

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 re-

spect 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.)

Editorial Notes

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.

CODIFICATION

Provisions of law applicable to a covered commodity for the 2023 crop year pursuant to title I of Pub. L. 113-79 applicable to the 2024 crop year for that covered commodity, see section 102(c)(1) of Pub. L. 118-22, set out in an Extension of Agricultural Programs note under section 9001 of this title.

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 cov-