



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

AGRICULTURAL INSURANCE ACT REGULATIONS

PLEASE NOTE

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This document is *not* the official version of these regulations. The regulations and the amendments printed in the *Royal Gazette* should be consulted on the Prince Edward Island Government web site to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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AGRICULTURAL INSURANCE ACT

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CHAPTER A-8.2

Pursuant to section 16 of the *Agricultural Insurance Act* R.S.P.E.I. 1988, Cap. A-8.2, the Board of the Prince Edward Island Agricultural Insurance Corporation, with the approval of the Lieutenant Governor in Council, made the following regulations:

1. Definitions

In these regulations

- (a) “**acreage**” means the land area planted to an insurable crop or insurable crop group, expressed in acres or hectares, and stated on the application form for insurance coverage;
- (b) “**Act**” means the *Agricultural Insurance Act* R.S.P.E.I. 1988, Cap. A-8.2;
- (c) “**Agreement**” means the Production Insurance Agreement consisting of these regulations and Schedules which have been approved by the Board for all insurance plans offered by the Corporation;
- (d) “**Appeal Board**” means the Appeal Board established under section 14 of the t;
- (e) “**benchmark yield**” is the simple average of the preceding five years’ provincial weighted average yield per acre for an insurable crop or is an average calculated by such means as is acceptable to the Board;
- (f) “**Board**” means the Board of Directors of the Corporation;
- (g) “**Corporation**” means the Prince Edward Island Agricultural Insurance Corporation established under section 2 of the t;
- (h) “**coverage level**” means the percentage of the probable yield of an insurable crop in any risk area or in any farm enterprise that is insured under an insurance scheme and has the same meaning as set out in the t;
- (i) “**crop year**” means any 12 month period which represents the planting, growing, harvesting and marketing of an insurable crop, as stated in the Schedules;
- (j) “**coverage period**” is that period of time for each insurable crop from the date of the application to the final date for filing a Proof of Loss, as stated in the Schedules;
- (k) “**declared acreage**” means the land area that the insured planted to each insurable crop and those which are declared on the Final Acreage Report for that crop year;
- (l) “**Department**” means the Department of Agriculture and Fisheries;
- (m) “**destruction**” means the disposal of insured crops by any means acceptable to the Corporation so that the crop can no longer be salvaged or marketed;

- (n) “**financial independence**” means, in respect of an applicant or an insured, financial independence as determined in accordance with section 4;
- (o) “**guaranteed yield**” means that yield of an insurable crop which the contract of insurance guarantees and for which an insurance indemnity is available, calculated by obtaining the product of the probable yield per acre and the percentage of coverage available, subject to any adjustments that are allowed by the Corporation;
- (p) “**insured**” means an individual, partnership, or corporation insured under a policy issued by the Corporation;
- (q) “**insured acreage**” means the declared acreage or a portion of the declared acreage, subject to any adjustments that are allowed and determined by the Corporation as the portion to be insured;
- (r) “**insurance plan**” means a set of insurance features for a crop under an insurance scheme and has the same meaning as set out in the t and contains details that are set out in the Schedules;
- (s) “**insured value**” means the maximum value of an insurable crop for which an indemnity can be paid, as established for insurance purposes and stated on a per unit, insurable crop or plan basis;
- (t) “**loss ratio**” means the ratio between the total indemnity paid to an insured for an insurable crop group during a preceding time period, and the total premiums collected from the insured and the Government of Canada and the Government of Prince Edward Island on the same insurable crop group and for the same time period;
- (u) “**non-arm’s length relationship**” means a working relationship between
 - (i) spouses, including common-law spouses,
 - (ii) a grandparent or parent and child (including step-parents and step-children),
 - (iii) siblings (including step-siblings),
 - (iv) a person and his or her brother-in-law or sister-in-law,
 - (v) a partnership and its partners, or
 - (vi) a corporation and its shareholders;
- (v) “**operational dependence**” means, in respect of an applicant or an insured, operational dependence as determined in accordance with section 4;
- (w) “**optional coverage**” means the level of coverage, the unit price or any other option offered for each insurable crop and chosen by the insured to apply in his or her insurance policy;
- (x) “**performance index**” for an insured, with respect to an insurable crop group, means the ratio between an insured’s actual yield for a crop group and the provincial average yield for the same crop group;
- (y) “**policy**” means a contract for production insurance coverage issued to the insured by the Corporation, and includes
 - (i) the completed application form,
 - (ii) a signed insurance agreement or contract of insurance,
 - (iii) the final acreage report of the insured,
 - (iv) these regulations,
 - (v) the Schedules,
 - (vi) the statement of account, and
 - (vii) any amendment to any document referred to in subclause (i), (ii), (iii), or (vi), and agreed to in writing by the Corporation and the insured;



- (z) “**premium**” means the cost to insure an insurable crop or insurance plan that is established using the insured value, the premium rates approved by the Board and those adjustments that are included and expressed on a per unit, insurable crop or plan basis;
- (aa) “**probable yield**” means the insured’s weighted average production to count for each insurable crop, as determined under section 15 or by such means that the Board considers appropriate;
- (bb) “**production**” means the total units of an insurable crop produced from acreage declared and reported by the insured in the final acreage report for each crop year;
- (cc) “**production to count**” means the yield of a crop calculated by adding all crop sales and inventory from all insured acres and then adjusting this gross production based on the crop’s intended or best use, by removing that portion of the yield affected by insured perils occurring before the harvest deadline and non-insured perils, as determined by the Corporation;
- (dd) “**rider**” means any rider issued by the Corporation and forming part of the policy;
- (ee) “**Schedules**” mean documents approved by the Board containing the specific descriptions, terms and conditions for each insurable crop, insurable crop group or plan and listed as part of the Production Insurance Agreement;
- (ff) “**unit price**” means the maximum price per unit of the insurable crop or any product thereof, as established by the Board and approved by Agriculture and Agri-Food Canada by means of their Unit Price Test;
- (gg) “**weighted average yield**” means the average yield, as determined for an insurable crop or insurable crop group, by calculating the ratio of total production to count to the total planted acres for a given period of time. (EC299/08; 666/09; 139/17)

2. Purpose

The purpose of a production insurance program is to provide insurance coverage for insurable crops against production and other losses, as described in the Schedules, resulting from one or more of the insurable perils listed in section 8. (EC299/08)

3. Insurable crop group

- (1) An insurable crop group is a group of insurable crops for which premium discounts or surcharges and performance indexes are calculated and applied.

Insurable crop

- (2) An insurable crop is those crops, varieties or groups of crops that have been approved for insurance coverage by the Board and for which Schedules have been prepared and approved.

Acres of insurable crop group

- (3) All acres of an insurable crop group, as identified in section 7, must be offered for insurance coverage in order to have a valid contract of insurance.

Coverage

- (4) Those insurable crops identified in the Schedules are eligible for coverage under an individual insurance contract. (EC299/08)

4. Independent applicant

- (1) For the purposes of the production insurance program, an applicant for a contract of insurance, or an insured, shall be financially and operationally independent of all other farm businesses growing the same insurable crop or insurable crop group.

Documents to prove financial independence

- (2) Before separate insurance contracts can be issued for a farm operation with multiple partners or owners, or before insurable crops or insurable crop groups on a farm unit can be split, the applicant or the insured shall provide documents to prove financial independence, as specified in subsection (2.1).

Criteria for determination

- (2.1) The financial independence of an applicant or an insured shall be determined by the Corporation based on whether the documents provided by the applicant or insured show that the applicant's or insured's available resources to finance the crop to be insured are sufficient to enable the applicant or insured to manage and sell the crop and to pay the operating expenses incurred to grow the crop, evaluated in accordance with the following criteria:
- (a) operating credit sufficient to produce the insured crop;
 - (b) a farm income and expense statement that applies to the insured crop in the form of tax returns that pertain to that crop;
 - (c) invoices for inputs purchased to grow the insured crop;
 - (d) a bill of sale for the crop insured;
 - (e) a valid HST rebate tax number.

Not financially independent

- (3) If an applicant or an insured fails to meet the criteria for financial independence specified in subsection (2.1), and the person with whom the applicant is financially dependent is also an applicant or an insured,
- (a) the Corporation
 - (i) shall combine the applicant's application with the application of the other applicant with whom the applicant is financially dependent and consider them as a single application, or
 - (ii) shall deem the insured and the other insured with whom the insured is financially dependent to be one insured; and
 - (b) section 7 applies to the contract of insurance as if the insureds were one insured.

Deemed to be one insured

- (4) If, at any time, an insured who claims to be financially independent of another insured is found by the Corporation not to be financially independent of the other insured, the Corporation shall deem the insureds to be one insured, including the application of section 7, for the crop year and for any subsequent crop years for which the insureds apply for crop insurance.

Eligibility

- (5) Where applications for contracts of insurance are made by corporations and partnerships the financial independence of the shareholders or partners from other farm businesses growing the same insurable crop shall be considered by the Corporation as factors in deciding eligibility.



Determination of operational dependence

- (5.1) The operational dependence of an applicant shall be determined by the Corporation with regard to whether the applicant or insured does not own or lease sufficient equipment to plant, grow and harvest a crop but depends on custom work or other services to the extent that the applicant's or insured's management control of the crop is affected.

Operational dependence

- (6) If an applicant
- (a) is operationally dependent on another insured; and
 - (b) has a non-arm's length relationship with that insured,
- the records of the Corporation relating to both the applicant and the other insured may be used to determine the probable yield and the performance index for purposes of setting coverage levels and to determine the premium discount or surcharges and, where such a relationship exists, that person and the other insured will be deemed to be operationally dependent. (EC299/08; 139/17)

5. Identification

- (1) All fields of all insurable crops and all varieties of insurable crops grown on each field shall be properly identified and declared to the Corporation.

Idem

- (2) The fields referred to in subsection (1) shall be subject to measurement by the Corporation. (EC299/08)

6. Premium

The premium prescribed under any production insurance agreements shall be reduced by such payments as may be made by the Government of Canada under the *Farm Income Protection Act* (Canada) and by the Government of Prince Edward Island. (EC299/08)

OBLIGATION TO INSURE**7. Acreage**

The insured shall offer for production insurance all acreage of crops identified under an insurable crop group or insurance plan that are grown by the insured on land owned or used by the insured in the province, and the policy shall apply to the entire group of crops as defined in the following:

- (a) all types and varieties of potatoes;
- (b) all spring cereal grains, soybeans and milling wheat;
- (c) all types and varieties of edible beans;
- (d) tobacco;
- (e) all broccoli and cauliflower;
- (f) rutabagas;
- (g) all winter cereal grains;
- (h) grain corn and silage corn;
- (i) all Brussels sprouts and cabbage;

- (j) all apples;
- (k) all apple trees;
- (l) blueberries;
- (m) all processing carrots;
- (n) strawberries;
- (o) forage;
- (p) specialty oilseeds;
- (q) all grape vines;
- (r) all grapes;
- (s) all pulse beans;
- (t) any other crop, varieties or group of crops identified in the Schedules approved by the Board. (EC299/08; 139/17)

PERILS COVERED

8. Perils

- (1) Subject to the terms and conditions thereof, a production insurance agreement covers a production loss during the crop year caused by one or more of the following designated perils which pertain to that insurable crop, insurable crop group or plan:
 - (a) insect infestation and plant disease;
 - (b) hail;
 - (c) frost;
 - (d) drought;
 - (e) excessive moisture;
 - (f) wind;
 - (g) damage from wildlife;
 - (h) any other unavoidable loss due to adverse weather conditions beyond the control of the insured.

Exclusions, control programs

- (2) Notwithstanding clause 1(a), a production insurance agreement does not insure against a loss resulting from
 - (a) insect infestation or plant disease unless the insured person establishes that he or she followed a control program acceptable to the Department and the Corporation; or
 - (b) plant disease where compensation is provided from another source, as outlined in section 32. (EC299/08)

EXTENT OF COVERAGE

9. Contract period

- (1) Subject to the t and these regulations, a production insurance agreement is valid from the date those conditions outlined in clause 1(y) are met until the date identified in the Schedules for



submitting a Proof of Loss, unless an additional period of coverage is approved, in writing, by the Corporation.

Harvested crops

- (2) All insurable crops harvested up to and including the final date for harvesting will be insured for losses from those designated perils listed in subsection 8(1).

Extended coverage

- (3) Those crops for which extended coverage is prescribed and permitted will be insured for losses from a designated peril from the prescribed final date for harvesting to the final date for filing a Proof of Loss, or as otherwise stated in the Schedules for each insurable crop.

Obligation to harvest

- (4) The insured shall harvest all insurable crops, unless written permission is received from the Corporation to do otherwise.

Unharvested crop

- (5) Where the harvesting of the insurable crop cannot be completed on the date prescribed in the Schedules, the insured shall notify the Corporation and the Corporation shall determine the production from the unharvested acreage, using harvested production, samples or any other method acceptable to the Corporation, and any losses occurring to the unharvested crop after the final date for harvesting will not be covered under the production insurance agreement.

Time for harvesting

- (6) Where the Corporation determines that harvesting was prevented by one or more of the perils insured against, the Corporation may extend the time for harvesting for such period as it considers necessary.

Non-yield based programs

- (7) For non-yield based programs or plans included in the coverage period, losses and indemnity payments shall be those as set out in the Schedules. (EC299/08;139/17)

EXCLUDED COVERAGE

10. Exclusions

- (1) A production insurance agreement does not insure against, and no indemnity shall be paid in respect of, a loss in production of an insurable crop resulting from
- (a) the negligence, misconduct, or poor farming practices of the insured or of agents or employees of the insured;
 - (b) a peril other than the perils designated in subsection 8(1);
 - (c) crops contaminated with diseases or conditions considered unacceptable by the insurer that existed prior to the date of application for insurance coverage;
 - (d) failure to meet minimum acceptable seed standards specified in the Schedules for that insurable crop;
 - (e) the use of poor quality or diseased seed which does not meet the minimal acceptable seed standards as specified in the Schedules for each insurable crop;
 - (f) a shortage of labour or machinery;
 - (f.1) a lack of adequate machinery capable of completing all the tasks required for the insured crop from planting to harvest within the applicable deadlines;

- (g) insurable crops planted after the final planting date, as set out in the Schedules for each insurable crop;
- (h) insurable crops harvested after the final date for harvest, as set out in the Schedules for each insurable crop;
- (i) insect infestation or plant disease, unless the insured established, to the satisfaction of the Corporation, that measures recommended by the Department for control of such infestations or diseases were performed;
- (j) the use of any variety of crop that is not registered by the Canadian Food Inspection Agency for use in Atlantic Canada or otherwise specifically approved by the Corporation;
- (k) mechanical damage that cannot be linked to a specific peril, or mechanical damage that is a result of rough or abusive handling;
- (l) excessive miss due to faulty planting equipment; and
- (m) losses to unharvested production that occur after the final harvest deadline or to production in storage after the final date for filing a Proof of Loss.

Notice of Loss

- (2) Subject to section 19, the insured must notify the Corporation of any problems with an insured crop by completing a Notice of Loss and the insured must receive written permission from the Corporation before any insured acres or harvested or stored production can be destroyed.

Elimination of coverage

- (3) Failure by an insured to notify the Corporation of the insured's
 - (a) intent to destroy or destruction of an insured crop prior to receiving permission from the Corporation to destroy the crop; or
 - (b) destroying the crop before the Corporation has verified the crop, including the losses and the perils associated thereto,shall eliminate all insurance coverage on that portion of the crop.

Contravention of certain Acts

- (4) A production insurance agreement does not insure against, and no indemnity shall be paid in respect of, a loss in production of an insurable crop from any planted acreage that is subject to the production insurance agreement and in respect of which the insured, during the term of the production insurance agreement, contravenes a provision of
 - (a) the *Environmental Protection Act* or its regulations;
 - (b) the *Pesticides Control Act* or its regulations; or
 - (c) the *Agricultural Crop Rotation Act* or its regulations. (EC299/08; 139/17)

INSURABLE INTEREST AND ASSIGNMENT

11. Insurable interest

Notwithstanding that a person other than the insured holds an interest of any kind in an insurable crop,

- (a) the interest of the insured in the insurable crop is deemed to be the insured value of the crop; and



- (b) subject to section 12, no indemnity shall be paid to any person other than the insured.
(EC299/08)

12. Assignment

The insured may assign all or part of the insured's right to indemnity under a production insurance agreement in respect of the insurable crop, but an assignment is not binding on the Corporation and no payment of indemnity shall be made to an assignee, unless

- (a) the assignment is made on a form acceptable to the Corporation; and
(b) the Corporation gives its consent to the assignment in writing. (EC299/08)

APPLICATION AND PREMIUMS FOR PRODUCTION INSURANCE

13. Application for production insurance

- (1) An application for production insurance shall be accepted, and a production insurance agreement shall be entered into and signed by the Corporation and the insured, if:
- (a) the Corporation receives a signed application before the application deadline for each program;
- (b) the required deposit accompanies the application;
- (c) the Corporation receives a copy of the signed agreement;
- (d) after initial review, the application appears to meet all regulations stated in the Agreement.

Application documents

- (2) A Final Acreage Report shall form part of the application for the Forage Program.

Idem

- (3) A signed copy of the Agreement must be received by the Corporation no later than the deadline as stated in the Schedules in order for a valid contract of insurance to exist.

Deposit, condition

- (4) An application shall not be accepted unless
- (a) it is accompanied by a deposit of 15% of the estimated premium; and
(b) all premiums and interest owing on insured crops from any previous year have been paid in full.

Total premium

- (5) The total premium shall be calculated by applying Board approved premium rates to the insured value of each insurable crop, subject to adjustments, pursuant to section 14, 15, 16, 17 or 18 of these regulations.

Insured's premium

- (6) The insured's premium cost is calculated by applying the insured's share of total premiums to the total premium costs.

Idem

- (7) The insured's share of premiums may be adjusted by Provincial Government incentives, subject to the insured's eligibility, as established by the Corporation.

Deposit

- (8) The deposit, required with the application, is calculated by applying the deposit requirement stated in subsection (4) to the insured's share of total premiums, calculated at the time the application is prepared.

Idem

- (9) Failure to provide the required deposit by the application deadline shall result in cancellation of the Agreement.

NSF

- (10) NSF (Non Sufficient Funds) bank charges of \$40 shall be charged to the insured when NSF checks are submitted as payment of the required deposit or premiums.

Date premium balance due

- (11) The remainder of the premium owing, after the deposit has been paid, is due and payable by the date stated in the Schedules for each insurable crop or plan to which the production insurance agreement applies.

Interest on premium balance outstanding

- (12) Interest, at a rate determined by the Board, shall be calculated and applied to the premium balance at the end of the month following the premium payment due date as stated in the Schedules for each insurable crop and interest charges shall be applied on the outstanding balance at the end of any subsequent month, until the premium balance and interest charges have been paid by the insured.

Early payment discount

- (13) The Corporation shall provide discounts for the early payment of premiums above the required deposit, and these discounts shall be applied as follows:
- (a) only the insured's share of premiums identified on the application form shall be eligible for the early payment discount;
 - (b) a discount rate shall be set by the Board for premium payments received before June 1st of the crop year and a separate discount rate shall be set by the Board for premium payments received within 30 days of June 1st of the crop year.

Idem

- (14) The discount shall only apply to that portion of the outstanding premiums, above the required deposit, that are received by the deadlines identified in subsection (13).

Termination

- (15) The insured has 30 days after the application deadline to reconsider the policy and if an insured chooses to terminate the policy, a written request must be received by the Corporation prior to the expiry of the 30-day period, and on receipt of the written request, the production insurance will be cancelled and any deposit paid for the insurance will be forfeited to the Corporation.

Premiums

- (16) Premiums or any other moneys due to the Corporation shall be deducted from any indemnity payment made, after the due date for payment of the premiums. (EC299/08; 139/17)



14. Premium discount or surcharge

- (1) The Corporation shall apply a premium discount or a premium surcharge to an insured's total premium costs for each insurable crop group, identified in section 7, based on the insured's relative loss ratio (RLR) for that insurable crop group.

Relative loss ratio

- (2) The relative loss ratio (RLR) used to establish the discount or surcharge is the ratio between an insured's loss ratio for an insurable crop group and the loss ratio for the province as a whole for the same insurable crop group over the same period of time.

Calculation

- (3) The loss ratio discount or surcharge will be calculated as follows:
- (a) for insureds with a loss ratio based on fewer than five years of insurance history, the discount or surcharge percentage will be equal to

$$(RLR - 1) \times N \times .1$$

(where N = number of years insured);

Discount and surcharges shall be capped at 10% per year, for the first five years;

- (b) for insureds with a loss ratio based on five or more years of insurance history, the discount or surcharge percentage will be equal to

$$(RLR - 1) \times 5 \times .1;$$

Idem

- (4) In the calculations described in subsection (3), a result less than zero represents a discount from the base premium rate, and a result greater than zero represents a surcharge on the base premium rate.

Maximum discounts or surcharge

- (5) In no case may the discount or surcharge calculated under subsection (3) exceed
- (a) 10% of the base premium amount, in the case of an insured with a loss ratio based on one year of insurance history;
- (b) 20% of the base premium amount, in the case of an insured with a loss ratio based on two years of insurance history;
- (c) 30% of the base premium amount, in the case of an insured with a loss ratio based on three years of insurance history;
- (d) 40% of the base premium amount, in the case of an insured with a loss ratio based on four years of insurance history; or
- (e) 50% of the base premium amount, in the case of an insured with a loss ratio based on five or more years of insurance history. (EC299/08)

YIELD CALCULATIONS AND PRODUCTION REPORTING**15. Production summary**

- (1) The insured shall complete and file with the Corporation a production summary
- (a) at the end of harvest and no later than the final date for filing a Proof of Loss, as stated in the Schedules for each insurable crop or plan; and
- (b) that states the total units produced and a production to count for each insurable crop or variety, as stated on the final acreage report.

Idem

- (2) The Corporation has the right to check and verify production summary information submitted by the insured.

Idem

- (3) If the insured is not in compliance with subsection (1), the Corporation or an agent of the Corporation shall provide to the insured and to the Corporation a production summary for each insured crop or variety grown by an insured client by the final date for filing a Proof of Loss, as stated in the Schedules for each insurable crop or plan.

Idem

- (4) The insured may meet the obligations of clause 15(1)(a) by signing the production summary prepared by the Corporation or an agent of the Corporation as stated in clause 15(1)(b).

Idem

- (5) The insured's signature on the production summary prepared by the Corporation or an agent of the Corporation shall indicate acceptance
- (a) of the total units produced and the production to count established for each insurable crop, variety, insurable crop group or plan, as stated therein; and
 - (b) of the final production to count to be used by the Corporation to determine indemnity payments.

Idem

- (6) The Corporation reserves the right to adjust the final production to count declared by the insured or an agent of the Corporation for insurable and non-insurable perils in order to establish a final production to count. *(EC299/08; 139/17)*

16. Benchmark yields

The Corporation shall establish benchmark yields for each insurable crop or variety on an annual basis. *(EC299/08)*

17. Probable yield

- (1) A probable yield shall be calculated for each insurable crop or variety annually, and this yield shall be a weighted average of the insured's own production to count for that insurable crop or variety during the most recent ten-year period.

Idem

- (2) For the purposes of a probable yield calculation,
Probable Yield = total production to count for all years insured / total acres grown for all years insured.

Probable yield with no history

- (3) Where no insured's data is available during the most recent ten-year period, a provincial benchmark yield for the insurable crop will be used to establish the insured's probable yield and
- (a) if no insured's data is available on any insurable crop within the insurable crop group, as specified in section 7, the insured's probable yield is equal to the benchmark for the insurable crop;



- (b) if the insured's data is available on any insurable crop group, the Corporation may adjust the benchmark if the insured's performance index from another crop group or groups if, in the opinion of the Corporation
 - (i) the new crop group has similar cultural practices and management requirements as an existing insurable crop groups and an adjustment is deemed warranted,
 - (ii) a new crop is deemed to be grown to manipulate the production insurance program, or
 - (iii) past performance in other insurable crop groups shows a trend that would warrant an adjustment.

Performance index calculation

- (4) A performance index is calculated for each insured using the following process
 - (a) a ratio is calculated each year for each insured crop by comparing the actual yield for that crop to the provincial average for the same crop of the same year;
 - (b) a ratio for each crop group is calculated by adding the ratio's for each crop within a crop group and dividing by the number of crops within the crop group that were grown that year;
 - (c) the performance index is calculated by adding all the yearly ratio's for each crop group and dividing by the number of years insured, up to a maximum of 10 years; and
 - (d) a 15% sleeve, for an index below or above 100%, is allowed before any adjustment is made to the probable yield, for new crops.

Historical production data

- (5) Any insured or those wishing to insure may provide historical production data and these production figures may be entered into the insured's production history and used in the probable yield calculations if:
 - (a) all yield information for all crops grown in the years to be supplied are included in the data;
 - (b) the yield and acreage information is verified to the satisfaction of the Corporation;
 - (c) the yield history provided is for consecutive years dating back from the present crop year.

Probable yield calculation

- (6) Where fewer than five years of production to count data is available for an insurable crop, the probable yield calculation will be supplemented with a provincial benchmark yield, that being, $(\text{Benchmark yield} + [N \times \text{weighted average yield}] / (N + 1))$, where N is the number of years for which an insured's production to count records and supplied data records are available, and the weighted average yield for the same insurable crops is the ratio of total production to count to the total planted acres during the years for which production to count and supplied data records are available.

Trend adjustment factor

- (7) Where industry yields increase over time resulting from improvements in technology, a trend adjustment factor may be added to the calculated probable yield, but any trend adjustment will not apply until after the probable yield calculation includes ten years of insured production to count data.

Coverage levels

- (8) Coverage levels for each insurable crop, insurable crop group or plan shall be agreed to by the Corporation, Agriculture and Agri-Food Canada, and shall be approved by the Board.

Idem

- (9) Coverage levels selected by the insured shall be applied to the probable yield for each insurable crop to determine the guaranteed yield and for non-yield based plans the coverage level shall be applied to the unit value to establish an insured value for each insurable unit.

Idem

- (10) Coverage levels greater than 70% may only be offered for new insurable crops or plans if they receive approval from Agriculture, Agri-Food Canada and the Board prior to being offered.

Idem

- (11) Coverage levels up to 80% may be offered to those established insurable crops or plans with fully loaded premium rates which are calculated to be greater than 9%

Idem

- (12) Coverage levels up to 90% may be offered to those established insurable crops or plans with fully loaded premium rates which are calculated to be less than 9%.

Guaranteed yield

- (13) Guaranteed yield for each insurable crop or plan shall be the product of the insured's probable yield for each insurable crop or plan, the coverage level selected by the insured, expressed as a percentage, and the acres insured under a contract of insurance, expressed on a per unit, insurable crop or plan basis.

Adjustment for late planted acres

- (14) The guaranteed yield shall be adjusted on any acres of an insurable crop planted after the prescribed final planting date, as stated in the Schedules.

Reduction, guaranteed yield

- (15) The Corporation shall reduce the guaranteed yield on all acres planted after the final planting deadline by 1% for each day the acreage was planted after that date, subject to subsection (16).

Ineligible acreage

- (16) Final planting dates are those dates listed in the Schedules and any acreage of a crop planted later than fifteen days after the final planting date is not eligible for insurance and shall be removed from the insurance contract.

Exception

- (17) The fifteen-day period specified in subsection (16) does not apply to acres insured in the elite seed potato plan. (*EC299/08; 139/17*)



FINAL ACREAGE REPORT

18. Final acreage report

- (1) The insured shall complete and file with the Corporation, no later than on the date prescribed in the Schedules, a final acreage report and this report shall state the insured's final declaration of planted acres for each insurable crop or variety, subject to section 3, and any other information as the Corporation may require.

Forage Program exemption

- (2) With respect to the Forage Program, the final acreage reports shall form part of the application and shall be filed by the application deadline.

Potato Storage Plan exemption

- (3) With respect to the Potato Storage Plan, a final inventory report shall be filed within 20 days of the final date for filing a Proof of Loss for potatoes.

Service charge for late filing

- (4) A service charge shall be charged for the late filing of the final acreage report and for those deadlines referred to in subsections (2) and (3), the service charge shall be based on a late fee of \$10 plus \$2 for each day the report is overdue.

Adjustments

- (5) Where the acres listed on the application form are less than or greater than the acres declared on the final acreage report, the guaranteed production will be adjusted to reflect the acres declared on the final acreage report and a new statement of account will be issued to reflect the changes in guaranteed yield and premium charges.

Final insured acres for Forage

- (6) Acres listed on the Forage Program final acreage report shall be considered as the final insured acres unless they are adjusted by the Corporation.

Verification

- (7) The Corporation reserves the right to check or measure, by any means acceptable to the Corporation, any or all acres which have been offered for insurance in order to verify the final insured acreage.

Adjustment

- (8) The Corporation reserves the right to adjust the final insured acreage based on subsection (7) and to adjust the guaranteed yield and premiums for the insurable crop.

Cultural practices

- (9) The insured shall produce and harvest the insurable crop following cultural practices recommended by the Department or listed in the most recent version of the "Atlantic Provinces Crop Guide". (EC299/08)

NOTICE OF LOSS AND PERMISSION TO DESTROY

19. Notice of Loss

- (1) Where any loss or damage to an insurable crop results from one or more of the perils insured against and the damage was occasioned at a readily ascertainable time, the insured shall notify the Corporation, in writing, within five days of such time.

Idem

- (2) The notice can be filed on a Notice of Loss form provided by the Corporation or by any other means considered acceptable by the Corporation.

Inspection

- (3) Upon receipt of such Notice of Loss the Corporation shall respond with an inspection of the insured fields or inventory in order to verify the extent of the losses or damage and to evaluate the losses with respect to all insurable and non-insurable perils;

Abandonment, etc. of damaged crop

- (4) Where loss or damage to an insurable crop results from one or more of the perils insured against or from non-insurable perils, and the insured intends to abandon or destroy the insured crop, to *re*-seed or to use the seeded acreage for another purpose (Stage I), to abandon or destroy the insured crop prior to harvest (Stage II), or to destroy production after harvest (Stage III), the insured shall notify the Corporation in writing of such intention and shall take no further action without the written consent of the Corporation.

Duties of Corporation

- (5) The Corporation shall, within three working days:
- (a) respond with an inspection of the insured fields or inventory in order to verify the losses or damage to an insurable crop from one or more of the perils insured against or from non-insurable perils;
 - (b) provide a written decision to the insured which identifies the insurable and non-insurable losses and the perils associated therein;
 - (c) provide written consent to abandon or destroy an insurable crop.

Consent to abandon or destroy

- (6) Written consent to abandon or destroy an insurable crop can be given by the Corporation or an agent of the Corporation by completing a Permission to Destroy form provided by the Corporation.

Notice to destroy

- (7) After receiving a Permission to Destroy form, the insured shall notify the Corporation of the time and date when the insured's crops are to be destroyed and shall allow an agent of the Corporation access to the abandoned acres or inventory in order to monitor the destruction.

Elimination of coverage

- (8) Failure to notify the Corporation of the time and date when the insured crops are to be destroyed shall eliminate coverage on that portion of the insured crop.

Payment

- (9) All crops and inventory identified in the Permission to Destroy form shall be destroyed before an indemnity is paid.



Offsetting

- (10) Payment of an indemnity for destroyed acres or inventory will not be made until a final production to count has been established for all varieties of the insurable crop and all offsetting adjustments have been applied, except for those potato acres identified and insured under Schedule F, Unharvested Potato Acreage Benefit Plan.

Salvage

- (11) If any portion of the acres or inventory identified for destruction are salvaged or sold, the insured shall declare to the Corporation such salvage or sale and a final production to count shall be prepared before an indemnity is paid.

Failure to declare

- (12) Failure to declare any salvage or sale from acres or inventory identified for destruction shall be considered fraud and shall subject the insured to those conditions outlined in section 27.

Inspection after notice

- (13) Where loss or damage to an insurable crop results from one or more of the perils insured against and it appears to the insured that the potential production of the insurable crop will be less than the total guaranteed production, the insured shall notify the Corporation, in writing, within such time prior to the harvesting of the insurable crop that will enable the Corporation to make a pre-harvest inspection of the insurable crop.

Notice where production is less than guaranteed production

- (14) Notwithstanding any notice given by the insured under this section, where, on completion of harvesting of an insurable crop, the actual production or production to count of the insurable crop appears to be less than the total guaranteed production, the insured shall notify the Corporation immediately.

No indemnity for loss after the deadline

- (15) Where the insured has failed to notify the Corporation of any loss by the date for filing a Proof of Loss, whether the failure to notify is to the prejudice of the Corporation and whether the loss is apparent by that date, no indemnity shall be payable and no premium shall be refunded.

Forage Program exemption

- (16) The insured is not required to file a Notice of Loss for the Forage Program and the Corporation shall determine losses and establish indemnity payments from weather data collected and as outlined in the Schedules. (EC299/08)

PROOF OF LOSS**20. Proof of Loss**

- (1) A claim for an indemnity in respect of an insurable crop shall be made on a Proof of Loss form provided by the Corporation or by any other means considered acceptable by the Corporation, and, unless the Corporation gives written permission to delay filing, a Proof of Loss shall be filed with the Corporation by the final date for filing a Proof of Loss.

Forage exemption

- (2) Notwithstanding subsection (1), the insured shall not be required to file a Proof of Loss form for Stage II and Stage III losses for insurable crops enrolled in the Forage program.

Claim for indemnity

- (3) Subject to subsection (4), a claim for indemnity shall be made by the insured.

Idem

- (4) A claim for indemnity may be made
- (a) in the case of the absence or inability of the insured, by the agent of the insured; or
 - (b) in the case of the absence or inability of the insured or the failure or refusal of the insured to do so, by an assignee under an assignment made in accordance with section 12. (EC299/08)

INDEMNITY

21. Indemnity

- (1) The indemnity payable for loss or damage to an insured crop shall be determined in the manner prescribed in these regulations for the insured crop or variety.

Appraisal

- (2) The Corporation may cause the production of an insured crop to be appraised according to guidelines outlined in the Schedules or by any method that it considers proper.

Each crop determined separately

- (3) The loss in respect of an insured crop and the amount of indemnity payable shall be determined separately for each variety or insured crop.

Combined

- (4) With respect to insurable groups, plans or under the whole farm options, individual crop indemnity calculations may be combined to determine the final indemnity for the insurable crop.

Conditions

- (5) No indemnity shall be paid for a loss in respect of an insured crop unless the insured establishes to the satisfaction of the Corporation that
- (a) the actual production to count obtained from the insured crop for the crop year is less than the guaranteed yield;
 - (b) the loss resulted directly from one or more of the perils set out in subsection 8(1), for that crop or variety; and
 - (c) the insured discovered and reported the loss, as required under section 19. (EC299/08)

22. Evaluation of loss

- (1) For the purposes of determining the loss of production in a yield-based program during a crop year and the indemnity payable, the insured value of the crop shall progress through the steps described in sections 23, 24 and 25.

Idem

- (2) For non-yield based programs, the losses shall be calculated as described in the Schedules.



Mitigation

- (3) The insured shall use all reasonable procedures available in order to mitigate losses in all stages of crop production and marketing.

Limitation of liability

- (4) The Corporation may limit its liability, at any stage of crop production if it determines that the loss has been established and that extending the management of the crop will only increase the losses.

Maximum liability

- (5) A Production Summary stating a production to count prepared and signed by the insured or assigned by the Corporation at the end of the coverage period shall establish the losses and liability, unless written permission is granted by the Board to extend the adjustment period. (EC299/08)

23. Stage I indemnity

- (1) A Stage I indemnity shall apply from the time of the application or planting of the insurable crop, whichever is later and shall extend for the period as set out in the Schedules and the amount of the indemnity shall be based on the prescribed percentage of the insured value as set out in the Schedules.

Stage I claim

- (2) With the exception of tobacco and subject to subsection (1), where a loss or damage occurs to the insurable crop from one or more of the perils covered under the policy and the Corporation permits a Stage I claim, in writing, the production insurance on the affected acreage shall be deemed to be cancelled, and the insurable crop on that portion of acreage shall be destroyed.

Replanting

- (3) Where a crop that is eligible for production insurance is replanted, it must be reinsured, subject to adjustments and the obligation in section 3 to insure all acreage.

Tobacco

- (4) With respect to tobacco, a Stage I claim may occur where there is more than 50% frost damage and insurance will continue on the affected acres when replanted throughout Stage II and Stage III. (EC299/08)

24. Stage II period

- (1) A Stage II period applies to unharvested acres and starts immediately after completion of Stage I and ends at harvest.

Maximum insured value

- (2) Where a loss or damage occurs to the insurable crop from one or more of the perils covered under the policy and the Corporation permits a Stage II claim, in writing, the production on the affected acreage shall be deemed to be zero, the insurable crop on that portion of acreage shall be destroyed and the loss, if not offset by Stage III production, shall be paid at the rate established for Stage II losses.

Destruction

- (3) Gross production from all Stage II acres must be destroyed prior to processing the Stage II claim unless written permission to do otherwise is received from the Corporation.

Indemnity rate

- (4) Where loss or damage occurs in Stage II, the Corporation shall establish an indemnity rate by using a sliding scale ratio, based on the number of days a crop has been growing compared to the total number of days to maturity for that same crop and applying this ratio to the insured value range for Stage II losses, as stated in the Schedules for each crop.

Minimum Size

- (5) In order for an area to be considered for a Stage II indemnity, the area affected and destroyed shall be one continuous area or block and shall be at least 0.5 acre in size.

Indemnity-marketable salvage

- (6) Where loss or damage occurs in Stage II and the insured concludes that part or all of the crop is salvageable and marketable, the indemnity will be paid at the Stage III level as prescribed in section 25, provided the insured harvests the affected acres, stores the harvested crop in acceptable storage facilities for a minimum of three weeks, and submits proof that buyers have been contacted and have rejected the crop.

Loss of apple trees

- (7) Where loss or damage in respect of insurable apple trees occurs in Stage II due to an insured peril, the Corporation will provide an indemnity at the insured value for the lost or damaged trees, less a deductible equal to 3% of the number of insurable apple trees after the trees have been removed.

Time of payment and offsetting

- (8) Indemnity payments for all Stage II claims will be withheld until it is determined that the loss is offset by possible excess yield in the remaining Stage III acreage, but if a Stage III loss is evident or the Stage II claim represents a large percentage of the total acreage, the Corporation may decide to pay a portion of the Stage II indemnity when the Proof of Loss is completed.

No offsetting

- (9) The Corporation will pay a Stage II claim without offset by excess yield from remaining Stage III acres where
- (a) coverage is provided in the potato plan for late blight; and
 - (b) coverage is provided for potatoes under Schedule F – Unharvested Potato Acreage Benefit.

Idem

- (10) Final production to count must be determined before a Stage II claim can be completed, with the exception of Stage II acres, as outlined in subsection (9). (EC299/08; 139/17)

25. Stage III period

- (1) A Stage III period applies to claims on harvested acres, and in cases where weather conditions within an area or district are such that the majority of the crop cannot be harvested, the Board may extend the final date for harvesting within any given area or district.



Final indemnity

- (2) For all yield based plans, a final indemnity under Stage III occurs where the production to count is less than the guaranteed yield for that crop or variety, and shall be calculated by multiplying the difference between the guaranteed yield and the production to count by the unit price.

Indemnity non-yield based

- (3) For non-yield based programs, the Stage III indemnity shall be calculated, as set out in the Schedules for each insurable crop.

Determination

- (4) With respect to tobacco crops, the production to count and guaranteed production shall include all acres insured, but for all other insurable crops, the production to count and guaranteed yield shall include all acreage, except acreage included in Stage I.

Storage

- (5) The insured shall store all insurable crops or varieties that have been harvested separate from each other, and shall keep these insurable crops or varieties separate from other crops produced by the insured or by other farm businesses growing the same crop, so that the Corporation can measure production to count and adjust a loss.

Indemnity

- (6) No indemnity shall be payable for an insurable crop stored in contravention of subsection (5).

Obligation to destroy

- (7) Gross production from all Stage III acres that have been written off by the Corporation shall be destroyed prior to processing a Stage III claim, unless written permission to do otherwise is received from the Corporation. (EC299/08)

PAYMENT OF INDEMNITY**26. Time for payment**

- (1) Except as otherwise provided in the endorsement for an insurable crop, an offer of indemnity under a production insurance agreement shall be made by the end of the crop year in which the loss or damage was sustained.

Idem

- (2) The Corporation may pay, in part or in full, an indemnity under a production insurance agreement before the date on which it is due.

Monies owed

- (3) The Corporation reserves the right to deduct all monies owed to the Corporation from an indemnity payment before it is issued to the insured.

Total payments

- (4) Total indemnity payments shall never exceed 100% of the insured value of the crop. (EC299/08)

MISREPRESENTATION

27. Misrepresentation

- (1) Where, in respect of an insurable crop, the insured:
- (a) wilfully makes a false statement or provides documents that wrongfully state the financial or operational independence of the insured;
 - (b) in the application for insurance or in other documentation provided to the Corporation, gives false particulars of the insurable crop to the prejudice of the Corporation or knowingly misrepresents or fails to disclose any fact required to be stated therein;
 - (c) contravenes a term or condition of the production insurance agreement;
 - (d) commits a fraud;
 - (e) wilfully makes a false statement in respect of a claim under the production insurance agreement,

the policy shall be deemed to be terminated, all premiums shall be deemed to have been earned by the Corporation, any claim for indemnity by the insured will be invalid, and the right to recover thereunder will be forfeited.

Claim for repayment

- (2) Where the Corporation finds, at a later date, that an insured falsely stated or misrepresented the insured's position with respect to a contract of insurance or an indemnity payment, the Corporation shall file a claim for repayment of all indemnities deemed to be unearned. (EC299/08)

WAIVER OR ALTERATION

28. Alterations

- (1) No term or condition of the production insurance agreement or of a rider shall be waived or altered in whole or in part by the Corporation, unless the waiver or alteration is clearly expressed in writing and signed by the Board or a representative authorized for that purpose by the Corporation.

Idem

- (2) The Corporation reserves the right to change the terms and conditions of the production insurance agreement from year to year without obtaining the consent of the insured.

Notice

- (3) Notwithstanding subsection (2), the insured will be notified of any changes to the production insurance agreement before the enrolment deadline for the crop year in which the changes are to be in effect, and those changes are deemed to be part of the policy for that crop year.

Adjustments

- (4) The Corporation reserves the right to make additional adjustments for insured and non-insured perils. (EC299/08)



APPEAL OF A DECISION

29. Appeal

Where the Corporation and the insured fail to resolve any dispute respecting the adjustment of a loss under the production insurance agreement, the insured may appeal the decision of the Corporation in accordance with the Act and these regulations. (EC299/08)

30. Notice of appeal

- (1) Where any person is aggrieved by a decision of the Corporation or its officers or agents in respect of a dispute arising out of the adjustment of losses, that person may, within 30 days from the final coverage date for a contract of insurance or within 30 days of the date of a written decision, whichever is later, appeal to the Board by serving written notice of the appeal on the Board.

Hearing

- (2) Within 30 days of written notice being served on the Board, the Board shall hear the appeal and make a decision.

Final order

- (3) A decision made by the Board under subsection (2) is deemed to be a final order or finding of the Board. (EC299/08)

31. Appeal to Appeal Board

- (1) Where any person is aggrieved by a final order or finding of the Board, that person may, within 30 days of the issuance of such final order or finding, appeal to the Appeal Board by serving written notice of the appeal on the Appeal Board.

Content of notice of appeal

- (2) Every notice under subsection (1) shall
 - (a) contain a statement of the matter being appealed;
 - (b) indicate the date that the notice of appeal is sent as well as the signature of the person making the appeal;
 - (c) specify any error of fact in a final order or finding of the Board to which the appellant takes issue;
 - (d) specify any reason why the final order or finding of the Board is not appropriate;
 - (e) specify any other evidence that might affect the decision of the Appeal Board; and
 - (f) provide any other information the Appeal Board may require.

Materials

- (3) On receipt of a notice under subsection (1), the Appeal Board shall
 - (a) notify the Corporation and the Board that the notice of appeal has been received and the Board shall provide the Appeal Board and the person making the appeal with all relevant final orders, findings, regulations, documents and other material in its possession; and
 - (b) require the Corporation, on behalf of the Board, to submit to the Appeal Board and the appellant a report which shall be in writing, signed by the General Manager of the Corporation or the chairperson of the Board and delivered to the Appeal Board members.

Report

- (4) The report referred to in clause (3)(b) shall include
- (a) the text of the complaint;
 - (b) a statement summary of the findings of the Board indicating whether or not the Board has properly carried out its mandate under the t and these regulations;
 - (c) a statement summary of the facts that establishes that the Board was carrying out its mandate properly;
 - (d) a statement of the position of the Board; and
 - (e) any other information the Appeal Board may require.

Notice of hearing

- (5) In any appeal under subsection (1), the Appeal Board shall, within seven days after the notice of appeal referred to in subsection (1) is received, serve notice upon the person making the appeal of the date, time and place at which the appeal will be heard.

Decision within 30 days

- (6) The Appeal Board shall hear and decide any appeal under subsection (1) within 30 days after the notice of appeal is received, but the Appeal Board may, at the request of the person making the appeal, adjourn the hearing from time to time for such period or periods of time as the Appeal Board considers necessary.

Rights of appellant

- (7) At any hearing of an appeal under this section, the person making the appeal has the right to attend and make representations and to give evidence respecting the appeal either by himself or herself or through legal counsel.

Rights of Board

- (8) At any hearing of an appeal under this section, the Board has the right to attend and make representations and to give evidence respecting the appeal either by its directors or through legal counsel.

Decision binding

- (9) The decision of the Appeal Board is final and binding on all parties and no appeal lies therefrom.

Notice of decision

- (10) The Appeal Board shall, within 10 days after the hearing is completed, serve notice of its decision and provide its decision to all parties involved in the appeal. (EC299/08)

SUBROGATION

32. Subrogation

- (1) Where the Corporation has paid a claim under the production insurance agreement, the Corporation is subrogated to the extent thereof of all rights of recovery of the insured against any person, and may bring action in the name of the insured for the full amount of the claim to enforce those rights.



Third party payments

- (2) Where the Corporation is liable to pay a claim under the production insurance agreement but the insured has been compensated for the loss by another party, the Corporation, being subrogated to the rights of the insured, may take such third party compensation into account when determining the Corporation's liability for compensation to the insured. (EC299/08)

RECORDS AND ACCESS**33. Right of entry**

- (1) The insured agrees that the Corporation has a right of entry to the premises of the insured, which right may be exercised by the Corporation or its agents at any reasonable time, and on reasonable grounds to inspect or monitor crops or for any purpose related to the policy.

Offence

- (2) No person shall obstruct, hinder or knowingly make any false or misleading statements either orally or in writing to an officer or agent of the Corporation engaged in the performance of their duties or while lawfully carrying out the enforcement of the Act or these regulations.

Assistance

- (3) An insured shall give an officer or agent of the Corporation all reasonable assistance to enable the officer or agent to carry out the duties or functions described in the Act or these regulations and shall furnish all information reasonably required to administer the Act or these regulations.

Termination

- (4) When an insured refuses to provide assistance, fails to furnish required information or obstructs an officer or agent of the Corporation to the extent that a final production to count cannot be determined for an insured crop, the Corporation shall assign the guaranteed yield for all affected crops and terminate the contract of insurance. (EC299/08)

34. Records

- (1) The Corporation may, at any time, require the insured to keep or cause to be kept such records as it may prescribe for any insurable crop.

Access

- (2) The Corporation may, at any time, require the insured to produce or make available such records it considers pertinent to the policy, and any person designated by the Corporation shall have access to such records and to the land on which the crops are grown at any reasonable time for the purpose of determining matters related to the policy.

Information

- (3) The insured shall, within 15 days of being requested to do so by the Corporation, provide the information requested in subsection (1) or (2).

Idem

- (4) Information collected for the purpose of this program may be used by the Corporation to verify or cross-reference relevant information required for, or from, other programs that are administered and delivered by the Corporation. (EC299/08)

SERVICE

35. Service

- (1) Any written notice to the Corporation shall be served by personal delivery to an agent of the Corporation or to the office of the Corporation, or by sending it by mail to the address of the Corporation.

Time of service

- (1.1) Service shall be deemed to have occurred when the notice is received by the agent or the Corporation, as the case may be.

Idem

- (2) Any written notice to the insured shall be served by hand delivery to the insured, or by sending it by mail addressed to the insured at the last mailing address for the insured on file with the Corporation and service shall be deemed to have occurred three days after the date of mailing. *(EC299/08; 139/17)*

36. Revocation

The *Agricultural Insurance Act Regulations (EC277/07)* are revoked. *(EC299/08)*

