

EFFECTIVE DATE OF 2023 AMENDMENT

Amendment by Pub. L. 118-22 to be applied and administered as if enacted on Sept. 30, 2023, see section 102(g) of Pub. L. 118-22, set out in an Extension of Agricultural Programs note under section 9001 of this title.

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 cov-

ered 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.)

Editorial Notes

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.

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. (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)(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)(B), (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 non-agricultural commercial, industrial, or residential use, as determined by the Secretary.

(2) Compliance

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

(3) Modification

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

(b) Transfer or change of interest in farm

(1) Termination

(A) In general

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

(B) Effective date

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

(2) Exception

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

(c) Acreage reports

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

(d) Production reports

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

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

(2) for which individual coverage has been selected.

(e) Effect of inaccurate reports

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

(f) Tenants and sharecroppers

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

(g) Sharing of payments

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

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