

(C) other capacity and infrastructure program costs that the Secretary considers appropriate.

(2) Limitation

Funds received under this section may not be used for the construction, renovation, or rehabilitation of a building or facility.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section—

(1) such sums as are necessary for each of fiscal years 2008 through 2013, to remain available until expended; and

(2) \$5,000,000 for each of fiscal years 2014 through 2018, to remain available until expended.

(Pub. L. 110-234, title XIV, §14122, May 22, 2008, 122 Stat. 1456; Pub. L. 110-246, §4(a), title XIV, §14122, June 18, 2008, 122 Stat. 1664, 2218; Pub. L. 113-79, title VII, §7504, Feb. 7, 2014, 128 Stat. 901.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2014—Subsec. (e). Pub. L. 113-79 struck out “sums as are necessary” after “appropriated”, substituted “section—” for “section for each of fiscal years 2008 through 2012, to remain available until expended.”, and added pars. (1) and (2).

EFFECTIVE DATE

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

DEFINITION OF “SECRETARY”

“Secretary” as meaning the Secretary of Agriculture, see section 8701 of this title.

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§ 9001. Definition of Secretary of Agriculture

In this Act, the term “Secretary” means the Secretary of Agriculture.

(Pub. L. 113-79, §2, Feb. 7, 2014, 128 Stat. 658.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 113-79, Feb. 7, 2014, 128 Stat. 649, known as the Agricultural Act of 2014. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

CODIFICATION

This section was not enacted as part of title I of Pub. L. 113-79 which comprises this chapter.

SHORT TITLE

Pub. L. 113-79, §1(a), Feb. 7, 2014, 128 Stat. 649, provided that: “This Act [see Tables for classification] may be cited as the ‘Agricultural Act of 2014’.”

SUBCHAPTER I—COMMODITY POLICY

§ 9011. Definitions

In this subchapter and subchapter II:

(1) Actual crop revenue

The term “actual crop revenue”, with respect to a covered commodity for a crop year, means the amount determined by the Secretary under section 9017(b) of this title.

(2) Agriculture risk coverage

The term “agriculture risk coverage” means coverage provided under section 9017 of this title.

(3) Agriculture risk coverage guarantee

The term “agriculture risk coverage guarantee”, with respect to a covered commodity for a crop year, means the amount determined by the Secretary under section 9017(c) of this title.

(4) Base acres**(A) In general**

The term “base acres”, with respect to a covered commodity on a farm, means the number of acres in effect under sections 8702 and 8751 of this title, as adjusted pursuant to sections 8711, 8718, and 8752 of this title, as in effect on September 30, 2013, subject to any reallocation, adjustment, or reduction under section 9012 of this title.

(B) Inclusion of generic base acres

The term “base acres” includes any generic base acres planted to a covered commodity as determined in section 9014(b) of this title.

(5) County coverage

The term “county coverage” means agriculture risk coverage selected under section 9015(b)(1) of this title to be obtained at the county level.

(6) Covered commodity

The term “covered commodity” means wheat, oats, and barley (including wheat, oats, and barley used for haying and grazing), corn, grain sorghum, long grain rice, medium grain rice, pulse crops, soybeans, other oilseeds, and peanuts.

(7) Effective price

The term “effective price”, with respect to a covered commodity for a crop year, means the price calculated by the Secretary under section 9016(b) of this title to determine whether price loss coverage payments are required to be provided for that crop year.

(8) Extra long staple cotton

The term “extra long staple cotton” means cotton that—

(A) is produced from pure strain varieties of the *Barbadense* species or any hybrid of the species, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(9) Generic base acres

The term “generic base acres” means the number of base acres for cotton in effect under section 8702 of this title, as adjusted pursuant to section 8711 of this title, as in effect on September 30, 2013, subject to any adjustment or reduction under section 9012 of this title.

(10) Individual coverage

The term “individual coverage” means agriculture risk coverage selected under section

9015(b)(2) of this title to be obtained at the farm level.

(11) Medium grain rice

The term “medium grain rice” includes short grain rice and temperate japonica rice.

(12) Other oilseed

The term “other oilseed” means a crop of sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, or any oilseed designated by the Secretary.

(13) Payment acres

The term “payment acres”, with respect to the provision of price loss coverage payments and agriculture risk coverage payments, means the number of acres determined for a farm under section 9014 of this title.

(14) Payment yield

The term “payment yield”, for a farm for a covered commodity—

(A) means the yield used to make payments pursuant to section 8714 or 8754 of this title, as in effect on September 30, 2013; or

(B) means the yield established under section 9013 of this title.

(15) Price loss coverage

The term “price loss coverage” means coverage provided under section 9016 of this title.

(16) Producer**(A) In general**

The term “producer” means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced.

(B) Hybrid seed

In determining whether a grower of hybrid seed is a producer, the Secretary shall—

(i) not take into consideration the existence of a hybrid seed contract; and

(ii) ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this chapter.

(17) Pulse crop

The term “pulse crop” means dry peas, lentils, small chickpeas, and large chickpeas.

(18) Reference price

The term “reference price”, with respect to a covered commodity for a crop year, means the following:

(A) For wheat, \$5.50 per bushel.

(B) For corn, \$3.70 per bushel.

(C) For grain sorghum, \$3.95 per bushel.

(D) For barley, \$4.95 per bushel.

(E) For oats, \$2.40 per bushel.

(F) For long grain rice, \$14.00 per hundredweight.

(G) For medium grain rice, \$14.00 per hundredweight.

(H) For soybeans, \$8.40 per bushel.

(I) For other oilseeds, \$20.15 per hundredweight.

(J) For peanuts, \$535.00 per ton.

(K) For dry peas, \$11.00 per hundredweight.

(L) For lentils, \$19.97 per hundredweight.

(M) For small chickpeas, \$19.04 per hundredweight.

(N) For large chickpeas, \$21.54 per hundredweight.

(19) Secretary

The term “Secretary” means the Secretary of Agriculture.

(20) State

The term “State” means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(21) Temperate japonica rice

The term “temperate japonica rice” means rice that is grown in high altitudes or temperate regions of high latitudes with cooler climate conditions, in the Western United States, as determined by the Secretary, for the purpose of—

(A) the reallocation of base acres under section 9012 of this title;

(B) the establishment of a reference price (as required under section 9016(g) of this title) and an effective price pursuant to section 9016 of this title; and

(C) the determination of the actual crop revenue and agriculture risk coverage guarantee pursuant to section 9017 of this title.

(22) Transitional yield

The term “transitional yield” has the meaning given the term in section 1502(b) of this title.

(23) United States

The term “United States”, when used in a geographical sense, means all of the States.

(24) United States Premium Factor

The term “United States Premium Factor” means the percentage by which the difference in the United States loan schedule premiums for Strict Middling (SM) 1½-inch upland cotton and for Middling (M) 1⅜-inch upland cotton exceeds the difference in the applicable premiums for comparable international qualities.

(Pub. L. 113–79, title I, §1111, Feb. 7, 2014, 128 Stat. 659.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this subtitle”, meaning subtitle A (§§1101–1109) of title I of Pub. L. 113–79, Feb. 7, 2014, 128 Stat. 658, which is classified principally to this subchapter. For complete classification of subtitle A to the Code, see Tables.

This chapter, referred to in par. (16)(B)(ii), was in the original “this title”, meaning title I of Pub. L. 113–79, Feb. 7, 2014, 128 Stat. 658, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

POPCORN ACREAGE

Pub. L. 108–7, div. A, title VII, §767, Feb. 20, 2003, 117 Stat. 48, as amended by Pub. L. 113–79, title I, §1609(c), Feb. 7, 2014, 128 Stat. 709, provided that: “Notwithstanding any other provision of law, for purposes of admin-

istering subtitle A of title I of the Agricultural Act of 2014 [7 U.S.C. 9011 et seq.], acreage planted to, or prevented from being planted to, popcorn shall be considered as acreage planted to, or prevented from being planted to, corn: *Provided*, That if a farm program payment yield for corn is otherwise established for a farm under such subtitle, the same yield shall be used for the acreage on the farm planted to, or prevented from being planted to, popcorn: *Provided further*, That with respect to all other farms, the farm program payment yield for such popcorn acreage shall be established by the Secretary on a fair and equitable basis to reflect the farm program payment yields for corn on similar farms in the area.”

§ 9012. Base acres

(a) Retention or 1-time reallocation of base acres

(1) Election required

(A) Notice of election opportunity

As soon as practicable after February 7, 2014, the Secretary shall provide notice to the owners of a farm regarding their opportunity to make an election, in the manner provided in this subsection—

(i) to retain base acres, including any generic base acres, as provided in paragraph (2); or

(ii) in lieu of retaining base acres, to reallocate base acres, other than any generic base acres, as provided in paragraph (3).

(B) Content of notice

The notice under subparagraph (A) shall include the following:

(i) Information that the opportunity of an owner to make the election is being provided only once.

(ii) Information regarding the manner in which the owner must make the election and the manner of notifying the Secretary of the election.

(iii) Information regarding the deadline before which the owner must notify the Secretary of the election to be in effect beginning with the 2014 crop year.

(C) Effect of failure to make election

If the owner of a farm fails to make the election under this subsection, or fails to timely notify the Secretary of the election as required by subparagraph (B)(iii), the owner shall be deemed to have elected to retain base acres, including generic base acres, as provided in paragraph (2).

(2) Retention of base acres

(A) Election to retain

For the purpose of applying this subchapter to a covered commodity, the Secretary shall give an owner of a farm an opportunity to elect to retain all of the base acres for each covered commodity on the farm.

(B) Treatment of generic base acres

Generic base acres are automatically retained.

(3) Reallocation of base acres

(A) Election to reallocate

For the purpose of applying this subchapter to covered commodities, the Sec-

retary shall give an owner of a farm an opportunity to elect to reallocate all of the base acres for covered commodities on the farm, as in effect on September 30, 2013, among those covered commodities planted on the farm at any time during the 2009 through 2012 crop years.

(B) Reallocation formula

The reallocation of base acres among covered commodities on a farm shall be in proportion to the ratio of—

(i) the 4-year average of—

(I) the acreage planted on the farm to each covered commodity for harvest, grazing, haying, silage, or other similar purposes for the 2009 through 2012 crop years; and

(II) any acreage on the farm that the producers were prevented from planting during the 2009 through 2012 crop years to that covered commodity because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, as determined by the Secretary; to

(ii) the 4-year average of—

(I) the acreage planted on the farm to all covered commodities for harvest, grazing, haying, silage, or other similar purposes for such crop years; and

(II) any acreage on the farm that the producers were prevented from planting during such crop years to covered commodities because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, as determined by the Secretary.

(C) Treatment of generic base acres

Generic base acres are retained and may not be reallocated under this paragraph.

(D) Inclusion of all 4 years in average

For the purpose of determining a 4-year acreage average under subparagraph (B) for a farm, the Secretary shall not exclude any crop year in which a covered commodity was not planted.

(E) Treatment of multiple planting or prevented planting

For the purpose of determining under subparagraph (B) the acreage on a farm that producers planted or were prevented from planting during the 2009 through 2012 crop years to covered commodities, if the acreage that was planted or prevented from being planted was devoted to another covered commodity in the same crop year (other than a covered commodity produced under an established practice of double cropping), the owner may elect the commodity to be used for that crop year in determining the 4-year average, but may not include both the initial commodity and the subsequent commodity.

(F) Limitation

The reallocation of base acres among covered commodities on a farm under this paragraph may not result in a total number of

base acres (including generic base acres) for the farm in excess of the number of base acres in effect for the farm on September 30, 2013.

(4) Application of election to all covered commodities

The election made under this subsection, or deemed to be made under paragraph (1)(C), with respect to a farm shall apply to all of the covered commodities on the farm.

(b) Adjustment of base acres

(1) In general

Notwithstanding the election made under subsection (a), the Secretary shall provide for an adjustment, as appropriate, in the base acres for covered commodities for a farm and any generic base acres for the farm whenever any of the following circumstances occur:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary.

(C) The producer has eligible oilseed acreage as the result of the Secretary designating additional oilseeds, which shall be determined in the same manner as eligible oilseed acreage under section 8711(a)(1)(D) of this title.

(2) Special conservation reserve acreage payment rules

For the crop year in which a base acres adjustment under subparagraph (A) or (B) of paragraph (1) is first made, the owner of the farm shall elect to receive price loss coverage or agriculture risk coverage with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

(c) Prevention of excess base acres

(1) Required reduction

Notwithstanding the election made under subsection (a), if the sum of the base acres for a farm, including generic base acres, and the acreage described in paragraph (2) exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for 1 or more covered commodities or generic base acres for the farm so that the sum of the base acres, including generic base acres, and the acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

(2) Other acreage

For purposes of paragraph (1), the Secretary shall include the following:

(A) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program (or successor programs) under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(B) Any other acreage on the farm enrolled in a Federal conservation program for which payments are made in exchange for not pro-

ducing an agricultural commodity on the acreage.

(C) If the Secretary designates additional oilseeds, any eligible oilseed acreage, which shall be determined in the same manner as eligible oilseed acreage under subsection (b)(1)(C).

(3) Selection of acres

The Secretary shall give the owner of the farm the opportunity to select the base acres for a covered commodity or generic base acres for the farm against which the reduction required by paragraph (1) will be made.

(4) Exception for double-cropped acreage

In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

(d) Reduction in base acres

(1) Reduction at option of owner

(A) In general

The owner of a farm may reduce, at any time, the base acres for any covered commodity or generic base acres for the farm.

(B) Effect of reduction

A reduction under subparagraph (A) shall be permanent and made in a manner prescribed by the Secretary.

(2) Required action by Secretary

(A) In general

The Secretary shall proportionately reduce base acres, including any generic base acres, on a farm for land that has been subdivided and developed for multiple residential units or other nonfarming uses if the size of the tracts and the density of the subdivision is such that the land is unlikely to return to the previous agricultural use, unless the producers on the farm demonstrate that the land—

- (i) remains devoted to commercial agricultural production; or
- (ii) is likely to be returned to the previous agricultural use.

(B) Requirement

The Secretary shall establish procedures to identify land described in subparagraph (A).

(Pub. L. 113–79, title I, § 1112, Feb. 7, 2014, 128 Stat. 661.)

REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsec. (c)(2)(A), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354. Chapter 1 of subtitle D of title XII of the Act is classified generally to part I (§ 3830 et seq.) of subchapter IV of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

§ 9013. Payment yields

(a) Establishment and purpose

For the purpose of making price loss coverage payments under section 9016 of this title, the Secretary shall provide for the establishment of a yield for each farm for any designated oilseed

for which a payment yield was not established under section 8712 of this title in accordance with this section.

(b) Payment yields for designated oilseeds

(1) Determination of average yield

In the case of designated oilseeds, the Secretary shall determine the average yield per planted acre for the designated oilseed on a farm for the 1998 through 2001 crop years, excluding any crop year in which the acreage planted to the designated oilseed was zero.

(2) Adjustment for payment yield

(A) In general

The payment yield for a farm for a designated oilseed shall be equal to the product of the following:

- (i) The average yield for the designated oilseed determined under paragraph (1).
- (ii) The ratio resulting from dividing the national average yield for the designated oilseed for the 1981 through 1985 crops by the national average yield for the designated oilseed for the 1998 through 2001 crops.

(B) No national average yield information available

To the extent that national average yield information for a designated oilseed is not available, the Secretary shall use such information as the Secretary determines to be fair and equitable to establish a national average yield under this section.

(3) Use of county average yield

If the yield per planted acre for a crop of a designated oilseed for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that designated oilseed, the Secretary shall assign a yield for that crop year equal to 75 percent of the county yield for the purpose of determining the average under paragraph (1).

(c) Effect of lack of payment yield

(1) Establishment by Secretary

In the case of a covered commodity on a farm for which base acres have been established or that is planted on generic base acres, if no payment yield is otherwise established for the covered commodity on the farm, the Secretary shall establish an appropriate payment yield for the covered commodity on the farm under paragraph (2).

(2) Use of similarly situated farms

To establish an appropriate payment yield for a covered commodity on a farm as required by paragraph (1), the Secretary shall take into consideration the farm program payment yields applicable to that covered commodity for similarly situated farms. The use of such data in an appeal, by the Secretary or by the producer, shall not be subject to any other provision of law.

(d) Single opportunity to update yields used to determine price loss coverage payments

(1) Election to update

At the sole discretion of the owner of a farm, the owner of a farm shall have a 1-time oppor-

tunity to update, on a covered commodity-by-covered-commodity basis, the payment yield that would otherwise be used in calculating any price loss coverage payment for each covered commodity on the farm for which the election is made.

(2) Time for election

The election under paragraph (1) shall be made at a time and manner to be in effect beginning with the 2014 crop year as determined by the Secretary.

(3) Method of updating yields

If the owner of a farm elects to update yields under this subsection, the payment yield for a covered commodity on the farm, for the purpose of calculating price loss coverage payments only, shall be equal to 90 percent of the average of the yield per planted acre for the crop of the covered commodity on the farm for the 2008 through 2012 crop years, as determined by the Secretary, excluding any crop year in which the acreage planted to the crop of the covered commodity was zero.

(4) Use of county average yield

If the yield per planted acre for a crop of the covered commodity for a farm for any of the 2008 through 2012 crop years was less than 75 percent of the average of the 2008 through 2012 county yield for that commodity, the Secretary shall assign a yield for that crop year equal to 75 percent of the average of the 2008 through 2012 county yield for the purposes of determining the average yield under paragraph (3).

(Pub. L. 113-79, title I, §1113, Feb. 7, 2014, 128 Stat. 664.)

§ 9014. Payment acres

(a) Determination of payment acres

(1) General rule

For the purpose of price loss coverage and agriculture risk coverage when county coverage has been selected under section 9015(b)(1) of this title, but subject to subsection (e), the payment acres for each covered commodity on a farm shall be equal to 85 percent of the base acres for the covered commodity on the farm.

(2) Effect of individual coverage

In the case of agriculture risk coverage when individual coverage has been selected under section 9015(b)(2) of this title, but subject to subsection (e), the payment acres for a farm shall be equal to 65 percent of the base acres for all of the covered commodities on the farm.

(b) Treatment of generic base acres

(1) In general

In the case of generic base acres, price loss coverage payments and agriculture risk coverage payments are made only with respect to generic base acres planted to a covered commodity for the crop year.

(2) Attribution

With respect to a farm containing generic base acres, for the purpose of applying para-

graphs (1)(B) and (2)(B) of subsection (a), generic base acres on the farm are attributed to a covered commodity in the following manner:

(A) If a single covered commodity is planted and the total acreage planted exceeds the generic base acres on the farm, the generic base acres are attributed to that covered commodity in an amount equal to the total number of generic base acres.

(B) If multiple covered commodities are planted and the total number of acres planted to all covered commodities on the farm exceeds the generic base acres on the farm, the generic base acres are attributed to each of the covered commodities on the farm on a pro rata basis to reflect the ratio of—

- (i) the acreage planted to a covered commodity on the farm; to
- (ii) the total acreage planted to all covered commodities on the farm.

(C) If the total number of acres planted to all covered commodities on the farm does not exceed the generic base acres on the farm, the number of acres planted to a covered commodity is attributed to that covered commodity.

(3) Treated as additional acreage

When generic base acres are planted to a covered commodity or acreage planted to a covered commodity is attributed to generic base acres, the generic base acres are in addition to other base acres on the farm.

(c) Exclusion

The quantity of payment acres determined under subsection (a) may not include any crop subsequently planted during the same crop year on the same land for which the first crop is eligible for price loss coverage payments or agriculture risk coverage payments, unless the crop was approved for double cropping in the county, as determined by the Secretary.

(d) Effect of minimal payment acres

(1) Prohibition on payments

Notwithstanding any other provision of this chapter, a producer on a farm may not receive price loss coverage payments or agriculture risk coverage payments if the sum of the base acres on the farm is 10 acres or less, as determined by the Secretary.

(2) Exceptions

Paragraph (1) does not apply to a producer that is—

- (A) a socially disadvantaged farmer or rancher (as defined in section 2003(e) of this title); or
- (B) a limited resource farmer or rancher, as defined by the Secretary.

(e) Effect of planting fruits and vegetables

(1) Reduction required

In the manner provided in this subsection, payment acres on a farm shall be reduced in any crop year in which fruits, vegetables (other than mung beans and pulse crops), or wild rice have been planted on base acres on a farm.

(2) Price loss coverage and county coverage

In the case of price loss coverage payments and agricultural risk coverage payments using

county coverage, the reduction under paragraph (1) shall be the amount equal to the base acres planted to crops referred to in such paragraph in excess of 15 percent of base acres.

(3) Individual coverage

In the case of agricultural risk coverage payments using individual coverage, the reduction under paragraph (1) shall be the amount equal to the base acres planted to crops referred to in such paragraph in excess of 35 percent of base acres.

(4) Reduction exceptions

No reduction to payment acres shall be made under this subsection if—

(A) cover crops or crops referred to in paragraph (1) are grown solely for conservation purposes and not harvested for use or sale, as determined by the Secretary; or

(B) in any region in which there is a history of double-cropping covered commodities with crops referred to in paragraph (1) and such crops were so double-cropped on the base acres, as determined by the Secretary.

(Pub. L. 113-79, title I, § 1114, Feb. 7, 2014, 128 Stat. 666.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1), was in the original “this title”, meaning title I of Pub. L. 113-79, Feb. 7, 2014, 128 Stat. 658, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

§ 9015. Producer election

(a) Election required

For the 2014 through 2018 crop years, all of the producers on a farm shall make a 1-time, irrevocable election to obtain—

(1) price loss coverage under section 9016 of this title on a covered commodity-by-covered-commodity basis; or

(2) agriculture risk coverage under section 9017 of this title.

(b) Coverage options

In the election under subsection (a), the producers on a farm that elect under paragraph (2) of such subsection to obtain agriculture risk coverage under section 9017 of this title shall unanimously select whether to receive agriculture risk coverage payments based on—

(1) county coverage applicable on a covered commodity-by-covered-commodity basis; or

(2) individual coverage applicable to all of the covered commodities on the farm.

(c) Effect of failure to make unanimous election

If all the producers on a farm fail to make a unanimous election under subsection (a) for the 2014 crop year—

(1) the Secretary shall not make any payments with respect to the farm for the 2014 crop year under section 9016 or 9017 of this title; and

(2) the producers on the farm shall be deemed to have elected price loss coverage under section 9016 of this title for all covered commodities on the farm for the 2015 through 2018 crop years.

(d) Effect of selection of county coverage

If all the producers on a farm select county coverage for a covered commodity under sub-

section (b)(1), the Secretary may not make price loss coverage payments under section 9016 of this title to the producers on the farm with respect to that covered commodity.

(e) Effect of selection of individual coverage

If all the producers on a farm select individual coverage under subsection (b)(2), in addition to the selection and election under this section applying to each producer on the farm, the Secretary shall consider, for purposes of making the calculations required by subsections (b)(2) and (c)(3) of section 9017 of this title, the producer's share of all farms in the same State—

(1) in which the producer has an interest; and

(2) for which individual coverage has been selected.

(f) Prohibition on reconstitution

The Secretary shall ensure that producers on a farm do not reconstitute the farm to void or change an election or selection made under this section.

(Pub. L. 113-79, title I, § 1115, Feb. 7, 2014, 128 Stat. 667.)

§ 9016. Price loss coverage

(a) Price loss coverage payments

If all of the producers on a farm make the election under subsection (a) of section 9015 of this title to obtain price loss coverage or, subject to subsection (c)(1) of such section, are deemed to have made such election under subsection (c)(2) of such section, the Secretary shall make price loss coverage payments to producers on the farm on a covered commodity-by-covered-commodity basis if the Secretary determines that, for any of the 2014 through 2018 crop years—

(1) the effective price for the covered commodity for the crop year; is less than

(2) the reference price for the covered commodity for the crop year.

(b) Effective price

The effective price for a covered commodity for a crop year shall be the higher of—

(1) the national average market price received by producers during the 12-month marketing year for the covered commodity, as determined by the Secretary; or

(2) the national average loan rate for a marketing assistance loan for the covered commodity in effect for such crop year under subchapter II.

(c) Payment rate

The payment rate shall be equal to the difference between—

(1) the reference price for the covered commodity; and

(2) the effective price determined under subsection (b) for the covered commodity.

(d) Payment amount

If price loss coverage payments are required to be provided under this section for any of the 2014 through 2018 crop years for a covered commodity, the amount of the price loss coverage payment to be paid to the producers on a farm for the crop year shall be equal to the product obtained by multiplying—

- (1) the payment rate for the covered commodity under subsection (c);
- (2) the payment yield for the covered commodity; and
- (3) the payment acres for the covered commodity.

(e) Time for payments

If the Secretary determines under this section that price loss coverage payments are required to be provided for the covered commodity, the payments shall be made beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for the covered commodity.

(f) Effective price for barley

In determining the effective price for barley under subsection (b), the Secretary shall use the all-barley price.

(g) Reference price for temperate japonica rice

The Secretary shall provide a reference price with respect to temperate japonica rice in an amount equal to 115 percent of the amount established in subparagraphs (F) and (G) of section 9011(18) of this title in order to reflect price premiums.

(Pub. L. 113–79, title I, §1116, Feb. 7, 2014, 128 Stat. 668.)

§ 9017. Agriculture risk coverage

(a) Agriculture risk coverage payments

If all of the producers on a farm make the election under section 9015(a) of this title to obtain agriculture risk coverage, the Secretary shall make agriculture risk coverage payments to producers on the farm if the Secretary determines that, for any of the 2014 through 2018 crop years—

- (1) the actual crop revenue determined under subsection (b) for the crop year; is less than
- (2) the agriculture risk coverage guarantee determined under subsection (c) for the crop year.

(b) Actual crop revenue

(1) County coverage

In the case of county coverage, the amount of the actual crop revenue for a county for a crop year of a covered commodity shall be equal to the product obtained by multiplying—

- (A) the actual average county yield per planted acre for the covered commodity, as determined by the Secretary; and
- (B) the higher of—
 - (i) the national average market price received by producers during the 12-month marketing year for the covered commodity, as determined by the Secretary; or
 - (ii) the national average loan rate for a marketing assistance loan for the covered commodity in effect for such crop year under subchapter II.

(2) Individual coverage

In the case of individual coverage, the amount of the actual crop revenue for a producer on a farm for a crop year shall be based on the producer's share of all covered com-

modities planted on all farms for which individual coverage has been selected and in which the producer has an interest, to be determined by the Secretary as follows:

(A) For each covered commodity, the product obtained by multiplying—

- (i) the total production of the covered commodity on such farms, as determined by the Secretary; and
- (ii) the higher of—
 - (I) the national average market price received by producers during the 12-month marketing year, as determined by the Secretary; or
 - (II) the national average loan rate for a marketing assistance loan for the covered commodity in effect for such crop year under subchapter II.

(B) The sum of the amounts determined under subparagraph (A) for all covered commodities on such farms.

(C) The quotient obtained by dividing the amount determined under subparagraph (B) by the total planted acres of all covered commodities on such farms.

(c) Agriculture risk coverage guarantee

(1) In general

The agriculture risk coverage guarantee for a crop year for a covered commodity shall equal 86 percent of the benchmark revenue.

(2) Benchmark revenue for county coverage

In the case of county coverage, the benchmark revenue shall be the product obtained by multiplying—

- (A) subject to paragraph (4), the average historical county yield as determined by the Secretary for the most recent 5 crop years, excluding each of the crop years with the highest and lowest yields; and
- (B) subject to paragraph (5), the national average market price received by producers during the 12-month marketing year for the most recent 5 crop years, excluding each of the crop years with the highest and lowest prices.

(3) Benchmark revenue for individual coverage

In the case of individual coverage, the benchmark revenue for a producer on a farm for a crop year shall be based on the producer's share of all covered commodities planted on all farms for which individual coverage has been selected and in which the producer has an interest, to be determined by the Secretary as follows:

(A) For each covered commodity for each of the most recent 5 crop years, the product obtained by multiplying—

- (i) subject to paragraph (4), the yield per planted acre for the covered commodity on such farms, as determined by the Secretary; by
- (ii) subject to paragraph (5), the national average market price received by producers during the 12-month marketing year.

(B) For each covered commodity, the average of the revenues determined under subparagraph (A) for the most recent 5 crop years, excluding each of the crop years with the highest and lowest revenues.

(C) For each of the 2014 through 2018 crop years, the sum of the amounts determined under subparagraph (B) for all covered commodities on such farms, but adjusted to reflect the ratio between the total number of acres planted on such farms to a covered commodity and the total acres of all covered commodities planted on such farms.

(4) Yield conditions

If the yield per planted acre for the covered commodity or historical county yield per planted acre for the covered commodity for any of the 5 most recent crop years, as determined by the Secretary, is less than 70 percent of the transitional yield, as determined by the Secretary, the amounts used for any of those years in paragraph (2)(A) or (3)(A)(i) shall be 70 percent of the transitional yield.

(5) Reference price

If the national average market price received by producers during the 12-month marketing year for any of the 5 most recent crop years is lower than the reference price for the covered commodity, the Secretary shall use the reference price for any of those years for the amounts in paragraph (2)(B) or (3)(A)(ii).

(d) Payment rate

The payment rate for a covered commodity, in the case of county coverage, or a farm, in the case of individual coverage, shall be equal to the lesser of—

(1) the amount that—

(A) the agriculture risk coverage guarantee for the crop year applicable under subsection (c); exceeds

(B) the actual crop revenue for the crop year applicable under subsection (b); or

(2) 10 percent of the benchmark revenue for the crop year applicable under subsection (c).

(e) Payment amount

If agriculture risk coverage payments are required to be paid for any of the 2014 through 2018 crop years, the amount of the agriculture risk coverage payment for the crop year shall be determined by multiplying—

(1) the payment rate determined under subsection (d); and

(2) the payment acres determined under section 9014 of this title.

(f) Time for payments

If the Secretary determines that agriculture risk coverage payments are required to be provided for the covered commodity, payments shall be made beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for the covered commodity.

(g) Additional duties of the Secretary

In providing agriculture risk coverage, the Secretary shall—

(1) to the maximum extent practicable, use all available information and analysis, including data mining, to check for anomalies in the determination of agriculture risk coverage payments;

(2) to the maximum extent practicable, calculate a separate actual crop revenue and ag-

riculture risk coverage guarantee for irrigated and nonirrigated covered commodities;

(3) in the case of individual coverage, assign an average yield for a farm on the basis of the yield history of representative farms in the State, region, or crop reporting district, as determined by the Secretary, if the Secretary determines that the farm has planted acreage in a quantity that is insufficient to calculate a representative average yield for the farm; and

(4) in the case of county coverage, assign an actual or benchmark county yield for each planted acre for the crop year for the covered commodity on the basis of the yield history of representative farms in the State, region, or crop reporting district, as determined by the Secretary, if—

(A) the Secretary cannot establish the actual or benchmark county yield for each planted acre for a crop year for a covered commodity in the county in accordance with subsection (b)(1) or (c)(2); or

(B) the yield determined under subsection (b)(1) or (c)(2) is an unrepresentative average yield for the county, as determined by the Secretary.

(Pub. L. 113-79, title I, §1117, Feb. 7, 2014, 128 Stat. 669.)

§ 9018. Producer agreements

(a) Compliance with certain requirements

(1) Requirements

Before the producers on a farm may receive payments under this subchapter with respect to the farm, the producers shall agree, during the crop year for which the payments are made and in exchange for the payments—

(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

(C) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary; and

(D) to use the land on the farm, in a quantity equal to the attributable base acres for the farm and any base acres for an agricultural or conserving use, and not for a non-agricultural commercial, industrial, or residential use, as determined by the Secretary.

(2) Compliance

The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

(3) Modification

At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of this subsection, as determined by the Secretary.

(b) Transfer or change of interest in farm**(1) Termination****(A) In general**

Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm for which payments under this subchapter are provided shall result in the termination of the payments, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a).

(B) Effective date

The termination shall take effect on the date determined by the Secretary.

(2) Exception

If a producer entitled to a payment under this subchapter dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment in accordance with rules issued by the Secretary.

(c) Acreage reports

As a condition on the receipt of any benefits under this subchapter or subchapter II, the Secretary shall require producers on a farm to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

(d) Production reports

As an additional condition on receiving agriculture risk coverage payments for individual coverage, the Secretary shall require a producer on a farm to submit to the Secretary annual production reports with respect to all covered commodities produced on all farms in the same State—

- (1) in which the producer has an interest; and
- (2) for which individual coverage has been selected.

(e) Effect of inaccurate reports

No penalty with respect to benefits under this subchapter or subchapter II shall be assessed against a producer on a farm for an inaccurate acreage or production report unless the Secretary determines that the producer on the farm knowingly and willfully falsified the acreage or production report.

(f) Tenants and sharecroppers

In carrying out this subchapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(g) Sharing of payments

The Secretary shall provide for the sharing of payments made under this subchapter among the producers on a farm on a fair and equitable basis.

(Pub. L. 113–79, title I, §1118, Feb. 7, 2014, 128 Stat. 672.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a)(1), (b)(1)(A), (2), (c), and (e) to (g), was in the original “this subtitle”, meaning subtitle A (§§1101–1109) of title I of Pub. L. 113–79, Feb. 7, 2014, 128 Stat. 658, which is classified principally to this subchapter. For complete classification of subtitle A to the Code, see Tables.

The Food Security Act of 1985, referred to in subsec. (a)(1)(A), (B), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat.

1354. Subtitles B and C of title XII of the Act are classified generally to subchapters II (§3811 et seq.) and III (§3821 et seq.), respectively, of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

§ 9019. Transition assistance for producers of upland cotton**(a) Availability****(1) Purpose**

It is the purpose of this section to provide transition assistance to producers of upland cotton in light of the repeal of section 8713 of this title, the inapplicability of sections 9016 and 9017 of this title to upland cotton, and the delayed implementation of the Stacked Income Protection Plan required by section 1508b of this title, as added by section 11017 of this Act.

(2) 2014 crop year

For the 2014 crop of upland cotton, the Secretary shall provide transition assistance, pursuant to the terms and conditions of this section, to producers on a farm for which cotton base acres were in existence for the 2013 crop year.

(3) 2015 crop year

For the 2015 crop of upland cotton, the Secretary shall provide transition assistance, pursuant to the terms and conditions of this section, to producers on a farm—

- (A) for which cotton base acres were in existence for the 2013 crop year; and
- (B) that is located in a county in which the Stacked Income Protection Plan required by section 1508b of this title is not available to producers of upland cotton for the 2015 crop year.

(b) Transition assistance rate

The transition assistance rate shall be equal to the product obtained by multiplying—

- (1) the June 12, 2013, midpoint estimate for the marketing year average price of upland cotton received by producers for the marketing year beginning August 1, 2013, minus the December 10, 2013, midpoint estimate for the marketing year average price of upland cotton received by producers for the marketing year beginning August 1, 2013, as contained in the applicable World Agricultural Supply and Demand Estimates report published by the Department of Agriculture; and
- (2) the national program yield for upland cotton of 597 pounds per acre.

(c) Calculation of transition assistance amount

The amount of transition assistance to be provided under this section to producers on a farm for a crop year shall be equal to the product obtained by multiplying—

- (1) for the 2014 crop year, 60 percent, and for the 2015 crop year, 36.5 percent, of the cotton base acres referred to in subsection (a) for the farm, subject to adjustment or reduction for conservation measures as provided in subsections (b) and (c) of section 9012 of this title;
- (2) the transition assistance rate in effect for the crop year under subsection (b); and

(3) the payment yield for upland cotton for the farm established for purposes of section 8713(c)(3) of this title, divided by the national program yield for upland cotton of 597 pounds per acre.

(d) Time for payment

The Secretary may not make transition assistance payments for a crop year under this section before October 1 of the calendar year in which the crop of upland cotton is harvested.

(e) Payment limitations

Sections 1308 through 1308-3 of this title, as in effect on September 30, 2013, shall apply to the receipt of transition assistance under this section in the same manner as such sections applied to section 8713 of this title.

(Pub. L. 113-79, title I, §1119, Feb. 7, 2014, 128 Stat. 673.)

REFERENCES IN TEXT

Section 8713 of this title, referred to in subsecs. (a)(1), (c)(3), and (e), was repealed by Pub. L. 113-79, title I, §1101, Feb. 7, 2014, 128 Stat. 658.

Section 1508b of this title, as added by section 11017 of this Act, referred to in subsec. (a)(1), is section 1508b of this title, as added by section 11017(a) of Pub. L. 113-79.

SUBCHAPTER II—MARKETING LOANS

§ 9031. Availability of nonrecourse marketing assistance loans for loan commodities

(a) Definition of loan commodity

In this subchapter, the term “loan commodity” means wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, long grain rice, medium grain rice, peanuts, soybeans, other oilseeds, graded wool, nongraded wool, mohair, honey, dry peas, lentils, small chickpeas, and large chickpeas.

(b) Nonrecourse loans available

(1) In general

For each of the 2014 through 2018 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm.

(2) Terms and conditions

The marketing assistance loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 9032 of this title for the loan commodity.

(c) Eligible production

The producers on a farm shall be eligible for a marketing assistance loan under subsection (b) for any quantity of a loan commodity produced on the farm.

(d) Compliance with conservation and wetlands requirements

As a condition of the receipt of a marketing assistance loan under subsection (b), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(e) Special rules for peanuts

(1) In general

This subsection shall apply only to producers of peanuts.

(2) Options for obtaining loan

A marketing assistance loan under this section, and loan deficiency payments under section 9035 of this title, may be obtained at the option of the producers on a farm through—

(A) a designated marketing association or marketing cooperative of producers that is approved by the Secretary; or

(B) the Farm Service Agency.

(3) Storage of loan peanuts

As a condition on the approval by the Secretary of an individual or entity to provide storage for peanuts for which a marketing assistance loan is made under this section, the individual or entity shall agree—

(A) to provide the storage on a nondiscriminatory basis; and

(B) to comply with such additional requirements as the Secretary considers appropriate to accomplish the purposes of this section and promote fairness in the administration of the benefits of this section.

(4) Storage, handling, and associated costs

(A) In general

To ensure proper storage of peanuts for which a loan is made under this section, the Secretary shall pay handling and other associated costs (other than storage costs) incurred at the time at which the peanuts are placed under loan, as determined by the Secretary.

(B) Redemption and forfeiture

The Secretary shall—

(i) require the repayment of handling and other associated costs paid under subparagraph (A) for all peanuts pledged as collateral for a loan that is redeemed under this section; and

(ii) pay storage, handling, and other associated costs for all peanuts pledged as collateral that are forfeited under this section.

(5) Marketing

A marketing association or cooperative may market peanuts for which a loan is made under this section in any manner that conforms to consumer needs, including the separation of peanuts by type and quality.

(6) Reimbursable agreements and payment of administrative expenses

The Secretary may implement any reimbursable agreements or provide for the payment of administrative expenses under this subsection only in a manner that is consistent with those activities in regard to other loan commodities.

(Pub. L. 113-79, title I, §1201, Feb. 7, 2014, 128 Stat. 674.)

REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsec. (d), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354. Sub-

titles B and C of title XII of the Act are classified generally to subchapters II (§3811 et seq.) and III (§3821 et seq.), respectively, of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

§ 9032. Loan rates for nonrecourse marketing assistance loans

(a) In general

For purposes of each of the 2014 through 2018 crop years, the loan rate for a marketing assistance loan under section 9031 of this title for a loan commodity shall be equal to the following:

- (1) In the case of wheat, \$2.94 per bushel.
- (2) In the case of corn, \$1.95 per bushel.
- (3) In the case of grain sorghum, \$1.95 per bushel.
- (4) In the case of barley, \$1.95 per bushel.
- (5) In the case of oats, \$1.39 per bushel.
- (6) In the case of base quality of upland cotton, for each of the 2014 through 2018 crop years, the simple average of the adjusted prevailing world price for the 2 immediately preceding marketing years, as determined by the Secretary and announced October 1 preceding the next domestic plantings, but in no case less than \$0.45 per pound or more than \$0.52 per pound.
- (7) In the case of extra long staple cotton, \$0.7977 per pound.
- (8) In the case of long grain rice, \$6.50 per hundredweight.
- (9) In the case of medium grain rice, \$6.50 per hundredweight.
- (10) In the case of soybeans, \$5.00 per bushel.
- (11) In the case of other oilseeds, \$10.09 per hundredweight for each of the following kinds of oilseeds:
 - (A) Sunflower seed.
 - (B) Rapeseed.
 - (C) Canola.
 - (D) Safflower.
 - (E) Flaxseed.
 - (F) Mustard seed.
 - (G) Crambe.
 - (H) Sesame seed.
 - (I) Other oilseeds designated by the Secretary.
- (12) In the case of dry peas, \$5.40 per hundredweight.
- (13) In the case of lentils, \$11.28 per hundredweight.
- (14) In the case of small chickpeas, \$7.43 per hundredweight.
- (15) In the case of large chickpeas, \$11.28 per hundredweight.
- (16) In the case of graded wool, \$1.15 per pound.
- (17) In the case of nongraded wool, \$0.40 per pound.
- (18) In the case of mohair, \$4.20 per pound.
- (19) In the case of honey, \$0.69 per pound.
- (20) In the case of peanuts, \$355 per ton.

(b) Single county loan rate for other oilseeds

The Secretary shall establish a single loan rate in each county for each kind of other oilseeds described in subsection (a)(11).

(Pub. L. 113–79, title I, §1202, Feb. 7, 2014, 128 Stat. 675.)

§ 9033. Term of loans

(a) Term of loan

In the case of each loan commodity, a marketing assistance loan under section 9031 of this title shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(b) Extensions prohibited

The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

(Pub. L. 113–79, title I, §1203, Feb. 7, 2014, 128 Stat. 676.)

§ 9034. Repayment of loans

(a) General rule

The Secretary shall permit the producers on a farm to repay a marketing assistance loan under section 9031 of this title for a loan commodity (other than upland cotton, long grain rice, medium grain rice, extra long staple cotton, peanuts and confectionery and each other kind of sunflower seed (other than oil sunflower seed)) at a rate that is the lesser of—

- (1) the loan rate established for the commodity under section 9032 of this title, plus interest (determined in accordance with section 7283 of this title);
- (2) a rate (as determined by the Secretary) that—

(A) is calculated based on average market prices for the loan commodity during the preceding 30-day period; and

(B) will minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries; or

- (3) a rate that the Secretary may develop using alternative methods for calculating a repayment rate for a loan commodity that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodity by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodity;

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally; and

(E) minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries.

(b) Repayment rates for upland cotton, long grain rice, and medium grain rice

The Secretary shall permit producers to repay a marketing assistance loan under section 9031 of this title for upland cotton, long grain rice, and medium grain rice at a rate that is the lesser of—

- (1) the loan rate established for the commodity under section 9032 of this title, plus interest (determined in accordance with section 7283 of this title); or
- (2) the prevailing world market price for the commodity, as determined and adjusted by the Secretary in accordance with this section.

(c) Repayment rates for extra long staple cotton

Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under section 9032 of this title, plus interest (determined in accordance with section 7283 of this title).

(d) Prevailing world market price

For purposes of this section and section 9037 of this title, the Secretary shall prescribe by regulation—

- (1) a formula to determine the prevailing world market price for each of upland cotton, long grain rice, and medium grain rice; and
- (2) a mechanism by which the Secretary shall announce periodically those prevailing world market prices.

(e) Adjustment of prevailing world market price for upland cotton, long grain rice, and medium grain rice**(1) Rice**

The prevailing world market price for long grain rice and medium grain rice determined under subsection (d) shall be adjusted to United States quality and location.

(2) Cotton

The prevailing world market price for upland cotton determined under subsection (d)—

(A) shall be adjusted to United States quality and location, with the adjustment to include—

- (i) a reduction equal to any United States Premium Factor for upland cotton of a quality higher than Middling (M) 1³/₃₂-inch; and
- (ii) the average costs to market the commodity, including average transportation costs, as determined by the Secretary; and

(B) may be further adjusted, during the period beginning on February 7, 2014, and ending on July 31, 2019, if the Secretary determines the adjustment is necessary—

- (i) to minimize potential loan forfeitures;
- (ii) to minimize the accumulation of stocks of upland cotton by the Federal Government;
- (iii) to ensure that upland cotton produced in the United States can be marketed freely and competitively, both domestically and internationally; and
- (iv) to ensure an appropriate transition between current-crop and forward-crop price quotations, except that the Secretary may use forward-crop price quotations prior to July 31 of a marketing year only if—

- (I) there are insufficient current-crop price quotations; and
- (II) the forward-crop price quotation is the lowest such quotation available.

(3) Guidelines for additional adjustments

In making adjustments under this subsection, the Secretary shall establish a mechanism for determining and announcing the adjustments in order to avoid undue disruption in the United States market.

(f) Repayment rates for confectionery and other kinds of sunflower seeds

The Secretary shall permit the producers on a farm to repay a marketing assistance loan under section 9031 of this title for confectionery and each other kind of sunflower seed (other than oil sunflower seed) at a rate that is the lesser of—

- (1) the loan rate established for the commodity under section 9032 of this title, plus interest (determined in accordance with section 7283 of this title); or
- (2) the repayment rate established for oil sunflower seed.

(g) Payment of cotton storage costs

Effective for each of the 2014 through 2018 crop years, the Secretary shall make cotton storage payments available in the same manner, and at the same rates as the Secretary provided storage payments for the 2006 crop of cotton, except that the rates shall be reduced by 10 percent.

(h) Repayment rate for peanuts

The Secretary shall permit producers on a farm to repay a marketing assistance loan for peanuts under section 9031 of this title at a rate that is the lesser of—

- (1) the loan rate established for peanuts under section 9032(a)(20) of this title, plus interest (determined in accordance with section 7283 of this title); or
- (2) a rate that the Secretary determines will—
 - (A) minimize potential loan forfeitures;
 - (B) minimize the accumulation of stocks of peanuts by the Federal Government;
 - (C) minimize the cost incurred by the Federal Government in storing peanuts; and
 - (D) allow peanuts produced in the United States to be marketed freely and competitively, both domestically and internationally.

(i) Authority to temporarily adjust repayment rates**(1) Adjustment authority**

In the event of a severe disruption to marketing, transportation, or related infrastructure, the Secretary may modify the repayment rate otherwise applicable under this section for marketing assistance loans under section 9031 of this title for a loan commodity.

(2) Duration

Any adjustment made under paragraph (1) in the repayment rate for marketing assistance loans for a loan commodity shall be in effect on a short-term and temporary basis, as determined by the Secretary.

(Pub. L. 113–79, title I, §1204, Feb. 7, 2014, 128 Stat. 676.)

§ 9035. Loan deficiency payments**(a) Availability of loan deficiency payments****(1) In general**

Except as provided in subsection (d), the Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan under section 9031 of this title with

respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for loan deficiency payments under this section.

(2) Unshorn pelts, hay, and silage

(A) Marketing assistance loans

Subject to subparagraph (B), nongraded wool in the form of unshorn pelts and hay and silage derived from a loan commodity are not eligible for a marketing assistance loan under section 9031 of this title.

(B) Loan deficiency payment

Effective for each of the 2014 through 2018 crop years, the Secretary may make loan deficiency payments available under this section to producers on a farm that produce unshorn pelts or hay and silage derived from a loan commodity.

(b) Computation

A loan deficiency payment for a loan commodity or commodity referred to in subsection (a)(2) shall be equal to the product obtained by multiplying—

- (1) the payment rate determined under subsection (c) for the commodity; by
- (2) the quantity of the commodity produced by the eligible producers, excluding any quantity for which the producers obtain a marketing assistance loan under section 9031 of this title.

(c) Payment rate

(1) In general

In the case of a loan commodity, the payment rate shall be the amount by which—

- (A) the loan rate established under section 9032 of this title for the loan commodity; exceeds
- (B) the rate at which a marketing assistance loan for the loan commodity may be repaid under section 9034 of this title.

(2) Unshorn pelts

In the case of unshorn pelts, the payment rate shall be the amount by which—

- (A) the loan rate established under section 9032 of this title for ungraded wool; exceeds
- (B) the rate at which a marketing assistance loan for ungraded wool may be repaid under section 9034 of this title.

(3) Hay and silage

In the case of hay or silage derived from a loan commodity, the payment rate shall be the amount by which—

- (A) the loan rate established under section 9032 of this title for the loan commodity from which the hay or silage is derived; exceeds
- (B) the rate at which a marketing assistance loan for the loan commodity may be repaid under section 9034 of this title.

(d) Exception for extra long staple cotton

This section shall not apply with respect to extra long staple cotton.

(e) Effective date for payment rate determination

The Secretary shall determine the amount of the loan deficiency payment to be made under

this section to the producers on a farm with respect to a quantity of a loan commodity or commodity referred to in subsection (a)(2) using the payment rate in effect under subsection (c) as of the date the producers request the payment.

(Pub. L. 113-79, title I, § 1205, Feb. 7, 2014, 128 Stat. 679.)

§ 9036. Payments in lieu of loan deficiency payments for grazed acreage

(a) Eligible producers

(1) In general

Effective for each of the 2014 through 2018 crop years, in the case of a producer that would be eligible for a loan deficiency payment under section 9035 of this title for wheat, barley, or oats, but that elects to use acreage planted to the wheat, barley, or oats for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of the wheat, barley, or oats on that acreage.

(2) Grazing of triticale acreage

Effective for each of the 2014 through 2018 crop years, with respect to a producer on a farm that uses acreage planted to triticale for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of triticale on that acreage.

(b) Payment amount

(1) In general

The amount of a payment made under this section to a producer on a farm described in subsection (a)(1) shall be equal to the amount determined by multiplying—

- (A) the loan deficiency payment rate determined under section 9035(c) of this title in effect, as of the date of the agreement, for the county in which the farm is located; by
- (B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of wheat, barley, or oats; and

(ii)(I) the payment yield in effect for the calculation of price loss coverage under section 9015 of this title with respect to that loan commodity on the farm;

(II) in the case of a farm for which agriculture risk coverage is elected under section 9016(a) of this title, the payment yield that would otherwise be in effect with respect to that loan commodity on the farm in the absence of such election; or

(III) in the case of a farm for which no payment yield is otherwise established for that loan commodity on the farm, an appropriate yield established by the Secretary in a manner consistent with section 9013(c) of this title.

(2) Grazing of triticale acreage

The amount of a payment made under this section to a producer on a farm described in

subsection (a)(2) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 9035(c) of this title in effect for wheat, as of the date of the agreement, for the county in which the farm is located; by

(B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of triticale; and

(ii)(I) the payment yield in effect for the calculation of price loss coverage under subchapter I with respect to wheat on the farm;

(II) in the case of a farm for which agriculture risk coverage is elected under section 9016(a) of this title, the payment yield that would otherwise be in effect for wheat on the farm in the absence of such election; or

(III) in the case of a farm for which no payment yield is otherwise established for wheat on the farm, an appropriate yield established by the Secretary in a manner consistent with section 9013(c) of this title.

(c) Time, manner, and availability of payment

(1) Time and manner

A payment under this section shall be made at the same time and in the same manner as loan deficiency payments are made under section 9035 of this title.

(2) Availability

(A) In general

The Secretary shall establish an availability period for the payments authorized by this section.

(B) Certain commodities

In the case of wheat, barley, and oats, the availability period shall be consistent with the availability period for the commodity established by the Secretary for marketing assistance loans authorized by this subchapter.

(d) Prohibition on crop insurance indemnity or noninsured crop assistance

A 2014 through 2018 crop of wheat, barley, oats, or triticale planted on acreage that a producer elects, in the agreement required by subsection (a), to use for the grazing of livestock in lieu of any other harvesting of the crop shall not be eligible for an indemnity under a policy or plan of insurance authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop assistance under section 7333 of this title.

(Pub. L. 113-79, title I, §1206, Feb. 7, 2014, 128 Stat. 680.)

REFERENCES IN TEXT

Subchapter I, referred to in subsec. (b)(2)(B)(ii)(I), was in the original “subtitle A”, meaning subtitle A of title I of Pub. L. 113-79, Feb. 7, 2014, 128 Stat. 658, which is classified principally to subchapter I of this chapter. For complete classification of subtitle A to the Code, see Tables.

The Federal Crop Insurance Act, referred to in subsec. (d), is subtitle A of title V of act Feb. 16, 1938, ch.

30, 52 Stat. 72, which is classified generally to subchapter I (§1501 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see section 1501 of this title and Tables.

§ 9037. Special marketing loan provisions for upland cotton

(a) Special import quota

(1) Definition of special import quota

In this subsection, the term “special import quota” means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(2) Establishment

(A) In general

The President shall carry out an import quota program beginning on August 1, 2014, as provided in this subsection.

(B) Program requirements

Whenever the Secretary determines and announces that for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1³/₃₂-inch cotton, delivered to a definable and significant international market, as determined by the Secretary, exceeds the prevailing world market price, there shall immediately be in effect a special import quota.

(3) Quantity

The quota shall be equal to the consumption during a 1-week period of cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which official data of the Department of Agriculture are available or, in the absence of sufficient data, as estimated by the Secretary.

(4) Application

The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary’s announcement under paragraph (2) and entered into the United States not later than 180 days after that date.

(5) Overlap

A special quota period may be established that overlaps any existing quota period if required by paragraph (2), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (b).

(6) Preferential tariff treatment

The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(A) section 2703(d) of title 19;

(B) section 3203 of title 19;

(C) section 2463(d) of title 19; and

(D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(7) Limitation

The quantity of cotton entered into the United States during any marketing year under the special import quota established under this subsection may not exceed the

equivalent of 10 weeks' consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the 3 months immediately preceding the first special import quota established in any marketing year.

(b) Limited global import quota for upland cotton

(1) Definitions

In this subsection:

(A) Demand

The term “demand” means—

(i) the average seasonally adjusted annual rate of domestic mill consumption of cotton during the most recent 3 months for which official data of the Department of Agriculture are available or, in the absence of sufficient data, as estimated by the Secretary; and

(ii) the larger of—

(I) average exports of upland cotton during the preceding 6 marketing years; or

(II) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(B) Limited global import quota

The term “limited global import quota” means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(C) Supply

The term “supply” means, using the latest official data of the Department of Agriculture—

(i) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(ii) production of the current crop; and

(iii) imports to the latest date available during the marketing year.

(2) Program

The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of the quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) Quantity

The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which official data of the Department of Agriculture are available or, in the absence of sufficient data, as estimated by the Secretary.

(B) Quantity if prior quota

If a quota has been established under this subsection during the preceding 12 months,

the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) Preferential tariff treatment

The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 2703(d) of title 19;

(ii) section 3203 of title 19;

(iii) section 2463(d) of title 19; and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) Quota entry period

When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(3) No overlap

Notwithstanding paragraph (2), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (a).

(c) Economic adjustment assistance to users of upland cotton

(1) In general

Subject to paragraph (2), the Secretary shall, on a monthly basis, make economic adjustment assistance available to domestic users of upland cotton in the form of payments for all documented use of that upland cotton during the previous monthly period regardless of the origin of the upland cotton.

(2) Value of assistance

Effective beginning on August 1, 2013, the value of the assistance provided under paragraph (1) shall be 3 cents per pound.

(3) Allowable purposes

Economic adjustment assistance under this subsection shall be made available only to domestic users of upland cotton that certify that the assistance shall be used only to acquire, construct, install, modernize, develop, convert, or expand land, plant, buildings, equipment, facilities, or machinery.

(4) Review or audit

The Secretary may conduct such review or audit of the records of a domestic user under this subsection as the Secretary determines necessary to carry out this subsection.

(5) Improper use of assistance

If the Secretary determines, after a review or audit of the records of the domestic user, that economic adjustment assistance under this subsection was not used for the purposes specified in paragraph (3), the domestic user shall be—

(A) liable for the repayment of the assistance to the Secretary, plus interest, as determined by the Secretary; and

(B) ineligible to receive assistance under this subsection for a period of 1 year following the determination of the Secretary.

(Pub. L. 113–79, title I, §1207, Feb. 7, 2014, 128 Stat. 682.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule, referred to in subsecs. (a)(6)(D) and (b)(2)(C)(iv), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

§ 9038. Special competitive provisions for extra long staple cotton

(a) Competitiveness program

Notwithstanding any other provision of law, during the period beginning on February 7, 2014, through July 31, 2019, the Secretary shall carry out a program—

- (1) to maintain and expand the domestic use of extra long staple cotton produced in the United States;
- (2) to increase exports of extra long staple cotton produced in the United States; and
- (3) to ensure that extra long staple cotton produced in the United States remains competitive in world markets.

(b) Payments under program; trigger

Under the program, the Secretary shall make payments available under this section whenever—

- (1) for a consecutive 4-week period, the world market price for the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is below the prevailing United States price for a competing growth of extra long staple cotton; and
- (2) the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is less than 134 percent of the loan rate for extra long staple cotton.

(c) Eligible recipients

The Secretary shall make payments available under this section to domestic users of extra long staple cotton produced in the United States and exporters of extra long staple cotton produced in the United States that enter into an agreement with the Commodity Credit Corporation to participate in the program under this section.

(d) Payment amount

Payments under this section shall be based on the amount of the difference in the prices referred to in subsection (b)(1) during the fourth week of the consecutive 4-week period multiplied by the amount of documented purchases by domestic users and sales for export by exporters made in the week following such a consecutive 4-week period.

(Pub. L. 113–79, title I, §1208, Feb. 7, 2014, 128 Stat. 684.)

§ 9039. Availability of recourse loans for high moisture feed grains and seed cotton

(a) High moisture feed grains

(1) Definition of high moisture state

In this subsection, the term “high moisture state” means corn or grain sorghum having a moisture content in excess of Commodity Credit Corporation standards for marketing assistance loans made by the Secretary under section 9031 of this title.

(2) Recourse loans available

For each of the 2014 through 2018 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to producers on a farm that—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that the producers on the farm were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

(3) Eligibility of acquired feed grains

A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the farm of the producer; by

(B) the lower of—

(i) the payment yield in effect for the calculation of price loss coverage under section 9015 of this title, or the payment yield deemed to be in effect or established under subclause (II) or (III) of section 9036(b)(1)(B)(ii) of this title, with respect to corn or grain sorghum on a field that is similar to the field from which the corn or grain sorghum referred to in subparagraph (A) was obtained; or

(ii) the actual yield of corn or grain sorghum on a field, as determined by the Sec-

retary, that is similar to the field from which the corn or grain sorghum referred to in subparagraph (A) was obtained.

(b) Recourse loans available for seed cotton

For each of the 2014 through 2018 crops of upland cotton and extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

(c) Repayment rates

Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (determined in accordance with section 7283 of this title).

(Pub. L. 113-79, title I, §1209, Feb. 7, 2014, 128 Stat. 685.)

§ 9040. Adjustments of loans

(a) Adjustment authority

Subject to subsection (e), the Secretary may make appropriate adjustments in the loan rates for any loan commodity (other than cotton) for differences in grade, type, quality, location, and other factors.

(b) Manner of adjustment

The adjustments under subsection (a) shall, to the maximum extent practicable, be made in such a manner that the average loan level for the commodity will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined in accordance with this subchapter and subtitle C.

(c) Adjustment on county basis

(1) In general

The Secretary may establish loan rates for a crop for producers in individual counties in a manner that results in the lowest loan rate being 95 percent of the national average loan rate, if those loan rates do not result in an increase in outlays.

(2) Prohibition

Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

(d) Adjustment in loan rate for cotton

(1) In general

The Secretary may make appropriate adjustments in the loan rate for cotton for differences in quality factors.

(2) Types of adjustments

Loan rate adjustments under paragraph (1) may include—

(A) the use of non-spot market price data, in addition to spot market price data, that would enhance the accuracy of the price information used in determining quality adjustments under this subsection;

(B) adjustments in the premiums or discounts associated with upland cotton with a staple length of 33 or above due to micro-naire with the goal of eliminating any unnecessary artificial splits in the calculations of the premiums or discounts; and

(C) such other adjustments as the Secretary determines appropriate, after con-

sultations conducted in accordance with paragraph (3).

(3) Consultation with private sector

(A) Prior to revision

In making adjustments to the loan rate for cotton (including any review of the adjustments) as provided in this subsection, the Secretary shall consult with representatives of the United States cotton industry.

(B) Inapplicability of Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultations under this subsection.

(4) Review of adjustments

The Secretary may review the operation of the upland cotton quality adjustments implemented pursuant to this subsection and may make further adjustments to the administration of the loan program for upland cotton, by revoking or revising any adjustment taken under paragraph (2).

(e) Rice

The Secretary shall not make adjustments in the loan rates for long grain rice and medium grain rice, except for differences in grade and quality (including milling yields).

(Pub. L. 113-79, title I, §1210, Feb. 7, 2014, 128 Stat. 686.)

REFERENCES IN TEXT

Subtitle C, referred to in subsec. (b), means subtitle C of title I of Pub. L. 113-79, Feb. 7, 2014, 128 Stat. 687, which amended sections 1359bb, 1359ll, and 7272 of this title.

The Federal Advisory Committee Act, referred to in subsec. (d)(3)(B), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER III—DAIRY

PART A—MARGIN PROTECTION PROGRAM FOR DAIRY PRODUCERS

§ 9051. Definitions

In this part and part B:

(1) Actual dairy production margin

The term “actual dairy production margin” means the difference between the all-milk price and the average feed cost, as calculated under section 9052 of this title.

(2) All-milk price

The term “all-milk price” means the average price received, per hundredweight of milk, by dairy operations for all milk sold to plants and dealers in the United States, as determined by the Secretary.

(3) Average feed cost

The term “average feed cost” means the average cost of feed used by a dairy operation to produce a hundredweight of milk, determined under section 9052 of this title using the sum of the following:

(A) The product determined by multiplying 1.0728 by the price of corn per bushel.

(B) The product determined by multiplying 0.00735 by the price of soybean meal per ton.

(C) The product determined by multiplying 0.0137 by the price of alfalfa hay per ton.

(4) Consecutive 2-month period

The term “consecutive 2-month period” refers to the 2-month period consisting of the months of January and February, March and April, May and June, July and August, September and October, or November and December, respectively.

(5) Dairy operation

(A) In general

The term “dairy operation” means, as determined by the Secretary, 1 or more dairy producers that produce and market milk as a single dairy operation in which each dairy producer—

- (i) shares in the risk of producing milk; and
- (ii) makes contributions (including land, labor, management, equipment, or capital) to the dairy operation of the individual or entity, which are at least commensurate with the individual or entity’s share of the proceeds of the operation.

(B) Additional ownership structures

The Secretary shall determine additional ownership structures to be covered by the definition of dairy operation.

(6) Margin protection program

The term “margin protection program” means the margin protection program required by section 9053 of this title.

(7) Margin protection program payment

The term “margin protection program payment” means a payment made to a participating dairy operation under the margin protection program pursuant to section 9056 of this title.

(8) Participating dairy operation

The term “participating dairy operation” means a dairy operation that registers under section 9054 of this title to participate in the margin protection program.

(9) Production history

The term “production history” means the production history determined for a participating dairy operation under subsection (a) or (b) of section 9055 of this title when the participating dairy operation first registers to participate in the margin protection program.

(10) Secretary

The term “Secretary” means the Secretary of Agriculture.

(11) United States

The term “United States”, in a geographical sense, means the 50 States, the District of Columbia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and any other territory or possession of the United States.

(Pub. L. 113–79, title I, §1401, Feb. 7, 2014, 128 Stat. 688.)

§ 9052. Calculation of average feed cost and actual dairy production margins

(a) Calculation of average feed cost

The Secretary shall calculate the national average feed cost for each month using the following data:

(1) The price of corn for a month shall be the price received during that month by farmers in the United States for corn, as reported in the monthly Agricultural Prices report by the Secretary.

(2) The price of soybean meal for a month shall be the central Illinois price for soybean meal, as reported in the Market News–Monthly Soybean Meal Price Report by the Secretary.

(3) The price of alfalfa hay for a month shall be the price received during that month by farmers in the United States for alfalfa hay, as reported in the monthly Agricultural Prices report by the Secretary.

(b) Calculation of actual dairy production margin

(1) In general

For use in the margin protection program, the Secretary shall calculate the actual dairy production margin for each consecutive 2-month period by subtracting—

(A) the average feed cost for that consecutive 2-month period, determined in accordance with subsection (a); from

(B) the all-milk price for that consecutive 2-month period.

(2) Time for calculation

The calculation required by this subsection shall be made as soon as practicable using the full-month price of the applicable reference month.

(Pub. L. 113–79, title I, §1402, Feb. 7, 2014, 128 Stat. 689.)

§ 9053. Establishment of margin protection program for dairy producers

Not later than September 1, 2014, the Secretary shall establish and administer a margin protection program for dairy producers under which participating dairy operations are paid a margin protection payment when actual dairy production margins are less than the threshold levels for a margin protection payment.

(Pub. L. 113–79, title I, §1403, Feb. 7, 2014, 128 Stat. 689.)

§ 9054. Participation of dairy operations in margin protection program

(a) Eligibility

All dairy operations in the United States shall be eligible to participate in the margin protection program to receive margin protection payments.

(b) Registration process

(1) In general

The Secretary shall specify the manner and form by which a participating dairy operation may register to participate in the margin protection program.

(2) Treatment of multiproducer dairy operations

If a participating dairy operation is operated by more than 1 dairy producer, all of the dairy producers of the participating dairy operation shall be treated as a single dairy operation for purposes of participating in the margin protection program.

(3) Treatment of producers with multiple dairy operations

If a dairy producer operates 2 or more dairy operations, each dairy operation of the producer shall separately register to participate in the margin protection program.

(c) Annual administrative fee

(1) Administrative fee required

Each participating dairy operation shall—

(A) pay an administrative fee to register to participate in the margin protection program; and

(B) pay the administrative fee annually through the duration of the margin protection program specified in section 9059 of this title.

(2) Amount of fee

The administrative fee for a participating dairy operation shall be \$100.

(3) Use of fees

The Secretary shall use administrative fees collected under this subsection to cover administrative costs incurred to carry out the margin protection program.

(d) Relation to livestock gross margin for dairy program

A dairy operation may participate in the margin protection program or the livestock gross margin for dairy program under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), but not both.

(Pub. L. 113-79, title I, §1404, Feb. 7, 2014, 128 Stat. 690.)

REFERENCES IN TEXT

The Federal Crop Insurance Act, referred to in subsection (d), is subtitle A of title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, which is classified generally to subchapter I (§1501 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see section 1501 of this title and Tables.

§ 9055. Production history of participating dairy operations

(a) Production history

(1) In general

Except as provided in subsection (b), when a dairy operation first registers to participate in the margin protection program, the production history of the dairy operation for the margin protection program is equal to the highest annual milk marketings of the participating dairy operation during any one of the 2011, 2012, or 2013 calendar years.

(2) Adjustment

In subsequent years, the Secretary shall adjust the production history of a participating dairy operation determined under paragraph

(1) to reflect any increase in the national average milk production.

(b) Election by new dairy operations

In the case of a participating dairy operation that has been in operation for less than a year, the participating dairy operation shall elect 1 of the following methods for the Secretary to determine the production history of the participating dairy operation:

(1) The volume of the actual milk marketings for the months the participating dairy operation has been in operation extrapolated to a yearly amount.

(2) An estimate of the actual milk marketings of the participating dairy operation based on the herd size of the participating dairy operation relative to the national rolling herd average data published by the Secretary.

(c) Required information

A participating dairy operation shall provide all information that the Secretary may require in order to establish the production history of the participating dairy operation for purposes of participating in the margin protection program.

(Pub. L. 113-79, title I, §1405, Feb. 7, 2014, 128 Stat. 690.)

§ 9056. Margin protection payments

(a) Coverage level threshold and coverage percentage

For purposes of receiving margin protection payments for a consecutive 2-month period, a participating dairy operation shall annually elect—

(1) a coverage level threshold that is equal to \$4.00, \$4.50, \$5.00, \$5.50, \$6.00, \$6.50, \$7.00, \$7.50, or \$8.00; and

(2) a percentage of coverage, in 5-percent increments, beginning with 25 percent and not exceeding 90 percent of the production history of the participating dairy operation.

(b) Payment threshold

A participating dairy operation shall receive a margin protection payment whenever the average actual dairy production margin for a consecutive 2-month period is less than the coverage level threshold selected by the participating dairy operation.

(c) Amount of margin protection payment

The margin protection payment for the participating dairy operation shall be determined as follows:

(1) The Secretary shall calculate the amount by which the coverage level threshold selected by the participating dairy operation exceeds the average actual dairy production margin for the consecutive 2-month period.

(2) The amount determined under paragraph (1) shall be multiplied by—

(A) the coverage percentage selected by the participating dairy operation; and

(B) the production history of the participating dairy operation divided by 6.

(Pub. L. 113-79, title I, §1406, Feb. 7, 2014, 128 Stat. 691.)

§ 9057. Premiums for margin protection program**(a) Calculation of premiums**

For purposes of participating in the margin protection program, a participating dairy operation shall pay an annual premium equal to the product obtained by multiplying—

- (1) the coverage percentage elected by the participating dairy operation under section 9056(a)(2) of this title;
- (2) the production history of the participating dairy operation; and
- (3) the premium per hundredweight of milk imposed by this section for the coverage level selected.

(b) Premium per hundredweight for first 4 million pounds of production**(1) In general**

For the first 4,000,000 pounds of milk marketings included in the production history of a participating dairy operation, the premium per hundredweight for each coverage level is specified in the table contained in paragraph (2).

(2) Producer premiums

Except as provided in paragraph (3), the following annual premiums apply:

Coverage Level	Premium per Cwt.
\$4.00	None
\$4.50	\$0.010
\$5.00	\$0.025
\$5.50	\$0.040
\$6.00	\$0.055
\$6.50	\$0.090
\$7.00	\$0.217
\$7.50	\$0.300
\$8.00	\$0.475

(3) Special rule

The premium per hundredweight specified in the table contained in paragraph (2) for each coverage level (except the \$8.00 coverage level) shall be reduced by 25 percent for each of calendar years 2014 and 2015.

(c) Premium per hundredweight for production in excess of 4 million pounds**(1) In general**

For milk marketings in excess of 4,000,000 pounds included in the production history of a participating dairy operation, the premium per hundredweight for each coverage level is specified in the table contained in paragraph (2).

(2) Producer premiums

The following annual premiums apply:

Coverage Level	Premium per Cwt.
\$4.00	None
\$4.50	\$0.020
\$5.00	\$0.040
\$5.50	\$0.100
\$6.00	\$0.155
\$6.50	\$0.290
\$7.00	\$0.830
\$7.50	\$1.060
\$8.00	\$1.360

(d) Time for payment of premium

The Secretary shall provide more than 1 method by which a participating dairy operation may pay the premium required under this section in any manner that maximizes participating dairy operation payment flexibility and program integrity.

(e) Premium obligations**(1) Pro-ration of premium for new participants**

In the case of a participating dairy operation that first registers to participate in the margin protection program for a calendar year after the start of the calendar year, the participating dairy operation shall pay a pro-rated premium for that calendar year based on the portion of the calendar year for which the participating dairy operation purchases the coverage.

(2) Legal obligation

A participating dairy operation in the margin protection program for a calendar year shall be legally obligated to pay the applicable premium for that calendar year, except that the Secretary may waive that obligation, under terms and conditions determined by the Secretary, for any participating dairy operation in the case of death, retirement, permanent dissolution of a participating dairy operation, or other circumstances as the Secretary considers appropriate to ensure the integrity of the program.

(Pub. L. 113–79, title I, §1407, Feb. 7, 2014, 128 Stat. 691.)

§ 9058. Effect of failure to pay administrative fees or premiums**(a) Loss of benefits**

A participating dairy operation that fails to pay the required annual administrative fee under section 9054 of this title or is in arrears on premium payments under section 9057 of this title—

- (1) remains legally obligated to pay the administrative fee or premiums, as the case may be; and
- (2) may not receive margin protection payments until the fees or premiums are fully paid.

(b) Enforcement

The Secretary may take such action as necessary to collect administrative fees and premium payments for participation in the margin protection program.

(Pub. L. 113–79, title I, §1408, Feb. 7, 2014, 128 Stat. 693.)

§ 9059. Duration

The margin protection program shall end on December 31, 2018.

(Pub. L. 113–79, title I, §1409, Feb. 7, 2014, 128 Stat. 693.)

§ 9060. Administration and enforcement**(a) In general**

The Secretary shall promulgate regulations to address administrative and enforcement issues

involved in carrying out the margin protection program.

(b) Reconstitution

The Secretary shall promulgate regulations to prohibit a dairy producer from reconstituting a dairy operation for the purpose of the dairy producer receiving margin protection payments.

(c) Administrative appeals

Using authorities under section 1308(h) of this title and subtitle H of the Department of Agriculture Reorganization Act (7 U.S.C. 6991 et seq.), the Secretary shall promulgate regulations to provide for administrative appeals of decisions of the Secretary that are adverse to participants of the margin protection program.

(Pub. L. 113–79, title I, §1410, Feb. 7, 2014, 128 Stat. 693.)

REFERENCES IN TEXT

The Department of Agriculture Reorganization Act, referred to in subsec. (c), probably means the Department of Agriculture Reorganization Act of 1994 which is title II of Pub. L. 103–354, Oct. 13, 1994, 108 Stat. 3209. Subtitle H of the Act is classified principally to subchapter VIII (§6991 et seq.) of chapter 98 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is comprised of section 1410 of Pub. L. 113–79. Subsec. (d) of section 1410 of Pub. L. 113–79 amended section 7253 of this title.

PART B—DAIRY PRODUCT DONATION PROGRAM

§ 9071. Dairy product donation program

(a) Program required; purpose

Not later than 120 days after the date on which the Secretary certifies to Congress that the margin protection program is operational, the Secretary shall establish and administer a dairy product donation program for the purposes of—

- (1) addressing low operating margins experienced by participating dairy operations; and
- (2) providing nutrition assistance to individuals in low-income groups.

(b) Program trigger

The Secretary shall announce that the dairy product donation program is in effect for a month, and undertake activities under subsection (c) during the month, whenever the actual dairy production margin has been \$4.00 or less per hundredweight of milk for each of the immediately preceding 2 months.

(c) Required program activities

(1) In general

Whenever the dairy product donation program is in effect under subsection (b), the Secretary shall immediately purchase dairy products, at prevailing market prices, until such time as one of the termination conditions specified in subsection (d)(1) is met.

(2) Consultation

To determine the types and quantities of dairy products to purchase under the dairy product donation program, the Secretary shall consult with public and private nonprofit organizations organized to feed low-income populations¹

¹ So in original. Probably should be followed by a period.

(d) Termination of program activities

(1) Termination thresholds

The Secretary shall cease activities under the dairy product donation program, and shall not reinitiate activities under the program until the condition specified in subsection (b) is again met, whenever any one of the following occurs:

(A) The Secretary has made purchases under the dairy product donation program for three consecutive months, even if the actual dairy production margin remains \$4.00 or less per hundredweight of milk.

(B) The actual dairy production margin has been greater than \$4.00 per hundredweight of milk for the immediately preceding month.

(C) The actual dairy production margin has been \$4.00 or less, but more than \$3.00, per hundredweight of milk for the immediately preceding month and during the same month—

(i) the price in the United States for cheddar cheese was more than 5 percent above the world price; or

(ii) the price in the United States for non-fat dry milk was more than 5 percent above the world price of skim milk powder.

(D) The actual dairy production margin has been \$3.00 or less per hundredweight of milk for the immediately preceding month and during the same month—

(i) the price in the United States for cheddar cheese was more than 7 percent above the world price; or

(ii) the price in the United States for non-fat dry milk was more than 7 percent above the world price of skim milk powder.

(2) Determinations

For purposes of this subsection, the Secretary shall determine the price in the United States for cheddar cheese and non-fat dry milk and the world price of cheddar cheese and skim milk powder.

(e) Distribution of purchased dairy products

(1) In general

The Secretary of Agriculture shall distribute, but not store, the dairy products purchased under the dairy product donation program in a manner that encourages the domestic consumption of such dairy products by diverting them to persons in low-income groups, as determined by the Secretary.

(2) Use of public or private nonprofit organizations

The Secretary shall utilize the services of public and private nonprofit organizations for the distribution of dairy products purchased under the dairy product donation program. A public or private nonprofit organization that receives dairy products may transfer the products to another public or private nonprofit organization that agrees to use the dairy products to provide, without cost or waste, nutrition assistance to individuals in low-income groups.

(f) Prohibition on resale of products

A public or private nonprofit organization that receives dairy products under subsection (e) may not sell the products back into commercial markets.

(g) Use of Commodity Credit Corporation funds

As specified in section 9091(a) of this title, the funds, facilities, and authorities of the Commodity Credit Corporation shall be available to the Secretary for the purposes of implementing and administering the dairy product donation program.

(h) Duration

In addition to the termination conditions specified in subsection (d)(1), the dairy product donation program shall end on December 31, 2018.

(Pub. L. 113-79, title I, §1431, Feb. 7, 2014, 128 Stat. 695.)

SUBCHAPTER IV—SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE PROGRAMS

§ 9081. Supplemental agricultural disaster assistance

(a) Definitions

In this section:

(1) Eligible producer on a farm**(A) In general**

The term “eligible producer on a farm” means an individual or entity described in subparagraph (B) that, as determined by the Secretary, assumes the production and market risks associated with the agricultural production of crops or livestock.

(B) Description

An individual or entity referred to in subparagraph (A) is—

- (i) a citizen of the United States;
- (ii) a resident alien;
- (iii) a partnership of citizens of the United States; or
- (iv) a corporation, limited liability corporation, or other farm organizational structure organized under State law.

(2) Farm-raised fish

The term “farm-raised fish” means any aquatic species that is propagated and reared in a controlled environment.

(3) Livestock

The term “livestock” includes—

- (A) cattle (including dairy cattle);
- (B) bison;
- (C) poultry;
- (D) sheep;
- (E) swine;
- (F) horses; and
- (G) other livestock, as determined by the Secretary.

(4) Secretary

The term “Secretary” means the Secretary of Agriculture.

(b) Livestock indemnity payments**(1) Payments**

For fiscal year 2012 and each succeeding fiscal year, the Secretary shall use such sums as

are necessary of the funds of the Commodity Credit Corporation to make livestock indemnity payments to eligible producers on farms that have incurred livestock death losses in excess of the normal mortality, as determined by the Secretary, due to—

(A) attacks by animals reintroduced into the wild by the Federal Government or protected by Federal law, including wolves and avian predators; or

(B) adverse weather, as determined by the Secretary, during the calendar year, including losses due to hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold.

(2) Payment rates

Indemnity payments to an eligible producer on a farm under paragraph (1) shall be made at a rate of 75 percent of the market value of the applicable livestock on the day before the date of death of the livestock, as determined by the Secretary.

(3) Special rule for payments made due to disease

The Secretary shall ensure that payments made to an eligible producer under paragraph (1) are not made for the same livestock losses for which compensation is provided pursuant to section 8306(d) of this title.

(c) Livestock forage disaster program**(1) Definitions**

In this subsection:

(A) Covered livestock**(i) In general**

Except as provided in clause (ii), the term “covered livestock” means livestock of an eligible livestock producer that, during the 60 days prior to the beginning date of a qualifying drought or fire condition, as determined by the Secretary, the eligible livestock producer—

- (I) owned;
- (II) leased;
- (III) purchased;
- (IV) entered into a contract to purchase;
- (V) is a contract grower; or
- (VI) sold or otherwise disposed of due to qualifying drought conditions during—

- (aa) the current production year; or
- (bb) subject to paragraph (3)(B)(ii), 1 or both of the 2 production years immediately preceding the current production year.

(ii) Exclusion

The term “covered livestock” does not include livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire condition, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary.

(B) Drought monitor

The term “drought monitor” means a system for classifying drought severity accord-

ing to a range of abnormally dry to exceptional drought, as defined by the Secretary.

(C) Eligible livestock producer

(i) In general

The term “eligible livestock producer” means an eligible producer on a farm that—

(I) is an owner, cash or share lessee, or contract grower of covered livestock that provides the pastureland or grazing land, including cash-leased pastureland or grazing land, for the livestock;

(II) provides the pastureland or grazing land for covered livestock, including cash-leased pastureland or grazing land that is physically located in a county affected by drought;

(III) certifies grazing loss; and

(IV) meets all other eligibility requirements established under this subsection.

(ii) Exclusion

The term “eligible livestock producer” does not include an owner, cash or share lessee, or contract grower of livestock that rents or leases pastureland or grazing land owned by another person on a rate-of-gain basis.

(D) Normal carrying capacity

The term “normal carrying capacity”, with respect to each type of grazing land or pastureland in a county, means the normal carrying capacity, as determined under paragraph (3)(D)(i), that would be expected from the grazing land or pastureland for livestock during the normal grazing period, in the absence of a drought or fire that diminishes the production of the grazing land or pastureland.

(E) Normal grazing period

The term “normal grazing period”, with respect to a county, means the normal grazing period during the calendar year for the county, as determined under paragraph (3)(D)(i).

(2) Program

For fiscal year 2012 and each succeeding fiscal year, the Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide compensation for losses to eligible livestock producers due to grazing losses for covered livestock due to—

(A) a drought condition, as described in paragraph (3); or

(B) fire, as described in paragraph (4).

(3) Assistance for losses due to drought conditions

(A) Eligible losses

(i) In general

An eligible livestock producer may receive assistance under this subsection only for grazing losses for covered livestock that occur on land that—

(I) is native or improved pastureland with permanent vegetative cover; or

(II) is planted to a crop planted specifically for the purpose of providing grazing for covered livestock.

(ii) Exclusions

An eligible livestock producer may not receive assistance under this subsection for grazing losses that occur on land used for haying or grazing under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(B) Monthly payment rate

(i) In general

Except as provided in clause (ii), the payment rate for assistance under this paragraph for 1 month shall, in the case of drought, be equal to 60 percent of the lesser of—

(I) the monthly feed cost for all covered livestock owned or leased by the eligible livestock producer, as determined under subparagraph (C); or

(II) the monthly feed cost calculated by using the normal carrying capacity of the eligible grazing land of the eligible livestock producer.

(ii) Partial compensation

In the case of an eligible livestock producer that sold or otherwise disposed of covered livestock due to drought conditions in 1 or both of the 2 production years immediately preceding the current production year, as determined by the Secretary, the payment rate shall be 80 percent of the payment rate otherwise calculated in accordance with clause (i).

(C) Monthly feed cost

(i) In general

The monthly feed cost shall equal the product obtained by multiplying—

(I) 30 days;

(II) a payment quantity that is equal to the feed grain equivalent, as determined under clause (ii); and

(III) a payment rate that is equal to the corn price per pound, as determined under clause (iii).

(ii) Feed grain equivalent

For purposes of clause (i)(II), the feed grain equivalent shall equal—

(I) in the case of an adult beef cow, 15.7 pounds of corn per day; or

(II) in the case of any other type of weight of livestock, an amount determined by the Secretary that represents the average number of pounds of corn per day necessary to feed the livestock.

(iii) Corn price per pound

For purposes of clause (i)(III), the corn price per pound shall equal the quotient obtained by dividing—

(I) the higher of—

(aa) the national average corn price per bushel for the 12-month period immediately preceding March 1 of the year for which the disaster assistance is calculated; or

(bb) the national average corn price per bushel for the 24-month period immediately preceding that March 1; by

(II) 56.

(D) Normal grazing period and drought monitor intensity**(i) FSA county committee determinations****(I) In general**

The Secretary shall determine the normal carrying capacity and normal grazing period for each type of grazing land or pastureland in the county served by the applicable committee.

(II) Changes

No change to the normal carrying capacity or normal grazing period established for a county under subclause (I) shall be made unless the change is requested by the appropriate State and county Farm Service Agency committees.

(ii) Drought intensity**(I) D2**

An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having a D2 (severe drought) intensity in any area of the county for at least 8 consecutive weeks during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph in an amount equal to 1 monthly payment using the monthly payment rate determined under subparagraph (B).

(II) D3

An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having at least a D3 (extreme drought) intensity in any area of the county at any time during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph—

(aa) in an amount equal to 3 monthly payments using the monthly payment rate determined under subparagraph (B);

(bb) if the county is rated as having a D3 (extreme drought) intensity in any area of the county for at least 4 weeks during the normal grazing period for the county, or is rated as having a D4 (exceptional drought) intensity in any area of the county at any time during the normal grazing period, in an amount equal to 4 monthly payments using the monthly payment rate determined under subparagraph (B); or

(cc) if the county is rated as having a D4 (exceptional drought) intensity in any area of the county for at least 4 weeks during the normal grazing period, in an amount equal to 5 monthly payments using the monthly rate determined under subparagraph (B).

(4) Assistance for losses due to fire on public managed land**(A) In general**

An eligible livestock producer may receive assistance under this paragraph only if—

- (i) the grazing losses occur on rangeland that is managed by a Federal agency; and
- (ii) the eligible livestock producer is prohibited by the Federal agency from grazing the normal permitted livestock on the managed rangeland due to a fire.

(B) Payment rate

The payment rate for assistance under this paragraph shall be equal to 50 percent of the monthly feed cost for the total number of livestock covered by the Federal lease of the eligible livestock producer, as determined under paragraph (3)(C).

(C) Payment duration**(i) In general**

Subject to clause (ii), an eligible livestock producer shall be eligible to receive assistance under this paragraph for the period—

(I) beginning on the date on which the Federal agency excludes the eligible livestock producer from using the managed rangeland for grazing; and

(II) ending on the last day of the Federal lease of the eligible livestock producer.

(ii) Limitation

An eligible livestock producer may only receive assistance under this paragraph for losses that occur on not more than 180 days per year.

(5) No duplicative payments

An eligible livestock producer may elect to receive assistance for grazing or pasture feed losses due to drought conditions under paragraph (3) or fire under paragraph (4), but not both for the same loss, as determined by the Secretary.

(d) Emergency assistance for livestock, honey bees, and farm-raised fish**(1) In general**

For fiscal year 2012 and each succeeding fiscal year, the Secretary shall use not more than \$20,000,000 of the funds of the Commodity Credit Corporation to provide emergency relief to eligible producers of livestock, honey bees, and farm-raised fish to aid in the reduction of losses due to disease (including cattle tick fever), adverse weather, or other conditions, such as blizzards and wildfires, as determined by the Secretary, that are not covered under subsection (b) or (c).

(2) Use of funds

Funds made available under this subsection shall be used to reduce losses caused by feed or water shortages, disease, or other factors as determined by the Secretary.

(3) Availability of funds

Any funds made available under this subsection shall remain available until expended.

(e) Tree assistance program**(1) Definitions**

In this subsection:

(A) Eligible orchardist

The term “eligible orchardist” means a person that produces annual crops from trees for commercial purposes.

(B) Natural disaster

The term “natural disaster” means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, or other occurrence, as determined by the Secretary.

(C) Nursery tree grower

The term “nursery tree grower” means a person who produces nursery, ornamental, fruit, nut, or Christmas trees for commercial sale, as determined by the Secretary.

(D) Tree

The term “tree” includes a tree, bush, and vine.

(2) Eligibility**(A) Loss**

Subject to subparagraph (B), for fiscal year 2012 and each succeeding fiscal year, the Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide assistance—

(i) under paragraph (3) to eligible orchardists and nursery tree growers that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary; and

(ii) under paragraph (3)(B) to eligible orchardists and nursery tree growers that have a production history for commercial purposes on planted or existing trees but lost the trees as a result of a natural disaster, as determined by the Secretary.

(B) Limitation

An eligible orchardist or nursery tree grower shall qualify for assistance under subparagraph (A) only if the tree mortality of the eligible orchardist or nursery tree grower, as a result of damaging weather or related condition, exceeds 15 percent (adjusted for normal mortality).

(3) Assistance

Subject to paragraph (4), the assistance provided by the Secretary to eligible orchardists and nursery tree growers for losses described in paragraph (2) shall consist of—

(A)(i) reimbursement of 65 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

(ii) at the option of the Secretary, sufficient seedlings to reestablish a stand; and

(B) reimbursement of 50 percent of the cost of pruning, removal, and other costs incurred by an eligible orchardist or nursery tree grower to salvage existing trees or, in the case of tree mortality, to prepare the land to replant trees as a result of damage or tree mortality due to a natural disaster, as

determined by the Secretary, in excess of 15 percent damage or mortality (adjusted for normal tree damage and mortality).

(4) Limitations on assistance**(A) Definitions of legal entity and person**

In this paragraph, the terms “legal entity” and “person” have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a)).

(B) Amount

The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this subsection may not exceed \$125,000 for any crop year, or an equivalent value in tree seedlings.

(C) Acres

The total quantity of acres planted to trees or tree seedlings for which a person or legal entity shall be entitled to receive payments under this subsection may not exceed 500 acres.

(f) Payment limitations**(1) Definitions of legal entity and person**

In this subsection, the terms “legal entity” and “person” have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a)).

(2) Amount

The total amount of disaster assistance payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this section (excluding payments received under subsection (e)) may not exceed \$125,000 for any crop year.

(3) Direct attribution

Subsections (e) and (f) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) or any successor provisions relating to direct attribution shall apply with respect to assistance provided under this section.

(Pub. L. 113–79, title I, §1501, Feb. 7, 2014, 128 Stat. 697.)

REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsec. (c)(3)(A)(ii), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354. Subchapter B of chapter 1 of subtitle D of title XII is classified generally to subpart B (§3831 et seq.) of part I of subchapter IV of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

SUBCHAPTER V—ADMINISTRATION

§ 9091. Administration generally**(a) Use of Commodity Credit Corporation**

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this chapter.

(b) Determinations by Secretary

A determination made by the Secretary under this chapter shall be final and conclusive.

(c) Regulations**(1) In general**

Except as otherwise provided in this subsection, not later than 90 days after February 7, 2014, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this chapter and the amendments made by this chapter.

(2) Procedure

The promulgation of the regulations and administration of this chapter and the amendments made by this chapter and sections 11003 and 11017 shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5;

(B) chapter 35 of title 44 (commonly known as the “Paperwork Reduction Act”); and

(C) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking.

(3) Congressional review of agency rulemaking

In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5.

(d) Adjustment authority related to trade agreements compliance**(1) Required determination; adjustment**

If the Secretary determines that expenditures under this chapter that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 3501 of title 19) will exceed such allowable levels for any applicable reporting period, the Secretary shall, to the maximum extent practicable, make adjustments in the amount of such expenditures during that period to ensure that such expenditures do not exceed the allowable levels.

(2) Congressional notification

Before making any adjustment under paragraph (1), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the determination made under that paragraph and the extent of the adjustment to be made.

(Pub. L. 113–79, title I, §1601, Feb. 7, 2014, 128 Stat. 704.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title I of Pub. L. 113–79, Feb. 7, 2014, 128 Stat. 658, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

Sections 11003 and 11017, referred to in subsec. (c)(2), mean sections 11003 and 11017 of Pub. L. 113–79, which enacted section 1508b of this title, amended section 1508 of this title and enacted provisions set out as a note under section 1508 of this title.

§ 9092. Suspension of permanent price support authority**(a) Agricultural Adjustment Act of 1938**

The following provisions of the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.]

shall not be applicable to the 2014 through 2018 crops of covered commodities (as defined in section 9011 of this title), cotton, and sugar and shall not be applicable to milk during the period beginning on February 7, 2014, through December 31, 2018:

(1) Parts II through V of subtitle B of title III (7 U.S.C. 1326 et seq.) [7 U.S.C. 1321 et seq., 1331 et seq., 1341 et seq., 1351].

(2) In the case of upland cotton, section 377 (7 U.S.C. 1377).

(3) Subtitle D of title III (7 U.S.C. 1379a et seq.).

(4) Title IV (7 U.S.C. 1401 et seq.).

(b) Agricultural Act of 1949

The following provisions of the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] shall not be applicable to the 2014 through 2018 crops of covered commodities (as defined in section 9011 of this title), cotton, and sugar and shall not be applicable to milk during the period beginning on February 7, 2014, and through December 31, 2018:

(1) Section 101 (7 U.S.C. 1441).

(2) Section 103(a) (7 U.S.C. 1444(a)).

(3) Section 105 (7 U.S.C. 1444b).

(4) Section 107 (7 U.S.C. 1445a).

(5) Section 110 (7 U.S.C. 1445e).

(6) Section 112 (7 U.S.C. 1445g).

(7) Section 115 (7 U.S.C. 1445k).

(8) Section 201 (7 U.S.C. 1446).

(9) Title III (7 U.S.C. 1447 et seq.).

(10) Title IV (7 U.S.C. 1421 et seq.), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).

(11) Title V (7 U.S.C. 1461 et seq.).

(12) Title VI (7 U.S.C. 1471 et seq.).

(c) Suspension of certain quota provisions

The joint resolution entitled “A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended”, approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 2014 through 2018.

(Pub. L. 113–79, title I, §1602, Feb. 7, 2014, 128 Stat. 705.)

REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, referred to in subsec. (a), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, which is classified principally to chapter 35 (§1281 et seq.) of this title. Parts II through V of subtitle B of title III of the Act are classified generally to subparts II (§1321 et seq.), III (§1331 et seq.), IV (§1341 et seq.), and V (§1351, which was omitted from the Code), respectively, of part B of subchapter II of chapter 35 of this title. Subtitle D of title III of the Act is classified generally to part D (§1379a et seq.) of subchapter II of chapter 35 of this title. Title IV of the Act was classified generally to subchapter III (§1401 et seq.) of chapter 35 of this title, and was omitted from the Code. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

The Agricultural Act of 1949, referred to in subsec. (b), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, which is classified principally to chapter 35A (§1421 et seq.) of this title. Title III of the Act is classified generally to sections 1447 to 1449 of this title. Title IV of the Act is classified principally to subchapter I (§1421 et seq.) of chapter 35A of this title. Title V of the Act, which was classified generally to subchapter IV (§1461 et seq.) of chapter 35A of this title, was omitted from the Code.

Title VI of the Act is classified generally to subchapter V (§1471 et seq.) of chapter 35A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

The joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended, referred to in subsec. (c), is act May 26, 1941, ch. 133, 55 Stat. 203, which enacted sections 1330 and 1340 of this title. Section 1330 was subsequently omitted from the Code.

§ 9093. Prevention of deceased individuals receiving payments under farm commodity programs

(a) Reconciliation

At least twice each year, the Secretary shall reconcile Social Security numbers of all individuals who receive payments under this chapter, whether directly or indirectly, with the Commissioner of Social Security to determine if the individuals are alive.

(b) Preclusion

The Secretary shall preclude the issuance of payments to, and on behalf of, deceased individuals that were not eligible for payments.

(Pub. L. 113–79, title I, §1608, Feb. 7, 2014, 128 Stat. 708.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this title”, meaning title I of Pub. L. 113–79, Feb. 7, 2014, 128 Stat. 658, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

§ 9094. Assignment of payments

(a) In general

The provisions of section 590h(g) of title 16, relating to assignment of payments, shall apply to payments made under this chapter.

(b) Notice

The producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this section.

(Pub. L. 113–79, title I, §1611, Feb. 7, 2014, 128 Stat. 710.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this title”, meaning title I of Pub. L. 113–79, Feb. 7, 2014, 128 Stat. 649, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

§ 9095. Tracking of benefits

As soon as practicable after February 7, 2014, the Secretary may track the benefits provided, directly or indirectly, to individuals and entities under titles I and II and the amendments made by those titles.

(Pub. L. 113–79, title I, §1612, Feb. 7, 2014, 128 Stat. 710.)

REFERENCES IN TEXT

Titles I and II, referred to in text, are titles I and II of Pub. L. 113–79, Feb. 7, 2014, 128 Stat. 658, 713. Title I

of the Act is classified principally to this chapter. Title II of the Act enacted, amended, and repealed numerous sections and provisions set out as notes in Title 16, Conservation, and Title 43, Public Lands. For complete classification of titles I and II to the Code, see Tables.

§ 9096. Signature authority

(a) In general

In carrying out this title and title II and amendments made by those titles, if the Secretary approves a document, the Secretary shall not subsequently determine the document is inadequate or invalid because of the lack of authority of any person signing the document on behalf of the applicant or any other individual, entity, general partnership, or joint venture, or the documents relied upon were determined inadequate or invalid, unless the person signing the program document knowingly and willfully falsified the evidence of signature authority or a signature.

(b) Affirmation

(1) In general

Nothing in this section prohibits the Secretary from asking a proper party to affirm any document that otherwise would be considered approved under subsection (a).

(2) No retroactive effect

A denial of benefits based on a lack of affirmation under paragraph (1) shall not be retroactive with respect to third-party producers who were not the subject of the erroneous representation of authority, if the third-party producers—

(A) relied on the prior approval by the Secretary of the documents in good faith; and

(B) substantively complied with all program requirements.

(Pub. L. 113–79, title I, §1613, Feb. 7, 2014, 128 Stat. 710.)

REFERENCES IN TEXT

This title and title II, referred to in subsec. (a), are titles I and II of Pub. L. 113–79, Feb. 7, 2014, 128 Stat. 658, 713. Title I of the Act is classified principally to this chapter. Title II of the Act enacted, amended, and repealed numerous sections and provisions set out as notes in Title 16, Conservation, and Title 43, Public Lands. For complete classification of titles I and II to the Code, see Tables.

§ 9097. Implementation

(a) Maintenance of base acres and payment yields

The Secretary shall maintain, for each covered commodity and upland cotton, base acres and payment yields on a farm established under sections 8702 and 8751 of this title, as adjusted pursuant to sections 8711, 8712, 8718, and 8752 of this title, as in effect on September 30, 2013.

(b) Streamlining

In implementing this chapter, the Secretary shall—

(1) reduce administrative burdens and costs to producers by streamlining and reducing paperwork, forms, and other administrative requirements, including through the implementation of the Acreage Crop Reporting and

Streamlining Initiative that, in part, shall ensure that—

(A) a producer (or an agent of a producer) may report information, electronically (including geospatial data) or conventionally, to the Department; and

(B) upon the request of the producer (or agent thereof) the Department of Agriculture electronically shares with the producer (or agent) in real time and without cost to the producer (or agent) the common land unit data, related farm level data, and other information of the producer;

(2) improve coordination, information sharing, and administrative work with the Farm Service Agency, Risk Management Agency, and the Natural Resources Conservation Service; and

(3) take advantage of new technologies to enhance efficiency and effectiveness of program delivery to producers.

(c) Implementation

(1) In general

The Secretary shall make available to the Farm Service Agency to carry out this chapter \$100,000,000.

(2) Additional funds

(A) Initial determination

If, by September 30, 2014, the Secretary notifies the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that the Farm Service Agency has made substantial progress toward implementing the requirements of subsection (b)(1), the Secretary shall make available to the Farm Service Agency to carry out this chapter \$10,000,000 on October 1, 2014. The amount made available under this subparagraph is in addition to the amount made available under paragraph (1).

(B) Subsequent determination

If, by September 30, 2015, the Secretary notifies the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that the requirements of subsection (b)(1) have been fully implemented and those Committees provide written concurrence to the Secretary, the Secretary shall make available to the Farm Service Agency to carry out this chapter \$10,000,000 on the date the written concurrence is provided or October 1, 2015, whichever is later. The amount made available under this subparagraph is in addition to the amount made available under paragraph (1) and any amount made available under subparagraph (A).

(3) Producer education

(A) In general

Of the funds made available under paragraph (1), the Secretary shall provide \$3,000,000 to State extension services for the purpose of educating farmers and ranchers on the options made available under subchapters I, III, and IV of this chapter and under section 7333 of this title.

(B) Web-based decision aids

(i) Use of qualified universities

Of the funds made available under paragraph (1), the Secretary shall use \$3,000,000 to support qualified universities (or university-based organizations) that represent a diversity of regions and commodities (including dairy), possess expertise regarding the programs authorized by this Act, have a history in the development of decision aids and producer outreach initiatives regarding farm risk management programs, and are able to meet the deadline established pursuant to clause (ii) to develop web-based decision aids to assist producers in understanding available options described in subparagraph (A) and to train producers to use these decision aids.

(ii) Deadlines

To the maximum extent practicable, the Secretary shall—

(I) obligate the funds made available under clause (i) within 30 days after February 7, 2014; and

(II) require the products described in clause (i) to be made available to producers on the internet within a reasonable period of time, as determined by the Secretary, after the implementation of the first rule implementing programs required under subchapter I of this chapter.

(d) Loan implementation

(1) In general

In any crop year in which an order is issued pursuant¹ section 901(a) of title 2, the Secretary shall use such sums as necessary of the funds of the Commodity Credit Corporation for such crop year to fully restore the support, loan, or assistance that is otherwise required under subtitles² B or C of this title or under the amendments made by subtitles² B or C, except with respect to the assistance provided under sections 9037(c) and 9038 of this title.

(2) Repayment

In carrying out this subsection, the Secretary shall ensure that when a producer repays a loan at a rate equal to the loan rate plus interest in accordance with the repayment provisions of subtitles² B or C that the repayment amount shall include the portion of the loan amount provided under paragraph (1), except that this paragraph shall not affect or reduce marketing loan gains, loan deficiency payments, or forfeiture benefits provided for under subtitles² B or C and as supplemented in accordance with paragraph (1).

(Pub. L. 113–79, title I, §1614, Feb. 7, 2014, 128 Stat. 711.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), was in the original “this title”, meaning title I of Pub. L. 113–79, Feb. 7, 2014, 128 Stat. 658, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

¹ So in original. Probably should be followed by “to”.

² So in original. Probably should be “subtitle”.

Subchapter I of this chapter, referred to in subsec. (c)(3)(A), (B)(ii)(II), was in the original a reference to subtitle A of this title, meaning subtitle A (§1101 et seq.) of title I of Pub. L. 113-79, Feb. 7, 2014, 128 Stat. 658, which is classified principally to subchapter I (§9011 et seq.) of this chapter. For complete classification of subtitle A to the Code, see Tables.

This Act, referred to in subsec. (c)(3)(B)(i), is Pub. L. 113-79, Feb. 7, 2014, 128 Stat. 649, known as the Agricultural Act of 2014. For complete classification of this Act to the Code, see Short Title note set out under section 9001 of this title and Tables.

Subtitles B and C of this title, referred to in subsec. (d), are subtitles B (§1201 et seq.) and C (§1301) of title

I of Pub. L. 113-79, Feb. 7, 2014, 128 Stat. 674, 687. Subtitle B of title I is classified generally to subchapter II (§9031 et seq.) of this chapter. Subtitle C of title I amended sections 1359bb, 1359ll, and 7272 of this title. For complete classification of subtitles B and C to the Code, see Tables.

Section 901(a) of title 2, referred to in subsec. (d)(1), was in the original “2 U.S.C. 901(a)”, but probably should have been a reference to section 251(a) of the Balanced Budget and Emergency Deficit Control Act of 1985, title II of Pub. L. 99-177, which is classified to section 901(a) of Title 2, The Congress.