

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 accord-

ing 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 in-

curred 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)(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)(A), (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