

formance and practices are not carried out in accordance with the applicable reinsurance agreement.”

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

Pub. L. 96-365, title II, §202, Sept. 26, 1980, 94 Stat. 1321, provided that: “The Secretary of Agriculture, after consultation with the Board of Directors of the Federal Crop Insurance Corporation, shall, at least sixty days prior to the beginning of the planting of the 1981 crops of wheat, feed grains, upland cotton, and rice, or thirty days after the date of enactment of this Act [Sept. 26, 1980], whichever is the later, notify producers of those commodities of their right to elect, with respect to the 1981 crop, between (1) declaring the farm acreage of the respective commodity eligible for disaster payments under the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], or (2) covering such farm acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act [subsec. (b)(3) or (e) of this section]. Such notice shall include a statement of the percent of crop insurance premium that will be paid by the Corporation.”

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

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

VALIDITY AND TERMINATION OF PRIOR INSURANCE CONTRACTS

Act Aug. 1, 1947, ch. 440, §5, 61 Stat. 719, provided: “Nothing in this Act [amending sections 1502, 1505 (a to d), 1506(d), 1507(d), and 1508 (a to c) of this title] shall be construed to affect the validity of any insurance contract entered into prior to the enactment of this Act [Aug. 1, 1947] insofar as such contract covers the 1947 crop year. Any such contract which purports to cover a crop in the 1948 or any subsequent crop year in any county in which insurance on such crop will be discontinued pursuant to this Act is hereby terminated at the end of the 1947 crop year.”

Executive Documents

TRANSFER OF FUNCTIONS

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

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

§ 1508a. Double insurance and prevented planting

(a) Definitions

In this section:

(1) First crop

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

(2) Second crop

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

(3) Replanted crop

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

(b) Double insurance

(1) Options on loss to first crop

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

(A) No second crop planted

The producer may—

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

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

(B) Second crop planted

The producer may—

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

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

(2) Effect of no loss to second crop

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

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

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

(3) Premium for first crop if second crop planted

(A) Initial premium

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

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

(B) Effect of no loss to second crop

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

- (i) the full premium owed by the producer for the first crop; less
- (ii) the amount of premium previously paid under subparagraph (A).

(c) Prevented planting coverage

(1) Options on loss to first crop

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

(A) No second crop planted

The producer may—

- (i) elect to not plant a second crop on the same acreage for harvest in the same crop year; and
- (ii) subject to paragraph (4), collect an indemnity payment that is equal to 100 percent of the prevented planting guarantee for the acreage for the first crop.

(B) Second crop planted

The producer may—

- (i) plant a second crop on the same acreage for harvest in the same crop year; and
- (ii) subject to paragraphs (4) and (5), collect an indemnity payment established by the Corporation for the first crop, but not to exceed 35 percent of the prevented planting guarantee for the acreage for the first crop.

(2) Premium for first crop if second planted

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

(3) Effect on actual production history

Except in the case of double cropping described in subsection (d), 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 subchapter 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 subchapter, or non-insured crop assistance under section 7333 of this title, for the subsequent crop.

(Feb. 16, 1938, ch. 30, title V, §508A, as added Pub. L. 106-224, title I, §108, June 20, 2000, 114 Stat. 368; amended Pub. L. 110-234, title XII, §12033(c)(2)(B), May 22, 2008, 122 Stat. 1405; Pub. L. 110-246, §4(a), title XII, §12033(c)(2)(B), June 18, 2008, 122 Stat. 1664, 2167.)

Editorial Notes

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 1508a, act Feb. 16, 1938, ch. 30, title V, §508A, as added Aug. 14, 1989, Pub. L. 101-82, title VI, §604, 103 Stat. 587; amended Aug. 10, 1993, Pub. L. 103-66, title XIV, §1403(b)(3), 107 Stat. 334, related to crop insurance yield coverage, prior to repeal by Pub. L. 103-354, title I, §§107, 120, Oct. 13, 1994, 108 Stat. 3197, 3208, effective Oct. 13, 1994, and applicable to provision of crop insurance beginning with 1995 crop year.

AMENDMENTS

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

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

EFFECTIVE DATE

Section applicable beginning with the 2001 crop of an agricultural commodity, see section 171(b)(2)(F) of Pub. L. 106-224, set out as an Effective Date of 2000 Amendment note under section 1501 of this title.

§ 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 1508(d) of this title, 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 1508(k)(4)(F) of this title.

(d) Payment of portion of premium by corporation

Subject to section 1508(e)(4) of this title, 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 1508(k)(4)(F) of this title, 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.

(f) Limitation

Effective beginning with the 2019 crop year, a farm shall not be eligible for the Stacked Income Protection Plan for upland cotton for a crop year for which the farm is enrolled in coverage for seed cotton under—

(1) price loss coverage under section 9016 of this title; or

(2) agriculture risk coverage under section 9017 of this title.

(Feb. 16, 1938, ch. 30, title V, § 508B, as added Pub. L. 113-79, title XI, § 11017(a), Feb. 7, 2014, 128 Stat. 964; amended Pub. L. 115-123, div. F, § 60101(a)(10), Feb. 9, 2018, 132 Stat. 310.)