—

(aa) to the maximum extent practicable, be designed to allow the Corporation to determine whether significant, consistent, or systemic variations in loss history exist between organic and nonorganic production;

(bb) include the widest available range of data collected by the Secretary and other outside sources of information; and

(cc) not be limited to loss history under existing crop insurance policies.

(ii) EFFECT ON PREMIUM SURCHARGE.—Unless the review under this subparagraph documents the existence of significant, consistent, and systemic variations in loss history between organic and nonorganic crops, either collectively or on an individual crop basis, the Corporation shall eliminate or reduce the premium surcharge that the Corporation charges for coverage for organic crops, as determined in accordance with the results.

(iii) ANNUAL UPDATES.—Beginning with the 2009 crop year, the review under this subparagraph shall be updated on an annual basis as data is accumulated by the Secretary and other sources, so that the Corporation may make determinations regarding adjustments to the surcharge in a timely manner as quickly as evolving practices and data trends allow.

(C) ADDITIONAL PRICE ELECTION.—

(i) IN GENERAL.—A contract under subparagraph (A) shall include the development of a procedure, including any associated changes in policy terms or materials required for implementation of the procedure, to offer producers of organic crops an additional price election that reflects actual prices received by organic producers for crops from the field (including appropriate retail and wholesale prices), as established using data collected and maintained by the Secretary or from other sources.

(ii) TIMING.—The development of the procedure shall be completed in a timely manner to allow the Corporation to begin offering the additional price election for organic crops with sufficient data for the 2010 crop year.

(iii) EXPANSION.—The procedure shall be expanded as quickly as practicable as additional data on prices of organic crops collected by the Secretary and other sources of information becomes available, with a goal of applying this procedure to all organic crops not later than the fifth full crop year that begins after the date of enactment of Food, Conservation, and Energy Act of 2008.

(D) REPORTING REQUIREMENTS.—

(i) IN GENERAL.—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 an annual report on progress made in developing and improving Federal crop insurance for organic crops, including—

(I) the numbers and varieties of organic crops insured;

(II) the development of new insurance approaches; and

(III) the progress of implementing the initiatives required under this paragraph, including the rate at which additional price elections are adopted for organic crops.

(ii) RECOMMENDATIONS.—The report shall include such recommendations as the Corporation considers appropriate to improve Federal crop insurance coverage for organic crops.

(11) ENERGY CROP INSURANCE POLICY.—

(A) DEFINITION OF DEDICATED ENERGY CROP.—In this subsection, the term “dedicated energy crop” means an annual or perennial crop that—

(i) is grown expressly for the purpose of producing a feedstock for renewable biofuel, renewable electricity, or biobased products; and

(ii) is not typically used for food, feed, or fiber.

(B) AUTHORITY.—The Corporation shall offer to enter into 1 or more contracts with qualified entities to carry out research and development regarding a policy to insure dedicated energy crops.

(C) RESEARCH AND DEVELOPMENT.—Research and development described in subparagraph (B) shall evaluate the effectiveness of risk management tools for the production of dedicated energy crops, including policies and plans of insurance that—

(i) are based on market prices and yields;

(ii) to the extent that insufficient data exist to develop a policy based on market prices and yields, evaluate the policies and plans of insurance based on the use of weather or rainfall indices to protect the interests of crop producers; and

(iii) provide protection for production or revenue losses, or both.

(12) AQUACULTURE INSURANCE POLICY.—

(A) DEFINITION OF AQUACULTURE.—In this subsection:

(i) IN GENERAL.—The term “aquaculture” means the propagation and rearing of aquatic species in controlled or selected environments, including shellfish cultivation on grants or leased bottom and ocean ranching.

(ii) EXCLUSION.—The term “aquaculture” does not include the private ocean ranching of Pacific salmon for profit in any State in which private ocean ranching of Pacific salmon is prohibited by any law (including regulations).

(B) AUTHORITY.—

(i) IN GENERAL.—As soon as practicable after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Corporation shall offer to enter into 3 or more contracts with qualified entities to carry out research and development regarding a policy to insure the production of aquacultural species in aquaculture operations.

(ii) BIVALVE SPECIES.—At least 1 of the contracts described in clause (i) shall address insurance of bivalve species, including—

(I) American oysters (*crassostrea virginica*);

(II) hard clams (*mercenaria mercenaria*);

(III) Pacific oysters (*crassostrea gigas*);

(IV) Manila clams (*tapes philippinarum*); or

(V) blue mussels (*mytilus edulis*).

(iii) FRESHWATER SPECIES.—At least 1 of the contracts described in clause (i) shall address insurance of freshwater species, including—

(I) catfish (*icataluridae*);

(II) rainbow trout (*oncorhynchus mykiss*);

(III) largemouth bass (*micropterus salmoides*);

(IV) striped bass (*morone saxatilis*);

- (V) bream (*abramis brama*);
- (VI) shrimp (*penaeus*); or
- (VII) tilapia (*oreochromis niloticus*).

(iv) SALTWATER SPECIES.—At least 1 of the contracts described in clause (i) shall address insurance of saltwater species, including—

- (I) Atlantic salmon (*salmo salar*); or
- (II) shrimp (*penaeus*).

(C) RESEARCH AND DEVELOPMENT.—Research and development described in subparagraph (B) shall evaluate the effectiveness of policies and plans of insurance for the production of aquacultural species in aquaculture operations, including policies and plans of insurance that—

- (i) are based on market prices and yields;
- (ii) to the extent that insufficient data exist to develop a policy based on market prices and yields, evaluate how best to incorporate insuring of production of aquacultural species in aquaculture operations into existing policies covering adjusted gross revenue; and
- (iii) provide protection for production or revenue losses, or both.

(13) POULTRY INSURANCE POLICY.—

(A) DEFINITION OF POULTRY.—In this paragraph, the term “poultry” has the meaning given the term in section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)).

(B) AUTHORITY.—The Corporation shall offer to enter into 1 or more contracts with qualified entities to carry out research and development regarding a policy to insure commercial poultry production.

(C) RESEARCH AND DEVELOPMENT.—Research and development described in subparagraph (B) shall evaluate the effectiveness of risk management tools for the production of poultry, including policies and plans of insurance that provide protection for production or revenue losses, or both, while the poultry is in production.

(14) APIARY POLICIES.—The Corporation shall offer to enter into a contract with a qualified entity to carry out research and development regarding insurance policies that cover loss of bees.

(15) ADJUSTED GROSS REVENUE POLICIES FOR BEGINNING PRODUCERS.—The Corporation shall offer to enter into a contract with a qualified entity to carry out research and development into needed modifications of adjusted gross revenue insurance policies, consistent with principles of actuarial sufficiency, to permit coverage for beginning producers with no previous production history, including permitting those producers to have production and premium rates based on information with similar farming operations.

(16) SKIPROW CROPPING PRACTICES.—

(A) IN GENERAL.—The Corporation shall offer to enter into a contract with a qualified entity to carry out research into needed modifications of policies to insure corn and sorghum produced in the Central Great Plains (as determined by the Agricultural Research Service) through use of skiprow cropping practices.



(B) RESEARCH.—Research described in subparagraph (A) shall—

(i) review existing research on skiprow cropping practices and actual production history of producers using skiprow cropping practices; and

(ii) evaluate the effectiveness of risk management tools for producers using skiprow cropping practices, including—

(I) the appropriateness of rules in existence as of the date of enactment of this paragraph relating to the determination of acreage planted in skiprow patterns; and

(II) whether policies for crops produced through skiprow cropping practices reflect actual production capabilities.

(17) RELATION TO LIMITATIONS.—A policy developed under this subsection may be prepared without regard to the limitations of this subtitle, 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~~ *National Institute of Food and Agriculture*,<sup>522-2</sup> 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;

<sup>522-2</sup> Effective October 1, 2009, sec. 7511(c)(1) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 2028) amends this paragraph by striking “the Cooperative State Research, Education, and Extension Service” and inserting “the National Institute of Food and Agriculture”.

(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 \$7,500,000 for fiscal year 2008 and each subsequent fiscal year<sup>522-3</sup>

(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 \$12,500,000 for fiscal year 2008 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—

(A) not more than \$5,000,000 for each fiscal year to improve program integrity, including by—

(i) increasing compliance-related training;

(ii) improving analysis tools and technology regarding compliance;

(iii) use of information technology, as determined by the Corporation; and

<sup>522-3</sup> Missing period resulted from amendment made by sec. 12024(1) of the Food, Conservation, and Energy Act of 2008 (122 Stat. 2150). Probably should add a period at the end.

(iv) identifying and using innovative compliance strategies; and

(B) any excess amounts to carry out other activities 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 subtitle.

(B) EXISTING POLICIES.—Any policy developed by the Corporation under this subtitle 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 subtitle; and

(ii) the Corporation shall conduct all wild salmon programs under this subtitle 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 subtitle.

(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 subtitle 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 subtitle 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.

(f) CAMELINA PILOT PROGRAM.—

(1) IN GENERAL.—The Corporation shall establish a pilot program under which producers or processors of camelina may propose for approval by the Board policies or plans of insurance for camelina, in accordance with section 508(h).

(2) DETERMINATION BY BOARD.—The Board shall approve a policy or plan of insurance proposed under paragraph (1) if, as determined by the Board, the policy or plan of insurance—

- (A) protects the interests of producers;

- (B) is actuarially sound; and

- (C) meets the requirements of this subtitle.

(3) TIMEFRAME.—The Corporation shall commence the camelina insurance pilot program as soon as practicable after the date of enactment of this subsection.

(g) SESAME INSURANCE PILOT PROGRAM.—

(1) IN GENERAL.—In addition to any other authority of the Corporation, the Corporation shall establish and carry out a pilot program under which a producer of nondehiscent sesame under contract may elect to obtain multiperil crop insurance, as determined by the Corporation.

(2) TERMS AND CONDITIONS.—The multiperil crop insurance offered under the sesame insurance pilot program shall—

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

(B) be actuarially sound; and

(C) require the payment of premiums and administrative fees by a producer obtaining the insurance.

(3) LOCATION.—The sesame insurance pilot program shall be carried out only in the State of Texas.

(4) DURATION.—The Corporation shall commence the sesame insurance pilot program as soon as practicable after the date of the enactment of this subsection.

(h) GRASS SEED INSURANCE PILOT PROGRAM.—

(1) IN GENERAL.—In addition to any other authority of the Corporation, the Corporation shall establish and carry out a grass seed pilot program under which a producer of Kentucky bluegrass or perennial rye grass under contract may elect to obtain multiperil crop insurance, as determined by the Corporation.

(2) TERMS AND CONDITIONS.—The multiperil crop insurance offered under the grass seed insurance pilot program shall—

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

(B) be actuarially sound; and

(C) require the payment of premiums and administrative fees by a producer obtaining the insurance.

(3) LOCATION.—The grass seed insurance pilot program shall be carried out only in each of the States of Minnesota and North Dakota.

(4) DURATION.—The Corporation shall commence the grass seed insurance pilot program as soon as practicable after the date of the enactment of this subsection.

**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 (5)—

(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 *the National Institute of Food and Agriculture*,<sup>524-1</sup> 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)—

<sup>524-1</sup> Effective October 1, 2009, sec. 7511(c)(2) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 2028) amends this paragraph by striking “the Cooperative State Research, Education, and Extension Service” and inserting “the National Institute of Food and Agriculture”.

(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~~ *the National Institute of Food and Agriculture*,<sup>524-2</sup> 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) REQUIREMENTS.—In carrying out the programs established under paragraphs (2) and (3), the Secretary shall place special emphasis on risk management strategies, education, and outreach specifically targeted at—

(A) beginning farmers or ranchers;

(B) legal immigrant farmers or ranchers that are attempting to become established producers in the United States;

(C) socially disadvantaged farmers or ranchers;

(D) farmers or ranchers that—

(i) are preparing to retire; and

(ii) are using transition strategies to help new farmers or ranchers get started; and

(E) new or established farmers or ranchers that are converting production and marketing systems to pursue new markets.

(5) 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),

<sup>524-2</sup> Effective October 1, 2009, sec. 7511(c)(2) of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 2028) amends this paragraph by striking “the Cooperative State Research, Education, and Extension Service” and inserting “the National Institute of Food and Agriculture”.



\$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, Hawaii, 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))) (before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008) 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 clause (ii), 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 FISCAL YEARS 2008 THROUGH 2012.—For each of fiscal years 2008 through 2012, the Commodity Credit Corporation shall make available to carry out this subsection \$15,000,000.

(C) CERTAIN USES.—Of the amounts made available to carry out this subsection for a fiscal year, the Commodity Credit Corporation shall use not less than—

(i) 50 percent to carry out subparagraphs (A), (B), and (C) of paragraph (2) through the Natural Resources Conservation Service;

- (ii) 10 percent to provide organic certification cost share assistance through the Agricultural Marketing Service; and
- (iii) 40 percent to conduct activities to carry out subparagraph (F) of paragraph (2) through the Risk Management Agency.

## **Subtitle B—Supplemental Agricultural Disaster Assistance**

### **SEC. 531. [7 U.S.C. 1531] SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.**

(a) DEFINITIONS.—In this section:

(1) ACTUAL PRODUCTION HISTORY YIELD.—The term “actual production history yield” means the weighted average of the actual production history for each insurable commodity or non-insurable commodity, as calculated under subtitle A or the non-insured crop disaster assistance program, respectively.

(2) ACTUAL PRODUCTION ON THE FARM.—The term “actual production on the farm” means the sum of the value of all crops produced on the farm, as determined under subsection (b)(6)(B).

(3) ADJUSTED ACTUAL PRODUCTION HISTORY YIELD.—The term “adjusted actual production history yield” means—

(A) in the case of an eligible producer on a farm that has at least 4 years of actual production history yields for an insurable commodity that are established other than pursuant to section 508(g)(4)(B), the actual production history for the eligible producer without regard to any yields established under that section;

(B) in the case of an eligible producer on a farm that has less than 4 years of actual production history yields for an insurable commodity, of which 1 or more were established pursuant to section 508(g)(4)(B), the actual production history for the eligible producer as calculated without including the lowest of the yields established pursuant to section 508(g)(4)(B); and

(C) in all other cases, the actual production history of the eligible producer on a farm.

(4) ADJUSTED NONINSURED CROP DISASTER ASSISTANCE PROGRAM YIELD.—The term “adjusted noninsured crop disaster assistance program yield” means—

(A) in the case of an eligible producer on a farm that has at least 4 years of production history under the non-insured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield without regard to any replacement yields;

(B) in the case of an eligible producer on a farm that has less than 4 years of production history under the non-insured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield as calculated without including the lowest of the replacement yields; and

(C) in all other cases, the production history of the eligible producer on the farm under the noninsured crop disaster assistance program.

(5) COUNTER-CYCLICAL PROGRAM PAYMENT YIELD.—The term “counter-cyclical program payment yield” means the weighted average payment yield established under under—<sup>531-1</sup>

(i) section 1102 or 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912, 7952);

(ii) section 1102 or 1301(6) of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8712, 8751(6));  
or

(iii) a successor section.

(6) CROP OF ECONOMIC SIGNIFICANCE.—The term “crop of economic significance” shall have the uniform meaning given the term by the Secretary for purposes of subsections (b)(1)(B) and (g)(6).

(7) DISASTER COUNTY.—

(A) IN GENERAL.—The term “disaster county” means a county included in the geographic area covered by a qualifying natural disaster declaration.

(B) INCLUSION.—The term “disaster county” includes—

(i) a county contiguous to a county described in subparagraph (A); and

(ii) any farm in which, during a calendar year the actual production on the farm is less than 50 percent of the normal production on the farm.

(8) ELIGIBLE PRODUCER ON A FARM.—

(A) IN GENERAL.—The term “eligible producer on a farm” means an individual or entity described in subparagraph (B) that, as determined by the Secretary, assumes the production and market risks associated with the agricultural production of crops or livestock.

(B) DESCRIPTION.—An individual or entity referred to in subparagraph (A) is—

(i) a citizen of the United States;

(ii) a resident alien;

(iii) a partnership of citizens of the United States;

or

(iv) a corporation, limited liability corporation, or other farm organizational structure organized under State law.

(9) FARM.—

(A) IN GENERAL.—The term “farm” means, in relation to an eligible producer on a farm, the sum of all crop acreage in all counties that is planted or intended to be planted for harvest for sale or on-farm livestock feeding (including native grassland intended for haying) by the eligible producer.

(B) AQUACULTURE.—In the case of aquaculture, the term “farm” means, in relation to an eligible producer on a farm, all fish being produced in all counties that are intended to be harvested for sale by the eligible producer.

(C) HONEY.—In the case of honey, the term “farm” means, in relation to an eligible producer on a farm, all

<sup>531-1</sup> Sec. 2(a)(1)(B) of Public Law 110-398, Oct. 13, 2008, amended this paragraph by striking “section 1102 of the Farm Security and Rural Investment Act of 2002” and all that follows through the end of the paragraph and inserting “under—” and all that follows through the end of the paragraph. So in original (as so amended), (1) “under under” in matter before clause (i), (2) clauses (i) through (iii) (vs. subparagraphs (A) through (C)), and (3) indentation of those clauses.

bees and beehives in all counties that are intended to be harvested for a honey crop for sale by the eligible producer.

(10) FARM-RAISED FISH.—The term “farm-raised fish” means any aquatic species that is propagated and reared in a controlled environment.

(11) INSURABLE COMMODITY.—The term “insurable commodity” means an agricultural commodity (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under subtitle A.

(12) LIVESTOCK.—The term “livestock” includes—

(A) cattle (including dairy cattle);

(B) bison;

(C) poultry;

(D) sheep;

(E) swine;

(F) horses; and

(G) other livestock, as determined by the Secretary.

(13) NONINSURABLE COMMODITY.—The term “noninsurable commodity” means a crop for which the eligible producers on a farm are eligible to obtain assistance under the noninsured crop assistance program.

(14) NONINSURED CROP ASSISTANCE PROGRAM.—The term “noninsured crop assistance program” means the program carried out under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(15) NORMAL PRODUCTION ON THE FARM.—The term “normal production on the farm” means the sum of the expected revenue for all crops on the farm, as determined under subsection (b)(6)(A).

(16) QUALIFYING NATURAL DISASTER DECLARATION.—The term “qualifying natural disaster declaration” means a natural disaster declared by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

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

(18) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term “socially disadvantaged farmer or rancher” has the meaning given the term in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).

(19) STATE.—The term “State” means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(20) TRUST FUND.—The term “Trust Fund” means the Agricultural Disaster Relief Trust Fund established under section 902 of the Trade Act of 1974.

(21) UNITED STATES.—The term “United States” when used in a geographical sense, means all of the States.

(b) SUPPLEMENTAL REVENUE ASSISTANCE PAYMENTS.—

(1) PAYMENTS.—

(A) IN GENERAL.—The Secretary shall use such sums as are necessary from the Trust Fund to make crop disaster assistance payments to eligible producers on farms in

disaster counties that have incurred crop production losses or crop quality losses, or both, during the crop year.

(B) CROP LOSS.—To be eligible for crop loss assistance under this subsection, the actual production on the farm for at least 1 crop of economic significance shall be reduced by at least 10 percent due to disaster, adverse weather, or disaster-related conditions.

(2) AMOUNT.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide crop disaster assistance payments under this section to an eligible producer on a farm in an amount equal to 60 percent of the difference between—

(i) the disaster assistance program guarantee, as described in paragraph (3); and

(ii) the total farm revenue for a farm, as described in paragraph (4).

(B) LIMITATION.—The disaster assistance program guarantee for a crop used to calculate the payments for a farm under subparagraph (A)(i) may not be greater than 90 percent of the sum of the expected revenue, as described in paragraph (5) for each of the crops on a farm, as determined by the Secretary.

(C) EXCLUSION OF SUBSEQUENTLY PLANTED CROPS.—In calculating the disaster assistance program guarantee under paragraph (3) and the total farm revenue under paragraph (4), the Secretary shall not consider the value of any crop that—

(i) is produced on land that is not eligible for a policy or plan of insurance under subtitle A or assistance under the noninsured crop assistance program; or

(ii) is subsequently planted on the same land during the same crop year as the crop for which disaster assistance is provided under this subsection, except in areas in which double-cropping is a normal practice, as determined by the Secretary.

(3) SUPPLEMENTAL REVENUE ASSISTANCE PROGRAM GUARANTEE.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the supplemental assistance program guarantee shall be the sum obtained by adding—

(i) for each insurable commodity on the farm, 115 percent of the product obtained by multiplying—

(I) a payment rate for the commodity that is equal to the price election for the commodity elected by the eligible producer;

(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity;

(III) the payment yield for the commodity that is equal to the percentage of the crop insurance yield elected by the producer of the higher of—

(aa) the adjusted actual production history yield; or

(bb) the counter-cyclical program payment yield for each crop; and

(ii) for each noninsurable commodity on a farm, 120 percent of the product obtained by multiplying—

(I) a payment rate for the commodity that is equal to 100 percent of the noninsured crop assistance program established price for the commodity;

(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity; and

(III) the payment yield for the commodity that is equal to 50 percent of the higher of—

(aa) the adjusted noninsured crop assistance program yield; or

(bb) the counter-cyclical program payment yield for each crop.

(B) ADJUSTMENT INSURANCE GUARANTEE.—Notwithstanding subparagraph (A), in the case of an insurable commodity for which a plan of insurance provides for an adjustment in the guarantee, such as in the case of prevented planting, the adjusted insurance guarantee shall be the basis for determining the disaster assistance program guarantee for the insurable commodity.

(C) ADJUSTED ASSISTANCE LEVEL.—Notwithstanding subparagraph (A), in the case of a noninsurable commodity for which the noninsured crop assistance program provides for an adjustment in the level of assistance, such as in the case of unharvested crops, the adjusted assistance level shall be the basis for determining the disaster assistance program guarantee for the noninsurable commodity.

(D) EQUITABLE TREATMENT FOR NON-YIELD BASED POLICIES.—The Secretary shall establish equitable treatment for non-yield based policies and plans of insurance, such as the Adjusted Gross Revenue Lite insurance program.

(4) FARM REVENUE.—

(A) IN GENERAL.—For purposes of this subsection, the total farm revenue for a farm, shall equal the sum obtained by adding—

(i) the estimated actual value for each crop produced on a farm by using the product obtained by multiplying—

(I) the actual production by crop on a farm for purposes of determining losses under subtitle A or the noninsured crop assistance program; and

(II) subject to subparagraphs (B) and (C), to the extent practicable, the national average market price received for the marketing year, as determined by the Secretary;

(ii) 15 percent of amount of any direct payments made to the producer under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 or successor sections;

(iii) the total amount of any counter-cyclical payments made to the producer under sections 1104 and 1304 of the Food, Conservation, and Energy Act of 2008 or successor sections or of any average crop revenue election payments made to the producer under section 1105 of that Act;

(iv) the total amount of any loan deficiency payments, marketing loan gains, and marketing certificate gains made to the producer under subtitles B and C of the Food, Conservation, and Energy Act of 2008 or successor subtitles;

(v) the amount of payments for prevented planting on a farm;

(vi) the amount of crop insurance indemnities received by an eligible producer on a farm for each crop on a farm;

(vii) the amount of payments an eligible producer on a farm received under the noninsured crop assistance program for each crop on a farm; and

(viii) the value of any other natural disaster assistance payments provided by the Federal Government to an eligible producer on a farm for each crop on a farm for the same loss for which the eligible producer is seeking assistance.

(B) ADJUSTMENT.—The Secretary shall adjust the average market price received by the eligible producer on a farm—

(i) to reflect the average quality discounts applied to the local or regional market price of a crop or mechanically harvested forage due to a reduction in the intrinsic characteristics of the production resulting from adverse weather, as determined annually by the State office of the Farm Service Agency;

(ii) to account for a crop the value of which is reduced due to excess moisture resulting from a disaster-related condition; and

(iii) as the Secretary determines appropriate, to reflect regional variations in a manner consistent with the operation of the crop insurance program under subtitle A and the noninsured crop assistance program.

(C) MAXIMUM AMOUNT FOR CERTAIN CROPS.—With respect to a crop for which an eligible producer on a farm receives assistance under the noninsured crop assistance program, the national average market price received during the marketing year shall be an amount not more than 100 percent of the price of the crop established under the noninsured crop assistance program.

(5) EXPECTED REVENUE.—The expected revenue for each crop on a farm shall equal—

(A) for each insurable commodity, the product obtained by multiplying—

(i) the greater of—

(I) the adjusted actual production history yield of the eligible producer on a farm; and

(II) the counter-cyclical program payment yield;

(ii) the acreage planted or prevented from being planted for each crop; and

(iii) 100 percent of the price election for the commodity used to calculate an indemnity for an applicable policy of insurance if an indemnity is triggered; and

(B) for each noninsurable crop, the product obtained by multiplying—

- (i) 100 percent of the adjusted noninsured crop assistance program yield;
- (ii) the acreage planted or prevented from being planted for each crop; and
- (iii) 100 percent of the noninsured crop assistance program price for each of the crops on a farm.

(6) PRODUCTION ON THE FARM.—

(A) NORMAL PRODUCTION ON THE FARM.—The normal production on the farm shall equal the sum of the expected revenue for each crop on a farm as determined under paragraph (5).

(B) ACTUAL PRODUCTION ON THE FARM.—The actual production on the farm shall equal the sum obtained by adding—

(i) for each insurable commodity on the farm, the product obtained by multiplying—

(I) 100 percent of the price election for the commodity used to calculate an indemnity for an applicable policy of insurance if an indemnity is triggered; and

(II) the quantity of the commodity produced on the farm, adjusted for quality losses; and

(ii) for each noninsurable commodity on a farm, the product obtained by multiplying—

(I) 100 percent of the noninsured crop assistance program established price for the commodity; and

(II) the quantity of the commodity produced on the farm, adjusted for quality losses.

(c) LIVESTOCK INDEMNITY PAYMENTS.—

(1) PAYMENTS.—The Secretary shall use such sums as are necessary from the Trust Fund to make livestock indemnity payments to eligible producers on farms that have incurred livestock death losses in excess of the normal mortality due to adverse weather, as determined by the Secretary, during the calendar year, including losses due to hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold.

(2) PAYMENT RATES.—Indemnity payments to an eligible producer on a farm under paragraph (1) shall be made at a rate of 75 percent of the market value of the applicable livestock on the day before the date of death of the livestock, as determined by the Secretary.

(d) LIVESTOCK FORAGE DISASTER PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) COVERED LIVESTOCK.—

(i) IN GENERAL.—Except as provided in clause (ii), the term “covered livestock” means livestock of an eligible livestock producer that, during the 60 days prior to the beginning date of a qualifying drought or fire condition, as determined by the Secretary, the eligible livestock producer—

(I) owned;

(II) leased;

(III) purchased;



- (IV) entered into a contract to purchase;
- (V) is a contract grower; or
- (VI) sold or otherwise disposed of due to qualifying drought conditions during—
  - (aa) the current production year; or
  - (bb) subject to paragraph (3)(B)(ii), 1 or both of the 2 production years immediately preceding the current production year.

(ii) EXCLUSION.—The term “covered livestock” does not include livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire condition, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary.

(B) DROUGHT MONITOR.—The term “drought monitor” means a system for classifying drought severity according to a range of abnormally dry to exceptional drought, as defined by the Secretary.

(C) ELIGIBLE LIVESTOCK PRODUCER.—

(i) IN GENERAL.—The term “eligible livestock producer” means an eligible producer on a farm that—

(I) is an owner, cash or share lessee, or contract grower of covered livestock that provides the pastureland or grazing land, including cash-leased pastureland or grazing land, for the livestock;

(II) provides the pastureland or grazing land for covered livestock, including cash-leased pastureland or grazing land that is physically located in a county affected by drought;

(III) certifies grazing loss; and

(IV) meets all other eligibility requirements established under this subsection.

(ii) EXCLUSION.—The term “eligible livestock producer” does not include an owner, cash or share lessee, or contract grower of livestock that rents or leases pastureland or grazing land owned by another person on a rate-of-gain basis.

(D) NORMAL CARRYING CAPACITY.—The term “normal carrying capacity”, with respect to each type of grazing land or pastureland in a county, means the normal carrying capacity, as determined under paragraph (3)(D)(i), that would be expected from the grazing land or pastureland for livestock during the normal grazing period, in the absence of a drought or fire that diminishes the production of the grazing land or pastureland.

(E) NORMAL GRAZING PERIOD.—The term “normal grazing period”, with respect to a county, means the normal grazing period during the calendar year for the county, as determined under paragraph (3)(D)(i).

(2) PROGRAM.—The Secretary shall use such sums as are necessary from the Trust Fund to provide compensation for losses to eligible livestock producers due to grazing losses for covered livestock due to—

(A) a drought condition, as described in paragraph (3);

or

(B) fire, as described in paragraph (4).

(3) ASSISTANCE FOR LOSSES DUE TO DROUGHT CONDITIONS.—

(A) ELIGIBLE LOSSES.—

(i) IN GENERAL.—An eligible livestock producer may receive assistance under this subsection only for grazing losses for covered livestock that occur on land that—

(I) is native or improved pastureland with permanent vegetative cover; or

(II) is planted to a crop planted specifically for the purpose of providing grazing for covered livestock.

(ii) EXCLUSIONS.—An eligible livestock producer may not receive assistance under this subsection for grazing losses that occur on land used for haying or grazing under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(B) MONTHLY PAYMENT RATE.—

(i) IN GENERAL.—Except as provided in clause (ii), the payment rate for assistance under this paragraph for 1 month shall, in the case of drought, be equal to 60 percent of the lesser of—

(I) the monthly feed cost for all covered livestock owned or leased by the eligible livestock producer, as determined under subparagraph (C); or

(II) the monthly feed cost calculated by using the normal carrying capacity of the eligible grazing land of the eligible livestock producer.

(ii) PARTIAL COMPENSATION.—In the case of an eligible livestock producer that sold or otherwise disposed of covered livestock due to drought conditions in 1 or both of the 2 production years immediately preceding the current production year, as determined by the Secretary, the payment rate shall be 80 percent of the payment rate otherwise calculated in accordance with clause (i).

(C) MONTHLY FEED COST.—

(i) IN GENERAL.—The monthly feed cost shall equal the product obtained by multiplying—

(I) 30 days;

(II) a payment quantity that is equal to the feed grain equivalent, as determined under clause (ii); and

(III) a payment rate that is equal to the corn price per pound, as determined under clause (iii).

(ii) FEED GRAIN EQUIVALENT.—For purposes of clause (i)(I), the feed grain equivalent shall equal—

(I) in the case of an adult beef cow, 15.7 pounds of corn per day; or

(II) in the case of any other type of weight of livestock, an amount determined by the Secretary that represents the average number of pounds of corn per day necessary to feed the livestock.

(iii) CORN PRICE PER POUND.—For purposes of clause (i)(II), the corn price per pound shall equal the quotient obtained by dividing—

(I) the higher of—

(aa) the national average corn price per bushel for the 12-month period immediately preceding March 1 of the year for which the disaster assistance is calculated; or

(bb) the national average corn price per bushel for the 24-month period immediately preceding that March 1; by

(II) 56.

(D) NORMAL GRAZING PERIOD AND DROUGHT MONITOR INTENSITY.—

(i) FSA COUNTY COMMITTEE DETERMINATIONS.—

(I) IN GENERAL.—The Secretary shall determine the normal carrying capacity and normal grazing period for each type of grazing land or pastureland in the county served by the applicable committee.

(II) CHANGES.—No change to the normal carrying capacity or normal grazing period established for a county under subclause (I) shall be made unless the change is requested by the appropriate State and county Farm Service Agency committees.

(ii) DROUGHT INTENSITY.—

(I) D2.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having a D2 (severe drought) intensity in any area of the county for at least 8 consecutive weeks during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph in an amount equal to 1 monthly payment using the monthly payment rate determined under subparagraph (B).

(II) D3.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having at least a D3 (extreme drought) intensity in any area of the county at any time during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph—

(aa) in an amount equal to 2 monthly payments using the monthly payment rate determined under subparagraph (B); or

(bb) if the county is rated as having a D3 (extreme drought) intensity in any area of the county for at least 4 weeks during the normal grazing period for the county, or is rated as having a D4 (exceptional drought) intensity in any area of the county at any time during the

normal grazing period, in an amount equal to 3 monthly payments using the monthly payment rate determined under subparagraph (B).

(4) ASSISTANCE FOR LOSSES DUE TO FIRE ON PUBLIC MANAGED LAND.—

(A) IN GENERAL.—An eligible livestock producer may receive assistance under this paragraph only if—

(i) the grazing losses occur on rangeland that is managed by a Federal agency; and

(ii) the eligible livestock producer is prohibited by the Federal agency from grazing the normal permitted livestock on the managed rangeland due to a fire.

(B) PAYMENT RATE.—The payment rate for assistance under this paragraph shall be equal to 50 percent of the monthly feed cost for the total number of livestock covered by the Federal lease of the eligible livestock producer, as determined under paragraph (3)(C).

(C) PAYMENT DURATION.—

(i) IN GENERAL.—Subject to clause (ii), an eligible livestock producer shall be eligible to receive assistance under this paragraph for the period—

(I) beginning on the date on which the Federal agency excludes the eligible livestock producer from using the managed rangeland for grazing; and

(II) ending on the last day of the Federal lease of the eligible livestock producer.

(ii) LIMITATION.—An eligible livestock producer may only receive assistance under this paragraph for losses that occur on not more than 180 days per year.

(5) MINIMUM RISK MANAGEMENT PURCHASE REQUIREMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, a livestock producer shall only be eligible for assistance under this subsection if the livestock producer—

(i) obtained a policy or plan of insurance under subtitle A for the grazing land incurring the losses for which assistance is being requested; or

(ii) filed the required paperwork, and paid the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the grazing land incurring the losses for which assistance is being requested.

(B) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—In the case of an eligible livestock producer that is a socially disadvantaged farmer or rancher or limited resource or beginning farmer or rancher, as determined by the Secretary, the Secretary may—

(i) waive subparagraph (A); and

(ii) provide disaster assistance under this subsection at a level that the Secretary determines to be equitable and appropriate.

(C) WAIVER FOR 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on graz-

ing land during the 2008 calendar year but does not meet the requirements of subparagraph (A), the Secretary shall waive subparagraph (A) if the eligible livestock producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under subparagraph (A) to the Secretary not later than 90 days after the date of enactment of this subtitle.

(D) **EQUITABLE RELIEF.**—

(i) **IN GENERAL.**—The Secretary may provide equitable relief to an eligible livestock producer that is otherwise ineligible or unintentionally fails to meet the requirements of subparagraph (A) for the grazing land incurring the loss on a case-by-case basis, as determined by the Secretary.

(ii) **2008 CALENDAR YEAR.**—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible livestock producer failed to meet the requirements of subparagraph (A) due to the enactment of this subtitle after the closing date of sales periods for crop insurance under subtitle A and the noninsured crop assistance program.

(6) **NO DUPLICATIVE PAYMENTS.**—

(A) **IN GENERAL.**—An eligible livestock producer may elect to receive assistance for grazing or pasture feed losses due to drought conditions under paragraph (3) or fire under paragraph (4), but not both for the same loss, as determined by the Secretary.

(B) **RELATIONSHIP TO SUPPLEMENTAL REVENUE ASSISTANCE.**—An eligible livestock producer that receives assistance under this subsection may not also receive assistance for losses to crops on the same land with the same intended use under subsection (b).

(e) **EMERGENCY ASSISTANCE FOR LIVESTOCK, HONEY BEES, AND FARM-RAISED FISH.**—

(1) **IN GENERAL.**—The Secretary shall use up to \$50,000,000 per year from the Trust Fund to provide emergency relief to eligible producers of livestock, honey bees, and farm-raised fish to aid in the reduction of losses due to disease, adverse weather, or other conditions, such as blizzards and wildfires, as determined by the Secretary, that are not covered under subsection (b), (c), or (d).

(2) **USE OF FUNDS.**—Funds made available under this subsection shall be used to reduce losses caused by feed or water shortages, disease, or other factors as determined by the Secretary.

(3) **AVAILABILITY OF FUNDS.**—Any funds made available under this subsection shall remain available until expended.

(f) **TREE ASSISTANCE PROGRAM.**—

(1) **DEFINITIONS.**—In this subsection:

(A) **ELIGIBLE ORCHARDIST.**—The term “eligible orchardist” means a person that produces annual crops from trees for commercial purposes.

(B) NATURAL DISASTER.—The term “natural disaster” means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, or other occurrence, as determined by the Secretary.

(C) NURSERY TREE GROWER.—The term “nursery tree grower” means a person who produces nursery, ornamental, fruit, nut, or Christmas trees for commercial sale, as determined by the Secretary.

(D) TREE.—The term “tree” includes a tree, bush, and vine.

(2) ELIGIBILITY.—

(A) LOSS.—Subject to subparagraph (B), the Secretary shall use such sums as are necessary from the Trust Fund to provide assistance—

(i) under paragraph (3) to eligible orchardists and nursery tree growers that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary; and

(ii) under paragraph (3)(B) to eligible orchardists and nursery tree growers that have a production history for commercial purposes on planted or existing trees but lost the trees as a result of a natural disaster, as determined by the Secretary.

(B) LIMITATION.—An eligible orchardist or nursery tree grower shall qualify for assistance under subparagraph (A) only if the tree mortality of the eligible orchardist or nursery tree grower, as a result of damaging weather or related condition, exceeds 15 percent (adjusted for normal mortality).

(3) ASSISTANCE.—Subject to paragraph (4), the assistance provided by the Secretary to eligible orchardists and nursery tree growers for losses described in paragraph (2) shall consist of—

(A)(i) reimbursement of 70 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

(ii) at the option of the Secretary, sufficient seedlings to reestablish a stand; and

(B) reimbursement of 50 percent of the cost of pruning, removal, and other costs incurred by an eligible orchardist or nursery tree grower to salvage existing trees or, in the case of tree mortality, to prepare the land to replant trees as a result of damage or tree mortality due to a natural disaster, as determined by the Secretary, in excess of 15 percent damage or mortality (adjusted for normal tree damage and mortality).

(4) LIMITATIONS ON ASSISTANCE.—

(A) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this paragraph, the terms “legal entity” and “person” have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008)).

(B) AMOUNT.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding

a joint venture or general partnership) under this subsection may not exceed \$100,000 for any crop year, or an equivalent value in tree seedlings.

(C) ACRES.—The total quantity of acres planted to trees or tree seedlings for which a person or legal entity shall be entitled to receive payments under this subsection may not exceed 500 acres.

(g) RISK MANAGEMENT PURCHASE REQUIREMENT.—

(1) IN GENERAL.—Except as otherwise provided in this section, the eligible producers on a farm shall not be eligible for assistance under this section (other than subsections (c) and (d)) if the eligible producers on the farm—

(A) in the case of each insurable commodity of the eligible producers on the farm, excluding grazing land, did not obtain a policy or plan of insurance under subtitle A (excluding a crop insurance pilot program under that subtitle); or

(B) in the case of each noninsurable commodity of the eligible producers on the farm, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program.

(2) MINIMUM.—To be considered to have obtained insurance under paragraph (1)(A), an eligible producer on a farm shall have obtained a policy or plan of insurance with not less than 50 percent yield coverage at 55 percent of the insurable price for each crop planted or intended to be planted for harvest on a whole farm.

(3) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—With respect to eligible producers that are socially disadvantaged farmers or ranchers or limited resource or beginning farmers or ranchers, as determined by the Secretary, the Secretary may—

(A) waive paragraph (1); and

(B) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

(4) WAIVERS FOR CERTAIN CROP YEARS.—

(A) 2008 CROP YEAR.—In the case of an eligible producer that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year but does not meet the requirements of paragraph (1), the Secretary shall waive paragraph (1) if the eligible producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under paragraph (1) to the Secretary not later than 90 days after the date of enactment of this subtitle.

(B) 2009 CROP YEAR.—In the case of an insurable commodity or noninsurable commodity for the 2009 crop year that does not meet the requirements of paragraph (1) and the relevant crop insurance program sales closing date or noninsured crop assistance program fee payment date was prior to August 14, 2008, the Secretary shall waive paragraph (1) if the eligible producer of the insurable commodity or noninsurable commodity pays a fee in an amount

equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under paragraph (1) to the Secretary not later than 90 days after the date of enactment of this subparagraph.

(5) **EQUITABLE RELIEF.**—

(A) **IN GENERAL.**—The Secretary may provide equitable relief to eligible producers on a farm that are otherwise ineligible or unintentionally fail to meet the requirements of paragraph (1) for 1 or more crops on a farm on a case-by-case basis, as determined by the Secretary.

(B) **2008 CROP YEAR.**—In the case of eligible producers on a farm that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible producers failed to meet the requirements of paragraph (1) due to the enactment of this subtitle after the closing date of sales periods for crop insurance under subtitle A and the noninsured crop assistance program.

(6) **DE MINIMIS EXCEPTION.**—

(A) **IN GENERAL.**—For purposes of assistance under subsection (b), at the option of an eligible producer on a farm, the Secretary shall waive paragraph (1)—

(i) in the case of a portion of the total acreage of a farm of the eligible producer that is not of economic significance on the farm, as established by the Secretary; or

(ii) in the case of a crop for which the administrative fee required for the purchase of noninsured crop disaster assistance coverage exceeds 10 percent of the value of that coverage.

(B) **TREATMENT OF ACREAGE.**—The Secretary shall not consider the value of any crop exempted under subparagraph (A) in calculating the supplemental revenue assistance program guarantee under subsection (b)(3) and the total farm revenue under subsection (b)(4).

(7) **2008 TRANSITION ASSISTANCE.**—

(A) **IN GENERAL.**—Eligible producers on a farm described in subparagraph (A) of paragraph (4) that failed to timely pay the appropriate fee described in that subparagraph shall be eligible for assistance under this section in accordance with subparagraph (B) if the eligible producers on the farm—

(i) pay the appropriate fee described in paragraph (4)(A) not later than 90 days after the date of enactment of this paragraph; and

(ii)(I) in the case of each insurable commodity of the eligible producers on the farm, excluding grazing land, agree to obtain a policy or plan of insurance under subtitle A (excluding a crop insurance pilot program under that subtitle) for the next insurance year for which crop insurance is available to the eligible producers on the farm at a level of coverage equal to 70 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage; and



(II) in the case of each noninsurable commodity of the eligible producers on the farm, agree to file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the next year for which a policy is available.

(B) AMOUNT OF ASSISTANCE.—Eligible producers on a farm that meet the requirements of subparagraph (A) shall be eligible to receive assistance under this section as if the eligible producers on the farm—

(i) in the case of each insurable commodity of the eligible producers on the farm, had obtained a policy or plan of insurance for the 2008 crop year at a level of coverage not to exceed 70 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage; and

(ii) in the case of each noninsurable commodity of the eligible producers on the farm, had filed the required paperwork, and paid the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the 2008 crop year, except that in determining the level of coverage, the Secretary shall use 70 percent of the applicable yield.

(C) EQUITABLE RELIEF.—Except as provided in subparagraph (D), eligible producers on a farm that met the requirements of paragraph (1) before the deadline described in paragraph (4)(A) and are eligible to receive, a disaster assistance payment under this section for a production loss during the 2008 crop year shall be eligible to receive an amount equal to the greater of—

(i) the amount that would have been calculated under subparagraph (B) if the eligible producers on the farm had paid the appropriate fee under that subparagraph; or

(ii) the amount that would have been calculated under subparagraph (A) of subsection (b)(3) if—

(I) in clause (i) of that subparagraph, “120 percent” is substituted for “115 percent”; and

(II) in clause (ii) of that subparagraph, “125” is substituted for “120 percent”.

(D) LIMITATION.—For amounts made available under this paragraph, the Secretary may make such adjustments as are necessary to ensure that no producer receives a payment under this paragraph for an amount in excess of the assistance received by a similarly situated producer that had purchased the same or higher level of crop insurance prior to the date of enactment of this paragraph.

(E) AUTHORITY OF THE SECRETARY.—The Secretary may provide such additional assistance as the Secretary considers appropriate to provide equitable treatment for eligible producers on a farm that suffered production losses in the 2008 crop year that result in multiyear production losses, as determined by the Secretary.

(F) LACK OF ACCESS.—Notwithstanding any other provision of this section, the Secretary may provide assistance

(including multiyear assistance) under this section to eligible producers on a farm that—

(i) suffered a production loss or multiyear production losses due to a natural cause during the 2008 crop year; and

(ii) as determined by the Secretary—

(I)(aa) except as provided in item (bb), lack access to a policy or plan of insurance under subtitle A; or

(bb) do not qualify for a written agreement because 1 or more farming practices, which the Secretary has determined are good farming practices, of the eligible producers on the farm differ significantly from the farming practices used by producers of the same crop in other regions of the United States; and

(II) are not eligible for the noninsured crop disaster assistance program established by section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(h) PAYMENT LIMITATIONS.—

(1) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this subsection, the terms “legal entity” and “person” have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008)).

(2) AMOUNT.—The total amount of disaster assistance payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this section (excluding payments received under subsection (f)) may not exceed \$100,000 for any crop year.

(3) AGI LIMITATION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a) or any successor provision shall apply with respect to assistance provided under this section.

(4) DIRECT CONTRIBUTION.—Subsections (e) and (f) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) or any successor provisions relating to direct contribution shall apply with respect to assistance provided under this section.

(5) TRANSITION RULE.—Sections 1001, 1001A, 1001B, and 1001D of the Food Security Act of 1985 (7 U.S.C. 1308 et seq.) as in effect on September 30, 2007, shall continue to apply with respect to 2008 crops.

(i) PERIOD OF EFFECTIVENESS.—This section shall be effective only for losses that are incurred as the result of a disaster, adverse weather, or other environmental condition that occurs on or before September 30, 2011, as determined by the Secretary.

(j) NO DUPLICATIVE PAYMENTS.—In implementing any other program which makes disaster assistance payments (except for indemnities made under subtitle A and section 196 of the Federal Agriculture Improvement and Reform Act of 1996), the Secretary shall prevent duplicative payments with respect to the same loss for which a person receives a payment under subsections (b), (c), (d), (e), or (f).

(k) APPLICATION.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any provision of subtitle A, subtitle A shall not apply to this subtitle.

(2) CROSS REFERENCES.—Paragraph (1) shall not apply to a specific reference in this subtitle to a provision of subtitle A.

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## **2. NONINSURED CROP ASSISTANCE PROGRAM**

[For updated compilation, see section 196 of the Federal Agriculture Improvement and Reform Act of 1996 in the Agricultural Commodity Laws volume]