



DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 460

[Docket ID FCIC-25-0002]

RIN 0563-AC88

Additional Payment II Program

AGENCY: Federal Crop Insurance Corporation, U.S. Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: The Risk Management Agency (RMA), on behalf of the Federal Crop Insurance Corporation (FCIC), is issuing this rule to announce the availability of funding under the Additional Payment II Program (ADD PAY II). ADD PAY II is a one-time additional payment to Approved Insurance Providers (AIPs) administering eligible crop insurance contracts for 2022 and 2023 reinsurance year specialty crops. The total funding available for ADD PAY II is \$30 million. Funding for ADD PAY II will be distributed to AIPs proportionally based on their respective liabilities for eligible crop insurance contracts for 2022 and 2023 reinsurance year specialty crops.

DATES: This rule is effective on [insert date of publication in the *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: David Zanoni; telephone: (816) 926-6142; email: david.zanoni@usda.gov. Individuals with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720-2600 (voice and text telephone (TTY mode)) or dial 711 for Telecommunications Relay Service (both voice and text telephone users can initiate this call from any telephone).

SUPPLEMENTARY INFORMATION:

Background

FCIC serves America's agricultural producers through effective, market-based risk management tools to strengthen the economic stability of agricultural producers and rural communities. FCIC is committed to increasing the availability and effectiveness of Federal crop insurance as a risk management tool. AIPs sell and service Federal crop insurance policies in every state through a public-private partnership. FCIC reinsures the AIPs who share the risks associated with catastrophic losses due to major weather events. FCIC's vision is to secure the future of agriculture by providing world class risk management tools to rural America.

Title I of the Disaster Relief Supplemental Appropriations Act, 2025 (Division B of the American Relief Act, 2025, (Pub. L. 118-158)) provides funding for an additional payment to AIPs administering eligible crop insurance contracts for specialty crops for the 2022 and 2023 reinsurance years. To administer the funding as mandated by Congress, FCIC is establishing ADD PAY II, similar to the previous Additional Payment Program (ADD PAY). The total funding available for ADD PAY II is \$30 million.

The original implementation of ADD PAY was through a Notice of Funding Availability published on May 2, 2023. Section 771 of the Consolidated Appropriations Act, 2023, (Pub. L. 117-328) provided funding for an additional payment to AIPs administering eligible crop insurance contracts for specialty crops for the 2021 reinsurance year. Funding for ADD PAY was distributed to AIPs proportionally based on their respective liabilities for eligible crop insurance contracts for 2021 reinsurance year specialty crops.

ADD PAY II

The Risk Management Agency (RMA), on behalf of FCIC, will administer ADD PAY II. ADD PAY II will distribute funding to AIPs proportionally based on their

respective liabilities for eligible crop insurance contracts for 2022 and 2023 reinsurance year specialty crops. The total funding available for ADD PAY II is \$30 million.

Currently, all payments to AIPs are governed by the Standard Reinsurance Agreement (SRA), which is a contract between an AIP and FCIC. The SRA outlines the terms under which FCIC provides reinsurance and subsidies for eligible crop insurance contracts sold by the AIP. The additional funding from ADD PAY II will be allocated based on terms available under the SRA.

Under ADD PAY II, AIPs who administered one or more eligible crop insurance contracts for specialty crops for the 2022 or 2023 reinsurance years will be eligible for a one-time additional payment. Each AIP will receive a payment that is equal to a rate of 17.5 percent of the net book premium, less any administrative and operating (A&O) subsidy¹ already paid to the AIP as outlined in the SRA, on those specialty crop contracts that were subject to the A&O cap². Contracts that were not subject to the reduction will not receive a payment.

Payment Calculation

ADD PAY II will be administered based on records maintained by RMA that were used for the settlement of accounts between the AIP and RMA at the time of the October 2024 transaction cutoff date based on the 2022 and 2023 reinsurance year annual settlements. The payment will be final upon receipt by the AIP and will not be altered based on any subsequent updates to premium or liability of qualifying crop insurance contracts made after that date. For example, if an AIP modifies a 2023 reinsurance year

¹ “A&O subsidy” means the subsidy for the administrative and operating expenses (A&O) paid by FCIC on behalf of the policyholder to the AIP (also referred to as “the Company”) for eligible crop insurance contracts.

² “A&O cap” refers to the common name of a reduction described in section III(a)(2)(G) of the SRA.

policy to decrease the amount of premium and liability after the ADD PAY II payment has been received, it will not affect any ADD PAY II payments.

If the total eligible payments under ADD PAY II reach, or may reach, \$30 million, the RMA Administrator will prorate the payments so that a total of \$30 million is paid. If the payments are prorated, funding for ADD PAY II will be distributed to AIPs proportionally based on their respective liability, which is the total value of insurance provided by AIPs to producers, for qualifying crop insurance contracts.

Notice and Comment and Effective Date

The Administrative Procedure Act (APA, 5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves specified actions, including matters relating to contracts. This rule governs contracts (the reinsurance agreements) between FCIC and AIPs and therefore falls within that exemption.

This rule is exempt from the regulatory analysis requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) because it involves matters relating to benefits. The requirements for the regulatory flexibility analysis in 5 U.S.C. 603 and 604 are specifically tied to the requirement for a proposed rule by section 553 or any other law; in addition, the definition of rule in 5 U.S.C. 601 is tied to the publication of a proposed rule.

The Office of Management and Budget (OMB) found this rule meets the criteria in 5 U.S.C. 804(2) of the Congressional Review Act (CRA). The CRA, at 5 U.S.C. 808(2) allows an agency to make such regulations effective immediately if the agency finds there is good cause to do so. USDA finds that notice and public procedure are contrary to the public interest because the rule is being implemented as directed by Congress. Therefore, USDA is not required to delay the effective date for 60 days from

the date of publication to allow for Congressional review. Accordingly, this rule is effective upon publication in the Federal Register.

Executive Orders 12866, 13563, and 14192

Executive Order 12866, “Regulatory Planning and Review,” and Executive Order 13563, “Improving Regulation and Regulatory Review,” direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 14192 “Unleashing Prosperity Through Deregulation” announced the Administration policy to significantly reduce the private expenditures required to comply with Federal regulations to secure America’s economic prosperity and national security and the highest possible quality of life for each citizen and to alleviate unnecessary regulatory burdens placed on the American people. In line with the Executive Order requirements, the Agency chose this regulatory approach to maximize benefits and minimize burden on American producers. The requirements in Executive Orders 12866 and 13563 for the analysis of costs and benefits apply to rules that are determined to be significant or economically significant. This rule has been designated as not significant and therefore, OMB has not reviewed this rule and analysis of the costs and benefits is not required.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321-4347), and because USDA will be making the payments to producers, the USDA regulation for compliance with NEPA (7 CFR part 1b). As specified in 7 CFR

1b.4(b)(4), FCIC is categorically excluded from the preparation of an Environmental Analysis or Environmental Impact Statement unless the FCIC Manager (agency head) determines that an action may have a significant environmental effect. The FCIC Manager has determined this rule will not have a significant environmental effect. Therefore, FCIC will not prepare an environmental assessment or environmental impact statement for this action and this rule serves as documentation of the programmatic environmental compliance decision.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

USDA has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our knowledge, have Tribal implications that require Tribal consultation at this time. If a Tribe requests consultation, the USDA Risk Management Agency will work with the Office of Tribal Relations to ensure meaningful consultation is provided.

The Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104-4) requires Federal agencies to assess the effects of their regulatory actions of State, local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including cost benefits analysis, for proposed and final rules with Federal

mandates that may result in expenditures of \$100 million or more in any 1 year for State, local or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act of 1995

In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, subchapter I), the rule does not change the information collection approved by OMB under control numbers 0563-0053; Expiration Date: 3/31/2026 and 0563-0083; Expiration Date: 11/30/2026. No new information will be collected through this rule. All information has already been collected.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Program

The title and number of the Assistance Listing, to which this rule applies is No. 10.450 – Crop Insurance.

List of Subjects in 7 CFR Part 460

Crop insurance, Disaster assistance.

For the reasons discussed above, FCIC amends 7 CFR part 460 as follows:

PART 460—DISASTER AND OTHER ADDITIONAL PAYMENTS

1. The authority citation for part 460 is revised to read as follows:

Authority: 7 U.S.C. 1506(i), 1506(l), and 1506(o); Division N, Pub. L. 116-260, 134 Stat. 1182; and Title I, Division B, Pub. L. 118-158, 138 Stat. 1722.

2. Revise the heading for part 460 to read as set forth above.

3. Add subpart C, consisting of §§ 460.14 through 460.18, to read as follows:

Subpart C – Additional Payment II Program

Sec.

460.14 Applicability.

460.15 Definitions.

460.16 Eligibility.

460.17 Funding available for ADD PAY II.

460.18 Calculating and accounting ADD PAY II amounts.

§ 460.14 Applicability.

(a) This subpart specifies the terms and conditions of ADD PAY II.

(b) ADD PAY II is a one-time additional payment to Approved Insurance Providers (AIPs) administering eligible crop insurance contracts for 2022 and 2023 reinsurance year specialty crops.

§ 460.15 Definitions.

ADD PAY II means Additional Payment II Program.

Annual settlement means the settlement of accounts between the Company and FCIC for the reinsurance year, beginning with the October monthly transaction cutoff date following the end of the subsequent reinsurance year and continuing monthly thereafter, as necessary.

A&O Subsidy means the subsidy for the administrative and operating expenses. The subsidy is paid by FCIC on behalf of the policyholder to the Company for additional coverage level crop insurance contracts in accordance with section 508(k)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)(4)).

Approved Insurance Provider (AIP) means a legal entity (also referred to as “the Company”) which has entered into a Standard Reinsurance Agreement (SRA) with FCIC for the applicable reinsurance year.

Crop Provisions means the part of the policy that contains the specific provisions of insurance for each insured crop.

Eligible crop insurance contract means an insurance contract with an eligible producer:

- (1) Covering an agricultural commodity authorized to be insured under the Federal Crop Insurance Act and approved for sale by FCIC;
- (2) With terms and conditions in effect as of the applicable contract change date;
- (3) That is sold and serviced in accordance with the Federal Crop Insurance Act, FCIC regulations, FCIC procedures, and the SRA; and
- (4) That has a sales closing date within the reinsurance year.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA that administers the Federal Crop Insurance Program.

Liability means total amount of insurance, value of production guarantee, or revenue protection guarantee for the unit determined in accordance with the Settlement of Claim provisions of the applicable Crop Provisions.

Net book premium means the premium amount established by FCIC for eligible crop insurance contracts in accordance with section 508(d)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(d)(2)), less any amount for A&O subsidy.

Qualifying crop insurance contract means an eligible crop insurance contract for a 2022 or 2023 reinsurance year specialty crop.

Reinsurance year means the term of the SRA beginning July 1 and ending on June 30 of the following year and, for reference purposes, identified by the year containing June.

RMA means the Risk Management Agency, USDA.

Specialty crop means agricultural commodities described in section 101 of Title I of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note), including fruits and vegetables, tree nuts, dried fruits, horticulture nursery crops, and other crops listed on the RMA specialty crops website at <https://www.rma.usda.gov/about-crop-insurance/highlighted-initiatives-plans/specialty-crops>, or a successor website.

Standard Reinsurance Agreement (SRA) means the agreement between an AIP and FCIC by which the insurer transfers to FCIC certain liabilities arising from the insurer's sales of insurance policies in return for a portion of premium monies and administrative expense reimbursements.

USDA means United States Department of Agriculture.

§ 460.16 Eligibility.

To be eligible for additional payment under ADD PAY II, the participant must be an AIP who administered one or more eligible crop insurance contracts for specialty crops for the 2022 or 2023 reinsurance years.

§ 460.17 Funding available for ADD PAY II.

(a) The total funding available for ADD PAY II is \$30 million.

(b) Funds from Title I of Division B of the American Relief Act, 2025 (Pub. L. 118-158) will be used for ADD PAY II.

§ 460.18 Calculating and accounting ADD PAY II amounts.

(a) Under ADD PAY II, AIPs who administered one or more eligible crop insurance contracts for specialty crops for the 2022 or 2023 reinsurance years will be eligible for a one-time additional payment. Each AIP will receive a payment that is equal

to a rate of 17.5 percent of the net book premium on those specialty crop contracts that were subject to the reduction described in section III(a)(2)(G) of the SRA known as the A&O cap, less any A&O subsidy already paid to the AIP per the SRA. Contracts that were not subject to the reduction will not receive a payment.

(b) If the total additional payment sum of \$30 million for ADD PAY II is reached or may be reached, the RMA Administrator will prorate ADD PAY II amounts due so that a total of \$30 million is paid. If the payments are prorated, funding for ADD PAY II will be distributed to AIPs proportionally based on their respective liability for qualifying crop insurance contracts.

(c) ADD PAY II will be administered based on records maintained by RMA that were used for the settlement of accounts between the AIP and RMA at the time of the October 2024 transaction cutoff date based on the 2022 and 2023 reinsurance year annual settlements. The payment will be final upon receipt and will not be altered based on any subsequent updates to premium or liability of qualifying crop insurance contracts made after that date.

(d) Specifically, RMA will calculate the additional payment amounts under ADD PAY II as follows:

(1) For each qualifying crop insurance contract subject to a reduction described in section III(a)(2)(G) of the SRA, calculate 17.5 percent of net book premium;

(2) If the result of paragraph (d)(1) of this section is greater than the actual A&O subsidy paid for the qualifying crop insurance contract:

(i) Subtract the actual A&O subsidy paid from the result of paragraph (d)(1) of this section; and

(ii) Calculate total liability for the contract;

(3) Sum the results of paragraph (d)(2)(i) of this section by AIP;

(4) Sum the results of paragraph (d)(3) of this section across all AIPs;

(5) If the result of paragraph (d)(4) of this section is less than or equal to \$30 million, then pay each AIP their respective amount from paragraph (d)(3) of this section; and

(6) If the result of paragraph (d)(4) of this section is greater than \$30 million, then:

(i) Sum the results of paragraph (d)(2)(ii) of this section by AIP;

(ii) Sum the results of paragraph (d)(6)(i) of this section across all AIPs;

(iii) Divide paragraph (d)(6)(i) of this section by paragraph (d)(6)(ii) of this section to establish each AIP's proportion of total liability;

(iv) Multiply \$30 million by the result of paragraph (d)(6)(iii) of this section for each AIP; and

(v) Pay each AIP their respective amount from paragraph (d)(6)(iv) of this section.

Patricia Swanson,
Manager,
Federal Crop Insurance Corporation.

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