

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.)

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