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commodity during the yield update period specified in paragraph (a) of this section, that update will become final.

(e) All PLC yield updates are subject to review and approval by FSA as specified in §1412.36. FSA's decision to issue payments based on the PLC yield updated by an owner is subject to verification and spot check by FSA at any time.

(f) Yield updates in this section will be permitted using the owner's certification of yield. The certification is subject to spot check or verification by FSA at any time. If selected for spot check or verification, the owner must submit evidence specified in §1412.35 to support the certified yield.

[83 FR 40658, Aug. 16, 2018, as amended at 84 FR 45890, Sept. 3, 2019]

§ 1412.34 PLC yield for additional oilseeds.

(a) The PLC yield for the farm for additional oilseeds designated by the Secretary will be determined by multiplying the weighted average yield per planted acre for the crop on the farm, as determined in paragraph (b) of this section, times the ratio resulting from:

(1) The national average yield for the crop, as determined by FSA, divided by

(2) The national average yield for the crop for the 1998 through 2001 crop years, as determined by FSA.

(b)(1) The yield per planted acre for such designated oilseed on the farm is calculated as follows:

(i) The sum of the production of the crop for the 1998 through 2001 crop years, as determined in paragraph (b)(2) of this section; divided by

(ii) The sum of the total planted acres of the crop for the 1998 through 2001 crop years.

(2) The production of the crop for each of the 1998 through 2001 crop years will be the higher of the following, except in a year in which the acreage planted to the crop was zero, in which case the production for the crop for such year will be zero:

(i) The total production for the applicable year based on the production evidence submitted in accordance with §1412.35; or

(ii) The amount equal to the product of:

(A) The total planted acres for the crop, times

(B) 75 percent of the harvested average county yield for that crop determined, where practicable, by calculating the weighted 4-year average of the National Agricultural Statistics Service (NASS) harvested acreage yields for the crop using the 1998 through 2001 crop years.

(3) The NASS harvested acreage yield to be used in paragraph (b)(2) of this section will be based on:

(i) NASS harvested irrigated yield for the crop, if available, for producers who irrigated the crop in the applicable years;

(ii) NASS harvested non-irrigated yield for the crop, if available, for producers who did not irrigate the crop in the applicable years; or

(iii) NASS harvested blended yield for all acreage, regardless of whether or not the acres were irrigated or non-irrigated, for all crops in all counties for which the yields in paragraphs (b)(3)(i) and (ii) of this section are unavailable.

(4) If NASS harvested acreage yield data is not available, the Deputy Administrator will assign a yield to be used in paragraph (b)(2)(ii)(B) of this section.

(c) The establishment of PLC yield for an additional oilseed in this section will be permitted using a producer certification of yield. The certification is subject to spot check or verification by FSA at any time. If selected for spot check or verification, the producer must submit evidence as specified in §1412.35 to support the certified yield.

[79 FR 57716, Sept. 26, 2014. Redesignated and amended at 83 FR 40658, Aug. 16, 2018]

§ 1412.35 Submitting production evidence.

(a) When required by FSA as specified in this part, documentary evidence supporting any certification of yield or production must be provided to the county committee of the county where the farm is administratively located.

(b) Documentary evidence acceptable to FSA includes, but is not limited to:

(1) Production approved by the county committee for some other FSA program purpose;

(2) Commercial receipts;

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- (3) Settlement sheets;
- (4) Warehouse ledger sheets;
- (5) Elevator receipts or load summaries, supported by other evidence showing disposition, such as sales documents;
- (6) Evidence from harvested or appraised acreage, approved for FCIC or multi-peril crop insurance; or
- (7) Other production evidence determined acceptable by the Deputy Administrator.

(c) Production evidence specified in paragraph (b) of this section must show:

- (1) The producer's name,
- (2) The commodity,
- (3) The buyer or name of storage facility,
- (4) The date of transaction or delivery, and
- (5) The quantity.

(d) FSA may verify the production evidence submitted with records on file at the warehouse, Risk Management Agency, or other entity that received or may have received the reported production.

[79 FR 57716, Sept. 26, 2014. Redesignated at 83 FR 40658, Aug. 16, 2018]

§ 1412.36 Incorrect or false production evidence.

(a) If a certification of production and yield or production evidence submitted in support of that certification is false or incorrect, as determined by the county committee, the county committee will determine whether the owner, operator, or producer submitting the certification or production evidence for a farm acted in good faith or took action to defeat the purpose of ARC or PLC.

(b) If the county committee determines the owner or producer who submitted the certification or production evidence referenced in paragraph (a) of this section acted in good faith and did not take action to defeat the purpose of ARC or PLC, the county committee will, as applicable:

- (1) Correct the PLC yield for the applicable covered commodity to equal the yield that would have been calculated as specified in §1412.32 based on accurate production evidence; and
- (2) Recalculate any payments based on the correct yield and require re-

funds of any payments that were issued as a result of the incorrect yield. Unearned payments must be refunded together with interest from the date of disbursement and are due from any producers who received payments that would not have issued absent the error or incorrect yield.

(c) If the county committee determines the owner, operator, or producer who submitted the false or incorrect evidence did not act in good faith or took any action to defeat or undermine the purpose of ARC or PLC, the county committee will require a full refund of any payments, with interest, that were issued to any persons based on that false or erroneous certification or production evidence and the yield update request is invalid.

[79 FR 57716, Sept. 26, 2014. Redesignated at 83 FR 40658, Aug. 16, 2018]

Subpart D—ARC and PLC Contract Terms and Enrollment Provisions for Covered Commodities

§ 1412.41 ARC or PLC program contract.

(a) The following provisions apply to ARC and PLC Program contracts:

(1) Eligible producers (as specified in §1412.42) of covered commodities with base acres may enroll in ARC and PLC contracts during the enrollment period announced by FSA.

(i) The 2019 contract period ends September 30, 2019. Accordingly, the enrollment for 2019 is the only program year a retroactive contract can be approved. (ii) Except as stated in this section, enrollment is not allowed after September 30 of the fiscal year in which the ARC or PLC payments are requested. FSA will not process offers of enrollment for a contract period after the contract period has ended. This is not a compliance provision but a rule of general applicability and will apply to every offer to contract in each contract year.

(iii) If a 2019 farm did not have a valid election made by producers in accordance with subpart G of this part, no producer on that farm is eligible for any 2019 ARC or PLC payment for that farm. This is not an adverse decision