

county or the end of the late planting period. You must have been unable to plant the insured crop due to an insured cause of loss that has prevented the majority of producers in the surrounding area from planting the same crop.

(x) *Sample*—at least 3 pounds of shelled corn representative (field run) for each variety of seed corn grown on the unit.

(y) *Seed company*—a company which contracts with a grower to produce or grow for the production of hybrid corn seed.

(z) *Seed production*—all seed with a germination rate of at least 80 percent (80%) on a warm test using clean seed.

(aa) *Service office*—the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

(bb) *Shelled-corn*—the grain (corn) after its removal from the cob.

(cc) *Tenant*—a person who rents land from another person for a share of the crop or a share of the proceeds therefrom.

(dd) *Timely planted*—the insured crop planted by the final planting date, as established by the Actuarial Table, for the insured crop in the county to be planted for harvest in the crop year.

(ee) *Type*—the crop grown: i.e., corn.

(ff) *Unit*—all insurable acreage of the insured crop in the county on the date of planting for the crop year:

(1) In which you have a 100 percent (100%) share; or

(2) Which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported.

Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

(gg) *Variety*—the seed produced from a pair of genetically identifiable parents.

19. Descriptive Headings

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

20. Determinations

All determinations required by the policy will be made by us. If you disagree with our

determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

21. Notices

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

22. Notwithstanding the terms of the crop insurance policy and any contract for crop insurance under the provisions of this part, coverage under the terms of such crop insurance policy will be effective subject to the availability of appropriations.

[51 FR 5697, Feb. 18, 1986; 51 FR 8183, Mar. 10, 1986, as amended at 51 FR 29205, Aug. 15, 1986; 52 FR 3214, Feb. 3, 1987; 54 FR 20373, May 11, 1989; 55 FR 35888, Sept. 4, 1990; 58 FR 67645, Dec. 22, 1993; 60 FR 62722, 62723, Dec. 7, 1995; 62 FR 65349, Dec. 12, 1997]

PART 444 [RESERVED]

PART 445—PEPPER CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1987 Through the 1997 Crop Years

Sec.

- 445.1 Availability of pepper crop insurance.
- 445.2 Premium rates, coverage levels, and amounts of insurance.
- 445.3 OMB control numbers.
- 445.4 Creditors.
- 445.5 Good faith reliance on misrepresentation.
- 445.6 The contract.
- 445.7 The application and policy.

AUTHORITY: 7 U.S.C. 1506(1), 1506(p).

SOURCE: 51 FR 11293, Apr. 2, 1986, unless otherwise noted.

Subpart—Regulations for the 1987 Through the 1997 Crop Years

§ 445.1 Availability of pepper crop insurance.

Insurance shall be offered under the provisions of this subpart on peppers in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be

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designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 445.2 Premium rates, coverage levels, and amounts of insurance.

(a) The Manager shall establish premium rates, coverage levels, and amounts of insurance for peppers which will be included in the actuarial table on file in the applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect an amount of insurance per acre and a coverage level from among those levels and amounts set by the actuarial table for the crop year.

§ 445.3 OMB control numbers.

OMB control numbers are contained in subpart H of part 400, title 7 CFR.

§ 445.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 445.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the pepper crop insurance contract, whenever: (a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than \$100,000.00 finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous

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action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 445.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the pepper crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 445.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation must be made by any person to cover such person's share in the pepper crop as landlord, owner-operator, or tenant if the person wishes to participate in the program. The application shall be submitted to the Corporation at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the FEDERAL REGISTER upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.