

## 7 USC Ch. 115: AGRICULTURAL COMMODITY POLICY AND PROGRAMS

### From Title 7—AGRICULTURE

## CHAPTER 115—AGRICULTURAL COMMODITY POLICY AND PROGRAMS

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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 OF 2018 AMENDMENT**

Pub. L. 115–334, §1(a), Dec. 20, 2018, 132 Stat. 4490, provided that: "This Act [see Tables for classification] may be cited as the 'Agriculture Improvement Act of 2018'."

Pub. L. 115–123, div. F, Feb. 9, 2018, 132 Stat. 313, provided that: "This division [amending sections 1508b, 1516, 1523, 9011, 9013 to 9016, 9032, 9051, 9052, and 9054 to 9057 of this title and sections 3839aa–2 and 3841 of Title 16, Conservation, and enacting provisions set out as notes under sections 9011 and 9051 of this title] may be cited as the 'Improvements to Agriculture Programs Act of 2018'."

### **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'."

### **DEFINITION OF "SECRETARY"**

Pub. L. 115–334, §2, Dec. 20, 2018, 132 Stat. 4500, provided that: "In this Act [see Tables for classification], the term 'Secretary' means the Secretary of Agriculture."

## **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**

**(A) In general**

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.

**(B) Inclusion**

Effective beginning with the 2018 crop year, the term "covered commodity" includes seed cotton.

**(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) Effective reference price**

The term "effective reference price", with respect to a covered commodity for a crop year, means the lesser of the following:

(A) An amount equal to 115 percent of the reference price for such covered commodity.

(B) An amount equal to the greater of—

(i) the reference price for such covered commodity; or

(ii) 85 percent of the average of the marketing year average price of the covered commodity for the most recent 5 crop years, excluding each of the crop years with the highest and lowest marketing year average price.

**(9) 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.

**(10) 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.

**(11) 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.

**(12) Medium grain rice**

The term "medium grain rice" includes short grain rice and temperate japonica rice.

**(13) 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.

**(14) 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.

**(15) 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.

**(16) Price loss coverage**

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

## **(17) 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.

## **(18) Pulse crop**

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

## **(19) 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.
- (O) For seed cotton, \$0.367 per pound.

## **(20) Secretary**

The term "Secretary" means the Secretary of Agriculture.

## **(21) Seed cotton**

The term "seed cotton" means unginned upland cotton that includes both lint and seed.

## **(22) 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.

## **(23) 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.

## **(24) Transitional yield**

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

## **(25) United States**

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

## **(26) 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) 11/8-inch upland cotton and for Middling (M) 13/32-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; Pub. L. 115–123, div. F, §60101(a)(1)–(3), Feb. 9, 2018, 132 Stat. 308; Pub. L. 115–334, title I, §1101, Dec. 20, 2018, 132 Stat. 4500.)

## 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. (17)(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.

## AMENDMENTS

**2018**—Par. (6). Pub. L. 115–123, §60101(a)(1), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Pars. (8) to (18). Pub. L. 115–334, §1101, added par. (8) and redesignated former pars. (8) to (17) as (9) to (18), respectively. Former par. (18) redesignated (19).

Par. (18)(O). Pub. L. 115–123, §60101(a)(2), added subpar. (O).

Par. (19). Pub. L. 115–334, §1101(1), redesignated par. (18) as (19). Former par. (19) redesignated (20).

Pars. (20) to (25). Pub. L. 115–334, §1101(1), redesignated pars. (19) to (24) as (20) to (25), respectively. Former par. (25) redesignated (26).

Pub. L. 115–123, §60101(a)(3), added par. (20) and redesignated former pars. (20) to (24) as (21) to (25), respectively.

Par. (26). Pub. L. 115–334, §1101(1), redesignated par. (25) as (26).

## EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–123, div. F, §60101(a)(13), Feb. 9, 2018, 132 Stat. 311, provided that: "Except as provided in paragraph (10) [amending section 1508b of this title], the amendments made by this subsection [amending this section and sections 1508b, 9013 to 9016, and 9032 of this title] shall apply beginning with the 2018 crop year."

## ADMINISTRATION

Pub. L. 115–123, div. F, §60101(a)(12), Feb. 9, 2018, 132 Stat. 311, provided that: "The Secretary of Agriculture shall carry out the amendments made by this subsection [amending this section] in accordance with section 1601 of the Agricultural Act of 2014 (7 U.S.C. 9091)."

## 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 administering 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 Secretary 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—
  - (i) 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.); or
  - (ii) a wetland reserve easement under section 1265C of the Food Security Act of 1985 (16 U.S.C. 3865c).
- (B) Any other acreage on the farm enrolled in a Federal conservation program for which payments are made in exchange for not producing 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).

### **(3) Treatment of base acres on farms entirely planted to grass or pasture**

#### **(A) In general**



In the case of a farm on which all of the cropland was planted to grass or pasture (including cropland that was idle or fallow), as determined by the Secretary, during the period beginning on January 1, 2009, and ending on December 31, 2017, the Secretary shall maintain all base acres and payment yields for the covered commodities on the farm, except that no payment shall be made with respect to those base acres under section 9016 or 9017 of this title for the 2019 through 2023 crop years.

#### **(B) Ineligibility**

The producers on a farm for which all of the base acres are maintained under subparagraph (A) shall be ineligible for the option to change the election applicable to the producers on the farm under section 9015(h) of this title.

#### **(4) Prohibition on reconstitution of farm**

The Secretary shall ensure that producers on a farm do not reconstitute the farm to void or change the treatment of base acres under this section.

(Pub. L. 113–79, title I, §1112, Feb. 7, 2014, 128 Stat. 661; Pub. L. 115–334, title I, §1102, Dec. 20, 2018, 132 Stat. 4501.)

### **REFERENCES IN TEXT**

The Food Security Act of 1985, referred to in subsec. (c)(2)(A)(i), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354. Subchapter B of chapter 1 of subtitle D of title XII of the Act 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.

### **AMENDMENTS**

**2018**—Subsec. (c)(2)(A). Pub. L. 115–334, §1102(a), added subpar. (A) and struck out former subpar. (A) which read as follows: "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.)."

Subsec. (d)(3), (4). Pub. L. 115–334, §1102(b), added pars. (3) and (4).

## **§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 oilseeds designated before December 20, 2018, 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 an oilseed designated before December 20, 2018, 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 an oilseed designated before December 20, 2018, 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 an oilseed designated before December 20, 2018, 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).

#### **(4) Treatment of oilseeds designated after certain date**



In the case of oilseeds designated on or after December 20, 2018, the payment yield shall be equal to 90 percent of the average of the yield per planted acre for the most recent 5 crop years, as determined by the Secretary, excluding any crop year in which the acreage planted to the covered commodity was zero.

**(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**

**(1) Election to update**

At the sole discretion of the owner of a farm, the owner of a farm shall have a 1-time opportunity 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) Method of updating yields for covered commodities**

If the owner of a farm elects to update yields under paragraph (1), the payment yield for a covered commodity on the farm, for the purpose of calculating price loss coverage payments only, shall be equal to the product obtained by multiplying—

(A) 90 percent;

(B) the average of the yield per planted acre for the crop of covered commodities on the farm for the 2013 through 2017 crop years, as determined by the Secretary, excluding any crop year in which the acreage planted to the covered commodity was zero; and

(C) subject to paragraph (3), the ratio obtained by dividing—

(i) the average of the 2008 through 2012 national average yield per planted acre for the covered commodity, as determined by the Secretary; by

(ii) the average of the 2013 through 2017 national average yield per planted acre for the covered commodity, as determined by the Secretary.

**(3) Limitation**

In no case shall the ratio obtained under paragraph (2)(C) be less than 90 percent or greater than 100 percent.

**(4) Use of county average yield**

For the purposes of determining the average yield per planted acre under paragraph (2)(B), if the yield per planted acre for a crop of a covered commodity for a farm for any of the crop years described in that subparagraph was less than 75 percent of the average of county yields for those crop years for that commodity, the Secretary shall assign a yield for that crop year equal to 75 percent of the average of the 2013 through 2017 county yield for the covered commodity.

**(5) Upland cotton conversion**

In the case of seed cotton, for purposes of determining the average of the yield per planted acre under this subsection, the average yield for seed cotton per planted acre shall be equal to 2.4 times the average yield for upland cotton per planted acre.

**(6) Time for election**

An election under this subsection shall be made at a time and manner so as to be in effect beginning with the 2020 crop year, as determined by the Secretary.

**(e) Payment yield for seed cotton**

**(1) Payment yield**

Subject to paragraph (2), the payment yield for seed cotton for a farm shall be equal to 2.4 times the payment yield for upland cotton for the farm established under section 8714(e)(3) of this title (as in effect on September 30, 2013).

**(2) Update**

At the sole discretion of the owner of a farm with a yield for upland cotton described in paragraph (1), the owner of the farm shall have a 1-time opportunity to update the payment yield for upland cotton for the farm,

as provided in subsection (d), for the purpose of calculating the payment yield for seed cotton under paragraph (1).

(Pub. L. 113–79, title I, §1113, Feb. 7, 2014, 128 Stat. 664; Pub. L. 115–123, div. F, §60101(a)(4), Feb. 9, 2018, 132 Stat. 308; Pub. L. 115–334, title I, §1103, Dec. 20, 2018, 132 Stat. 4501.)

#### REFERENCES IN TEXT

Section 8714(e)(3) of this title (as in effect on September 30, 2013), referred to in subsec. (e)(1), means section 8714(e)(3) of this title as in effect prior to its repeal by Pub. L. 113–79, title I, §1102(a), Feb. 7, 2014, 128 Stat. 658.

#### AMENDMENTS

**2018**—Subsec. (b)(1). Pub. L. 115–334, §1103(a)(1), substituted "oilseeds designated before December 20, 2018" for "designated oilseeds".

Subsec. (b)(2), (3). Pub. L. 115–334, §1103(a)(2), substituted "an oilseed designated before December 20, 2018," for "a designated oilseed" wherever appearing.

Subsec. (b)(4). Pub. L. 115–334, §1103(a)(3), added par. (4).

Subsec. (d). Pub. L. 115–334, §1103(b), added subsec. (d) and struck out former subsec. (d) which consisted of pars. (1) to (4) relating to election to update payment yield, time for election, method of updating yields, and use of county average yield, respectively.

Subsec. (e). Pub. L. 115–123 added subsec. (e).

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–123 applicable beginning with the 2018 crop year, see section 60101(a)(13) of Pub. L. 115–123, set out as a note under section 9011 of this title.

## §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 paragraphs (1) and (2) 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.

#### **(4) Seed cotton**

##### **(A) In general**

Not later than 90 days after February 9, 2018, the Secretary shall require the owner of a farm to allocate all generic base acres on the farm under subparagraph (B) or (C), or both.

##### **(B) No recent history of covered commodities**

In the case of a farm on which no covered commodities (including seed cotton) were planted or were prevented from being planted at any time during the 2009 through 2016 crop years, the owner of such farm shall allocate generic base acres on the farm to unassigned crop base for which no payments may be made under section 9016 or 9017 of this title.

##### **(C) Recent history of covered commodities**

In the case of a farm not described in subparagraph (B), the owner of such farm shall allocate generic base acres on the farm—

(i) subject to subparagraph (D), to seed cotton base acres in a quantity equal to the greater of—

(I) 80 percent of the generic base acres on the farm; or

(II) the average number of seed cotton acres planted or prevented from being planted on the farm during the 2009 through 2012 crop years (not to exceed the total generic base acres on the farm); or

(ii) to base acres for covered commodities (including seed cotton), by applying subparagraphs (B), (D), (E), and (F) of section 9012(a)(3) of this title.

##### **(D) Treatment of residual generic base acres**

In the case of a farm on which generic base acres are allocated under subparagraph (C)(i), the residual generic base acres shall be allocated to unassigned crop base for which no payments may be made under section 9016 or 9017 of this title.

##### **(E) Effect of failure to allocate**

In the case of a farm not described in subparagraph (B) for which the owner of the farm fails to make an election under subparagraph (C), the owner of the farm shall be deemed to have elected to allocate all generic base acres in accordance with subparagraph (C)(i).

#### **(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, unless the sum of the base acres on the farm, when combined with the base acres of other farms in which the producer has an interest, is more than 10 acres.

##### **(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);

(B) a limited resource farmer or rancher, as defined by the Secretary;

(C) a beginning farmer or rancher (as defined in subsection (a) of section 2279 of this title); or

(D) a veteran farmer or rancher (as defined in subsection (a) of section 2279 of this title).

#### **(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.

#### **(5) Effect of reduction**

For each crop year for which fruits, vegetables (other than mung beans and pulse crops), or wild rice are planted to base acres on a farm for which a reduction in payment acres is made under this subsection, the Secretary shall consider such base acres to be planted, or prevented from being planted, to a covered commodity for purposes of any adjustment or reduction of base acres for the farm under section 9012 of this title.

#### **(f) Unassigned crop base**

The Secretary shall maintain information on generic base acres on a farm allocated as unassigned crop base under subsection (b)(4).

(Pub. L. 113–79, title I, §1114, Feb. 7, 2014, 128 Stat. 666; Pub. L. 115–123, div. F, §60101(a)(5), (6), (11), Feb. 9, 2018, 132 Stat. 308, 309, 311; Pub. L. 115–334, title I, §1104, Dec. 20, 2018, 132 Stat. 4502.)

### **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.

### **AMENDMENTS**

**2018**—Subsec. (b)(2). Pub. L. 115–123, §60101(a)(11), substituted "paragraphs (1) and (2)" for "paragraphs (1)(B) and (2)(B)".

Subsec. (b)(4). Pub. L. 115–123, §60101(a)(5), added par. (4).

Subsec. (d)(1). Pub. L. 115–334, §1104(1)(A), inserted ", unless the sum of the base acres on the farm, when combined with the base acres of other farms in which the producer has an interest, is more than 10 acres" before period at end.

Subsec. (d)(2)(C), (D). Pub. L. 115–334, §1104(1)(B), added subpars. (C) and (D).

Subsec. (e)(5). Pub. L. 115–334, §1104(2), added par. (5).

Subsec. (f). Pub. L. 115–123, §60101(a)(6), added subsec. (f).

### **EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–123 applicable beginning with the 2018 crop year, see section 60101(a)(13) of Pub. L. 115–123, set out as a note under section 9011 of this title.

## **§9015. Producer election**

### **(a) Election required**

For the 2014 through 2018 crop years (except as provided in subsection (g)) and for the 2019 through 2023 crop years (subject to subsection (h)), 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) or (h), as applicable, the producers on a farm that elect to obtain agriculture risk coverage 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 or the 2019 crop year, as applicable—

- (1) the Secretary shall not make any payments with respect to the farm for the 2014 crop year or the 2019 crop year, as applicable, under section 9016 or 9017 of this title; and
- (2) subject to subsection (h), the producers on the farm shall be deemed to have elected, as applicable—
  - (A) price loss coverage for all covered commodities on the farm for the 2015 through 2018 crop years; and
  - (B) the same coverage for each covered commodity on the farm for the 2020 through 2023 crop years as was applicable 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 subsection (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.

**(g) Special election**

**(1) In general**

In the case of acres allocated to seed cotton on a farm, for the 2018 crop year, all of the producers on the farm shall be given the opportunity to make a new 1-time election under subsection (a) to reflect the designation of seed cotton as a covered commodity for that crop year under section 9011(6)(B) of this title.

**(2) Effect of failure to make unanimous election**

If all the producers on a farm fail to make a unanimous election under paragraph (1), the producers on the farm shall be deemed to have elected price loss coverage under section 9016 of this title for acres allocated on the farm to seed cotton.

**(h) Option to change election**

**(1) In general**

For the 2021 crop year and each crop year thereafter, all of the producers on a farm may change the election under subsection (a), subsection (c), or this subsection, as applicable, to price loss coverage or agriculture risk coverage, as applicable.

**(2) Applicability**

An election change under paragraph (1) shall apply to—

- (A) the crop year for which the election change is made; and
- (B) each crop year thereafter until another election change is made under that paragraph.

(Pub. L. 113–79, title I, §1115, Feb. 7, 2014, 128 Stat. 667; Pub. L. 115–123, div. F, §60101(a)(7), Feb. 9, 2018, 132 Stat. 309; Pub. L. 115–334, title I, §1105, Dec. 20, 2018, 132 Stat. 4503.)

**AMENDMENTS**

**2018**—Subsec. (a). Pub. L. 115–334, §1105(1), substituted "For the 2014 through 2018 crop years (except as provided in subsection (g)) and for the 2019 through 2023 crop years (subject to subsection (h))" for "Except as provided in subsection (g), for the 2014 through 2018 crop years" in introductory provisions.

Pub. L. 115–123, §60101(a)(7)(A), substituted "Except as provided in subsection (g), for" for "For" in introductory provisions.

Subsec. (b). Pub. L. 115–334, §1105(2), substituted "In the election under subsection (a) or (h), as applicable, the producers on a farm that elect to obtain agriculture risk coverage" for "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" in introductory provisions.

Subsec. (c). Pub. L. 115–334, §1105(3)(A), inserted "or the 2019 crop year, as applicable" after "the 2014 crop year" in introductory provisions.

Subsec. (c)(1). Pub. L. 115–334, §1105(3)(B), inserted "or the 2019 crop year, as applicable," after "the 2014 crop year".

Subsec. (c)(2). Pub. L. 115–334, §1105(3)(C), added par. (2) and struck out former par. (2) which read as follows: "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."

Subsec. (g). Pub. L. 115–123, §60101(a)(7)(B), added subsec. (g).

Subsec. (g)(1). Pub. L. 115–334, §1105(4), inserted "for the 2018 crop year," after "allocated to seed cotton on a farm,".

Subsec. (h). Pub. L. 115–334, §1105(5), added subsec. (h).

#### **EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–123 applicable beginning with the 2018 crop year, see section 60101(a)(13) of Pub. L. 115–123, set out as a note under section 9011 of this title.

## **§9016. Price loss coverage**

### **(a) Price loss coverage payments**

If all of the producers on a farm make the election under subsection (a) or (h) 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 —

- (1) for any of the 2014 through 2018 crop years—
  - (A) the effective price for the covered commodity for the crop year; is less than
  - (B) the reference price for the covered commodity for the crop year; or
- (2) for any of the 2019 through 2023 crop years—
  - (A) the effective price for the covered commodity for the crop year; is less than
  - (B) the effective 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**

#### **(1) In general**

##### **(A) 2014 through 2018 crop years**

For the 2014 through 2018 crop years, the payment rate shall be equal to the difference between—

- (i) the reference price for the covered commodity; and
- (ii) the effective price determined under subsection (b) for the covered commodity.

##### **(B) 2019 through 2023 crop years**

For the 2019 through 2023 crop years, the payment rate shall be equal to the difference between—

- (i) the effective reference price for the covered commodity; and
- (ii) the effective price determined under subsection (b) for the covered commodity.

#### **(2) Announcement**

Not later than 30 days after the end of each applicable 12-month marketing year for each covered commodity, the Secretary shall publish the payment rate determined under paragraph (1).

#### **(3) Insufficient data**

In the case of a covered commodity, such as temperate japonica rice, for which the Secretary cannot determine the payment rate for the most recent 12-month marketing year by the date described in paragraph (2) due to insufficient reporting of timely pricing data by 1 or more nongovernmental entities, including a marketing cooperative for the covered commodity, the Secretary shall publish the payment rate as soon as practicable after the marketing year data are made available.

### **(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**

In order to reflect price premiums, the Secretary shall provide a reference price with respect to temperate japonica rice in an amount equal to the amount established under subparagraph (F) of section 9011(19) of this title, as adjusted by paragraph (8) of such section, multiplied by the ratio obtained by dividing—

- (1) the simple average of the marketing year average price of medium grain rice from the 2012 through 2016 crop years; by
- (2) the simple average of the marketing year average price of all rice from the 2012 through 2016 crop years.

**(h) Effective price for seed cotton**

**(1) In general**

The effective price for seed cotton under subsection (b) shall be equal to the marketing year average price for seed cotton, as calculated under paragraph (2).

**(2) Calculation**

The marketing year average price for seed cotton for a crop year shall be equal to the quotient obtained by dividing—

- (A) the sum obtained by adding—
  - (i) the product obtained by multiplying—
    - (I) the upland cotton lint marketing year average price; and
    - (II) the total United States upland cotton lint production, measured in pounds; and
  - (ii) the product obtained by multiplying—
    - (I) the cottonseed marketing year average price; and
    - (II) the total United States cottonseed production, measured in pounds; by
- (B) the sum obtained by adding—
  - (i) the total United States upland cotton lint production, measured in pounds; and
  - (ii) the total United States cottonseed production, measured in pounds.

(Pub. L. 113–79, title I, §1116, Feb. 7, 2014, 128 Stat. 668; Pub. L. 115–123, div. F, §60101(a)(8), Feb. 9, 2018, 132 Stat. 310; Pub. L. 115–334, title I, §1106, Dec. 20, 2018, 132 Stat. 4504.)

**AMENDMENTS**

**2018**—Subsec. (a). Pub. L. 115–334, §1106(1), in introductory provisions, inserted "or (h)" after "subsection (a)" and substituted "determines that—" for "determines that, for any of the 2014 through 2018 crop years—", inserted par. (1) designation and introductory provisions, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1) and realigned margins, and added par. (2).

Subsec. (c). Pub. L. 115–334, §1106(2), designated existing provisions as par. (1) and subpar. (A), inserted par. and subpar. headings, in introductory provisions of subpar. (A) substituted "For the 2014 through 2018 crop years, the payment rate" for "The payment rate", redesignated former pars. (1) and (2) as cls. (i) and (ii), respectively, of subpar. (A) and realigned margins, added subpar. (B), and added pars. (2) and (3).

Subsec. (g). Pub. L. 115–334, §1106(3), added subsec. (g) and struck out former subsec. (g). Prior to amendment, text read as follows: "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."

Subsec. (h). Pub. L. 115–123 added subsec. (h).

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–123 applicable beginning with the 2018 crop year, see section 60101(a)(13) of Pub. L. 115–123, set out as a note under section 9011 of this title.



## **§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 (beginning with the 2019 crop year, based on the physical location of the farm) to producers on the farm if the Secretary determines that, for any of the 2014 through 2018 crop years or the 2019 through 2023 crop years, as applicable—

- (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 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, 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 paragraphs (4) and (5), 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 (6), 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 (6), 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 2023 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**

##### **(A) 2014 through 2018 crop years**

Effective for the 2014 through 2018 crop years, 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.

##### **(B) 2019 through 2023 crop years**

Effective for the 2019 through 2023 crop years, 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 80 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 80 percent of the transitional yield.

#### **(5) Trend-adjusted yield**

The Secretary shall calculate and use a trend-adjusted yield factor to adjust the yield determined under paragraph (2)(A) and subsection (b)(1)(A), taking into consideration, but not exceeding, the trend-adjusted yield factor that is used to increase yield history under the endorsement under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for that crop and county.

#### **(6) Low national average market price**

##### **(A) Reference price**

For the 2014 through 2018 crop years, 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).

##### **(B) Effective reference price**

For the 2019 through 2023 crop years, 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 effective reference price for the covered commodity, the Secretary shall use the effective reference price for any of those years for the amounts in paragraph (2)(B) or (3)(A)(ii).

#### **(d) Payment rate**

##### **(1) In general**

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—

(A) the amount that—

- (i) the agriculture risk coverage guarantee for the crop year applicable under subsection (c); exceeds
- (ii) the actual crop revenue for the crop year applicable under subsection (b); or

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

##### **(2) Announcement**

Not later than 30 days after the end of each applicable 12-month marketing year for each covered commodity, the Secretary shall publish the payment rate determined under paragraph (1) for each county.

#### **(e) Payment amount**

If agriculture risk coverage payments are required to be paid for any of the 2014 through 2023 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) calculate a separate actual crop revenue and agriculture 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;

(4) effective for the 2014 through 2018 crop years, 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; and

(5) effective for the 2019 through 2023 crop years, 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—

(A) for a county for which county data collected by the Risk Management Agency are sufficient for the Secretary to offer a county-wide insurance product, using the actual average county yield determined by the Risk Management Agency; or

(B) for a county not described in subparagraph (A), using—

(i) other sources of yield information, as determined by the Secretary; or

(ii) the yield history of representative farms in the State, region, or crop reporting district, as determined by the Secretary.

**(h) Publications**

**(1) County guarantee**

**(A) In general**

For each crop year for a covered commodity, the Secretary shall publish information describing, for that crop year for the covered commodity in each county—

(i) the agriculture risk coverage guarantee for county coverage determined under subsection (c)(1);

(ii) the average historical county yield determined under subsection (c)(2)(A); and

(iii) the national average market price determined under subsection (c)(2)(B).

**(B) Timing**

**(i) In general**

Except as provided in clauses (ii) and (iii), not later than 30 days after the end of each applicable 12-month marketing year, the Secretary shall publish the information described in subparagraph (A).

**(ii) Insufficient data**

In the case of a covered commodity, such as temperate japonica rice, for which the Secretary cannot determine the national average market price for the most recent 12-month marketing year by the date described in clause (i) due to insufficient reporting of timely pricing data by 1 or more nongovernmental entities, including a marketing cooperative for the covered commodity, as soon as practicable after the pricing data are made available, the Secretary shall publish information describing—

(I) the agriculture risk coverage guarantee under subparagraph (A)(i); and

(II) the national average market price under subparagraph (A)(iii).

**(iii) Transition**

Not later than 60 days after December 20, 2018, the Secretary shall publish the information described in clauses (i) and (ii) of subparagraph (A) for the 2018 crop year.

**(2) Actual average county yield**

As soon as practicable after each crop year, the Secretary shall determine and publish each actual average county yield for each covered commodity, as determined under subsection (b)(1)(A).

**(3) Data sources for county yields**

For the 2018 crop year and each crop year thereafter, the Secretary shall make publicly available information describing, for the most recent crop year—

(A) the sources of data used to calculate county yields under subsection (c)(2)(A) for each covered commodity—

- (i) by county; and
- (ii) nationally; and

(B) the number and outcome of occurrences in which the Farm Service Agency reviewed, changed, or determined not to change a source of data used to calculate county yields under subsection (c)(2)(A).

#### **(i) Administrative units**

##### **(1) In general**

For purposes of agriculture risk coverage payments in the case of county coverage, a county may be divided into not greater than 2 administrative units in accordance with this subsection.

##### **(2) Eligible counties**

A county that may be divided into administrative units under this subsection is a county that—

- (A) is larger than 1,400 square miles; and
- (B) contains more than 190,000 base acres.

##### **(3) Elections**

Before making any agriculture risk coverage payments for the 2019 crop year, the Farm Service Agency State committee, in consultation with the Farm Service Agency county or area committee of a county described in paragraph (2), may make a 1-time election to divide the county into administrative units under this subsection along a boundary that better reflects differences in weather patterns, soil types, or other factors.

##### **(4) Limitation**

The Secretary shall—

- (A) limit the number of counties that may be divided into administrative units under paragraph (3) to 25 counties; and
- (B) give preference to the division of counties that have greater variation in climate, soils, and expected productivity between the proposed administrative units.

##### **(5) Administration**

For purposes of providing agriculture risk coverage payments in the case of county coverage, the Secretary shall consider an administrative unit elected under paragraph (3) to be a county for the 2019 through 2023 crop years.

(Pub. L. 113–79, title I, §1117, Feb. 7, 2014, 128 Stat. 669; Pub. L. 115–334, title I, §1107, Dec. 20, 2018, 132 Stat. 4505.)

#### **REFERENCES IN TEXT**

The Federal Crop Insurance Act, referred to in subsec. (c)(5), 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.

#### **AMENDMENTS**

**2018**—Subsec. (a). Pub. L. 115–334, §1107(1), in introductory provisions, inserted "(beginning with the 2019 crop year, based on the physical location of the farm)" after "payments" and "or the 2019 through 2023 crop years, as applicable" after "the 2014 through 2018 crop years".

Subsec. (c)(2)(A). Pub. L. 115–334, §1107(2)(A)(i), substituted "paragraphs (4) and (5)" for "paragraph (4)".

Subsec. (c)(2)(B). Pub. L. 115–334, §1107(2)(A)(ii), substituted "paragraph (6)" for "paragraph (5)".

Subsec. (c)(3)(A)(ii). Pub. L. 115–334, §1107(2)(B)(i), substituted "paragraph (6)" for "paragraph (5)".

Subsec. (c)(3)(C). Pub. L. 115–334, §1107(2)(B)(ii), substituted "2023" for "2018".

Subsec. (c)(4). Pub. L. 115–334, §1107(2)(C), designated existing provisions as subpar. (A), inserted heading, substituted "Effective for the 2014 through 2018 crop years, if" for "If", and added subpar. (B).

Subsec. (c)(5). Pub. L. 115–334, §1107(2)(E), added par. (5). Former par. (5) redesignated (6).

Subsec. (c)(6). Pub. L. 115–334, §1107(2)(D), (F), redesignated par. (5) as (6), substituted "Low national average market price" for "Reference price" in par. heading, designated existing provisions as subpar. (A), inserted subpar. heading, substituted "For the 2014 through 2018 crop years, if the national average market price" for "If the national average market price", and added subpar. (B).

Subsec. (d). Pub. L. 115–334, §1107(3), designated existing provisions as par. (1) and inserted heading, redesignated former par. (1) and subpars. (A) and (B) thereof as subpar. (A) and cls. (i) and (ii) thereof, respectively, redesignated former par. (2) as subpar. (B), realigned margins, and added par. (2).

Subsec. (e). Pub. L. 115–334, §1107(4), substituted "2023" for "2018" in introductory provisions.

Subsec. (g)(2). Pub. L. 115–334, §1107(5)(A), struck out "to the maximum extent practicable," before "calculate".

Subsec. (g)(3). Pub. L. 115–334, §1107(5)(B), struck out "and" at end.

Subsec. (g)(4). Pub. L. 115–334, §1107(5)(C), inserted "effective for the 2014 through 2018 crop years," before "in the case of" in introductory provisions and substituted "; and" for period at end.

Subsec. (g)(5). Pub. L. 115–334, §1107(5)(D), added par. (5).

Subsecs. (h), (i). Pub. L. 115–334, §1107(6), added subsecs. (h) and (i).

## **§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 nonagricultural 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. Repealed. Pub. L. 115–334, title I, §1108, Dec. 20, 2018, 132 Stat. 4508**

Section, Pub. L. 113–79, title I, §1119, Feb. 7, 2014, 128 Stat. 673, related to transition assistance for producers of upland cotton.

## **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 2023 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; Pub. L. 115–334, title I, §1201(a), Dec. 20, 2018, 132 Stat. 4509.)

### **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](#). 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.

### **AMENDMENTS**

**2018**—Subsec. (b)(1). Pub. L. 115–334 substituted "2023" for "2018".

## **§9032. Loan rates for nonrecourse marketing assistance loans**

### **(a) 2014 through 2018 crop years**

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) 2019 through 2023 crop years**

For purposes of each of the 2019 through 2023 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, \$3.38 per bushel.
- (2) In the case of corn, \$2.20 per bushel.
- (3) In the case of grain sorghum, \$2.20 per bushel.
- (4) In the case of barley, \$2.50 per bushel.
- (5) In the case of oats, \$2.00 per bushel.
- (6)(A) Subject to subparagraphs (B) and (C), in the case of base quality of upland cotton, 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 planting.
- (B) Except as provided in subparagraph (C), the loan rate determined under subparagraph (A) may not equal less than an amount equal to 98 percent of the loan rate for base quality of upland cotton for the preceding year.
- (C) The loan rate determined under subparagraph (A) may not be equal to an amount—
  - (i) less than \$0.45 per pound; or
  - (ii) more than \$0.52 per pound.
- (7) In the case of extra long staple cotton, \$0.95 per pound.
- (8) In the case of long grain rice, \$7.00 per hundredweight.
- (9) In the case of medium grain rice, \$7.00 per hundredweight.
- (10) In the case of soybeans, \$6.20 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, \$6.15 per hundredweight.
- (13) In the case of lentils, \$13.00 per hundredweight.
- (14) In the case of small chickpeas, \$10.00 per hundredweight.
- (15) In the case of large chickpeas, \$14.00 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.

**(c) 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 subsections (a)(11) and (b)(11).

**(d) Seed cotton**

**(1) In general**

For purposes of section 9016 (b)(2) of this title and paragraphs (1)(B)(ii) and (2)(A)(ii)(II) of section 9017(b) of this title, the loan rate for seed cotton shall be deemed to be equal to \$0.25 per pound.

**(2) Effect**

Nothing in this subsection authorizes any nonrecourse marketing assistance loan under this subchapter for seed cotton.

(Pub. L. 113–79, title I, §1202, Feb. 7, 2014, 128 Stat. 675; Pub. L. 115–123, div. F, §60101(a)(9), Feb. 9, 2018, 132 Stat. 310; Pub. L. 115–334, title I, §1202(a), Dec. 20, 2018, 132 Stat. 4509.)

**AMENDMENTS**

**2018**—Subsec. (a). Pub. L. 115–334, §1202(a)(1), substituted "2014 through 2018 crop years" for "In general" in heading.

Subsec. (b). Pub. L. 115–334, §1202(a)(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 115–334, §1202(a)(2), (4), redesignated subsec. (b) as (c) and substituted "subsections (a)(11) and (b)(11)" for "subsection (a)(11)". Former subsec. (c) redesignated (d).

Pub. L. 115–123 added subsec. (c).

Subsec. (d). Pub. L. 115–334, §1202(a)(2), redesignated subsec. (c) as (d).

**EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–123 applicable beginning with the 2018 crop year, see section 60101(a)(13) of Pub. L. 115–123, set out as a note under section 9011 of this title.

## **§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, 2024, 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 2023 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 subsection (a)(20) or (b)(20), as applicable, of section 9032 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; Pub. L. 115–334, title I, §§1201(b), 1202(b), Dec. 20, 2018, 132 Stat. 4509, 4510.)

#### **AMENDMENTS**

**2018**—Subsec. (e)(2)(B). Pub. L. 115–334, §1201(b)(1), substituted "2024" for "2019" in introductory provisions.

Subsec. (g). Pub. L. 115–334, §1201(b)(2), substituted "2023" for "2018".

Subsec. (h)(1). Pub. L. 115–334, §1202(b), substituted "subsection (a)(20) or (b)(20), as applicable, of section 9032" for "section 9032(a)(20)".

## **§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 2023 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; Pub. L. 115–334, title I, §1201(c)(1), Dec. 20, 2018, 132 Stat. 4509.)

## **AMENDMENTS**

**2018**—Subsec. (a)(2)(B). Pub. L. 115–334 substituted "2023" for "2018".

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

## **(a) Eligible producers**

### **(1) In general**

Effective for each of the 2014 through 2023 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 2023 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 2023 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; Pub. L. 115–334, title I, §1201(c)(2), Dec. 20, 2018, 132 Stat. 4509.)

### **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.

### **AMENDMENTS**

**2018**—Subsecs. (a), (d). Pub. L. 115–334 substituted "2023" for "2018" wherever appearing.

## **§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 for textile mills****(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; Pub. L. 115–334, title I, §1203(b), Dec. 20, 2018, 132 Stat. 4510.)

**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.

**AMENDMENTS**

**2018**—Subsec. (c). Pub. L. 115–334 substituted "Economic adjustment assistance for textile mills" for "Economic adjustment assistance to users of upland cotton" in heading.

**§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, 2024, 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 113 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; Pub. L. 115–334, title I, §1204, Dec. 20, 2018, 132 Stat. 4510.)

**AMENDMENTS**

**2018**—Subsec. (a). Pub. L. 115–334, §1204(a), substituted "2024" for "2019" in introductory provisions.

Subsec. (b)(2). Pub. L. 115–334, §1204(b), substituted "113 percent" for "134 percent".

## **§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 2023 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 Secretary, 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 2023 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) Recourse loans available for contaminated commodities**

In the case of a loan commodity that is ineligible for 100 percent of the nonrecourse marketing loan rate in the county due to a determination that the commodity is contaminated yet still merchantable, for each of the 2019 through 2023 crops of such loan commodity, the Secretary shall make available recourse commodity loans, at the rate provided under section 9032 of this title, on any production.

**(d) 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; Pub. L. 115–334, title I, §1205, Dec. 20, 2018, 132 Stat. 4510.)

**AMENDMENTS**

**2018**—Subsecs. (a)(2), (b). Pub. L. 115–334, §1205(a), substituted "2023" for "2018".

Subsecs. (c), (d). Pub. L. 115–334, §1205(b), added subsec. (c) and redesignated former subsec. (c) as (d).

## **§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 micronaire 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 consultations 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—DAIRY MARGIN COVERAGE**

#### **CODIFICATION**

Pub. L. 115–334, title I, §1401(k)(1), Dec. 20, 2018, 132 Stat. 4516, substituted "Dairy Margin Coverage" for "Margin Protection Program for Dairy Producers" in part heading.

## **§9051. Definitions**

In this part:

### **(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) 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.

**(5) Dairy margin coverage**

The term "dairy margin coverage" means the dairy margin coverage program required by section 9053 of this title.

**(6) Dairy margin coverage payment**

The term "dairy margin coverage payment" means a payment made to a participating dairy operation under dairy margin coverage pursuant to section 9056 of this title.

**(7) Participating dairy operation**

The term "participating dairy operation" means a dairy operation that registers under section 9054 of this title to participate in dairy margin coverage.

**(8) 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 dairy margin coverage.

**(9) Secretary**

The term "Secretary" means the Secretary of Agriculture.

**(10) 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; Pub. L. 115–123, div. F, §60101(b)(1)(A), Feb. 9, 2018, 132 Stat. 311; Pub. L. 115–334, title I, §§1401(k)(2), 1404(b)(2), Dec. 20, 2018, 132 Stat. 4516, 4521.)

**AMENDMENTS**

**2018**—Pub. L. 115–334, §1404(b)(2), struck out "and part B" after "this part" in introductory provisions.

Par. (4). Pub. L. 115–123 redesignated par. (5) as (4) and struck out former par. (4). Prior to amendment, text read as follows: "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."

Pars. (5), (6). Pub. L. 115–334, §1401(k)(2)(A), added pars. (5) and (6) and struck out former pars. (5) and (6) which defined the terms "margin protection program" and "margin protection program payment", respectively.

Pub. L. 115–123, §60101(b)(1)(A)(ii), redesignated pars. (6) and (7) as (5) and (6), respectively. Former par. (5) redesignated (4).

Pars. (7), (8). Pub. L. 115–334, §1401(k)(2)(B), substituted "dairy margin coverage" for "the margin protection program".

Pub. L. 115–123, §60101(b)(1)(A)(ii), redesignated pars. (8) and (9) as (7) and (8), respectively. Former par. (7) redesignated (6).

Pars. (9) to (11). Pub. L. 115–123, §60101(b)(1)(A)(ii), redesignated pars. (10) and (11) as (9) and (10), respectively. Former par. (9) redesignated (8).

**EFFECTIVE DATE OF 2018 AMENDMENT**

Pub. L. 115–334, title I, §1401(m), Dec. 20, 2018, 132 Stat. 4518, provided that: "The amendments made by this section [amending this section and sections 9052 to 9060 of this title] shall take effect on January 1, 2019."

Pub. L. 115–123, div. F, §60101(b)(5), Feb. 9, 2018, 132 Stat. 312, provided that: "The amendments made by this subsection [amending this section and sections 9052 and 9054 to 9057 of this title] shall apply beginning with the 2018 calendar year."



## **§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 dairy margin coverage, the Secretary shall calculate the actual dairy production margin for each month by subtracting—

- (A) the average feed cost for that month, determined in accordance with subsection (a); from
- (B) the all-milk price for that month.

#### **(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; Pub. L. 115–123, div. F, §60101(b)(1)(B), Feb. 9, 2018, 132 Stat. 311; Pub. L. 115–334, title I, §1401(k)(3), Dec. 20, 2018, 132 Stat. 4516.)

### **AMENDMENTS**

**2018**—Subsec. (b)(1). Pub. L. 115–334 substituted "dairy margin coverage" for "the margin protection program" in introductory provisions.

Pub. L. 115–123 substituted "month" for "consecutive 2-month period" wherever appearing.

### **EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–334 effective on Jan. 1, 2019, see section 1401(m) of Pub. L. 115–334, set out as a note under section 9051 of this title.

Amendment by Pub. L. 115–123 applicable beginning with the 2018 calendar year, see section 60101(b)(5) of Pub. L. 115–123, set out as a note under section 9051 of this title.

### **COLLECTION OF ALFALFA HAY DATA**

Pub. L. 115–334, title I, §1401(c), Dec. 20, 2018, 132 Stat. 4512, provided that: "Not later than 120 days after the date of the enactment of this Act [Dec. 20, 2018], the Secretary [of Agriculture], acting through the National Agricultural Statistics Service, shall revise monthly price survey reports to include prices for high-quality alfalfa hay in the top five milk producing States, as measured by volume of milk produced during the previous month."

## **§9053. Dairy margin coverage**

### **(a) In general**

The Secretary shall continue to administer a dairy margin coverage program for dairy producers under which participating dairy operations are paid a dairy margin coverage payment when actual dairy production margins are less than the threshold levels for a dairy margin coverage payment.

### **(b) Regulations**

Subpart A of part 1430 of title 7, Code of Federal Regulations (as in effect on December 20, 2018), shall remain in effect for dairy margin coverage beginning with the 2019 calendar year, except to the extent that the regulations are inconsistent with any provision of this Act.

(Pub. L. 113–79, title I, §1403, Feb. 7, 2014, 128 Stat. 689; Pub. L. 115–334, title I, §1401(k)(4), Dec. 20, 2018, 132 Stat. 4516.)

### **REFERENCES IN TEXT**

This Act, referred to in subsec. (b), 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.

## **AMENDMENTS**

**2018**—Pub. L. 115–334, §1401(k)(4)(B)–(D), designated existing provisions as subsec. (a), inserted heading, substituted "The Secretary shall continue to administer a dairy margin coverage program" for "Not later than September 1, 2014, the Secretary shall establish and administer a margin protection program", substituted "dairy margin coverage payment" for "margin protection payment" in two places, and added subsec. (b).

Pub. L. 115–334, §1401(k)(4)(A), substituted "Dairy margin coverage" for "Establishment of margin protection program for dairy producers" in section catchline.

### **EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–334 effective on Jan. 1, 2019, see section 1401(m) of Pub. L. 115–334, set out as a note under section 9051 of this title.

## **§9054. Participation of dairy operations in dairy margin coverage**

### **(a) Eligibility**

All dairy operations in the United States shall be eligible to participate in dairy margin coverage to receive dairy margin coverage 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 dairy margin coverage, including the establishment of a date each calendar year by which a dairy operation shall register for the calendar year.

#### **(2) Extension of election period for 2018 calendar year**

##### **(A) In general**

The Secretary shall extend the election period for the 2018 calendar year by not less than 90 days after February 9, 2018, or such additional period as the Secretary determines is necessary for dairy operations to make new elections to participate for that calendar year, including dairy operations that elected to so participate before February 9, 2018.

##### **(B) Retroactive program option**

In the case of a dairy operation that, by operation of subsection (d) (as in effect on the day before December 20, 2018), was ineligible to participate in the margin protection program for any part of calendar year 2018, the Secretary shall establish a new election period for that calendar year that ends on a date that is not less than 90 days after December 20, 2018, and the Secretary determines is necessary for dairy operations to make new elections to participate in the margin protection program (as in effect on the day before December 20, 2018) for that calendar year, including dairy operations that elected to participate in the livestock gross margin for dairy program under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) before February 9, 2018.

#### **(3) Election period for 2019 calendar year**

For the 2019 calendar year, the Secretary shall—

(A) open the election period not later than 60 days after the effective date described in section 1401(m) of the Agriculture Improvement Act of 2018; and

(B) hold that election period open for not less than 90 days.

#### **(4) Treatment of multiproducer dairy operation**

##### **(A) In general**

If a participating dairy operation is operated by more than 1 dairy producer, the dairy producers of the dairy operation who elect to participate shall be treated as a single dairy operation for purposes of participating in dairy margin coverage.

##### **(B) Rule of construction**

Subparagraph (A) shall not be construed to allow a producer to adjust the proportion of their share covered under tier I or tier II premiums from the proportion covered for the operation.

#### **(5) 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 dairy margin coverage.

### **(c) Annual administrative fee**

#### **(1) Administrative fee required**



Each participating dairy operation shall—

(A) pay an administrative fee to register to participate in dairy margin coverage; and

(B) pay the administrative fee annually through the duration of dairy margin coverage 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 dairy margin coverage.

## **(4) Exemption**

A limited resource, beginning, veteran, or socially disadvantaged farmer, as defined by the Secretary, shall be exempt from the administrative fee under this subsection.

(Pub. L. 113–79, title I, §1404, Feb. 7, 2014, 128 Stat. 690; Pub. L. 115–123, div. F, §60101(b)(2), Feb. 9, 2018, 132 Stat. 311; Pub. L. 115–334, title I, §1401(d), (e), (k)(5), Dec. 20, 2018, 132 Stat. 4512, 4517.)

## **REFERENCES IN TEXT**

The Federal Crop Insurance Act, referred to in subsec. (b)(2)(B), 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.

Section 1401(m) of the Agriculture Improvement Act of 2018, referred to in subsec. (b)(3)(A), is section 1401(m) of Pub. L. 115–334, which is set out as a note under section 9051 of this title.

## **AMENDMENTS**

**2018**—Pub. L. 115–334, §1401(k)(5)(A), substituted "dairy margin coverage" for "margin protection program" in section catchline.

Subsec. (a). Pub. L. 115–334, §1401(k)(5)(B), substituted "eligible to participate in dairy margin coverage to receive dairy margin coverage payments" for "eligible to participate in the margin protection program to receive margin protection payments".

Subsec. (b)(1). Pub. L. 115–334, §1401(k)(5)(C), substituted "dairy margin coverage" for "the margin protection program".

Pub. L. 115–123, §60101(b)(2)(A)(i), inserted ", including the establishment of a date each calendar year by which a dairy operation shall register for the calendar year" before period at end.

Subsec. (b)(2). Pub. L. 115–334, §1401(e)(2), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Pub. L. 115–123, §60101(b)(2)(A)(iii), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 115–334, §1401(d)(2), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "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."

Pub. L. 115–123, §60101(b)(2)(A)(ii), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 115–334, §1401(d)(2), added par. (4). Former par. (4) redesignated (5).

Pub. L. 115–123, §60101(b)(2)(A)(ii), redesignated par. (3) as (4).

Subsec. (b)(5). Pub. L. 115–334, §1401(k)(5)(C), substituted "dairy margin coverage" for "the margin protection program".

Pub. L. 115–334, §1401(d)(1), redesignated par. (4) as (5).

Subsec. (c)(1), (3). Pub. L. 115–334, §1401(k)(5)(C), substituted "dairy margin coverage" for "the margin protection program" wherever appearing.

Subsec. (c)(4). Pub. L. 115–123, §60101(b)(2)(B), added par. (4).

Subsec. (d). Pub. L. 115–334, §1401(e)(1), struck out subsec. (d). Text read as follows: "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."

## **EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–334 effective on Jan. 1, 2019, see section 1401(m) of Pub. L. 115–334, set out as a note under section 9051 of this title.

Amendment by Pub. L. 115–123 applicable beginning with the 2018 calendar year, see section 60101(b)(5) of Pub. L. 115–123, set out as a note under section 9051 of this title.

## **§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 dairy margin coverage, the production history of the dairy operation for dairy margin coverage 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 the subsequent calendar years ending before January 1, 2019, 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.

#### **(3) Continued applicability of base production history**

A production history established for a dairy operation under paragraph (1) shall be the base production history for the dairy operation in subsequent years (as adjusted under paragraph (2), as applicable).

### **(b) Election by new dairy operations**

#### **(1) Dairy operations with less than 1 year of production history**

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:

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

(B) 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.

#### **(2) Dairy operations with 1 year or more of production history**

In the case of a participating dairy operation that was not in operation prior to January 1, 2014, that has not established a production history, and that has been in operation for equal to or longer than 1 year, the participating dairy operation shall elect the annual milk marketings during any 1 calendar year to determine the production history of the participating dairy operation.

#### **(3) Adjustment**

The Secretary shall adjust the production history of a participating dairy operation determined under paragraph (1) or (2) to reflect any increase or decrease in the national average milk production relative to calendar year 2017.

### **(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 dairy margin coverage.

### **(d) Limitation on changes to business structure**

The Secretary may not make dairy margin coverage payments to a participating dairy operation if the Secretary determines that the participating dairy operation has reorganized the structure of such operation solely for the purpose of qualifying as a new operation under subsection (b).

(Pub. L. 113–79, title I, §1405, Feb. 7, 2014, 128 Stat. 690; Pub. L. 115–123, div. F, §60101(b)(3), Feb. 9, 2018, 132 Stat. 311; Pub. L. 115–334, title I, §1401(f), (k)(6), Dec. 20, 2018, 132 Stat. 4513, 4517.)

### **AMENDMENTS**

**2018**—Subsec. (a)(1). Pub. L. 115–334, §1401(k)(6), substituted "dairy margin coverage" for "the margin protection program" in two places.

Subsec. (a)(2). Pub. L. 115–334, §1401(f)(1)(A)(i), substituted "In the subsequent calendar years ending before January 1, 2019" for "In subsequent years".

Subsec. (a)(3). Pub. L. 115–334, §1401(f)(1)(A)(ii), inserted ", as applicable" after "paragraph (2)".

Pub. L. 115–123 added par. (3).

Subsec. (b). Pub. L. 115–334, §1401(f)(1)(B), designated existing provisions as par. (1), inserted heading, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), realigned margins, and added pars. (2) and (3).

Subsec. (c). Pub. L. 115–334, §1401(k)(6), substituted "dairy margin coverage" for "the margin protection program".

Subsec. (d). Pub. L. 115–334, §1401(f)(2), added subsec. (d).

#### **EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–334 effective on Jan. 1, 2019, see section 1401(m) of Pub. L. 115–334, set out as a note under section 9051 of this title.

Amendment by Pub. L. 115–123 applicable beginning with the 2018 calendar year, see section 60101(b)(5) of Pub. L. 115–123, set out as a note under section 9051 of this title.

## **§9056. Dairy margin coverage payments**

### **(a) Coverage level threshold and coverage percentage**

#### **(1) Coverage level threshold**

##### **(A) In general**

For purposes of receiving dairy margin coverage payments for a month, a participating dairy operation shall annually elect a coverage level threshold that is equal to \$4.00, \$4.50, \$5.00, \$5.50, \$6.00, \$6.50, \$7.00, \$7.50, \$8.00, \$8.50, \$9.00, or \$9.50.

##### **(B) Applicability**

Except as provided in subparagraph (C), the coverage level threshold elected under subparagraph (A) shall apply to the covered production elected by the participating dairy operation under paragraph (2).

##### **(C) Second coverage election for tier II**

In the case of a participating dairy operation that elects a coverage level threshold of \$8.50, \$9.00, or \$9.50 under subparagraph (A)—

(i) that coverage level threshold shall apply to the first 5,000,000 pounds of milk marketings included in the covered production elected by the participating dairy operation; and

(ii) the participating dairy operation shall elect 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 to apply to milk marketings in excess of 5,000,000 pounds included in the covered production elected by the participating dairy operation.

#### **(2) Coverage percentage**

For purposes of receiving dairy margin coverage payments for a month, a participating dairy operation shall annually elect a percentage of coverage, in 5-percent increments, not exceeding 95 percent of the production history of the participating dairy operation.

### **(b) Payment threshold**

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

### **(c) Amount of payment**

The dairy margin coverage 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 month.

(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 12.

(Pub. L. 113–79, title I, §1406, Feb. 7, 2014, 128 Stat. 691; Pub. L. 115–123, div. F, §60101(b)(1)(C), Feb. 9, 2018, 132 Stat. 311; Pub. L. 115–334, title I, §1401(g), (k)(7), Dec. 20, 2018, 132 Stat. 4513, 4517.)

#### **AMENDMENTS**

**2018**—Pub. L. 115–334, §1401(k)(7)(A) substituted "Dairy margin coverage" for "Margin protection" in section catchline..

Pub. L. 115–123, §60101(b)(1)(C)(i), substituted "month" for "consecutive 2-month period" wherever appearing.

Subsec. (a). Pub. L. 115–334, §1401(g), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "For purposes of receiving margin protection payments for a month, 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."

Subsec. (b). Pub. L. 115–334, §1401(k)(7)(B), substituted "dairy margin coverage" for "margin protection".

Subsec. (c). Pub. L. 115–334, §1401(k)(7)(B), (C), struck out "margin protection" before "payment" in heading and substituted "dairy margin coverage" for "margin protection" in text.

Subsec. (c)(2)(B). Pub. L. 115–123, §60101(b)(1)(C)(ii), substituted "divided by 12" for "divided by 6".

#### **EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–334 effective on Jan. 1, 2019, see section 1401(m) of Pub. L. 115–334, set out as a note under section 9051 of this title.

Amendment by Pub. L. 115–123 applicable beginning with the 2018 calendar year, see section 60101(b) (5) of Pub. L. 115–123, set out as a note under section 9051 of this title.

## **§9057. Premiums for dairy margin coverage**

### **(a) Calculation of premiums**

For purposes of participating in dairy margin coverage, 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) Tier I: premium per hundredweight for first 5,000,000 pounds of production**

#### **(1) In general**

For the first 5,000,000 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 subsection (g), the following annual premiums apply:

Coverage Level	Premium per Cwt.
\$4.00	None
\$4.50	\$0.0025
\$5.00	\$0.005
\$5.50	\$0.030
\$6.00	\$0.050
\$6.50	\$0.070
\$7.00	\$0.080
\$7.50	\$0.090
\$8.00	\$0.100
\$8.50	\$0.105
\$9.00	\$0.110
\$9.50	\$0.150

### **(c) Tier II: premium per hundredweight for production in excess of 5,000,000 pounds**

#### **(1) In general**

For milk marketings in excess of 5,000,000 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**

Except as provided in subsection (g), the following annual premiums apply:

Coverage Level	Premium per Cwt.
\$4.00	None
\$4.50	\$0.0025
\$5.00	\$0.005
\$5.50	\$0.100
\$6.00	\$0.310
\$6.50	\$0.650
\$7.00	\$1.107
\$7.50	\$1.413
\$8.00	\$1.813

**(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 dairy margin coverage 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 dairy margin coverage 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 dairy margin coverage 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 dairy margin coverage.

**(f) Repayment of premiums**

**(1) In general**

Each dairy operation described in paragraph (2) shall be eligible to receive a repayment from the Secretary in an amount equal to the difference between—

- (A) the total amount of premiums paid by the participating dairy operation under this section for each applicable calendar year; and
- (B) the total amount of payments made to the participating dairy operation under section 9056 of this title for that calendar year.

**(2) Eligibility**

A dairy operation that is eligible to receive a repayment under paragraph (1) is a dairy operation that—

- (A) participated in the margin protection program, as in effect for any of calendar years 2014 through 2017; and
- (B) submits to the Secretary an application for the repayment at such time, in such manner, and containing such information as the Secretary may require.

**(3) Method of repayment**

A dairy operation that is eligible to receive a repayment under paragraph (1) shall elect to receive the repayment—

- (A) in an amount equal to 75 percent of the repayment calculated under that paragraph as credit that may be used by the dairy operation for dairy margin coverage premiums; or
- (B) in an amount equal to 50 percent of the repayment calculated under that paragraph as a direct cash repayment.

**(4) Applicability**

Paragraph (1) shall only apply to a calendar year during the period of calendar years 2014 through 2017 for which the amount described in subparagraph (A) of that paragraph is greater than the amount described in subparagraph (B) of that paragraph.

**(g) Premium discount**

The premium per hundredweight specified in the tables contained in subsections (b) and (c) for each coverage level shall be reduced by 25 percent in accordance with the following:

### **(1) In general**

For each of calendar years 2019 through 2023, for a participating dairy operation that makes a 1-time election of coverage level in a tier and of a percentage of coverage under section 9056(a) of this title for the 5-year period beginning in January 2019.

### **(2) New dairy operations**

For each applicable calendar year through 2023, for a participating dairy operation that—

(A) establishes a production history pursuant to section 9055(b) of this title; and

(B) makes a 1-time election of coverage level in a tier and of a percentage of coverage under section 9056(a) of this title for the period beginning with the first available calendar year and ending in December 2023.

### **(3) Full participation required**

Notwithstanding the annual elections under section 9056(a) of this title—

(A) a 1-time enrollment under this subsection shall remain in effect for the full duration applicable to a participating dairy operation in accordance with paragraph (1) or (2)(B), as applicable; and

(B) a participating dairy operation that makes a 1-time enrollment under this subsection and is noncompliant under section 9058 of this title shall be subject to that section.

(Pub. L. 113–79, title I, §1407, Feb. 7, 2014, 128 Stat. 691; Pub. L. 115–123, div. F, §60101(b)(4), Feb. 9, 2018, 132 Stat. 312; Pub. L. 115–334, title I, §1401(h)–(j), (k)(8), Dec. 20, 2018, 132 Stat. 4514, 4515, 4517.)

## **AMENDMENTS**

**2018**—Pub. L. 115–334, §1401(k)(8)(A), substituted "dairy margin coverage" for "margin protection program" in section catchline.

Subsec. (a). Pub. L. 115–334, §1401(k)(8)(B), substituted "dairy margin coverage" for "the margin protection program" in introductory provisions.

**2018**—Subsec. (b). Pub. L. 115–123, §60101(b)(4)(A)(i), substituted "Tier I: premium per hundredweight for first 5,000,000 pounds of production" for "Premium per hundredweight for first 4 million pounds of production" in heading.

Subsec. (b)(1). Pub. L. 115–123, §60101(b)(4)(A)(ii), substituted "5,000,000" for "4,000,000".

Subsec. (b)(2). Pub. L. 115–334, §1401(h)(1), added par. (2) and struck out former par. (2) which set forth table of annual premiums, applicable except as provided in par. (3).

Pub. L. 115–123, §60101(b)(4)(A)(iii), in Premium per Cwt. column of table, substituted "None" for "\$0.010", "None" for "\$0.025", "\$0.009" for "\$0.040", "\$0.016" for "\$0.055", "\$0.040" for "\$0.090", "\$0.063" for "\$0.217", "\$0.087" for "\$0.300", and "\$0.142" for "\$0.475".

Subsec. (b)(3). Pub. L. 115–334, §1401(h)(1), struck out par. (3). Text read as follows: "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."

Subsec. (c). Pub. L. 115–123, §60101(b)(4)(B)(i), substituted "Tier II: premium per hundredweight for production in excess of 5,000,000 pounds" for "Premium per hundredweight for production in excess of 4 million pounds" in heading.

Subsec. (c)(1). Pub. L. 115–123, §60101(b)(4)(B)(ii), substituted "5,000,000" for "4,000,000".

Subsec. (c)(2). Pub. L. 115–334, §1401(h)(2), added par. (2) and struck out former par. (2) which set forth table of annual producer premiums.

Subsec. (d). Pub. L. 115–334, §1401(k)(8)(C), substituted "dairy margin coverage integrity" for "program integrity".

Subsec. (e). Pub. L. 115–334, §1401(k)(8)(D)(i), substituted "in dairy margin coverage" for "in the margin protection program" in two places.

Subsec. (e)(2). Pub. L. 115–334, §1401(k)(8)(D)(ii), substituted "integrity of dairy margin coverage" for "integrity of the program".

Subsec. (f). Pub. L. 115–334, §1401(i), added subsec. (f).

Subsec. (g). Pub. L. 115–334, §1401(j), added subsec. (g).

## **EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–334 effective on Jan. 1, 2019, see section 1401(m) of Pub. L. 115–334, set out as a note under section 9051 of this title.



Amendment by Pub. L. 115–123 applicable beginning with the 2018 calendar year, see section 60101(b) (5) of Pub. L. 115–123, set out as a note under section 9051 of this title.

## **§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 dairy margin coverage 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 dairy margin coverage.

(Pub. L. 113–79, title I, §1408, Feb. 7, 2014, 128 Stat. 693; Pub. L. 115–334, title I, §1401(k)(9), Dec. 20, 2018, 132 Stat. 4517.)

### **AMENDMENTS**

**2018**—Subsec. (a)(2). Pub. L. 115–334, §1401(k)(9)(A), substituted "dairy margin coverage" for "margin protection".

Subsec. (b). Pub. L. 115–334, §1401(k)(9)(B), substituted "dairy margin coverage" for "the margin protection program".

### **EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–334 effective on Jan. 1, 2019, see section 1401(m) of Pub. L. 115–334, set out as a note under section 9051 of this title.

## **§9059. Duration**

Dairy margin coverage shall end on December 31, 2023.

(Pub. L. 113–79, title I, §1409, Feb. 7, 2014, 128 Stat. 693; Pub. L. 115–334, title I, §1401(l), Dec. 20, 2018, 132 Stat. 4518.)

### **AMENDMENTS**

**2018**—Pub. L. 115–334 substituted "Dairy margin coverage" for "The margin protection program" and "2023" for "2018".

### **EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–334 effective on Jan. 1, 2019, see section 1401(m) of Pub. L. 115–334, set out as a note under section 9051 of this title.

## **§9060. Administration and enforcement**

### **(a) In general**

The Secretary shall promulgate regulations to address administrative and enforcement issues involved in carrying out dairy margin coverage.

### **(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 dairy margin coverage 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 dairy margin coverage.

(Pub. L. 113–79, title I, §1410, Feb. 7, 2014, 128 Stat. 693; Pub. L. 115–334, title I, §1401(k)(10), Dec. 20, 2018, 132 Stat. 4518.)

### **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.

#### **AMENDMENTS**

**2018**—Subsec. (a). Pub. L. 115–334, §1401(k)(10)(A), substituted "dairy margin coverage" for "the margin protection program".

Subsec. (b). Pub. L. 115–334, §1401(k)(10)(B), substituted "dairy margin coverage payments" for "margin protection payments".

Subsec. (c). Pub. L. 115–334, §1401(k)(10)(A), substituted "dairy margin coverage" for "the margin protection program".

#### **EFFECTIVE DATE OF 2018 AMENDMENT**

Amendment by Pub. L. 115–334 effective on Jan. 1, 2019, see section 1401(m) of Pub. L. 115–334, set out as a note under section 9051 of this title.

## **PART B—MILK DONATION PROGRAM**

#### **CODIFICATION**

[Pub. L. 115–334](#), title I, §1404(b)(1), [Dec. 20, 2018](#), [132 Stat. 4519](#), substituted "Milk Donation Program" for "Dairy Product Donation Program" in part heading.

### **§9071. Milk donation program**

#### **(a) Definitions**

In this section:

##### **(1) Eligible dairy organization**

The term "eligible dairy organization" means a dairy farmer (either individually or as part of a cooperative), or a dairy processor, who—

- (A) accounts to a Federal milk marketing order marketwide pool; and
- (B) incurs qualified expenses under subsection (e).

##### **(2) Eligible distributor**

The term "eligible distributor" means a public or private nonprofit organization that distributes donated eligible milk.

##### **(3) Eligible milk**

The term "eligible milk" means Class I fluid milk products produced and processed in the United States.

##### **(4) Eligible partnership**

The term "eligible partnership" means a partnership between an eligible dairy organization and an eligible distributor.

##### **(5) Participating partnership**

The term "participating partnership" means an eligible partnership for which the Secretary has approved a donation and distribution plan for eligible milk under subsection (c)(2).

#### **(b) Program required; purposes**

Not later than 180 days after December 20, 2018, the Secretary shall establish and administer a milk donation program for the purposes of—

- (1) encouraging the donation of eligible milk;
- (2) providing nutrition assistance to individuals in low-income groups; and
- (3) reducing food waste.

#### **(c) Donation and distribution plans**

##### **(1) In general**

To be eligible to receive reimbursement under subsection (d), an eligible partnership shall submit to the Secretary a donation and distribution plan that—

(A) describes the process that the eligible partnership will use for the donation, processing, transportation, temporary storage, and distribution of eligible milk;

(B) includes an estimate of the quantity of eligible milk that the eligible partnership will donate each year, based on—

(i) preplanned donations; and

(ii) contingency plans to address unanticipated donations; and

(C) describes the rate at which the eligible partnership will be reimbursed, which shall be based on a percentage of the limitation described in subsection (e)(2), not to exceed 100 percent.

## **(2) Review and approval**

Not less frequently than annually, the Secretary shall—

(A) review donation and distribution plans submitted under paragraph (1); and

(B) determine whether to approve or disapprove each of those donation and distribution plans.

## **(d) Reimbursement**

### **(1) In general**

On receipt of appropriate documentation under paragraph (2), the Secretary shall reimburse an eligible dairy organization that is a member of a participating partnership on a regular basis for qualified expenses described in subsection (e).

### **(2) Documentation**

#### **(A) In general**

An eligible dairy organization shall submit to the Secretary such documentation as the Secretary may require to demonstrate the qualified expenses described in subsection (e) of the eligible dairy organization.

#### **(B) Verification**

The Secretary may verify the accuracy of documentation submitted under subparagraph (A) by spot checks and audits.

### **(3) Retroactive reimbursement**

In providing reimbursements under paragraph (1), the Secretary may provide reimbursements for qualified expenses incurred before the date on which the donation and distribution plan for the applicable participating partnership was approved by the Secretary.

## **(e) Qualified expenses**

### **(1) In general**

The amount of a reimbursement under subsection (d) shall be an amount equal to the product of—

(A) the quantity of eligible milk donated by the eligible dairy organization under a donation and distribution plan approved by the Secretary under subsection (c); and

(B) subject to the limitation under paragraph (2), the rate described in that donation and distribution plan under subsection (c)(1)(C).

### **(2) Limitation**

Expenses eligible for reimbursement under subsection (d) shall not exceed the value that an eligible dairy organization incurred by accounting to the Federal milk marketing order pool at the difference in the Class I milk value and the lowest classified price for the applicable month (either Class III milk or Class IV milk).

## **(f) Preapproval**

### **(1) In general**

The Secretary shall—

(A) establish a process for an eligible partnership to apply for preapproval of donation and distribution plans under subsection (c); and

(B) not less frequently than annually, preapprove an amount for qualified expenses described in subsection (e) that the Secretary will allocate for reimbursement under each donation and distribution plan preapproved under subparagraph (A), based on an assessment of—

(i) the feasibility of the plan; and

(ii) the extent to which the plan advances the purposes described in subsection (b).

### **(2) Preference**

In preapproving amounts for reimbursement under paragraph (1)(B), the Secretary shall give preference to eligible partnerships that will provide funding and in-kind contributions in addition to the reimbursements.

### **(3) Adjustments**

#### **(A) In general**

The Secretary shall adjust or increase amounts preapproved for reimbursement under paragraph (1)(B) based on performance and demand.

**(B) Requests for increase**

**(i) In general**

The Secretary shall establish a procedure for a participating partnership to request an increase in the amount preapproved for reimbursement under paragraph (1)(B) based on changes in conditions.

**(ii) Interim approval; incremental increase**

The Secretary may provide an interim approval of an increase requested under clause (i) and an incremental increase in the amount of reimbursement to the applicable participating partnership to allow time for the Secretary to review the request without interfering with the donation and distribution of eligible milk by the participating partnership.

**(g) Prohibition on resale of products**

**(1) In general**

An eligible distributor that receives eligible milk donated under this section may not sell the products back into commercial markets.

**(2) Prohibition on future participation**

An eligible distributor that the Secretary determines has violated paragraph (1) shall not be eligible for any future participation in the program established under this section.

**(h) Administration**

The Secretary shall publicize opportunities to participate in the program established under this section.

**(i) Reviews**

The Secretary shall conduct appropriate reviews or audits to ensure the integrity of the program established under this section.

**(j) Funding**

Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section \$9,000,000 for fiscal year 2019, and \$5,000,000 for each fiscal year thereafter, to remain available until expended.

(Pub. L. 113–79, title I, §1431, as added Pub. L. 115–334, title I, §1404(b)(1), Dec. 20, 2018, 132 Stat. 4519.)

**PRIOR PROVISIONS**

A prior section 9071, Pub. L. 113–79, title I, §1431, Feb. 7, 2014, 128 Stat. 695, related to dairy product donation program, prior to repeal by Pub. L. 115–334, title I, §1404(a), Dec. 20, 2018, 132 Stat. 4519.

## **SUBCHAPTER IV—SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE PROGRAMS**

### **§9081. Supplemental agricultural disaster assistance**

**(a) Definitions**

In this section:

**(1) Covered producer**

The term "covered producer" means an eligible producer on a farm that is—

(A) as determined by the Secretary—

- (i) a beginning farmer or rancher;
- (ii) a socially disadvantaged farmer or rancher; or
- (iii) a limited resource farmer or rancher; or

(B) a veteran farmer or rancher, as defined in section 2279(a) of this title.

**(2) 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) an Indian tribe or tribal organization (as those terms are defined in section 5304 of title 25);
- (iv) a partnership of citizens of the United States; or
- (v) a corporation, limited liability corporation, or other farm organizational structure organized under State law.

**(3) Farm-raised fish**

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

**(4) 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.

**(5) 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, sold livestock for a reduced sale price, or both 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;
- (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, on the condition that in the case of the death loss of unweaned livestock due to that adverse weather, the Secretary may disregard any management practice, vaccination protocol, or lack of vaccination by the eligible producer on a farm; or
- (C) disease that, as determined by the Secretary—
  - (i) is caused or transmitted by a vector; and
  - (ii) is not susceptible to control by vaccination or acceptable management practices.

**(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 affected livestock, as determined by the Secretary, on, as applicable—

- (A) the day before the date of death of the livestock; or
- (B) the day before the date of the event that caused the harm to the livestock that resulted in a reduced sale price.

**(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.

**(4) Payment reductions**

A payment made under paragraph (1) to an eligible producer on a farm that sold livestock for a reduced sale price shall—

- (A) be made if the sale occurs within a reasonable period following the event, as determined by the Secretary; and
- (B) be reduced by the amount that the producer received for the sale.

**(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 according 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 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, including inspections of cattle tick fever.

##### **(3) Availability of funds**

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

##### **(4) Payment rate for covered producers**

In the case of a covered producer that is eligible to receive assistance under this subsection, the Secretary shall provide reimbursement of 90 percent of the cost of losses described in paragraph (1) or (2).

#### **(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 paragraphs (4) and (5), 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) 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 1,000 acres.

**(5) Payment rate for beginning and veteran producers**

Subject to paragraph (4), in the case of a beginning farmer or rancher or a veteran farmer or rancher (as those terms are defined in subsection (a) of section 2279 of this title) that is eligible to receive assistance under this subsection, the Secretary shall provide reimbursement of 75 percent of the costs under subparagraphs (A)(i) and (B) of paragraph (3).

**(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 subsection (c) 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; Pub. L. 115–123, div. B, title I, §20101(a)–(d), Feb. 9, 2018, 132 Stat. 68, 69; Pub. L. 115–334, title I, §1501(a)–(c)(1), (d), (e), title XII, §12306(h), Dec. 20, 2018, 132 Stat. 4522, 4523, 4970.)

### **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.

### **AMENDMENTS**

**2018**—Subsec. (a)(1). Pub. L. 115–334, §12306(h)(1)(B), added par. (1). Former par. (1) redesignated (2).

Subsec. (a)(1)(B)(iii) to (v). Pub. L. 115–334, §1501(a), added cl. (iii) and redesignated former cls. (iii) and (iv) as (iv) and (v), respectively.

Subsec. (a)(2) to (5). Pub. L. 115–334, §12306(h)(1)(A), redesignated pars. (1) to (4) as (2) to (5), respectively.

Subsec. (b)(1). Pub. L. 115–123, §20101(a)(1), inserted "sold livestock for a reduced sale price, or both" after "normal mortality," in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 115–334, §1501(b)(1)(A), struck out "or" at end.

Subsec. (b)(1)(B). Pub. L. 115–334, §1501(b)(1)(B), substituted "cold, on the condition that in the case of the death loss of unweaned livestock due to that adverse weather, the Secretary may disregard any management practice, vaccination protocol, or lack of vaccination by the eligible producer on a farm; or" for "cold."

Subsec. (b)(1)(C). Pub. L. 115–334, §1501(b)(1)(C), added subpar. (C).

Subsec. (b)(2). Pub. L. 115–123, §20101(a)(2), substituted "affected livestock, as determined by the Secretary, on, as applicable—" for "applicable livestock on the day before the date of death of the livestock, as determined by the Secretary." and added subpars. (A) and (B).

Subsec. (b)(4). Pub. L. 115–334, §1501(b)(2), inserted heading.

Pub. L. 115–123, §20101(a)(3), added par. (4).

Subsec. (d)(1). Pub. L. 115–123, §20101(b), struck out "not more than \$20,000,000 of" before "the funds of the Commodity Credit Corporation".

Subsec. (d)(2). Pub. L. 115–334, §1501(c)(1), inserted ", including inspections of cattle tick fever" before period at end.

Subsec. (d)(4). Pub. L. 115–334, §12306(h)(2), added par. (4).

Subsec. (e)(3). Pub. L. 115–334, §1501(d)(1), substituted "paragraphs (4) and (5)" for "paragraph (4)" in introductory provisions.

Subsec. (e)(4)(B), (C). Pub. L. 115–123, §20101(c), (d)(1), substituted "1,000 acres" for "500 acres" in subpar. (C), redesignated subpar. (C) as (B), and struck out former subpar. (B). Prior to amendment, text of subpar. (B) read as follows: "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."

Subsec. (e)(5). Pub. L. 115–334, §1501(d)(2), added par. (5).

Subsec. (f)(2). Pub. L. 115–334, §1501(e), substituted "subsection (c)" for "this section (excluding payments received under subsections (b) and (e))".

Pub. L. 115–123, §20101(d)(2), substituted "subsections (b) and (e)" for "subsection (e)".

### **EFFECTIVE DATE OF 2018 AMENDMENT**

Pub. L. 115–334, title I, §1501(c)(2), Dec. 20, 2018, 132 Stat. 4522, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to inspections of cattle tick fever conducted on or after the date of enactment of this Act [Dec. 20, 2018]."

Pub. L. 115–123, div. B, title I, §20101(e), Feb. 9, 2018, 132 Stat. 69, provided that: "Section 1501 of the Agricultural Act of 2014 (7 U.S.C. 9081), as amended by this section, shall apply with respect to losses described in such section 1501 incurred on or after January 1, 2017."

## **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, sections 11003 and 11017, title I of the Agriculture Improvement Act of 2018 and the amendments made by that title, and section 10109 of that Act shall be made without regard to—

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

(B) chapter 35 of title 44 (commonly known as the "Paperwork Reduction Act").

##### **(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; Pub. L. 115–334, title I, §1701, Dec. 20, 2018, 132 Stat. 4525.)

### **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.

The Agriculture Improvement Act of 2018, referred to in subsec. (c)(2), is Pub. L. 115–334, Dec. 20, 2018, 132 Stat. 4490. Title I of the Act enacted section 9071 of this title, amended sections 608c, 1308, 1308–3a, 1359bb, 1359ll, 4504, 4553, 7272, 7333, 8737, 8772, 9011 to 9017, 9031, 9032, 9034 to 9039,

9051 to 9060, 9081, 9091, 9092, and 9097 of this title, repealed sections 9019 and 9071 of this title, and enacted provisions set out as notes under sections 608c, 1308, 1308–3a, 6932, 9051, 9052, and 9081 of this title and section 6101 of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title of 2018 Amendment note set out under section 9001 of this title and Tables.

Section 10109 of that Act, referred to in subsec. (c)(2), means section 10109 of [Pub. L. 115–334, title X, Dec. 20, 2018, 132 Stat. 4906](#). Subsecs. (a) to (c) of section 10109 are not classified to the Code. Subsec. (d) of section 10109 amended section 2276 of this title.

#### AMENDMENTS

**2018**—Subsec. (c)(2). Pub. L. 115–334, §1701(1), substituted "this chapter, sections 11003 and 11017, title I of the Agriculture Improvement Act of 2018 and the amendments made by that title, and section 10109 of that Act" for "this chapter and sections 11003 and 11017" in introductory provisions.

Subsec. (c)(2)(C). Pub. L. 115–334, §1701(2)–(4), struck out subpar. (C) which read as follows: "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."

## §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 2023 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, 2023:

- (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 2023 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, 2023:

- (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 2023.

([Pub. L. 113–79, title I, §1602, Feb. 7, 2014, 128 Stat. 705](#); [Pub. L. 115–334, title I, §1702, Dec. 20, 2018, 132 Stat. 4525](#).)

#### 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.

#### **AMENDMENTS**

**2018**—Pub. L. 115–334 substituted "2023" for "2018" wherever appearing.

### **§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, and as adjusted pursuant to sections 9012 and 9013 of this title.

### **(b) Streamlining**

In implementing this chapter and the amendments made by this title,<sup>1</sup> the Secretary shall—

(1) continue to reduce administrative burdens and costs to producers by streamlining and reducing paperwork, forms, and other administrative requirements, to ensure that—

(A) a producer (or an agent of a producer) may report information, electronically (including geospatial data) or conventionally, to the Department of Agriculture, subject to the Secretary—

(i) establishing reasonable levels of tolerance that reflect the differences in accuracy between measures of common land units and geospatial data; and

(ii) ensuring that discrepancies that occur within the levels of tolerance established under clause (i) shall not be used to penalize a producer (or an agent of a producer) under any program administered by the Department of Agriculture;

(B) on the request of a producer (or an agent of a producer), 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, conservation practices, and other information of the producer through a single Department of Agriculture-wide login;

(C) not later than September 30, 2020, the Administrator of the Risk Management Agency and the Administrator of the Farm Service Agency shall implement a consistent method for determining crop acreage, acreage yields, farm acreage, property descriptions, and other common informational requirements, including measures of common land units;

(D) except in the case of misrepresentation, fraud, or scheme and device, no crop insurance agent, approved insurance provider, or employee or contractor of a crop insurance agency or approved

insurance provider bears responsibility or liability under the Acreage Crop Reporting and Streamlining Initiative (or any successor or similar initiative) for the eligibility of a producer for a program administered by the Department of Agriculture, not including a policy or plan of insurance offered under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); and

(E) on request of a crop insurance agent or approved insurance provider required to deliver policies and plans of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) the crop insurance agent or approved insurance provider receives, in a timely manner, any information held by the Farm Service Agency that is necessary to ensure effective crop insurance coverage for farmer customers;

(2) continue to improve coordination, information sharing, and administrative work among the Farm Service Agency, Risk Management Agency, Natural Resources Conservation Service, and other agencies, as determined by the Secretary;

(3) continue to take advantage of new technologies to enhance the efficiency and effectiveness of the delivery of Department of Agriculture programs to producers, including by developing and making publicly available data standards and security procedures to allow third-party providers to develop applications that use or feed data (including geospatial and precision agriculture data) into the datasets and analyses of the Department of Agriculture; and

(4) reduce administrative burdens on producers participating in price loss coverage or agriculture risk coverage by offering—

(A) those producers an option to remotely and electronically sign annual contracts for that coverage; and

(B) to the maximum extent practicable, an option to sign a multiyear contract for that coverage.

### **(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.

#### **(4) Agriculture Improvement Act of 2018**

The Secretary shall make available to the Farm Service Agency to carry out title I of the Agriculture Improvement Act of 2018 and the amendments made by that title \$15,500,000.

#### **(d) Loan implementation**

##### **(1) In general**

In any crop year in which an order is issued pursuant <sup>1</sup> 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 subtitle B or C, under the amendments made by subtitle B or C, or under the amendments made by subtitle B or C of the Agriculture Improvement Act of 2018,<sup>2</sup> 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 subtitles <sup>3</sup> 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 subtitles <sup>3</sup> B or C and as supplemented in accordance with paragraph (1).

#### **(e) Deobligation of unliquidated obligations**

##### **(1) In general**

Subject to paragraph (3), any payment obligated or otherwise made available by the Secretary under this chapter on or after December 20, 2018, that is not disbursed to the recipient by the date that is 5 years after the date on which the payment is obligated or otherwise made available shall—

- (A) be deobligated; and
- (B) revert to the Treasury.

##### **(2) Outstanding payments**

###### **(A) In general**

Subject to paragraph (3), any payment obligated or otherwise made available by the Farm Service Agency (or any predecessor agency of the Department of Agriculture) under the laws described in subparagraph (B) before December 20, 2018, that is not disbursed by the date that is 5 years after the date on which the payment is obligated or otherwise made available shall—

- (i) be deobligated; and
- (ii) revert to the Treasury.

###### **(B) Laws described**

The laws referred to in subparagraph (A) are any of the following:

- (i) This chapter.
- (ii) Title I of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8702 et seq.).
- (iii) Title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 et seq.).
- (iv) The Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).
- (v) Titles I through XI of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3374) and the amendments made by those titles.
- (vi) Titles I through X of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1362) and the amendments made by those titles.
- (vii) Titles I through XI of the Agriculture and Food Act of 1981 (Public Law 97–98; 95 Stat. 1218) and the amendments made by those titles.
- (viii) Titles I through X of the Food and Agriculture Act of 1977 (Public Law 95–113; 91 Stat. 917) and the amendments made by those titles.

##### **(3) Waiver**

The Secretary may delay the date of the deobligation and reversion under paragraph (1) or (2) of any payment—

- (A) that is the subject of—
  - (i) ongoing administrative review or appeal;
  - (ii) litigation; or
  - (iii) the settlement of an estate; or

(B) for which the Secretary otherwise determines that the circumstances are such that the delay is equitable.

#### **(f) Report**

Not later than January 1, 2020, and each January 1 thereafter through January 1, 2023, 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 that describes the tilled native sod acreage that was subject to a reduction in benefits under section 7333(a)(4)(B) of this title and section 508(o)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(o)(2))—

(1) as of the date of submission of the report; and

(2) by State and county, relative to the total acres of cropland in the State or county.

(Pub. L. 113–79, title I, §1614, Feb. 7, 2014, 128 Stat. 711; Pub. L. 115–334, title I, §1706, Dec. 20, 2018, 132 Stat. 4527.)

#### **REFERENCES IN TEXT**

This chapter, referred to in subsecs. (b), (c), and (e), 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.

The amendments made by this title, referred to in subsec. (b), mean the amendments made by title I of Pub. L. 113–79, Feb. 7, 2014, 128 Stat. 658. For complete classification of title I to the Code, see Tables.

The Federal Crop Insurance Act, referred to in subsec. (b)(1)(D), (E), 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.

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.

The Agriculture Improvement Act of 2018, referred to in subsec. (c)(4), is Pub. L. 115–334, Dec. 20, 2018, 132 Stat. 4490. Title I of the Act enacted section 9071 of this title, amended this section and sections 608c, 1308, 1308–3a, 1359bb, 1359ll, 4504, 4553, 7272, 7333, 8737, 8772, 9011 to 9017, 9031, 9032, 9034 to 9039, 9051 to 9060, 9081, 9091, and 9092 of this title, repealed sections 9019 and 9071 of this title, and enacted provisions set out as notes under sections 608c, 1308, 1308–3a, 6932, 9051, 9052, and 9081 of this title and section 6101 of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title of 2018 Amendment note set out under section 9001 of this title and Tables.

Subtitles B and C, 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.

Subtitle B or C of the Agriculture Improvement Act of 2018, referred to in subsec. (d)(1), probably means subtitle B (§1201 et seq.) or C (§1301) of title I of Pub. L. 115–334, Dec. 20, 2018, 132 Stat. 4509, 4511. Subtitle B of title I amended sections 8737, 9031, 9032, and 9034 to 9039 of this title. 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.

The Food, Conservation, and Energy Act of 2008, referred to in subsec. (e)(2)(B)(ii), is Pub. L. 110–246, June 18, 2008, 122 Stat. 1651. Title I of the Act is classified principally to chapter 113 (§8701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

The Farm Security and Rural Investment Act of 2002, referred to in subsec. (e)(2)(B)(iii), is Pub. L. 107–171, May 13, 2002, 116 Stat. 134. Title I of the Act is classified principally to chapter 106 (§7901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7901 of this title and Tables.

The Agricultural Market Transition Act, referred to in subsec. (e)(2)(B)(iv), is title I of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 896, which is classified principally to chapter 100 (§7201 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 7201 of this title and Tables.

The Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (e)(2)(B)(v), is Pub. L. 101–624, Nov. 28, 1990, 104 Stat. 3359. Titles I through XI of the Act relate to various programs for particular crops and contain general commodity provisions. For complete classification of titles I through XI to the Code, see Tables.

The Food Security Act of 1985, referred to in subsec. (e)(2)(B)(vi), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354. Titles I through X of the Act relate to various programs for particular crops and contain general commodity provisions. For complete classification of titles I through X to the Code, see Tables.

The Agriculture and Food Act of 1981, referred to in subsec. (e)(2)(B)(vii), is Pub. L. 97–98, Dec. 22, 1981, 95 Stat. 1213. Titles I through XI of the Act relate to various programs for particular crops and contain miscellaneous commodity provisions. For complete classification of titles I through XI to the Code, see Tables.

The Food and Agriculture Act of 1977, referred to in subsec. (e)(2)(B)(viii), is Pub. L. 95–113, Sept. 29, 1977, 91 Stat. 913. Titles I through X of the Act relate to various programs for particular crops and contain miscellaneous provisions. For complete classification of titles I through X to the Code, see Tables.

#### AMENDMENTS

**2018**—Subsec. (a). Pub. L. 115–334, §1706(a), inserted ", and as adjusted pursuant to sections 9012 and 9013 of this title" before period at end.

Subsec. (b). Pub. L. 115–334, §1706(b), added subsec. (b) and struck out former subsec. (b) which directed the Secretary to implement various efficiency and streamlining measures.

Subsec. (c)(4). Pub. L. 115–334, §1706(c), added par. (4).

Subsec. (d)(1). Pub. L. 115–334, §1706(d), substituted "required under subtitle B or C, under the amendments made by subtitle B or C, or under the amendments made by subtitle B or C of the Agriculture Improvement Act of 2018," for "required under subtitles B or C of this title or under the amendments made by subtitles B or C,".

Subsec. (e). Pub. L. 115–334, §1706(e), added subsec. (e).

Subsec. (f). Pub. L. 115–334, §1706(f), added subsec. (f).

<sup>1</sup> See References in Text note below.

<sup>1</sup> So in original. Probably should be followed by "to".

<sup>2</sup> See References in Text note below.

<sup>3</sup> So in original. Probably should be "subtitle".