

## **75-30 - Agricultural Adjustment Act of 1938 & Federal Crop Insurance Act**

[As Amended Through P.L. 114-74, Enacted November 02, 2015]

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AN ACT To provide for the conservation of national soil resources and to provide an adequate and balanced flow of agricultural commodities in interstate and foreign commerce and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [7 U.S.C. 1281]*  
That this Act may be cited as the “Agricultural Adjustment Act of 1938”.

DECLARATION OF POLICY

SEC. 2. [7 U.S.C. 1282] It is hereby declared to be the policy of Congress to continue the Soil Conservation and Domestic Allotment Act, as amended, for the purpose of conserving national resources, preventing the wasteful use of soil fertility, and of preserving, maintaining, and rebuilding the farm and ranch land resources in the national public interest; to accomplish these purposes through the encouragement of soil-building and soil-conserving crops and practices; to assist in the marketing of agricultural commodities for domestic consumption and for export; and to regulate interstate and foreign commerce in cotton, wheat, corn, and rice to the extent necessary to provide an orderly, adequate, and balanced flow of such commodities in interstate and foreign commerce through storage of reserve supplies, loans, marketing prices for such commodities and parity of income, and assisting consumers to obtain an adequate and steady supply of such commodities at fair prices.

TITLE I—AMENDMENTS TO SOIL CONSERVATION AND  
DOMESTIC ALLOTMENT ACT

【This title contains amendments to the Soil Conservation and Domestic Allotment Act, as amended. Insofar as now applicable, these amendments are incorporated in the Soil Conservation Laws Vol.】

TITLE II—ADJUSTMENT IN FREIGHT RATES, NEW USES  
AND MARKETS, AND DISPOSITION OF SURPLUSES

ADJUSTMENTS IN FREIGHT RATES FOR FARM PRODUCTS

SEC. 201. 【7 U.S.C. 1291】 (a) The Secretary of Agriculture is authorized to make complaint to the Surface Transportation Board with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, and to prosecute the same before the Board. Before hearing or disposing of any complaint (filed by any person other than the Secretary) with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, the Board shall cause the Secretary to be notified, and, upon application by the Secretary, shall permit the Secretary to appear and be heard.

(b) If such rate, charge, tariff, or practice complained of is one affecting the public interest, upon application by the Secretary, the Board shall make the Secretary a party to the proceeding. In such case the Secretary shall have the rights of a party before the Board and the rights of a party to invoke and pursue original and appellate judicial proceedings involving the Board's determination. The liability of the Secretary in any such case shall extend only to liability for court costs.

(c) For the purposes of this section, the Surface Transportation Board is authorized to avail itself of the cooperation, records, services, and facilities of the Department of Agriculture.

(d) The Secretary is authorized to cooperate with and assist cooperative associations of farmers making complaint to the Surface Transportation Board with respect to rates, charges, tariffs, and practices relating to the transportation of farm products.

NEW USES AND NEW MARKETS FOR FARM COMMODITIES

SEC. 202. 【7 U.S.C. 1292】 (a) The Secretary is hereby authorized and directed to establish, equip, and maintain four regional research laboratories, one in each major farm producing area, and, at such laboratories to conduct researches into and to develop new scientific, chemical, and technical uses and new and extended markets and outlets for farm commodities and products and byproducts thereof. Such research and development shall be devoted primarily to those farm commodities in which there are regular or seasonal surpluses, and their products and byproducts.

(b) For the purposes of subsection (a), the Secretary is authorized to acquire land and interests therein, and to accept in the name of the United States donations of any property, real or personal, to any laboratory established pursuant to this section, and to utilize voluntary or uncompensated services at such laboratories.

Donations to any one of such laboratories shall not be available for use by any other of such laboratories.

(c) In carrying out the purposes of subsection (a), the Secretary is authorized and directed to cooperate with other departments or agencies of the Federal Government, States, State agricultural experiment stations, and other State agencies and institutions, counties, municipalities, business or other organizations, corporations, associations, universities, scientific societies, and individuals, upon such terms and conditions as he may prescribe.

(d) To carry out the purposes of subsection (a), the Secretary is authorized to utilize in each fiscal year, beginning with the fiscal year beginning July 1, 1938, a sum not to exceed \$4,000,000 of the funds appropriated pursuant to section 391 of this Act, or section 15 of the Soil Conservation and Domestic Allotment Act, as amended, for such fiscal year. The Secretary shall allocate one-fourth of such sum annually to each of the four laboratories established pursuant to this section.

(f) There is hereby allocated to the Secretary of Commerce for each fiscal year, beginning with the fiscal year beginning July 1, 1938, out of funds appropriated for such fiscal year pursuant to section 391 of this Act, or section 15 of the Soil Conservation and Domestic Allotment Act, as amended, the sum of \$1,000,000 to be expended for the promotion of the sale of farm commodities and products thereof in such manner as he shall direct. Of the sum allocated under this subsection to the Secretary of Commerce for the fiscal year beginning July 1, 1938, \$100,000 shall be devoted to making a survey and investigation of the cause or causes of the reduction in exports of agricultural commodities from the United States, in order to ascertain methods by which the sales in foreign countries of basic agricultural commodities produced in the United States may be increased.

(g) It shall be the duty of the Secretary to use available funds to stimulate and widen the use of all farm commodities in the United States and to increase in every practical way the flow of such commodities and the products thereof into the markets of the world.

### TITLE III—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

#### SUBTITLE A—DEFINITIONS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS

##### DEFINITIONS

SEC. 301. [7 U.S.C. 1301] (a) GENERAL DEFINITIONS.—For the purposes of this title and the declaration of policy—

(1)(A) The “parity price” for any agricultural commodity, as of any date, shall be determined by multiplying the adjusted base price of such commodity as of such date by the parity index as of such date.

(B) The “adjusted base price” of any agricultural commodity, as of any date, shall be (i) the average of the prices received by farmers for such commodity, at such time as the Sec-

retary may select during each year of the ten-year period ending on the 31st of December last before such date, or during each marketing season beginning in such period if the Secretary determines use of a calendar year basis to be impracticable, divided by (ii) the ratio of the general level of prices received by farmers for agricultural commodities during such period to the general level of prices received by farmers for agricultural commodities during the period January 1910 to December 1914, inclusive. As used in this subparagraph, the term "prices" shall include wartime subsidy payments made to producers under programs designed to maintain maximum prices established under the Emergency Price Control Act of 1942.

(C) The "parity index", as of any date, shall be the ratio of (i) the general level of prices for articles and services that farmers buy, wages paid hired farm labor, interest on farm indebtedness secured by farm real estate, and taxes on farm real estate, for the calendar month ending last before such date to (ii) the general level of such prices, wages, rates, and taxes during the period January 1910 to December 1914, inclusive.

(D) The prices and indices provided for herein, and the data used in computing them, shall be determined by the Secretary, whose determination shall be final.

(E)<sup>2</sup> [ \* \* \* ]

(F) Notwithstanding the provisions of subparagraphs (A) and (E), if the parity price for any agricultural commodity, computed as provided in subparagraphs (A) and (E) appears to be seriously out of line with the parity prices of other agricultural commodities, the Secretary may, and upon the request of a substantial number of interested producers shall, hold public hearings to determine the proper relationship between the parity price of such commodity and the parity prices of other agricultural commodities. Within sixty days after commencing such hearing the Secretary shall complete such hearing, proclaim his findings as to whether the facts require a revision of the method of computing the parity price of such commodity, and put into effect any revision so found to be required.

(G)<sup>3</sup> [ \* \* \* ]

(2) "Parity", as applied to income, shall be that gross income from agriculture which will provide the farm operator and his family with a standard of living equivalent to those afforded persons dependent upon other gainful occupations. "Parity" as applied to income from any agricultural commodity for any year, shall be that gross income which bears the same relationship to parity income from agriculture for such year as the average gross income from such commodity for the preceding ten calendar years bears to the average gross income from agriculture for such ten calendar years.

(3) The term "interstate and foreign commerce" means sale, marketing, trade, and traffic between any State or Territory or the District of Columbia or Puerto Rico, and any place outside thereof; or between points within the same State or

<sup>2</sup>Subpara. (E) provides for computing transitional parity prices, which were last computed in 1955.

<sup>3</sup>Subpara. (G) was applicable only to the six-year period beginning Jan. 1, 1950.

Territory or within the District of Columbia or Puerto Rico, through any place outside thereof; or within any Territory or within the District of Columbia or Puerto Rico.

(4) The term "affect interstate and foreign commerce" means, among other things, in such commerce, or to burden or obstruct such commerce or the free and orderly flow thereof; or to create or tend to create a surplus of any cultural commodity which burdens or obstructs such commerce or the free and orderly flow thereof.

(5) The term "United States" means the several States and Territories and the District of Columbia and Puerto Rico.

(6) The term "State" includes a Territory and the District of Columbia and Puerto Rico.

(7) The term "Secretary" means the Secretary of Agriculture, and the term "Department" means the Department of Agriculture.

(8) The term "person" means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State.

(9) The term "corn" means field corn.

(b) DEFINITIONS APPLICABLE TO ONE OR MORE COMMODITIES.—

For the purposes of this title—

(1)(A) "Actual production" as applied to any acreage of corn means the number of bushels of corn which the local committee determines would be harvested as grain from such acreage if all the corn on such acreage were so harvested. In case of a disagreement between the farmer and the local committee as to the actual production of the acreage of corn on the farm, or in case the local committee determines that such actual production is substantially below normal, the local committee, in accordance with regulations of the Secretary, shall weigh representative samples of ear corn taken from the acreage involved, make proper deductions for moisture content, and determine the actual production of such acreage on the basis of such samples.

(B) "Actual production" of any number of acres of cotton, rice or peanuts on a farm means the actual average yield for the farm times such number of acres.

(2) "Bushel" means in the case of ear corn that amount of ear corn, including not to exceed 15½ per centum of moisture content, which weighs seventy pounds, and in the case of shelled corn, means that amount of shelled corn including not to exceed 15½ per centum of moisture content, which weighs fifty-six pounds.

(3)(A) "Carry-over", in the case of corn, rice, and peanuts for any marketing year shall be the quantity of the commodity on hand in the United States at the beginning of such marketing year, not including any quantity which was produced in the United States during the calendar year then current.

(B) "Carry-over" of cotton for any marketing year shall be the quantity of cotton on hand in the United States at the beginning of such marketing year, not including any part of the crop which was produced in the United States during the calendar year then current.

(C) "Carry-over" of wheat, for any marketing year shall be the quantity of wheat on hand in the United States at the beginning of such marketing year, not including any wheat which was produced in the United States during the calendar year then current, and not including any wheat held by the Federal Crop Insurance Corporation under title V.<sup>4</sup>

(4)<sup>5</sup> [ \* \* \* ]

(5)<sup>6</sup> [ \* \* \* ]

(6)(A) "Market", in the case of corn, cotton, rice, and wheat, means to dispose of, in raw or processed form, by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos, and, in the case of corn and wheat, by feeding (in any form) to poultry or livestock which, or the products of which, are sold, bartered, or exchanged, or to be so disposed of, but does not include disposing of any of such commodities as premium to the Federal Crop Insurance Corporation under Title V.<sup>7</sup>

(B) "Marketed", "marketing", and "for market" shall have corresponding meanings to the term "market" in the connection in which they are used.

(C) "Market", in the case, of peanuts, means to dispose of peanuts, including farmers' stock peanuts, shelled peanuts, cleaned peanuts, or peanuts in processed form, by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos.

(7) "Marketing year"<sup>8</sup> means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

Corn, September 1–August 31;

Cotton, August 1–July 31;

Rice, August 1–July 31;

Tobacco (flue-cured), July 1–June 30;

Tobacco (other than flue-cured), October 1–September 30;

Wheat, June 1–May 31.

(8)(A) "National average yield" as applied to cotton or wheat shall be the national average yield per acre of the commodity during the ten calendar years in the case of wheat, and during the five calendar years in the case of cotton, preceding the year in which such national average yield is used in any computation authorized in this title, adjusted for abnormal weather conditions and, in the case of wheat, but not in the case of cotton, for trends in yields.

(B) "Projected national yield" as applied to any crop of wheat shall be determined on the basis of the national yield per harvested acre of the commodity during each of the five calendar years immediately preceding the year in which such projected national yield is determined, adjusted for abnormal

<sup>4</sup>Title V of this Act is the Federal Crop Insurance Act.

<sup>5</sup>The definitions in subsecs. (4) and (5) relate to marketing quotas and acreage allotments for corn, which are no longer applicable.

<sup>6</sup>See footnote 301-4.

<sup>7</sup>See footnote 301-3.

<sup>8</sup>The marketing year for peanuts is defined as August 1–July 31 by sec. 359(a).



weather conditions affecting such yield, for trends in yields and for any significant changes in production practices.

(9) "Normal production" as applied to any number of acres of corn or rice means the normal yield for the farm times such number of acres. "Normal production" as applied to any number of acres of cotton or wheat means the projected farm yield times such number of acres.

(10)(A) "Normal supply" in the case of corn, rice, wheat, and peanuts for any marketing year shall be (i) the estimated domestic consumption of the commodity for the marketing year ending immediately prior to the marketing year for which normal supply is being determined, plus (ii) the estimated exports of the commodity for the marketing year for which normal supply is being determined, plus (iii) an allowance for carry-over. The allowance for carry-over shall be the following percentage of the sum of the consumption and exports used in computing normal supply: 15 per centum in the case of corn; 10 per centum in the case of rice; 20 per centum in the case of wheat; and 15 per centum in the case of peanuts. In determining normal supply the Secretary shall make such adjustments for current trends in consumption and for unusual conditions as he may deem necessary.

(B) The "normal supply" of cotton for any marketing year shall be the estimated domestic consumption of cotton for the marketing year for which such normal supply is being determined, plus the estimated exports of cotton for such marketing year, plus 30 per centum of the sum of such consumption and exports as an allowance for carry-over.

(11)(A) "Normal year's domestic consumption", in the case of corn and wheat, shall be the yearly average quantity of the commodity, wherever produced, that was consumed<sup>9</sup> in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(B) "Normal year's domestic consumption", in the case of cotton, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(C) "Normal year's domestic consumption", in the case of rice, shall be the yearly average quantity of rice produced in the United States that was consumed in the United States during the five marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

(12) "Normal year's exports" in the case of corn, cotton, rice, and wheat shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years (or, in the case of rice, the five marketing years) immediately pre-

<sup>9</sup>The word "consumed" appears in the original legislation as "cosumed."

ceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

(13)(B) "Normal yield" for any county, in the case of peanuts, shall be the average yield per acre of peanuts for the county, adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which such normal yield is determined.

(C) In applying subparagraph (A) or (B), if for any such year the data are not available, or there is no actual yield, an appraised yield for such year determined in accordance with regulations issued by the Secretary, shall be used as the actual yield for such year. In applying such subparagraphs, if, on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield in any year of such ten-year period or five-year period, as the case may be, is less than 75 per centum of the average (computed without regard to such year) such year shall be eliminated in calculating the normal yield per acre.

(D) "Normal yield" for any county, in the case of rice and wheat, shall be the average yield per acre of rice or wheat, as the case may be, for the county during the five calendar years immediately preceding the year for which such normal yield is determined in the case of rice, or during the five years immediately preceding the year in which such normal yield is determined in the case of wheat, adjusted for abnormal weather conditions and for trends in yields. If for any such year data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations issued by the Secretary, taking into consideration the yields obtained in surrounding counties during such year and the yield in years for which data are available, shall be used as the actual yield for such year.

(E) "Normal yield" for any farm, in the case of rice and wheat, shall be the average yield per acre of rice or wheat, as the case may be, for the farm during the five calendar years immediately preceding the year for which such normal yield is determined in the case of rice, or during the five years immediately preceding the year in which such normal yield is determined in the case of wheat, adjusted for abnormal weather conditions and for trends in yields. If for any such year the data are not available or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations issued by the Secretary, taking into consideration abnormal weather conditions, trends in yields, the normal yield for the county, the yields obtained on adjacent farms during such year and the yield in years for which data are available.

(F) In applying subparagraphs (D) and (E), if on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield for any year of such five-year period is less than 75 per centum of the average, 75 per centum of such average shall be substituted therefor in calculating the normal yield per acre. If, on account of abnormally favorable weather conditions, the yield for any year of such five-year period is in excess of 125 per centum of the average, 125 per

centum of such average shall be substituted therefor in calculating the normal yield per acre.

(G) "Normal yield" for any farm, in the case of corn or peanuts, shall be the average yield per acre of corn or peanuts, as the case may be, for the farm, adjusted for abnormal weather conditions during the five calendar years immediately preceding the year in which such normal yield is determined. If for any such year the data are not available or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations of the Secretary, taking into consideration abnormal weather conditions, the normal yield for the county, and the yield in years for which data are available.

(H) "Normal yield" for any county, for any crop of cotton, shall be the average yield per acre of cotton for the county, adjusted for abnormal weather conditions and any significant changes in production practices during the five calendar years immediately preceding the year in which the national marketing quota for such crop is proclaimed. If for any such year the data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations issued by the Secretary, shall be used as the actual yield for such year.

(I) "Normal yield" for any farm, for any crop of cotton, shall be the average yield per acre of cotton for the farm, adjusted for abnormal weather conditions and any significant changes in production practices during the three calendar years immediately preceding the year in which such normal yield is determined. If for any such year the data are not available, or there is no actual yield, then the normal yield for the farm shall be appraised in accordance with regulations of the Secretary, taking into consideration abnormal weather conditions, the normal yield for the county, changes in production practices, and the yield in years for which data are available.

(J) "Projected county yield" for any crop of wheat shall be determined on the basis of the yield per harvested acre of such commodity in the county during each of the five calendar years immediately preceding the year in which such projected county yield is determined, adjusted for abnormal weather conditions affecting such yield for trends to yields and for any significant changes in production practices.

(K) "Projected farm yield" for any crop of wheat shall be determined on the basis of the yield per harvested acre of such commodity on the farm during each of the three calendar years<sup>10</sup> immediately preceding the year in which such projected farm yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields and for any significant changes in production practices, but in no event shall such projected farm yield be less than the normal yield

<sup>10</sup>The parenthetical clause "(five calendar years in the case of wheat)" which was added after the words "calendar years" by sec. 1(12) of the Agriculture and Consumer Protection Act of 1973, P.L. 93-86, 87 Stat. 229, Aug. 10, 1973, was effective only with respect to the 1974 through 1977 crops.

for such farm as provided in subparagraph (E) of this paragraph.

(L) "Projected national, State, and county yields" for any crop of cotton shall be determined on the basis of the yield per harvested acre of such crop in the United States, the State and the county, respectively, during each of the five calendar years immediately preceding the year in which such projected yield for the United States, the State, and the county, respectively, is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yield, and for any significant changes in production practices.

(M) "Projected farm yield" for any crop of cotton shall be determined on the basis of the yield per harvested acre of such crop on the farm during each of the three calendar years immediately preceding the year in which such projected farm yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields, and for any significant changes in production practices, but in no event shall such projected farm yield be less than the normal yield for such farm as provided in subparagraph (I) of this paragraph.

(14) "Reserve supply level", in the case of corn, shall be a normal year's domestic consumption and exports of corn plus 10 per centum of a normal year's domestic consumption and exports, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

(15)(A) "Total supply" of wheat, corn, rice, and peanuts for any marketing year shall be the carry-over of the commodity for such marketing year, plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins and the estimated imports of the commodity into the United States during such marketing year.

(B) "Total supply" of cotton for any marketing year shall be the carry-over at the beginning of such marketing year, plus the estimated production of cotton in the United States during the calendar year in which such marketing year begins and the estimated imports of cotton into United States during such marketing year.

(c) The latest available statistics of the Federal Government shall be used by the Secretary in making the determinations required to be made by the Secretary under this Act.

(d) In making any determination under this Act or under the Agricultural Act of 1949 with respect to the carryover of any agricultural commodity, the Secretary shall exclude from such determination the stocks of any commodity acquired pursuant to, or under the authority of the Strategic and Critical Materials Stock Piling Act (60 Stat. 596).

#### PARITY PAYMENTS

SEC. 303. [7 U.S.C. 1303] If and when appropriations are made therefor, the Secretary is authorized and directed to make payments to producers of corn, wheat, cotton, or rice, on their nor-

mal production of such commodities in amounts which, together with the proceeds thereof, will provide a return to such producers which is as nearly equal to parity price as the funds so made available will permit. All funds available for such payment with respect to these commodities shall, unless otherwise provided by law, be apportioned to these commodities in proportion to the amount by which each fails to reach the parity income. Such payments shall be in addition to and not in substitution for any other payments authorized by law.

#### CONSUMER SAFEGUARDS

SEC. 304. [7 U.S.C. 1304] The powers conferred under this Act shall not be used to discourage the production of supplies of foods and fibers sufficient to maintain normal domestic human consumption as determined by the Secretary from the records of domestic human consumption in the years 1920 to 1929, inclusive, taking into consideration increased population, quantities of any commodity that were forced into domestic consumption by decline in exports during such period, current trends in domestic consumption and exports of particular commodities, and the quantities of substitutes available for domestic consumption within any general class of food commodities. In carrying out the purposes of this Act it shall be the duty of the Secretary to give due regard to the maintenance of a continuous and stable supply of agricultural commodities from domestic production adequate to meet consumer demand at prices fair to both producers and consumers.

#### SUBTITLE B—MARKETING QUOTAS

[Note: Part II was made inapplicable to the 2008 through 2012 crops of corn by sec. 1602(a)(1) of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, 122 Stat. 1729.]

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#### PART II—ACREAGE ALLOTMENTS—CORN

##### ADJUSTMENT OF FARM MARKETING QUOTAS

SEC. 326.<sup>11</sup> [7 U.S.C. 1326] (a) *Whenever in any county or other area the Secretary finds that the actual production of corn plus the amount of corn stored under seal in such county or other area is less than the normal production of the marketing percentage of the farm acreage allotment in such county or other area, the Secretary shall terminate farm marketing quotas for corn in such county or other area.*

(b) *Whenever, upon any farm, the actual production of the acreage of corn is less than the normal production of the marketing percentage of the farm acreage allotment, there may be marketed, without penalty, from such farm an amount of corn from the corn stored under seal pursuant to section 324 which, together with the actual*

<sup>11</sup>Section 326 was repealed by P.L. 83-690, 68 Stat. 902 insofar as it was applicable to corn; (b) and (c) below were made applicable to wheat by para. (6), P.L. 74, 77th Congress, 55 Stat. 203. Sec. 326 as set forth below is inapplicable to the 1996 through 2002 crops of corn.

*production of the then current crop, will equal the normal production of the marketing percentage of the farm acreage allotment.*

*(c) Whenever, in any marketing year, marketing quotas are not in effect with respect to the crop of corn produced in the calendar year in which such marketing year begins, all marketing quotas applicable to previous crops of corn shall be terminated.*

NONESTABLISHMENT OF ACREAGE ALLOTMENTS

SEC. 330. [7 U.S.C. 1329a] *Notwithstanding any other provision of law, acreage allotments and a commercial corn-producing area shall not be established for the 1959 and subsequent crops of corn.*

**[Note: Part III was made inapplicable to the 2008 through 2012 crops of wheat by sec. 1602(a)(1) of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, 122 Stat. 1729.]**

PART III—MARKETING QUOTAS—WHEAT

LEGISLATIVE FINDINGS

SEC. 331. [7 U.S.C. 1331] *Wheat is a basic source of food for the Nation, is produced throughout the United States by more than a million farmers, is sold on the country-wide market and, as wheat or flour, flows almost entirely through instrumentalities of interstate and foreign commerce from producers to consumers.*

*Abnormally excessive and abnormally deficient supplies of wheat on the country-wide market acutely and directly affect, burden, and obstruct interstate and foreign commerce. Abnormally excessive supplies overtax the facilities of interstate and foreign transportation, congest terminal markets and milling centers in the flow of wheat from producers to consumers, depress the price of wheat in interstate and foreign commerce and otherwise disrupt the orderly marketing of such commodity in such commerce. Abnormally deficient supplies result in an inadequate flow of wheat and its products in interstate and foreign commerce with consequent injurious effects to the instrumentalities of such commerce and with excessive increases in the prices of wheat and its products in interstate and foreign commerce.*

*It is in the interest of the general welfare that interstate and foreign commerce in wheat and its products be protected from such burdensome surpluses and distressing shortages, and that a supply of wheat be maintained which is adequate to meet domestic consumption and export requirements in years of drought, flood, and other adverse conditions as well as in years of plenty, and that the soil resources of the Nation be not wasted in the production of such burdensome surpluses. Such surpluses result in disastrously low prices of wheat and other grains to wheat producers, destroy the purchasing power of grain producers for industrial products, and reduce the value of the agricultural assets supporting the national credit structure. Such shortages of wheat result in unreasonably high prices of flour and bread to consumers and loss of market outlets by wheat producers.*

*The conditions affecting the production and marketing of wheat are such that, without Federal assistance, farmers, individually or*

*in cooperation, cannot effectively prevent the recurrence of such surpluses and shortages and the burdens on interstate and foreign commerce resulting therefrom, maintain normal supplies of wheat, or provide for the orderly marketing thereof in interstate and foreign commerce.*

*Wheat which is planted and not disposed of prior to the date prescribed by the Secretary for the disposal of excess acres of wheat is an addition to the total supply of wheat and has a direct effect on the price of wheat in interstate and foreign commerce and may also affect the supply and price of livestock and livestock products. In the circumstances, wheat not disposed of prior to such date must be considered in the same manner as mechanically harvested wheat in order to achieve the policy of the Act.*

*The diversion of substantial acreages from wheat to the production of commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage would burden, obstruct, and adversely affect interstate and foreign commerce in such commodities, and would adversely affect the prices of such commodities in interstate and foreign commerce. Small changes in the supply of a commodity could create a sufficient surplus to affect seriously the price of such commodity in interstate and foreign commerce. Large changes in the supply of such commodity could have a more acute effect on the price of the commodity in interstate and foreign commerce and, also, could overtax the handling, processing, and transportation facilities through which the flow of interstate and foreign commerce in such commodity is directed. Such adverse effects caused by overproduction in one year could further result in a deficient supply of the commodity in the succeeding year, causing excessive increases in the price of the commodity in interstate and foreign commerce in such year. It is, therefore, necessary to prevent acreage diverted from the production of wheat to be used to produce commodities which are in surplus supply or which will be in surplus supply if they are permitted to be grown on the diverted acreage.*

*The provisions of this part affording a cooperative plan to wheat producers are necessary in order to minimize recurring surpluses and shortages of wheat in interstate and foreign commerce, to provide for the maintenance of adequate reserve supplies thereof, to provide for an adequate and orderly flow of wheat and its products in interstate and foreign commerce at prices which are fair and reasonable to farmers and consumers, and to prevent acreage diverted from the production of wheat from adversely affecting other commodities in interstate and foreign commerce.*

PROCLAMATIONS OF SUPPLIES AND ALLOTMENTS

**SEC. 332. [7 U.S.C. 1332]** (a) *Whenever prior to April 15 in any calendar year the Secretary determines that the total supply of wheat in the marketing year beginning in the next succeeding calendar year will, in the absence of a marketing quota program, likely be excessive, the Secretary shall proclaim that a national marketing quota for wheat shall be in effect for such marketing year and for either the following marketing year or the following two marketing years, if the Secretary determines and declares in such proclamation*

*that a two- or three-year marketing quota program is necessary to effectuate the policy of the Act.*

*(b) If a national marketing quota for wheat has been proclaimed for any marketing year, the Secretary shall determine and proclaim the amount of the national marketing quota for such marketing year not earlier than January 1 or later than April 15 of the calendar year preceding the year in which such marketing year begins. The amount of the national marketing quota for wheat for any marketing year shall be an amount of wheat which the Secretary estimates (i) will be utilized during such marketing year for human consumption in the United States as food, food products, and beverages, composed wholly or partly of wheat, (ii) will be utilized during such marketing year in the United States for seed, (iii) will be exported either in the form of wheat or products thereof and (iv) will be utilized during such marketing year in the United States as livestock (including poultry) feed, excluding the estimated quantity of wheat which will be utilized for such purpose as a result of the substitution of wheat for feed grains under section 328 of the Food and Agriculture Act of 1962; less (A) an amount of wheat equal to the estimated imports of wheat into the United States during such marketing year and, (B) if the stocks of wheat owned by the Commodity Credit Corporation are determined by the Secretary to be excessive, an amount of wheat determined by the Secretary to be a desirable reduction in such marketing year in such stocks to achieve the policy of the Act: Provided, That if the Secretary determines that the total stocks of wheat in the Nation are insufficient to assure an adequate carryover for the next succeeding marketing year, the national marketing quota otherwise determined shall be increased by the amount the Secretary determines to be necessary to assure an adequate carryover: And provided further, That the national marketing quota for wheat for any marketing year shall be not less than one billion bushels.*

*(c) If after the proclamation of a national marketing quota for wheat for any marketing year, the Secretary has reason to believe that, because of a national emergency or because of a material increase in the demand for wheat, the national marketing quota should be terminated or the amount thereof increased, he shall cause an immediate investigation to be made to determine whether such action is necessary in order to meet such emergency or increase in the demand for wheat. If on the basis of such investigation, the Secretary finds that such action is necessary, he shall immediately proclaim such finding and the amount of any such increase found by him to be necessary and thereupon such national marketing quota shall be so increased or terminated. In case any national marketing quota is increased under this subsection, the Secretary shall provide for such increase by increasing acreage allotments established under this part by a uniform percentage.*

*(d) Notwithstanding any other provision of this Act, the Secretary shall not proclaim a national marketing quota for the crops of wheat planted for harvest in the calendar years 1966 through 1970, and farm marketing quotas shall not be in effect for such crops of wheat.*



NATIONAL ACREAGE ALLOTMENT

*SEC. 333. [7 U.S.C. 1333] The Secretary shall proclaim a national acreage allotment for each crop of wheat. The amount of the national acreage allotment for any crop of wheat shall be the number of acres which the Secretary determines on the basis of the projected national yield and expected underplantings (acreage other than that not harvested because of program incentives) of farm acreage allotments will produce an amount of wheat equal to the national marketing quota for wheat for the marketing year for such crop, or if a national marketing quota was not proclaimed, the quota which would have been determined if one had been proclaimed.*

APPORTIONMENT OF NATIONAL ACREAGE ALLOTMENT

*SEC. 334. [7 U.S.C. 1334] (a) The national allotment for wheat, less a reserve of not to exceed 1 per centum thereof for apportionment as provided in this subsection and less the special acreage reserve provided for in this subsection, shall be apportioned by the Secretary among the States on the basis of the preceding year's allotment for each such State, including all amounts allotted to the State and including for 1967 the increased acreage in the State allotted for 1966 under section 335, adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors. The reserve acreage set aside herein for apportionment by the Secretary shall be used (1) to make allotments to counties in addition to the county allotments made under subsection (b) of this section, on the basis of the relative needs of counties for additional allotments because of reclamation and other new areas coming into production of wheat, or (2) to increase the allotment for any county, in which wheat is the principal crop produced, on the basis of its relative need for such increase if the average ratio of wheat acreage allotment to cropland on old wheat farms in such county is less by at least 20 per centum than such average ratio on old wheat farms in an adjoining county or counties in which wheat is the principal grain crop produced or if there is a definable contiguous area consisting of at least 10 per centum of the cropland acreage in such county in which the average ratio of wheat acreage allotment to cropland on old wheat farms is less by at least 20 per centum than such average ratio on the remaining old wheat farms in such county, provided that such low ratio of wheat acreage allotment to cropland is due to the shift prior to 1951 from wheat to one or more alternative income-producing crops which, because of plant disease or sustained loss of markets, may no longer be produced at a fair profit and there is no other alternative income-producing crop suitable for production in the area or county. The increase in the county allotment under clause (2) of the preceding sentence shall be used to increase allotments for old wheat farms in the affected area to make such allotments comparable with those on similar farms in the adjoining areas or counties but the average ratio of increased allotments to cropland on such farms shall not exceed the average ratio of wheat acreage allot-*

ment to cropland on old wheat farms in the adjoining areas or counties. There also shall be made available a special acreage reserve of not in excess of one million acres as determined by the Secretary to be desirable for the purposes hereof which shall be in addition to the national acreage reserve provided for in this subsection. Such special acreage reserve shall be made available to the States to make additional allotments to counties on the basis of the relative needs of counties, as determined by the Secretary, for additional allotments to make adjustments in the allotments on old wheat farms (that is, farms on which wheat has been seeded or regarded as seeded to one or more of the, three crops immediately preceding the crop for which the allotment is established) on which the ratio of wheat acreage allotment to cropland on the farm is less than one-half the average ratio of wheat acreage allotment to cropland on old wheat farms in the county. Such adjustments shall not provide an allotment for any farm which would result in an allotment-cropland ratio for the farm in excess of one-half of such county average ratio and the total of such adjustments in any county shall not exceed the acreage made available therefor in the county. Such apportionment from the special acreage reserve shall be made only to counties where wheat is a major income-producing crop, only to farms on which there is limited opportunity for production of an alternative income-producing crop, and only if an efficient farming operation on the farm requires the allotment of additional acreage from the special acreage reserve. For the purposes of making adjustments hereunder the cropland on the farm shall not include any land developed as cropland subsequent to the 1963 crop year.

(b) The State acreage allotment for wheat, less a reserve of not to exceed 3 per centum thereof for apportionment as provided in subsection (c) of this section, shall be apportioned by the Secretary among the counties in the State, on the basis of the preceding year's wheat allotment in each such county, including for 1967, the increased acreage in the county allotted for 1966 pursuant to section 335, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county, taking into consideration established crop rotation practices, estimated decrease in farm allotments because of loss of history, and other relevant factors.

(c)(1) The allotment to the county shall be apportioned by the Secretary, through the local committees, among the farms within the county on the basis of past acreage of wheat, tillable acres, crop rotation practices, type of soil, and topography: Not more than 3 per centum of the State allotment shall be apportioned to farms on which wheat has not been planted during any of the three marketing years immediately preceding the marketing year in which the allotment is made. For the purpose of establishing farm acreage allotments—(i) the past acreage of wheat on any farm for 1958 or 1965 shall be the base acreage determined for the farm under the regulations issued by the Secretary for determining 1958 or 1965 farm wheat acreage allotments; (ii) if subsequent to the determination of such base acreage the 1958 or 1965 wheat acreage allotment for the farm is increased through administrative, review, or court proceedings, the 1958 or 1965 farm base acreage shall be increased in the same proportion; and (iii) the past acreage of wheat for 1959

*and any subsequent year except 1965 shall be the wheat acreage on the farm which is not in excess of the farm wheat acreage allotment, plus, in the case of any farm which is in compliance with its farm wheat acreage allotment, the acreage diverted under such wheat allotment programs: Provided, That for 1959 and subsequent years in the case of any farm on which the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty, the past acreage of wheat for the year in which such farm marketing excess is so delivered or stored shall be the farm base acreage of wheat determined for the farm under the regulations issued by the Secretary for determining farm wheat acreage allotments for such year, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion for the purpose of establishing farm wheat acreage allotments subsequent to such depletion the past acreage of wheat or the farm for the year in which the excess was produced shall be reduced to the farm wheat acreage allotment for such year.*

*(2) Notwithstanding any other provision of law, each old or new farm acreage allotment for the 1962 crop of wheat as determined on the basis of a minimum national acreage allotment of fifty million acres shall be reduced by 10 per centum. In the event notices of farm acreage allotments for the 1962 crop of wheat have been mailed to farm operators prior to the effective date of this subparagraph (2), new notices showing the required reduction shall be mailed to farm operators as soon as practicable.*

*(3) Notwithstanding the provisions of paragraph (1) of this subsection, the past acreage of wheat for 1967 and any subsequent year shall be the acreage of wheat planted, plus the acreage regarded as planted, for harvest as grain on the farm which is not in excess of the farm acreage allotment.*

*(4) Notwithstanding any other provision of this subsection (c), the farm acreage allotment for the 1967 and any subsequent crop of wheat shall be established for each old farm by apportioning the county wheat acreage allotment among farms in the county on which wheat has been planted, or is considered to have been planted, for harvest as grain in any one of the three years immediately preceding the year for which allotments are determined on the past acreage of wheat and the farm acreage allotment for the year immediately preceding the year for which the allotment is being established, adjusted as hereinafter provided. For purposes of this paragraph, the acreage allotment for the immediately preceding year may be adjusted to reflect established crop rotation practices, may be adjusted downward to reflect a reduction in the tillable acreage on the farm, and may be adjusted upward to reflect such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable allotment: Provided, That (i) for the purposes of computing the allotment for any year, the acreage allotment for the farm for the immediately preceding year shall be decreased by 7 per centum if for the year immediately preceding the year for which such reduction is made neither a voluntary diversion program nor a voluntary certificate program was in effect and there was noncompliance with the farm acreage allotment for such year; (ii) for purposes of clause (i) any farm on which*

*the entire amount of farm marketing excess is delivered to the Secretary, stored, or adjusted to zero in accordance with applicable regulations to avoid or postpone payment of the penalty when farm marketing quotas are in effect, shall be considered in compliance with the allotment, but if any part of the amount of wheat so stored is later depleted and penalty becomes due by reason of such depletion, the allotment for such farm next computed after determination of such depletion shall be reduced by reducing the allotment for the immediately preceding year by 7 per centum and (iii) for purposes of clause (i) if the Secretary determines that the reduction in the allotment does not provide fair and equitable treatment to producers on farms following special crop rotation practices, he may modify such reduction in the allotment as he determines to be necessary' to provide fair and equitable treatment to such producers.*

(e) <sup>12</sup> [ \* \* \* ]

(f) <sup>13</sup> [ \* \* \* ]

(g) *Notwithstanding any other provision of law, no acreage in the commercial wheat producing area seeded to wheat for harvest as grain in 1958 or thereafter except 1965 in excess of acreage allotments shall be considered in establishing future State and county acreage allotments. The planting on a farm in the commercial wheat producing area of wheat of the 1958 or any subsequent crop for which no farm wheat acreage allotment was established shall not make the farm eligible for an allotment as an old farm pursuant to the first sentence of subsection (c) of this section nor shall such farm by reason of such planting be considered ineligible for an allotment as a new farm under the second sentence of such subsection.*

(i) *If with respect to any crop of wheat, the Secretary finds that the acreage allotments of farms producing any type of wheat are inadequate to provide for the production of a sufficient quantity of such type of wheat to satisfy the demand therefor, the wheat acreage allotment for such crop for each farm located in a county designated by the Secretary as a county which (1) is capable of producing such type of wheat, and (2) has produced such type of wheat for commercial food products during one or more of the five years immediately preceding the year in which such crop is harvested, shall be increased by such uniform percentage as he deems necessary to provide for such quantity. No increase shall be made under this subsection in the wheat acreage allotment of any farm for any crop if any wheat other than such type of wheat is planted on such farm for such crop. Any increases in wheat acreage allotments authorized by this subsection shall be in addition to the National, State, and county wheat acreage allotments, and such increases shall not be considered in establishing future State, county, and farm allotments. The provisions of paragraph (6) of Public Law 74, Seventy-seventh Congress (7 U.S.C. 1340(6)), and section 326(b) of this Act, relating to the reduction of the storage amount of wheat shall apply to the allotment for the farm established without regard to this subsection and not to the increased allotment under this subsection. The land use provisions of section 339 shall not be applicable to any farm receiving an increased allotment under this subsection and the*

<sup>12</sup>Subsec. (e) was applicable only with respect to the 1962 and 1963 crops of Durum wheat.

<sup>13</sup>Subsec. (f) was applicable only with respect to the 1955, 1956 and 1957 crops of wheat.

*producers on such farms shall not be required to comply with such provisions as a condition of eligibility for price support.*

*(j) Notwithstanding any other provision of this Act, the Secretary shall increase the acreage allotments for the 1970 and subsequent crops of wheat for privately owned farms in the irrigable portion of the area known as the Tulelake division of the Klamath project of California located in Modoc and Siskiyou Counties, California, as defined by the United States Department of the Interior, Bureau of Reclamation, and hereinafter referred to as the area. The increase for the area for each such crop shall be determined by adding, to the extent applications are made therefor, to the total allotments established for privately owned farms in the area for the particular crop without regard to this subsection (hereinafter referred to as the original allotments) an acreage sufficient to make available for each such crop a total allotment of twelve thousand acres for the area. The additional allotments made available by this subsection shall be in addition to the National, State, and county allotments otherwise established under this section, and the acreage planted to wheat pursuant to such increases in allotments shall not be taken into account in establishing future State, county, and farm acreage allotments except as may be desirable in providing increases in allotments for subsequent years under this subsection for the production of Durum wheat. The Secretary shall apportion the additional allotment acreage made available under this subsection between Modoc and Siskiyou Counties on the basis of the relative needs for additional allotments for the portion of the area in each county. The Secretary shall allot such additional acreage to individual farms in the area for which applications for increased acreages are made on the basis of tillable acres, crop rotation practices, type of soil and topography, and the original allotment for the farm, if any. The increase in the wheat acreage allotment for any farm under this subsection (1) shall not be taken into account in computing the farm wheat marketing allocation under section 379b, and (2) shall be conditioned upon the production of Durum wheat on the original allotment and on the increased acreage. The producers on a farm receiving an increased allotment under this subsection shall not be eligible for diversion payments under section 339.*

*(k) Notwithstanding any other provision of this Act, if the Secretary determines that because of a natural disaster a portion of the farm wheat acreage allotments in a county cannot be timely planted or replanted, he may authorize the transfer of all or a part of the wheat acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of wheat and will share in the proceeds thereof in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this subsection shall be deemed to be planted on the farm which it was transferred for the purposes of acreage history credits under this Act.*

COMMERCIAL AREA

*SEC. 334a. [7 U.S.C. 1334b] If the acreage allotment for any State for any crop of wheat is twenty five thousand acres or less, the Secretary, in order to promote efficient administration of this Act and the Agricultural Act of 1949, may designate such State as outside the commercial wheat producing area for the marketing year for such crop. If such State is so designated, acreage allotments for such crop and marketing quotas for the marketing year therefor shall not be applicable to any farm in such State. Acreage allotments in any State shall not be increased by reason of such designation.*

MARKETING PENALTIES

*SEC. 335.<sup>14</sup> [7 U.S.C. 1335] [ \* \* \* ]*

REFERENDUM

*SEC. 336. [7 U.S.C. 1336] If a national marketing quota for wheat for one, two or three marketing years is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of farmers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in any referendum held pursuant to this section, except that a producer who has a farm acreage allotment of less than fifteen acres shall not be eligible to vote unless the farm operator elected pursuant to section 335 to be subject to the farm marketing quota. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum and if the Secretary determines that more than one-third of the farmers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held. If the Secretary determines that two-thirds or more of the farmers voting in a referendum approve marketing quotas for a period of two or three marketing years, no referendum shall be held for the subsequent year or years of such period. Notwithstanding any other provision hereof the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.*

TRANSFER OF QUOTAS

*SEC. 338. [7 U.S.C. 1338] Farm marketing quotas for wheat shall not be transferable, but, in accordance with regulations prescribed by the Secretary for such purpose, any farm marketing quota in excess of the supply of wheat for such farm for any mar-*

<sup>14</sup>Sec. 335 was amended effective only for the 1987 through 1990 crops of wheat by sec. 305 of the Food Security Act of 1985, P.L. 99-198, 99 Stat. 1380, Dec. 23, 1985.

*keting year may be allocated to other farms on which the acreage allotment has not been exceeded.*

LAND USE

**SEC. 339. [7 U.S.C. 1339]** *(a)(1) During any year in which marketing quotas for wheat are in effect, the producers on any farm (except a new farm receiving an allotment from the reserve for new farms) on which any crop is produced on acreage required to be diverted from the production of wheat shall be subject to a penalty on such crop, in addition to any marketing quota penalty applicable to such crops, as provided in this subsection unless (1) the crop is designated by the Secretary as one which is not in surplus supply and will not be in surplus supply if it is permitted to be grown on the diverted acreage, or as one the production of which will not substantially impair the purpose of the requirements of this section, or (2) no wheat is produced on the farm, and the producers have not filed an agreement or a statement of intention to participate in the payment program formulated pursuant to subsection (b) of this section. The acreage required to be diverted from the production of wheat on the farm shall be an acreage of cropland equal to the number of acres determined by multiplying the farm acreage allotment by the diversion factor determined by dividing the number of acres by which the national acreage allotment (less an acreage equal to the increased acreage allotment for 1966 pursuant to section 335) is reduced below fifty-five million acres by the number of acres in the national acreage allotment (less an acreage equal to the increased acreage allotted for 1966 pursuant to section 335). The actual production of any crop subject to penalty under this subsection shall be regarded as available for marketing and the penalty on such crop shall be computed on the actual acreage of such crop at the rate of 65 per centum of the parity price per bushel of wheat as of May 1 of the calendar year in which such crop is harvested, multiplied by the normal yield of wheat per acre established for the farm. Until the producers on any farm pay the penalty on such crop, the entire crop of wheat produced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty. Each producer having an interest in the crop or crops on acreage diverted or required to be diverted from the production of wheat shall be jointly and severally liable for the entire amount of the penalty. The persons liable for the payment or collection of the penalty under this section shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.*

*(2) The Secretary may require that the acreage on any farm diverted from the production of wheat be land which was diverted from the production of wheat in the previous year, to the extent he determines that such requirement is necessary to effectuate the purposes of this subtitle.*

*(3) The Secretary may permit the diverted acreage to be grazed in accordance with regulations prescribed by the Secretary.*

(b) <sup>15</sup> [ \* \* \* ]

(c) <sup>16</sup> [ \* \* \* ]

(d) <sup>17</sup> [ \* \* \* ]

(e) <sup>18</sup> [ \* \* \* ]

(f) <sup>19</sup> [ \* \* \* ]

(g) *The Secretary is authorized to promulgate such regulations as may be desirable to carry out the provisions of this section.*

(h) <sup>20</sup> [ \* \* \* ]

[Note: Part IV was made inapplicable to the 2008 through 2012 crops of cotton by sec. 1602(a)(1) of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, 122 Stat. 1729.]

#### PART IV—MARKETING QUOTAS—COTTON

##### LEGISLATIVE FINDINGS

SEC. 341. [7 U.S.C. 1341] *American cotton is a basic source of clothing and industrial products used by every person in the United States and by substantial numbers of people in foreign countries. American cotton is sold on a world-wide market and moves from the places of production almost entirely in interstate and foreign commerce to processing establishments located throughout the world at places outside the State where the cotton is produced.*

*Fluctuations in supplies of cotton and the marketing of excessive supplies of cotton in interstate and foreign commerce disrupt the orderly marketing of cotton in such commerce with consequent injury to and destruction of such commerce. Excessive supplies of cotton directly and materially affect the volume of cotton moving in interstate and foreign commerce and cause disparity in prices of cotton and industrial products moving in interstate and foreign commerce with consequent diminution of the volume of such commerce in industrial products.*

*The conditions affecting the production and marketing of cotton are such that, without Federal assistance, farmers, individually or in cooperation, cannot effectively prevent the recurrence of excessive supplies of cotton and fluctuations in supplies, cannot prevent indiscriminate dumping of excessive supplies on the Nation-wide and foreign markets, cannot maintain normal carryovers of cotton, and cannot provide for the orderly marketing of cotton in interstate and foreign commerce.*

*It is in the interest of the general welfare that interstate and foreign commerce in cotton be protected from the burdens caused by the marketing of excessive supplies of cotton in such commerce, that a supply of cotton be maintained which is adequate to meet domestic consumption and export requirements in years of drought, flood, and other adverse conditions as well as in years of plenty, and that the soil resources of the Nation be not wasted in the production of excessive supplies of cotton.*

<sup>15</sup> Subsecs. (b), (c), (d), (e), (f) and (h) were effective only through the 1970 crop.

<sup>16</sup> See footnote 339-1.

<sup>17</sup> See footnote 339-1.

<sup>18</sup> See footnote 339-1.

<sup>19</sup> See footnote 339-1.

<sup>20</sup> See footnote 339-1.



*The provisions of this part affording a cooperative plan to cotton producers are necessary and appropriate to prevent the burdens on interstate and foreign commerce caused by the marketing in such commerce of excessive supplies, and to promote, foster, and maintain an orderly flow of an adequate supply of cotton in such commerce.*

NATIONAL MARKETING QUOTA

**SEC. 342. [7 U.S.C. 1342]** *Whenever during any calendar year the Secretary determines that the total supply of cotton for the marketing year beginning in such calendar year will exceed the normal supply for such marketing year, the Secretary shall proclaim such fact and a national marketing quota shall be in effect for the crop of cotton produced in the next calendar year. The Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the number of bales of cotton (standard bales of five hundred pounds gross weight) adequate, together with (1) the estimated carryover at the beginning of the marketing year which begins in the next calendar year and (2) the estimated imports during such marketing year, to make available a normal supply of cotton: Provided, That beginning with the 1961 crop, the national marketing quota shall be not less than a number of bales equal to the estimated domestic consumption and estimated exports (less estimated imports) for the marketing year for which the quota is proclaimed, except that the Secretary shall make such adjustments in the amount of such quota as he determines necessary after taking into consideration the estimated stocks of cotton in the United States (including the qualities of such stocks) and stocks in foreign countries which would be available for the marketing year for which the quota is being proclaimed if no adjustment of such quota is made hereunder, to assure the maintenance of adequate but not excessive stocks in the United States to provide a continuous and stable supply of the different qualities of cotton needed in the United States and in foreign cotton consuming countries, and for purposes of national security but the Secretary, in making such adjustments, may not reduce the national marketing quota or any year below (i) one million bales less than the estimated domestic consumption and estimated exports for the marketing year for which such quota is being proclaimed, or (ii) ten million bales, whichever is larger. Such proclamation shall be made not later than October 15 of the calendar year in which such determination is made. [ \* \* \* ]<sup>21</sup> Notwithstanding any other provision of this Act, the national marketing quota for upland cotton for 1959 and subsequent years shall be not less than the number of bales required to provide a national acreage allotment for each such year of sixteen million acres.*

NATIONAL COTTON PRODUCTION GOAL

**SEC. 342a. [7 U.S.C. 1342a]** *The Secretary shall, not later than November 15, of the calendar years 1970 through 1976, proclaim a national cotton production goal for the 1971 and subsequent*

<sup>21</sup> Proviso effective only to the 1957 and 1958 crops of cotton has been omitted.

*crops of upland cotton. The national cotton production goal for any year shall be the number of bales of upland cotton (standard bales of four hundred and eighty pounds net weight) equal to the estimated domestic consumption and estimated exports for the marketing year beginning in the calendar year for which such national cotton production goal is proclaimed, plus an allowance of not less than 5 per centum of such estimated consumption and estimated exports for market expansion except that the Secretary shall make such adjustments in the amount of such production goal as he determines necessary after taking into consideration the estimated stocks of upland cotton in the United States (including the qualities of such stocks) and stocks in foreign countries, which would be available for the marketing year, to assure the maintenance of adequate but not excessive carryover stocks in the United States (not less than 50 per centum of the average offtake for the three preceding marketing years) to provide a continuous and stable supply of the different qualities of upland cotton needed in the United States and in foreign cotton consuming countries and, in addition, to provide an adequate reserve for purposes of national security.*

REFERENDUM

*SEC. 343. [7 U.S.C. 1343] Not later than December 15 following the issuance of the marketing quota proclamation provided for in section 342, the Secretary shall conduct a referendum, by secret ballot, of farmers engaged in the production of cotton in the calendar year in which the referendum is held, to determine whether such farmers are in favor of or opposed to the quota so proclaimed: Provided, That [ \* \* \* ]<sup>22</sup> If more than one third of the farmers voting in the referendum oppose the national marketing quota, such quota shall become ineffective upon proclamation of the results of the referendum. The Secretary shall proclaim the results of any referendum held hereunder within thirty days after the date of such referendum. Notwithstanding any other provision hereof the referendum with respect to the national marketing quota for cotton for the marketing year beginning August 1, 1986, may be conducted not later than thirty-one days after adjournment sine die of the first session of the Ninety-ninth Congress.*

ACREAGE ALLOTMENTS

*SEC. 344. [7 U.S.C. 1344] (a) Whenever a national marketing quota is proclaimed under section 342, the Secretary shall determine and proclaim a national acreage allotment for the crop of cotton to be produced in the next calendar year. The national acreage allotment for cotton shall be that acreage, based upon the national average yield per acre of cotton for the four years immediately preceding the calendar year in which the national marketing quota is proclaimed, required to make available from such crop an amount of cotton equal to the national marketing quota.*

*(b) The national acreage allotment for cotton for 1953 and subsequent years shall be apportioned to the States on the basis of the acreage planted to cotton (including the acreages regarded as hav-*

<sup>22</sup> Proviso effective only as to 1950 crop cotton omitted.

ing been planted to cotton under the provisions of Public Law 12, Seventy-ninth Congress) during the five calendar years immediately preceding the calendar year in which the national marketing quota is proclaimed, with adjustments for abnormal weather conditions during such period: Provided, That [ \* \* \* ]<sup>23</sup> Provided, That there is hereby established a national acreage reserve consisting of three hundred and ten thousand acres which shall be in addition to the national acreage allotment; and such reserve shall be apportioned to the States on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1), as determined by the Secretary without regard to State and count acreage reserves (except that the amount apportioned to Nevada shall be one thousand acres). For the 1960 and succeeding crops of cotton, the needs of States (other than Nevada) for such additional acreage for such purpose may be estimated by the Secretary, after taking into consideration such needs as determined or estimated for the preceding crop of cotton and the size of the national acreage allotment for such crop. The additional acreage so apportioned to the State shall be apportioned to the counties on the basis of the needs of the counties for such additional acreage for such purpose, and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreage). Additional acreage apportioned to a State for any year under the foregoing proviso shall not be taken into account in establishing future State acreage allotments. Needs for additional acreage under the foregoing provisions and under the last provision in subsection (e) shall be determined or estimated as though allotments were first computed without regard to subsection (f)(1).

(c)<sup>24</sup> [ \* \* \* ]

(d)<sup>25</sup> [ \* \* \* ]

(e) The State acreage allotment for cotton shall be apportioned to counties on the same basis as to years and conditions as is applicable to the State under subsections (b), (c), and (d) of this section: Provided, That the State committee may reserve not to exceed 10 per centum of its State acreage allotment (15 per centum if the State's 1948 planted acreage was in excess of one million acres and less than half its 1943 allotment) which shall be used to make adjustments in county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardship: Provided further, That [ \* \* \* ]<sup>26</sup>. Provided further, That if the additional acreage allocated to a State under the proviso in subsection (b) is less than the requirements as determined or estimated by the Secretary for establishing minimum farm allotments for the State under subsection (f)(1), the acreage reserved

<sup>23</sup> A proviso which was effective only with respect to the 1957 and 1958 crops of cotton has been deleted.

<sup>24</sup> Subsec. (c) was applicable only to the 1950 and 1951 crops of cotton.

<sup>25</sup> Subsec. (d) was applicable only to the 1952 crop of cotton.

<sup>26</sup> A proviso which was effective only with respect to the 1957 and 1958 crops of cotton has been deleted.

*under this subsection shall not be less than the smaller of (1) the remaining acreage so determined or estimated to be required for establishing minimum farm allotments or (2) 3 per centum of the State acreage allotment; and the acreage which is required to be reserved under this proviso shall be allocated to counties on the basis of their needs for additional acreage for establishing minimum farm allotments under subsection (f)(1), and added to the county acreage allotment for apportionment to farms pursuant to subsection (f) of this section (except that no part of such additional acreage shall be used to increase the county reserve above 15 per centum of the county allotment determined without regard to such additional acreages).*

*(f) The county acreage allotment, less not to exceed the percentage provided for in paragraph (3) of this subsection shall be apportioned to farms on which cotton has been planted (or regarded as having been planted under the provisions of Public Law 12, Seventy-ninth Congress) in any one of the three years immediately preceding the year for which such allotment is determined on the following basis:*

*(1) Insofar as such acreage is available, there shall be allotted the smaller of the following: (A) ten acres; or (B) the acreage allotment established for the farm for the 1958 crop.*

*(2) The remainder shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) so that the allotment to each farm under this paragraph together with the amount of the allotment to such farm under paragraph (1)(A) shall be a prescribed percentage (which percentage shall be the same for all such farms in the county or administrative areas) of the acreage, during the preceding year, on the farm which is tilled annually or in regular rotation, excluding from such acreages the acres devoted to the production of sugar cane for sugar, sugar beets for sugar, wheat, tobacco, or rice for market; peanuts picked and threshed; wheat or rice or feeding to livestock for market; or lands determined to be voted primarily to orchards or vineyards, and nonirrigated lands in irrigated area: Provided, however, That if a farm would be allotted under this paragraph an acreage together with the amount of the allotment to such farm under paragraph (1)(A) in excess of the largest acreage planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) to cotton during any of the preceding three years, the acreage allotment for such farm shall not exceed such largest acreage so planted (and regarded as planted under Public Law 12, Seventy-ninth Congress) in any such year.*

*(3) The county committee may reserve not in excess of 15 per centum of the county allotment [ \* \* \* ]<sup>27</sup> which, in addition to the acreage made available under the proviso in subsection (e), shall be used for (A) establishing allotments for farms on which cotton was not planted (or regarded as planted under Public Law 12, Seventy-ninth Congress) during any of the three calendar years immediately preceding the year for which the allotment is made, on the basis of land, labor, and*

<sup>27</sup>Material omitted which does not change 15 per centum maximum.

*equipment available for the production of cotton, crop rotation practices, and the soil and other physical facilities affecting the production of cotton; and (B) making adjustments of the farm acreage allotments established under paragraphs (1) and (2) of this subsection so as to establish allotments which are fair and reasonable in relation to the factors set forth in this paragraph and abnormal conditions of production on such farms, or in making adjustments in farm acreage allotments to correct inequities and to prevent hardship: Provided, That not less than 20 percent of the acreage reserved under this subsection shall, to the extent required, be allotted upon such basis as the Secretary deems fair and reasonable to farms (other than farms to which an allotment has been made under subsection (f)(1)(B), if any, to which an allotment of not exceeding fifteen acres may be made under other provisions of this subsection.*

*(4)<sup>28</sup>*

*(5)<sup>29</sup>*

*(6) Notwithstanding the provisions of paragraph (2) of this subsection, if the county committee recommends such action and the Secretary determines that such action will result in a more equitable distribution of the county allotment among farms in the county, the remainder of the county acreage allotment (after making allotments as provided in paragraph (1) of this subsection) shall be allotted to farms other than farms to which an allotment has been made under paragraph (1)(B) of this subsection so that the allotment to each farm under this paragraph together with the amount of the allotment of such farm under paragraph (1)(A) of this subsection shall be a prescribed percentage (which percentage shall be the same for all such farms in the county) of the average acreage planted to cotton on the farm during the three years immediately preceding the year for which such allotment is determined, adjusted as may be necessary for abnormal conditions affecting plantings during such three year period: Provided, That the county committee may in its discretion limit any farm acreage allotment established under the provisions of this paragraph for any year to an acreage not in excess of 50 per centum of the cropland on the farm, as determined pursuant to the provisions of paragraph (2) of this subsection: Provided further, That any part of the county acreage allotment not apportioned under this paragraph by reason of the initial application of such 50 per centum limitation shall be added to the county acreage reserve under paragraph (3) of this subsection and shall be available for the purposes specified therein. If the county acreage allotment is apportioned among the farms of the county in accordance with the provisions of this paragraph, the acreage reserved under paragraph (3) of this subsection may be used to make adjustments so as to establish allotments which are fair and reasonable to farms receiving allotments under this paragraph in relation to the factors set forth in paragraph (3).*

<sup>28</sup> Paras. (4) and (5) were applicable only to the 1950 crop of cotton.

<sup>29</sup> See footnote 344-6.

(7)(A) *In the event that any farm acreage allotment is less than that prescribed by paragraph (1), such acreage allotment shall be increased to the acreage prescribed by paragraph (1). The additional acreage required to be allotted to farms under this paragraph shall be in addition to the county, State, and national acreage allotments and the production from such acreage shall be in addition to the national marketing quota.*

(B) *Notwithstanding any other provision of law—*

(i) *the acreage by which any farm acreage allotment for 1959 or any subsequent crop established under paragraph (1) exceeds the acreage which would have been allotted to such farm if its allotment had been computed on the basis of the same percentage factor applied to other farms in the county under paragraph (2), (6), or (8) shall not be taken into account in establishing the acreage allotment for such farm for any crop for which acreage is allotted to such farm under paragraph (2), (6), or (8); and acreage shall be allotted under paragraph (2), (6), or (8) to farms which did not receive 1958 crop allotments in excess of ten acres if and only if the Secretary determines (after considering the allotments to other farms in the county for such crop compared with their 1958 allotments and other relevant factors) that equity and justice require the allotment of additional acreage to such farm under paragraph (2), (6), or (8),*

(ii) *the acreage by which any county acreage allotment for 1959 or any subsequent crop is increased from the national or State reserve on the basis of its needs for additional acreage for establishing minimum farm allotments shall not be taken into account in establishing future county acreage allotments, and*

(iii) *the additional acreage allotted pursuant to subparagraph (A) of this paragraph (7) shall not be taken into account in establishing future State, county, or farm acreage allotments.*

(8) *Notwithstanding the foregoing provisions of paragraphs (2) and (6) of this subsection, the Secretary shall, if allotments were in effect the preceding year, provide for the county acreage allotment for the 1959 and succeeding crops of cotton, less the acreage reserved under paragraph (3) of this subsection, to be apportioned to farms on which cotton has been planted in any one of the three years immediately preceding the year for which such allotment is determined, on the basis of the farm acreage allotment for the year immediately preceding the year for which such apportionment is made, adjusted as may be necessary (i) for any change in the acreage of cropland available for the production of cotton, or (ii) to meet the requirements of any provision (other than those contained in paragraphs (2) and (6)) with respect to the counting of acreage for history purposes: Provided, That, beginning with allotments established for the 1961 crop of cotton, if the acreage actually planted (or regarded as planted under the Soil Bank Act, the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985, and the release and reapportionment provisions of subsection (m)(2) of this section)*

*to cotton on the farm in the preceding year was less than 75 per centum of the farm allotment for such year or, in the case of a farm which qualified for price support on the crop produced in such year under section 103(b) of the Agricultural Act of 1949, as amended, 75 per centum of the farm domestic allotment established under section 350 for such year, whichever is smaller, in lieu of using such allotment as the farm base as provided in this paragraph, the base shall be the average of (1) the cotton acreage for the farm for the preceding year as determined for purposes of this proviso and (2) the allotment established for the farm pursuant to the provisions of this subsection (f) for such preceding year; and the 1958 allotment used for establishing the minimum farm allotment under paragraph (1) of this subsection (f) shall be adjusted to the average acreage so determined. The base for a farm shall not be adjusted as provided in this paragraph if the county committee determines that failure to plant at least 75 per centum of the farm allotment was due to conditions beyond the control of producers on the farm. The Secretary shall establish limitations to prevent allocations of allotment to farms not affected by the foregoing proviso, which would be excessive on the basis of the cropland, past cotton acreage, allotments for other commodities, and good soil conservation practices on such farms.*

*(g) Notwithstanding the foregoing provisions of this section—*

*(1) State, county, and farm acreage allotments and yields for cotton shall be established in conformity with Public Law 28, Eighty-first Congress.*

*(2) In apportioning the county allotment among the farms within the county, the Secretary, through the local committees, shall take into consideration different conditions within separate administrative areas within a county if any exist, including types, kinds, and productivity of the soil so as to prevent discrimination among the administrative areas of the county.*

*(i) Notwithstanding any other provision of this Act, any acreage planted to cotton in excess of the farm acreage allotment shall not be taken into account in establishing State, county, and farm acreage allotments. Notwithstanding any other provision of this Act, beginning with the 1960 crop the planting of cotton on a farm in any of the immediately preceding three years that allotments were in effect but no allotment was established for such farm for any year of such three year period shall not make the farm eligible for an allotment as an old farm under subsection (f) of this section: Provided, however, That by reason of such planting the farm need not be considered as ineligible for a new farm allotment under subsection (f)(3) of this section.*

*(j) Notwithstanding any other provision of this Act, State and county committees shall make available for inspection by owners or operators of farms receiving cotton acreage allotments all records pertaining to cotton acreage allotments and marketing quotas.*

*(k) Notwithstanding any other provision of this section except subsection (g)(1), there shall be allotted to each State for which an allotment is made under this section not less than the smaller of (A) four thousand acres or (B) the highest acreage planted to cotton in*

any one of the three calendar years immediately preceding the year for which the allotment is made.

(l)<sup>30</sup>【 \* \* \* 】

(m) Notwithstanding any other provision of law—

(1) (Applicable only to 1954 crop of cotton.)

(2) Any part of any farm cotton acreage allotment on which cotton will not be planted and which is voluntarily surrendered to the county committee shall be deducted from the allotment to such farm and may be reapportioned by the county committee to other farms in the same county receiving allotments in amounts determined by the county committee to be fair and reasonable on the basis of past acreage of cotton, land, labor, equipment available for the production of cotton, crop rotation practices, and soil and other physical facilities affecting the production of cotton. If all of the allotted acreage voluntarily surrendered is not needed in the county, the county committee may surrender the excess acreage to the State committee to be used for the same purposes as the State acreage reserve under subsection (e) of this section. Any allotment released under this provision shall be regarded for the purposes of establishing future allotments as having been planted on the farm and in the county where the release was made rather than on the farm and in the county to which the allotment was transferred, except that this shall not operate to make the farm from which the allotment was transferred eligible for an allotment as having cotton planted thereon during the three-year base period: Provided, That notwithstanding any other provisions of law, any part of any farm acreage allotment may be permanently released in writing to the county committee by the owner and operator of the farm, and reapportioned as provided herein. Acreage released under this paragraph shall be credited to the State in determining future allotments. The provisions of this paragraph shall apply also to extra long staple cotton covered by section 341 of this Act.

(3)<sup>31</sup>【 \* \* \* 】

(n) Notwithstanding any other provision of this Act, if the Secretary determines for any year that because of a natural disaster a portion of the farm cotton acreage allotments in a county cannot be timely planted or replanted in such year, he may authorize for such year the transfer of all or part of the cotton acreage allotment for any farm in the county so affected to another farm in the county or in an adjoining county on which one or more of the producers on the farm from which the transfer is to be made will be engaged in the production of cotton and will share in the proceeds thereof, in accordance with such regulations as the Secretary may prescribe. Any farm allotment transferred under this paragraph shall be deemed to be released acreage for the purpose of acreage history credits under section 344(f)(8), 344(m)(2), and 377 of this Act: Provided, That, notwithstanding the provisions of section 344(m)(2) of this Act, the transfer of any farm allotment under this subsection for any year shall operate to make the farm from which the allot-

<sup>30</sup>Subsec. (l), relating to war crops under P.L. 79-12, does not apply to the 1955 and succeeding crops of cotton.

<sup>31</sup>Para. (3) was applicable only to the 1954 crop of cotton.



*ment was transferred eligible for an allotment as having cotton planted thereon during the three-year base period.*

SALES, LEASE AND TRANSFER OF UPLAND COTTON ACREAGE  
ALLOTMENTS

*SEC. 344a. [7 U.S.C. 1344b] (a) Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the program involved, (1) may permit the owner and operator of any farm for which a cotton acreage allotment is established to sell or lease all or any part or the right to all or any part of such allotment (excluding that part of the allotment which the Secretary determines was apportioned to the farm from the national acreage reserve) to any other owner or operator of a farm for transfer to such farm; (2) may permit the owner of a farm to transfer all or any part of such allotment to any other farm owned or controlled by him: Provided, That the authority granted under this section may be exercised for the calendar years 1966 through 1970, but all transfers hereunder shall be for such period of years as the parties thereto may agree.*

*(b) Transfers under this section shall be subject to the following conditions: (i) no allotment shall be transferred to a farm in another State or to a person for use in another State; (ii) no farm allotment may be sold or leased for transfer to a farm in another county unless the producers of cotton in the county from which transfer is being made have voted in a referendum within three years of the date of such transfer, by a two-thirds majority of the producers participating in such referendum, to permit the transfer of allotments to farms outside the county, which referendum, insofar as practicable, shall be held in conjunction with the marketing quota referendum for the commodity; (iii) no transfer of an allotment from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lien-holder; (iv) no sale of a farm allotment shall be permitted if any sale of cotton allotment to the same farm has been made within the three immediately preceding crop years; (v) the total cotton allotment for any farm to which allotment is transferred by sale or lease shall not exceed the farm acreage allotment (excluding reapportioned acreage) established for such farm for 1965 by more than one hundred acres; (vi) the cotton in excess of the remaining acreage allotment on the farm shall be planted on any farm from which the allotment (or part of an allotment) is sold for a period of five years following such sale, nor shall any cotton in excess of the remaining acreage allotment on the farm be planted on any farm from which the allotment (or part of an allotment) is leased during the period of such lease, and the producer on such farm shall so agree as a condition precedent to the Secretary's approval of any such sale or lease; and (vii) no transfer of allotment shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section. Such record may be filed with such committee only during the period beginning June 1 and ending December 31.*

(c) *The transfer of an allotment shall have the effect of transferring also the acreage history, farm base, and marketing quota attributable to such allotment and if the transfer is made prior to the determination of the allotment for any year the transfer shall include the right of the owner or operator to have an allotment determined for the farm for such year: Provided, That in the case of a transfer by lease, the amount of the allotment shall be considered for purposes of determining allotments after the expiration of the lease to have been planted on the farm from which such allotment is transferred.*

(d) *The land in the farm from which the entire cotton allotment and acreage history have been transferred shall not be eligible for a new farm cotton allotment during the five years following the year in which such transfer is made.*

(e) *The transfer of a portion of a farm allotment which was established under minimum farm allotment provisions for cotton or which operates to bring the farm within the minimum farm allotment provision for cotton shall cause the minimum farm allotment or base to be reduced to an amount equal to the allotment remaining on the farm after such transfer.*

(f) *The Secretary shall prescribe regulations for the administration of this section, which shall include provisions for adjusting the size of the allotment transferred if the farm to which the allotment is transferred has a substantially higher yield per acre and such other terms and conditions as he deems necessary.*

(g) *If the sale or lease occurs during a period in which the farm is covered by a conservation reserve contract, cropland conversion agreement, cropland adjustment agreement, or other similar land utilization agreement, the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the allotment is transferred.*

(h) *The Secretary shall by regulations authorize the exchange between farms in the same county, or between farms in adjoining counties within a State, of cotton acreage allotment for rice acreage allotment. Any such exchange shall be made on the basis of application filed with the county committee by the owners and operators of the farms, and the transfer of allotment between the farms shall include transfer of the related acreage history for the commodity. The exchange shall be acre for acre or on such other basis as the Secretary determines is fair and reasonable, taking into consideration the comparative productivity of the soil for the farms involved and other relevant factors. No farm from which the entire cotton or rice allotment has been transferred shall be eligible for an allotment of cotton or rice as a new farm within a period of five crop years after the date of such exchange.*

(i) *The provisions of this section relating to cotton shall apply only to upland cotton.*

FARM MARKETING QUOTAS

SEC. 345. [7 U.S.C. 1345] *The farm marketing quota for any crop of cotton shall be the actual production of the acreage planted*

*to cotton on the farm less the farm marketing excess. The farm marketing excess shall be the normal production of that acreage planted to cotton on the farm which is in excess of the farm acreage allotment: Provided, That such farm marketing excess shall not be larger than the amount by which the actual production of cotton on the farm exceeds the normal production of the farm acreage allotment, if the producer establishes such actual production to the satisfaction of the Secretary.*

PENALTIES; EXPORT MARKET ACREAGE

*SEC. 346. [7 U.S.C. 1346] (a) Whenever farm marketing quotas are in effect with respect to any crop of cotton the producer shall be subject to a penalty on the farm marketing excess at a rate per pound equal to 50 per centum of the parity price per pound for cotton as of June 15 of the calendar year in which such crop is produced.*

*(b) The farm marketing excess of cotton shall be regarded as available for marketing and the amount of penalty shall be computed upon the normal production of the acreage on the farm planted to cotton in excess of the farm acreage allotment. If a downward adjustment in the amount of the farm marketing excess is made pursuant to the proviso in section 345, the difference between the amount of the penalty computed upon the farm marketing excess before such adjustment and as computed upon the adjusted farm marketing excess shall be returned to or allowed the producer.*

*(c) The person liable for payment or collection of the penalty shall be liable also for interest thereon at the rate of 6 per centum per annum from the date the penalty becomes due until the date of payment of such penalty.*

*(d) Until the penalty on the farm marketing excess is paid, all cotton produced on the farm and marketed by the producers shall be subject to the penalty provided by this section and a lien on the entire crop of cotton produced on the farm shall be in effect in favor of the United States.*

*(e)<sup>32</sup> [ \* \* \* ]*

COTTON EQUALIZATION PAYMENTS

*SEC. 348.<sup>33</sup> [7 U.S.C. 1348] [ \* \* \* ]*

EXPORT MARKET ACREAGE

*SEC. 349.<sup>34</sup> [7 U.S.C. 1349] [ \* \* \* ]*

DOMESTIC ACREAGE ALLOTMENTS

*SEC. 350.<sup>35</sup> [7 U.S.C. 1350] [ \* \* \* ]*

<sup>32</sup>Subsec. (e) was applicable only to the 1966 through 1970 crops of cotton.

<sup>33</sup>Sec. 348 provided for payments on upland cotton through July 31, 1966. Sec. 349 provided for export market acreage for the 1964 and 1965 crops of upland cotton.

<sup>34</sup>See footnote 348-1.

<sup>35</sup>Sec. 350 was applicable only through the 1977 crop of upland cotton.

[Note: Part V was made inapplicable to the 2008 through 2012 crops of rice by sec. 1602(a)(1) of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, 122 Stat. 1729.]

*PART V—MARKETING QUOTAS—RICE*

*LEGISLATIVE FINDINGS*

*SEC. 351. [7 U.S.C. 1351] (a) The marketing of rice constitutes one of the great basic industries of the United States with ramifying activities which directly affect interstate and foreign commerce at every point, and stable conditions therein are necessary to the general welfare. Rice produced for market is sold on a Nation-wide market, and, with its products, moves almost wholly in interstate and foreign commerce from the producer to the ultimate consumer. The farmers producing such commodity are subject in their operations to uncontrollable natural causes, in many cases such farmers carry on their farming operations on borrowed money or leased lands, and are not so situated as to be able to organize effectively, as can labor and industry, through unions and corporations enjoying Government sanction and protection for joint economic action. For these reasons, among others, the farmers are unable without Federal assistance to control effectively the orderly marketing of such commodity with the result that abnormally excessive supplies thereof are produced and dumped indiscriminately on the Nation-wide market.*

*(b) The disorderly marketing of such abnormally excessive supplies affects, burdens, and obstructs interstate and foreign commerce by (1) materially affecting the volume of such commodity marketed therein, (2) disrupting the orderly marketing of such commodity therein, (3) reducing the prices for such commodity with consequent injury and destruction of such commerce in such commodity, and (4) causing a disparity between the prices for such commodity in interstate and foreign commerce and industrial products therein, with a consequent diminution of the volume of interstate and foreign commerce in industrial products.*

*(c) Whenever an abnormally excessive supply of rice exists, the marketing of such commodity by the producers thereof directly and substantially affects interstate and foreign commerce in such commodity and its products, and the operation of the provisions of this part becomes necessary and appropriate in order to promote, foster, and maintain an orderly flow of such supply in interstate and foreign commerce.*

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**PART VII—FLEXIBLE MARKETING  
ALLOTMENTS FOR SUGAR**

**SEC. 359a. [7 U.S.C. 1359aa] DEFINITIONS.**

In this part:

(1) **HUMAN CONSUMPTION.**—The term “human consumption”, when used in the context of a reference to sugar (whether in the form of sugar, in-process sugar, syrup, molasses, or

in some other form) for human consumption, includes sugar for use in human food, beverages, or similar products.

(2) MAINLAND STATE.—The term “mainland State” means a State other than an offshore State.

(3) MARKET.—

(A) IN GENERAL.—The term “market” means to sell or otherwise dispose of in commerce in the United States.

(B) INCLUSIONS.—The term “market” includes—

(i) the forfeiture of sugar under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272);

(ii) with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process; and

(iii) the sale of sugar for the production of ethanol or other bioenergy product, if the disposition of the sugar is administered by the Secretary under section 9010 of the Farm Security and Rural Investment Act of 2002.

(C) MARKETING YEAR.—Forfeited sugar described in subparagraph (B)(i) shall be considered to have been marketed during the crop year for which a loan is made under the loan program described in that subparagraph.

(4) OFFSHORE STATE.—The term “offshore State” means a sugarcane producing State located outside of the continental United States.

(5) STATE.—Notwithstanding section 301, the term “State” means—

(A) a State;

(B) the District of Columbia; and

(C) the Commonwealth of Puerto Rico.

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

**SEC. 359b. [7 U.S.C. 1359bb] FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.**

(a) SUGAR ESTIMATES.—

(1) IN GENERAL.—Not later than August 1 before the beginning of each of the 2008 through 2018 crop years for sugarcane and sugar beets, the Secretary shall estimate—

(A) the quantity of sugar that will be subject to human consumption in the United States during the crop year;

(B) the quantity of sugar that would provide for reasonable carryover stocks;

(C) the quantity of sugar that will be available from carry-in stocks for human consumption in the United States during the crop year;

(D) the quantity of sugar that will be available from the domestic processing of sugarcane, sugar beets, and in-process beet sugar; and

(E) the quantity of sugars, syrups, and molasses that will be imported for human consumption or to be used for the extraction of sugar for human consumption in the United States during the crop year, whether the articles

are under a tariff-rate quota or are in excess or outside of a tariff-rate quota.

(2) EXCLUSION.—The estimates under this subsection shall not apply to sugar imported for the production of polyhydric alcohol or to any sugar refined and reexported in refined form or in products containing sugar.

(3) REESTIMATES.—The Secretary shall make reestimates of sugar consumption, stocks, production, and imports for a crop year as necessary, but not later than the beginning of each of the second through fourth quarters of the crop year.

(b) SUGAR ALLOTMENTS.—

(1) ESTABLISHMENT.—By the beginning of each crop year, the Secretary shall establish for that crop year appropriate allotments under section 359c for the marketing by processors of sugar processed from sugar cane or sugar beets or in-process beet sugar (whether the sugar beets or in-process beet sugar was produced domestically or imported) at a level that is—

(A) sufficient to maintain raw and refined sugar prices above forfeiture levels so that there will be no forfeitures of sugar to the Commodity Credit Corporation under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272); but

(B) not less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

(2) PRODUCTS.—The Secretary may include sugar products, the majority content of which is sucrose for human consumption, derived from sugar cane, sugar beets, molasses, or sugar in the allotments established under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part.

(c) COVERAGE OF ALLOTMENTS.—

(1) IN GENERAL.—The marketing allotments under this part shall apply to the marketing by processors of sugar intended for domestic human consumption that has been processed from sugar cane, sugar beets, or in-process beet sugar, whether such sugar beets or in-process beet sugar was produced domestically or imported.

(2) EXCEPTIONS.—Consistent with the administration of marketing allotments for each of the 2002 through 2007 crop years, the marketing allotments shall not apply to sugar sold—

(A) to facilitate the exportation of the sugar to a foreign country, except that the exports of sugar shall not be eligible to receive credits under reexport programs for refined sugar or sugar containing products administered by the Secretary;

(B) to enable another processor to fulfill an allocation established for that processor; or

(C) for uses other than domestic human consumption, except for the sale of sugar for the production of ethanol or other bioenergy if the disposition of the sugar is administered by the Secretary under section 9010 of the Farm Security and Rural Investment Act of 2002.

(3) REQUIREMENT.—The sale of sugar described in paragraph (2)(B) shall be—

- (A) made prior to May 1; and
- (B) reported to the Secretary.

(d) PROHIBITIONS.—

(1) IN GENERAL.—During all or part of any crop year for which marketing allotments have been established, no processor of sugar beets or sugarcane shall market for domestic human consumption a quantity of sugar in excess of the allocation established for the processor, except—

- (A) to enable another processor to fulfill an allocation established for that other processor; or
- (B) to facilitate the exportation of the sugar.

(2) CIVIL PENALTY.—Any processor who knowingly violates paragraph (1) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar involved in the violation.

**SEC. 359c. [7 U.S.C. 1359cc] ESTABLISHMENT OF FLEXIBLE MARKETING ALLOTMENTS.**

(a) IN GENERAL.—The Secretary shall establish flexible marketing allotments for sugar for any crop year in which the allotments are required under section 359b(b) in accordance with this section.

(b) OVERALL ALLOTMENT QUANTITY.—

(1) IN GENERAL.—The Secretary shall establish the overall quantity of sugar to be allotted for the crop year (referred to in this part as the “overall allotment quantity”) at a level that is—

- (A) sufficient to maintain raw and refined sugar prices above forfeiture levels to avoid forfeiture of sugar to the Commodity Credit Corporation; but
- (B) not less than a quantity equal to 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

(2) ADJUSTMENT.—Subject to paragraph (1), the Secretary shall adjust the overall allotment quantity to maintain—

- (A) raw and refined sugar prices above forfeiture levels to avoid the forfeiture of sugar to the Commodity Credit Corporation; and
- (B) adequate supplies of raw and refined sugar in the domestic market.

(c) MARKETING ALLOTMENT FOR SUGAR DERIVED FROM SUGAR BEETS AND SUGAR DERIVED FROM SUGARCANE.—The overall allotment quantity for the crop year shall be allotted between—

- (1) sugar derived from sugar beets by establishing a marketing allotment for a crop year at a quantity equal to the product of multiplying the overall allotment quantity for the crop year by 54.35 percent; and
- (2) sugar derived from sugarcane by establishing a marketing allotment for a crop year at a quantity equal to the product of multiplying the overall allotment quantity for the crop year by 45.65 percent.

(d) FILLING CANE SUGAR AND BEET SUGAR ALLOTMENTS.—

(1) CANE SUGAR.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane.

(2) BEET SUGAR.—Each marketing allotment for beet sugar established under this section may only be filled with sugar domestically processed from sugar beets or in-process beet sugar.

(e) STATE CANE SUGAR ALLOTMENTS.—

(1) IN GENERAL.—The allotment for sugar derived from sugarcane shall be further allotted, among the States in the United States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner as provided in this subsection and section 359d(b)(1)(D).

(2) OFFSHORE ALLOTMENT.—

(A) COLLECTIVELY.—Prior to the allotment of sugar derived from sugarcane to any other State, 325,000 short tons, raw value shall be allotted to the offshore States.

(B) INDIVIDUALLY.—The collective offshore State allotment provided for under subparagraph (A) shall be further allotted among the offshore States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

(ii) the ability of processors to market the sugar covered under the allotments for the crop year; and

(iii) past processings of sugar from sugarcane, based on the 3-year average of the 1998 through 2000 crop years.

(3) MAINLAND ALLOTMENT.—The allotment for sugar derived from sugarcane, less the amount provided for under paragraph (2), shall be allotted among the mainland States in the United States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

(A) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

(B) the ability of processors to market the sugar covered under the allotments for the crop year; and

(C) past processings of sugar from sugarcane, based on the 3 crop years with the greatest processings (in the mainland States collectively) during the 1991 through 2000 crop years.

(f) FILLING CANE SUGAR ALLOTMENTS.—Except as provided in section 359e, a State cane sugar allotment established under subsection (e) for a crop year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.



(g) ADJUSTMENT OF MARKETING ALLOTMENTS.—

(1) ADJUSTMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall, based on reestimates under section 359b(a)(3), adjust upward or downward marketing allotments in a fair and equitable manner, as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.

(B) LIMITATION.—In carrying out subparagraph (A), the Secretary may not reduce the overall allotment quantity to a quantity of less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

(2) ALLOCATION TO PROCESSORS.—In the case of any increase or decrease in an allotment, each allocation to a processor of the allotment under section 359d, and each proportionate share established with respect to the allotment under section 359f(c), shall be increased or decreased by the same percentage that the allotment is increased or decreased.

(3) CARRY-OVER OF REDUCTIONS.—Whenever a marketing allotment for a crop year is required to be reduced during the crop year under this subsection, if, at the time of the reduction, the quantity of sugar marketed exceeds the processor's reduced allocation, the allocation of an allotment next established for the processor shall be reduced by the quantity of the excess sugar marketed.

**SEC. 359d. [7 U.S.C. 1359dd] ALLOCATION OF MARKETING ALLOTMENTS.**

(a) ALLOCATION TO PROCESSORS.—Whenever marketing allotments are established for a crop year under section 359c, in order to afford all interested persons an equitable opportunity to market sugar under an allotment, the Secretary shall allocate each such allotment among the processors covered by the allotment.

(b) HEARING AND NOTICE.—

(1) CANE SUGAR.—

(A) IN GENERAL.—The Secretary shall make allocations for cane sugar after a hearing, if requested by the affected sugarcane processors and growers, and on such notice as the Secretary by regulation may prescribe, in such manner and in such quantities as to provide a fair, efficient, and equitable distribution of the allocations under this paragraph. Each such allocation shall be subject to adjustment under section 359c(g).

(B) MULTIPLE PROCESSOR STATES.—Except as provided in subparagraphs (C) and (D), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single State based on—

(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from among the 1996 through 2000 crops;

(ii) the ability of processors to market sugar covered by that portion of the allotment allocated for the crop year; and

(iii) past processings of sugar from sugarcane, based on the average of the 3 highest years of production during the 1996 through 2000 crop years.

(C) TALISMAN PROCESSING FACILITY.—In the case of allotments under subparagraph (B) attributable to the operations of the Talisman processing facility before the date of enactment of this subparagraph, the Secretary shall allocate the allotment among processors in the State under subparagraph (A) in accordance with the agreements of March 25 and 26, 1999, between the affected processors and the Secretary of the Interior.

(D) PROPORTIONATE SHARE STATES.—In the case of States subject to section 359f(c), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single State based on—

(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from among the 1997 through 2001 crop years;

(ii) the ability of processors to market sugar covered by that portion of the allotments allocated for the crop year; and

(iii) past processings of sugar from sugarcane, based on the average of the 2 highest crop years of crop production during the 1997 through 2001 crop years.

(E) NEW ENTRANTS.—

(i) IN GENERAL.—Notwithstanding subparagraphs (B) and (D), the Secretary, on application of any processor that begins processing sugarcane on or after the date of enactment of this subparagraph, and after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, may provide the processor with an allocation that provides a fair, efficient and equitable distribution of the allocations from the allotment for the State in which the processor is located.

(ii) PROPORTIONATE SHARE STATES.—In the case of proportionate share States, the Secretary shall establish proportionate shares in a quantity sufficient to produce the sugarcane required to satisfy the allocations.

(iii) LIMITATIONS.—The allotment for a new processor under this subparagraph shall not exceed—

(I) in the case of the first crop year of operation of a new processor, 50,000 short tons (raw value); and

(II) in the case of each subsequent crop year of operation of the new processor, a quantity established by the Secretary in accordance with this subparagraph and the criteria described in subparagraph (B) or (D), as applicable.

(iv) NEW ENTRANT STATES.—

(I) IN GENERAL.—Notwithstanding subparagraphs (A) and (C) of section 359c(e)(3), to accommodate an allocation under clause (i) to a new processor located in a new entrant mainland State, the Secretary shall provide the new entrant mainland State with an allotment.

(II) EFFECT ON OTHER ALLOTMENTS.—The allotment to any new entrant mainland State shall be subtracted, on a pro rata basis, from the allotments otherwise allotted to each mainland State under section 359c(e)(3).

(v) ADVERSE EFFECTS.—Before providing an initial processor allocation or State allotment to a new entrant processor or a new entrant State under this subparagraph, the Secretary shall take into consideration any adverse effects that the provision of the allocation or allotment may have on existing cane processors and producers in mainland States.

(vi) ABILITY TO MARKET.—Consistent with section 359c and this section, any processor allocation or State allotment made to a new entrant processor or to a new entrant State under this subparagraph shall be provided only after the applicant processor, or the applicable processors in the State, have demonstrated the ability to process, produce, and market (including the transfer or delivery of the raw cane sugar to a refinery for further processing or marketing) raw cane sugar for the crop year for which the allotment is applicable.

(vii) PROHIBITION.—Not more than 1 processor allocation provided under this subparagraph may be applicable to any individual sugar processing facility.

(F) TRANSFER OF OWNERSHIP.—If a sugarcane processor is sold or otherwise transferred to another owner or is closed as part of an affiliated corporate group processing consolidation, the Secretary shall transfer the allotment allocation for the processor to the purchaser, new owner, successor in interest, or any remaining processor of an affiliated entity, as applicable, of the processor.

(2) BEET SUGAR.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph and sections 359c(g), 359e(b), and 359f(b), the Secretary shall make allocations for beet sugar among beet sugar processors for each crop year that allotments are in effect on the basis of the adjusted weighted average quantity of beet sugar produced by the processors for each of the 1998 through 2000 crop years, as determined under this paragraph.

(B) QUANTITY.—The quantity of an allocation made for a beet sugar processor for a crop year under subparagraph (A) shall bear the same ratio to the quantity of allocations made for all beet sugar processors for the crop year as the adjusted weighted average quantity of beet sugar produced by the processor (as determined under subparagraphs (C) and (D)) bears to the total of the adjusted weighted aver-

age quantities of beet sugar produced by all processors (as so determined).

(C) **WEIGHTED AVERAGE QUANTITY.**—Subject to subparagraph (D), the weighted quantity of beet sugar produced by a beet sugar processor during each of the 1998 through 2000 crop years shall be (as determined by the Secretary)—

(i) in the case of the 1998 crop year, 25 percent of the quantity of beet sugar produced by the processor during the crop year;

(ii) in the case of the 1999 crop year, 35 percent of the quantity of beet sugar produced by the processor during the crop year; and

(iii) in the case of the 2000 crop year, 40 percent of the quantity of beet sugar produced by the processor (including any quantity of sugar received from the Commodity Credit Corporation) during the crop year.

(D) **ADJUSTMENTS.**—

(i) **IN GENERAL.**—The Secretary shall adjust the weighted average quantity of beet sugar produced by a beet sugar processor during the 1998 through 2000 crop years under subparagraph (C) if the Secretary determines that the processor—

(I) during the 1996 through 2000 crop years, opened a sugar beet processing factory;

(II) during the 1998 through 2000 crop years, closed a sugar beet processing factory;

(III) during the 1998 through 2000 crop years, constructed a molasses desugarization facility; or

(IV) during the 1998 through 2000 crop years, suffered substantial quality losses on sugar beets stored during any such crop year.

(ii) **QUANTITY.**—The quantity of beet sugar produced by a beet sugar processor under subparagraph (C) shall be—

(I) in the case of a processor that opened a sugar beet processing factory, increased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each sugar beet processing factory that is opened by the processor;

(II) in the case of a processor that closed a sugar beet processing factory, decreased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each sugar beet processing factory that is closed by the processor;

(III) in the case of a processor that constructed a molasses desugarization facility, increased by 0.25 percent of the total of the adjusted

weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each molasses desugarization facility that is constructed by the processor; and

(IV) in the case of a processor that suffered substantial quality losses on stored sugar beets, increased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph).

(E) PERMANENT TERMINATION OF OPERATIONS OF A PROCESSOR.—If a processor of beet sugar has been dissolved, liquidated in a bankruptcy proceeding, or otherwise has permanently terminated operations (other than in conjunction with a sale or other disposition of the processor or the assets of the processor), the Secretary shall—

(i) eliminate the allocation of the processor provided under this section; and

(ii) distribute the allocation to other beet sugar processors on a pro rata basis.

(F) SALE OF ALL ASSETS OF A PROCESSOR TO ANOTHER PROCESSOR.—If a processor of beet sugar (or all of the assets of the processor) is sold to another processor of beet sugar, the Secretary shall transfer the allocation of the seller to the buyer unless the allocation has been distributed to other sugar beet processors under subparagraph (E).

(G) SALE OF FACTORIES OF A PROCESSOR TO ANOTHER PROCESSOR.—

(i) EFFECT OF SALE.—Subject to subparagraphs (E) and (F), if 1 or more factories of a processor of beet sugar (but not all of the assets of the processor) are sold to another processor of beet sugar during a crop year, the Secretary shall assign a pro rata portion of the allocation of the seller to the allocation of the buyer to reflect the historical contribution of the production of the sold 1 or more factories to the total allocation of the seller, unless the buyer and the seller have agreed upon the transfer of a different portion of the allocation of the seller, in which case, the Secretary shall transfer that portion agreed upon by the buyer and seller.

(ii) APPLICATION OF ALLOCATION.—The assignment of the allocation under clause (i) shall apply—

(I) during the remainder of the crop year for which the sale described in clause (i) occurs; and

(II) during each subsequent crop year.

(iii) USE OF OTHER FACTORIES TO FILL ALLOCATION.—If the assignment of the allocation under clause (i) to the buyer for the 1 or more purchased factories cannot be filled by the production of the 1 or more

purchased factories, the remainder of the allocation may be filled by beet sugar produced by the buyer from other factories of the buyer.

(H) NEW ENTRANTS STARTING PRODUCTION, REOPENING, OR ACQUIRING AN EXISTING FACTORY WITH PRODUCTION HISTORY.—

(i) DEFINITION OF NEW ENTRANT.—

(I) IN GENERAL.—In this subparagraph, the term “new entrant” means an individual, corporation, or other entity that—

(aa) does not have an allocation of the beet sugar allotment under this part;

(bb) is not affiliated with any other individual, corporation, or entity that has an allocation of beet sugar under this part (referred to in this clause as a “third party”); and

(cc) will process sugar beets produced by sugar beet growers under contract with the new entrant for the production of sugar at the new or re-opened factory that is the basis for the new entrant allocation.

(II) AFFILIATION.—For purposes of subclause (I)(bb), a new entrant and a third party shall be considered to be affiliated if—

(aa) the third party has an ownership interest in the new entrant;

(bb) the new entrant and the third party have owners in common;

(cc) the third party has the ability to exercise control over the new entrant by organizational rights, contractual rights, or any other means;

(dd) the third party has a contractual relationship with the new entrant by which the new entrant will make use of the facilities or assets of the third party; or

(ee) there are any other similar circumstances by which the Secretary determines that the new entrant and the third party are affiliated.

(ii) ALLOCATION FOR A NEW ENTRANT THAT HAS CONSTRUCTED A NEW FACTORY OR REOPENED A FACTORY THAT WAS NOT OPERATED SINCE BEFORE 1998.—If a new entrant constructs a new sugar beet processing factory, or acquires and reopens a sugar beet processing factory that last processed sugar beets prior to the 1998 crop year and there is no allocation currently associated with the factory, the Secretary shall—

(I) assign an allocation for beet sugar to the new entrant that provides a fair and equitable distribution of the allocations for beet sugar so as to enable the new entrant to achieve a factory utilization rate comparable to the factory utilization rates of other similarly-situated processors; and

(II) reduce the allocations for beet sugar of all other processors on a pro rata basis to reflect the allocation to the new entrant.

(iii) ALLOCATION FOR A NEW ENTRANT THAT HAS ACQUIRED AN EXISTING FACTORY WITH A PRODUCTION HISTORY.—

(I) IN GENERAL.—If a new entrant acquires an existing factory that has processed sugar beets from the 1998 or subsequent crop year and has a production history, on the mutual agreement of the new entrant and the company currently holding the allocation associated with the factory, the Secretary shall transfer to the new entrant a portion of the allocation of the current allocation holder to reflect the historical contribution of the production of the 1 or more sold factories to the total allocation of the current allocation holder, unless the new entrant and current allocation holder have agreed upon the transfer of a different portion of the allocation of the current allocation holder, in which case, the Secretary shall transfer that portion agreed upon by the new entrant and the current allocation holder.

(II) PROHIBITION.—In the absence of a mutual agreement described in subclause (I), the new entrant shall be ineligible for a beet sugar allocation.

(iv) APPEALS.—Any decision made under this subsection may be appealed to the Secretary in accordance with section 359i.

**SEC. 359e. [7 U.S.C. 1359ee] REASSIGNMENT OF DEFICITS.**

(a) ESTIMATES OF DEFICITS.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

(b) REASSIGNMENT OF DEFICITS.—

(1) CANE SUGAR.—If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor's allocation of the State's allotment for the crop year—

(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allot-

ments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors;

(C) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit to the Commodity Credit Corporation and shall sell such quantity of sugar from inventories of the Corporation unless the Secretary determines that such sales would have a significant effect on the price of sugar; and

(D) if after the reassignments and sales, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports of raw cane sugar.

(2) BEET SUGAR.—If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit to the Commodity Credit Corporation and shall sell such quantity of sugar from inventories of the Corporation unless the Secretary determines that such sales would have a significant effect on the price of sugar; and

(C) if after the reassignments and sales, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports of raw cane sugar.

(3) CORRESPONDING INCREASE.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a crop year shall be increased to reflect the reassignment.

**SEC. 359f. [7 U.S.C. 1359ff] PROVISIONS APPLICABLE TO PRODUCERS.**

(a) PROCESSOR ASSURANCES.—

(1) IN GENERAL.—If allotments for a crop year are allocated to processors under section 359d, the Secretary shall obtain from the processors such assurances as the Secretary considers adequate that the allocation will be shared among producers served by the processor in a fair and equitable manner that adequately reflects producers' production histories.

(2) ARBITRATION.—

(A) IN GENERAL.—Any dispute between a processor and a producer, or group of producers, with respect to the sharing of the allocation to the processor shall be resolved through arbitration by the Secretary on the request of either party.



- (B) PERIOD.—The arbitration shall, to the maximum extent practicable, be—
- (i) commenced not more than 45 days after the request; and
  - (ii) completed not more than 60 days after the request.
- (b) SUGAR BEET PROCESSING FACILITY CLOSURES.—
- (1) IN GENERAL.—If a sugar beet processing facility is closed and the sugar beet growers that previously delivered beets to the facility elect to deliver their beets to another processing company, the growers may petition the Secretary to modify allocations under this part to allow the delivery.
- (2) INCREASED ALLOCATION FOR PROCESSING COMPANY.—The Secretary may increase the allocation to the processing company to which the growers elect to deliver their sugar beets, with the approval of the processing company, to a level that does not exceed the processing capacity of the processing company, to accommodate the change in deliveries.
- (3) DECREASED ALLOCATION FOR CLOSED COMPANY.—The increased allocation shall be deducted from the allocation to the company that owned the processing facility that has been closed and the remaining allocation shall be unaffected.
- (4) TIMING.—The determinations of the Secretary on the issues raised by the petition shall be made within 60 days after the filing of the petition.
- (c) PROPORTIONATE SHARES OF CERTAIN ALLOTMENTS.—
- (1) DEFINITION OF SEED.—
- (A) IN GENERAL.—In this subsection, the term “seed” means only those varieties of seed that are dedicated to the production of sugarcane from which is produced sugar for human consumption.
- (B) EXCLUSION.—The term “seed” does not include seed of a high-fiber cane variety dedicated to other uses, as determined by the Secretary.
- (2) IN GENERAL.—
- (A) STATES AFFECTED.—In any case in which a State allotment is established under section 359c(f) and there are in excess of 250 sugarcane producers in the State (other than Puerto Rico), the Secretary shall make a determination under subparagraph (B).
- (B) DETERMINATION.—The Secretary shall determine, for each State allotment described in subparagraph (A), whether the production of sugarcane, in the absence of proportionate shares, will be greater than the quantity needed to enable processors to fill the allotment and provide a normal carryover inventory of sugar.
- (3) ESTABLISHMENT OF PROPORTIONATE SHARES.—If the Secretary determines under paragraph (2) that the quantity of sugar produced from sugarcane produced by producers in the area covered by a State allotment for a crop year will be in excess of the quantity needed to enable processors to fill the allotment for the crop year and provide a normal carryover inventory of sugar, the Secretary shall establish a proportionate share for each sugarcane-producing farm that limits the acre-

age of sugarcane that may be harvested on the farm for sugar or seed during the crop year the allotment is in effect as provided in this subsection. Each such proportionate share shall be subject to adjustment under paragraph (8) and section 359c(g).

(4) **METHOD OF DETERMINING.**—For purposes of determining proportionate shares for any crop of sugarcane:

(A) The Secretary shall establish the State's per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the 2 highest years from among the 1999, 2000, and 2001 crop years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

(C) The Secretary shall convert the State allotment for the crop year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm's proportionate share of sugarcane acreage that may be harvested for sugar or seed.

(5) **ACREAGE BASE.**—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in the 2 highest of the 1999, 2000, and 2001 crop years.

(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may be considered as harvested for the production of sugar or seed for purposes of this paragraph.

(6) **VIOLATION.**—

(A) **IN GENERAL.**—Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm's proportionate share for the crop year, or oth-

erwise violate proportionate share regulations issued by the Secretary under section 359h(a).

(B) DETERMINATION OF VIOLATION.—No producer shall be considered to have violated subparagraph (A) unless the processor of the sugarcane harvested by such producer from acreage in excess of the proportionate share of the farm markets an amount of sugar that exceeds the allocation of such processor for a crop year.

(C) CIVIL PENALTY.—Any producer on a farm who violates subparagraph (A) by knowingly harvesting, or allowing to be harvested, an acreage of sugarcane for sugar in excess of the farm's proportionate share shall be liable to the Commodity Credit Corporation for a civil penalty equal to one and one-half times the United States market value of the quantity of sugar that is marketed by the processor of such sugarcane in excess of the allocation of such processor for the crop year. The Secretary shall prorate penalties imposed under this subparagraph in a fair and equitable manner among all the producers of sugarcane harvested from excess acreage that is acquired by such processor.

(7) WAIVER.—Notwithstanding the preceding subparagraph, the Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other proportionate share requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of proportionate shares.

(8) ADJUSTMENTS.—Whenever the Secretary determines that, because of a natural disaster or other condition beyond the control of producers that adversely affects a crop of sugarcane subject to proportionate shares, the amount of sugar from sugarcane produced by producers subject to the proportionate shares will not be sufficient to enable processors in the State to meet the State's cane sugar allotment and provide a normal carryover inventory of sugar, the Secretary may uniformly allow producers to harvest an amount of sugarcane in excess of their proportionate share, or suspend proportionate shares entirely, as necessary to enable processors to meet the State allotment and provide a normal carryover inventory of sugar.

**SEC. 359g. [7 U.S.C. 1359gg] SPECIAL RULES.**

(a) TRANSFER OF ACREAGE BASE HISTORY.—

(1) TRANSFER AUTHORIZED.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f(c), the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

(2) CONVERTED ACREAGE BASE.—

(A) IN GENERAL.—Sugarcane acreage base established under section 359f(c) that has been or is converted to non-agricultural use on or after May 13, 2002, may be trans-

ferred to other land suitable for the production of sugarcane that can be delivered to a processor in a proportionate share State in accordance with this paragraph.

(B) NOTIFICATION.—Not later than 90 days after the Secretary becomes aware of a conversion of any sugarcane acreage base to a nonagricultural use, the Secretary shall notify the 1 or more affected landowners of the transferability of the applicable sugarcane acreage base.

(C) INITIAL TRANSFER PERIOD.—The owner of the base attributable to the acreage at the time of the conversion shall be afforded 90 days from the date of the receipt of the notification under subparagraph (B) to transfer the base to 1 or more farms owned by the owner.

(D) GROWER OF RECORD.—If a transfer under subparagraph (C) cannot be accomplished during the period specified in that subparagraph, the grower of record with regard to the acreage base on the date on which the acreage was converted to nonagricultural use shall—

(i) be notified; and

(ii) have 90 days from the date of the receipt of the notification to transfer the base to 1 or more farms operated by the grower.

(E) POOL DISTRIBUTION.—

(i) IN GENERAL.—If transfers under subparagraphs (B) and (C) cannot be accomplished during the periods specified in those subparagraphs, the county committee of the Farm Service Agency for the applicable county shall place the acreage base in a pool for possible assignment to other farms.

(ii) ACCEPTANCE OF REQUESTS.—After providing reasonable notice to farm owners, operators, and growers of record in the county, the county committee shall accept requests from owners, operators, and growers of record in the county.

(iii) ASSIGNMENT.—The county committee shall assign the acreage base to other farms in the county that are eligible and capable of accepting the acreage base, based on a random drawing from among the requests received under clause (ii).

(F) STATEWIDE REALLOCATION.—

(i) IN GENERAL.—Any acreage base remaining unassigned after the transfers and processes described in subparagraphs (A) through (E) shall be made available to the State committee of the Farm Service Agency for allocation among the remaining county committees in the State representing counties with farms eligible for assignment of the base, based on a random drawing.

(ii) ALLOCATION.—Any county committee receiving acreage base under this subparagraph shall allocate the acreage base to eligible farms using the process described in subparagraph (E).

(G) STATUS OF REASSIGNED BASE.—After acreage base has been reassigned in accordance with this subparagraph, the acreage base shall—

(i) remain on the farm; and

(ii) be subject to the transfer provisions of paragraph (1).

(b) PRESERVATION OF ACREAGE BASE HISTORY.—If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 359f(c), the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 5 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share.

(c) REVISIONS OF ALLOCATIONS AND PROPORTIONATE SHARES.—The Secretary, after such notice as the Secretary by regulation may prescribe, may revise or amend any allocation of a marketing allotment under section 359d, or any proportionate share established or adjusted for a farm under section 359f(c), on the same basis as the initial allocation or proportionate share was required to be established.

(d) TRANSFERS OF MILL ALLOCATIONS.—

(1) TRANSFER AUTHORIZED.—A producer in a proportionate share State, upon written consent from all affected crop-share owners (or the representative of the affected crop-share owners) of a farm may deliver sugarcane to another processing company if the additional delivery, when combined with such other processing company's existing deliveries, does not exceed the processing capacity of the company.

(2) ALLOCATION ADJUSTMENT.—Notwithstanding section 359d, the Secretary shall adjust the allocations of each of such processing companies affected by a transfer under paragraph (1) to reflect the change in deliveries, based on—

(A) the number of acres of sugarcane base being transferred; and

(B) the pro rata amount of allocation at the processing company holding the applicable allocation that equals the contribution of the grower to allocation of the processing company for the sugarcane acreage base being transferred.

**SEC. 359h. [7 U.S.C. 1359hh] REGULATIONS; VIOLATIONS; PUBLICATION OF SECRETARY'S DETERMINATIONS; JURISDICTION OF THE COURTS; UNITED STATES ATTORNEYS.**

(a) REGULATIONS.—The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this part.

(b) VIOLATION.—Any person knowingly violating any regulation of the Secretary issued under subsection (a) shall be subject to a civil penalty of not more than \$5,000 for each violation.

(c) PUBLICATION IN FEDERAL REGISTER.—Each determination issued by the Secretary to establish, adjust, or suspend allotments under this part shall be promptly published in the Federal Register

and shall be accompanied by a statement of the reasons for the determination.

(d) JURISDICTION OF COURTS; UNITED STATES ATTORNEYS.—

(1) JURISDICTION OF COURTS.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this part or any regulation issued thereunder.

(2) UNITED STATES ATTORNEYS.—Whenever the Secretary shall so request, it shall be the duty of the several United States attorneys, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties provided for in this part. The Secretary may elect not to refer to a United States attorney any violation of this part or regulation when the Secretary determines that the administration and enforcement of this part would be adequately served by written notice or warning to any person committing the violation.

(e) NONEXCLUSIVITY OF REMEDIES.—The remedies and penalties provided for in this part shall be in addition to, and not exclusive of, any remedies or penalties existing at law or in equity.

**SEC. 359i. [7 U.S.C. 1359ii] APPEALS.**

(a) IN GENERAL.—An appeal may be taken to the Secretary from any decision under section 359d establishing allocations of marketing allotments, or under section 359f or 359g(d), by any person adversely affected by reason of any such decision.

(b) PROCEDURE.—

(1) NOTICE OF APPEAL.—Any such appeal shall be taken by filing with the Secretary, within 20 days after the decision complained of is effective, notice in writing of the appeal and a statement of the reasons therefor. Unless a later date is specified by the Secretary as part of the Secretary's decision, the decision complained of shall be considered to be effective as of the date on which announcement of the decision is made. The Secretary shall deliver a copy of any notice of appeal to each person shown by the records of the Secretary to be adversely affected by reason of the decision appealed, and shall at all times thereafter permit any such person to inspect and make copies of appellant's reasons for the appeal and shall on application permit the person to intervene in the appeal.

(2) HEARING.—The Secretary shall provide each appellant an opportunity for a hearing before an administrative law judge in accordance with sections 554 and 556 of title 5, United States Code. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.

**SEC. 359j. [7 U.S.C. 1359jj] ADMINISTRATION.**

(a) USE OF CERTAIN AGENCIES.—In carrying out this part, the Secretary may use the services of local committees of sugar beet or sugarcane producers, sugarcane processors, or sugar beet processors, State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the departments and agencies of the United States Government.

(b) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the services, facilities, funds, and authorities of the Commodity Credit Corporation to carry out this part.

**SEC. 359k. [7 U.S.C. 1359kk] ADMINISTRATION OF TARIFF RATE QUOTAS.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, at the beginning of the quota year, the Secretary shall establish the tariff-rate quotas for raw cane sugar and refined sugars at the minimum level necessary to comply with obligations under international trade agreements that have been approved by Congress.

(2) EXCEPTION.—Paragraph (1) shall not apply to specialty sugar.

(b) ADJUSTMENT.—

(1) BEFORE APRIL 1.—Before April 1 of each fiscal year, if there is an emergency shortage of sugar in the United States market that is caused by a war, flood, hurricane, or other natural disaster, or other similar event as determined by the Secretary—

(A) the Secretary shall take action to increase the supply of sugar in accordance with sections 359c(b)(2) and 359e(b), including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, and domestic raw cane sugar refining capacity has been maximized, the Secretary may increase the tariff-rate quota for refined sugars sufficient to accommodate the supply increase, if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).

(2) ON OR AFTER APRIL 1.—On or after April 1 of each fiscal year—

(A) the Secretary may take action to increase the supply of sugar in accordance with sections 359c(b)(2) and 359e(b), including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, the Secretary may increase the tariff-rate quota for raw cane sugar if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).

**SEC. 359I. [7 U.S.C. 1359II] PERIOD OF EFFECTIVENESS.**

(a) IN GENERAL.—This part shall be effective only for the 2008 through 2018 crop years for sugar.

(b) TRANSITION.—The Secretary shall administer flexible marketing allotments for sugar for the 2007 crop year for sugar on the terms and conditions provided in this part as in effect on the day before the date of enactment of this section.

SUBTITLE C—ADMINISTRATIVE PROVISIONS

PART I—PUBLICATION AND REVIEW OF QUOTAS

APPLICATION OF PART

SEC. 361. [7 U.S.C. 1361] This part shall apply to the publication and review of farm marketing quotas established for corn, wheat, cotton, and rice, established under subtitle B.

PUBLICATION AND NOTICE OF QUOTA

SEC. 362. [7 U.S.C. 1362] All acreage allotments, and the farm marketing quotas established for farms in a county or other local administrative area shall, in accordance with regulations of the Secretary, be made and kept freely available for public inspection in such county or other local administrative area. An additional copy of this information shall be kept available in the office of the county agricultural extension agent or with the chairman of the local committee. Notice of the farm marketing quota of his farm shall be mailed to the farmer.

Notice of the farm acreage allotment established for each farm shown by the records of the county committee to be entitled to such allotment shall insofar as practicable be mailed to the farm operator in sufficient time to be received prior to the date of the referendum.

REVIEW BY REVIEW COMMITTEE

SEC. 363. [7 U.S.C. 1363] Any farmer who is dissatisfied with his farm marketing quota may, within fifteen days after mailing to him of notice as provided in section 362, have such quota reviewed by a local review committee composed of three farmers from the same or nearby counties appointed by the Secretary. Such committee shall not include any member of the local committee which determined the farm acreage allotment, the normal yield, or the farm marketing quota for such farm. Unless application for review is made within such period, the original determination of the farm marketing quota shall be final.

REVIEW COMMITTEE

SEC. 364. [7 U.S.C. 1364] The members of the review committee shall receive as compensation for their services the same per diem as that received by the members of the committee utilized for the purposes of the Soil Conservation and Domestic Allotment Act, as amended. The members of the review committee shall not be entitled to receive compensation for more than thirty days in any one year.



INSTITUTION OF PROCEEDINGS

SEC. 365. [7 U.S.C. 1365] If the farmer is dissatisfied with the determination of the review committee, he may, within fifteen days after a notice of such determination is mailed to him by registered mail or by certified mail, file a bill in equity against the review committee as defendant in the United States district court, or institute proceedings for review in any court of the State having general jurisdiction, sitting in the county or the district in which his farm is located, for the purpose of obtaining a review of such determination. Bond shall be given in an amount and with surety satisfactory to the court to secure the United States for the costs of the proceeding. The bill of complaint in such proceeding may be served by delivering a copy thereof to any one of the members of the review committee. Thereupon the review committee shall certify and file in the court a transcript of the record upon which the determination complained of was made, together with its findings of fact.

COURT REVIEW

SEC. 366. [7 U.S.C. 1366] The review by the court shall be limited to questions of law, and the findings of fact by the review committee, if supported by evidence, shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the review committee, the court may direct such additional evidence to be taken before the review committee in such manner and upon such terms and conditions as to the court may seem proper. The review committee may modify its findings of fact or its determination by reason of the additional evidence so taken, and it shall file with the court such modified findings or determination, which findings of fact shall be conclusive. The court shall hear and determine the case upon the original record of the hearings before the review committee and upon such record as supplemented if supplemented, by further hearing before the review committee pursuant to direction of the court. The court shall affirm the review committee's determination, or modified determination, if the court determines that the same is in accordance with law. If the court determines that such determination or modified determination is not in accordance with law, the court shall remand the proceeding to the review committee with direction either to make such determination as the court shall determine to be in accordance with law or to take such further proceedings as, in the court's opinion, the law requires.

STAY OF PROCEEDINGS AND EXCLUSIVE JURISDICTION

SEC. 367. [7 U.S.C. 1367] The commencement of judicial proceedings under this part shall not, unless specifically ordered by the court, operate as a stay of the review committee's determination. Notwithstanding any other provision of law, the jurisdiction conferred by this part to review the legal validity of a determination made by a review committee pursuant to this part shall be exclusive. No court of the United States or of any State shall have

jurisdiction to pass upon the legal validity of any such determination except in a proceeding under this part.

NO EFFECT ON OTHER QUOTAS

SEC. 368. [7 U.S.C. 1368] Notwithstanding any increase of any farm marketing quota for any farm as a result of review of the determination thereof under this part, the marketing quotas for other farms shall not be affected.

PART II—ADJUSTMENT OF QUOTAS AND ENFORCEMENT

GENERAL ADJUSTMENTS OF QUOTAS

SEC. 371. [7 U.S.C. 1371] (a) If at any time the Secretary has reason to believe that in the case of cotton, or rice the operation of farm marketing quotas in effect will cause the amount of such commodity which is free of marketing restrictions to be less than the normal supply for the marketing year for the commodity then current, he shall cause an immediate investigation to be made with respect thereto. In the course of such investigation due notice and opportunity for hearing shall be given to interested persons. If upon the basis of such investigation the Secretary finds the existence of such fact, he shall proclaim the same forthwith. He shall also in such proclamation specify such increase in, or termination of, existing quotas as he finds, on the basis of such investigation, is necessary to make the amount of such commodity which is free of marketing restrictions equal to the normal supply.

(b) If the Secretary has reason to believe that, because of a national emergency or because of a material increase in export demand, any national marketing quota or acreage allotment for cotton, or rice should be increased or terminated, he shall cause an immediate investigation to be made to determine whether the increase or termination is necessary to meet such emergency or increase in export demand. If, on the basis of such investigation, the Secretary finds that such increase or termination is necessary, he shall immediately proclaim such finding (and if he finds an increase is necessary, the amount of the increase found by him to be necessary) and thereupon such quota or allotment shall be increased, or shall terminate, as the case may be.

(c) In case any national marketing quota or acreage allotment for any commodity is increased under this section, each farm marketing quota or acreage allotment for the commodity shall be increased in the same ratio.

PAYMENT AND COLLECTION OF PENALTIES

SEC. 372. [7 U.S.C. 1372] (a) The penalty with respect to the marketing, by sale, of wheat, cotton, or rice, if the sale is to any person within the United States, shall be collected by the buyer.

(b) All penalties provided for in subtitle B shall be collected and paid in such manner, at such times, and under such conditions as the Secretary may by regulations prescribe. Such penalties shall be remitted to the Secretary by the person liable for the penalty, except that if any other person is liable for the collection of the penalty, such other person shall remit the penalty. Except as pro-

vided in section 320B, the amount of such penalties shall be covered into the general fund of the Treasury of the United States.

(c) Whenever, pursuant to a claim filed with the Secretary within two years after payment to him of any penalty collected from any person pursuant to this Act, the Secretary finds that such penalty was erroneously, illegally, or wrongfully collected and that the claimant bore the burden of the payment of such penalty, the Secretary shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations, prescribed by the Secretary of the Treasury, such amounts as the Secretary finds the claimant is entitled to receive as a refund of such penalty.

Notwithstanding any other provision of the law, the Secretary is authorized to prescribe by regulations for the identification of farms and it shall be sufficient to schedule receipts into special deposit accounts or to schedule such receipts for transfer therefrom, or directly, into the separate fund provided for in subsection (b) hereof by means of such identification without reference to the names of the producers on such farms.

The Secretary is authorized to prescribe regulations governing the filing of such claims and the determination of such refunds.

(d) No penalty shall be collected under this Act with respect to the marketing of any agricultural commodity grown for experimental purposes only by any publicly owned agricultural experiment station. Effective with the 1978 crops, no penalty shall be collected under this Act with respect to the marketing of any agricultural commodity grown on State prison farms for consumption within such State prison system.

#### REPORTS AND RECORDS

SEC. 373. [7 U.S.C. 1373] (a) This subsection shall apply to warehousemen, processors, and common carriers of corn, wheat, cotton, or rice, and all ginners of cotton, all persons engaged in the business of purchasing corn, wheat, cotton, or rice from producers, and.<sup>37</sup> Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this title. Such information shall be reported and such records shall be kept in accordance with forms which the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is hereby authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of such person. Any such person failing to make any report or keep any record as required by this subsection or making any false report or record shall be deemed guilty of a mis-

<sup>37</sup> Effective beginning with the 2005 crop of each kind of tobacco, sec. 611(j)(2)(A) of P.L. 108-357, 108 Stat. 1523, Oct. 22, 2004, amended the first sentence of subsec. (a) by striking "all persons engaged in the business of redrying, prizing, or stemming tobacco for producers." Although the law does not contain the comma at the end of the phrase purported to be struck, the phrase was struck to effectuate the probable intent of Congress. The ending of the sentence with " and" is so in original.

demeanor and upon conviction thereof shall be subject to a fine of not more than \$500.

(b) Farmers engaged in the production of corn, wheat, cotton, or rice for market shall furnish such proof of their acreage, yield, storage, and marketing of the commodity in the form of records, marketing cards, reports, storage under seal, or otherwise as the Secretary may prescribe as necessary for the administration of this title.

(c) All data reported to or acquired by the Secretary pursuant to this section shall be kept confidential by all officers and employees of the Department, and only such data so reported or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under this title. Nothing in this section shall be deemed to prohibit the issuance of general statements based upon the reports of a number of parties which statements do not identify the information furnished by any person.

#### MEASUREMENT OF FARMS AND REPORT OF PLANTINGS

SEC. 374. [7 U.S.C. 1374] (a) The Secretary shall provide for ascertaining, by measurement or otherwise, the acreage of any agricultural commodity or land use on farms for which the ascertainment of such acreage is necessary to determine compliance under any program administered by the Secretary. Insofar as practicable, the acreage of the commodity and land use shall be ascertained prior to harvest, and, if any acreage so ascertained is not in compliance with the requirements of the program the Secretary, under such terms and conditions as he prescribes, may provide a reasonable time for the adjustment of the acreage of the commodity or land use to the requirements of the program. Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1995 crops, except that, for the 1991 through 1995 crops, the rules shall allow 30 inch rows (or, at the option of those cotton producers who had an established practice of using 32 inch rows before the 1991 crop, 32 inch rows) to be taken into account for classifying the acreage planted to cotton and the area skipped. For the 1992 through 1995 crops, the rules establishing the requirements for eligibility for conserving use for payment acres shall be the same rules as were in effect for 1991 crops.

(b) With respect to cotton, the Secretary, upon such terms and conditions as he may by regulation prescribe, shall provide, through the county and local committees for the measurement prior to planting of an acreage on the farm equal to the farm acreage allotment if so requested by the farm operator, and any farm on which the acreage planted to cotton does not exceed such measured acreage shall be deemed to be in compliance with the farm acreage allotment.

(c) The Secretary shall by appropriate regulations provide for the remeasurement upon request by the farm operator of the acreage planted to such commodity on the farm and for the measurement of the acreage planted to such commodity on the farm re-

maining after any adjustment of excess acreage hereunder and shall prescribe the conditions under which the farm operator shall be required to pay the county committee for the expense of the measurement of adjusted acreage or the expense of remeasurement after the initial measurement or the measurement of adjusted acreage. The regulations shall also provide for the refund of any deposit or payment made for the expense of the remeasurement of the initially determined acreage or the adjusted acreage when because of an error in the determination of such acreage the remeasurement brings the acreage within the allotment or permitted acreage or results in a change in acreage in excess of a reasonable variation normal to measurements of acreage of the commodity. Unless the requirements for measurement of adjusted acreage are met by the farm operator, the acreage prior to such adjustment as determined by the county committee shall be considered the acreage of the commodity on the farm in determining whether the applicable farm allotment has been exceeded.

#### REGULATIONS

SEC. 375.<sup>38</sup> [7 U.S.C. 1375] (a) The Secretary shall provide by regulations for the identification, wherever necessary, of corn, wheat, cotton, rice, or peanuts so as to afford aid in discovering and identifying such amounts of the commodities as are subject to and such amounts thereof as are not subject to marketing restrictions in effect under this title.

(b) The Secretary shall prescribe such regulations as are necessary for the enforcement of this title.

#### COURT JURISDICTION

SEC. 376. [7 U.S.C. 1376] The several district courts of the United States are hereby vested with jurisdiction specifically to enforce the provisions of this title. If and when the Secretary shall so request, it shall be the duty of the several United States attorneys in their respective districts, under the direction of the Attorney General, to institute proceedings to collect the penalties provided in this title. The remedies and penalties provided for herein shall be in addition to, and not exclusive of, any of the remedies or penalties under existing law. This section also shall be applicable to liquidated damages provided for pursuant to section 349 of this title.

[Note: Sec. 377 was made inapplicable to the 2008 through 2012 crops of upland cotton by sec. 1602(a)(2) of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, 122 Stat. 1729.]

#### PRESERVATION OF UNUSED ACREAGE ALLOTMENTS

SEC. 377. [7 U.S.C. 1377] *In any case in which, during any year beginning with 1956, the acreage planted to a commodity on any farm is less than the acreage allotment for such farm, the entire acreage allotment for such farm (excluding any allotment released*

<sup>38</sup>Effective beginning with the 2005 crop of each kind of tobacco, sec. 611(k)(2) of P.L. 108-357, 108 Stat. 1523, Oct. 22, 2004, struck "subsection (c)" of this sec. This sec. did not contain a subsec. (c).

*from the farm or reapportioned to the farm and any allotment provided for the farm pursuant to subsection (f)(7)(A) of section 344) shall, except as provided herein, be considered for the purpose of establishing future State, county and farm acreage allotments to have been planted to such commodity in such year on such farm, but the 1956 acreage allotment of any commodity shall be regarded as planted under this section only if the owner or operator on such farm notified the county committee prior to the sixtieth day preceding the beginning of the marketing year for such commodity of his desire to preserve such allotment: Provided, That beginning with the 1960 crop, except for federally owned land, the current farm acreage allotment established for a commodity shall not be preserved as history acreage pursuant to the provisions of this section unless for the current year or either of the two preceding years an acreage equal to 75 per centum or more of the farm acreage allotment for such year [ \* \* \* ]<sup>39</sup> or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 103(b) of the Agricultural Act of 1949, as amended, 75 per centum of the farm domestic allotment established under section 350 for any such year, whichever is smaller was actually planted or devoted to the commodity on the farm (or was regarded as planted under provisions of the Soil Bank Act or the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985): 3Provided further, That this section shall not be applicable in any case, within the period 1956 to 1959, in which the amount of the commodity required to be stored to postpone or avoid payment of penalty has been reduced because the allotment was not fully planted. Acreage history credits for released or reapportioned acreage shall be governed by the applicable provisions of this title pertaining to the release and reapportionment of acreage allotments.*

EMINENT DOMAIN

SEC. 378. [7 U.S.C. 1378] (a) Notwithstanding any other provision of this Act, the allotment determined for any commodity for any land from which the owner is displaced because of acquisition of the land for any purpose, other than for the continued production of allotted crops, by any Federal, State, or other agency having the right of eminent domain shall be placed in an allotment pool and shall be available only for use in providing allotments for other farms owned by the owners so displaced. Upon application to the county committee, within three years after the date of such displacement, any owner so displaced shall be entitled to have allotments established for other farms owned by him, taking into consideration the land, labor, and equipment available on such other farms for the production of the commodity, crop-rotation practices, and the soil and other physical factors affecting the production of the commodity: *Provided*, That the acreage used to establish or increase the allotments for such farms shall be transferred from the pool and shall not exceed the allotment most recently established

<sup>39</sup>A provision as to peanuts added by sec. 806 of the Food and Agriculture Act of 1977, P.L. 95-113, 91 Stat. 947, Sept. 29, 1977, effective for the 1978-81 crops of peanuts, has been omitted.

for the farm acquired from the applicant and placed in the pool. During the period of eligibility for the making of allotments under this section for a displaced owner, acreage allotments for the farm from which the owner was so displaced shall be established in accordance with the procedure applicable to other farms, and such allotment shall be considered to have been fully planted. After such allotment is made under this section, the proportionate part, or all, as the case may be, of the past acreage used in establishing the allotment most recently placed in the pool for the farm from which the owner was so displaced shall be transferred to and considered for the purposes of future State, county, and farm acreage allotments to have been planted on the farm to which allotment is made under this section. Except where paragraph (c) requires the transfer of allotment to another portion of the same farm, for the purpose of this section (1) that part of any farm from which the owner is so displaced and that part from which he is not so displaced shall be considered as separate farms; and (2) an owner who voluntarily relinquishes possession of the land subsequent to its acquisition by an agency having the right of eminent domain shall be considered as having been displaced because of such acquisition. The former owner of land acquired as described in this subsection shall not be considered for the purposes hereof to have been displaced from such land during any period for which such land is leased to such former owner: *Provided*, That the occupancy of the former owner under the lease follows immediately after his occupancy as owner: *And provided further*, That if a former owner has been displaced prior to the effective date of this amendment and no allotment from the land owned by such former owner has been transferred from the allotment pool and such former owner leases the land formerly owned by him prior to two years from the effective date of this amendment such allotment shall be retransferred from the pool to such land and the occupancy of such former owner under the lease for the purposes of this subsection shall be deemed to have begun immediately after his displacement as owner. During any year of the 3-year period the allotment from a farm may remain in the allotment pool, the displaced owner may, in accordance with regulations of the Secretary, release for one year at a time any part or all of such farm allotment to the county committee for reapportionment to other farms in the county having allotments for such commodity on the basis of the past acreage of the commodity, land, labor, equipment available for the production of the commodity, crop rotation practices, and soil and other physical facilities affecting the production of the commodity; and the allotment reapportioned shall, for purposes of establishing future farm allotments, not be regarded as planted on the farm to which the allotment was transferred.

(b) The provisions of this section shall not be applicable if (1) there is any marketing quota penalty due with respect to the marketing of the commodity from the farm acquired by the Federal, State, or other agency or by the owner of the farm; (2) any of the commodity produced on such farm has not been accounted for as required by the Secretary; or (3) the allotment next established for the farm acquired by the Federal, State, or other agency would have been reduced because of false or improper identification of the

commodity produced on or marketed from such farm or due to a false acreage report.

(c) This section shall not be applicable, in the case of and cotton<sup>40</sup>, to any farm from which the owner was displaced prior to 1950, in the case of wheat and corn, to any farm from which the owner was displaced prior to 1954, and in the case of rice, to any farm from which the owner was displaced prior to 1955. In any case where the cropland acquired for nonfarming purposes from an owner by an agency having the right of eminent domain represents less than 15 per centum of the total cropland on the farm, the allotment attributable to that portion of the farm so acquired shall be transferred to that portion of the farm not so acquired.

#### RECONSTITUTION OF FARMS

SEC. 379. [7 U.S.C. 1379] In any case in which the ownership of a tract of land is transferred from a parent farm, the acreage allotments, history acreages, and base acreages for the farm shall be divided between such tract and the parent farm in the same proportion that the cropland acreage in such tract bears to the cropland acreage in the parent farm, except that the Secretary shall provide by regulation the method to be used in determining the division, if any, of the acreage allotments, histories, and bases in any case in which—

(1) the tract of land transferred from the parent farm has been or is being transferred to any agency having the right to acquire it by eminent domain;

(2) the tract of land transferred from the parent farm is to be used for nonagricultural purposes;

(3) the parent farm resulted from a combination of two or more tracts of land and records are available showing the contribution of each tract to the allotments, histories, and bases of the parent farm;

(4) the appropriate county committee determines that a division based on cropland proportions would result in allotments and bases not representative of the operations normally carried out on any transferred tract during the base period;

(5) the parent farm is divided among heirs in settling an estate; or

(6) neither the tract transferred from the parent farm nor the remaining portion of the parent farm receives allotments in excess of allotments for similar farms in the community having allotments of the commodity or commodities involved and such allotments are consistent with good land uses.

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[Note: Subtitle D was made inapplicable to the 2008 through 2012 crops of wheat by sec. 1602(a)(1) of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, 122 Stat. 1729.]

<sup>40</sup>Effective beginning with the 2005 crop of each kind of tobacco, sec. 611(d)(1) of P.L. 108-357, 108 Stat. 1523, Oct. 22, 2004, amended the first sentence of subsec. (c) by striking “cotton, and tobacco” and inserting “and cotton”. Although there was no comma after “cotton,” in the original, the amendment was executed to effectuate the probable intent of Congress. The word “and” before “cotton” is so in original.



*SUBTITLE D—WHEAT MARKETING ALLOCATION*

*LEGISLATIVE FINDINGS*

*SEC. 379a. [7 U.S.C. 1379a] Wheat, in addition to being a basic food, is one of the great export crops of American agriculture and its production for domestic consumption and for export is necessary to the maintenance of a sound national economy and to the general welfare. The movement of wheat from producer to consumer, in the form of the commodity or any of the products thereof, is preponderantly in interstate and foreign commerce. Unreasonably low prices of wheat to producers impair their purchasing power for non-agricultural products and place them in a position of serious disparity with other industrial groups. The conditions affecting the production of wheat are such that without Federal assistance, producers cannot effectively prevent disastrously low prices for wheat. It is necessary, in order to assist wheat producers in obtaining fair prices, to regulate the price of wheat used for domestic food and for exports in the manner provided in this subtitle.*

*WHEAT MARKETING ALLOCATION*

*SEC. 379b. [7 U.S.C. 1379b] During any marketing year for which a marketing quota is in effect for wheat, beginning with the marketing year for the 1964 crop, a wheat marketing allocation program shall be in effect as provided in this subtitle. Whenever a wheat marketing allocation program is in effect for any marketing year the Secretary shall determine (1) the wheat marketing allocation for such year which shall be the amount of wheat which in determining the national marketing quota for such marketing year he estimated would be used during such year for food products for consumption in the United States, and that portion of the amount of wheat which in determining such quota he estimated would be exported in the form of wheat or products thereof during the marketing year on which the Secretary determines that marketing certificates shall be issued to producers in order to achieve, insofar as practicable, the price and income objectives of this subtitle, and (2) the national allocation percentage which shall be the percentage which the national marketing allocation is of the national marketing quota. Each farm shall receive a wheat marketing allocation for such marketing year equal to the number of bushels obtained by multiplying the number of acres in the farm acreage allotment for wheat by the projected farm yield, and multiplying the resulting number of bushels by the national allocation percentage. If a non-commercial wheat-production area is established for any marketing year, farms in such area shall be given wheat marketing allocations which are determined by the Secretary to be fair and reasonable in relation to the wheat marketing allocation given producers in the commercial wheat-producing area.*

*MARKETING CERTIFICATES*

*SEC. 379c. [7 U.S.C. 1379c] (a) The Secretary shall provide for the issuance of wheat marketing certificates for each marketing year for which a wheat marketing allocation program is in effect for the purpose of enabling producers on any farm with respect to which*

*certificates are issued to receive, in addition to the other proceeds from the sale of wheat, an amount equal to the value of such certificates. The wheat marketing certificates issued with respect to any farm for any marketing year shall be in the amount of the farm wheat marketing allocation for such year, but not to exceed (i) the actual acreage of wheat planted on the farm for harvest in the calendar year in which the marketing year begins multiplied by the normal yield of wheat for the farm, plus (ii) the amount of wheat stored under section 379c(b) or to avoid or postpone a marketing quota penalty, which is released from storage during the marketing year on account of underplanting or underproduction, and if this limitation operates to reduce the amount of wheat marketing certificates which would otherwise be issued with respect to the farm, such reduction shall be made first from the amount of export certificates which would otherwise be issued. The Secretary shall provide for the sharing of wheat marketing certificates among producers on the farm on the basis of their respective shares in the wheat crop produced on the farm, or the proceeds therefrom; except that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as he may determine to be fair and equitable. The Secretary shall, in accordance with such regulation as he may prescribe, provide for the issuance of domestic marketing certificates for the portion of the wheat marketing allocation representing wheat used for food products for consumption in the United States. The Secretary shall also provide for the issuance of export marketing certificates to eligible producers at the end of the marketing year on a pro rata basis. For such purposes, the value per bushel of export marketing certificates shall be an average of the total net proceeds from the sale of export marketing certificates during the marketing year after deducting the total amount of wheat export subsidies paid to exporters. An acreage on the farm which the Secretary finds was not planted to wheat for harvest in 1965 because of drought, flood, or other natural disaster shall be deemed by the Secretary to be an actual acreage of wheat planted for harvest for purposes of this subsection, provided such acreage is not subsequently planted to any other price supported crop for 1965. An acreage on the farm not planted to wheat because of drought, flood, or other natural disaster shall be deemed to be an actual acreage of wheat planted for harvest for purposes of this subsection provided such acreage is not subsequently planted to any crop for which there are marketing quotas or voluntary adjustment programs in effect. Producers on any farm who have planted not less than 90 per centum of the acreage of wheat required to be planted in order to earn the full amount of marketing certificates for which the farm is eligible shall be deemed to have planted the entire acreage required to be planted for that purpose.*

*(b)<sup>41</sup> No producer shall be eligible to receive wheat marketing certificates with respect to any farm for any marketing year in which a marketing quota penalty is assessed for any commodity on such farm or in which the farm has not complied with the land-use*

<sup>41</sup>The omitted language was effective only with respect to the crops planted for harvest in the calendar years 1965 through 1970.

requirements of section 339 to the extent prescribed by the Secretary, or in which, except as the Secretary may by regulation prescribe, the producer exceeds the farm acreage allotment on any other farm for any commodity in which he has an interest as a producer. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty. No producer shall be deemed to have exceeded the farm acreage allotment for wheat on any other farm if such farm is exempt from the farm market quota for such crop under section 335. [ \* \* \* ] Any wheat delivered to the Secretary hereunder shall become the property of the United States and shall be disposed of by the Secretary for relief purposes in the United States or in foreign countries or in such other manner as he shall determine will divert it from the normal channels of trade and commerce. Notwithstanding any other provision of this Act, the Secretary may provide that a producer shall not be eligible to receive marketing certificates, or may adjust the amount of marketing certificates to be received by the producer, with respect to any farm for any year in which a variety of wheat is planted on the farm which has been determined by the Secretary, after consultation with State Agricultural Experiment Stations, agronomists, cereal chemists and other qualified technicians, to have undesirable milling or baking qualities and has made public announcement thereof.

(c) The Secretary shall determine and proclaim for each marketing year the face value per bushel of wheat marketing certificates. The face value per bushel of domestic certificates shall be the amount by which the level of price support for wheat accompanied by domestic certificates exceeds the level of price support for wheat not accompanied by certificates (noncertificate wheat).

(d) Marketing certificates and transfers thereof shall be represented by such documents, marketing cards, records, accounts, certifications, or other statements or forms as the Secretary may prescribe.

(e) In any case in which the failure of a producer to comply fully with the term and conditions of the programs formulated under this Act preclude the issuance of marketing certificates, the Secretary may, nevertheless, issue such certificates in such amounts as he determines to be equitable in relation to the seriousness of the default.

#### MARKETING RESTRICTIONS

SEC. 379d. [7 U.S.C. 1379d] (a) Marketing certificates shall be transferable only in accordance with regulations prescribed by the Secretary. Any unused certificates legally held by any person shall be purchased by Commodity Credit Corporation if tendered to the Corporation for purchase in accordance with regulations prescribed by the Secretary.

(b) During any marketing year for which a wheat marketing allocation program is in effect, (i) all persons engaged in the processing of wheat into food products shall, prior to marketing any such food product or removing such food product for sale or con-

*sumption, acquire domestic marketing certificates equivalent to the number of bushels of wheat contained in such product and (ii) all persons exporting wheat shall, prior to such export, acquire export market certificates equivalent to the number of bushels so exported. The cost of the export marketing certificates per bushel to the exporter shall be that amount determined by the Secretary on a daily basis which would make United States wheat and wheat flour generally competitive in the world market, avoid disruption of world market prices, and fulfill the international obligations of the United States. The Secretary may exempt from the requirements of this subsection wheat exported for donation abroad and other noncommercial exports of wheat, wheat processed for use on the farm where grown, wheat produced by a State or agency thereof and processed for use by the State or agency thereof wheat processed for donation, and wheat processed for uses determined by the Secretary to be non-commercial. Such exemptions may be made applicable with respect to any wheat processed or exported beginning July 1, 1964. There shall be exempt from the requirements of this subsection beverage distilled from wheat prior to July 1, 1964. A beverage distilled from wheat after July 1, 1964, shall be deemed to be removed for sale or consumption at the time it is placed in barrels for aging except that upon the giving of a bond as prescribed by the Secretary, the purchase of and payment for such marketing certificates as may be required may be deferred until such beverage is bottled for sale. Wheat shipped to a Canadian port for storage in bond, or storage under a similar arrangement, and subsequent exportation shall be deemed to have been exported for purposes of this subsection when it is exported from the Canadian port. Marketing certificates shall be valid to cover only sales or removals for sale or consumption or exportations made during the marketing year with respect to which they are issued, and after being once used to cover a sale or removal for sale or consumption or export of a food product or an export of wheat shall be void and shall be disposed of in accordance with regulations prescribed by the Secretary. Notwithstanding the foregoing provisions hereof the Secretary may require marketing certificates issued for any marketing year to be acquired to cover sales, removals or exportations made on or after the date during the calendar year in which wheat harvested in such calendar year begins to be marketed as determined by the Secretary even though such wheat is marketed prior to the beginning of the marketing year, and marketing certificates for such marketing year shall be valid to cover sales, removals, or exportations made on or after the date so determined by the Secretary. Whenever the face value per bushel of domestic marketing certificates for a marketing year is different from the face value of domestic marketing certificates for the preceding marketing year, the Secretary may require marketing certificates issued for the preceding marketing year to be acquired to cover all wheat processed into food products during such preceding marketing year even though the food product may be marketed or removed for sale or consumption after the end of the marketing year. Notwithstanding the foregoing, the Secretary is authorized, to temporarily suspend the requirement for export marketing certificates for the period beginning July 1, 1971, and ending June 30, 1974.*

(c) *Upon the giving of a bond or other undertaking satisfactory to the Secretary to secure the purchase of and payment for such marketing certificates as may be required, and subject to such regulations as he may prescribe, any person required to have marketing certificates in order to market or export a commodity may be permitted to market any such commodity without having first acquired marketing certificates.*

(d) *As used in this subtitle, the term "food products" means flour (excluding flour second clears not used for human consumption as determined by the Secretary), semolina, farina, bulgur, beverage, and any other product composed wholly or partly of wheat which the Secretary may determine to be a food product. The Secretary may at his election administer the exemption for wheat processed into flour second clears through refunds either to processors of such wheat or to the users of such clears. For the purpose of such refunds, the wheat equivalent of flour second clears may be determined on the basis of conversion factors authorized by section 379f of the Agricultural Adjustment Act of 1938, even though certificates had been surrendered on the basis of the weight of the wheat.*

#### ASSISTANCE IN PURCHASE AND SALE OF MARKETING CERTIFICATES

**SEC. 379e. [7 U.S.C. 1379e]** *For the purpose of facilitating the purchase and sale of marketing certificates, the Commodity Credit Corporation is authorized to issue, buy, and sell marketing certificates in accordance with regulations prescribed by the Secretary. Such regulations may authorize the Corporation to issue and sell certificates in excess of the quantity of certificates which it purchases. Such regulations may authorize the Corporation in the sale of marketing certificates to charge, in addition to the face value thereof an amount determined by the Secretary to be appropriate to cover estimated administrative costs in connection with the purchase and sale of the certificates and estimated interest incurred on funds of the Corporation invested in certificates purchased by it. Notwithstanding any other provision of this Act, Commodity Credit Corporation shall sell marketing certificates for the marketing years for the 1966 through the 1970 wheat crops to persons engaged in the processing of food products at the face value thereof less any amount which price support for wheat accompanied by domestic certificates exceeds \$2 per bushel. Notwithstanding any other provision of this Act, Commodity Credit Corporation shall sell marketing certificates for the marketing years for the 1971, 1972, and 1973 crops of wheat to persons engaged in the processing of food products but in determining the cost to processors the face value shall be 75 cents per bushel.*

#### CONVERSION FACTORS

**SEC. 379f. [7 U.S.C. 1379f]** *The Secretary shall establish conversion factors which shall be used to determine the amount of wheat contained in any food product. The conversion factor for any such food product shall be determined upon the basis of the weight of wheat used in the manufacture of such product.*

AUTHORITY TO FACILITATE TRANSITION

*SEC. 379g. [7 U.S.C. 1379g] (a) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the program currently in effect to the program provided for in this subtitle. Notwithstanding any other provision of this subtitle, such authority shall include, but shall not be limited, to the authority to exempt all or a portion of the wheat or food products made therefrom in the channels of trade on the effective date of the program under this subtitle from the marketing restrictions in subsection (b) of section 379d, or to sell certificates to persons owning such wheat or food products at such prices as the Secretary may determine. Any such certificate shall be issued by Commodity Credit Corporation.*

*(b) Whenever the face value per bushel of domestic marketing certificates for a marketing year is substantially different from the face value of domestic marketing certificates for the preceding marketing year, the Secretary is authorized to take such action as he determines necessary to facilitate the transition between marketing years. Notwithstanding any other provision of this subtitle, such authority shall include, but shall not be limited to, the authority to sell certificates to persons engaged in the processing of wheat into food products covering such quantities of wheat, at such prices, and under such terms and conditions as the Secretary may by regulation provide. Any such certificate shall be issued by Commodity Credit Corporation.*

*(c) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the certificate program provided for under section 379d to a program under which no certificates are required. Notwithstanding any other provision of law, such authority shall include, but shall not be limited to the authority to exempt all or a portion of wheat or food products made therefrom in the channels of trade on July 1, 1973, from the marketing restrictions in subsection (b) of section 379d, or to sell certificates to persons owning such wheat or food products made therefrom at such price and under such terms and conditions as the Secretary may determine. Any such certificate shall be issued by the Commodity Credit Corporation. Nothing herein shall authorize the Secretary to require certificates on wheat processed after June 30, 1973.*

REPORTS AND RECORDS

*SEC. 379h. [7 U.S.C. 1379h] This section shall apply to processors of wheat, warehousemen and exporters of wheat and food products, and all persons purchasing, selling, or otherwise dealing in wheat marketing certificates. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this subtitle. Such information shall be reported and such records shall be kept in such manner as the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is hereby authorized to examine such*

*books, papers, records, accounts, correspondence, contracts, documents, and memorandums as he has reason to believe are relevant and are within the control of such person.*

PENALTIES

*SEC. 379i. [7 U.S.C. 1379i] (a) Any person who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any of the provisions of subsection (b) of section 379d of this Act shall forfeit to the United States a sum equal to two times the face value of the marketing certificates involved in such violation. Such forfeiture shall be recoverable in a civil action brought in the name of the United States.*

*(b) Any person, except a producer in his capacity as a producer, who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any of the provision of this subtitle, or of any regulation, governing the acquisition, disposition, or handling of marketing certificates or who knowingly fails to make any report or keep any record as required by section 379h shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$5,000 for each violation.*

*(c) Any person who, in his capacity as a producer, knowingly violates or attempts to violate or participates or aids in the violation of any provision of this subtitle, or of any regulation governing the acquisition, disposition, or handling of marketing certificates or fails to make any report or keep any record as required by section 379h shall, (i) forfeit any right to receive marketing certificates, in whole or in part as the Secretary may determine, with respect to the farm or farms and for the marketing year with respect to which any such act or default is committed, or (ii), if such marketing certificates have already been issued, pay to the Secretary, upon demand, the amount of the face value of such certificates, or such part thereof as the Secretary may determine. Such determination by the Secretary with respect to the amount of such marketing certificates to be forfeited or the amount to be paid by such producer shall take into consideration the circumstances relating to the act or default committed and the seriousness of such act or default.*

*(d) Any persons who falsely makes, issues, alters, forges, or counterfeits any marketing certificate, or with fraudulent intent possesses, transfers, or uses any such falsely made, issued, altered, forged, or counterfeited marketing certificate, shall be deemed guilty of a felony and upon conviction thereof shall be subject to a fine of not more than \$10,000 or imprisonment of not more than ten years, or both.*

REGULATIONS

*SEC. 379j. [7 U.S.C. 1379j] The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subtitle including but not limited to regulations governing the acquisition, disposition, or handling of marketing certificates.*

*SUBTITLE E—RICE CERTIFICATES*

**[ RICE CERTIFICATES ]**

**[SEC. 380a-380p. Effective only as to the 1957-58 rice crops.]**

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**SUBTITLE F—MISCELLANEOUS PROVISIONS AND APPROPRIATIONS**

**PART I—MISCELLANEOUS**

**COTTON PRICE ADJUSTMENT PAYMENTS**

**SEC. 381. [7 U.S.C. 1381] (a) [Applicable only to the 1937 crop of cotton.]**

**(b) [Applicable only to the 1937 crop of cotton.]**

**EXTENSION OF 1937 COTTON LOAN**

**SEC. 382. [7 U.S.C. 1382] [Applicable only to the 1937 crop of cotton.]**

**INSURANCE OF COTTON AND RECONCENTRATION OF COTTON**

**SEC. 383. [7 U.S.C. 1383] (a)** The Commodity Credit Corporation shall place all insurance of every nature taken out by it on cotton, and all renewals, extensions, or continuations of existing insurance, with insurance agents who are bona fide residents of and doing business in the State where the cotton is warehoused: *Provided*, That such insurance may be secured at a cost not greater than similar insurance offered on said cotton elsewhere.

**(b)** Cotton held as security for any loan heretofore or hereafter made or arranged for by the Commodity Credit Corporation shall not hereafter be reconcentrated without the written consent of the producer or borrower.

**FINALITY OF FARMERS PAYMENTS AND LOANS**

**SEC. 385. [7 U.S.C. 1385]** The facts constituting the basis for any Soil Conservation Act payment, any payment under the wheat, feed grain, upland cotton, extra long staple cotton, and rice programs authorized by the Agricultural Act of 1949 and this Act, any loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government. In case any person who is entitled to any such payment dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary of Agriculture may determine to be fair and reasonable in all the circumstances and provide by regulations. This section also shall be applicable to payments provided for under section 348 of this title.



EXEMPTION FROM LAWS PROHIBITING INTEREST OF MEMBERS OF  
CONGRESS IN CONTRACTS

SEC. 386. [7 U.S.C. 1386] The provisions of section 3741 of the Revised Statutes (U.S.C., 1934 edition, title 41, Sec. 22) and sections 114 and 115 of the Criminal Code of the United States (U.S.C., 1934 edition, title 18, secs. 204 and 205) [now 18 U.S.C. 431 and 432] shall not be applicable to loans or payments made under this Act (except under section 383(a)).

PHOTOGRAPHIC REPRODUCTIONS AND MAPS

SEC. 387. [7 U.S.C. 1387] The Secretary may furnish reproductions of information such as geo-referenced data from all sources, aerial or other photographs, mosaics, and maps as have been obtained in connection with the authorized work of the Department to farmers and governmental agencies at the estimated cost of furnishing such reproductions, and to persons other than farmers at such prices as the Secretary may determine (but not less than the estimated costs of data processing, updating, revising, reformatting, repackaging and furnishing the reproductions and information), the money received from such sales to be deposited in the Treasury to the credit of the appropriation charged with the cost of making such reproductions. This section shall not affect the power of the Secretary to make other disposition of such or similar materials under any other provisions of existing law.

UTILIZATION OF LOCAL AGENCIES

SEC. 388. [7 U.S.C. 1388] (a) The provisions of section 8(b) and section 11 of the Soil Conservation and Domestic Allotment Act, as amended, relating to the utilization of State, county, local committees, the extension service, and other approved agencies, and to recognition and encouragement of cooperative associations, shall apply in the administration of this Act; and the Secretary shall, for such purposes, utilize the same local, county, and State committees as are utilized under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended. The local administrative areas designated under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for the administration of programs under that Act, and the local administrative areas designated for the administration of this Act shall be the same.

(b)(1) The Secretary is authorized and directed, from any funds made available for the purposes of the Acts in connection with which county committees are utilized, to make payments to county committees of farmers to cover the estimated administrative expenses incurred or to be incurred by them in cooperating in carrying out the provisions of such Acts. All or part of such estimated administrative expenses of any such committee may be deducted pro rata from the Soil Conservation Act payments, parity payments, or loans, or other payments under such Acts, made unless payment of such expenses is otherwise provided by law. The Secretary may make such payments to such committees in advance of determination of performance by farmers.

(2)(A) The Secretary shall provide compensation to members of such county committees (at not less than the level in effect on December 31, 1985 for county committees) for work actually performed by such persons in cooperating in carrying out the Acts in connection with which such committees are used.

(B) The rate of compensation received by such persons for such work on the date of enactment of the Food Security Act of 1985 shall be increased at the discretion of the Secretary.

(c)(1) The Secretary shall make payments to members of local, county, and State committees to cover expenses for travel incurred by such persons (including, in the case of a member of a local or county committee, travel between the home of such member and the local county office of the Agricultural Stabilization and Conservation Service) in cooperation in carrying out the Acts in connection with which such Committees are used.

(2) Such travel expenses shall be paid in the manner authorized under section 5703 of title 5, United States Code, for the payment of expenses and allowances for individuals employed intermittently in the Federal Government service.

#### PERSONNEL

SEC. 389. [7 U.S.C. 1389] The Secretary is authorized and directed to provide for the execution by the Agricultural Adjustment Administration of such of the powers conferred upon him by this Act as he deems may be appropriately exercised by such administration; and for such purposes the provisions of law applicable to appointment and compensation of persons employed by the Agricultural Adjustment Administration shall apply.

#### SEPARABILITY

SEC. 390. [7 U.S.C. 1390] If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons or circumstances, and the provisions of the Soil Conservation and Domestic Allotment Act, as amended, shall not be affected thereby. Without limiting the generality of the foregoing, if any provision of this Act should be held not to be within the power of the Congress to regulate interstate and foreign commerce, such provision shall not be held invalid if it is within the power of the Congress to provide for the general welfare or any other power of the Congress. If any provision of this Act for the marketing quotas with respect to any commodity should be held invalid, no provision of this Act for marketing quotas with respect to any other commodity shall be affected thereby. If the application of any provision for a referendum should be held invalid, the application of other provisions shall not be affected thereby. If by reason of any provision for a referendum the application of any such other provision to any person or circumstance is held invalid, the application of such other provision to other persons or circumstances shall not be affected thereby.

PART II—APPROPRIATIONS AND ADMINISTRATIVE EXPENSES

APPROPRIATIONS

SEC. 391. [7 U.S.C. 1391] (a) Beginning with the fiscal year ending June 30, 1938, there is hereby authorized to be appropriated, for each fiscal year for the administration of this Act and for the making of soil conservation and other payments such sums as Congress may determine, in addition to any amount made available pursuant to section 15 of the Soil Conservation and Domestic Allotment Act, as amended.

(b) [Applicable only to fiscal year 1938.]

(c) During each fiscal year, beginning with the fiscal year ending June 30, 1941, the Commodity Credit Corporation is authorized and directed to loan to the Secretary such sums, not to exceed \$50,000,000, as he estimates will be required during such fiscal year, to make crop insurance premium advances and to make advances pursuant to the applicable provisions of sections 8 and 12 of the Soil Conservation and Domestic Allotment Act, as amended, in connection with programs applicable to crops harvested in the calendar year in which such fiscal year ends, and to pay the administrative expenses of county agricultural conservation associations for the calendar year in which such fiscal year ends. The sums so loaned during any fiscal year shall be transferred to the current appropriation available for carrying out sections 7 to 17 of such Act and shall be repaid, with interest at a rate to be determined by the Secretary but not less than the cost of money to the Commodity Credit Corporation for a comparable period, during the succeeding fiscal year from the appropriation available for that year or from any unobligated balance of the appropriation for any other year.

ADMINISTRATIVE EXPENSES

SEC. 392. [7 U.S.C. 1392] (a) The Secretary is authorized and directed to make such expenditures as he deems necessary to carry out the provisions of this Act and sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, including personal services and rents in the District of Columbia and elsewhere; traveling expenses; supplies and equipment; lawbooks, books of reference, directories, periodicals, and newspapers; and the preparation and display of exhibits, including such displays at community, county, State, interstate, and international fairs within the United States. The Secretary of the Treasury is authorized and directed upon the request of the Secretary to establish one or more separate appropriation accounts into which there shall be transferred from the respective funds available for the purposes of the several Acts, in connection with which personnel or other facilities of the Agricultural Adjustment Administration are utilized, proportionate amounts estimated by the Secretary to be required by the Agricultural Adjustment Administration for administrative expenses in carrying out or cooperating in carrying out any of the provisions of the respective Acts.

(b) In the administration of this title and sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the aggregate amount expended in any fiscal year, begin-

ning with the fiscal year ending June 30, 1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 3 per centum of the total amount available for such fiscal year for carrying out the purposes of this title and such Act, unless otherwise provided by appropriation or other law. In the administration of section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes," approved August 24, 1935 (49 Stat. 774), as amended, and the Agricultural Marketing Agreement Act of 1937, as amended, and those sections of the Agricultural Adjustment Act (of 1933), as amended, which were reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, the aggregate amount expended in any fiscal year, beginning with the fiscal year ending June 30, 1942, for administrative expenses in the District of Columbia, including regional offices, and in the several States (not including the expenses of county and local committees) shall not exceed 4 per centum of the total amount available for such fiscal year for carrying out the purposes of said Acts, unless otherwise provided by appropriation or other law. In the event any administrative expenses of any county or local committee are deducted in any fiscal year, beginning with the fiscal year ending June 30, 1939, from Soil Conservation Act payments, parity payments, or loans, each farmer receiving benefits under such provisions shall be apprised of the amount or percentage deducted from such benefit payment or loan on account of such administrative expenses. The names and addresses of the members and employees of any county or local committee, and the amount of such compensation received by each of them, shall be posted annually in a conspicuous place in the area within which they are employed.

#### ALLOTMENT OF APPROPRIATIONS

SEC. 393. [7 U.S.C. 1393] All funds for carrying out the provisions of this Act shall be available for allotment to bureaus and offices of the Department, and for transfer to such other agencies of the Federal Government, and to such State agencies, as the Secretary may request to cooperate or assist in carrying out the provisions of this Act.

#### TITLE V—CROP INSURANCE

### **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) BEGINNING FARMER OR RANCHER.—The term “beginning farmer or rancher” means a farmer or rancher who has not actively operated and managed a farm or ranch with a bona fide insurable interest in a crop or livestock as an owner-operator, landlord, tenant, or sharecropper for more than 5 crop years, as determined by the Secretary.

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

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

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

(7) FARM FINANCIAL BENCHMARKING.—The term “farm financial benchmarking” means—

(A) the process of comparing the performance of an agricultural enterprise against the performance of other similar enterprises, through the use of comparable and reliable data, in order to identify business management strengths, weaknesses, and steps necessary to improve management performance and business profitability; and

(B) benchmarking of the type conducted by farm management and producer associations consistent with the activities described in or funded pursuant to section 1672D of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925f).

(8) 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.

(9) 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).

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

(11) 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 Cor-

poration 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.

(4) INFORMATION.—

(A) REQUEST.—Subject to subparagraph (B), the Farm Service Agency shall, in a timely manner, provide to an agent or an approved insurance provider authorized by the producer any information (including Farm Service Agency Form 578s (or any successor form)) or maps (or any corrections to those forms or maps) that may assist the agent or approved insurance provider in insuring the producer under a policy or plan of insurance under this subtitle.

(B) PRIVACY.—Except as provided in subparagraph (C), an agent or approved insurance provider that receives the information of a producer pursuant to subparagraph (A) shall treat the information in accordance with paragraph (1).

(C) SHARING.—Nothing in this section prohibits the sharing of the information of a producer pursuant to subparagraph (A) between the agent and the approved insurance provider of the producer.

(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 consideration 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>42</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 after October 1, 1995, an overall projected loss ratio of not greater than 1.1, including—

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

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

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

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

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

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

(2) PROJECTED LOSS RATIO.—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>43</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 provision of insurance under this subtitle and evaluating new products and materials submitted under section 508(h) or 523, and reim-

<sup>43</sup>Section 1106(a) of the Classification Act of 1949 (63 Stat. 972) provides as follows: “Whenever reference is made in any other law to the Classification Act of 1923, as amended, such reference shall be held and considered to mean [the Classification Act of 1949]. Whenever reference is made in any other law to a grade of the Classification Act of 1923, as amended, such reference shall be held and considered to mean the corresponding grade shown in section 604 of the Classification Act of 1949.” The Classification Act of 1949 is now codified as Chapter 51 and subchapter III of Chapter 53 of title 5, United States Code. See section 7(b) of Public Law 89-554 (80 Stat. 631).

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

(d) The Secretary may allot to bureaus and offices of the Department or transfer to such other agencies of the State and Federal Governments as he may request to assist in carrying out this 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 Reg-



ister 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.

(C) PUBLICATION OF VIOLATIONS.—

(i) PUBLICATION REQUIRED.—Subject to clause (ii), the Corporation shall publish in a timely manner on the website of the Risk Management Agency information regarding each violation of this paragraph, including any sanctions imposed in response to the violation, in sufficient detail so that the information may serve as effective guidance to approved insurance providers, agents, and producers.

(ii) PROTECTION OF PRIVACY.—In providing information under clause (i) regarding violations of this paragraph, the Corporation shall redact the identity of the persons and entities committing the violations in order to protect the privacy of those persons and entities.

(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) COVERAGE AVAILABILITY.—

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

(B) EXCEPTION.—Coverage described in subparagraph (A) shall not be available for crops and grasses used for grazing.

(2) AMOUNT OF COVERAGE.—

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

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

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

percent of the expected market price, or a comparable coverage (as determined by the Corporation).

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

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

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

(B) An alternative catastrophic risk protection coverage that—

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

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

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

(4) SALE OF CATASTROPHIC RISK COVERAGE.—

(A) IN GENERAL.—Catastrophic risk coverage may be offered by—

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

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

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

(C) DELIVERY OF COVERAGE.—

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

(ii) COVERAGE BY APPROVED INSURANCE PROVIDERS.—To the extent that catastrophic risk protection coverage by approved insurance providers is sufficiently available in a State (or a portion of a State) as

determined by the Secretary, only approved insurance providers may provide the coverage in the State or portion of the State.

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

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

(5) **ADMINISTRATIVE FEE.**—

(A) **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 and beginning farmers or ranchers, 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) 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.

(8) 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).

(9) 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.

(10) 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 OPTIONS.—A producer shall have the option of purchasing additional coverage based on—

(A)(i) an individual yield and loss basis;

(ii) an area yield and loss basis;

(B) an individual yield and loss basis, supplemented with coverage based on an area yield and loss basis to cover a part of the deductible under the individual yield and loss policy, as described in paragraph (4)(C); or

(C) a margin basis alone or in combination with the coverages available under subparagraph (A) or (B).

(4) LEVEL OF COVERAGE.—

(A) DOLLAR DENOMINATION AND PERCENTAGE OF YIELD.—Except as provided in subparagraph (C), the level of coverage—

(i) shall be dollar denominated; and

(ii) 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).

(B) INFORMATION.—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).

(C) SUPPLEMENTAL COVERAGE OPTION.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), in the case of the supplemental coverage option described in paragraph (3)(B), the Corporation shall offer producers the opportunity to purchase coverage in combination with a policy or plan of insurance offered under this subtitle that would allow indemnities to be paid to a producer equal to a part of the deductible under the policy or plan of insurance—

(I) at a county-wide level to the fullest extent practicable; or

(II) in counties that lack sufficient data, on the basis of such larger geographical area as the Corporation determines to provide sufficient data for purposes of providing the coverage.

(ii) TRIGGER.—Coverage offered under paragraph (3)(B) and clause (i) shall be triggered only if the losses in the area exceed 14 percent of normal levels (as determined by the Corporation).

(iii) COVERAGE.—Subject to the trigger described in clause (ii), coverage offered under paragraph (3)(B) and clause (i) shall not exceed the difference between—

(I) 86 percent; and

(II) the coverage level selected by the producer for the underlying policy or plan of insurance.

(iv) INELIGIBLE CROPS AND ACRES.—Crops for which the producer has elected under section 1116 of the Agricultural Act of 2014 to receive agriculture risk coverage and acres that are enrolled in the stacked income protection plan under section 508B shall not be eligible for supplemental coverage under this subparagraph.

(v) CALCULATION OF PREMIUM.—Notwithstanding subsection (d), the premium for coverage offered under paragraph (3)(B) and clause (i) shall—

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

(II) include an amount for operating and administrative expenses established in accordance with subsection (k)(4)(F).

(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.

(D) ORGANIC CROPS.—

(i) IN GENERAL.—As soon as possible, but not later than the 2015 reinsurance year, the Corporation shall offer producers of organic crops price elections for all organic 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.) that reflect the actual retail or wholesale prices, as appropriate, received by producers for organic crops, as determined by the Secretary using all relevant sources of information.

(ii) ANNUAL REPORT.—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 progress of implementing the price elections required under this subparagraph, including the rate at which additional price elections are adopted for organic crops;

(III) the development of new insurance approaches relevant to organic producers; and

(IV) any recommendations the Corporation considers appropriate to improve Federal crop insurance coverage for organic crops.

(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 established by the Corporation for each crop for which catastrophic risk protection is available shall be reduced by the percentage equal to the difference between the average loss ratio for the crop and 100 percent, plus a reasonable reserve, as determined by the Corporation.

(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 paragraphs (3), (6), and (7), the amount of the premium to be paid by the Corporation shall be as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(H) In the case of the supplemental coverage option authorized in subsection (c)(4)(C), the amount shall be equal to the sum of—

(i) 65 percent of the additional premium associated with the coverage; and

(ii) the amount determined under subsection (c)(4)(C)(v)(II), subject to subsection (k)(4)(F), for the coverage 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 pay 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.

(D) NONIRRIGATED CROPS.—Beginning with the 2015 crop year, the Corporation shall make available separate enterprise units for irrigated and nonirrigated acreage of crops in counties.

(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)(i) 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.

(8) PREMIUM FOR BEGINNING FARMERS OR RANCHERS.—Notwithstanding any other provision of this subsection regarding payment of a portion of premiums, a beginning farmer or rancher shall receive premium assistance that is 10 percentage points greater than premium assistance that would otherwise be available under paragraphs (2) (except for subparagraph (A) of that paragraph), (5), (6), and (7) for the applicable policy, plan of insurance, and coverage level selected by the beginning farmer or rancher.

(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) and paragraph (4)(C), 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;

(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; or

(iii) if the producer is a beginning farmer or rancher who was previously involved in a farming or ranching operation, including involvement in the decisionmaking or physical involvement in the production of the crop or livestock on the farm, for any acreage

obtained by the beginning farmer or rancher, a yield that is the higher of—

(I) the actual production history of the previous producer of the crop or livestock on the acreage determined under subparagraph (A); or

(II) a yield of the producer, as determined in clause (i).

(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.

(E) SOURCES OF YIELD DATA.—To determine yields under this paragraph, the Corporation—

(i) shall use county data collected by the Risk Management Agency, the National Agricultural Statistics Service, or both; or

(ii) if sufficient county data is not available, may use other data considered appropriate by the Secretary.

(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)(I) replace each excluded yield with a yield equal to 60 percent of the applicable transitional yield; or

(II) in the case of beginning farmers or ranchers, replace each excluded yield with a yield equal to 80 percent of the applicable transitional yield.

(C) ELECTION TO EXCLUDE CERTAIN HISTORY.—

(i) IN GENERAL.—Notwithstanding paragraph (2), with respect to 1 or more of the crop years used to establish the actual production history of an agricultural commodity of the producer, the producer may elect to exclude any recorded or appraised yield for any crop year in which the per planted acre yield of the agricultural commodity in the county of the producer was at least 50 percent below the simple average of the per planted acre yield of the agricultural commodity in the county during the previous 10 consecutive crop years.

(ii) CONTIGUOUS COUNTIES.—In any crop year that a producer in a county is eligible to make an election to exclude a yield under clause (i), a producer in a contiguous county is eligible to make such an election.

(iii) IRRIGATION PRACTICE.—For purposes of determining whether the per planted acre yield of the agricultural commodity in the county of the producer was at least 50 percent below the simple average of the per planted acre yield of the agricultural commodity in the county during the previous 10 consecutive crop years, the Corporation shall make a separate determination for irrigated and nonirrigated acreage.

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

(5) ADJUSTMENT TO REFLECT INCREASED YIELDS FROM SUCCESSFUL PEST CONTROL EFFORTS.—

(A) SITUATIONS JUSTIFYING ADJUSTMENT.—The Corporation shall develop a methodology for adjusting the ac-

tual production history of a producer when each of the following apply:

(i) The producer's farm is located in an area where systematic, area-wide efforts have been undertaken using certain operations or measures, or the producer's farm is a location at which certain operations or measures have been undertaken, to detect, eradicate, suppress, or control, or at least to prevent or retard the spread of, a plant disease or plant pest, including a plant pest (as defined in section 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a)).

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

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

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

(h) SUBMISSION OF POLICIES AND MATERIALS TO BOARD.—

(1) AUTHORITY TO SUBMIT.—

(A) 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—

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

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

(B) REVIEW AND SUBMISSION BY CORPORATION.—The Corporation shall review any policy developed under section 522(c) or any pilot program developed under section 523 and submit the policy or program to the Board under this subsection if the Corporation, at the sole discretion of the Corporation, finds that the policy or program—

(i) will likely result in a viable and marketable policy consistent with this subsection;

(ii) would provide crop insurance coverage in a significantly improved form; and

(iii) adequately protects the interests of producers.

(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 com-

modity insured must equal the expected market price for the commodity as established by the Board.

(3) REVIEW AND APPROVAL BY THE BOARD.—

(A) IN GENERAL.—A policy, plan of insurance, or other material submitted to the Board under this subsection shall be reviewed by the Board and shall be approved by the Board for reinsurance and for sale by approved insurance providers to producers at actuarially appropriate rates and under appropriate terms and conditions if the Board determines that—

(i) the interests of producers are adequately protected;

(ii) the proposed policy or plan of insurance will—  
(I) provide a new kind of coverage that is likely to be viable and marketable;

(II) provide crop insurance coverage in a manner that addresses a clear and identifiable flaw or problem in an existing policy; or

(III) provide a new kind of coverage for a commodity that previously had no available crop insurance, or has demonstrated a low level of participation or coverage level under existing coverage; and

(iii) the proposed policy or plan of insurance will not have a significant adverse impact on the crop insurance delivery system.

(B) CONSIDERATION.—In approving policies or plans of insurance, the Board shall in a timely manner—

(i) first, consider policies or plans of insurance that address underserved commodities, including commodities for which there is no insurance;

(ii) second, consider existing policies or plans of insurance for which there is inadequate coverage or there exists low levels of participation; and

(iii) last, consider all policies or plans of insurance submitted to the Board that do not meet the criteria described in clause (i) or (ii).

(C) SPECIFIED REVIEW AND APPROVAL PRIORITIES.—In reviewing policies and other materials submitted to the Board under this subsection for approval, the Board—

(i) shall make the development and approval of a revenue policy for peanut producers a priority so that a revenue policy is available to peanut producers in time for the 2015 crop year;

(ii) shall make the development and approval of a margin coverage policy for rice producers a priority so that a margin coverage policy is available to rice producers in time for the 2015 crop year; and

(iii) may approve a submission that is made pursuant to this subsection that would, beginning with the 2015 crop year, allow producers that purchase policies in accordance with subsection (e)(5)(A) to separate enterprise units by risk rating for acreage of crops in counties.

(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.

(E) CONSULTATION.—

(i) REQUIREMENT.—As part of the feasibility and research associated with the development of a policy or other material for fruits and vegetables, tree nuts, dried fruits, and horticulture and nursery crops (including floriculture), the submitter prior to making a submission under this subsection shall consult with groups representing producers of those agricultural commodities in all major producing areas for the commodities to be served or potentially impacted, either directly or indirectly.

(ii) SUBMISSION TO THE BOARD.—Any submission made to the Board under this subsection shall contain a summary and analysis of the feasibility and research findings from the impacted groups described in clause (i), including a summary assessment of the support for or against development of the policy and an assessment on the impact of the proposed policy to the general marketing and production of the crop from both a regional and national perspective.

(iii) EVALUATION BY THE BOARD.—In evaluating whether the interests of producers are adequately protected pursuant to paragraph (3) with respect to a submission made under this subsection, the Board shall review the information provided pursuant to clause (ii) to determine if the submission will create adverse market distortions with respect to the production of commodities that are the subject of the submission.

(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 adminis-

trative and operating costs of the providers and agents shall not exceed—

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

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

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

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

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

(E) REIMBURSEMENT RATE REDUCTION.—In the case of a policy of additional coverage that received a rate of reimbursement for administrative and operating costs for the 2008 reinsurance year, for each of the 2009 and subsequent reinsurance years, the reimbursement rate for administrative and operating costs shall be 2.3 percentage points below the rates in effect as of the date of enactment of the Food, Conservation, and Energy Act of 2008 for all crop insurance policies used to define loss ratio, except that only ½ 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 or authorized under sub-

section (c)(4)(C) or section 508B 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 shall renegotiate the financial terms and conditions of each Standard Reinsurance Agreement—

(i) not later than December 31, 2016; and

(ii) not less than 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)(ii), 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) CAP ON OVERALL RATE OF RETURN.—Notwithstanding subparagraph (F), the Board shall ensure that the Standard Reinsurance Agreement renegotiated under subparagraph (A)(i) establishes a target rate of return for the approved insurance providers, taken as a whole, that does not exceed 8.9 percent of retained premium for each of the 2017 through 2026 reinsurance years.

(F) BUDGET.—

(i) IN GENERAL.—The Board shall ensure that any Standard Reinsurance Agreement negotiated under subparagraph (A)(ii) shall—

(I) to the maximum extent practicable, be estimated as budget neutral with respect to the total amount of payments described in paragraph (9) as compared to the total amount of such payments estimated to be made under the immediately preceding Standard Reinsurance Agreement if that Agreement were extended over the same period of time;

(II) comply with the applicable provisions of this Act establishing the rates of reimbursement for administrative and operating costs for approved insurance providers and agents, except that, to the maximum extent practicable, the estimated total amount of reimbursement for those costs shall not be less than the total amount of the payments to be made under the immediately preceding Standard Reinsurance Agreement if that Agreement were extended over the same period of time, as estimated on the date of enactment of the Agricultural Act of 2014; and

(III) in no event significantly depart from budget neutrality unless otherwise required by this Act.

(ii) USE OF SAVINGS.—To the extent that any budget savings are realized in the renegotiation of a Standard Reinsurance Agreement under subparagraph (A)(ii), and the savings are determined not to be a significant departure from budget neutrality under clause (i), the savings shall be used to increase reimbursements or payments described under paragraphs (4) and (9).

(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.

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

(m) **QUALITY LOSS ADJUSTMENT COVERAGE.**—

(1) **EFFECT OF COVERAGE.**—If a policy or plan of insurance offered under this 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 procedures 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.

(6) TEST WEIGHT FOR CORN.—

(A) IN GENERAL.—The Corporation shall establish procedures to allow insured producers not more than 120 days to settle claims, in accordance with procedures established by the Secretary, involving corn that is determined to have low test weight.

(B) IMPLEMENTATION.—As soon as practicable after the date of enactment of this paragraph, the Corporation shall implement subparagraph (A) on a regional basis based on market conditions and the interests of producers.

(C) TERMINATION OF EFFECTIVENESS.—The authority provided by this paragraph terminates effective on the date that is 5 years after the date on which subparagraph (A) is implemented.

(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 SOIL.—

(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, or the producer cannot substantiate that the ground has ever been tilled, for the production of an annual crop as of the date of enactment of this subsection.

(2) REDUCTION IN BENEFITS.—

(A) IN GENERAL.—During the first 4 crop years of planting, as determined by the Secretary, native sod acreage that has been tilled for the production of an annual crop after the date of enactment of the Agricultural Act of 2014 shall be subject to a reduction in benefits under this subtitle as described in this paragraph.

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

(C) ADMINISTRATION.—

(i) REDUCTION.—For purposes of the reduction in benefits for the acreage described in subparagraph (A)—

(I) the crop insurance guarantee shall be determined by using a yield equal to 65 percent of the transitional yield of the producer; and

(II) the crop insurance premium subsidy provided for the producer under this subtitle, except for coverage authorized pursuant to subsection (b)(1), shall be 50 percentage points less than the premium subsidy that would otherwise apply.

(ii) YIELD SUBSTITUTION.—During the period native sod acreage is covered by this subsection, a producer may not substitute yields for the native sod.

(3) APPLICATION.—This subsection shall only apply to native sod acreage in the States of Minnesota, Iowa, North Dakota, South Dakota, Montana, and Nebraska.

(p) COVERAGE LEVELS BY PRACTICE.—Beginning with the 2015 crop year, a producer that produces an agricultural commodity on both dry land and irrigated land may elect a different coverage level for each production practice.

**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.

**SEC. 508B. [7 U.S.C. 1508b] STACKED INCOME PROTECTION PLAN FOR PRODUCERS OF UPLAND COTTON.**

(a) **AVAILABILITY.**—Beginning not later than the 2015 crop of upland cotton, the Corporation shall make available to producers of upland cotton an additional policy (to be known as the “Stacked Income Protection Plan”), which shall provide coverage consistent with the Group Risk Income Protection Plan (and the associated Harvest Revenue Option Endorsement) offered by the Corporation for the 2011 crop year.

(b) **REQUIRED TERMS.**—The Corporation may modify the Stacked Income Protection Plan on a program-wide basis, except that the Stacked Income Protection Plan shall comply with the following requirements:

(1) Provide coverage for revenue loss of not less than 10 percent and not more than 30 percent of expected county revenue, specified in increments of 5 percent. The deductible shall be the minimum percent of revenue loss at which indemnities are triggered under the plan, not to be less than 10 percent of the expected county revenue.

(2) Be offered to producers of upland cotton in all counties with upland cotton production—

(A) at a county-wide level to the fullest extent practicable; or

(B) in counties that lack sufficient data, on the basis of such larger geographical area as the Corporation determines to provide sufficient data for purposes of providing the coverage.

(3) Be purchased in addition to any other individual or area coverage in effect on the producer’s acreage or as a stand-alone policy, except that if a producer has an individual or area coverage for the same acreage, the maximum coverage available under the Stacked Income Protection Plan shall not exceed the deductible for the individual or area coverage.

(4) Establish coverage based on—

(A) the expected price established under existing Group Risk Income Protection or area wide policy offered by the Corporation for the applicable county (or area) and crop year; and

(B) an expected county yield that is the higher of—

(i) the expected county yield established for the existing area-wide plans offered by the Corporation for the applicable county (or area) and crop year (or, in geographic areas where area-wide plans are not offered, an expected yield determined in a manner consistent with those of area-wide plans); or

(ii) the average of the applicable yield data for the county (or area) for the most recent 5 years, excluding the highest and lowest observations, from the Risk Management Agency or the National Agricultural Statistics Service (or both) or, if sufficient county data is not available, such other data considered appropriate by the Secretary.

(5) Use a multiplier factor to establish maximum protection per acre (referred to as a “protection factor”) of not less than the higher of the level established on a program wide basis or 120 percent.

(6) Pay an indemnity based on the amount that the expected county revenue exceeds the actual county revenue, as applied to the individual coverage of the producer. Indemnities under the Stacked Income Protection Plan shall not include or overlap the amount of the deductible selected under paragraph (1).

(7) In all counties for which data are available, establish separate coverage levels for irrigated and nonirrigated practices.

(c) PREMIUM.—Notwithstanding section 508(d), the premium for the Stacked Income Protection Plan shall—

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

(2) include an amount for operating and administrative expenses established in accordance with section 508(k)(4)(F).

(d) PAYMENT OF PORTION OF PREMIUM BY CORPORATION.—Subject to section 508(e)(4), the amount of premium paid by the Corporation for all qualifying coverage levels of the Stacked Income Protection Plan shall be—

(1) 80 percent of the amount of the premium established under subsection (c) for the coverage level selected; and

(2) the amount determined under subsection (c)(2), subject to section 508(k)(4)(F), for the coverage to cover administrative and operating expenses.

(e) RELATION TO OTHER COVERAGES.—The Stacked Income Protection Plan is in addition to all other coverages available to producers of upland cotton.

**SEC. 508C. [7 U.S.C. 1508c] PEANUT REVENUE CROP INSURANCE.**

(a) IN GENERAL.—Effective beginning with the 2015 crop year, the Risk Management Agency and the Corporation shall make available to producers of peanuts a revenue crop insurance program for peanuts.

(b) EFFECTIVE PRICE.—Subject to subsection (c), for purposes of the revenue crop insurance program and the multiperil crop insurance program under this Act, the effective price for peanuts shall be equal to the Rotterdam price index for peanuts or other appropriate price as determined by the Secretary, as adjusted to reflect the farmer stock price of peanuts in the United States.

(c) ADJUSTMENTS.—

(1) IN GENERAL.—The effective price for peanuts established under subsection (b) may be adjusted by the Risk Management Agency and the Corporation to correct distortions.

(2) ADMINISTRATION.—If an adjustment is made under paragraph (1), the Risk Management Agency and the Corporation shall—

(A) make the adjustment in an open and transparent manner; and

(B) 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 reasons for the adjustment.

#### 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 property, shall be exempt from all taxation now or hereafter imposed by the United States or by any Territory, dependency, or possession thereof, or by any State, county, municipality or local taxing authority. A contract of insurance of the Corporation, and a contract of insurance reinsured by the Corporation, shall be exempt from taxation imposed by any State, municipality, or local taxing authority.

#### FISCAL AGENCY OF GOVERNMENT

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

ACCOUNTING BY CORPORATION

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

CRIMES AND OFFENSES

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

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

(1) IN GENERAL.—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.

(2) FREQUENCY.—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.

(3) CORRECTIONS.—

(A) IN GENERAL.—In addition to the corrections permitted by the Corporation as of the day before the date of

enactment of the Agricultural Act of 2014, the Corporation shall establish procedures that allow an agent or an approved insurance provider, subject to subparagraph (B)—

(i) within a reasonable amount of time following the applicable sales closing date, to correct errors in information that is provided by a producer for the purpose of obtaining coverage under any policy or plan of insurance made available under this subtitle to ensure that the eligibility information is correct and consistent with information reported by the producer for other programs administered by the Secretary;

(ii) within a reasonable amount of time following—

(I) the acreage reporting date, to reconcile errors in the information reported by the producer with correct information determined from any other program administered by the Secretary; or

(II) the date of any subsequent correction of data by the Farm Service Agency made as a result of the verification of information, to make conforming corrections; and

(iii) at any time, to correct electronic transmission errors that were made by an agent or approved insurance provider, or such errors made by the Farm Service Agency or any other agency of the Department of Agriculture in transmitting the information provided by the producer for purposes of other programs of the Department to the extent an agent or approved insurance provider relied upon the erroneous information for crop insurance purposes.

(B) LIMITATION.—In accordance with the procedures of the Corporation, correction to the information described in clauses (i) and (ii) of subparagraph (A) may only be made if the corrections do not allow the producer—

(i) to avoid ineligibility requirements for insurance or obtain a disproportionate benefit under the crop insurance program or any related program administered by the Secretary;

(ii) to obtain, enhance, or increase an insurance guarantee or indemnity if a cause of loss exists or has occurred before any correction has been made, or avoid premium owed if no loss is likely to occur; or

(iii) to avoid an obligation or requirement under any Federal or State law.

(C) EXCEPTION TO LATE FILING SANCTIONS.—Any corrections made within a reasonable amount of time, in accordance with established procedures, pursuant to this paragraph shall not be subject to any late filing sanctions authorized in the reinsurance agreement with the Corporation.

(D) LATE PAYMENT OF DEBT.—In the case of a producer that has inadvertently failed to pay a debt due as specified by regulations of the Corporation and has been determined to be ineligible for crop insurance pursuant to the terms of

the policy as a result of that failure, the Corporation may determine to allow the producer to pay the debt and purchase the crop insurance after the sales closing date, in accordance with procedures and limitations established by the Corporation.

(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 associated with the agent or the higher number of accepted or denied claims (as applicable) associated with the person are the result of fraud, waste, or abuse.

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

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

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

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

terial 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 MAINTENANCE AND UPGRADES.—

(A) IN GENERAL.—The Secretary shall maintain and upgrade the information management systems of the Corporation used in the administration and enforcement of this subtitle.

(B) REQUIREMENT.—

(i) IN GENERAL.—In maintaining and 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 purposes of this section.

(ii) ACREAGE REPORT STREAMLINING INITIATIVE PROJECT.—As soon as practicable, the Secretary shall develop and implement an acreage report streamlining initiative project to allow producers to report acreage and other information directly to the Department.

(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.—

(A) IN GENERAL.—For purposes of subsection (j)(1), the Corporation may use, from amounts made available from the insurance fund established under section 516(c), not more than—

(i)(I) for fiscal year 2014, \$14,000,000; and

(II) for each of fiscal years 2015 through 2018, \$9,000,000; or

(ii) if the Acreage Crop Reporting Streamlining Initiative (ACRSI) project is substantially completed

by September 30, 2015, not more than \$14,000,000 for each of the fiscal years 2015 through 2018.

(B) NOTIFICATION.—The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the substantial completion of the Acreage Crop Reporting Streamlining Initiative (ACRSI) project not later than July 1, 2015.

(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) REVIEWS, COMPLIANCE, AND INTEGRITY.—

(i) IN GENERAL.—For each of the 2014 and subsequent reinsurance years, the Corporation may use the insurance fund established under subsection (c), but not to exceed \$9,000,000 for each fiscal year, to pay costs—

(I) to reimburse expenses incurred for the operations and review of policies, plans of insurance, and related materials (including actuarial and related information); and

(II) to assist the Corporation in maintaining program actuarial soundness and financial integrity.

(ii) SECRETARIAL ACTION.—For the purposes described in clause (i), the Secretary may, without further appropriation—

(I) merge some or all of the funds made available under this subparagraph into the accounts of the Risk Management Agency; and

(II) obligate those funds.

(iii) MAINTENANCE OF FUNDING.—Funds made available under this subparagraph shall be in addition to other funds made available for costs incurred by the Corporation or the Risk Management Agency.

(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 pol-



icy 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.**—

(i) **IN GENERAL.**—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 the 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) at the sole discretion of the Board, the concept, if developed into a policy and approved by the Board, would provide crop insurance coverage—

(aa) in a significantly improved form;

(bb) to a crop or region not traditionally served by the Federal crop insurance program; or

(cc) 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, as determined by the Board; and

(V) the concept proposal meets any other requirements that the Board determines appropriate.

(ii) **WAIVER.**—The Board may waive the 50-percent limitation and, upon request of the submitter after the submitter has begun research and development activities, the Board may approve an additional 25 percent advance payment to the submitter for research and development costs, if, at the sole discretion of the Board, the Board determines that—

(I) the intended policy or plan of insurance developed by the submitter will provide coverage for a region or crop that is underserved by the Federal crop insurance program, including specialty crops; and

(II) the submitter is making satisfactory progress towards developing a viable and marketable policy or plan of insurance consistent with section 508(h).

(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 paragraph (1).

(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 AUTHORITY.—

(1) AUTHORITY.—The Corporation may conduct activities or enter into contracts to carry out research and development to maintain or improve existing policies or develop new policies to—

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

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

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

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

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

(2) UNDERSERVED AGRICULTURAL COMMODITIES AND AREAS.—

(A) AUTHORITY.—The Corporation may conduct research and development or enter into contracts under procedures prescribed by the Corporation with qualified per-

sons to carry out research and development for policies that promote the purposes of paragraph (1).

(B) CONSULTATION.—Before conducting research and development or 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 after expert review in accordance with section 505(e).

(6) RESEARCH AND DEVELOPMENT PRIORITIES.—The Corporation shall establish as one of the highest research and development priorities of the Corporation the development of policies that increase participation by producers of underserved agricultural commodities, including sweet sorghum, biomass sorghum, rice, peanuts, sugarcane, alfalfa, pennycress, dedicated energy crops, and specialty crops.

(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) 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.

(11) 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.

(12) 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.

(13) **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.

(14) **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.

(15) **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.

(16) **MARGIN COVERAGE FOR CATFISH.**—

(A) **IN GENERAL.**—The Corporation shall offer to enter into a contract with a qualified entity to conduct research and development regarding a policy to insure producers against reduction in the margin between the market value of catfish and selected costs incurred in the production of catfish.

(B) **ELIGIBILITY.**—Eligibility for the policy described in subparagraph (A) shall be limited to freshwater species of catfish that are propagated and reared in controlled or selected environments.

(C) **IMPLEMENTATION.**—The Board shall review the policy described in subparagraph (B) under section 508(h) and approve the policy if the Board finds that the policy—

(i) will likely result in a viable and marketable policy consistent with this subsection;

- (ii) would provide crop insurance coverage in a significantly improved form;
- (iii) adequately protects the interests of producers;
- and
- (iv) meets other requirements of this subtitle determined appropriate by the Board.

(17) BIOMASS AND SWEET SORGHUM ENERGY CROP INSURANCE POLICIES.—

(A) IN GENERAL.—The Corporation shall offer to enter into 1 or more contracts with qualified entities to carry out research and development regarding—

(i) a policy to insure biomass sorghum that is grown expressly for the purpose of producing a feedstock for renewable biofuel, renewable electricity, or biobased products; and

(ii) a policy to insure sweet sorghum that is grown for a purpose described in clause (i).

(B) RESEARCH AND DEVELOPMENT.—Research and development with respect to each of the policies required in subparagraph (A) shall evaluate the effectiveness of risk management tools for the production of biomass sorghum or sweet sorghum, 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 indices, including excessive or inadequate rainfall, to protect the interest of crop producers; and

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

(18) STUDY ON SWINE CATASTROPHIC DISEASE PROGRAM.—

(A) IN GENERAL.—The Corporation shall contract with 1 or more qualified entities to conduct a study to determine the feasibility of insuring swine producers for a catastrophic event.

(B) REPORT.—Not later than 1 year after the date of the enactment of this paragraph, 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).

(19) WHOLE FARM DIVERSIFIED RISK MANAGEMENT INSURANCE PLAN.—

(A) IN GENERAL.—Unless the Corporation approves a whole farm insurance plan, similar to the plan described in this paragraph, to be available to producers for the 2016 reinsurance year, the Corporation shall conduct activities or enter into contracts to carry out research and development to develop a whole farm risk management insurance plan, with a liability limitation of \$1,500,000, that allows a diversified crop or livestock producer the option to qualify for an indemnity if actual gross farm revenue is below



85 percent of the average gross farm revenue or the expected gross farm revenue that can reasonably be expected of the producer, as determined by the Corporation.

(B) ELIGIBLE PRODUCERS.—The Corporation shall permit producers (including direct-to-consumer marketers and producers servicing local and regional and farm identity-preserved markets) who produce multiple agricultural commodities, including specialty crops, industrial crops, livestock, and aquaculture products, to participate in the plan developed under subparagraph (A) in lieu of any other plan under this subtitle.

(C) DIVERSIFICATION.—The Corporation may provide diversification-based additional coverage payment rates, premium discounts, or other enhanced benefits in recognition of the risk management benefits of crop and livestock diversification strategies for producers that—

(i) grow multiple crops; or

(ii) may have income from the production of livestock that uses a crop grown on the farm.

(D) MARKET READINESS.—The Corporation may include coverage for the value of any packing, packaging, or any other similar on-farm activity the Corporation determines to be the minimum required in order to remove the commodity from the field.

(20) STUDY ON POULTRY CATASTROPHIC DISEASE PROGRAM.—

(A) IN GENERAL.—The Corporation shall contract with a qualified person to conduct a study to determine the feasibility of insuring poultry producers for a catastrophic event.

(B) REPORT.—Not later than 1 year after the date of the enactment of this paragraph, 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).

(21) POULTRY BUSINESS INTERRUPTION INSURANCE POLICY.—

(A) DEFINITIONS.—In this paragraph, the terms “poultry” and “poultry grower” have the meanings given those terms 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 a contract or cooperative agreement with an institution of higher education or other legal entity to carry out research and development regarding a policy to insure the commercial production of poultry against business interruptions caused by integrator bankruptcy.

(C) RESEARCH AND DEVELOPMENT.—As part of the research and development conducted pursuant to a contract or cooperative agreement entered into under subparagraph (B), the entity shall—

(i) evaluate the market place for business interruption insurance that is available to poultry growers;

(ii) determine what statutory authority would be necessary to implement a business interruption insurance through the Corporation;

(iii) assess the feasibility of a policy or plan of insurance offered under this subtitle to insure against a portion of losses due to business interruption or to the bankruptcy of an business integrator; and

(iv) analyze the costs to the Federal Government of a Federal business interruption insurance program for poultry growers or producers.

(D) DEADLINE FOR CONTRACT OR COOPERATIVE AGREEMENT.—Not later than 180 days after the date of enactment of this paragraph, the Corporation shall offer to enter into the contract or cooperative agreement required by subparagraph (B).

(E) DEADLINE FOR COMPLETION OF RESEARCH AND DEVELOPMENT.—Not later than 1 year after the date of enactment of this paragraph, 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 research and development conducted pursuant to the contract or cooperative agreement entered into under subparagraph (B).]

(22) STUDY OF FOOD SAFETY INSURANCE.—

(A) IN GENERAL.—The Corporation shall offer to enter into a contract with 1 or more qualified entities to conduct a study to determine whether offering policies that provide coverage for specialty crops from food safety and contamination issues would benefit agricultural producers.

(B) SUBJECT.—The study described in subparagraph (A) shall evaluate policies and plans of insurance coverage that provide protection for production or revenue impacted by food safety concerns including, at a minimum, government, retail, or national consumer group announcements of a health advisory, removal, or recall related to a contamination concern.

(C) REPORT.—Not later than 1 year after the date of enactment of this paragraph, 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).

(23) ALFALFA CROP INSURANCE POLICY.—

(A) IN GENERAL.—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 alfalfa.

(B) REPORT.—Not later than 1 year after the date of enactment of this paragraph, 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).

(24) 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 either—

(A) 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; or

(B) improving analysis tools and technology regarding compliance or identifying and using innovative compliance strategies.

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

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

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

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

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

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

(E) to provide assistance to State foresters or equivalent officials for the prescribed use of burning on private

forest land for the prevention, control, and suppression of fire;

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

(G) to improve analysis tools and technology regarding compliance or identifying and using innovative compliance strategies; and

(H) 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.

(2) CONTRACTING.—

(A) CONDUCTING AND CONTRACTING FOR RESEARCH AND DEVELOPMENT.—Of the amounts made available from the insurance fund established under section 516(c), the Corporation may use to conduct research and development and 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 conduct research and development and 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 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

(iv) identifying and using innovative compliance strategies; and

(B) any excess amounts to carry out other activities authorized under this section.

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

(a) GENERAL PROVISIONS.—

(1) AUTHORITY.—Except as otherwise provided in this section, the Corporation may, at the sole discretion of the Corporation, 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.

(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.

(i) UNDERSERVED CROPS AND REGIONS PILOT PROGRAMS.—

(1) DEFINITION OF LIVESTOCK COMMODITY.—In this subsection, the term “livestock commodity” includes cattle, sheep, swine, goats, and poultry, including pasture, rangeland, and forage as a source of feed for that livestock.

(2) AUTHORIZATION.—Notwithstanding subsection (a)(2), the Corporation may conduct 2 or more pilot programs to provide producers of underserved specialty crops and livestock commodities with index-based weather insurance, subject to the requirements of this section.

(3) REVIEW AND APPROVAL OF SUBMISSIONS.—

(A) IN GENERAL.—The Board shall approve 2 or more proposed policies or plans of insurance from approved insurance providers if the Board determines that the policies or plans provide coverage as specified in paragraph (2), and meet the conditions described in this paragraph

(B) REQUIREMENTS.—To be eligible for approval under this subsection, the approved insurance provider shall have—

(i) adequate experience underwriting and administering policies or plans of insurance that are comparable to the proposed policy or plan of insurance;

(ii) sufficient assets or reinsurance to satisfy the underwriting obligations of the approved insurance provider, and possess a sufficient insurance credit rating from an appropriate credit rating bureau, in accordance with Board procedures; and

(iii) applicable authority and approval from each State in which the approved insurance provider intends to sell the insurance product.

(C) REVIEW REQUIREMENTS.—In reviewing applications under this subsection, the Board shall conduct the review in a manner consistent with the standards, rules, and procedures for policies or plans of insurance submitted under section 508(h) and the actuarial soundness requirements applied to other policies and plans of insurance made available under this subtitle.

(D) **PRIORITIZATION.**—The Board shall prioritize applications that provide a new kind of coverage for specialty crops and livestock commodities that previously had no available crop insurance, or has demonstrated a low level of participation under existing coverage.

(4) **PAYMENT OF PREMIUM SUPPORT.**—

(A) **IN GENERAL.**—The Corporation shall pay a portion of the premium for producers that purchase a policy or plan of insurance approved pursuant to this subsection.

(B) **AMOUNT.**—The premium subsidy shall provide a similar dollar amount of premium subsidy per acre that the Corporation pays for comparable policies or plans of insurance reinsured under this subtitle, except that in no case shall the premium subsidy exceed 60 percent of total premium, as determined by the Corporation.

(C) **CALCULATION.**—The premium subsidy, as determined by the Corporation, shall be calculated as—

(i) a percentage of premium;

(ii) a percentage of expected loss determined pursuant to a reasonable actuarial methodology; or

(iii) a fixed dollar amount per acre.

(D) **PAYMENT.**—Subject to subparagraphs (B) and (C), the premium subsidy under this subsection shall be paid by the Corporation in the same manner and under the same terms and conditions as premium subsidy for other policies and plans of insurance.

(E) **OPERATING AND ADMINISTRATIVE EXPENSE PAYMENTS.**—

(i) **IN GENERAL.**—Subject to clause (ii), operating and administrative expense payments may be made for policies and plans of insurance approved under this subsection in an amount that is commensurate with similar policies and plans of insurance reinsured under this subtitle, on the condition that the operating and administrative expenses are not included in premiums.

(ii) **LIMITATION.**—Subject to subparagraph (F)(i), Federal reinsurance, research and development costs, other reimbursements, or maintenance fees shall not be provided or collected for policies and plans of insurance approved under this subsection.

(F) **APPROVED INSURANCE PROVIDERS.**—Any policy or plan of insurance approved under this subsection may be sold only by the approved insurance provider that submits the application and by any additional approved insurance provider that—

(i) agrees to pay maintenance fees or other payments to the approved insurance provider that submitted the application in an amount agreed to by the applicant and the additional approved insurance provider, on the condition that the fees or payments shall be reasonable and appropriate to ensure that the policies or plans of insurance may be made available by additional approved insurance providers; and

(ii) meets the eligibility criteria of paragraph (3)(B), as determined by the Board.

(G) RELATIONSHIP TO OTHER PROVISIONS.—The requirements of this paragraph shall apply notwithstanding paragraph (6).

(5) OVERSIGHT.—The Corporation shall develop and publish procedures to administer policies or plans of insurance approved under this subsection that—

(A) require each approved insurance provider to report sales, acreage and claim data, and any other data that the Corporation determines to be appropriate, to allow the Corporation to evaluate sales and performance of the product; and

(B) contain such other requirements as the Corporation determines necessary to ensure that the products—

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

(ii) are in the best interests of producers; and

(iii) do not result in a reduction of program integrity.

(6) CONFIDENTIALITY.—

(A) IN GENERAL.—All reports required under paragraph (5) and all other proprietary information and data generated or derived from applicants under this subsection shall be considered to be confidential commercial or financial information for the purposes of section 552(b)(4) of title 5, United States Code.

(B) STANDARD.—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.

(7) INELIGIBLE PURPOSES.—In no case shall a policy or plan of insurance made available under this subsection provide coverage substantially similar to privately available hail insurance.

(8) FUNDING.—

(A) LIMITATION ON EXPENDITURES.—Notwithstanding any other provision in this subsection, of the funds of the Corporation, the Corporation shall use to carry out this section not more than \$12,500,000 for each of fiscal years 2015 through 2018, to remain available until expended.

(B) RELATION TO OTHER PROGRAMS.—The amount of funds made available under this section shall be in addition to amounts made available under other provisions of this subtitle, including amounts made available under subsection (b).

**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 National Institute of Food and Agriculture, shall carry out the program established under paragraph (3).

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

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

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

(3) PARTNERSHIPS FOR RISK MANAGEMENT EDUCATION.—

(A) AUTHORITY.—The Secretary, acting through the National Institute of Food and Agriculture, 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, farm financial benchmarking, 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 (including farm financial benchmarking), 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), \$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 CERTAIN FISCAL YEARS.—For each of fiscal years 2008 through 2014, 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 noninsured 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 noninsured 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 noninsured 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—

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

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

(C) 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 acre-

age 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 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 re-

- ceives 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 make livestock indemnity payments to eligible producers on farms that have in-

curred 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.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$80,000,000 for each of fiscal years 2012 and 2013.

(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 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.—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.

(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 grazing 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 non-insured 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).

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$400,000,000 for each of fiscal years 2012 and 2013.

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

(1) IN GENERAL.—The Secretary shall 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.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$50,000,000 for each of fiscal years 2012 and 2013.

(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 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.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$20,000,000 for each of fiscal years 2012 and 2013.

(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 peri-

ods 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 signifi-

cantly 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 ATTRIBUTION.—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 attribution 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, or, in the case of subsections (c) through (f), September 30, 2013 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.