Chapter 3

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I. Introduction: The Basics of Federal Crop Insurance

This chapter provides basic information about the federal programs for insuring agricultural crops. It explains in general the nature of federal crop insurance, when crop insurance is required, what kinds of crop insurance are available, and how federal crop insurance benefits are claimed.

A. Crop Insurance Is a Contract

Producers purchasing crop insurance are entering into a binding contract. It cannot be emphasized enough that the producer should read and understand the crop insurance agreement before signing it. The contract will likely include a number of documents brought together.[1] Producers need to comply with all of the terms and conditions of the contract. In general, no indemnity will be paid unless the producer complies with all terms and conditions of the contract.[2]

B. Mixture of Public and Private

The federal crop insurance programs are a unique mixture of private contracts and government regulations.[3]

1. Policies Offered by Private Providers

In general, crop insurance coverage is obtained from private insurance providers. These providers, typically private insurance companies, must be approved by the Federal Crop Insurance Corporation (FCIC) to offer the federal insurance programs.[4] If crop insurance coverage is sufficiently available in an area through private insurance providers, FCIC is prohibited from directly providing insurance to the producers in that area.[5] In the vast majority of cases, therefore, a producer buys crop insurance from a private insurance agent who works with an approved insurance provider.[6]

If the producer bought crop insurance from a private insurance provider, the producer has a written contract with that provider. The private provider will have a reinsurance contract with FCIC, but the producer does not have a contract with FCIC. The producer's rights and responsibilities are based primarily on his or her contract with the insurance provider, and the insurance provider will be the decision maker on loss claims and other issues under the contract.

2. FCIC Approves Policies, Reinsures Providers, and Subsidizes Costs

Although a private provider usually sells federal crop insurance to the producer, the insurance policy itself must be approved by FCIC. (Note that FCIC operates under the oversight of USDA's Risk Management Agency (RMA).[7] This chapter will refer to both FCIC and RMA interchangeably, as there is no practical significance for producers to the different names.)

In most cases, FCIC's role is to determine what crops are insurable, approve certain insurance companies as providers, set the rules for the insurance companies, and publish the insurance policies that guide the reinsured companies.[8]

FCIC publishes lengthy regulations that control the terms of policies that producers sign. The regulations can be confusing because some are general rules that apply to all federal crop insurance policies.[9] Other regulations apply only in particular years or to particular crops. Despite the complexity of the statutes and regulations, the publication of the rules gives everyone official legal notice of their contents.[10] This means that each person who is insured under the federal crop insurance program is bound by the rules set forth in the Federal Register and the Code of Federal Regulations.

In addition to approving crop insurance providers and policies, FCIC reinsures the federal crop insurance coverage sold by private providers and subsidizes producers' premium costs.[11]

3. Providers May Not Waive FCIC Regulations

Because the crop insurance policy is controlled by the Federal Crop Insurance Act and FCIC regulations, the provisions found in the regulations cannot be waived or changed by the private crop insurance provider or an FCIC representative unless specifically allowed in the regulations.[12]

C. Several Changes in Federal Crop Insurance Over the Years

Over the past 15 years, several major pieces of legislation have made significant changes to the federal crop insurance programs.[13] In general, the statutory changes have been aimed at increasing participation in the federal crop insurance program and reducing the need for ad hoc disaster assistance.[14] Participation in federal crop insurance was to be increased both by improving the programs to make them more attractive to producers and by linking crop insurance coverage with eligibility for certain USDA commodity and credit programs.[15]

The most recent statutory changes to the federal crop insurance programs were enacted as part of the Food, Conservation, and Energy Act of 2008, also known as the 2008 Farm Bill.[16] Included among these changes are: (a) an increase in administrative fees for crop insurance; (b) clarification of producers' ability to seek both reconsideration and mediation of an adverse decision related to crop insurance; (c) authority to research and create a wide range of new crop insurance policies; and (d) a requirement that producers must have obtained crop insurance or NAP coverage in order to establish eligibility for new disaster assistance programs created by the 2008 Farm Bill.

This chapter discusses the current federal crop insurance programs and 2008 Farm Bill changes, though all the details of how the 2008 Farm Bill changes will be implemented will not be known until regulations are published. For detailed discussion of the federal crop insurance programs under previous statutory and regulatory changes, please refer to earlier editions of this book.[17]

D. The Approach of This Chapter

This chapter is divided into several sections.

Section II describes the different types of federal crop insurance that are available. After these general descriptions, the remainder of this chapter will discuss the details of only the most commonly used types of crop insurance. For any particular crop in a particular area, it is possible that the coverage discussed in this chapter would not be available, or that special coverage not discussed in this chapter would be available. Producers are encouraged to contact a local approved crop insurance agent or the Risk Management Agency for details about coverage for a particular crop.

Sections III and IV describe some of the general requirements applicable to many federal crop insurance policies—for example, producer eligibility.

Sections V and VI explain some of the specific provisions that apply especially to multi-peril-type crop insurance. This discussion includes catastrophic coverage (CAT), as well as additional, or "buy-up," coverage.

Section VII discusses a producer's obligations when claiming a loss under a federal crop insurance policy.

Sections VIII and IX discuss the procedures for crop insurance disputes and set out the non-discrimination policy applicable to all federal crop insurance.

II. Types of Crop Insurance Available

The Federal Crop Insurance Act and the regulations that implement it allow for hundreds of possible crop insurance plans. Federal crop insurance is currently available in permanent policies or pilot programs for more than 100 different crops.[18] The aim of this chapter is to set out some of the most important aspects of the most used policies. The various kinds of crop insurance can be divided and described in many ways. One possible way is as follows.

A. Traditional Multi-Peril Crop Insurance

The most familiar form of crop insurance is some form of multi-peril coverage—often called MPCI. In general, the producer buys multi-peril coverage for each crop individually, and indemnity payments are triggered by low yields, poor quality, late planting, prevented planting, or forced replanting. Within this general category of coverage the producer may purchase what is known as catastrophic coverage (CAT) or additional coverage. Additional coverage is sometimes called "buy-up" coverage.

When a producer purchases traditional multi-peril coverage, the agreement will be based on what FCIC calls the Common Crop Insurance Policy along with Crop Provisions, Special Provisions, actuarial documents, other applicable endorsements or options, and applicable regulations.[19] If the producer purchases catastrophic coverage, the contract will also include what is known as a Catastrophic Risk Protection Endorsement.[20] The Crop Provisions set out requirements and coverage provisions applicable to the specific crop.[21] For example, there are crop provisions for winter wheat, peanuts, seed potatoes, plums, and so forth.[22] The Special Provisions set out requirements and coverage provisions applicable to a specific geographic area.[23] The actuarial documents set out the information needed to determine premium rates, insurable practices, particular types or varieties of the insurable crop, and other related information regarding crop insurance in a particular county.[24]

B. Revenue-Based Crop Insurance for Individual Crops

Since 1995, FCIC has experimented with federal crop insurance coverage that seeks to protect producers against declines in crop prices as well as crop yields.[25] Several different types of this coverage have become available in different parts of the country for a variety of crops. The revenue coverage plans are in most ways very similar to traditional multi-peril coverage.[26] The important difference, however, is that in the revenue-based programs, in one way or another payment indemnities—as well as premiums—take into account crop price changes.[27]

In general, the differences among the various revenue-based insurance plans come from the crop price used to determine the revenue guarantee, the level of coverage available, and the farm unit structure on which coverage is based.

1. Crop Revenue Coverage (CRC) Insurance

The most common of the revenue-based federal crop insurance policies is Crop Revenue Coverage (CRC).[28] CRC is now authorized on a permanent basis by FCIC and is widely available. Since the 2000 crop year, CRC coverage has been available for corn, grain sorghum, soybeans, cotton, rice, and/or wheat in all states where multi-peril coverage is available.[29] Because CRC is so widespread, citations in this chapter also include reference to CRC policy provisions, where appropriate.

CRC combines protection for both price and yield risk. Under a CRC policy, a producer is guaranteed an income for the crop based on the expected harvest price and the producer's expected yields. The producer's guarantee is based on either the early season price projection or the actual harvest-time price, whichever is higher.[30] As a result, revenue coverage under a CRC policy increases during the season if crop prices rise.

A CRC policy is likely to include the producer's accepted application, the CRC Basic Provisions, Crop Provisions, Special

Provisions, actuarial documents for the crop, and applicable regulations.[31]

2. Other Revenue-Based Crop Insurance for Individual Crops

In addition to CRC, FCIC has authorized other types of revenue-based crop insurance policies for specific crops. These are generally available in fewer states and for fewer crops than CRC policies.

a. Revenue Assurance (RA) Program

Like the other revenue-based insurance plans, the Revenue Assurance (RA) program aims to protect producers from loss of revenue due to low prices, low yields, or both.[32] For the 2008 crop year, RA coverage is available for canola/rapeseed, corn, barley, soybeans, wheat, cotton, rice, and/or sunflowers in specified states.[33]

RA provides a revenue guarantee based on the producer's approved yield, the coverage level selected by the producer, and the greater of the expected or the actual harvest-time price.[34] To be able to use the actual harvest price in calculating the guarantee, the producer must choose the "fall harvest price option" by the sales closing date.[35] Crop prices used to determine the RA revenue guarantee are based on a specified average of Chicago Board of Trade futures prices.[36]

An RA policy is likely to include the producer's accepted application, the RA Basic Provisions, Crop Provisions, Special Provisions, actuarial documents for the crop, and other endorsements or options.[37]

b. Income Protection (IP) Program

The Income Protection (IP) insurance program is another plan designed to guarantee producers a minimum level of crop revenue in case crop prices and/or yields go below early season projections.[38] Technically still a pilot program, IP coverage is available for the 2008 crop year for barley, corn, cotton, grain sorghum, soybeans, and/or wheat.[39]

The revenue guarantee under IP is based on the producer's approved yield, the coverage level selected by the producer, the number of acres covered, and the projected crop price.[40] Projected crop prices used to determine IP coverage are average daily futures market prices as specified in the policy Special Provisions.[41]

An IP policy is likely to include the producer's accepted application, the Common Crop Insurance Policy Basic Provisions, the IP Crop Provisions, the Special Provisions, actuarial documents for the crop, and other endorsements or options.[42]

3. Whole Farm Revenue-Based Crop Insurance

FCIC has approved two closely related whole farm crop insurance plans that provide revenue coverage under a single policy for all of a producer's agricultural commodities. Notably, these are the only two federal crop insurance policies currently available that provide any coverage for livestock mortality or production losses, though even these policies limit that coverage to varying degrees.

a. Adjusted Gross Revenue (AGR) Pilot Program

Since the 1999 crop year, FCIC has authorized a pilot crop insurance program called Adjusted Gross Revenue (AGR) in limited areas.[43] AGR is a revenue-based insurance plan that guarantees a certain level of producer revenue for several commodities under a single policy.[44]

A producer's revenue guarantee under an AGR policy is based on a five-year average of income and expenses taken from the producer's income tax returns, multiplied by a coverage level selected by the producer.[45] Payment under an AGR policy will be based on the difference between the producer's revenue guarantee and his or her adjusted income for the year, multiplied by a payment rate selected by the producer.[46] Because AGR income calculations are based on income and expenses reported on the producer's income tax returns, settlement of AGR claims is delayed until after the producer's tax returns have been filed.[47]

There are some important limitations on the coverage available under AGR. First, no more than 35 percent of the producer's expected income may come from animals and animal products.[48] Second, if more than 50 percent of the producer's expected income will come from a combination of animals, animal products, and crops for which individual federal crop insurance coverage is available, the producer must obtain individual federal crop insurance coverage for all insurable crops.[49]

A producer must pay both a premium and a $30 administrative fee for AGR coverage.[50] If a producer purchases other federal crop insurance in addition to AGR coverage, the AGR premium will be reduced.[51] An AGR policy includes the producer's accepted application, the Adjusted Gross Revenue Pilot Insurance Policy, the Special Provisions, actuarial documents, and applicable regulations.[52]

For the 2008 crop year, AGR policies were available in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, and selected counties in California, Florida, Idaho, Maryland, Michigan, New York, Oregon, Pennsylvania, Virginia, and Washington.[53]

b. Adjusted Gross Revenue-Lite (AGR-Lite) Program

Adjusted Gross Revenue-Lite, or AGR-Lite, is a modified form of AGR. Like AGR, AGR-Lite offers whole farm revenue protection based on the producer's income and expenses from the previous five years' tax returns, multiplied by a coverage level selected by the producer.[54]

Unlike AGR, however, AGR-Lite does not limit the amount of expected income a producer may have from animals or animal products.[55] AGR-Lite also imposes no requirement to purchase crop insurance coverage for individual insurable crops no matter how much of the producer's expected income comes from insurable crops.[56] A producer may purchase other crop insurance coverage (except AGR), if desired, but it is not required.[57]

A producer must pay both a premium and a $30 administrative fee for AGR-Lite coverage.[58] An AGR-Lite policy includes the producer's accepted application, the Adjusted Gross Revenue-Lite Insurance Policy, the Special Provisions, actuarial documents, and applicable regulations.[59]

First approved in 2002 as a pilot program available only in Pennsylvania, AGR-Lite has expanded to become a regular (non-pilot) crop insurance program available to producers in 34 states. For the 2008 crop year, AGR-Lite policies were available in Alabama, Arizona, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Kansas, Maine, Maryland, Massachusetts, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Oregon, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and selected counties in Alaska, New York, and Pennsylvania.[60]

C. Group Risk-Based Crop Insurance

Congress has authorized FCIC to experiment with forms of crop insurance based on group statistics.[61] Group risk-based crop insurance allows producers to insure against widespread losses at a relatively low cost.[62] In general, group risk policies require less paperwork and cost less than other forms of crop insurance.

In general, group risk insurance provides coverage against the widespread loss of crop production or crop income in a county. Therefore, group risk coverage is intended primarily for those producers whose yields tend to follow the county average yields.[63]

Two group risk-based insurance plans are currently available in some areas. One plan is designed to protect against yield losses only, similar to traditional multi-peril crop insurance. The other plan is modeled after the revenue-based insurance policies and is designed to protect against yield or price losses.

1. Group Risk Plan (GRP) Coverage

The Group Risk Plan (GRP) is a form of multi-peril crop insurance that provides coverage in case of crop yield losses due to natural disaster.[64] What is unique about GRP is that the expected and final yield calculations are based on group statistics.

a. Coverage Based on County-Wide Yields

In a GRP policy, the coverage is based completely on county expected yields, not individual farm yields.[65] GRP pays out only when the average actual yield of the entire county drops below the expected county yield for the insured crop, regardless of how the individual producer's crop was affected.[66] Therefore, under a GRP policy, the producer need not have a loss in yield to collect an indemnity payment. Alternatively, the producer may have a yield loss but still not collect a GRP indemnity payment.

b. The GRP Agreement and "Acknowledgment of Differences"

A GRP policy is likely to include the producer's accepted application, the Group Risk Plan of Insurance Basic Provisions, the Crop Provisions, the Special Provisions, the Actuarial Table for the crop, and any amendments, endorsements, or options.[67]

Because GRP coverage is so different from traditional multi-peril insurance, producers who buy GRP coverage are required to sign an "Acknowledgment of Differences."[68] This document represents the producer's acknowledgment that he or she understands how the terms of the Group Risk plan are different from traditional crop insurance.

Among the important differences noted in the acknowledgment are all of the following.[69]

- The producer might not receive a payment under the GRP policy even if his or her individual farm has a low yield.
- The producer might receive a payment under the GRP policy even if his or her individual farm does not have any loss of production.
- The producer cannot purchase both a GRP policy and a traditional multi-peril crop insurance policy on the same crop in the same county.

c. GRP Availability

After beginning in 1993 as a pilot program available only for soybeans in a few areas, GRP was repeatedly expanded to cover more crops and more counties. In June 1999, FCIC published final regulations making GRP a permanent risk management tool available to producers nationwide beginning with the 2000 crop year.[70] For the 2008 crop year, GRP is available for corn, soybeans, cotton, forage, grain sorghum, peanuts, wheat, and barley.[71]

2. Group Risk Income Protection (GRIP) Coverage

The Group Risk Income Protection (GRIP) plan is a form of revenue-based crop insurance that provides coverage against losses in income due to low crop yields and/or low crop prices.[72] Unlike the revenue-based plans discussed above, however, the expected and final revenue calculations for GRIP coverage are based on county rather than individual statistics.

a. Coverage Based on County-Wide Revenue

In a GRIP policy, the revenue guarantee is based on the expected and actual revenue for the county, not the individual producer.[73] GRIP policies pay out only when the average per-acre revenue for the entire county drops below the expected county revenue for the insured crop, regardless of how the individual producer's income was affected.[74] Therefore, under a GRIP policy, the producer need not have a loss in crop revenue to collect an indemnity payment. Alternatively, the producer may lose crop revenue but still not collect a GRIP indemnity payment.

b. The GRIP Agreement

A GRIP policy is likely to include the producer's accepted application, the Group Risk Income Protection Common Policy Basic Provisions, the Crop Provisions, the Special Provisions, the actuarial documents for the crop, any amendments, endorsements, or options, and applicable regulations.[75]

c. GRIP Availability

For the 2008 crop year, GRIP is available for corn, cotton, grain sorghum, wheat, and soybeans in selected states.[76]

D. Revenue-Based Insurance for Livestock

FCIC offers two forms of revenue-based insurance for livestock.

1. Livestock Risk Protection (LRP) Insurance

The Livestock Risk Protection (LRP) program provides coverage against the risk that market prices for livestock will decline.[77] If the price for the livestock at the end of the LRP contract, as determined by FCIC, is less than the coverage price, the producer will receive a payment under the policy.

LRP coverage is limited to a specific number of animals per crop year, with the number varying according to animal type. For the 2009 crop year, LRP is available for swine, fed cattle, and feeder cattle in 37 states, and for lamb in 27 states.[78]

2. Livestock Gross Margin (LGM) Insurance

The Livestock Gross Margin (LGM) program provides coverage over an 11-month (cattle and dairy) or 6-month (swine) period against a decrease in the producer’s gross margin, that is, the difference between the livestock market price and eligible expenses, such as feed.[79]

For the 2009 crop year, LGM is available for cattle and swine in 20 states, and for dairy cattle in 32 states.[80]

E. Experimental Pilot Programs

In any given year, FCIC offers a variety of pilot crop insurance programs in certain areas for certain crops. These are experimental programs and generally cover crops, locations, and/or production practices that do not match up perfectly with traditional insurance policies. Some of these programs are described briefly here.

1. Pasture, Rangeland and Forage Pilot Program

Beginning with the 2007 crop year, FCIC began offering a Pasture, Rangeland and Forage (PRF) pilot program intended to provide coverage for forage crops that are raised for grazing or harvesting as hay for livestock.[81] Coverage under PRF insurance is based on crop losses as calculated using one of two measures—rainfall or vegetation greenness. The producer chooses which measure will be used, though both measures are not available in all areas where PRF is offered. For either measure, PRF coverage falls under the Group Risk Plan policy; therefore payments will only be available if the producer’s area experiences widespread losses.[82]

For the 2008 crop year, PRF is available in selected counties in Alabama, Colorado, Idaho, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, and Wyoming.[83]

2. Crop-Targeted Pilot Programs

At any given time, FCIC experiments with small-scale, targeted pilot insurance programs for more specialized crops. For example, in the 2008 crop year, pilot programs designed for cabbage, cherries, forage seed, and sweet potatoes are available.[84] Producers who are uncertain whether insurance is available for their crops in their area should contact a local approved crop insurance provider or the Risk Management Agency.

3. Future Programs Suggested Under the 2008 Farm Bill

The 2008 Farm Bill directs FCIC to look into offering several new crop insurance products.[85] In some instances, the 2008 Farm Bill directs FCIC to conduct a specific pilot program; in other instances, FCIC is directed to conduct research and development to determine the feasibility of offering a particular type of insurance. In all cases, it would be some time before any of these policies would be offered. But these are indications of the types of policies that may be offered in the future.

Specifically, the 2008 Farm Bill directs FCIC to offer pilot insurance programs for camelina, sesame, and grass seed crops.[86] And the 2008 Farm Bill directs FCIC to pursue research and development regarding the following:[87] (1) improving insurance for crops grown in accordance with National Organic Program standards; (2) insuring “energy crops”; (3) insuring bivalve and freshwater aquaculture operations; (4) insuring commercial poultry production; (5) insuring honeybees; (6) offering AGR coverage for beginning producers with no previous production history; and (7) insuring corn and soybeans produced using skiprow cropping practices.

III. Linkage: When Crop Insurance Is Required

One of the most important aspects of crop insurance for many producers is whether eligibility for other USDA programs requires the producer to purchase some form of federal crop insurance. These requirements—sometimes called "linkage" requirements because they link crop insurance with other programs—have varied widely over the past decade.

A. Conservation Reserve Program and FSA Loans – Must Have Insurance or Waive Future Disaster Assistance

Under a linkage requirement first established by the 1994 Federal Crop Insurance Reform Act, eligibility for certain USDA program benefits requires that a producer must either: (1) get crop insurance for each crop of economic significance in which the producer has an interest (if such insurance is available); or (2) sign a form that waives any eligibility for emergency crop loss assistance in connection with the uninsured crop.[88] This linkage requirement applies to eligibility for payments under Conservation Reserve Program (CRP) contracts[89] and eligibility for Farm Service Agency (FSA) farm loan programs, including direct and guaranteed FSA operating (OL), farm ownership (FO), and emergency (EM) loans.[90]

Producers who do not either sign a waiver or get crop insurance are not eligible for the programs and any linked program payments already received for that crop year will likely have to be refunded.[91]

1. Option One: Crop Insurance for All Crops of Economic Significance

A producer can remain eligible for these USDA programs by getting crop insurance, if available, for all crops of economic significance.[92]

A crop of economic significance is defined as one that accounts for ten percent or more of the total expected value of all crops grown by the producer.[93]

a. Producer Responsible for Calculating Economic Significance

The producer is initially responsible for making the calculation of which crops are of economic significance.[94] The approved insurance provider may assist the producer in making the determination.[95] The determination made will not be binding on that provider, however.[96] The producer may be required to justify the calculation and provide adequate records to enable the insurance provider to verify whether a crop is of economic significance.[97]

The producer may choose the type of price—such as current local market price, futures price, established price, highest amount of insurance, and so forth—used in calculating the value of each crop. The only limitation on the producer is that the producer must use the same type of price for all crops in the county.[98]

b. Defined on a Per-County Basis

The ten percent test is applied on a per-county basis.[99] For example, if a producer grows corn in two different counties, corn could be a crop of economic significance in one county but not the other.

c. Applies to Previous Year and Expectations for Current Year

The ten percent test for economic significance is applied to crops grown during the previous crop year and to the producer’s expected planting for the current year.[100] Thus, if a crop meets the ten percent test for either the past year’s production or the current year’s projections, the crop will be considered economically significant.[101] A producer does not have to insure any crop that he or she does not intend to plant. This is true even if that crop exceeded the ten percent test and was economically significant in the previous year.[102]

If the producer changes his or her mind and later plants the crop, however, the linked benefits will be at risk unless crop insurance is obtained or a waiver is signed.[103]

d. Applies to the Producer's Share of the Crop

In calculating the expected value of the producer's crops, the producer only includes the value of his or her share in the crops.[104]

e. Exception for Some Small Operations

The regulations provide a narrow exception to the definition of economic significance that should only apply for very small operations. If the total expected liability under the insurance policy is equal to or less than the administrative fee required to sign up for insurance, the crop is not considered to be of economic significance.[105] The administrative fee for crop insurance is discussed later in this chapter.

2. Option Two: Waiver of Emergency Crop Loss Benefits

The linkage requirement for CRP and FSA farm loan programs permits a producer to avoid purchasing crop insurance and still retain eligibility for those programs by signing a waiver of the right to claim emergency crop loss assistance.[106] Any producer signing the waiver agrees that he or she will not be eligible for emergency crop loss assistance for the crop to which the waiver applies. The waiver does not affect the producer's eligibility for any FSA Emergency Loan for crop losses.[107]

The waiver form remains in effect until either: (1) one crop year after the producer revokes it in writing, or (2) it is canceled by the government.[108]

B. Commodity Payment Programs—Currently No Linkage Requirement

Although it was the commodity payment programs which were the primary focus of the linkage requirement when it was first imposed by the 1994 Reform Act,[109] since the creation of the Direct and Counter-Cyclical Payment Program under the 2002 Farm Bill, commodity payment programs, including marketing assistance loans and loan deficiency payments, have not been subject to any crop insurance linkage requirement.[110]

The new 2008 Farm Bill continues the policy of the 2002 Farm Bill and does not link eligibility for commodity payment programs to a producer obtaining a minimum level of crop insurance.[111]

C. Disaster Assistance Programs—Shifting Linkage Requirement Made More Strict Under 2008 Farm Bill

As discussed above, when the linkage requirement was first created by the 1994 Reform Act, the intent was to force producers to obtain crop insurance or waive their rights to claim emergency crop assistance in case of disaster. The goal was to reduce demand for, and eventually eliminate, ad hoc disaster assistance. Serious agricultural disasters continued to strike, however, and Congress continued to appropriate funds for emergency crop assistance, even excusing producers from any waivers they might have signed.[112]

1. Linkage Requirements Grow Increasingly Strict for Disaster Program Eligibility

As the 1990s ended, Congress began to reintroduce linkage requirements into emergency crop loss disaster programs. At first, the emergency crop assistance programs required that a producer either: (1) had crop insurance or Noninsured Crop Disaster Assistance Program (NAP) coverage for all eligible crops, or (2) agreed to obtain crop insurance or NAP coverage for each crop in each of the next two crop years.[113] If the agreement to obtain crop insurance or NAP coverage in the next two crop years was not fulfilled, the producer was obligated to reimburse FSA for the amount of payments received, plus interest.[114] This requirement applied to emergency crop loss assistance enacted for losses in crop years from 2001 to 2005.[115]

In early 2006, USDA used its discretionary funds to create several disaster assistance programs for producers in several southeastern states affected by the 2005 hurricanes.[116] The crop loss program that was created, called the Hurricane Indemnity Program, included a requirement that the producer must have had crop insurance or NAP coverage prior to the disaster, and must have actually received a crop insurance indemnity or NAP payment in order to be eligible for assistance under the Hurricane Indemnity Program.[117] There were no waivers or exceptions.

Congress later appropriated funds for additional emergency assistance programs for losses from the 2005 hurricanes.[118] Under these programs, producers who did not have crop insurance or NAP coverage would be eligible, but their payments would be five percent lower than the payments received by producers who did have crop insurance or NAP coverage.[119] Any producer who received benefits under any of these programs and had not obtained available crop insurance or NAP coverage was also required to obtain such coverage for the next available coverage period.[120] A producer who failed to obtain coverage for the next period was required to refund any disaster payments received under the programs.[121]

In 2007, Congress appropriated funds for emergency assistance programs for crop losses across the country in 2005, 2006, and 2007.[122] For the first time, Congress imposed a linkage requirement that was as strict as the one adopted by USDA for its Hurricane Indemnity Program. To receive benefits under the 2005-2007 Crop Disaster Program, a producer must have obtained crop insurance or NAP coverage, if coverage was available.[123]

2. Linkage Requirement for New Disaster Programs Created by the 2008 Farm Bill

In general, the new disaster assistance programs created by the 2008 Farm Bill include a strict linkage requirement. A producer generally must have obtained crop insurance or NAP coverage for affected crops in order to be eligible for crop loss payments under these programs.[124]

However, the new 2008 Farm Bill programs also recognize circumstances in which a waiver of the linkage requirement or equitable relief from the linkage requirement may be granted.

As with all aspects of the new 2008 Farm Bill programs, specific details will not be known until FSA issues program regulations.

a. Waivers of Linkage Requirements under the 2008 Farm Bill

The new 2008 Farm Bill disaster programs allow for a waiver of the strict linkage requirement in certain circumstances.

(1) Waiver for Socially Disadvantaged, Limited Resource, or Beginning Farmer or Rancher

FSA may waive the requirement that the producer have obtained crop insurance or NAP coverage in the case of producers who meet the definition of socially disadvantaged, limited resource, or beginning farmers or ranchers.[125] If such a waiver is granted, FSA may provide disaster assistance at a level that it determines to be equitable and appropriate.

(2) Waiver for 2008 If Fee Paid by August 20, 2008

Because the 2008 Farm Bill was enacted after the 2008 crop year was well underway, the linkage requirement for the new disaster programs is waived for 2008.[126] However, to secure eligibility for 2008 under the new programs, producers who have not already obtained crop insurance or NAP coverage must pay an administrative fee to FSA by August 20, 2008.[127] The amount of the fee that must be paid is still being determined by FSA.

b. Equitable Relief from Linkage Requirements under the 2008 Farm Bill

In addition to the broadly applicable waivers of the linkage requirement, discussed above, the 2008 Farm Bill also authorizes FSA to provide equitable relief on a case-by-case basis to producers who unintentionally fail to satisfy the requirement to obtain crop insurance or NAP coverage on affected crops.[128]

FSA is directed to take special consideration to provide equitable relief to producers who suffer crop losses during the 2008 calendar year and who failed to satisfy the requirement to obtain crop insurance or NAP coverage on affected crops because the 2008 Farm Bill was enacted after the applicable closing dates for crop insurance and NAP coverage.[129]

IV. Eligibility for Crop Insurance

This section briefly explains the types of losses covered by crop insurance and producer eligibility requirements. The next sections describe the coverage available under federal crop insurance in more detail.

A. Covers Losses Caused by Drought, Flood, or Other Natural Disaster

Federal crop insurance covers losses by drought, flood, or other natural disaster. Federal statute gives FCIC the power to define what counts as a drought, flood, or other natural disaster for crop insurance purposes.[130] The crop provisions in the producer's specific policy will likely list insurable losses.[131]

B. Losses Not Covered

Several kinds of losses are specifically excluded from crop insurance coverage.[132] Losses are not covered if they are caused by the following.

1. Neglect, Mismanagement, and Wrongdoing

According to federal statute, losses are excluded from coverage if they are caused by neglect or malfeasance by the producer.[133] Crop insurance policies often exclude from coverage those losses caused by "neglect, mismanagement, or wrongdoing."[134] The regulations do not define these terms for this purpose, but the common meaning of malfeasance is wrongful or unlawful conduct, and neglect generally means failing to care for or give proper attention to something.

2. Failure to Reseed the Crop If Customary

Losses are excluded from coverage if the producer failed to reseed the same crop in areas where and under circumstances in which it would have been customary to reseed.[135]

3. Failure to Follow Good Farming Practices

Losses are excluded from coverage if the producer failed to follow good farming practices. Crop insurance policies generally require that the producer follow "recognized good farming practices" for the crop without any further explanation.[136] Even Group Risk Plan policies include this provision.[137]

a. Defining Good Farming Practices

Congress has given FCIC the general authority to determine the definition of good farming practices.[138] In June 2003, FCIC made a substantial change to the regulatory definition of good farming practices.[139] The earlier definition had created some confusion, and when adopting the change FCIC acknowledged that the definition should have "an ascertainable standard."[140]

The new definition states that good farming practices are

> production methods utilized to produce the insured crop and allow it to make normal progress toward maturity and produce at least the yield used to determine the production guarantee or amount of insurance, including any adjustments for late planted acreage, which are: (1) for conventional or sustainable farming practices, those generally recognized by agricultural experts for the area; or (2) for organic farming practices, those generally recognized by the organic agricultural industry for the area or contained in the organic plan.[141]

An important aspect of the new definition is the idea that good farming practices are those that are generally recognized in the area. The term "generally recognized" is now also defined in the policies, as follows:

> [w]hen agricultural experts or the organic agricultural industry, as applicable, are aware of the production method or practice and there is no genuine dispute regarding whether the production method or practice allows the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee or amount of insurance.[142]

In comments accompanying the June 2003 amendments to crop insurance regulations, FCIC emphasized that the insurance provider makes the "good farming practice" determination.[143] The policies state that the insurance provider may—on its own initiative or at the request of the producer—request FCIC to determine whether production methods will qualify.[144]

b. Review of "Good Farming Practice" Determinations

As required by statute, FCIC has established a separate informal administrative appeal process to allow producers to seek review of a determination regarding good farming practices.[145] FCIC's decision in the reconsideration process will be final and not subject to further administrative review.[146] Mediation of these determinations is not available.[147]

(1) Request Reconsideration Within 30 Days of Determination

The producer must file a reconsideration request with FCIC within 30 days of receiving written notification of the good farming practice determination.[148] A reconsideration request will be considered "filed" if personally delivered or postmarked by the deadline.[149] Requests submitted after the 30-day deadline may be accepted if the producer can demonstrate a "physical inability" to file the request on time.[150]

(2) Request Must Include Basis for Objection

The reconsideration request must state the basis for the producer's objection to the good farming practice determination and his or her belief that: (1) the determination was not proper and not made in accordance with applicable regulations or procedures, or (2) all materials facts were not properly considered.[151]

(3) Judicial Review of Determination

Producers may also seek judicial review of a good farming practice determination. The FCIC regulations state that the producer must seek reconsideration before judicial review of a good farming practice determination will be available, whether that decision is made by FCIC or the insurance provider.[152] The statute, however, expressly states that producers need not go through the informal reconsideration process before seeking judicial review.[153]

c. Organic Farming Practice Requirements

Organic farming practices are addressed in a specific section of the policies.[154] In general, coverage is not available for crops grown using organic farming practices unless the information needed to determine a premium rate is specified in the actuarial table, or coverage is allowed under a written agreement.[155] When coverage is available, only certified organic acreage, transitional organic acreage, and buffer zone acreage are eligible, and the corresponding certifications are required.[156] Contamination of a crop by application or drift of prohibited substances onto the acreage is not an insured cause of loss on certified organic, transition, or buffer zone acreage.[157]

4. Crop-Specific Loss Exclusions

Numerous other causes of a loss may be excluded by a crop insurance policy depending on a particular crop. For example, a policy likely will not cover the failure of an irrigation system.[158] Or there may be particular rotation requirements for the crop.[159] The particular policy signed by the producer will likely list several other causes of loss that will not be covered.

C. Producer Eligibility for Crop Insurance

In order for a producer to be eligible for federal crop insurance coverage on a crop, the following requirements must be met.

1. Insurable Interest in the Crop

The person seeking insurance must have an insurable interest in a crop as an owner-operator, landlord, tenant, or other crop shareowner.[160]

2. Insurable Acreage

In addition, the acreage must be insurable. For example, land that has not been planted and harvested within one of the last three crop years may not be insurable.[161]

The 2008 Farm Bill has added a new restriction that crop insurance will not be available during the first five years of planting on native sod acreage that was first tilled for the purpose of producing an annual crop after May 22, 2008.[162]

3. Timely Application

A written application for crop insurance must be submitted on or before the sales closing date set by FCIC for the crop in that county.[163] This application will generally be submitted to an approved insurance provider. Local USDA offices are required to make available to producers the names of insurance agents and companies offering to sell crop insurance in that area.[164]

In some limited circumstances, there may be exceptions to the deadline. For example, in some cases FCIC may extend sales closing dates for Group Risk Plan policies for fall planted crops if FCIC decides that the probability and severity of claims will not increase because of the extension.[165] FCIC may immediately stop accepting applications during the extension period if "adverse conditions" develop.

As discussed below, applications for substitute crops may also sometimes be accepted after the normal closing date.

4. Timely Planting

The producer must meet the deadline for each crop's planting period to be eligible for full coverage under a crop insurance policy.[166] This date will be set out in the Special Provisions for the insured crop. In many cases, it will be possible to receive reduced coverage for crops that are planted during a late planting period.[167]

For Group Risk coverage, the crop must be planted by the acreage reporting date, unless the policy's Crop Provisions allow otherwise.[168]

5. Pay Administrative Fee or Premium

The producer must pay either an administrative fee, a premium, or both.[169] The premiums and administrative fees vary with the type of insurance and are explained below.

6. Historical Records

The producer must provide records acceptable to FCIC of historical acreage and production reports for the crop to be insured.[170] If these records are not provided, the producer must accept a yield level determined by FCIC or the provider.[171] Assigned yields are discussed in more detail below.

7. Timely Acreage Report

The producer must file an annual acreage report on or before the acreage reporting date for the insured crop.[172] Special rules apply if the producer will be insuring multiple crops. The acreage report must be signed by the producer and must describe: (1) all acreage of the crop in the county (insurable and not insurable) in which the producer has a share; (2) the producer's share at the time coverage begins; (3) the crop practice; (4) the crop type; and (5) the date the insured crop was planted.[173]

It is very important that the acreage report be accurate. If the report contains information later determined to be incorrect and the error results in lower coverage than the producer could have received, the producer will be bound by the error and will only receive the lower amount of coverage.[174] If the error results in higher coverage than the producer should have received, the coverage will be reduced to the correct amount.[175] More seriously, if the error results in coverage more than ten percent higher or lower than it should have been, any benefit from the policy—including indemnity, prevented planting payment, or replanting payment—will be reduced in proportion to the amount the error exceeds ten percent.[176]

In addition, if a producer has incorrectly reported acreage in any crop year, the insurance provider may require the producer to provide documentation to substantiate acreage reports submitted in later crop years.[177] Such documentation might include an acreage measurement service performed at the producer's expense.

8. Information About Other Coverage

The producer must provide information regarding crop insurance coverage previously obtained on any crop.[178]

9. Not Delinquent on Debt Related to Crop Insurance

A producer who is delinquent on a debt under any crop insurance policy will be ineligible for coverage.[179] When the ineligibility takes effect will depend on whether the delinquent debt is an unpaid administrative fee or premium, an overpayment, or default on a payment agreement.[180] Delinquency will also result in termination of any policies in effect, and the producer may be required to return benefits already received.[181]

D. Coverage Elected on a Crop Basis

In most cases, insurance coverage must be elected on a crop-by-crop basis. This means that if coverage is obtained at all, the same level of coverage must be obtained for all of the producer's acreage of that crop in the county.[182] There are exceptions to this general rule, however.

1. Policy Allows Crop Types or Varieties to Be Considered Separately

Different or separate coverage may be obtained for different parcels within the county if the policy's Crop Provisions allow the certain crop types or varieties planted to be considered separate crops.[183]

If the producer decides to choose separate coverage, a separate administrative fee will be charged for each type or variety separately insured.[184] In addition, although insurance may be elected by type or variety in these instances, if the producer does not insure a type or variety of a crop that is of economic significance, the producer may then be ineligible for other USDA programs, such as the Conservation Reserve Program, farm loan programs, and new disaster assistance programs.[185]

2. High-Risk Acreage

Different or separate coverage may also be obtained if some of the acreage is designated by FCIC as high-risk land.[186] In this instance, the producer will be able to obtain additional insurance coverage on the non-high-risk acreage, obtain a "High Risk Land Exclusion Option" for the high-risk acreage, and insure the high-risk acreage under CAT.[187] Both policies must be obtained from the same provider.

E. Insurable Production Units

In some cases, producers will be able to choose to group their acreage in one of various "unit" structures when they purchase crop insurance.[188] Many policies allow producers to purchase insurance on the basis of a basic unit. Some producers may be able to divide the basic unit into optional units. In addition, some producers may be able to combine basic units into enterprise units or whole farm units.

1. Basic Unit

A basic unit is all of the insurable acreage of the insured crop in the county in which the producer has a 100 percent crop share or which is owned by one person and operated by another person on a share basis.[189]

For example, if a producer raises corn on land he or she owns, all of this land is likely treated as one basic unit for crop insurance coverage. Suppose, however, that in addition to the land a producer owns in a county, the producer rents land from five landlords in the same county, three on a crop share basis and two on a cash basis. And suppose that the producer grows corn on all of this acreage. The producer, in this case, is attempting to raise the crop in four units. Each crop share lease accounts for a separate unit, and the two cash leases and the land owned by the producer are combined into one unit.

2. Optional Units—Dividing Basic Units

A basic unit may sometimes be divided into optional units.[190] In order for a basic unit to be divided into an optional unit, each of the following must be true.

a. Clear and Discernible Breaks

The producer must plant the crop so that there is a clear and discernible break in the planting pattern at the outside boundary of an optional unit.[191]

b. Identified in Acreage Reports

Optional units must be identified in the acreage report for that crop year.[192] Unit divisions may not be made after the acreage reporting date. Although the units must be determined when the acreage is reported, the determination may later be adjusted or combined to reflect the actual unit structure when a loss is adjusted.[193]

c. Documented in Producer Records

The producer must also have records that show acreage and production for each optional unit.[194] The records must be for at least the last crop year used to determine the coverage level and must be acceptable to the private insurance provider.

The producer must be able to prove the production from each separate optional unit for coverage purposes. The producer can do this in one of two ways.[195] First, the producer can keep records of marketed or stored production from each optional unit that would allow the private insurance provider to verify the production for each optional unit. Second, the producer can keep the production from each optional unit separate until the provider completes a loss adjustment.

d. Separate Sections, Irrigation Divisions, or Organic Practices

Generally, all optional units must meet one of the following three requirements: they exist in separate sections, they are separate due to irrigation practices, or the acreage is grown and insured under an organic farming practice.[196] It is possible, however, for the specific provisions of a particular insurance policy to make exceptions to this requirement.

(1) Separate Sections or Separate Farm Serial Numbers

The separation requirement for optional units is met if each unit is located in a separate section.[197] If there are no sections in the area, the insurance provider may consider the land divided into parcels based on some other equivalent means of measure. If the area has not been surveyed using sections and section equivalents are not readily identifiable, each optional unit must be located in a separate farm serial number.[198]

(2) Irrigation Divisions

Optional units may be established on the basis of whether the land is irrigated or non-irrigated.[199] In such a case, the irrigated and non-irrigated units may not intersect with the same row or planting pattern. And irrigated acreage may not extend beyond the reach of the irrigation system to deliver adequate water to produce the covered yield.[200]

(3) Organic Practices

Optional units may be established if some of the acreage of the insured crop will be grown and insured under an organic farming practice.[201] All certified organic, transitional, and buffer zone acreage must be combined in the organic farming practice unit.

e. No Optional Units for Catastrophic Coverage

Optional units are not available for crops insured at the catastrophic coverage (CAT) level.[202]

f. If Requirements Not Met—Acreage Combined Back Into Basic Unit

If the producer does not meet the requirements described above for dividing a unit into separate optional units, the private insurance provider may combine all optional units that do not meet the requirements into their original basic unit.[203] The provider may do this any time it discovers that the producer has failed to meet the optional unit requirements. If the insurance provider determines that the producer's failure to comply with the optional unit requirements was unintentional, it will refund the additional premium the producer paid for the optional unit coverage.[204]

3. Enterprise Units and Whole Farm Units—Grouping Basic Units

Crop insurance regulations allow producers to group basic units together into either enterprise units or whole farm units.[205]

a. Enterprise Unit—Combines Units of a Crop

In general, an enterprise unit combines all of the insurable acreage of a crop in a county in which the producer has a share.[206] This can be two or more basic units or two or more optional units of insurable acreage of the same crop. For example, the producer described above who raised a crop on three plots of land in a county—one owned by the producer, one owned by a different person and rented on shares by the producer, and a third plot owned by yet another person and rented on shares—could combine these three basic units into a single enterprise unit for the county.

Producers may receive a discount in their insurance premium if they opt for an enterprise unit.[207]

b. Whole Farm Unit

A whole farm unit is defined as all insurable acreage in a county of all insured crops in which the producer has a share.[208] All crops for which the whole farm structure is available must be included in the whole farm unit. At least two insured crops must each constitute at least ten percent of the total liability of all insured crops in the whole farm unit, and all crops in the unit must be insured on the same plan of insurance with the same insurance provider.[209] The producer must pay the crop insurance administrative fee for each crop in the whole farm unit.[210]

Whole farm unit coverage is only available for multi-peril crop insurance coverage. The Crop Revenue Coverage policy does not provide for whole farm unit coverage.

c. Choosing Enterprise Units or Whole Farm Units

Producers may decide to buy crop insurance on the basis of a whole farm unit or an enterprise unit if the special provisions for the crop allow it.[211] The producer must make this election on or before the earliest sales closing date for the insured crops and must report the unit structure in writing to the policy provider.[212]

The unit structure chosen by the producer will remain in effect from crop year to crop year unless the producer notifies the private insurance provider in writing that he or she wishes to change the unit structure. Notice must be given before the earliest sales closing date for the crop year in which the units will be shifted.[213]

There are other specific rules governing the selection of enterprise or whole farm units as a basis for crop insurance coverage.[214]

F. Planting and Insuring a Substitute Crop

Once a crop fails or is prevented from being planted, it is often possible for the producer to plant an alternative or substitute crop. Sometimes it is possible for a producer to insure that substitute crop.

1. Substitution and Closing Dates

The general eligibility rules for obtaining insurance require that the producer apply for insurance by the sales closing date for the crop.[215]

There is a special provision, however, for planting and insuring an alternative crop. If a producer is not able to plant a crop for which insurance has been obtained, FCIC may allow the producer to insure a substitute crop under a CAT policy after the sales closing date but before the acreage reporting date.[216]

2. Requirements for Insuring a Substitute Crop

The conditions that allow the producer to insure a substitute crop are as follows.

a. Unable to Plant or Replant

The producer must be unable to plant the intended crop, or it must be impractical to replant a failed crop before the final planting date.[217] FCIC must take into account marketing windows when determining whether it is practical to replant.

b. Conditions Warrant Insuring New Crop

Conditions must exist to warrant allowing a producer to insure crops other than the intended crop.[218] The regulations do not make clear what conditions are to be taken into account for this purpose.

c. Submit Application for Substitute Crop by Reporting Date and Pay Fee

The producer must submit an application for the substitute crop on or before the acreage reporting date for the substitute crop and must pay an administrative fee if it is required.[219]

d. Substitute Crops Covered by USDA Linkage Requirements

If the substitute crop meets the definition of a crop of economic significance for the producer and CAT coverage is available for the crop, the producer must get CAT insurance for that crop to meet USDA linkage requirements.[220]

The producer may not substitute a crop after the sales closing date if he or she has signed or intends to sign a waiver of emergency crop loss assistance for the crop year.[221]

e. Plant Substitute Crop Before Final Planting Period

The substitute crop must be planted before the end of the final planting period, if applicable, for the substitute crop.[222]

3. Coverage Rules for Substitute Crops

There are special coverage rules for cases when one crop follows another on the same acreage during the same crop year.[223] In such circumstances, the "first crop" is the first insured commodity planted for harvest or prevented from being planted on that specific acreage during that crop year.[224] The "second crop" is a second crop of the same or a different commodity planted on the same acreage for harvest, haying, or grazing in the same crop year, excluding a replanted crop.[225] The rules for second crops are quite complicated, with many decisions and responsibilities for producers, including reporting obligations.[226] Producers should consult with their insurance providers about coverage for second crops.

a. Where First Crop Suffers Total or Partial Insurable Loss

Producers whose first crop suffered a total or partial insurable loss may choose one of two coverage options. First, the producer can choose not to plant a second crop and instead collect an insurance payment equal to 100 percent of the insurable loss for the first crop.[227] Second, the producer can choose to plant a second crop and collect an up-front payment of 35 percent of the insurable loss for the first crop.[228] If the producer then does not suffer an insurable loss to the second crop, the producer will be paid the remainder of the full indemnity payment for the first crop loss.[229] The premium paid for the first crop will be adjusted to reflect either the partial or full indemnity payment for the first crop.[230]

b. Where First Crop Is Prevented From Being Planted

If a first insured crop is prevented from being planted, the producer may similarly choose one of two options. First, the producer may elect not to plant a second crop and collect an indemnity payment equal to 100 percent of the prevented planting guarantee for the acreage for the first crop.[231] This option, however, is available only in "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."[232]

Under the second option, the producer may plant a second crop and collect an up-front payment of up to 35 percent of the prevented planting guarantee for the first crop.[233] This option is also only available if other producers in the area are generally affected by the conditions that prevented the first crop's planting.[234] A further requirement is that the second crop cannot be planted before the latest planting date established by FCIC for the first crop.[235] The premium paid for the first crop will be adjusted to reflect either the partial or full indemnity payment.[236]

If this option is elected, the producer will receive an assigned yield for the first crop for future actual production history calculations equal to 60 percent of the producer's current actual production history yield for the crop.[237]

c. Different Rules for Established Double Cropping Practices

A producer may receive a full insurance indemnity or prevented planting payment for a first insured crop when a second crop is planted on the same acreage in the same year—even if the second crop is not insured—if specified double-cropping requirements are met.[238]

The requirements for coverage of double-cropped acreage are: (1) it is an established practice in the area—generally recognized by agricultural experts or the organic agricultural industry—to plant two or more crops for harvest in the same crop year; (2) the second crop is customarily planted after the first insured crop for harvest on the same acreage in the same crop year in the area; (3) "buy up" coverage is offered in the county for two or more crops that are double cropped; (4) the producer provides records demonstrating a history of double cropping in at least two of the last four crop years in which the first insured crop was planted; and (5) in the case of prevented planting, the second crop is not planted on or prior to the last day that the first insured crop could be planted.[239]

d. In General, No Coverage for Any Crop Planted After Second Crop

In most cases, it is not possible to obtain crop insurance coverage for any crop planted after a second crop in the same crop year.[240] This restriction does not apply if the following requirements are met: (1) there is a generally recognized practice in the area of planting three or more crops for harvest on the same acreage in the same crop year, (2) the producer or acreage has a history of multiple crops in two of the past four years of production, and (3) "buy-up" coverage is available for third or later crops in the same crop year.[241]

G. Prevented Planting Crop Coverage

Prevented planting coverage applies when a producer is prevented from planting a crop due to an insured event, such as adverse weather conditions. Prevented planting is one of the most important and confusing aspects of federal crop insurance.

In general, prevented planting losses are covered by many federal crop insurance policies.[242] Producers must always, however, check each individual policy to make sure of the provisions that actually apply. There is a significant variation in particular policies regarding prevented planting.[243] The sections below set out the broad guidelines for prevented planting policies.

Under group risk coverage plans, which are discussed briefly earlier in this chapter, there is usually no coverage for prevented planting.[244]

1. Generally No Increased Premium for Prevented Planting Coverage

There is no increased premium for prevented planting coverage.[245] The premium is included in the base crop insurance premium or administrative fee. If the amount of the producer's premium for acreage that is prevented from being planted is greater than the insurer's liability for the acreage, coverage for these acres will not be available. No premium will be due and no indemnity will be paid.[246]

As discussed below, producers may sometimes select an option to increase the amount of prevented planting coverage. These producers must pay a higher premium for the added coverage.

2. Prevented Planting Protection Levels—Additional Coverage Sometimes Available

Prevented planting coverage is set at a percentage of the regular insured crop guarantee. The level of coverage available for prevented planting losses depends on the crop being insured and whether the producer has purchased additional coverage.

a. Protection Levels Vary by Crop

The protection level for prevented planting can vary a great deal from crop to crop. For example, prevented planting coverage for small grains is typically 60 percent of the guarantee for planted acreage, while the prevented planting coverage for onions is 45 percent of the planted acreage guarantee, and the prevented planting coverage for northern potatoes is 25 percent of the guarantee for planted acreage.[247] In all cases, producers need to check their specific crop insurance documents to make sure of their coverage.

b. Additional Levels of Coverage Sometimes Available

Sometimes it is possible for producers to purchase additional prevented planting coverage.[248] For example, for small grains crop insurance, prevented planting coverage is typically set at 60 percent of the production guarantee for acreage that is planted in a timely way. If the farmer pays an additional premium, he or she may increase this level of coverage for prevented planting.[249]

(1) Additional Coverage Not Available Under CAT Policies

If the producer has catastrophic coverage on the crop, additional prevented planting coverage will not be available.[250]

(2) Purchase Before Sales Closing Date

The producer must purchase the additional prevented planting coverage on or before the sales closing date for the crop.[251] If the additional coverage is not purchased, the producer will receive prevented planting coverage based on the provisions in the crop insurance policy.[252]

(3) No Additional Coverage If Losses Already Evident

Producers may not purchase an additional level of prevented planting coverage when a loss that will or could prevent planting is already evident.[253]

3. Basics of Prevented Planting Coverage Eligibility

Producers are eligible for a prevented planting payment when an insured crop cannot be planted by a certain date.[254]

a. When Coverage Begins

The timing of the crop insurance application and whether or not the crop insurance is continued from year to year are important for prevented planting coverage.

(1) First Year of Coverage—Coverage Begins on Sales Closing Date

Prevented planting coverage begins on the sales closing date for the crop in the county in the year the producer first gets crop insurance.[255]

(2) If Coverage Continues—Coverage Begins Earlier

If the producer continues the crop insurance from one year to the next, prevented planting coverage begins earlier. The regulations say that if the producer had crop insurance in one year and the policy is continued into the second year, prevented planting coverage for the second year begins with the sales closing date for the first year.[256] In other words, if the coverage is continuous, events that happened before the sales closing date for the second crop year that prevented the crop from being planted in the second year would still be covered under the second year crop insurance policy. For this purpose, transferring an insurance policy from one insurance provider to another does not interrupt continuous crop insurance coverage.[257]

(3) Prevented Planting Coverage Example

For example, if a producer purchased a corn crop insurance policy for the 2007 crop year and the policy was not terminated or canceled during or after the 2007 crop year, prevented planting coverage for the 2008 crop year began on the 2007 sales closing date.[258]

Because prevented planting sections of crop insurance policies are complicated, it is important for each producer to check carefully his or her policy regarding these provisions.

b. Acreage Report

The producer must include in his or her acreage report any acreage of the insured crop that was prevented from being planted.[259]

c. Final Planting Date and Late Planting Periods

Prevented planting coverage depends on the inability of the producer to plant the crop by a certain date.[260] For this purpose, two dates are often important: the final planting date and the end of the late planting period.

(1) Final Planting Date

If the producer is prevented from planting the crop by the final planting date, the producer may be eligible for prevented planting coverage.[261] The final planting date, which will vary considerably by crop and county, is included in the producer's policy.[262]

(2) Late Planting Period

In some cases, the producer will also have the chance to plant a crop during a late planting period.[263] Generally, late planting periods begin the day after the final planting date for the insured crop and end 25 days after the final planting date.[264] Individual policies may differ, however.

If the producer tries to plant the crop during or after the late planting period but is prevented from doing so, prevented planting coverage is still available.[265] If the producer was able to plant the insured crop during or after the late planting period, the crop will be covered under the late planting provisions, discussed below.[266]

(3) Late Planting Attempt Not Required for Prevented Planting Coverage

Once the producer has been prevented from planting the insured crop by the final planting date, the producer is eligible for prevented planting coverage.[267] Producers are not required to try to plant during the late planting period to be eligible for prevented planting coverage.[268]

d. Cause of Prevented Planting—Insured Cause of Loss

In order for prevented planting payments to be available to the producer, the reason the producer is not able to plant must be included in the insured causes of loss listed in the producer's insurance policy.[269] Other cause of loss requirements for prevented planting coverage are the following.

(1) Must Have Affected Other Producers With Similar Acreage

In order for prevented planting coverage to be available, the producer must have been prevented from planting the insured crop due to an insured cause of loss that is general to the surrounding area.[270] This cause must also prevent other producers from planting acreage with similar characteristics.[271]

(2) Must Have Used Proper Equipment

The producer must have been unable to plant the insured crop with proper equipment.[272]

e. Triggering Coverage: 20 Acres or 20 Percent of Unit

For the producer to be eligible for prevented planting payments, a minimum number of acres must be affected. The affected acreage must be at least 20 acres or 20 percent of the producer's insurable crop acreage in the unit, whichever is less.[273]

(1) Twenty Acres

The first way that prevented planting payments can be triggered is if at least 20 total acres are affected.[274] If the 20-acre requirement is met, the producer may be eligible for prevented planting payments even if the percentage of the producer's total acres affected is quite small.

(2) Twenty Percent of Insurance Unit

The second way that prevented planting payments can be triggered is if at least 20 percent of the producer's insurable crop acreage in the unit is affected.[275] If the 20 percent requirement is met, the producer may be eligible for prevented planting payments even if fewer than 20 total acres are affected.

As discussed in some detail earlier in this chapter, a basic unit is generally all of the insurable acreage of the insured crop in the county on the date coverage begins for the crop year: (1) in which the producer has a 100 percent crop share; or (2) which is owned by one person and operated by another person on a share basis.[276] A producer might divide a basic unit into optional units or combine two or more basic units into enterprise or whole farm units according to the terms of his or her insurance policy and applicable regulations.

f. Assume Same Crop in One Field

In general, the insurance provider will assume that any prevented planting acreage within a field that contains planted acreage would have been planted to the same crop that was actually planted in the field.[277]

(1) Defining Field

For crop insurance purposes, a field is defined as all of the acreage of tillable land within a natural or artificial boundary.[278] Roads, waterways, fences, and the like can constitute boundaries that divide a field, but different crops and planting patterns do not.[279]

(2) Exceptions to the Same Crop Rule

The assumption that the entire field would be planted to one crop does not apply if one of three conditions is met: (1) the prevented planting acreage constitutes at least 20 acres or 20 percent of the insurable acreage in the field, and the producer can prove that he or she had produced both crops in the same field in the same crop year in any of the four most recent crop years; (2) the producer was prevented from planting a first insured crop and planted a second crop; or (3) the insured crop actually planted would not have been planted on the remaining prevented planting acreage due to rotation requirements, processing contract limits, or other reasons.[280]

g. Once Trigger Reached—Determine Total Acres Under Prevented Planting Coverage

Once a trigger for prevented planting coverage is met, the next step is to determine the total acres that are covered for prevented planting. This is done by setting the maximum eligible prevented planting acreage and then reducing the maximum by the number of acres that the producer was actually able to plant.[281] The details of this process are discussed here.

The maximum acreage that may be eligible for prevented planting is generally determined using two basic factors.[282] First, the determination depends on whether the crop is required to be contracted with a processor to be eligible for crop insurance coverage. Second, the calculation varies depending on whether the producer has, in the last four crop years, produced any crop for which prevented planting coverage was available.

(1) Generally Limited to Acres in Farming Operation That Year

In general, the total number of acres a producer has eligible for prevented planting may not exceed the number of acres of cropland in the producer's farming operation for the crop year.[283] An exception to this limitation may apply if the producer is eligible for prevented planting coverage for double cropped acreage.[284]

(2) If Crop Is Not Required to Be Contracted With Processor

If the crop does not have to be contracted with a processor to be eligible for crop insurance, the following rules apply when determining the maximum eligible prevented planting acres.[285]

(a) Produced Crop in Last Four Years for Which Prevented Planting Coverage Was Available

If the producer has, in the most recent four crop years, produced any crop for which prevented planting coverage was available, the eligible acres for each insured crop are set according to the following rules.[286]

(i) Initial Basis—Maximum Acreage Planted to Crop in One of Previous Four Years

The initial basis for the producer's eligible prevented planting acres will be the maximum number of acres the producer has raised of the crop in any one of the last four crop years.[287]

In determining the maximum acreage from one of the last four crop years, the producer may rely on one of two measures.[288] First, the producer may use acres certified for Actual Production History program (APH) purposes. Second, the producer may use acres reported for insurance purposes.

The maximum acreage may not include acres that were reported as prevented planting acreage in the selected basis year that were then planted to a second crop, unless double cropping requirements were met.[289]

(ii) Increasing the Maximum Acres

The maximum number of acres eligible for prevented planting coverage may be increased in some cases. If the producer has more total cropland acres this year, the maximum prevented planting acreage is increased by multiplying it by the ratio of total cropland acres that the producer is farming in the current crop year to the total cropland acres that the producer farmed in the previous year.[290]

The producer may only receive prevented planting coverage for these additional acres if he or she can submit proof that the additional acreage will be available to the producer in time to plant the crop using good farming practices.[291] The producer can do this by showing that additional land has been purchased or leased for the current crop year or that the additional acreage will be released from a USDA program that prohibits harvest of a crop.[292] This could include, for example, land coming out of the Conservation Reserve Program (CRP).

At the time the additional land was made available to the producer—by purchase, lease, release from a USDA program, inheritance, or otherwise—there cannot have been any evidence of a cause of loss that would prevent planting of the crop.[293]

(iii) Reducing the Maximum by Acres Planted

The maximum eligible prevented planting acres determined above are reduced by the number of acres of the crop—both insured and uninsured—that were actually planted.[294] The planted acres include those acres that were timely planted, those that were late planted, and possibly even acreage that was planted after the late planting period.[295]

(b) No Crop Produced in Last Four Years for Which Prevented Planting Coverage Was Available

If the producer has not produced a crop in the last four years for which prevented planting coverage was available, the eligible acres of each insured crop are set according to the following rules.[296]

(i) Initial Basis—Taken From Acreage Report

The initial basis of the producer's eligible prevented planting acres will be the producer's acreage report.[297] The acreage report must be submitted to the insurance provider by the sales closing date for all crops the producer insures for that crop year.[298] The sales closing date will vary by county and crop.[299] In order to be the basis of the prevented planting acreage calculation, the acreage report must be accepted by the insurance provider.[300]

(ii) Increasing the Maximum Acres

The maximum number of prevented planting acres determined for a crop may be increased in some cases. If the producer has more total cropland acres in the current year than are listed on the acreage report, the maximum prevented planting acreage can be increased by multiplying the reported acres by the ratio of total cropland acres that the producer is farming in the current year to the total cropland acres that are listed in the acreage report.[301]

The producer may only receive prevented planting coverage for these additional acres if he or she can submit proof that the additional acreage was available to the producer in time to plant the crop using good farming practices.[302] The producer can do this by showing that additional land has been purchased or leased for the current crop year or that the additional acreage will be released from a USDA program that prohibits harvest of a crop.[303] This could include, for example, land coming out of the Conservation Reserve Program (CRP).

At the time the additional land was made available to the producer—by purchase, lease, release from a USDA program, inheritance, or otherwise—there cannot have been any evidence of a cause of loss that would prevent planting of the crop.[304]

(iii) Reducing the Maximum by Acres Planted

The maximum eligible prevented planting acres determined above are reduced by the number of acres of the crop—both insured and uninsured—that were actually planted.[305] The planted acres include those acres that were timely planted, those that were late planted, and possibly even acreage that was planted after the late planting period.[306]

(3) If the Crop Must Be Contracted With a Processor to Be Insurable

If the crop is required to be contracted with a processor in order to be eligible for crop insurance, the following rules apply when determining the maximum eligible prevented planting acres.[307] In this case, the calculation does not change based on whether the producer previously raised a crop for which prevented planting coverage was available.

(a) If Contract Specifies Acreage

If the processor contract specified a number of acres contracted for the crop year, this number of acres is used as the maximum eligible prevented planting acreage for the crop.[308]

(b) If Contract Specifies Quantity of Production

If the processor contract specifies a quantity of production that will be accepted, a different calculation is made for maximum prevented planting acreage. The maximum eligible prevented planting acreage on that crop will be the result of dividing the quantity of production stated in the contract by the producer's approved yield.[309]

(c) If Processor Cancels Contract Due to Prevented Planting

If the processor cancels or denies a contract, or reduces contracted acreage or production, because of prevented planting due to an insured cause of loss, the insurance provider may base eligible acres on the acreage or production contracted for in the county in the previous crop year.[310] In such a case, if the producer did not have a processor contract in the previous crop year, no prevented planting coverage will be available.[311]

If the policy crop provisions require that the price election for insurance coverage be based on a contract price and there is no contract in effect for the current year, the price election may be based on the contract price for the previous crop year.[312]

(d) Cannot Exceed Total Contracted for in Previous Year

The producer's total eligible prevented planting acreage in all counties will not exceed the total acreage or amount of production contracted for in all counties in the previous year.[313]

4. Drought and Prevented Planting

Drought will be considered an insurable cause of loss for prevented planting in some circumstances.[314]

a. Drought Coverage for Non-Irrigated Acreage

For non-irrigated acreage to qualify for drought-related prevented planting coverage, the circumstances described below must be true as of the final planting date for the crop—or within the late planting period if the producer tried to plant during the late planting period.[315]

First, the prevented planting area must have insufficient soil moisture for germination of the seed and progress toward crop maturity.[316] Second, the insufficient soil moisture must be due to a prolonged period of dry weather.[317] And third, the prolonged deficiencies in precipitation must be verifiable.[318] Verification must be through information collected by sources whose business it is to record and study the weather. These sources may include, but are not limited to, local weather reporting stations of the National Weather Service.

b. Drought Coverage for Irrigated Acreage

For irrigated acreage to qualify for drought-related prevented planting coverage, there must be no reasonable expectation of having adequate water to carry out the irrigation practice as of the final planting date for the crop—or within the late planting period if the producer tried to plant during the late planting period.[319]

An irrigation practice as defined in the Common Crop policy regulations includes enough water to produce at least the yield used to establish the irrigated production guarantee or the amount of insurance on the crop.[320] In the case of Crop Revenue Coverage, an irrigation practice is enough water to produce at least the yield used to establish the final coverage guarantee for the crop on the irrigated acreage.[321]

5. Other Restrictions and Requirements for Prevented Planting Coverage

In addition to the requirements for calculating eligible acres for prevented planting as described earlier in this section, the following restrictions apply to prevented planting coverage.[322]

a. Inputs and Land Must Have Been Available for Planting and Producing the Crop

To qualify for a prevented planting payment, a producer must be able to prove that he or she had the inputs available to plant and produce the crop with an expectation of at least producing the yield used to determine the production guarantee or amount of insurance.[323] Evidence that the producer had previously planted the crop on that unit will be considered adequate proof for this requirement unless planting practices or rotational requirements show that the acreage would have remained fallow or been planted to another crop.

Prevented planting benefits will not be available if the acreage claimed for prevented planting is greater than the number of eligible acres physically available for planting.[324]

b. Land Must Not Be Used for Conservation Purposes or Intentionally Left Fallow

The acreage for which the prevented planting payment is claimed must not be used for conservation purposes, intended to be left unplanted under any program administered by

USDA, or required to be left unharvested under the terms of a lease or any other agreement.[325]

Prevented planting coverage is also not available if the planting history or conservation plan for the land shows that the acreage would have remained fallow for crop rotation purposes.[326]

c. Required Irrigation Facilities Must Have Been in Place

If the prevented planting coverage is based on a crop production guarantee or amount of insurance that required irrigation, special rules apply.[327] Prevented planting benefits are not available in such a case if adequate irrigation facilities were not in place to carry out the required irrigated practice on the acreage. The facilities must have been in place prior to the insured cause of loss that prevents the producer from planting the crop. In addition, eligible acreage with an irrigated practice production guarantee will be limited to the number of acres allowed for that practice.

d. Prevented Planting and Multiple Crop Restrictions

In general, prevented planting payments are not available if the producer or any other person received a prevented planting payment or other benefit for a crop grown on the same acreage in the same crop year.[328] Covered benefits may include the harvest, haying, or grazing of a crop and any benefit under any USDA program.[329]

(1) Exception: Double Cropping

Double-cropped acreage can provide an exception to the general rule against multiple crops on the prevented planting acreage. This exception applies if several requirements are met. To qualify for the double-cropped acreage exception: (1) it must be an established practice in the area—generally recognized by agricultural experts or the organic agricultural industry—to plant two or more crops for harvest in the same crop year; (2) the second crop must be customarily planted after the first insured crop for harvest on the same acreage in the same crop year in the area; (3) "buy up" coverage must be offered in the county for both crops in the same crop year; (4) the producer must provide records of double cropping production in at least two of the last four crop years in which the first insured crop was planted; and (5) the second crop must not be planted on or before the last day that the first insured crop could be planted.[330] The amount of double cropping acreage in the current year may not exceed the acreage in the production reports submitted by the producer.[331]

(2) Cover Crop Restrictions

Producers are permitted to plant a cover crop on prevented planting acreage.[332] The producer must not hay, graze, or otherwise harvest the cover crop before the end of the late planting period—or the final planting date, if there is no late planting period—for the insured crop.[333] If a cover crop is hayed, grazed, or otherwise harvested in this period, the producer will not be eligible for a prevented planting payment for the insured crop.[334] This restriction also applies to any volunteer crop.

After the end of the late planting period—or the final planting date, if applicable—for the insured crop, the producer is permitted to hay, graze, or harvest a cover crop or volunteer crop on the prevented planting acreage. But this use will result in a reduced prevented planting payment for the insured crop.[335]

e. Producer May Not Lease Out Insured Acreage for Cash

In general, prevented planting benefits will be reduced if the producer also receives a cash payment for the use of any prevented planting acreage in the same crop year.[336]

f. Producer Did Not Plant Crop Type in Last Four Years

Prevented planting coverage may not be available if the producer did not plant the insured crop type at least once in the last four years.[337] If the producer has received a prevented planting payment for the crop, this qualifies as having planted the crop for this purpose. This restriction is tested somewhat differently depending on whether the insurance coverage is based on the producer's actual production history (APH) yields.

If insurance coverage for the crop type in question is based on APH yields, the crop type must be included in the producer's APH database in at least one of the most recent four years, or prevented planting coverage will not be available.[338]

Alternately, if insurance coverage for the crop type in question is not based on APH yields, that crop type must be reported on the producer's acreage report for at least one of the four most recent crop years or prevented planting coverage will not be available.[339] An exception to this requirement is allowed if the producer has submitted an intended acreage report by the sales closing date for all crops the producer will insure for that crop year.[340] The acreage report must be accepted by the insurance provider.

6. Calculating Prevented Planting Benefits

In general, indemnity payments for acreage prevented from being planted are based on a reduced guarantee. The payments are not then reduced again to account for producer expenses not incurred.[341] Individual policies should explain how this provision works for a particular crop.

a. Common Crop Insurance Policy Calculation

If the producer has Common Crop Insurance Policy protection, prevented planting payments for eligible acreage within a crop insurance unit can be calculated in the following manner.[342]

- **Step One.** Determine the insurance coverage per acre for the insured crop if it had been planted in a timely way. The coverage per acre is either: (a) the amount of insurance per acre, or (b) the producer's guarantee per acre multiplied by the price election for the crop.
- **Step Two.** Multiply the result of Step One by the prevented planting coverage level elected. This level can vary depending on whether the producer chose to purchase a higher coverage level.
- **Step Three.** Multiply the result of Step Two by the number of eligible prevented planting acres in the unit.
- **Step Four.** Multiply the result of Step Three by the producer's share of the crop. In many cases, the producer's share will simply be 100 percent.

b. Crop Revenue Coverage Calculation

If the producer has a Crop Revenue Coverage policy, the calculation of prevented planting benefits is done in the following way. The results differ depending on the type of unit the producer has insured.[343] Units are described earlier in this chapter in the section discussing insurable production units.

(1) Basic and Optional Units

If the producer has insured a basic or optional unit, the calculations are as follows.[344]

- **Step One.** Start with the final coverage guarantee for timely planted acreage for each basic or optional unit.
- **Step Two.** Multiply the final coverage guarantee from Step One by the prevented planting coverage

level for the policy. The level is in the producer's policy. In some cases the producer may have been able to increase the level of prevented planting coverage.

- **Step Three.** Multiply the result in Step Two by the number of eligible prevented planting acres in the unit.
- **Step Four.** Multiply the result in Step Three by the producer's share in the crop. In many cases, the producer's share will be 100 percent.

(2) Enterprise Units

If the producer has insured an enterprise unit, the calculation for prevented planting Crop Revenue Coverage is as follows.[345]

- **Step One.** Start with the final coverage guarantee for timely planted acreage for each basic unit or optional unit within the enterprise unit.
- **Step Two.** Multiply the final coverage guarantee for each of these basic units and optional units by the prevented planting coverage level. The level is in the producer's policy. In some cases, the producer may have been able to increase the level of prevented planting coverage. Complete this step separately for each basic unit or optional unit.
- **Step Three.** Multiply the result from Step Two by the number of eligible prevented planting acres in each basic unit or optional unit within the enterprise unit. Do this step separately for each basic unit or optional unit.
- **Step Four.** Multiply the result in Step Three by the producer's share in the crop. Do this step separately

for each basic unit or optional unit in the enterprise unit. In many cases, the producer's share will be 100 percent.

- **Step Five.** Total the results for each unit from Step Four.

7. Reporting Prevented Planting Losses

Producers must report possible prevented planting losses in their acreage report by the acreage reporting date.[346] The reporting date varies with the county and the crop.[347]

H. Late Planting Coverage

In some cases, producers may be able to insure a crop planted after the final planting date. In some cases, it may even be possible to insure a crop that is planted after the late planting period. As is the case with many other crop insurance provisions, this can vary significantly from crop to crop, so producers should check their individual policies.

In general, the late planting coverage provision can apply in four different circumstances: (1) when a crop is planted during a late planting period, (2) when a crop is planted after the late planting period, (3) when a crop is planted late and there is no late planting period available for the crop, and (4) when planting is started but cannot be completed.[348]

1. Premiums for Late Planting Coverage

There is no increased premium for late planting coverage.[349] The premium for late planting coverage is included in the base crop insurance policy price.

2. Crops Planted During the Late Planting Period

For many crops, a late planting period applies. Late planting periods generally begin on the day after the final planting date and usually last for 25 days after the final planting date.[350]

If the producer insures a crop that is planted during a late planting period, the production guarantee or amount of insurance for each acre planted will generally be reduced by one percent per day for each day after the final planting date that the crop is planted.[351] For Crop Revenue Coverage policies, it is the final coverage guarantee that is reduced by one percent per day.[352]

3. Crops Planted After the Late Planting Period

It can also be possible to insure a crop that was planted after a late planting period.[353] The late planting coverage level in this situation is determined by multiplying the production guarantee or amount of insurance that would have been provided if the acreage had been planted on time by the producer's prevented planting coverage level.[354] For Crop Revenue Coverage, the final coverage guarantee is multiplied by the prevented planting coverage level.[355]

In order to qualify for late planting coverage, planting must have been delayed past the late planting period by an insurable cause.[356] The insurable cause must have occurred within the insurance period for prevented planting coverage.

4. Crops Planted Late When There Is No Late Planting Period

Producers may be able to plant and insure a crop after the final planting date even if no late planting period exists for the crop.[357] As with plantings after a late planting period, in this situation the coverage available is determined by multiplying the production guarantee or amount of insurance that would have been provided if the acreage had been planted on time by the producer's prevented planting coverage level.[358] For Crop Revenue Coverage, the final coverage guarantee is reduced by the prevented planting coverage level.[359]

To be eligible for coverage, planting on this acreage must have been prevented before the final planting date by an insurable cause.[360] The insurable cause must have occurred within the insurance period for prevented planting coverage.

5. Planting Started—But Completion Prevented

In some cases, an insurable cause may be a material factor in preventing a producer from completing planting after planting has begun. For acreage to be completely planted, according to FCIC regulations, the following must occur: the seeds, plants, or trees must have been placed at the correct depth and into a seedbed that has been properly prepared.[361] These actions must meet the appropriate requirements of the crop and the producer's chosen planting method. For example, if seed is broadcast on the soil surface but cannot be incorporated as intended because of an insurable cause, it meets the requirements of this provision.[362]

If acreage cannot be completely planted due to an insurable cause, for the purposes of crop insurance the crop is treated as if it were planted after the final planting date.[363] The coverage for the crop will be determined by multiplying the production guarantee or amount of insurance that would have been provided if the acreage had been planted on time by the producer's prevented planting coverage level.[364] For Crop Revenue Coverage, the final coverage guarantee is multiplied by the prevented planting coverage level.[365]

I. Replanting Coverage

If allowed under the producer's specific insurance policy, a producer who is required to replant a crop may be eligible for compensation for those expenses.[366]

1. Defining Replanting

FCIC regulations give a precise meaning to replanting. Replanting, for these purposes, is defined as performing the cultural practices necessary to prepare the land to replace the seed or plants of the damaged or destroyed insured crop and then replacing the seed or plants of the same crop in the insured acreage.[367] The expectation is to produce at least the crop yield used to calculate the crop insurance production guarantee.

2. Requirements for Replanting Coverage

Several specific requirements apply before a replanting payment can be made available to a producer.

a. Insurance Provider Approves Replanting

Before a producer receives a replanting payment, the insurance provider must approve the replanting.[368]

b. Must Replant 20 Acres or 20 Percent of the Unit

The acreage replanted must be at least 20 acres or 20 percent of the insured acreage for the unit.[369] This calculation is made as of the final planting date for the crop, or within the late planting period if a late planting period is available.

c. Practical to Replant

In order for the producer to receive a replanting payment, the insurance provider must conclude that it is still practical to replant.[370]

FCIC regulations define "practical to replant." In general, practical to replant means that the insurance provider determines, after loss or damage to the insured crop, that replanting the insured crop will allow the crop to attain maturity by the calendar date for the end of the insurance period.[371] When making this determination, the provider is to look at all factors. These factors are to include, but are not limited to: (1) moisture availability, (2) marketing windows, (3) the condition of the field, and (4) the time to crop maturity. The "practical to replant" determination does not take into account the producer's input costs or the availability of seed or plants.[372]

If the late planting period—or the final planting date, if no late planting period is applicable—has passed, it will only be considered practical to replant if replanting is generally occurring in the area.[373]

3. Restrictions on Replanting Payments

Replanting payments are not available in three particular circumstances. First, replanting payments are not available if the insurance provider's appraisal concludes that production without replanting will be greater than the replanting coverage level set in the producer's policy.[374] Second, replanting payments are not available if the initial crop was planted before the earliest planting date set out in the producer's policy.[375] Third, replanting payments are not available if one replanting payment has already been made on the acreage for that crop year.[376]

4. Amount of Replanting Payments

Replanting payments will be the producer's per acre cost of replanting.[377] They will not, however, be greater than the replanting coverage amount set out in the producer's insurance policy.

J. Expenses Not Incurred

Insurance payments made to a producer for crop loss may be reduced for out-of-pocket expenses that were not incurred due to the loss.[378] The regulations provide that indemnity payments may be reduced to reflect out-of-pocket expenses that were not incurred by the producer as a result of not planting, caring for, or harvesting the crop. As a result, producers who are able to plant but suffer a loss that reduces their harvesting or other expenses may have their indemnity payment reduced to reflect the cost savings. Individual policies should explain how this provision works with a particular crop.

K. Valuing the Lost Crop—Appraisal If No Harvest

In general, if the crop is harvested, the harvested production is used to calculate the indemnity payment.[379] If the crop is not harvested, the loss will generally be determined through an appraisal.[380]

L. Other Issues

Several other provisions could be important in the producer's crop insurance policy. They include, among others, the following.

1. Excessive Risk—Refused Coverage

FCIC or the private insurance provider may in some cases reject or refuse to accept applications for crop insurance if FCIC decides that the insurance risk is "excessive."[381]

2. Changing the Published Contracts

It may be possible for the producer to offer changes to the published crop insurance policies. FCIC regulations provide a specific method for applying to offer such changes.[382]

3. Continuous Contracts

Crop insurance contracts are generally continuous. This means that unless the producer specifically tells the insurance provider not to, the provider may renew the coverage for each crop year with the same terms.[383]

V. Catastrophic Risk Protection (CAT)

The catastrophic risk protection program (CAT) is the minimum level of crop insurance coverage available.[384] The purpose of CAT coverage is to protect against a major crop loss. Technically, CAT coverage is a form of multi-peril crop insurance, although benefits are only triggered by a large loss.

A. CAT Coverage Meets Linkage Requirement

CAT coverage meets the linkage requirement for other USDA programs discussed earlier in this chapter.[385]

B. CAT Coverage—50 Percent of Yield

CAT policies guarantee 50 percent of the producer's approved yield.[386] The 50 percent approved yield calculation determines both eligibility for benefits and the level of benefits. This means that the producer will only get coverage if the loss is over 50 percent of the approved yield. In addition, payments will only be made on the portion of the loss that exceeds 50 percent of the approved yield.

For example, a producer insured under a CAT policy who suffers a loss of 40 percent of his or her approved yield will not receive any indemnity payments at all. A producer who suffers a 60 percent loss of his or her approved yield will receive indemnity payments based on ten percent of the approved yield—that is, the extent of the loss that exceeds 50 percent.

1. Defining Approved Yields

For most crops, the approved yield used to calculate CAT coverage will be determined under the Actual Production History (APH) Coverage Program.[387] The APH is based on an average of historical yields, using four to ten years of the producer's individual records.[388] Producers are required to certify the accuracy of the production reports used to determine historical yields, and verification of the producer's records may also be required.[389]

For crops not covered by the APH program, the approved yield will be determined according to the provisions of the particular crop insurance policy.[390]

2. Assigned Yields If Verifiable Records Not Available

Producers unable to provide the necessary verifiable records of past production will be assigned a yield for the years needed to determine an approved yield.[391] Usually, APH-assigned yields will be from 65 to 90 percent of the transitional yield or the determined yield.[392] Transitional yields, sometimes called T-yields, are estimated from ASCS (now FSA) program yields for the county.[393] Determined yields, also called D-yields, are estimated from the National Agricultural Statistics Service (NASS) records or a comparable source.[394]

Cases in which a yield must be assigned for a crop are: (1) when the producer has not provided satisfactory evidence of the yield of the crop; (2) when the producer has not had a share in the production of the crop for more than two years; (3) when the producer has not farmed the land before; or (4) when the producer rotates to a crop that has not previously been produced on the farm.[395]

Current crop insurance policies provide that a producer will receive an assigned yield for any actual yield in his or her production history that is "excessive" for the crop year, as determined by FCIC, if the producer does not provide verifiable records to support the yield. The policies state that if verifiable records are provided but the yield is significantly different from the other yields in the county or the producer's other yields for the crop, and the producer cannot "prove there is a valid basis to support the differences in the yields," the yield used will be the average of the producer's yields for the crop, or the applicable county T-yield if the producer has no other yields for that crop.[396] The policies further warn that the producer "may be" subject to the policy's misrepresentation and fraud provisions.[397]

3. Adjustment to Exclude Disaster-Year Yields

Because a producer's approved yield for a crop is based on his or her recent past yields, yield losses in these years due to natural disasters will lower the approved yield. As a result, the producer's yield for crop insurance purposes is lower than it would have been if the disaster-year yield losses had not occurred. A statutory change in 2000 attempted to address this situation by providing for the adjustment of approved yield calculations beginning with the 2001 crop year to exclude disaster-year yields.[398]

Under this provision, if in one or more of the crop years used to establish the producer's approved yield for a crop the producer's appraised or recorded yield was less than 60 percent of the transitional yield, the producer may elect to exclude that yield and replace each excluded yield with a yield equal to 60 percent of the applicable T-yield.[399] Although not specifically required by the statute, the regulations state that the low yield must have been due to an insurable cause of loss.[400]

The election must be made by the production reporting date for the insured crop and will remain in effect for subsequent years until cancelled by the producer before the next year's production reporting date.[401] If a producer makes an election under this provision, the premium rate charged for the coverage will be increased to cover the additional risk.[402]

4. Adjustment for Lack of Actual Yields in Production History

A producer's approved APH yield will be reduced in cases where that yield is more than 115 percent of the average of approved yields from all applicable APH databases for the farming operation.[403] In such cases, the yield will be adjusted by reducing it to an amount consistent with the average of approved yields from other APH databases for the operation with the same crop, type, and practice. The approved APH yield will also be reduced when there are no APH databases from the farming operation for comparison and the producer's approved yield is more than 115 percent of the county T-yield.[404] In those cases, the yield will be adjusted by reducing it to an amount consistent with the county T-yield.

5. Adjustment for Substantial Increase in Acreage

A producer's approved APH yield will also be reduced when there is a substantial increase in acreage planted to the crop. This adjustment is triggered in two situations: (1) when the current year's insured acreage—including prevented planting acreage—is more than 400 percent of the average number of acres in the APH database; or (2) the acreage in two or more individual years in the APH database is less than ten percent of the current year's insurable acreage in the unit—including prevented planting acreage.[405] In such cases, the producer's yield will be reduced to an amount consistent with the average of approved yields from other APH databases for the operation with the same crop, type, and practice.

6. Adjustment for New Production Method Likely to Reduce Yield

The approved APH yield for a crop will also be reduced if the producer uses a different production method than was used previously and the new production method is likely to result in a yield lower than the average of the producer's previous actual yields.[406] The yield will be reduced to an amount consistent with the production methods actually used, considering the producer's yields on other units where such production methods were used or, if no such yields exist, the county T-yield for the production methods.[407]

A producer must notify the insurance provider of a change in production methods by the acreage reporting date.[408] A failure to do so will result not only in the reduction of approved yield, as discussed here, but will also be considered a misreport of acreage and will result in reduced coverage, as discussed earlier in this chapter in the description of the acreage report requirement.

C. CAT Coverage—55 Percent of Expected Market Price

CAT coverage payments are based on a percentage of the expected market price for the crop in question.[409] "Expected market price" is defined in the crop insurance regulations as the price per unit of production anticipated during the period that the insured crop normally is marketed by producers.[410] The price is set by FCIC before the sales closing date for the crop.[411] As a general rule, the expected market price cannot be less than the projected market price of the crop, as established by FCIC.[412]

Since the 1999 crop year, the level of price protection under CAT policies has been set at 55 percent of the expected market price.[413]

D. Administrative Fees for CAT Coverage, But No Premiums

The producer pays an administrative fee for CAT coverage but does not pay a premium.[414] A cooperative association or a nonprofit trade association may pay the CAT administrative fee on behalf of its members if such an arrangement is permitted by state law.[415]

1. Timing of Administrative Fee Payments

The administrative fee for CAT coverage must be paid within 30 days after the producer has been billed by the insurance provider.[416] The billing date will be stated in the Special Provisions of the policy.[417]

If the administrative fee is not paid when due, the producer and all persons with an insurable interest in the crop under the same contract may no longer be eligible for USDA benefits linked to insurance coverage and may be required to repay linked benefits already received.[418]

2. $100 Per Crop Per County, Increasing to $300 Per Crop Per County

Beginning with the 2000 crop year, the administrative fee charged for CAT coverage has been $100 per crop per county.[419]

The 2008 Farm Bill recently increased the fee to $300 per crop per county.[420] It is likely that this increase will take effect for the 2009 crop year.

3. Waiver for Limited Resource Farmers

Limited resource farmers can receive a waiver of the CAT administrative processing fee.[421] The waiver is not automatic. It must be requested by the producer.[422]

a. Definition Change in 2004

The definition of "limited resource farmer" in the crop insurance programs was changed in 2004.[423] Producers who were insured for the 2005 crop year or earlier and qualified for a waiver of the administrative fee under the prior definition will continue to receive a waiver if they are still eligible under that definition, or if they qualify under the changed definition.[424]

(1) Current Definition—Gross Farm Sales up to $116,800 and Below Average Household Income

Under the current definition, a producer will qualify as a limited resource farmer who: (1) has "direct or indirect" gross farm sales of $116,800 or less in each of the previous two years;[425] and (2) has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous two years.[426]

(2) Prior Definition—Gross Income of $20,000

Under the prior definition, a producer could qualify as a limited resource farmer in one of two ways.[427] First, those who have an annual gross household income of $20,000 or less from all sources of revenue for each of the last two years. Second, those who: (1) farm less than 25 acres total for all crops, (2) get a majority of their gross income from the farm, and (3) have a gross income from farming operations of not more than $20,000.

4. Waiver If Zero Acreage Report Filed

Payment of the administrative fee is not required if the producer files a bona fide zero acreage report for the crop.[428] The zero acreage report must be filed on or before the acreage reporting date for the crop.[429]

E. Generally No Multiple Benefits for Same Loss

In general, producers may not receive payments from more than one USDA program to compensate for the same crop loss. If a producer is eligible to receive a CAT payment and is also eligible to receive benefits for the same loss under another USDA program, the producer must decide which payment to receive.[430] This restriction does not affect eligibility for FSA Emergency (EM) loans.[431] But CAT benefits received will result in a one-to-one reduction in the qualifying production loss for an EM loan amount.[432] FSA Emergency loans are discussed in Chapter 7 of this book.

If the other USDA crop loss benefits are not available until after the producer has filed a claim for the insurance indemnity, the producer may elect to refund the indemnity and accept the other program benefits.[433]

The new disaster programs created by the 2008 Farm Bill will likely make it somewhat more complicated for USDA to manage the restriction on multiple benefits. As discussed earlier in this chapter, eligibility for these new programs will be directly tied to a producer's having obtained coverage under crop insurance or NAP.[434] Therefore, producers who receive payments under the new programs will most likely also be receiving insurance indemnities or NAP payments. Detailed regulations implementing the 2008 Farm Bill had not yet been issued at the time this book was written.

F. No Hail and Fire Damage Exclusions

Coverage for hail or fire damage or high-risk land may not be excluded from the CAT policy.[435]

G. No Replanting Payments

Producers will not receive any payment under CAT for costs of replanting the insured crop, even where replanting is required by the contract.[436]

VI. Additional Coverage

Federal crop insurance can provide more coverage than the minimal protection provided by CAT. In general, the policies described in this section are similar to traditional multi-peril policies with which many producers are familiar. These policies provide added coverage by insuring less severe crop losses than CAT does and providing a better payment rate. For example, a producer who obtains additional insurance at the 75 percent coverage level will receive a loss payment for any crop loss that is greater than 25 percent.

A. Defining Additional Coverage

"Additional coverage" is defined in the Federal Crop Insurance Act as any insurance coverage providing a level of coverage greater than catastrophic risk protection.[437]

B. Additional Coverage Meets Linkage Requirements

Additional coverage is available as an alternative to CAT through approved insurance providers. Purchase of additional coverage satisfies the linkage requirement for participation in other USDA programs.[438]

C. Additional Coverage—Percent of Yield

As noted above, additional, or "buy-up," coverage is any federal multi-peril coverage greater than catastrophic risk protection.

1. 50 to 85 Percent of Approved Yield

Under an additional coverage policy, a producer may elect to insure 50 to 85 percent of the producer's approved yield.[439]

2. Defining Approved Yields

For most crops, the approved yield used to calculate additional coverage will be determined under the Actual Production History (APH) Coverage Program.[440] The APH is based on an average of historical yields, using four to ten years of the producer's individual records.[441] Producers are required to certify the accuracy of the production reports used to determine historical yields, and verification of the producer's yields may also be required.[442] For crops not covered by the APH program, the approved yield will be determined according to the provisions of the particular crop insurance policy.[443]

3. Assigned Yields If Verifiable Records Not Available

Producers unable to provide the necessary verifiable records of past production will be assigned a yield for the years needed to determine the approved yield.[444] Usually, APH assigned yields will be from 65 to 90 percent of the transitional yield or the determined yield.[445] Transitional yields, sometimes called T-yields, are estimated from ASCS (now FSA) program yields for the county.[446] Determined yields, also called D-yields, are estimated from the National Agricultural Statistics Service (NASS) records or a comparable source.[447]

4. Adjustment to Exclude Disaster-Year Yields

Because a producer's approved yield for a crop is based on his or her recent past yields, yield losses in these years due to natural disasters will lower the approved yield. As a result, the producer's yield for crop insurance purposes is lower than it would have been if the disaster-year yield losses had not occurred. Since the 2001 crop year, it has been possible to adjust approved yield calculations to exclude disaster-year yields.[448]

Under this provision, if in one or more of the crop years used to establish the producer's approved yield for a crop the producer's appraised or recorded yield was less than 60 percent of the transitional yield, the producer may elect to exclude that yield and replace each excluded yield with a yield equal to 60 percent of the applicable T-yield.[449] Although not specifically required by the statute, the regulations state that the low yield must have been due to an insurable cause of loss.[450]

The election must be made by the sales closing date for the insured crop and will remain in effect for subsequent years until cancelled by the producer or the crop year is no longer included in the producer's APH calculation.[451] If a producer makes an election under this provision, the premium rate charged for the coverage will be increased to cover the additional risk.[452]

5. Adjustment for Lack of Actual Yields in Production History

A producer's approved APH yield will be reduced in cases where that yield is more than 115 percent of the average of approved yields from all applicable APH databases for the farming operation.[453] In such cases, the yield will be adjusted by reducing it to an amount consistent with the average of approved yields from other APH databases for the operation with the same crop, type, and practice. The approved APH yield will also be reduced when there are no APH databases from the farming operation for comparison, and the producer's approved yield is more than 115 percent of the county T-yield.[454] In those cases, the yield will be adjusted by reducing it to an amount consistent with the county T-yield.

6. Adjustment for Substantial Increase in Acreage

A producer's approved APH yield will also be reduced when there is a substantial increase in acreage planted to the crop. This adjustment is triggered in two situations: (1) when the current year's insured acreage—including prevented planting acreage—is more than 400 percent of the average number of acres in the APH database; or (2) the acreage in two or more individual years in the APH database is less than ten percent of the current year's insurable acreage in the unit—including prevented planting acreage.[455] In such cases, the producer's yield will be reduced to an amount consistent with the average of approved yields from other APH databases for the operation with the same crop, type, and practice.

7. Adjustment for New Production Method Likely to Reduce Yield

The approved APH yield for a crop will also be reduced if the producer uses a different production method than was used previously, and the new production method is likely to result in a yield lower than the average of the producer's previous actual yields.[456] The yield will be reduced to an amount consistent with the production methods actually used, considering the producer's yields on other units where such production methods were used or, if no such yields exist, the county T-yield for the production methods.[457]

D. Covers Up to 100 Percent of Expected Market Price

Additional coverage insurance pays up to 100 percent of the expected market price for the crop.[458] Crop insurance regulations include a definition of expected market price.[459] It is defined as the price per unit of production anticipated during the period that the insured crop normally is marketed by producers. The price is set by FCIC before the sales closing date for the crop.[460] As a general rule, the expected market price cannot be less than the projected market price of the crop, as established by FCIC.[461]

For Crop Revenue Coverage, additional coverage pays up to 100 percent of the base price or comparable average.[462]

E. Cost of Additional Coverage

Producers purchasing additional coverage generally will be charged both an administrative fee and a premium.[463]

1. Administrative Fee

The fee provisions for additional coverage are similar to those for CAT coverage, though the fee is lower.

a. Timing of Fee Payment

Administrative fees for additional coverage must be paid by the time the premium is due.[464] If the administrative fee is not paid when due, the producer may become ineligible for USDA benefits linked to insurance coverage.[465]

b. $30 Per Crop Per County

The administrative fee is $30 per crop per county for all levels of additional coverage.[466]

c. Fee Waiver for Limited Resource Farmers

Limited resource farmers may request and receive a waiver of administrative fees for all levels of additional coverage.[467] The waiver is not automatic. It must be requested by the producer.[468]

The definition of "limited resource farmer" in the crop insurance programs was changed in 2004.[469] Producers who were insured for the 2005 crop year or earlier and qualified for a waiver of the administrative fee under the prior definition will continue to receive a waiver if they are still eligible under that definition, or if they qualify under the changed definition.[470]

(1) Current Definition—Gross Farm Sales up to $116,800 and Below Average Household Income

Under the current definition, a producer will qualify as a limited resource farmer who: (1) has "direct or indirect" gross farm sales of $116,800 or less in each of the previous two years;[471] and (2) has a total household income at or below the national poverty level for a family of four, or less than 50 percent of county median household income in each of the previous two years.[472]

(2) Prior Definition—Gross Income of $20,000

Under the prior definition, a producer could qualify as a limited resource farmer in one of two ways.[473] First, those who have an annual gross household income of $20,000 or less from all sources of revenue for each of the last two years. Second, those who: (1) farm less than 25 acres total for all crops, (2) get a majority of their gross income from the farm, and (3) have a gross income from farming operations of not more than $20,000.

d. Waiver If Zero Acreage Report Filed

Payment of the administrative fee is not required if the producer files a bona fide zero acreage report for the crop.[474] The zero acreage report must be filed on or before the acreage reporting date for the crop.

2. Premium

The annual premium for additional coverage crop insurance policies is calculated based on the insured acreage, the producer's share at the time coverage begins, the premium rate for the crop, any premium adjustments that may apply, and the level of coverage selected by the producer.[475] For most policies, information about premium rates and available adjustments will be included in the crop actuarial documents.[476]

A subsidy from FCIC reduces the amount of the premium charged for the additional coverage under a federal crop insurance policy.[477] All policies or plans of insurance must disclose the dollar amount of the portion of the premium paid by FCIC.[478]

F. Payments From Other USDA Disaster Programs for the Same Loss

A person who is eligible to receive an indemnity payment under additional coverage crop insurance may also be eligible to receive benefits for the same crop loss under another USDA program.[479]

1. Must Not Be Limited by Policy

If the crop insurance policy limits the ability of the producer to both collect under the policy and receive the other USDA benefits, the producer may not collect both.[480]

2. Cannot Collect More Than Actual Loss Sustained

In no case can the total amount the producer receives exceed the amount of the actual loss sustained.[481] FCIC regulations state that for purposes of determining the actual loss, the fair market value of the crop is "based upon your production records and the highest price election or amount of insurance available for the crop."[482] The regulations also state that USDA will determine and pay the additional amount due under applicable disaster programs after first considering the amount of the insurance indemnity received.[483]

G. Special Provisions Applicable to Additional Coverage

Several special provisions apply to additional coverage crop insurance.

1. After Sales Closing Date Deadline—No Additional Coverage for Substitute Crop

Additional crop insurance coverage cannot be obtained on any crop after the sales closing date.[484] This means substitute crop coverage at an additional level can only be obtained if purchased before the sales closing date for the substitute crop.

2. Hail or Fire Exclusions

Crop loss due to hail or fire can be excluded under an additional coverage policy.[485]

VII. Claiming Federal Crop Insurance Benefits

The producer is responsible for taking certain actions when he or she discovers a crop loss. Whether the producer acts appropriately and promptly may determine whether the insurance provider will make an indemnity payment on the loss.

A. Crop Insurance Contract Defines Obligations

The actions that the producer must take after a loss are written in the insurance contract. For many contracts, they can be found in the section called "Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage." The duties specified in the contract signed by the producer determine exactly what actions are required.

B. Common Producer Obligations

The following guidelines provide a list of the most common requirements for producers who have suffered a loss.[486] Failure to satisfy these requirements will usually result in denial of coverage.[487]

1. Protect the Crop

The producer should protect the crop from further damage by providing sufficient care for the crop.[488]

2. Give Notice to Provider as Soon as Possible—Often Within 72 Hours

The producer should give notice to the insurance provider as soon as possible after the loss is discovered. Many policies require that the producer give notice within 72 hours of the first discovery of crop damage (and no later than 15 days after the end of the insurance period).[489] For prevented planting, the producer must give notice within 72 hours after the final planting date, the end of the late planting period, or the date the producer determines it would not be possible to plant the insured crop within any late planting period, as applicable.[490] Most policies allow the initial notice to be made by phone or in person but require a written confirmation within 15 days.[491]

3. Leave Representative Samples

The producer should leave representative samples of the crop intact for each insured field.[492]

4. Allow Provider to Examine Crop

The crop insurance provider will retain the right to examine the insured crop as often as it reasonably requires.[493] Failure to provide access will result in a determination that no payment is due under the policy for that crop year.[494]

5. Cooperate With Investigation and Settlement

The producer must cooperate with the private insurance provider in the settlement of the claim.[495] This means that, as long as the requests are reasonable, the producer must show the provider the damaged crop, allow the provider to remove samples of the crop, provide records and documents that the provider requests, and allow the provider to make copies of the records.

6. Get Consent Before Some Actions

The producer should get written consent from the insurance provider before taking some actions.[496] These include:

- Destroying any of the insured crop that is not harvested.
- Putting the insured crop to an alternative use.
- Putting the acreage to another use.

- Abandoning any portion of the insured crop.

The insurance provider must also be informed, in writing, after any of these actions are taken.[497]

In most cases, the insurance provider will not give a producer permission to take any of these actions if it is practical to replant the crop.[498] Also, the producer will generally not be permitted to take any of these actions until the provider has made an appraisal of the potential production of the crop.[499]

7. Submit a Written Claim

In addition to complying with all other notice requirements, the producer must submit a written claim for indemnity declaring the amount of crop loss.[500] This claim usually must be filed no later than 60 days after the end of the insurance period.[501] An extension may be possible if the amount of loss cannot be determined within the time limit.[502] The written claim must include all the information required under the contract for settling the claim.[503]

8. Provide Requested Additional Information

Upon the request of the insurance provider, the producer must also cooperate in providing certain additional information.[504]

a. Harvesting and Marketing Records

The producer must provide a complete harvesting and marketing record of each insured crop, by unit.[505] This includes separate records showing the same types of information for production from any acreage that was not insured. Producers who take advantage of the opportunity to plant a second crop after a first insured crop has been damaged or prevented from being planted will have additional reporting requirements.[506]

b. Examination Under Oath

If requested, the producer must usually submit to an examination under oath.[507]

9. Establish Proof

The producer will usually need to prove: (1) the total production or value received for the insured crop; (2) that any crop loss occurred during the insurance period; and (3) that any crop loss was directly caused by one or more of the insured causes.[508]

10. Retain Records

Producers are required to maintain a number of different records as proof of their eligibility for crop insurance coverage and/or payment. FCIC or the insurance provider may extend the period that the records must be kept by notifying the producer of the extension in writing.[509]

a. Harvest and Sale Records for Three Years

For three years after the end of the covered crop year, the producer must retain a complete record of the planting, replanting, inputs, production, harvesting, and disposition of all crops, including acreage not insured.[510]

b. Production Records for Three Years

The records used by the producer to establish the basis for production reports must also be retained for three years after the coverage year and must be provided to the insurance provider upon request.[511]

c. Penalties for Failing to Retain Records

Failure to retain records can result, at the option of the provider, in the cancellation of the policy, production levels being assigned to units by the provider, and/or the denial of an indemnity payment.[512]

C. Common Insurance Provider Obligations

Crop insurance regulations also set out a limited number of obligations that must be met by the private insurance provider.[513] These include the following.

1. Pay Within 30 Days of Claim Resolution

If the producer meets all of the crop insurance policy requirements, the insurance provider must generally pay the producer within 30 days after the provider and producer reach an agreement regarding the settlement.[514]

If the producer and provider cannot reach an agreement, the provider must pay the owed claim within 30 days after the completion of an arbitration, reconsideration of a determination of good farming practices, or other appeal, or within 30 days after a court enters final judgment in the dispute.[515]

Payment must also be made within 30 days of the completion of any investigation by USDA of a current or past claim for indemnity, unless evidence of wrongdoing is found.[516] If evidence of wrongdoing is found, the insurance provider may offset the indemnity due against any overpayment.

2. Give Notice If Unable to Pay in Time

If the insurance provider is unable to pay the loss within the 30-day period, the provider must give the producer notice of its intentions within the 30-day period.[517]

3. Use FCIC Loss Procedures

The private insurance provider must apply the loss adjustment procedures established or approved by FCIC.[518] But the provider may defer adjustment of the crop loss until the amount of the loss can be accurately determined.[519] The provider is not obligated to pay for additional damage resulting from the producer's failure to provide sufficient care for the crop during this deferral period.

D. Offset of Crop Insurance Indemnities for Amounts Owed Provider

Any amounts a producer owes the provider—including unpaid premiums and administrative fees and overpayments from earlier crop years—may be deducted from the producer's indemnity payments and prevented planting payments.[520] Amounts owed to an insurance provider may not be deducted from the producer's replanting payments.[521]

E. Concealment, Misrepresentation, or Fraud

A crop insurance policy may be voided if the producer or anyone assisting the producer intentionally conceals or misrepresents any material fact relating to the policy, including whether the producer is eligible for coverage.[522] If the contract is voided for this reason, the producer may still have to pay a portion of the premium due.[523] The producer will likely also have to repay any indemnities already paid under the voided policy.[524] Voiding of an insurance policy should not affect the producer's coverage under later years' policies, unless the violation also occurs in the later years.[525]

A statutory change enacted in 2000 strengthened the sanctions that may be imposed on any person—including a producer or approved insurance provider—who willfully and intentionally provides false or inaccurate information to FCIC or an approved insurance provider with respect to an insurance policy or plan.[526] The sanctions also apply to any person who willfully and intentionally fails to comply with an FCIC crop insurance requirement.[527] The sanctions include a civil fine for each violation in an amount not to exceed the greater of the amount of the financial gain obtained as a result of the false or inaccurate information or noncompliance, or $10,000.[528] Producers may also be disqualified from other farm program benefits for up to five years.[529] Insurance policies and plans are required to disclose these potential sanctions.[530] In March 2007, FCIC proposed a regulatory change to implement this new statutory mandate, but no final rule had been adopted at the time this book was written.[531]

F. Duplicate Crop Insurance

Generally, no person may have in force more than one federal crop insurance contract on the same crop in the same county for the same crop year, whether insured by FCIC or by a private insurance provider.[532] This means, for example, that a producer may not buy additional coverage from two different insurance providers for the same crop at the same time.

If the provider determines that a producer is intentionally carrying more than one policy on a crop, the producer may be subject to sanctions.[533] If the provider decides that the violation was not intentional, generally the policy with the earliest date of application will be enforced and all other policies will be void.[534]

The restrictions on duplicate coverage only apply to types of insurance covered by the Federal Crop Insurance Act. Producers may still get other types of insurance not covered by that Act.[535]

VIII. Crop Insurance Disputes

The way that a producer's crop insurance dispute is resolved depends on whether the producer got the insurance from an approved private insurance provider or directly from FCIC. In the vast majority of cases, the producer will have purchased the insurance from an approved provider. New regulations issued in August 2004 made significant changes to the processes for resolving disputes between producers and crop insurance providers and, in some cases, between producers and FCIC.[536]

These processes do not apply to determinations of good farming practices, which are governed by a separate review process discussed earlier in this chapter in the section about producer eligibility.[537]

A. FCIC Interpretation of Crop Insurance Regulations and Policies

As required by statute, FCIC has established procedures and timeframes under which it will answer questions regarding the interpretation of federal crop insurance regulations and policies.[538]

Under these provisions, any producer or insurance provider may request a determination from FCIC on the interpretation of statutory and regulatory provisions governing the crop insurance program.[539]

Policy provisions governing disputes between producers and insurance providers require that this process be used to obtain a final determination from FCIC for any dispute that "in any way involves a policy or procedure interpretation, regarding whether a specific policy provision or procedure is applicable to the situation, how it is applicable, or the meaning of any policy provision or procedure." [540] The FCIC determination will be binding in any mediation, arbitration, or legal action between the producer and provider, and failure to obtain a determination will nullify any mediation agreement or arbitration award.[541]

B. Mediation If Producer and Provider Agree

Disputes between a producer and insurance provider may be resolved through mediation, if both parties agree.[542] The parties must agree on the mediator.

C. Non-Binding Arbitration for Disputes With Private Providers

If the parties do not agree to mediation, or the mediation is unsuccessful in resolving the dispute, the dispute must be resolved through arbitration according to the rules of the American Arbitration Association.[543] Arbitration must be requested within one year after the claim is denied or other disputed decision is made.[544] The policy provisions specifically set out that either the producer or provider may seek judicial review of the arbitration decision.[545] If judicial review is not sought, the arbitration decision will be final.

D. Appeal to USDA's National Appeals Division for Disputes With FCIC

Decisions made by FCIC in a producer's individual case, including policy and procedure determinations discussed above, may be disputed in FCIC's informal review process and appealed to USDA's National Appeals Division (NAD).[546] NAD regulations set out a formal appeals process with important deadlines and other requirements.[547] For example, producers must file their appeals with NAD within 30 days after they first receive notice of the adverse decision.[548]

E. Legal Action

If, after arbitration with a provider or appeal of an FCIC decision, the producer is still not satisfied with the outcome of the dispute, the producer may take legal action. [549] If the producer wishes to do so, the case must be filed in court within 12 months of the date of the arbitration decision or end of the administrative review process, as applicable.[550]

IX. Discrimination Is Illegal

USDA employees and officers and private insurance providers offering federal crop insurance policies are prohibited from subjecting any person to discrimination on the basis of race, color, religion, sex, age, handicap, or national origin.[551] Prohibited discrimination may include excluding a person from participation in federal crop insurance programs or denying program benefits.

Chapter 3 Notes

1 For example, for the Common Crop policy, the contract includes the accepted application, the Basic Provisions, the Crop Provisions, the Special Provisions, actuarial documents for the insured agricultural commodity, the Catastrophic Risk Protection Endorsement (if applicable), other applicable endorsements or options added, and applicable regulations. 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Actuarial documents,' 'Contract,' and 'Policy'" (2008). For a Group Risk Plan policy, the contract includes the accepted application, the Group Risk Plan of Insurance Basic Provisions, the Crop Provisions, the Special Provisions, the Actuarial Table, and any amendments, endorsements, or options added. 7 C.F.R. § 407.7 (2008).

2 7 C.F.R. § 457.7 (2008); 7 C.F.R. § 407.7 (2008) (Group Risk Plan).

3 Federal Crop Insurance Act, 7 U.S.C. §§ 1501-1521.

4 7 C.F.R. § 400.651, "Approved insurance provider" (2008).

5 7 U.S.C. § 1508(b)(4)(C)(i), (c)(1)(B); 7 C.F.R. § 457.2(b) (2008).

6 7 U.S.C. § 1508(b)(4), (c)(1)(B).

7 7 U.S.C. § 6933. See also 7 C.F.R. § 2.44 (2008).

8 7 C.F.R. §§ 457.2(b), 457.8(a), 407.2(b), 407.8(a) (2008). The policies issued by the reinsured companies must contain the same terms and conditions as the contract set out in the regulations published by FCIC. 7 C.F.R. §§ 457.2(b), 407.2(b) (2008). The terms of the policies and the rights and responsibilities of the parties to the contract are subject to the federal crop insurance statutes and regulations. 7 C.F.R. § 457.8, Common Crop Insurance Policy (2008); 7 C.F.R. § 407.9, Group Risk Plan Common Policy (2008).

9 Some regulations apply generally to federal crop insurance. See, for example, 7 C.F.R. pt. 400, subpt. G (2008). Some provide the basic insurance contracts that are used for many crops. See, for example, the Catastrophic Risk Protection Endorsement, 7 C.F.R. pt. 402 (2008), and the Common Crop Insurance Policy, 7 C.F.R. §§ 457.1-457.9 (2008). Other regulations apply only to certain crops and add to the more general policy provisions. See, for example, Hybrid Seed Corn Crop Insurance Provisions, 7 C.F.R. § 457.152 (2008), and Peach Crop Insurance Provisions, 7 C.F.R. § 457.153 (2008). Finally, some regulations govern the relationship between the approved

insurance providers and FCIC. See, for example, Agency Sales and Service Contract—Standards for Approval, 7 C.F.R. pt. 400, subpt. M (2008).

10 *Federal Crop Ins. Corp. v. Merrill*, 332 U.S. 380 (1947). In this case, the United States Supreme Court held that an Idaho farmer was bound by the published regulations that governed his wheat insurance contract, despite the fact that he had never read these rules and had been misinformed about his coverage. The Court stated:

> Just as everyone is charged with knowledge of the United States Statutes at Large, Congress has provided that the appearance of rules and regulations in the Federal Register gives legal notice of their contents.… Accordingly, the Wheat Crop Insurance Regulations were binding on all who sought to come within the Federal Crop Insurance Act, regardless of actual knowledge of what is in the Regulations or of the hardship resulting from innocent ignorance.

Merrill, 332 U.S. at 384-85 (internal citation omitted).

11 7 U.S.C. § 1508(e), (k).

12 7 C.F.R. § 457.8, Common Crop Insurance Policy (2008); 7 C.F.R. § 407.9, Group Risk Plan Common Policy (2008); Crop Revenue Coverage (CRC) Insurance Policy (Policy No. 05-CRC-Basic).

13 See Federal Crop Insurance Reform Act of 1994 (1994 Reform Act), Pub. L. No. 103-354, Title I, 108 Stat. 3178 (1994) (codified at 7 U.S.C. §§ 1501-1521 and in scattered sections of 2, 7, and 18 U.S.C.); Federal Agriculture Improvement and Reform Act of 1996 (1996 FAIR Act), Pub. L. No. 104-127, Title I, Subtitle H, §§ 191-196, 110 Stat. 888, 941-50 (1996) (codified at 7 U.S.C. §§ 1421, 1501-1520, 6932-6933, 7331-7333); Agricultural Research, Extension, and Education Reform Act of 1998, Pub. L. No. 105-185, Title 1, Subtitle C, §§ 531-37, 112 Stat. 523 (1998) (codified at 7 U.S.C. §§ 1501-1521); Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 1999, Pub. L. No. 105-277, Division A, § 101(a), Title VII, § 743 and Title VIII, § 803, 112 Stat. 2681 (1998); Agricultural Risk Protection Act of 2000 (2000 ARPA), Pub. L. No. 106-224, Title I, 114 Stat. 358 (June 20, 2000) (codified at 7 U.S.C. §§ 1501-1523, 7331, 7333).

14 See, for example, H.R. Rep. No. 649, 103d Cong., 2nd Sess. (1994), reprinted in 1994 U.S.C.C.A.N. 2516. The 1994 Act repealed the use of an emergency designation for agricultural crop disaster relief. 1994 Reform Act § 119(d)

(codified at 2 U.S.C. §§ 901(b)(2), 902(e)). In addition, the standing disaster relief provisions were repealed. 1994 Reform Act § 119(c) (striking chapter 3 of 7 U.S.C. § 1421 note).

15 See, 1994 Reform Act § 106 (codified at 7 U.S.C. § 1508(b)(7)); 1996 FAIR Act § 193(a)(2) (codified at 7 U.S.C. § 1508(b)(7)(A)); 2000 ARPA (generally).

16 Food, Conservation, and Energy Act of 2008 (2008 Farm Bill), Pub. L. No. 110-234, Title XII, 122 Stat. 923 (May 22, 2008).

17 To obtain a copy of earlier editions of this book for a nominal fee, contact FLAG by telephone at 651-223-5400; by fax at 651-223-5335; by mail at 360 North Robert Street, Suite 500, Saint Paul, MN 55101; or by electronic mail at lawyers@flaginc.org.

18 See the Risk Management Agency's 2007 crop list web page at www.rma.usda.gov/policies/07croplist.html. Insurance can be offered for a crop if sufficient actuarial data is available to FCIC. 7 U.S.C. § 1508(a)(1). There are several directives from Congress that encourage FCIC to expand coverage to new and specialty crops, certain perishable crops, and nursery crops. 7 U.S.C. § 1508(a)(4), (6).

19 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Policy'" (2008).

20 7 C.F.R. pt. 402 (2008).

21 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Crop Provisions'" (2008).

22 See 7 C.F.R. §§ 457.102, Wheat or Barley Winter Coverage Endorsement, 457.134, Peanut Crop Insurance Provisions, 457.145, Potato Crop Insurance—Certified Seed Endorsement, 457.157, Plum Crop Insurance Provisions (2008).

23 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Special Provisions'" (2008).

24 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Actuarial documents'" (2008). These are available on the Risk Management Agency website at www.rma.usda.gov/.

25 These programs were authorized by the Federal Crop Insurance Reform Act of 1994. Pub. L. No. 103-354, Title I, § 106, 108 Stat. 3183 (codified at 7 U.S.C. § 1508(h)(6), (9)).

[26] For the most part, the production history requirements, application and payment deadlines, acreage and production reporting requirements, prevented planting and replanting coverage, and premium subsidies for CRC are similar to those for traditional multi-peril crop insurance. See Crop Revenue Coverage (CRC) Insurance Policy (Policy No. 05-CRC-Basic); 7 C.F.R. § 457.8, Common Crop Insurance Policy (2008).

[27] For general information about crop revenue insurance programs, see Risk Management Agency, "2000 Revenue Crop Insurance Plans: Crop Revenue Coverage, Income Protection, and Revenue Assurance" (December 1999), available at www.rma.usda.gov/pubs/2000/2000rcip.pdf.

[28] For a brief summary of CRC, see Risk Management Agency, "2000 Revenue Crop Insurance Plans: Crop Revenue Coverage, Income Protection, and Revenue Assurance" (December 1999), available at www.rma.usda.gov/pubs/2000/2000rcip.pdf. For the various permutations of CRC, see 62 Fed. Reg. 35,118 (1997) (Notice of availability); 63 Fed. Reg. 16,225 (1998) (Notice of availability); 63 Fed. Reg. 37,829 (1998) (Notice of availability); 64 Fed. Reg. 4609 (1999) (Notice of availability); 64 Fed. Reg. 66,839 (1999) (Notice of availability); 65 Fed. Reg. 41,937 (2000) (Notice of availability).

[29] See Risk Management Agency, "2000 Revenue Crop Insurance Plans: Crop Revenue Coverage, Income Protection, and Revenue Assurance" (December 1999), available at www.rma.usda.gov/pubs/2000/2000rcip.pdf.

[30] See Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Base Price,' 'Final guarantee,' 'Harvest Price'" (Policy No. 05-CRC-Basic).

[31] Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Policy'" (Policy No. 05-CRC-Basic). The actuarial documents set out the coverage levels, information needed to determine amounts of insurance, premium rates, premium adjustment percentages, practices, particular types or varieties of the insurable crop, insurable acreage, and other related information regarding crop insurance in the county. Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Actuarial documents'" (Policy No. 05-CRC-Basic). These are available on the Risk Management Agency website at www.rma.usda.gov/.

[32] FCIC published notices of availability for the Revenue Assurance program on July 7, 2000 (65 Fed. Reg. 41,390); January 11, 2000 (65 Fed. Reg. 1677);

January 6, 1999 (64 Fed. Reg. 829); December 28, 1998 (63 Fed. Reg. 71,426); and June 23, 1997 (62 Fed. Reg. 33,812). For a brief summary of the Revenue Assurance program, see Risk Management Agency, "2000 Revenue Crop Insurance Plans: Crop Revenue Coverage, Income Protection, and Revenue Assurance" (December 1999), available at www.rma.usda.gov/pubs/2000/2000rcip.pdf.

33 More information about Revenue Assurance and links to policy provisions are available on the Risk Management Agency website at www.rma.usda.gov/policies/2004ra.html#2008.

34 Revenue Assurance Insurance Policy, "1. Definitions, 'Per-acre revenue guarantee'" (Policy No. 05-RA (Ed. 08/30/04)).

35 See, for example, Revenue Assurance Corn and Soybean Crop Provisions, "1. Definitions, 'Fall harvest price option.'" (Policy No. 04-RA Corn & Soybeans (Ed. Rev. 07/25/03)).

36 See, for example, Revenue Assurance Corn and Soybean Crop Provisions, "1. Definitions, 'CBOT,' 'Fall harvest price,' 'Projected harvest price.'" (Policy No. 04-RA Corn & Soybeans (Ed. Rev. 07/25/03)). Before the 1999 crop year, RA had used county crop prices to determine the revenue guarantee.

37 Revenue Assurance Insurance Policy, "1. Definitions, 'Policy'" (Policy No. 05-RA (Ed. 08/30/04)).

38 For a brief summary of IP, see Risk Management Agency, "2000 Revenue Crop Insurance Plans: Crop Revenue Coverage, Income Protection, and Revenue Assurance" (December 1999), available at www.rma.usda.gov/pubs/2000/2000rcip.pdf.

39 A list of 2008 pilot crop insurance policies and links to policy provisions are available on the Risk Management Agency website at www.rma.usda.gov/pilots/2008pilot.html.

40 See, for example, Income Protection—Corn Crop Provisions, "1. Definitions, 'Amount of protection,' 'Production amount (per acre)'" (Policy No. 02-341).

41 See, for example, Income Protection—Corn Crop Provisions, "1. Definitions, 'Harvest price,' 'Projected price'" (Policy No. 02-341).

42 See Reference Number 1 for the list of 2008 pilot programs on the RMA website at www.rma.usda.gov/pilots/2008pilot.html#1.

[43] See "USDA Announces New Insurance Plan to Protect Farm Income," USDA Release No. 0385.98 (Sept. 23, 1998).

[44] "2007 Adjusted Gross Revenue (AGR)," Risk Management Agency Fact Sheet (Nov. 2006), available at www.rma.usda.gov/pubs/2003/PAN-1667-06rev2.pdf.

[45] Adjusted Gross Revenue Pilot Insurance Policy, "1. Definitions, 'AGR expense history,' 'AGR income history,'" "7. Insured Revenue and Available Coverages (d)" (Policy No. 2007-AGR). The initial guarantee amount may be adjusted to reflect reduced expenses and other changes in the producer's operation from one year to the next.

[46] "2007 Adjusted Gross Revenue (AGR)," Risk Management Agency Fact Sheet (Nov. 2006), available at www.rma.usda.gov/pubs/2003/PAN-1667-06rev2.pdf. The payment rate will be either 75 cents or 90 cents per dollar of lost revenue.

[47] "2007 Adjusted Gross Revenue (AGR)," Risk Management Agency Fact Sheet (Nov. 2006), available at www.rma.usda.gov/pubs/2003/PAN-1667-06rev2.pdf. The payment rate will be either 75 cents or 90 cents per dollar of lost revenue.

[48] Adjusted Gross Revenue Pilot Insurance Policy, "4. Qualifying Person Criteria (f)(3)" (Policy No. 2007-AGR).

[49] Adjusted Gross Revenue Pilot Insurance Policy, "4. Qualifying Person Criteria (f)(2)" (Policy No. 2007-AGR). The producer may also not receive more than 50 percent of expected income from agricultural commodities purchased for resale. Adjusted Gross Revenue Pilot Insurance Policy, "4. Qualifying Person Criteria (f)(1)" (Policy No. 2007-AGR).

[50] Adjusted Gross Revenue Pilot Insurance Policy, "6. Annual Premium and Administrative Fee" (Policy No. 2007-AGR). The administrative fee may be waived if the producer qualifies as a limited resource farmer. The test for qualifying as a limited resource farmer is discussed in detail later in this chapter.

[51] "2007 Adjusted Gross Revenue (AGR)," Risk Management Agency Fact Sheet (Nov. 2006), available at www.rma.usda.gov/pubs/2003/PAN-1667-06rev2.pdf.

52 Adjusted Gross Revenue Pilot Insurance Policy, "1. Definitions, 'Policy'" (Policy No. 2007-AGR).

53 "2007 Adjusted Gross Revenue (AGR)," Risk Management Agency Fact Sheet (Nov. 2006), available at www.rma.usda.gov/pubs/2003/PAN-1667-06rev2.pdf.

54 Adjusted Gross Revenue-Lite Insurance Policy, "1. Definitions, 'AGR expense history,' 'AGR income history,'" "7. Insured Revenue and Available Coverages (d)" (Policy No. 07-AGR-Lite).

55 Compare Adjusted Gross Revenue-Lite Insurance Policy, "4. Qualifying Person Criteria (f)" (Policy No. 07-AGR-Lite) to Adjusted Gross Revenue Pilot Insurance Policy, "4. Qualifying Person Criteria (f)" (Policy No. 2007-AGR).

56 Compare Adjusted Gross Revenue-Lite Insurance Policy, "4. Qualifying Person Criteria (f)" (Policy No. 07-AGR-Lite) to Adjusted Gross Revenue Pilot Insurance Policy, "4. Qualifying Person Criteria (f)" (Policy No. 2007-AGR).

57 "Adjusted Gross Revenue-Lite (AGR-Lite)," Risk Management Agency Fact Sheet (Oct. 2007), available at www.rma.usda.gov/pubs/rme/agr-lite.pdf.

58 Adjusted Gross Revenue-Lite Insurance Policy, "6. Annual Premium and Administrative Fee" (Policy No. 07-AGR-Lite). The administrative fee may be waived if the producer qualifies as a limited resource farmer. The test for qualifying as a limited resource farmer is discussed in detail later in this chapter.

59 Adjusted Gross Revenue-Lite Insurance Policy, "1. Definitions, 'Policy'" (Policy No. 07-AGR-Lite).

60 "Adjusted Gross Revenue-Lite (AGR-Lite)," Risk Management Agency Fact Sheet (Oct. 2007), available at www.rma.usda.gov/pubs/rme/agr-lite.pdf.

61 See H.R. Rep. No. 649, 103d Cong., 2nd Sess. (1994); S. Rep. No. 301, 103d Cong., 2nd Sess. (1994). See also 59 Fed. Reg. 16,167, 16,169-70 (1994).

62 See 61 Fed. Reg. 52,717, 52,718 (1996) (prefatory comments to proposed rule).

63 61 Fed. Reg. 52,717, 52,718 (1996) (prefatory comments to proposed rule).

64 7 C.F.R. pt. 407 (2008). For a brief summary of GRP, see the Risk Management Agency's Group Risk Plan (GRP) web page at www.rma.usda.gov/pubs/rme/fsh_4.html.

[65] 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "1. Definitions, 'Expected county yield'" (2008). GRP offers catastrophic (CAT) coverage as well as additional coverage. 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "4. Policy Protection (a)" (2008).

[66] 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "1. Definitions, 'Trigger yield'" (2008).

[67] 7 C.F.R. § 407.7 (2008).

[68] 7 C.F.R. § 407.8(c) (2008).

[69] 7 C.F.R. § 407.8(c) (2008).

[70] 64 Fed. Reg. 30,214 (1999) (codified at 7 C.F.R. pt. 407).

[71] 7 C.F.R. §§ 407.10 to 407.17 (2008). See also the 2008 crop policy list on the RMA website at www.rma.usda.gov/policies/2008policy.html.

[72] More information about GRIP and links to policy provisions are available on the Risk Management Agency website at www.rma.usda.gov/policies/GRIP.html. The linked items include actuarial documents, a premium calculator, and a web page addressing "GRIP Frequently Asked Questions."

[73] Group Risk Income Protection Coverage Insurance Policy, Basic Provisions, "1. Definitions, 'County revenue,' 'Expected county revenue'") (Policy No. 05-GRIP-BASIC).

[74] Group Risk Income Protection Coverage Insurance Policy, Basic Provisions, "1. Definitions, 'Trigger revenue'" (Policy No. 05-GRIP-BASIC).

[75] Group Risk Income Protection Coverage Insurance Policy, Basic Provisions (cover sheet) (Policy No. 05-GRIP-BASIC).

[76] See the Risk Management Agency's GRIP web page at www.rma.usda.gov/policies/GRIP.html.

[77] See Risk Management Agency Fact Sheets: "Livestock Risk Protection – Fed Cattle" (July 2007), available at www.rma.usda.gov/pubs/2007/lrp-fedcattle.pdf; "Livestock Risk Protection – Feeder Cattle" (July 2007), available at www.rma.usda.gov/pubs/2007/lrp-feedercattle.pdf; "Livestock Risk Protection – Swine" (July 2007), available at www.rma.usda.gov/pubs/2007/lrp-swine.pdf; and "Livestock Risk Protection – Lamb" (July 2007), available at www.rma.usda.gov/pubs/2007/lrp-lamb.pdf.

78 See Risk Management Agency Fact Sheets: "Livestock Risk Protection – Fed Cattle" (July 2007), available at www.rma.usda.gov/pubs/2007/lrp-fedcattle.pdf; "Livestock Risk Protection – Feeder Cattle" (July 2007), available at www.rma.usda.gov/pubs/2007/lrp-feedercattle.pdf; "Livestock Risk Protection – Swine" (July 2007), available at www.rma.usda.gov/pubs/2007/lrp-swine.pdf; and "Livestock Risk Protection – Lamb" (July 2007), available at www.rma.usda.gov/pubs/2007/lrp-lamb.pdf.

79 See Risk Management Agency's Frequently Asked Questions web pages: "Livestock Gross Margin – Cattle" (April 17, 2008) at www.rma.usda.gov/help/faq/lgmcattle.html; "Livestock Gross Margin – Dairy" (June 2, 2008) at www.rma.usda.gov/help/faq/lgmdairy.html; "Livestock Gross Margin – Swine" (April 17, 2008) at www.rma.usda.gov/help/faq/lgmswine.html.

80 See Risk Management Agency Fact Sheets: "Livestock Risk Protection – Fed Cattle" (July 2007), available at www.rma.usda.gov/pubs/2007/lrp-fedcattle.pdf; "Livestock Risk Protection – Feeder Cattle" (July 2007), available at www.rma.usda.gov/pubs/2007/lrp-feedercattle.pdf; "Livestock Risk Protection – Swine" (July 2007), available at www.rma.usda.gov/pubs/2007/lrp-swine.pdf; and "Livestock Risk Protection – Lamb" (July 2007), available at www.rma.usda.gov/pubs/2007/lrp-lamb.pdf.

81 See Risk Management Agency Fact Sheet, "Pasture, Rangeland, Forage Pilot Insurance Programs" (Oct. 2007).

82 See Group Risk Plan, Pasture, Rangeland, Forage Rainfall Index Crop Provisions (cover sheet) (Policy No. 07-RI-PRF); Group Risk Plan, Pasture, Rangeland, Forage Vegetation Index Crop Provisions (cover sheet) (Policy No. 07-VI-PRF).

83 See Risk Management Agency Fact Sheet, "Pasture, Rangeland, Forage Pilot Insurance Programs" (Oct. 2007).

84 Cabbage Pilot Crop Provisions (Policy No. 00-072); Cherry Pilot Crop Provisions (Policy No. 2001-057); Pilot Forage Seed Crop Provisions (Policy No. 07-0107); and Sweet Potato Pilot Crop Provisions (Policy No. 08-0085).

85 2008 Farm Bill Title XII, Subtitle A.

86 2008 Farm Bill § 12025 (to be codified at 7 U.S.C. § 1523(f)-(h)).

87 2008 Farm Bill § 12023 (to be codified at 7 U.S.C. § 1522(c)(10)-(12)).

88 7 U.S.C. § 1508(b)(7); 7 C.F.R. §§ 400.651, "Linkage requirement," 400.655 (2008).

89 7 U.S.C. § 1508(b)(7); 7 C.F.R. §§ 400.655(c), 1405.6 (2008).

90 7 U.S.C. § 2008f; 7 C.F.R. §§ 400.655(b), 762.123(a)(2), 764.108(d) (2008).

91 7 U.S.C. § 1508(b)(7)(A); 7 C.F.R. § 400.653(a) (2008). See also 61 Fed. Reg. 42,970, 42,971 (1996) (prefatory comments).

92 7 U.S.C. § 1508(b)(7)(A); 7 C.F.R. § 400.655 (2008).

93 7 U.S.C. § 1508(b)(7)(B); 7 C.F.R. § 400.651, "Crop of economic significance" (2008).

94 7 C.F.R. § 400.653(b) (2008).

95 7 C.F.R. § 400.653(b) (2008).

96 Although the regulations do not say so specifically, it should probably be assumed that they would also not be binding on FSA with regard to the linkage requirement.

97 7 C.F.R. § 400.653(d) (2008).

98 7 C.F.R. § 400.653(c) (2008).

99 7 C.F.R. § 400.651, "Crop of economic significance" (2008). When this definition was proposed, comments were submitted arguing that the application of the test to each county was inconsistent with the statutory definition. FCIC responded that since the crop insurance program has always been county based, any change from a county-based system would be extremely difficult. 61 Fed. Reg. 42,970, 42,971 (1996) (prefatory comments). See also 61 Fed. Reg. 42,979, 42,781 (1996) (prefatory comments to Catastrophic Risk Protection Endorsement).

100 7 C.F.R. § 400.651, "Crop of economic significance" (2008).

101 7 C.F.R. § 400.653(a) (2008).

102 7 C.F.R. § 400.653(a) (2008).

103 7 C.F.R. § 400.653(a) (2008).

104 7 C.F.R. § 400.651, "Crop of economic significance" (2008).

105 7 C.F.R. § 400.651, "Crop of economic significance" (2008). The regulations provide for this exception. It is not contained in the statute.

106 7 U.S.C. § 1508(b)(7)(A)(ii).

107 See FSA Notice FC-39, "Federal Agriculture Improvement and Reform Act (1996 Farm Bill) Provisions Affecting Requirement for CAT Coverage," Exhibit 1 (FSA 570), "Waiver of Eligibility for Emergency Assistance" (Apr. 11, 1996) (expired Oct. 1, 1996).

108 See FSA Notice FC-39, "Federal Agriculture Improvement and Reform Act (1996 Farm Bill) Provisions Affecting Requirement for CAT Coverage," Exhibit 1 (FSA 570), "Waiver of Eligibility for Emergency Assistance" (Apr. 11, 1996) (expired Oct. 1, 1996).

109 1994 Reform Act § 106 (codified at 7 U.S.C. § 1508(b)(7)).

110 Pub. L. No. 107-171, Title I, 116 Stat. 143 (May 13, 2002) (codified at Chapter 106 and other scattered sections of 7 U.S.C.). See 68 Fed. Reg. 32,336 (2003) (prefatory comments to final rule amending 7 C.F.R. § 1405.6(a)) ("The 2002 Act did not include the requirement that producers obtain crop insurance in order to receive payments under the new programs…"); FSA Notice LP-1868, "Crop Insurance Not Required for Marketing Assistance Loan or LDP's," 1.A (Sept. 26. 2002) (expired June 1, 2003) ("The Farm Security and Rural Investment Act of 2002 does not require producers to carry at least the catastrophic level of insurance or to sign a waiver…to be eligible to receive marketing assistance loan gains or LDP benefits.").

111 See 2008 Farm Bill, Title I.

112 For example, 1999 Appropriations Act provided a significant amount of financial assistance for producers affected by natural disaster and low commodity prices in 1998. Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, Pub. L. No. 105-277, Division A, §101(a), Title XI, 112 Stat. 2681 (Oct. 21, 1998). Among other assistance, this law provided funding for the Crop Loss Disaster Assistance Program, which was designed to provide payments to producers who suffered losses due to disasters in the 1998 crop year, or in at least three of the crop years from 1994 through 1998.

113 See 7 C.F.R. § 1480.7(a) (2006) (2001 and 2002 Crop Disaster Program); 7 C.F.R. § 1479.106(a) (2006) (2003-2005 Crop Disaster Program).

114 See 7 C.F.R. § 1480.7(c) (2006) (2001 and 2002 Crop Disaster Program); 7 C.F.R. § 1479.106(c) (2006).

[115] See 70 Fed. Reg. 15,725 (2005) (prefatory comments to final rule for 2003-2005 Crop Disaster Program). Note that 2005 crops were only covered for losses that occurred during the 2004 hurricane season.

[116] See FSA Notice DAP-241, "2005 Section 32 Hurricane Provisions for the Hurricane Indemnity Program (HIP) and Tree Indemnity Program (TIP)" (April 14, 2006).

[117] 7 C.F.R. § 760.202 (2008).

[118] Emergency Agricultural Disaster Assistance Act of 2006, Pub. L. No. 109-234, Title III, 120 Stat. 474 (June 15, 2006).

[119] 7 C.F.R. § 1416.7(a) (2008).

[120] 7 C.F.R. § 1416.7(b) (2008).

[121] 7 C.F.R. § 1416.7(c) (2008).

[122] U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Pub. L. No. 110-28, Title IX, 121 Stat. 211 (May 25, 2007).

[123] 7 C.F.R. § 760.806 (2008).

[124] 2008 Farm Bill § 12033(a) (to be codified at 7 U.S.C. § 1531(d), (g)).

[125] 2008 Farm Bill § 12033(a) (to be codified at 7 U.S.C. § 1531(d)(5)(B), (g)(3)).

[126] 2008 Farm Bill § 12033(a) (to be codified at 7 U.S.C. § 1531(d)(5)(C), (g)(4)).

[127] 2008 Farm Bill § 12033(a) (to be codified at 7 U.S.C. § 1531(d)(5)(C), (g)(4)); FSA Notice DAP-283, "Announcing Supplemental Agricultural Disaster Assistance Programs," 3.A (May 29, 2008).

[128] 2008 Farm Bill § 12033(a) (to be codified at 7 U.S.C. § 1531(d)(5)(D)(i), (g)(5)(A)).

[129] 2008 Farm Bill § 12033(a) (to be codified at 7 U.S.C. § 1531(d)(5)(D)(ii), (g)(5)(B)).

[130] 7 U.S.C. § 1508(a)(1).

[131] See, for example, 7 C.F.R. §§ 457.101, Small Grains Crop Provisions, "8. Causes of Loss," 457.141, Rice Crop Provisions, "9. Causes of Loss" (2008).

[132] In some cases, the crop loss may be caused by multiple factors—some covered by insurance, others not covered. In these cases, arguably, the causes of the loss should be assessed to determine what percentage of loss might be

insurable. One court considered this approach in a case addressing crop loss eligibility for disaster assistance. *Tassin v. United States*, 840 F. Supp. 52 (W.D. La. 1993).

133 7 U.S.C. § 1508(a)(3)(A).

134 See 7 C.F.R. § 457.8, Common Crop Insurance Policy, "12. Causes of Loss (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "13. Causes of Loss (a)" (Policy No. 05-CRC-Basic).

135 7 U.S.C. § 1508(a)(3)(B).

136 7 C.F.R. § 457.8, Common Crop Insurance Policy, "12. Causes of Loss (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "13. Causes of Loss (b)" (Policy No. 05-CRC-Basic) (replacing "production guarantee or amount of insurance" with "Final Guarantee").

137 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "3. Insured and Insurable Acreage (c)(2)" (2008).

138 7 U.S.C. § 1508(a)(3)(C).

139 68 Fed. Reg. 37,697 (2003) (codified at 7 C.F.R. pts. 400, 407, 457).

140 68 Fed. Reg. 37,697, 37,703 (2003) (prefatory comments to final rule). The discussion of the definition of "good farming practices" covers more than two pages in the prefatory comments.

141 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Good farming practices'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Good farming practices'" (Policy No. 05-CRC-Basic). The same definition—absent the language "…and produce at least the yield used to determine the production guarantee or amount of insurance, including any adjustments for late planted acreage…"—is used for Group Risk Plan policies. 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "1. Definitions, 'Good farming practices'" (2008).

142 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Generally recognized'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Generally recognized'" (Policy No. 05-CRC-Basic) (replacing "production guarantee or amount of insurance" with "Final Guarantee"). The same definition—absent the language "…and produce at least the yield used to determine the production guarantee or amount of insurance …"—is used

for Group Risk Plan policies. 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "1. Definitions, 'Generally recognized'" (2008).

143 68 Fed. Reg. 37,697, 37,704 (2003) (prefatory comments to final rule).

144 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Generally recognized'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Generally recognized'" (Policy No. 05-CRC-Basic); 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "1. Definitions, 'Generally recognized'" (2008).

145 7 U.S.C. § 1508(a)(3)(B)(i); 7 C.F.R. § 400.98 (2008).

146 7 U.S.C. § 1508(a)(3)(B)(ii)(II).

147 7 C.F.R. § 400.98(c) (2008).

148 7 C.F.R. § 400.98(d)(1) (2008). Requests are submitted to: USDA/RMA/Deputy Administrator for Insurance Services/Stop 0805, 1400 Independence Avenue SW., Washington, DC 20250-0801.

149 7 C.F.R. § 400.98(d)(1) (2008). If mailed, the request must be correctly addressed and bear adequate postage.

150 7 C.F.R. § 400.98(d)(2) (2008).

151 7 C.F.R. § 400.98(d)(3) (2008).

152 7 C.F.R. § 400.98(e) (2008).

153 7 U.S.C. § 1508(a)(3)(B)(iii)(I). The agency's determination may not be reversed or modified by a court unless the determination is found to be arbitrary or capricious.

154 7 C.F.R. § 457.8, Common Crop Insurance Policy, "37. Organic Farming Practices" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "37. Organic Farming Practices" (Policy No. 05-CRC-Basic).

155 7 C.F.R. § 457.8, Common Crop Insurance Policy, "37. Organic Farming Practices (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "37. Organic Farming Practices (a)" (Policy No. 05-CRC-Basic).

156 7 C.F.R. § 457.8, Common Crop Insurance Policy, "37. Organic Farming Practices (b), (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "37. Organic Farming Practices (b), (c)" (Policy No. 05-CRC-Basic).

[157] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "37. Organic Farming Practices (f)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "37. Organic Farming Practices (f)" (Policy No. 05-CRC-Basic).

[158] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "12. Causes of Loss (d)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "13. Causes of Loss (d)" (Policy No. 05-CRC-Basic). FCIC is required to offer coverage for cotton and rice losses resulting from the failure of irrigation water supplies due to drought and saltwater intrusion. 7 U.S.C. § 1508(a)(8).

[159] See, for example, 7 C.F.R. §§ 457.109, Sugar Beet Crop Provisions, "8. Insurable Acreage (a)(3)," 457.142, Northern Potato Crop Provisions, "7. Insurable Acreage (a)" (2008).

[160] 7 C.F.R. § 457.8(a) (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Share'" (Policy No. 05-CRC-Basic); 7 C.F.R. § 407.8(a) (2008).

[161] See, for example, 7 C.F.R. § 457.8, Common Crop Insurance Policy, "9. Insurable Acreage (a)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "10. Insurable Acreage (a)(1)" (Policy No. 05-CRC-Basic).

[162] 2008 Farm Bill § 12020 (to be codified at 7 U.S.C. § 1508(o)).

[163] 7 U.S.C. § 1508(f)(2); 7 C.F.R. §§ 400.654(a), 407.8(a), 457.8(a) (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Sales closing date'" (Policy No. 05-CRC-Basic).

[164] 7 U.S.C. § 1508(a)(5).

[165] 7 C.F.R. § 407.8(b) (2008).

[166] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, "Final planting date'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, "Final planting date'" (Policy No. 05-CRC-Basic).

[167] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting" (Policy No. 05-CRC-Basic).

[168] 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "3. Insured and Insurable Acreage (b)," "7. Report of Acreage and Share (b)" (2008).

[169] 7 U.S.C. § 1508(b)(5), (c)(10), (d).

[170] See 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Production report,'" "3. Insurance Guarantees, Coverage Levels, and Prices

for Determining Indemnities (e)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Production report,'" "4. Coverage Level, and Approved Yield for Determining Final Guarantee and Indemnity (d)" (Policy No. 05-CRC-Basic). Group risk policies do not require production records.

171 7 U.S.C. § 1508(f)(3)(A); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities (e)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "4. Coverage Level, and Approved Yield for Determining Final Guarantee and Indemnity (d)(1)" (Policy No. 05-CRC-Basic).

172 7 U.S.C. § 1508(f)(3)(B); 7 C.F.R. § 400.654(d) (2008); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "6. Report of Acreage" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Acreage report,'" "7. Report of Acreage" (Policy No. 05-CRC-Basic); 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "1. Definitions, 'Acreage report,'" "7. Report of Acreage and Share (a)" (2008).

173 7 C.F.R. § 457.8, Common Crop Insurance Policy, "6. Report of Acreage (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "7. Report of Acreage (c)" (Policy No. 05-CRC-Basic).

174 7 C.F.R. § 457.8, Common Crop Insurance Policy, "6. Report of Acreage (g)(1)(i)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "7. Report of Acreage (g)(1)(i)" (Policy No. 05-CRC-Basic).

175 7 C.F.R. § 457.8, Common Crop Insurance Policy, "6. Report of Acreage (g)(1)(ii)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "7. Report of Acreage (g)(1)(ii)" (Policy No. 05-CRC-Basic).

176 7 C.F.R. § 457.8, Common Crop Insurance Policy, "6. Report of Acreage (g)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "7. Report of Acreage (g)(2)" (Policy No. 05-CRC-Basic). The policies provide this example: If the actual coverage is determined to be $100.00, but the reported coverage was $120.00, any benefit under the policy will be reduced by ten percent: 120/100 = 1.20 and 1.20 – 1.10 (the tolerance level) = 0.10, or ten percent.

177 7 C.F.R. § 457.8, Common Crop Insurance Policy, "6. Report of Acreage (h)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "7. Report of Acreage (h)" (Policy No. 05-CRC-Basic).

[178] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "2. Life of Policy, Cancellation, and Termination (j)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "3. Life of Policy, Cancellation, and Termination (j)" (Policy No. 05-CRC-Basic).

[179] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "2. Life of Policy, Cancellation, and Termination (f)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "3. Life of Policy, Cancellation, and Termination (f)" (Policy No. 05-CRC-Basic).

[180] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "2. Life of Policy, Cancellation, and Termination (f)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "3. Life of Policy, Cancellation, and Termination (f)(1)" (Policy No. 05-CRC-Basic).

[181] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "2. Life of Policy, Cancellation, and Termination (f)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "3. Life of Policy, Cancellation, and Termination (f)" (Policy No. 05-CRC-Basic).

[182] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "4. Coverage Level, and Approved Yield For Determining Final Guarantee and Indemnity (b)" (Policy No. 05-CRC-Basic). Coverage level, price election, and other producer options may be changed for a later crop year by giving written notice to the provider no later than the sales closing date for that year.

[183] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities (b)(1)" (2008).

[184] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities (b)(1)" (2008).

[185] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities (b)(1)" (2008).

[186] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities (b)(2)" (2008).

[187] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities (b)(2)" (2008).

[188] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure" (Policy No. 05-CRC-Basic). Revenue coverage for potatoes is specifically limited to whole farm policies or plans of insurance. 7 U.S.C. § 1508(a)(3)(C).

[189] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Basic unit'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Unit,'" "2. Unit Structure (a)" (Policy No. 05-CRC-Basic). For this purpose, the relevant acreage is the acreage of the insured crop on the date coverage begins for the crop year.

[190] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (b)" (Policy No. 05-CRC-Basic).

[191] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (b)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (b)(1)(ii)" (Policy No. 05-CRC-Basic).

[192] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (b)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (b)(1)(iii)" (Policy No. 05-CRC-Basic).

[193] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (b)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (d)" (Policy No. 05-CRC-Basic).

[194] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (b)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (b)(1)(i)" (Policy No. 05-CRC-Basic).

[195] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (b)(4)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (b)(1)(iv)" (Policy No. 05-CRC-Basic).

[196] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (b)(2)" (Policy No. 05-CRC-Basic).

[197] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (c)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (b)(2)(i)" (Policy No. 05-CRC-Basic). A section, for this purpose, is defined as a unit of measure under a rectangular survey system describing a tract of

land usually one mile square and usually containing about 640 acres. 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Section'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Section (for the purposes of unit structure)'" (Policy No. 05-CRC-Basic).

198 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (c)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (b)(2)(i)" (Policy No. 05-CRC-Basic). Where sections are not used, land legally identified by other methods, such as Spanish grants, may be used.

199 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (c)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (b)(2)(ii)" (Policy No. 05-CRC-Basic).

200 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (c)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (b)(2)(ii)" (Policy No. 05-CRC-Basic). The corners of a field in which a center-pivot irrigation system is used may be considered as irrigated acreage if the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit.

201 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (c)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (b)(2)(iii)" (Policy No. 05-CRC-Basic).

202 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (d)" (2008).

203 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (e)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (b)(3)" (Policy No. 05-CRC-Basic).

204 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (e)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (b)(3)" (Policy No. 05-CRC-Basic).

205 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (c), (d)" (Policy No. 05-CRC-Basic).

206 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Enterprise unit'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Unit,'" "2. Unit Structure (c)" (Policy No. 05-CRC-Basic).

[207] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (a)(2)(vii)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (c)" (Policy No. 05-CRC-Basic).

[208] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Whole farm unit'" (2008).

[209] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Whole farm unit'" (2008).

[210] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (a)(3)(ii)" (2008).

[211] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (a)" (2008).

[212] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (a)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (d)" (Policy No. 05-CRC-Basic).

[213] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division (a)(1)" (2008).

[214] See 7 C.F.R. § 457.8, Common Crop Insurance Policy, "34. Unit Division" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure" (Policy No. 05-CRC-Basic).

[215] 7 C.F.R. § 400.654(a) (2008).

[216] 7 C.F.R. § 400.654(c) (2008).

[217] 7 C.F.R. § 400.654(c)(1) (2008).

[218] 7 C.F.R. § 400.654(c)(2) (2008).

[219] 7 C.F.R. § 400.654(c)(3) (2008). A producer may not substitute a crop that he or she planted in the preceding crop year unless that crop was listed on a timely filed application for the current crop year.

[220] 7 C.F.R. § 400.654(c)(4) (2008).

[221] 7 C.F.R. § 400.654(c)(4) (2008).

[222] 7 C.F.R. § 400.654(c)(5) (2008).

[223] 7 U.S.C. § 1508a.

224 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'First insured crop'" (2008); 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "1. Definitions, 'First insured crop'" (2008).

225 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Second crop'" (2008); 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "1. Definitions, 'Second crop'" (2008). A cover crop covered by FSA's Noninsured Crop Disaster Assistance Program (NAP) or other USDA benefits associated with forage crops will be considered planted for the purpose of haying, grazing, or otherwise harvesting.

226 See 7 C.F.R. § 457.8, Common Crop Insurance Policy, "9. Insurable Acreage (a)(8)" (2008).

227 7 U.S.C. § 1508a(b)(1)(A); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining an Indemnity and Payment Reductions (e)(1)" (2008); 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "21. Indemnity and Premium Limitations (a)(1)" (2008).

228 7 U.S.C. § 1508a(b)(1)(B); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining an Indemnity and Payment Reductions (e)(2)(i)" (2008); 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "21. Indemnity and Premium Limitations (a)(2)(i)" (2008).

229 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining an Indemnity and Payment Reductions (e)(2)(iii)(A)" (2008); 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "21. Indemnity and Premium Limitations (a)(2)(iii)(A)" (2008).

230 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining an Indemnity and Payment Reductions (e)(2)(ii), (iii)(B)" (2008); 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "21. Indemnity and Premium Limitations (a)(2)(ii), (iii)(B)" (2008).

231 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining an Indemnity and Payment Reductions (f)(1)" (2008).

232 7 U.S.C. § 1508a(c)(4). See 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Prevented planting'" (2008).

233 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining an Indemnity and Payment Reductions (f)(2)(i)" (2008).

[234] See 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Prevented planting'" (2008).

[235] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining an Indemnity and Payment Reductions (f)(2)(i)" (2008).

[236] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining an Indemnity and Payment Reductions (f)(2)(ii)" (2008).

[237] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities (h)" (2008). If part of the unit is planted and part is prevented from being planted, the yield will be determined by (1) multiplying the number of insured prevented planting acres by 60 percent of the producer's approved yield for the first insured crop; (2) and adding that amount to the appraised or harvested production for all of the insured planted acreage; and (3) dividing that amount by the total number of acres in the unit.

[238] 7 U.S.C. § 1508a(d); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining an Indemnity and Payment Reductions (h)" (2008); 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "21. Indemnity and Premium Limitations (c)" (2008).

[239] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining an Indemnity and Payment Reductions (h)(1)-(5)" (2008); 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "21. Indemnity and Premium Limitations (c)" (2008). The double cropping history may be shown for the producer or the acreage where the first insured crop was grown.

[240] 7 U.S.C. § 1508a(e); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "9. Insurable Acreage (a)(9)" (2008).

[241] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "9. Insurable Acreage (a)(9)" (2008).

[242] See 7 U.S.C. § 1508(h)(6); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting" (Policy No. 05-CRC-Basic).

[243] This discussion of prevented planting emphasizes the provisions that apply for Common Crop multi-peril coverage and Crop Revenue Coverage. See 7 C.F.R. § 457.8, Common Crop Insurance Policy (2008); Crop Revenue Coverage (CRC) Insurance Policy, (Policy No. 05-CRC-Basic).

244 7 C.F.R. § 407.9, Group Risk Plan Common Policy (2008).

245 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (c)" (Policy No. 05-CRC-Basic).

246 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (c)" (2008).

247 7 C.F.R. §§ 457.101, Small Grains Crop Provisions, "13. Prevented Planting (b)," 457.135, Onion Crop Provisions, "14. Prevented Planting," 457.142, Northern Potato Crop Provisions, "12. Prevented Planting" (2008).

248 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (b)" (Policy No. 05-CRC-Basic). See, for example, 7 C.F.R. §§ 457.101, Small Grains Crop Provisions, "13. Prevented Planting (b)," 457.108, Sunflower Seed Crop Provisions, "12. Prevented Planting," 457.142, Northern Potato Crop Provisions, "12. Prevented Planting" (2008).

249 7 C.F.R. § 457.101, Small Grains Crop Provisions, "13. Prevented Planting (b)" (2008).

250 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (b)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (b)(3)" (Policy No. 05-CRC-Basic).

251 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (b)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (b)(1)" (Policy No. 05-CRC-Basic).

252 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (b)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (b)(2)" (Policy No. 05-CRC-Basic).

253 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (b)(4)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (b)(4)" (Policy No. 05-CRC-Basic).

254 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (a)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (a)(1)" (Policy No. 05-CRC-Basic).

[255] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (a)(1)(i)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (a)(1)(i)" (Policy No. 05-CRC-Basic).

[256] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (a)(1)(ii)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (a)(1)(ii)" (Policy No. 05-CRC-Basic).

[257] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (a)(1)(ii)" (2008).

[258] See 7 C.F.R. § 400.656(b) (2002).

[259] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (a)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (a)(2)" (Policy No. 05-CRC-Basic).

[260] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Prevented planting'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Prevented planting'" (Policy No. 05-CRC-Basic).

[261] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Prevented planting'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Prevented planting'" (Policy No. 05-CRC-Basic).

[262] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Final planting date'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Final planting date'" (Policy No. 05-CRC-Basic).

[263] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (a)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (a)(3)" (Policy No. 05-CRC-Basic).

[264] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Late planting period'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Late planting period'" (Policy No. 05-CRC-Basic).

[265] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (a)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (a)(3)" (Policy No. 05-CRC-Basic).

[266] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (a)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (a)(3)" (Policy No. 05-CRC-Basic).

267 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Prevented Planting'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Prevented Planting'" (Policy No. 05-CRC-Basic).

268 This point is emphasized in the prefatory comments to the September 1998 proposed changes to the Common Crop regulations. See 63 Fed. Reg. 52,194, 52,195 (1998).

269 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Prevented planting'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Prevented planting'" (Policy No. 05-CRC-Basic).

270 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Prevented planting'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Prevented planting'" (Policy No. 05-CRC-Basic).

271 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Prevented planting'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Prevented planting'" (Policy No. 05-CRC-Basic).

272 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Prevented planting'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Prevented planting'" (Policy No. 05-CRC-Basic).

273 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(1)" (Policy No. 05-CRC-Basic).

274 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(1)" (Policy No. 05-CRC-Basic).

275 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(1)" (Policy No. 05-CRC-Basic).

276 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Basic unit'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "2. Unit Structure (a)" (Policy No. 05-CRC-Basic).

277 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(1)" (Policy No. 05-CRC-Basic). The provider will also assume that the same crop practices would have been used.

[278] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Field'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Field'" (Policy No. 05-CRC-Basic).

[279] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Field'" (2008).

[280] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(1)" (Policy No. 05-CRC-Basic).

[281] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)" (Policy No. 05-CRC-Basic).

[282] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)" (Policy No. 05-CRC-Basic).

[283] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)" (Policy No. 05-CRC-Basic).

[284] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)" (Policy No. 05-CRC-Basic).

[285] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)" (Policy No. 05-CRC-Basic).

[286] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(A)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(A)" (Policy No. 05-CRC-Basic).

[287] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(A)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(A)" (Policy No. 05-CRC-Basic).

[288] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(A)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(A)" (Policy No. 05-CRC-Basic).

[289] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(A)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(A)" (Policy No. 05-CRC-Basic).

[290] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(A)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(A)" (Policy No. 05-CRC-Basic).

[291] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(A)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(A)" (Policy No. 05-CRC-Basic).

[292] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(A)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(A)" (Policy No. 05-CRC-Basic).

[293] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(A)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(A)" (Policy No. 05-CRC-Basic).

[294] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(2)" (Policy No. 05-CRC-Basic).

[295] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting (b)," "17. Prevented Planting (e)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting (b)," "18. Prevented Planting (e)(2)" (Policy No. 05-CRC-Basic).

[296] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(B)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(B)" (Policy No. 05-CRC-Basic).

[297] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(B)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(B)" (Policy No. 05-CRC-Basic). The producer must identify any acreage that was prevented from being planted in the acreage report. 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (a)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (a)(2)" (Policy No. 05-CRC-Basic).

[298] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(B)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(B)" (Policy No. 05-CRC-Basic).

[299] The sales closing date is the last day the producer may apply for crop insurance or change crop insurance coverage for the crop year. 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Sales closing date'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Sales closing date'" (Policy No. 05-CRC-Basic).

[300] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(B)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(B)" (Policy No. 05-CRC-Basic).

[301] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(B)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(B)" (Policy No. 05-CRC-Basic).

[302] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(A), (B)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(A), (B)" (Policy No. 05-CRC-Basic).

[303] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(A)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(A)" (Policy No. 05-CRC-Basic).

[304] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(A)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(A)" (Policy No. 05-CRC-Basic).

[305] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(2)" (Policy No. 05-CRC-Basic).

[306] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting (b)," "17. Prevented Planting (e)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting (b)," "18. Prevented Planting (e)(2)" (Policy No. 05-CRC-Basic).

[307] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(ii)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(ii)" (Policy No. 05-CRC-Basic).

[308] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(ii)(A)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(ii)(A)" (Policy No. 05-CRC-Basic).

[309] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(ii)(A)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(ii)(A)" (Policy No. 05-CRC-Basic). Approved yields are determined according to regulations set out at 7 C.F.R. pt. 400, subpt. G (2008). 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Approved yield'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Approved yield'" (Policy No. 05-CRC-Basic).

[310] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(ii)(A)" (2008).

[311] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(ii)(A)" (2008).

[312] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(ii)(A)" (2008).

[313] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(ii)(A)" (2008).

[314] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (d)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (d)" (Policy No. 05-CRC-Basic).

[315] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (d)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (d)" (Policy No. 05-CRC-Basic).

[316] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (d)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (d)(1)" (Policy No. 05-CRC-Basic).

[317] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (d)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (d)(1)" (Policy No. 05-CRC-Basic).

[318] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (d)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (d)(1)" (Policy No. 05-CRC-Basic).

[319] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (d)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (d)(2)" (Policy No. 05-CRC-Basic).

[320] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Irrigated practice'" (2008).

[321] Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Irrigated practice'" (Policy No. 05-CRC-Basic).

[322] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)" (Policy No. 05-CRC-Basic).

[323] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(9)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(10)" (Policy No. 05-CRC-Basic).

[324] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(8)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(9)" (Policy No. 05-CRC-Basic).

[325] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(2)" (Policy No. 05-CRC-Basic).

[326] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(6)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(7)" (Policy No. 05-CRC-Basic).

[327] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(10)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(11)" (Policy No. 05-CRC-Basic).

[328] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(4)-(5)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(4)-(5)" (Policy No. 05-CRC-Basic). Share arrangements do not apply for this purpose.

[329] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(5)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(5)" (Policy No. 05-CRC-Basic).

[330] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining an Indemnity and Payment Reductions (h)(1)-(5),"

"17. Prevented Planting (f)(4)(i), (5)" (2008); 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "21. Indemnity and Premium Limitations (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(4)-(5)" (Policy No. 05-CRC-Basic). The double cropping history may be shown for the producer or the acreage where the first insured crop was grown.

331 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(4)-(5)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(4)-(5)" (Policy No. 05-CRC-Basic).

332 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(5)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(5)" (Policy No. 05-CRC-Basic).

333 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(5)(ii)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(5)" (Policy No. 05-CRC-Basic).

334 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(5)(ii)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(5)" (Policy No. 05-CRC-Basic).

335 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining an Indemnity and Payment Reductions (g)(3)(i)" (2008).

336 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining an Indemnity and Payment Reductions (g)(3)(ii)" (2008).

337 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(11)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(12)" (Policy No. 05-CRC-Basic).

338 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(11)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(12)" (Policy No. 05-CRC-Basic).

339 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (f)(11)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (f)(12)" (Policy No. 05-CRC-Basic).

340 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (e)(1)(i)(B), (f)(11)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (e)(1)(i)(B), (f)(12)" (Policy No. 05-CRC-Basic).

[341] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining an Indemnity and Payment Reductions (d)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "16. Production Included in Determining Indemnities (d)" (Policy No. 05-CRC-Basic).

[342] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (i)" (2008).

[343] Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (i), (j)" (Policy No. 05-CRC-Basic).

[344] Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (i)" (Policy No. 05-CRC-Basic).

[345] Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (j)" (Policy No. 05-CRC-Basic).

[346] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "17. Prevented Planting (a)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "18. Prevented Planting (a)(2)" (Policy No. 05-CRC-Basic).

[347] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Acreage reporting date,'" "6. Report of Acreage" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Acreage reporting date,'" "7. Report of Acreage" (Policy No. 05-CRC-Basic).

[348] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting" (Policy No. 05-CRC-Basic).

[349] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting (c)" (Policy No. 05-CRC-Basic). If it turns out that the amount of premium that the producer is to pay for the late planted acreage is greater than the benefits due, coverage for those acres will not be available. No premium will be due and no indemnity will be paid.

[350] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Late planting period'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Late planting period'" (Policy No. 05-CRC-Basic).

[351] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting (a)" (2008).

352 Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting (a)" (Policy No. 05-CRC-Basic).

353 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting (b)" (Policy No. 05-CRC-Basic).

354 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting (b)(1)" (2008). In addition, all production from late-planted acreage is included as production to count for the unit. 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting (b)(3)" (2008).

355 Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting (b)(1)" (Policy No. 05-CRC-Basic). All production from late-planted acreage is included as production to count for the unit. Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting (b)(3)" (Policy No. 05-CRC-Basic).

356 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting (b)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting (b)(2)" (Policy No. 05-CRC-Basic).

357 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting (b)" (Policy No. 05-CRC-Basic).

358 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting (b)(1)" (2008). All production from late-planted acreage is included as production to count for the unit. 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting (b)(3)" (2008).

359 Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting (b)(1)" (Policy No. 05-CRC-Basic). All production from late-planted acreage is included as production to count for the unit. Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting (b)(3)" (Policy No. 05-CRC-Basic).

360 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting (b)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting (b)(2)" (Policy No. 05-CRC-Basic).

361 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Planted acreage'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Planted acreage'" (Policy No. 05-CRC-Basic).

[362] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting (d)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting (d)" (Policy No. 05-CRC-Basic).

[363] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting (d)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting (d)" (Policy No. 05-CRC-Basic).

[364] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "16. Late Planting (b)(1), (d)" (2008).

[365] Crop Revenue Coverage (CRC) Insurance Policy, "17. Late Planting (b)(1) (d)" (Policy No. 05-CRC-Basic).

[366] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "13. Replanting Payment" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "14. Replanting Payment" (Policy No. 05-CRC-Basic).

[367] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Replanting'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Replanting'" (Policy No. 05-CRC-Basic).

[368] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "13. Replanting Payment (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "14. Replanting Payment (a)" (Policy No. 05-CRC-Basic).

[369] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "13. Replanting Payment (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "14. Replanting Payment (a)" (Policy No. 05-CRC-Basic).

[370] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "13. Replanting Payment (d)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "14. Replanting Payment (a)" (Policy No. 05-CRC-Basic).

[371] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Practical to replant'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Practical to replant'" (Policy No. 05-CRC-Basic).

[372] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Practical to replant'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Practical to replant'" (Policy No. 05-CRC-Basic).

[373] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Practical to replant'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Practical to replant'" (Policy No. 05-CRC-Basic).

[374] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "13. Replanting Payment (b)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "14. Replanting Payment (b)(1)" (Policy No. 05-CRC-Basic).

[375] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "13. Replanting Payment (b)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "14. Replanting Payment (b)(2)" (Policy No. 05-CRC-Basic).

[376] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "13. Replanting Payment (b)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "14. Replanting Payment (b)(3)" (Policy No. 05-CRC-Basic).

[377] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "13. Replanting Payment (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "14. Replanting Payment (c)" (Policy No. 05-CRC-Basic).

[378] 7 U.S.C. § 1508(b)(2)(B); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining Indemnities (d)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "16. Production Included in Determining Indemnities (d)" (Policy No. 05-CRC-Basic).

[379] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining Indemnities (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "16. Production Included in Indemnities (c)" (Policy No. 05-CRC-Basic). The specific policy may provide for another basis for calculating the indemnity.

[380] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "15. Production Included in Determining Indemnities (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "16. Production Included in Indemnities (b)" (Policy No. 05-CRC-Basic).

[381] 7 C.F.R. § 457.8(b) (2008) (Common Crop Insurance Policy); 7 C.F.R. § 407.8(b) (2008) (Group Risk Plan Common Policy).

[382] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "18. Written Agreements" (2008); 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "9. Written Agreements" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "34. Written Agreements" (Policy No. 05-CRC-Basic).

[383] 7 C.F.R. 457.8, Common Crop Insurance Policy, "2. Life of Policy, Cancellation, and Termination" (2008); 7 C.F.R. § 407.9, Group Risk Plan Common Policy, "18. Life of Policy, Cancellation, and Termination" (2008);

Crop Revenue Coverage (CRC) Insurance Policy, "3. Life of the Policy, Cancellation and Termination" (Policy No. 05-CRC-Basic).

[384] Catastrophic coverage must also include either a Common Crop Insurance Policy, or a Group Risk Plan Policy. 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "2. Eligibility, Life of Policy, Cancellation, and Termination (a)" (2008). This means that CAT is not available under Crop Revenue Coverage.

[385] 7 U.S.C. § 1508(b)(7)(A)(i); 7 C.F.R. § 400.655 (2008).

[386] 7 U.S.C. § 1508(b)(2)(A); 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "4. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities" (2008); 7 C.F.R. § 400.651, "Catastrophic risk protection" (2008).

[387] 7 C.F.R. pt. 400, subpt. G (2008).

[388] 7 C.F.R. § 400.55 (2008).

[389] 7 C.F.R. § 400.53(a)(2), (b) (2008).

[390] 7 C.F.R. §§ 400.651, "Approved yield," 402.4, Catastrophic Risk Protection Endorsement, "1. Definitions, 'Approved yield'" (2008).

[391] 7 U.S.C. § 1508(g)(2)(B); 7 C.F.R. § 400.52(f) (2008).

[392] 7 C.F.R. § 400.52(c) (2008).

[393] 7 C.F.R. § 400.52(p) (2008).

[394] 7 C.F.R. § 400.52(k) (2008).

[395] 7 U.S.C. § 1508(g)(2)(B).

[396] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices (g)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "4. Coverage Level, and Approved Yield For Determining Final Guarantee and Indemnity (f)(1)" (Policy No. 05-CRC-Basic).

[397] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices (g)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "4. Coverage Level, and Approved Yield For Determining Final Guarantee and Indemnity (f)(1)" (Policy No. 05-CRC-Basic).

[398] See 7 U.S.C. § 1508(g)(4)(A), (B).

[399] 7 C.F.R. §§ 402.4, Catastrophic Risk Protection Endorsement, "1. Definitions, 'Approved yield,'" 457.8, Common Crop Insurance Policy, "36. Substitution

of Yields" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "35. Substitution of Yields" (Policy No. 05-CRC-Basic).

400 7 C.F.R. § 457.8, Common Crop Insurance Policy, "36. Substitution of Yields (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "35. Substitution of Yields (a)" (Policy No. 05-CRC-Basic).

401 7 C.F.R. § 457.8, Common Crop Insurance Policy, "36. Substitution of Yields (b), (d)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "35. Substitution of Yields (b), (d)" (Policy No. 05-CRC-Basic).

402 7 U.S.C. § 1508(g)(4)(C); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "36. Substitution of Yields (e)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "35. Substitution of Yields (e)" (Policy No. 05-CRC-Basic).

403 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices (g)(2)(i)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "4. Coverage Level, and Approved Yield For Determining Final Guarantee and Indemnity (f)(2)(i)" (Policy No. 05-CRC-Basic).

404 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices (g)(2)(i)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "4. Coverage Level, and Approved Yield For Determining Final Guarantee and Indemnity (f)(2)(i)" (Policy No. 05-CRC-Basic).

405 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices (g)(2)(ii)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "4. Coverage Level, and Approved Yield For Determining Final Guarantee and Indemnity (f)(2)(ii)" (Policy No. 05-CRC-Basic).

406 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices (g)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "4. Coverage Level, and Approved Yield For Determining Final Guarantee and Indemnity (f)(3)" (Policy No. 05-CRC-Basic).

407 The policies give the following example: if yield for a non-irrigated unit is based on crop acreage that is watered once prior to planting but the crop is not watered prior to planting in the current crop year, the producer's approved APH yield will be reduced to an amount consistent with the actual production history of the producer's other non-irrigated units that were not watered prior to planting. Where there are no such units, the yield will be limited to the non-irrigated T-yield. 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices

(g)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "4. Coverage Level, and Approved Yield For Determining Final Guarantee and Indemnity (f)(3)" (Policy No. 05-CRC-Basic).

408 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices (g)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "4. Coverage Level, and Approved Yield For Determining Final Guarantee and Indemnity (f)(3)" (Policy No. 05-CRC-Basic).

409 7 U.S.C. § 1508(b)(2)(A)(i); 7 C.F.R. § 400.651, "Catastrophic risk protection" (2008).

410 7 C.F.R. § 400.651, "Expected market price" (2008).

411 7 C.F.R. § 400.651, "Expected market price" (2008). The expected price may be less than the actual price paid by buyers if the actual price typically includes compensation to the producer for significant amounts of post-production expenses such as conditioning, culling, sorting, or packing.

412 7 U.S.C. § 1508(c)(5)(B). For some types of policies, however, the expected market price can be different from that dictated by the general rule. 7 U.S.C. § 1508(c)(5)(C). For example, in the case of revenue and other similar plans of insurance, the expected market price can be the actual market price of the commodity. 7 U.S.C. § 1508(c)(5)(C)(ii).

413 7 U.S.C. § 1508(b)(2)(A)(i); 7 C.F.R. § 400.651, "Catastrophic risk protection" (2008). For the 1995 through 1998 crop years, CAT covered 60 percent of the expected market price. The second edition of this book explains the rules that applied for crop years 1995 through 1998 in detail. To obtain a copy of earlier editions of this book for a nominal fee, contact FLAG by telephone at 651-223-5400; by fax at 651-223-5335; by mail at 360 North Robert Street, Suite 500, Saint Paul, MN 55101; or by electronic mail at lawyers@flaginc.org.

414 7 U.S.C. § 1508(b)(5), (e)(1)(A); 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "6. Annual Premium and Administrative Fees (a)" (2008). The federal government pays the producer's premium for CAT coverage.

415 7 U.S.C. § 1508(b)(5)(B).

416 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "6. Annual Premium and Administrative Fees (b)" (2008).

417 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "6. Annual Premium and Administrative Fees (b)" (2008).

418 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "6. Annual Premium and Administrative Fees (b)(1)" (2008).

419 7 U.S.C. § 1508(b)(5)(A); 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "6. Annual Premium and Administrative Fees (e)" (2008).

420 2008 Farm Bill § 12006 (to be codified at 7 U.S.C. § 1508(b)(5)(A)).

421 7 U.S.C. § 1508(b)(5)(E); 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "6. Annual Premium and Administrative Fees (c)" (2008).

422 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "6. Annual Premium and Administrative Fees (c)" (2008).

423 69 Fed. Reg. 48,651, 48,731 (2004) (codified at 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "1. Definitions, 'Limited resource farmer'").

424 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "6. Annual Premium and Administrative Fees (c)(2)" (2008).

425 The amount in the regulation—$100,000—is adjusted for inflation each year using the Prices Paid by Farmer Index as compiled by the National Agricultural Statistical Service. The amount for 2008 is $116,800. Future adjustments can be found through USDA's Limited Resource Farmer/Rancher self-determination tool at www.lrftool.sc.egov.usda.gov/tool.asp.

426 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "1. Definitions, 'Limited resource farmer'" (2008).

427 See 7 C.F.R. § 400.651, "Limited resource farmer" (2004); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Limited resource farmer'" (2004).

428 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "6. Annual Premium and Administrative Fees (b)(2)" (2008).

429 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "6. Annual Premium and Administrative Fees (b)(2)" (2008). Any producer who falsely files a zero acreage report may be subject to administrative and criminal sanctions.

430 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "9. Claim for Indemnity (b)" (2008).

431 1999 Appropriations Act § 803; 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "9. Claim for Indemnity (b)" (2008).

432 See FSA's Emergency Loan Handbook 3-FLP, Part 9, page 9-27, para. 165.C (May 7, 2002).

433 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "9. Claim for Indemnity (b)" (2008).

434 2008 Farm Bill § 12033 (to be codified at 7 U.S.C. § 1531).

435 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "11. Exclusion of Coverage (b)" (2008).

436 7 C.F.R. § 402.4, Catastrophic Risk Protection Endorsement, "8. Replanting Payment" (2008).

437 7 U.S.C. § 1502(b)(1). FCIC regulations for the 2000 crop year and earlier had defined two stages of coverage above CAT—"limited coverage" and "additional coverage"—distinguished by the level of yield coverage obtained. See 7 C.F.R. § 400.651, "Additional coverage" and "Limited coverage" (2000). The 2000 ARPA eliminated the distinction between "limited" and "additional" coverage. 2000 ARPA §§ 102, 104 (codified at 7 U.S.C. § 1508(c), (d), (e)(2)).

438 7 U.S.C. § 1508(b)(7)(A)(i); 7 C.F.R. § 400.655 (2008).

439 See the Risk Management Agency's Crop Policies web page at www.rma.usda.gov/policies/.

440 7 C.F.R. pt. 400, subpt. G (2008).

441 7 C.F.R. § 400.55 (2008).

442 7 C.F.R. § 400.53(a)(2), (b) (2008).

443 7 C.F.R. § 400.651, "Approved yield" (2008). See, for example, 7 C.F.R. § 457.152, Hybrid Seed Corn Crop Provisions, "1. Definitions, 'Approved yield'" (2008).

444 7 U.S.C. § 1508(g)(2)(B); 7 C.F.R. § 400.52(f) (2008).

445 7 C.F.R. § 400.52(c) (2008).

446 7 C.F.R. § 400.52(p) (2008).

447 7 C.F.R. § 400.52(k) (2008).

448 7 U.S.C. § 1508(g)(4)(A), (B).

[449] 7 U.S.C. § 1508(g)(4)(A), (B); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "36. Substitution of Yields" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "35. Substitution of Yields" (Policy No. 05-CRC-Basic).

[450] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "36. Substitution of Yields (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "35. Substitution of Yields (a)" (Policy No. 05-CRC-Basic).

[451] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "36. Substitution of Yields (b), (d)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "35. Substitution of Yields (b), (d)" (Policy No. 05-CRC-Basic).

[452] 7 U.S.C. § 1508(g)(4)(C); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "36. Substitution of Yields (e)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "35. Substitution of Yields (e)" (Policy No. 05-CRC-Basic).

[453] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices (g)(2)(i)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "4. Coverage Level, and Approved Yield For Determining Final Guarantee and Indemnity (f)(2)(i)" (Policy No. 05-CRC-Basic).

[454] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices (g)(2)(i)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "4. Coverage Level, and Approved Yield For Determining Final Guarantee and Indemnity (f)(2)(i)" (Policy No. 05-CRC-Basic).

[455] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices (g)(2)(ii)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "4. Coverage Level, and Approved Yield For Determining Final Guarantee and Indemnity (f)(2)(ii)" (Policy No. 05-CRC-Basic).

[456] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices (g)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "4. Coverage Level, and Approved Yield For Determining Final Guarantee and Indemnity (f)(3)" (Policy No. 05-CRC-Basic).

[457] The policies give the following example: if yield for a non-irrigated unit is based on crop acreage that is watered once prior to planting but the crop is not watered prior to planting in the current crop year, the producer's approved APH yield will be reduced to an amount consistent with the actual production history of the producer's other non-irrigated units that were not watered prior to planting. Where there are no such units, the yield will be limited to the non-irrigated T-yield. 7 C.F.R. § 457.8, Common Crop

Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices (g)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "4. Coverage Level, and Approved Yield For Determining Final Guarantee and Indemnity (f)(3)" (Policy No. 05-CRC-Basic).

458 7 U.S.C. § 1508(c)(9); See the Risk Management Agency's Crop Policies web page at www.rma.usda.gov/policies/.

459 7 C.F.R. § 400.651, "Expected market price" (2008).

460 7 C.F.R. § 400.651, "Expected market price" (2008). The expected price may be less than the actual price paid by buyers if the actual price typically includes compensation to the producer for significant amounts of post-production expenses such as conditioning, culling, sorting, or packing.

461 7 U.S.C. § 1508(c)(5)(B). For some types of policies, the expected market price can be different from that dictated by the general rule. 7 U.S.C. § 1508(c)(5)(C). For example, in the case of revenue and other similar plans of insurance, the expected market price can be the actual market price of the commodity. 7 U.S.C. § 1508(c)(5)(C)(ii).

462 Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Additional coverage'" (Policy No. 05-CRC-Basic).

463 7 U.S.C. § 1508(c)(10), (d). 7 C.F.R. § 457.8, Common Crop Insurance Policy, "7. Annual Premium and Administrative Fees" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "8. Annual Premium and Administrative Fees" (Policy No. 05-CRC-Basic).

464 7 C.F.R. § 457.8, Common Crop Insurance Policy, "7. Annual Premium and Administrative Fees (e)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "8. Annual Premium and Administrative Fees (e)(2)" (Policy No. 05-CRC-Basic).

465 7 C.F.R. § 457.8, Common Crop Insurance Policy, "7. Annual Premium and Administrative Fees (e)(7)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "8. Annual Premium and Administrative Fees (e)(5)" (Policy No. 05-CRC-Basic).

466 7 U.S.C. § 1508(c)(10)(A); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "7. Annual Premium and Administrative Fees (e)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "8. Annual Premium and Administrative Fees (e)(1)" (Policy No. 05-CRC-Basic).

467 7 U.S.C. § 1508(c)(10)(B); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "7. Annual Premium and Administrative Fees (e)(4)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "8. Annual Premium and Administrative Fees (e)(4)" (Policy No. 05-CRC-Basic).

468 7 C.F.R. § 457.8, Common Crop Insurance Policy, "7. Annual Premium and Administrative Fees (e)(4)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "8. Annual Premium and Administrative Fees (e)(4)" (Policy No. 05-CRC-Basic).

469 69 Fed. Reg. 48,651, 48,731 (2004) (codified at 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Limited resource farmer'").

470 7 C.F.R. § 457.8, Common Crop Insurance Policy, "7. Annual Premium and Administrative Fees (e)(4)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "8. Annual Premium and Administrative Fees (e)(4)" (Policy No. 05-CRC-Basic).

471 The amount in the regulation—$100,000—is adjusted for inflation each year using the Prices Paid by Farmer Index as compiled by the National Agricultural Statistical Service. The amount for 2008 is $116,800. Future adjustments can be found through USDA's Limited Resource Farmer/Rancher self-determination tool at www.lrftool.sc.egov.usda.gov/tool.asp.

472 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Limited resource farmer'" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "1. Definitions, 'Limited resource farmer'" (Policy No. 05-CRC-Basic).

473 See 7 C.F.R. § 400.651, "Limited resource farmer" (2004); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "1. Definitions, 'Limited resource farmer'" (2004).

474 7 C.F.R. § 457.8, Common Crop Insurance Policy, "7. Annual Premium and Administrative Fees (e)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "8. Annual Premium and Administrative Fees (e)(3)" (Policy No. 05-CRC-Basic). Any producer who falsely files a zero acreage report may be subject to administrative and criminal sanctions.

475 7 C.F.R. § 457.8, Common Crop Insurance Policy, "7. Annual Premium and Administrative Fees (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "8. Annual Premium and Administrative Fees (c)" (Policy No. 05-CRC-Basic).

[476] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "7. Annual Premium and Administrative Fees (d)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "8. Annual Premium and Administrative Fees (d)" (Policy No. 05-CRC-Basic). These documents are available from the Risk Management Agency's website at www.rma.usda.gov/tools/.

[477] 7 U.S.C. § 1508(e).

[478] 7 U.S.C. § 1508(e)(5).

[479] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "35. Multiple Benefits (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "33. Multiple Benefits (a)" (Policy No. 05-CRC-Basic).

[480] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "35. Multiple Benefits (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "33. Multiple Benefits (a)" (Policy No. 05-CRC-Basic).

[481] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "35. Multiple Benefits (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "33. Multiple Benefits (b)" (Policy No. 05-CRC-Basic).

[482] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "35. Multiple Benefits (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "33. Multiple Benefits (b)" (Policy No. 05-CRC-Basic).

[483] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "35. Multiple Benefits (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "33. Multiple Benefits (c)" (Policy No. 05-CRC-Basic).

[484] 7 C.F.R. § 400.654(c)(6) (2008).

[485] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities (i)" (2008).

[486] This list is derived from 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties" (Policy No. 05-CRC-Basic).

[487] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (h)(1)" (2008); Crop Revenue Coverage (CRC)

Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (h)(1)" (Policy No. 05-CRC-Basic).

488 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (a)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (a)(1)" (Policy No. 05-CRC-Basic).

489 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (a)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (a)(2)" (Policy No. 05-CRC-Basic).

490 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (f)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (f)" (Policy No. 05-CRC-Basic).

491 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (g)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (g)" (Policy No. 05-CRC-Basic).

492 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (a)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (a)(3)" (Policy No. 05-CRC-Basic).

493 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or

Acreage, Your Duties (a)(4)(i), (ii)," "21. Access to Insured Crop and Record Retention (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (a)(4)(i), (ii)," "21. Access to Insured Crop and Record Retention (a)" (Policy No. 05-CRC-Basic).

494 7 C.F.R. § 457.8, Common Crop Insurance Policy, "21. Access to Insured Crop and Record Retention (e)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "21. Access to Insured Crop and Record Retention (e)" (Policy No. 05-CRC-Basic).

495 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (a)(4)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (a)(4)" (Policy No. 05-CRC-Basic).

496 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (b)" (Policy No. 05-CRC-Basic).

497 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (b)" (Policy No. 05-CRC-Basic).

498 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (b)" (Policy No. 05-CRC-Basic).

499 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or

Acreage, Your Duties (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (b)" (Policy No. 05-CRC-Basic).

500 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (c)" (Policy No. 05-CRC-Basic).

501 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (c)" (Policy No. 05-CRC-Basic).

502 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (c)" (Policy No. 05-CRC-Basic).

503 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (c)" (Policy No. 05-CRC-Basic).

504 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (d)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (d)" (Policy No. 05-CRC-Basic).

[505] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (d)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (d)(1)" (Policy No. 05-CRC-Basic).

[506] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (d)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (d)(1)" (Policy No. 05-CRC-Basic).

[507] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (d)(2)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (d)(2)" (Policy No. 05-CRC-Basic).

[508] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (e)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Your Duties (e)" (Policy No. 05-CRC-Basic).

[509] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "21. Access to Insured Crop and Records, and Record Retention (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "21. Access to Insured Crop and Records, and Record Retention (c)" (Policy No. 05-CRC-Basic).

[510] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "21. Access to Insured Crop and Records, and Record Retention (b)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "21. Access to Insured Crop and Records, and Record Retention (b)(1)" (Policy No. 05-CRC-Basic).

[511] 7 C.F.R. § 457.8, Common Crop Insurance Policy, "21. Access to Insured Crop and Record Retention (b)(2)" (2008); Crop Revenue Coverage (CRC)

Insurance Policy, "21. Access to Insured Crop and Records, and Record Retention (b)(2)" (Policy No. 05-CRC-Basic).

512 7 C.F.R. § 457.8, Common Crop Insurance Policy, "21. Access to Insured Crop and Record Retention (f)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "21. Access to Insured Crop and Records, and Record Retention (f)" (Policy No. 05-CRC-Basic).

513 This list is derived from 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Our Duties" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Our Duties" (Policy No. 05-CRC-Basic).

514 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Our Duties (a)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Our Duties (a)(1)" (Policy No. 05-CRC-Basic).

515 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Our Duties (a)(2), (4)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Our Duties (a)(2), (4)" (Policy No. 05-CRC-Basic).

516 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Our Duties (a)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Our Duties (a)(3)" (Policy No. 05-CRC-Basic).

517 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Our Duties (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction,

or Alternative Use of Crop or Acreage, Our Duties (b)" (Policy No. 05-CRC-Basic).

518 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Our Duties (d)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Our Duties (d)" (Policy No. 05-CRC-Basic).

519 7 C.F.R. § 457.8, Common Crop Insurance Policy, "14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Our Duties (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "15. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage, Our Duties (c)" (Policy No. 05-CRC-Basic).

520 7 C.F.R. § 457.8, Common Crop Insurance Policy, "2. Life of Policy, Cancellation, and Termination (e)," "7. Annual Premium and Administrative Fees (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "3. Life of Policy, Cancellation, and Termination (e)," "8. Annual Premium and Administrative Fees (b)" (Policy No. 05-CRC-Basic).

521 See 69 Fed. Reg. 48,652, 48,674 (2004) (prefatory comments to final rule).

522 7 C.F.R. § 457.8, Common Crop Insurance Policy, "27. Concealment, Misrepresentation, or Fraud (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "27. Concealment, Misrepresentation or Fraud (a)" (Policy No. 05-CRC-Basic).

523 7 C.F.R. § 457.8, Common Crop Insurance Policy, "27. Concealment, Misrepresentation, or Fraud (b)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "27. Concealment, Misrepresentation or Fraud (b)" (Policy No. 05-CRC-Basic).

524 7 C.F.R. § 457.8, Common Crop Insurance Policy, "27. Concealment, Misrepresentation, or Fraud (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "27. Concealment, Misrepresentation or Fraud (c)" (Policy No. 05-CRC-Basic).

525 7 C.F.R. § 457.8, Common Crop Insurance Policy, "27. Concealment, Misrepresentation, or Fraud (d)" (2008); Crop Revenue Coverage (CRC)

Insurance Policy, "27. Concealment, Misrepresentation or Fraud (d)" (Policy No. 05-CRC-Basic).

526 2000 ARPA § 121(a) (codified at 7 U.S.C. § 1515(h)(1)).

527 7 U.S.C. § 1515(h)(2).

528 7 U.S.C. § 1515(h)(3)(A). The Secretary is required to consider the gravity of the violation in determining whether a sanction is to be imposed and, if one is imposed, the type and amount of the sanction. 7 U.S.C. § 1515(h)(4).

529 7 U.S.C. § 1515(h)(3)(B). Persons other than producers, such as agents and claims adjusters, may be disqualified from participating in or benefiting from the crop insurance program for up to five years. 7 U.S.C. § 1515(h)(3)(C).

530 7 U.S.C. § 1515(h)(5).

531 72 Fed. Reg. 27,981 (2007) (proposed to be codified at 7 C.F.R. pt. 400, subpt. R).

532 7 C.F.R. §§ 407.2(c), 457.2(c), (d) (2008); 7 C.F.R. § 457.8, Common Crop Insurance Policy, "22. Other Insurance (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "22. Other Insurance (a)" (Policy No. 05-CRC-Basic).

533 7 C.F.R. § 457.8, Common Crop Insurance Policy, "22. Other Insurance (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "22. Other Insurance (a)" (Policy No. 05-CRC-Basic).

534 7 C.F.R. § 457.8, Common Crop Insurance Policy, "22. Other Insurance (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "22. Other Insurance (a)" (Policy No. 05-CRC-Basic).

535 7 C.F.R. § 457.8, Common Crop Insurance Policy, "22. Other Insurance (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "22. Other Insurance (a)" (Policy No. 05-CRC-Basic).

536 69 Fed. Reg. 48,651 (2004) (codified at 7 C.F.R. §§ 407.9, Group Risk Plan Common Policy, "16. Appeals, Administrative and Judicial Review," 457.8, Common Crop Insurance Policy, "20. Appeal, Reconsideration, Administrative and Judicial Review" (2008). See also Crop Revenue Coverage (CRC) Insurance Policy, "20. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review" (Policy No. 05-CRC-Basic).

537 7 C.F.R. §§ 407.9, Group Risk Plan Common Policy, "16. Appeals, Administrative and Judicial Review [Reinsured policy] (d)," 457.8, Common

Crop Insurance Policy, "20. Appeal, Reconsideration, Administrative and Judicial Review [Reinsured policy] (d)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "20. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review (d)" (Policy No. 05-CRC-Basic).

538 7 U.S.C. § 1506(s); 7 C.F.R. pt. 400, subpt. X (2008).

539 7 C.F.R. § 400.765 (2008).

540 7 C.F.R. §§ 407.9, Group Risk Plan Common Policy, "16. Appeals, Administrative and Judicial Review [Reinsured policy] (g)," 457.8, Common Crop Insurance Policy, "20. Appeal, Reconsideration, Administrative and Judicial Review [Reinsured policy] (g)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "20. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review (g)" (Policy No. 05-CRC-Basic).

541 7 C.F.R. §§ 407.9, Group Risk Plan Common Policy, "16. Appeals, Administrative and Judicial Review [Reinsured policy] (a)(1)(i)-(ii), (b)(4)," 457.8, Common Crop Insurance Policy, "20. Appeal, Reconsideration, Administrative and Judicial Review [Reinsured policy] (a)(1)(i)-(ii), (b)(4) (2008); Crop Revenue Coverage (CRC) Insurance Policy, "20. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review (a)(1)(i)-(ii), (b)(4)" (Policy No. 05-CRC-Basic).

542 7 C.F.R. §§ 407.9, Group Risk Plan Common Policy, "16. Appeals, Administrative and Judicial Review [Reinsured policy] (d)," 457.8, Common Crop Insurance Policy, "20. Appeal, Reconsideration, Administrative and Judicial Review [Reinsured policy] (d)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "20. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review (d)" (Policy No. 05-CRC-Basic).

543 7 C.F.R. §§ 407.9, Group Risk Plan Common Policy, "16. Appeals, Administrative and Judicial Review [Reinsured policy] (a)," 457.8, Common Crop Insurance Policy, "20. Appeal, Reconsideration, Administrative and Judicial Review [Reinsured policy] (a)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "20. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review (a)" (Policy No. 05-CRC-Basic).

544 7 C.F.R. §§ 407.9, Group Risk Plan Common Policy, "16. Appeals, Administrative and Judicial Review [Reinsured policy] (b)(1)," 457.8, Common Crop Insurance Policy, "20. Appeal, Reconsideration, Administrative and Judicial Review [Reinsured policy] (b)(1)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "20. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review (b)(1)" (Policy No. 05-CRC-Basic).

545 7 C.F.R. §§ 407.9, Group Risk Plan Common Policy, "16. Appeals, Administrative and Judicial Review [Reinsured policy] (c)," 457.8, Common Crop Insurance Policy, "20. Appeal, Reconsideration, Administrative and Judicial Review [Reinsured policy] (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "20. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review (c)" (Policy No. 05-CRC-Basic).

546 7 C.F.R. §§ 407.9, Group Risk Plan Common Policy, "16. Appeals, Administrative and Judicial Review [FCIC policy] (b)(1), [Reinsured policy] (a)(1)(iii)-(iv), (e), (j)," 457.8, Common Crop Insurance Policy, "20. Appeal, Reconsideration, Administrative and Judicial Review [FCIC Policy] (b)(1), [Reinsured policy] (a)(1)(iii)-(iv), (e), (j)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "20. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review (a)(1)(iii)-(iv), (e), (j)" (Policy No. 05-CRC-Basic). Regulations for FCIC's administrative review process are set out at 7 C.F.R. pt. 400, subpt. J (2008).

547 7 C.F.R. pt. 11 (2008). For a detailed discussion of NAD procedures, see *USDA's National Appeals Division Practice and Procedures* by FLAG attorney Karen Krub, available at www.flaginc.org/pubs/arts/NADarticle_NatlAgLawCtr2003.pdf, or contact FLAG by telephone at 651-223-5400; by fax at 651-223-5335; by mail at 360 North Robert Street, Suite 500, Saint Paul, MN 55101; or by electronic mail at lawyers@flaginc.org.

548 7 C.F.R. § 11.6(b) (2008).

549 7 C.F.R. §§ 407.9, Group Risk Plan Common Policy, "16. Appeals, Administrative and Judicial Review [FCIC policy] (d), [Reinsured policy] (c)," 457.8, Common Crop Insurance Policy, "20. Appeal, Reconsideration, Administrative and Judicial Review [FCIC Policy] (d), [Reinsured policy] (c)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "20. Mediation,

Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review (c)" (Policy No. 05-CRC-Basic).

550 7 C.F.R. §§ 407.9, Group Risk Plan Common Policy, "16. Appeals, Administrative and Judicial Review [FCIC policy] (c), [Reinsured policy] (b)(3)," 457.8, Common Crop Insurance Policy, "20. Appeal, Reconsideration, Administrative and Judicial Review [FCIC Policy] (c), [Reinsured policy] (b)(3)" (2008); Crop Revenue Coverage (CRC) Insurance Policy, "20. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review (b)(3)" (Policy No. 05-CRC-Basic).

551 7 C.F.R. pt. 15d (2008).