

“(B) recommend changes under this paragraph that reasonably demonstrate the need to achieve the greatest operating efficiencies on the part of the provider and the Corporation has been recognized; and

“(C) identify areas for improved operating efficiencies, if any, in the requirements made by the Corporation for compliance and program integrity;

“(5) assess the potential for alternative forms of reinsurance arrangements for providers of different firm sizes, taking into consideration—

“(A) the need to achieve a reasonable return on the capital of the provider compared to other lines of insurance;

“(B) the relative risk borne by the provider for the different lines of insurance;

“(C) the availability and price of commercial reinsurance; and

“(D) any additional costs that may be incurred by the Federal Government in carrying out the Federal Crop Insurance Act; and

“(6) include an analysis of the effect of the current or proposed reinsurance arrangements on providers having different business levels.

“(e) INFORMATION.—

“(1) PRIVACY.—In conducting the evaluation required by this section, the Comptroller General and the Corporation shall maintain the privacy of proprietary information.

“(2) SUBPOENAS.—The Comptroller General shall have the power to subpoena information relevant to the evaluation required by this section from any private insurance provider. The Comptroller General shall allow the Corporation access to the information subpoenaed taking into consideration the necessity of preserving the privacy of proprietary information.”

§§ 1506a, 1506b. Omitted

CODIFICATION

Section 1506a, act July 30, 1947, ch. 356, title II, §202, 61 Stat. 550, which related to authority of Federal Crop Insurance Corporation to make expenditures, was from the Department of Agriculture Appropriation Act, 1948, and was not repeated in subsequent appropriation acts.

Section 1506b, acts June 29, 1954, ch. 409, title II, §201, 68 Stat. 317; May 23, 1955, ch. 43, title II, §201, 69 Stat. 60; June 4, 1956, ch. 355, title II, §201, 70 Stat. 238, which provided that crop inspection costs and loss adjustments could be considered as nonadministrative or nonoperating expenses, was from the Department of Agriculture and Farm Credit Administration Appropriation Acts for fiscal years 1955-57, and was not repeated in subsequent appropriation acts.

§ 1507. Personnel of Corporation

(a) Appointment; civil service exemption; compensation

The Secretary shall appoint such officers and employees as may be necessary for the transaction of the business of the Corporation pursuant to civil-service laws and regulations, fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, define their authority and duties, and delegate to them such of the powers vested in the Corporation as the Secretary may determine appropriate. However, personnel paid by the hour, day, or month when actually employed may be appointed without regard to civil-service laws and regulations.

(b) Application of employees' compensation law

Insofar as applicable, the benefits of subchapter I of chapter 81 of title 5, shall extend to persons given employment under the provisions of this subchapter, including the employees of

the committees and associations referred to in subsection (c) of this section and the members of such committees.

(c) Use of associations of producers and private insurance companies; payment of administrative and program expenses; sale of crop insurance through private agents and brokers; renewals, exclusion of compensation from premium rates, indemnification for errors or omissions of Commission or its contractors

In the administration of this subchapter, the Board shall, to the maximum extent possible, (1) establish or use committees or associations of producers and make payments to them to cover the administrative and program expenses, as determined by the Board, incurred by them in cooperating in carrying out this subchapter, (2) contract with private insurance companies, private rating bureaus, and other organizations as appropriate for actuarial services, services relating to loss adjustment and rating plans of insurance, and other services to avoid duplication by the Federal Government of services that are or may readily be available in the private sector and to enable the Corporation to concentrate on regulating the provision of insurance under this subchapter and evaluating new products and materials submitted under section 1508(h) or 1523 of this title, and reimburse such companies for the administrative and program expenses, as determined by the Board, incurred by them, under terms and provisions and rates of compensation consistent with those generally prevailing in the insurance industry, and (3) encourage the sale of Federal crop insurance through licensed private insurance agents and brokers and give the insured the right to renew such insurance for successive terms through such agents and brokers, in which case the agent or broker shall be reasonably compensated from premiums paid by the insured for such sales and renewals recognizing the function of the agent or broker to provide continuing services while the insurance is in effect: *Provided*, That such compensation shall not be included in computations establishing premium rates. The Board shall provide such agents and brokers with indemnification, including costs and reasonable attorney fees, from the Corporation for errors or omissions on the part of the Corporation or its contractors for which the agent or broker is sued or held liable, except to the extent the agent or broker has caused the error or omission. Nothing in this subsection shall permit the Corporation to contract with other persons to carry out the responsibility of the Corporation to review and approve policies, rates, and other materials submitted under section 1508(h) of this title.

(d) Allotment of funds to Federal and State agencies

The Secretary may allot to bureaus and offices of the Department or transfer to such other agencies of the State and Federal Governments that the Secretary requests to assist in carrying out this subchapter any funds made available pursuant to the provisions of section 1516 of this title.

(e) Utilization of producer cooperative associations

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

(f) Use of resources, data, boards, and committees of Federal agencies

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

(g) Specialty Crops Coordinator

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

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

(3) The Specialty Crops Coordinator shall use information collected from Corporation field office directors in States in which specialty crops have a significant economic effect and from other sources, including the extension service and colleges and universities.

(Feb. 16, 1938, ch. 30, title V, §507, 52 Stat. 73; Aug. 1, 1947, ch. 440, §6, 61 Stat. 719; Aug. 25, 1949, ch. 512, §10, 63 Stat. 665; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; Pub. L. 92-310, title II, §221(b), June 6, 1972, 86 Stat. 205; Pub. L. 96-365, title I, §104, Sept. 26, 1980, 94 Stat. 1313; Pub. L. 101-624, title XXII, §2206, Nov. 28, 1990, 104 Stat. 3958; Pub. L. 102-237, title VI, §601(3), Dec. 13, 1991, 105 Stat. 1878; Pub. L. 103-354, title I, §§102(b)(4)(B), (C), 105, 115(b), 119(f)(2), Oct. 13, 1994, 108 Stat. 3181, 3182, 3204, 3208; Pub. L. 106-224, title I, §143, June 20, 2000, 114 Stat. 391; Pub. L. 110-234, title XII, §12033(c)(2)(B), May 22, 2008, 122 Stat. 1405; Pub. L. 110-246, §4(a), title XII, §12033(c)(2)(B), June 18, 2008, 122 Stat. 1664, 2167.)

REFERENCES IN TEXT

In subsec. (a), “chapter 51 and subchapter III of chapter 53 of title 5” substituted for “the Classification Act of 1949” on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Provisions that authorized personnel paid by the hour, day, or month when actually employed, and county crop insurance committeemen to have their compensation fixed without regard to “the Classification Act of 1923, as amended” were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973 repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act it did not have the effect of continuing the exceptions contained in this subsection because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106(a). The Classification Act of 1949 was repealed by Act Sept. 6, 1966, Pub. L. 89-554, §8(a), 80 Stat. 632 (of which section 1 revised and enacted Title 5, U.S.C., into law). Section 5102 of Title 5, now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Office of Personnel Management to determine the applicability to specific positions and employees.

In subsec. (b), reference to “subchapter I of chapter 81 of title 5” substituted for “the Act entitled ‘An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes’, approved September 7, 1916, as amended” on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

CODIFICATION

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

AMENDMENTS

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

2000—Subsec. (c). Pub. L. 106-224, in cl. (2), substituted “actuarial services, services relating to loss adjustment and rating plans of insurance,” for “actuarial, loss adjustment,” and inserted “and to enable the Corporation to concentrate on regulating the provision of insurance under this chapter and evaluating new products and materials submitted under section 1508(h) or 1523 of this title” after “private sector”.

1994—Subsec. (a). Pub. L. 103-354, §§105(1), 115(b)(1), substituted “as the Secretary may determine appropriate. However,” for “as he may determine: *Provided, That*” and struck out “, and county crop insurance committeemen” before “may be appointed”.

Subsec. (c). Pub. L. 103-354, §119(f)(2), substituted “1508(h)” for “1508(b)” in last sentence.

Subsec. (d). Pub. L. 103-354, §105(2), made technical amendment to reference to section 1516 of this title and struck out before period at end “, except that employees or agencies responsible for administering this chapter in each county shall be selected and designated by the Corporation and shall be responsible directly to the Corporation without the intervention of any intermediate office or agency”.

Pub. L. 103-354, §102(b)(4)(B), (C), 115(b)(2), substituted “Secretary” for “Secretary of Agriculture”, “Department” for “Department of Agriculture”, and “that the Secretary requests” for “as he may request”.

Subsec. (g). Pub. L. 103-354, §105(3), added subsec. (g). 1991—Subsec. (c). Pub. L. 102-237 inserted a comma after “private insurance companies” in cl. (2).

1990—Subsec. (c). Pub. L. 101-624 inserted “private rating bureaus, and other organizations as appropriate for actuarial, loss adjustment, and other services to avoid duplication by the Federal Government of services that are or may readily be available in the private sector,” after “private insurance companies” and inserted at end “Nothing in this subsection shall permit

the Corporation to contract with other persons to carry out the responsibility of the Corporation to review and approve policies, rates, and other materials submitted under section 1508(b) of this title.”

1980—Subsec. (c). Pub. L. 96-365, §104(1), inserted “shall, to the maximum extent possible”, incorporated existing provisions in cl. (1), including in cl. (1) provision for payment of program expenses, but omitting provision for inclusion of estimated expenses in insurance premiums, and added cls. (2) and (3) and provisions for exclusion of compensation from premium rates and indemnification of agents and brokers for errors or omissions of Commission or its contractors.

Subsec. (f). Pub. L. 96-365, §104(2), added subsec. (f).

1972—Subsec. (a). Pub. L. 92-310 struck out provisions which empowered Secretary to require bonds of officers and employees.

1949—Act Oct. 28, 1949, substituted “Classification Act of 1949” for “Classification Act of 1923”.

Act Aug. 25, 1949, inserted requirement that officers and employees be appointed subject to civil service laws and regulations, and exempted personnel paid by hour, day, or month when employed, and county crop-insurance committeemen from civil-service laws and regulations or the Classification Act of 1923.

1947—Act Aug. 1, 1947, provided for selection and designation of county employees and agencies and their direct responsibility.

EFFECTIVE DATE OF 2008 AMENDMENT

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

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103-354, set out as a note under section 1502 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-365 effective Sept. 26, 1980, see section 112 of Pub. L. 96-365, set out as a note under section 1504 of this title.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

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

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

§ 1508. Crop insurance

(a) Authority to offer insurance

(1) In general

If sufficient actuarial data are available (as determined by the Corporation), the Corporation may insure, or provide reinsurance for insurers of, producers of agricultural commodities grown in the United States under 1 or more plans of insurance determined by the Corporation to be adapted to the agricultural

commodity concerned. To qualify for coverage under a plan of insurance, the losses of the insured commodity must be due to drought, flood, or other natural disaster (as determined by the Secretary).

(2) Period

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

(3) Exclusion of losses due to certain actions of producer

(A) Exclusions

Insurance provided under this subsection shall not cover losses due to—

(i) the neglect or malfeasance of the producer;

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

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

(B) Good farming practices

(i) Informal administrative process

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

(ii) Administrative review

(I) No adverse decision

The determination shall not be considered an adverse decision for purposes of subtitle H of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6991 et seq.).

(II) Reversal or modification

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

(iii) Judicial review

(I) Right to review

A producer shall have the right to judicial review of the determination without exhausting any right to a review under clause (i).

(II) Reversal or modification

The determination may not be reversed or modified as the result of judicial review unless the determination is found to be arbitrary or capricious.

(C) Limitation on revenue coverage for potatoes

No policy or plan of insurance provided under this subchapter (including a policy or plan of insurance approved by the Board