

SUMMARY OF CHANGES FOR THE CULTIVATED CLAM PILOT CROP PROVISIONS (2004-0116)

The following is a brief description of significant changes to the cultivated clam pilot crop provisions that will be effective for the 2004 crop year. Please refer to the provisions for more complete information.

- Section 1 – Definitions:
 - The definitions for ages were deleted and replaced with stages to more accurately represent the physiological changes to the growing clam.
 - Age value was replaced with stage value, which represents the dollar value of the inventory of all insurable clams.
 - The definition of “growout” bag was added to identify the growing container used for certain clam-growing practices.
 - The definition of “Non-contiguous” was modified to require that the units must be located in differently named high-density lease areas to qualify for non-contiguous units,
 - The definition of “Practical to replant” was added to indicate that, in some areas, replanting payments will be offered for certain stages of clams.
 - The definition of “Replant” was added to identify the cultural requirements necessary to replant clams.
 - The definition of “under-report factor” is added to clarify, in the event the practice value reported is less than the actual value of the inventory, that the indemnity value will be reduced commensurate with the value of the original inventory value report.
- Section 2 – Unit Division
 - Split paragraph (c) into two parts, (c) and (d) for clarity.
- Section 3 – Amount of Insurance
 - Revised this section to add (e) which indicates that, stages will receive a percentage of the reference maximum amount of insurance.
 - Added paragraph (f) for clarification on the procedure for determining the amount of insurance.
- Section 6 – Clam inventory value report
 - Revised paragraph (a) to clarify when coverage begins for new and continuing policies when the application and inventory value report are submitted at least 30 days before the insurance commencement date and when they are not.
 - Added provisions to (b) to clarify that the inventory value should reflect the stages contained in the Special Provisions.
 - Revised paragraph (d) to provide that coverage will begin the later of December 1 or 30 days after your written request is received by us.
 - Added (h) to clarify that the insured must report all clams on a lease, including any clams owned or subleased to other individuals or entities.
- Section 7 – Premium
 - Added paragraph (c) to indicate that, in certain states, the premium can be pro-rated for partial year increases in inventory value.
- Section 8 – Insured crop
 - Added language to require prior growing and management experience for insurability.
- Section 10 – Causes of loss
 - Modified definitions of certain loss events to be more specific to the actual event. Also added ice floe as a cause of loss.
- Section 11 – This section was added to specify the criteria for replanting clams.



**UNITED STATES DEPARTMENT OF AGRICULTURE
Federal Crop Insurance Corporation
CULTIVATED CLAM PILOT CROP INSURANCE PROVISIONS**

Throughout this policy, “you” and “your” refer to the named insured shown on the accepted application and “we,” “us,” and “our” refer to the insurance company providing insurance. Unless the context indicates otherwise, use of the plural form of a word includes the singular and use of the singular form of the word includes the plural.

If a conflict exists among the policy provisions, the order of priority is as follows: (1) The Catastrophic Risk Protection Endorsement, if applicable; (2) the Special Provisions; (3) these Crop Provisions; and (4) the Basic Provisions with (1) controlling (2), etc.

1. Definitions.

Amount of insurance - For each basic unit, your inventory value multiplied by the coverage level percentage you elect, and multiplied by your share. However, for catastrophic risk protection policies, amount of insurance is your inventory value multiplied by the coverage level percentage you elect, multiplied by your share, and multiplied by 55 percent. Your accumulated paid indemnities during the crop year for each basic or optional unit may not exceed your amount of insurance.

Basic unit value before loss - The stage value of all undamaged insurable clams, in the basic unit or, if elected, all optional units combined, immediately prior to the occurrence of any loss as determined by our appraisal. This allows the amount of insurance under the policy to be prorated among the individual units based on the actual value of the clams in the unit at the time of loss. It is also the basis for determining whether or not an indemnity is due. This value is used to ensure that you have not under-reported your clam inventory value.

Clam - A cultivated *Mercenaria mercenaria* (quahog).

Crop year - The twelve-month period beginning December 1 and extending through November 30 of the next calendar year, designated by the calendar year in which insurance ends.

Crop year deductible - The deductible percentage multiplied by the sum of the inventory values within each basic unit. The crop year deductible will be increased for any increases in the inventory value on the inventory value report. The crop year deductible will be reduced by any previously incurred deductible if you timely report each loss to us.

Deductible percentage - An amount equal to 100 percent minus the percent of coverage you select. The percentage is 50 percent for catastrophic risk protection coverage.

Disease - Any pathogen or group of pathogens, parasitic infestation or plague verified by an aquaculture pathologist and shown to be a primary cause to the death of the insured clams.

Freeze - The formation of ice in the cells of the

animal caused by low air temperatures.

Growing location - A lease parcel, permit or licensed area, whose boundaries are readily discernable above the water, and identified on a map that shows enough detail to distinguish seeded areas within the site.

Growout bag - A mesh bag used throughout the growing season to contain clams when placed in the appropriate growing medium and as further defined by the Special Provisions.

Harvest - Removal of marketable clams from the unit. Clams that are removed from the growing location but not of sufficient size to be marketable are not considered harvested if returned to the growing location.

Ice floe - Floating ice formed in sheets on the sea surface.

Inventory value - The total of the stage values from the inventory value report.

Inventory value report - Your report that declares the stage values of insurable clams in accordance with section 6.

Land - The land under a body of water suitable for planting clams and the column of water above the land if designated and controlled by state law.

Lease - A contract that grants use of land in or assigned to a county for a specified term and for a specified payment and provides the lessee with the exclusive use of the land to plant clams.

Lease parcel - A legally identifiable tract or plot of land covered by a lease, permit, or license.

License - Official or legal permission that grants use of land in or assigned to a county for a specified term and provides the licensee with the exclusive use of the land to plant clams.

Non-contiguous - In lieu of the definition in the Basic Provisions, separately-named, high-density aquaculture lease sites or shellfish sites are considered non-contiguous, unless limited by the Special Provisions. Individual land parcels within such sites are not considered non-contiguous.

Occurrence deductible -

(a) This deductible allows a smaller deductible than

the crop year deductible to be used when:

- (1) Inventory values are less than the reported basic unit value; or
 - (2) You have elected optional units, if applicable.
- (b) The occurrence deductible is the lesser of:
- (1) The deductible percentage multiplied by the unit value before loss multiplied by the under-report factor; or
 - (2) The crop year deductible.

Permit - A document giving official or legal permission to use land in or assigned to a county for a specified term and provides the permittee with the exclusive use of the land to plant clams.

Planting - The placing of seed clams into the appropriate growing medium for the practice specified.

Pollution - The presence in the water of a substance that directly causes death of the clams. The substance shall not be parasitical, bacterial, fungal or viral, or any substance used by you for medicinal purposes. Pollution will also include any increase or decrease in the content of any normal soluble or insoluble constituent of water including mud and silt, feed residues, solid or liquid fish wastes, dissolved gases and any other substance normally present in the water of the lease parcel.

Practice - Cultural methods of producing clams such as trays, mesh bags, round pens, lantern nets or bottom planting.

Practical to replant - In lieu of the definition of "Practical to replant" contained in section 1 of the Basic Provisions, unless limited by the Special Provisions, practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors including, but not limited to the causes of loss listed in section 10 of these provisions, that replanting the insured crop will allow the crop to develop normally during the remainder of the crop year. Unavailability of seed clams will not be considered a valid reason for failure to replant.

Replant - Unless limited by the Special Provisions, replanting means performing the cultural practices necessary to prepare for replacement of insurable clams that were destroyed by an insurable cause of loss and then placing living insurable clams into mesh bags or pens, or seeding them into prepared growout beds, bottom culture, bottom trays, or floating trays on insurable acreage.

Salinity - The dissolved solids (typically salts such as chloride, sodium, and potassium) in ocean water expressed as parts per thousand.

Seed clam -

- (a) For clams placed in a field nursery or a nursery bag - a clam that is a minimum of 5 millimeters, measured at the longest shell distance that is parallel to the hinge.
- (b) For all others - a clam which is a minimum of 10 millimeters, measured at the longest shell distance that is parallel to the hinge.

Separately named high-density aquaculture lease site - The submerged subdivided land under a body of water suitable for the cultivation of clams and identified and named separately by the Division of Marine Resources or similar regulatory agency.

Shellfish harvest ban - A State or Federal order that prohibits harvesting clams for human food in areas where monitoring program data indicates that fecal material, pathogenic microorganisms, poisonous or deleterious substances, marine toxins, or radio nuclides have reached excessive concentrations.

Stage - Clams that have attained the size or age specified for stage 1, 2, 3, or 4 as defined in the Special Provisions.

Stage value - The dollar value of the inventory of all insurable clams at each stage based on the survival factors and the prices shown in the actuarial documents for such stages, in each unit on your inventory value report, including any revision that increases the value of your insurable inventory.

Storm surge - A significant increase or decrease in water depth relative to normal tides that is caused by a strong, continuous and prolonged strong flow of onshore or offshore winds.

Survival factor - A factor shown on the actuarial documents that represents the expected percentage of clams that will normally survive. If you provide production records for three consecutive years, your records will be used in lieu of the factor contained in the actuarial document to determine the survival factor.

Tidal wave - A large water wave, wave train, or a series of waves, generated in a body of water by an impulsive disturbance that vertically displaces the water column or a destructive type of wave motion in seas and oceans, associated with either strong winds or underwater earthquakes.

Under-report factor - The factor that adjusts your indemnity for under-reporting of inventory values. The factor is always used in determining any indemnities.

The under-report factor is the lesser of: a) 1.000 or; b) the sum of all stage values reported on all the inventory value reports, minus the total of all previous losses, as adjusted by any previous under-reporting factors, divided by the basic unit value before loss.

Unit value after loss - The value of the remaining insurable clams in each basic or optional unit based on the percentage of the maximum reference price contained in the actuarial materials, immediately following the occurrence of a loss as determined by our appraisal, plus any reduction in value due to uninsured causes. This is used to determine the loss of value for each individual unit so that losses can be paid on an individual unit basis, optional or basic, as applicable.

Unit value before loss - The stage value of undamaged insurable clams in the basic or optional unit, as applicable, immediately prior to the loss

occurrence. The determined value will include the number and stages that existed on the date of the inventory value report, adjusted for changes, including but not limited to, seeded and harvested; the prices contained in the actuarial materials; and the applicable survival factors. This allows the amount of insurance under the policy to be divided among the individual units in accordance with the value of the clams in the unit at the time of loss for determining whether you are entitled to an indemnity for insured losses in the unit, optional or basic, as applicable.

2. Unit Division.

- (a) In addition to the definition of basic unit contained in section 1 of the Basic Provisions, a basic unit may be divided into optional units in accordance with section 2(b). Note that even if you elect optional unit coverage, amount of insurance, crop year deductible, under-report factor, premium, and the total amount of indemnity payable under this policy will be controlled by the basic unit value before loss.
- (b) If you elect the additional level of coverage, for an additional premium, inventory that would otherwise be a basic unit may, unless limited by the Special Provisions, be divided into optional units by non-contiguous lease parcels. Additional optional units may also be authorized in the Special Provisions. If you elect optional units, you must provide separate inventory reports for each unit and keep all records of seeding, harvest, and uninsured losses separately by unit.
- (c) Failure to keep or report separate records will result in all optional unit inventories under a basic unit being combined in a basic unit at loss time.
- (d) If you elect optional units, your amount of insurance will be divided among optional units in relation to unit value before loss of clams in each optional unit. If, at the time of loss, the aggregate value of the clams in your optional units exceeds your basic unit inventory value, you will be subject to the under-report factor provisions.

3. Amount of Insurance.

- (a) In addition to the requirements of section 3 of the Basic Provisions, you may only select one coverage level percentage for all clams, regardless of their stage, insured under this policy.
- (b) Your amount of insurance will be reduced by the amount of any indemnity paid under this policy.
- (c) For an additional premium, you may increase your amount of insurance in accordance with section 6(d).
- (d) The production reporting requirements contained in section 3 of the Basic Provisions are not applicable.
- (e) For clams seeded in raceways the amount of insurance will be the product of the reference

maximum dollar amount of insurance that is shown in the actuarial documents for the applicable stage multiplied by the percentage for the coverage level you select.

4. Contract Changes.

In accordance with section 4 of the Basic Provisions, the contract change date is August 31 of each year.

5. Cancellation and Termination Dates.

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are November 30 preceding the crop year.

6. Clam Inventory Value Report.

In lieu of section 6 of the Basic Provisions:

- (a) For insurance to attach for the crop year you must submit an inventory value report to us with your application and for each subsequent crop year, not later than November 30 preceding the crop year.
- (b) The inventory value report must be revised yearly and include, for each basic or optional unit all growing locations, the stages of the clams and the stage values, and your share by growing location. The inventory value must also reflect the stages as shown in the Special Provisions. At our option and at any time, you may be required to provide documentation in support of any of your reports, including, but not limited to, a detailed listing of growing locations, unit values, the numbers and the sizes of clams seeded or placed for grow-out; your share, sales of clams and purchases of seed clams for the 3 previous crop years, and of your ability to properly obtain and maintain clams. For catastrophic level policies only, you must report your clam sales for the previous crop year on the clam inventory value report. You may be required to provide documentation to support such sales.
- (c) Your inventory value report, including any revised report, will be used to determine your premium and amount of insurance.
- (d) If allowed for in the Special Provisions you may revise your inventory value report to increase the reported inventory value. We may inspect the inventory. Your revised inventory value report, if allowed by the Special Provisions, will be considered accepted by us and coverage will begin on any proposed increase in inventory value at the later of December 1 or 30 days after your written request is received by us unless we reject the proposed increase in your inventory value in writing. We will reject any requested increase if a loss occurs before the later of December 1 or within 30 days of the date the request is made.
- (e) Failure to report the full value of your stage value will result in the reduction of any claim in accordance with section 14(d).
- (f) For catastrophic insurance coverage only: Your inventory value report for all clams cannot exceed

the lesser of the value from section 6(b) or the percent shown on the actuarial documents of your previous year's sales of clams unless you provide acceptable records to prove your actual inventory value.

- (g) Your inventory value report must reflect your insurable clam inventory according to the prices contained in the actuarial documents. In no instance will we be liable for values greater than those contained in the actuarial documents.
- (h) You must report all clams on the unit including any clams owned or subleased by other individuals or entities.

7. Premium.

- (a) In lieu of section 7(c) of the Basic Provisions, we will determine your premium by multiplying the amount of insurance by the appropriate premium rate and by the premium adjustment factors listed on the actuarial documents.
- (b) Additional premium from an increase in the inventory value report is due and payable when we accept the revised inventory value report.
- (c) In addition to the provisions in section 7 of the Basic Provisions, the premium will be adjusted for partial crop years for the year of seeding and for clam leases you acquire. Premium will be charged for the entire month, as shown in the actuarial documents, for any month during which any amount of coverage is provided.

8. Insured Crop.

In lieu of the provisions of section 8 and section 9 of the Basic Provisions, the insured crop is all the clams in the county that:

- (a) Meet all the requirements for insurability and for which prices are provided in the actuarial materials;
- (b) Are acceptable to us;
- (c) That are grown by a person, who in at least three of the five previous crop years:
 - (i) Grew clams for commercial sale; and
 - (ii) Participated in the management of a clam farming operation by at least exercising decision-making authority over all operational aspects of the farm.
- (d) Are grown in a county for which a premium rate is provided in the actuarial documents;
- (e) Are in a growing location acceptable to us; and
- (f) Use a practice that fixes the insurable clams to the land within the growing location.

9. Insurance Period.

- (a) In accordance with the provisions of section 11 of the Basic Provisions, unless we notify you that your inventory is not insurable, coverage begins:
 - (1) On December 1 for new applications, when the application and the inventory value report are submitted by October 30;
 - (2) On the 31st day following the date of submission for new applications, when the

application and the inventory value report are submitted between November 1 and 30;

- (3) On December 1 for policies continued from the prior year if the inventory value report is submitted by October 30; and
- (4) On the 31st day following the date of submission of the inventory value report for policies continued from the prior year when the inventory value report is submitted between November 1 and 30.
- (5) Note that no application or inventory value reports, except revisions, will be accepted after November 30.

- (b) Insurance ends at the earliest of:

- (1) The date of final adjustment of a loss when the total indemnities due equal the amount of insurance; or
- (2) November 30.

- (c) If you acquire a financial interest in any insurable clams after coverage begins, but after December 1 of the crop year, and our inspection determines that the clams are acceptable, insurance will be considered to have attached to such clams 30 days after a revised inventory report is accepted by us indicating the stage value of the acquired clams.

- (d) Insurance ceases immediately on any clams removed from the unit.

10. Causes of Loss.

- (a) In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided for the death of clams caused only by the following causes of loss that occur within the insurance period unless otherwise limited by the Special Provisions:

- (1) Oxygen depletion due to vegetation, microbial activity, harmful algae bloom, or high water temperature unless otherwise limited by the Special Provisions;
- (2) Disease;
- (3) Freeze;
- (4) Hurricane;
- (5) Decrease in salinity associated with a weather event verified by National Oceanic & Atmospheric Administration (NOAA) or United States Geologic Survey (USGS) or as otherwise defined in the Special Provisions;
- (6) Tidal wave;
- (7) Storm surge that is associated with a local weather event and verified by NOAA or USGS; or
- (8) Ice floe.

- (b) In addition to the causes of loss excluded in section 12 of the Basic Provisions, we do not insure against any loss caused by:

- (1) Your inability to market clams as a direct result of quarantine, shellfish harvest ban, boycott, or refusal of a buyer to accept

- production;
- (2) Collapse or failure of buildings or structures;
- (3) Loss of market value;
- (4) Vandalism;
- (5) Theft;
- (6) Pollution;
- (7) Predation (unless allowed by the Special Provisions);
- (8) Dredging;
- (9) Any cause of loss that occurred prior to or after the insurance period;
- (10) Any unexplained shortages or disappearance of inventory; or
- (11) Failure of the clam to grow to a marketable size.

11. Replanting Payments.

Unless otherwise stated in the Special Provisions:

- (a) In accordance with the provisions contained in section 13 of the Basic Provisions, a replanting payment is allowed for insurable clams if death of the clams was due to an insurable cause of loss.
- (b) The maximum amount of the replanting payment will be the lesser of your actual cost of replanting or the result obtained by multiplying the replanting payment amount contained in the Special Provisions by your insured share.
- (c) The provisions of section 13 of the Basic Provisions, notwithstanding, only one replanting payment will be made per lease parcel planted within the crop year.
- (d) You may not collect a replant payment and an indemnity for the same loss.

12. Duties in the Event of Damage or Loss.

In addition to your duties contained in section 14 of the Basic Provisions,

- (a) You must obtain our written consent prior to changing or discontinuing your normal practices with respect to care and maintenance of the insured clams. Failure to obtain our written consent will result in the denial of your claim.
- (b) If you are claiming disease as the cause of loss, you must prove, at your own expense, that the death of the clams was due to disease by isolating a sample of the clams and identifying the disease following histological or pathological examination conducted by a veterinarian who is a certified fish pathologist or a person approved by us.

13. Access to Insured Crop and Records, and Record Retention.

In addition to the requirements of section 21 of the Basic Provisions, you must permit us to inspect the insurable clams at any time and take samples of damaged and undamaged clams for inspection, testing, and analysis, and examine and make copies of your records.

14. Settlement of Claim.

We will determine indemnities for any unit as follows:

- (a) Determine the under-report factor for the basic unit;
- (b) Determine the occurrence deductible;
- (c) Subtract unit value after loss from unit value before loss;
- (d) Multiply the result of 14(c) by the under-report factor;
- (e) Subtract the occurrence deductible from the result in section 14(d); and
- (f) If the result of section 14(e) is greater than zero, and subject to the limit of section 14(g);
 - (i) For other than catastrophic risk protection coverage, your indemnity equals the result of section 14(e), multiplied by your share.
 - (ii) For catastrophic risk protection coverage, your indemnity equals the result of section 14(e) multiplied by fifty-five percent, multiplied by your share.
- (g) The total of all indemnities for the crop year will not exceed the amount of insurance.

15. Written Agreements.

The written agreement provisions in the Basic Provisions do not apply.

16. Late Planting.

Provisions of section 16 of the Basic Provisions do not apply.

17. Prevented Planting.

Provisions of section 17 of the Basic Provisions do not apply.

18. Loss Examples.

Single Unit Loss Example

Assume you have a 100 percent share, the inventory value reported by you is \$100,000, and your coverage level is 75 percent. Your amount of insurance is \$75,000 ($\$100,000 \times .75$). At the time of loss, unit value before loss is \$95,000, unit value after loss is \$30,000 and basic unit value before loss is \$100,000. The deductible percentage is 25 percent ($100-75$), the crop year deductible is \$25,000 ($.25 \times \$100,000$). Your indemnity would be calculated as follows:

- Step (1) Determine the under-report factor;
 $\$100,000 \div \$95,000 = 1.000$;
- Step (2) Determine the occurrence deductible;
 $.25 \times \$95,000 \times 1.000 = \$23,750$;
- Step (3) Calculate the difference between unit value before loss and unit value after loss;
 $\$95,000 - \$30,000 = \$65,000$;
- Step (4) Result of step 3 multiplied by the under-report factor (step 1);
 $\$65,000 \times 1.000 = \$65,000$;
- Step (5) Result of step 4 minus the occurrence deductible;
 $\$65,000 - \$23,750 = \$41,250$;
- Step (6) Result of step 5 multiplied by your share;
 $\$41,250 \times 1.000 = \$41,250$
indemnity payment.

Multiple Unit Multiple Loss Example

Assume you have a 100 percent share, the inventory

value reported by you is \$100,000, and your coverage level is 75 percent. You have two optional units, unit 1 and unit 2. Your amount of insurance is \$75,000 (\$100,000 x .75). You have a loss on unit 1 and no loss on unit 2. At the time of loss, unit value before loss on unit 1 is \$60,000, unit value after loss on unit 1 is \$18,000 and basic unit value before loss is \$125,000. The deductible percentage is 25 percent (100-75), the crop year deductible is \$25,000 (.25 x \$100,000). Your indemnity would be calculated as follows:

- Step (1) Determine the under-report factor;
 $\$100,000 \div \$125,000 = .80$;
- Step (2) Determine the occurrence deductible;
 $.25 \times \$60,000 \times .80 = \$12,000$;
- Step (3) Calculate the difference between unit value before loss and unit value after loss;
 $\$60,000 - \$18,000 = \$42,000$;
- Step (4) Result of step 3 multiplied by the under-report factor (step 1);
 $\$42,000 \times .80 = \$33,600$;
- Step (5) Result of step 4 minus the occurrence deductible;
 $\$33,600 - \$12,000 = \$21,600$;
- Step (6) Result of step 5 multiplied by your share;
 $\$21,600 \times 1.000 = \$21,600$
indemnity payment.

Your crop year deductible is reduced to \$13,000 (\$25,000 - \$12,000). Your amount of insurance is reduced to \$53,400 (\$75,000 - \$21,600). You do not restock unit 1 after the first loss. Values on unit 2 do not change from those measured at the time of the loss on unit 1. Assume you have a loss later in the crop year on unit 2. Unit value before loss on unit 2 is \$65,000, unit value after loss on unit 2 is \$0.00 and basic unit value before loss on the basic unit is \$83,000. Your loss would be determined as follows:

- Step (1) Determine the remaining amount of insurance;
 $\$100,000 - \$33,600 = \$66,400$
- Step (2) Determine the under-report factor;
 $\$66,400 \div \$83,000 = .800$;
- Step (3) Determine the occurrence deductible;
 $\$25,000 - \$12,000 = \$13,000$;
- Step (4) Calculate the difference between unit value before loss and unit value after loss;
 $\$65,000 - \$0.00 = \$65,000$;
- Step (5) Result of step 4 multiplied by the under-report factor (step 2);
 $\$65,000 \times .800 = \$52,000$;
- Step (6) Result of step 5 minus the occurrence deductible;
 $\$52,000 - \$13,000 = \$39,000$;
- Step (7) Result of step 6 multiplied by your share;
 $\$39,000 \times 1.000 = \$39,000$
indemnity payment.