

scribe, all or any part of the acreage set aside or diverted from the production of a commodity for any crop year under this subchapter to be devoted to the production of any commodity (other than the commodities for which acreage is being set aside or diverted) for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income.

(b)(1) During any year in which there is no set-aside or diversion of acreage under this subchapter, the Secretary may formulate and administer a program for the production, subject to such terms and conditions as the Secretary may prescribe, of commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel, if the Secretary determines that such production is desirable in order to provide an adequate supply of commodities for such purpose, is not likely to increase the cost of the price support programs, and will not adversely affect farm income. Under the program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to the production of commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuel.

(2) The payments under this subsection shall be at such rate or rates as the Secretary determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of the agricultural commodities for conversion into industrial hydrocarbons and blending with gasoline or other fossil fuels for use as motor or industrial fuels.

(3) The Secretary may issue such regulations as the Secretary deems necessary to carry out the provisions of this subsection.

(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(5) The provisions of this subsection shall become effective October 1, 1978.

(Oct. 31, 1949, ch. 792, title I, §112, as added Pub. L. 95-279, title II, §201, May 15, 1978, 92 Stat. 241.)

REFERENCES IN TEXT

This Act, referred to in provision preceding subsec. (a), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§1421 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

INAPPLICABILITY OF SECTION

Section inapplicable to 2002 through 2007 crops of covered commodities, peanuts, and sugar and inapplicable to milk during period beginning May 13, 2002, through Dec. 31, 2007, see section 7992(b)(6) of this title.

Section inapplicable to 1996 through 2002 crops of loan commodities, peanuts, and sugar and inapplicable to milk during period beginning Apr. 4, 1996, and ending Dec. 31, 2002, see section 7301(b)(1)(F) of this title.

§ 1445h. Repealed. Pub. L. 104-127, title I, § 171(b)(2)(F), Apr. 4, 1996, 110 Stat. 938

Section, act Oct. 31, 1949, ch. 792, title I, §113, as added Dec. 3, 1980, Pub. L. 96-494, title II, §207, 94 Stat. 2572; amended Dec. 22, 1981, Pub. L. 97-98, title XI, §1105, 95 Stat. 1264; Dec. 23, 1985, Pub. L. 99-198, title X, §1011, 99 Stat. 1454; Nov. 28, 1990, Pub. L. 101-624, title XI, §1125, 104 Stat. 3506, authorized Secretary to announce and provide for supplemental set-aside and acreage limitation program.

§ 1445i. Multiyear set-aside contracts for 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice

Notwithstanding any other provision of law:

(1) The Secretary of Agriculture may enter into multiyear set-aside contracts for a period not to extend beyond the 1990 crops. Such contracts may be entered into only as a part of the programs in effect for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, and only producers participating in one or more of such programs shall be eligible to contract with the Secretary under this section. Producers agreeing to a multiyear set-aside agreement shall be required to devote the set-aside acreage to vegetative cover capable of maintaining itself through such period to provide soil protection, water quality enhancement, wildlife production, and natural beauty. Grazing of livestock under this section shall be prohibited, except in areas of a major disaster, as determined by the President, if the Secretary finds there is a need for such grazing as a result of such disaster. Producers entering into agreements under this section shall also agree to comply with all applicable State and local laws and regulations governing noxious weed control.

(2) The Secretary shall provide cost-sharing incentives to farm operators for the establishment of vegetative cover, whenever a multiyear set-aside contract is entered into under this section.

(3) The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

(4) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(Pub. L. 99-198, title X, §1010, Dec. 23, 1985, 99 Stat. 1454.)

CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Act of 1949 which is classified principally to this chapter. For complete classification of the 1949 Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

§ 1445j. Deficiency and land diversion payments

(a) Deficiency payments

(1) In general

If the Secretary establishes an acreage limitation program for any of the 1991 through 1997 crops of wheat, feed grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for the commodity for the crop, the Secretary shall

make advance deficiency payments available to producers for each of the crops.

(2) Terms and conditions

Advance deficiency payments under paragraph (1) shall be made to the producer under the following terms and conditions:

(A) Form

Such payments may be made available in the form of—

- (i) cash;
- (ii) commodities owned by the Commodity Credit Corporation and certificates redeemable in a commodity owned by the Commodity Credit Corporation, except that not more than 50 percent of the payments may be made in commodities or the certificates in the case of any producer; or
- (iii) any combination of clauses (i) and (ii).

(B) Commodities and certificates

If payments are made available to producers as provided for under subparagraph (A)(ii), such producers may elect to receive such payments either in the form of—

- (i) such commodities; or
- (ii) such certificates.

(C) Maturity

Such a certificate shall be redeemable for a period not to exceed 3 years from the date the certificate is issued.

(D) Storage

The Commodity Credit Corporation shall pay the cost of storing a commodity that may be received under such a certificate until such time as the certificate is redeemed.

(E) Timing

The payments shall be made available as soon as practicable after the producer enters into a contract with the Secretary to participate in such program.

(F) Amounts

The payments shall be made available in such amounts as the Secretary determines appropriate to encourage adequate participation in the program, except that the amount may not exceed an amount determined by multiplying—

- (i) the estimated payment acreage for the crop; by
- (ii) the farm program payment yield for the crop; by
- (iii)(I) in the case of wheat and feed grains, not less than 40 percent, nor more than 50 percent, of the projected payment rate; and
- (II) in the case of rice and upland cotton, not less than 30 percent, nor more than 50 percent, of the projected payment rate,

as determined by the Secretary.

(G) Repayment

If the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under this Act, is less than the amount paid to the producer as an ad-

vance deficiency payment for the crop under this subsection, the producer shall repay an amount equal to the difference between the amount advanced and the amount finally determined by the Secretary to be payable to the producer as a deficiency payment for the crop concerned.

(H) Repayment requirement

If the Secretary determines under this Act that deficiency payments will not be made available to producers on a crop with respect to which advance deficiency payments already have been made under this subsection, the producers who received the advance payments shall repay the payments.

(I) Deadline

Any repayment required under subparagraph (G) or (H) shall be due at the end of the marketing year for the crop with respect to which the payments were made.

(J) Noncompliance

If a producer fails to comply with requirements established under the acreage limitation program involved after obtaining an advance deficiency payment under this subsection, the producer shall repay immediately the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe by regulation.

(3) Regulations

The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

(4) Commodity Credit Corporation

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(5) Additional authority

The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

(b), (c) Repealed. Pub. L. 104-127, title I, § 171(b)(2)(G), Apr. 4, 1996, 110 Stat. 938

(Oct. 31, 1949, ch. 792, title I, § 114, formerly § 107C, as added Pub. L. 97-253, title I, § 120, Sept. 8, 1982, 96 Stat. 766; amended Pub. L. 99-198, title X, § 1002, Dec. 23, 1985, 99 Stat. 1446; Pub. L. 100-203, title I, § 1110, Dec. 22, 1987, 101 Stat. 1330-6; Pub. L. 101-239, title I, § 1003(b)(1), Dec. 19, 1989, 103 Stat. 2108; Pub. L. 101-508, title I, § 1102(d), Nov. 5, 1990, 104 Stat. 1388-2; renumbered § 114 and amended Pub. L. 101-624, title XI, §§ 1121(a), (c), 1161(a)(1), Nov. 28, 1990, 104 Stat. 3500, 3503, 3520; Pub. L. 102-237, title I, § 109, Dec. 13, 1991, 105 Stat. 1828; Pub. L. 103-66, title I, § 1101(b)(1), Aug. 10, 1993, 107 Stat. 314; Pub. L. 104-127, title I, § 171(b)(2)(G), Apr. 4, 1996, 110 Stat. 938.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), (2)(G), (H), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, known as the Agricultural Act of 1949, which is classified principally to this chapter (§ 1421 et seq.). For complete classification of this Act to the Code, see Short

Title note set out under section 1421 of this title and Tables.

CODIFICATION

Section was classified to section 1445b-2 of this title prior to its renumbering by Pub. L. 101-624.

AMENDMENTS

1996—Subsecs. (b), (c). Pub. L. 104-127 struck out subsecs. (b) and (c) which, in subsec. (b), related to land diversion payments to assist in adjusting total national acreage of any of 1991 through 1995 crops of wheat, feed grains, upland cotton, or rice to desirable levels, and, in subsec. (c), related to timing of deficiency payments made available to producers for any of 1991 through 1997 crops of wheat and feed grains.

1993—Subsecs. (a)(1), (c). Pub. L. 103-66 substituted “1997” for “1995”.

1991—Subsec. (c). Pub. L. 102-237, §109(1), substituted “section” for “sections” in introductory provisions.

Subsec. (c)(2). Pub. L. 102-237, §109(3), added par. (2) and struck out former par. (2) which read as follows: “Seventy-five percent of the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year.”

Subsec. (c)(3), (4). Pub. L. 102-237, §109(2), (3), added par. (3) and redesignated former par. (3) as (4).

1990—Pub. L. 101-624, §1121(a), amended section generally, substituting provisions relating to deficiency and land diversion payments for the 1991 through 1995 crops of wheat, feed grains, upland cotton, and rice for provisions relating to advance deficiency and diversion payments for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice.

Pub. L. 101-624, §1121(c), amended Pub. L. 99-198. See 1985 Amendment note below.

Subsec. (c). Pub. L. 101-508 substituted “wheat and feed grains which payments are calculated as provided in sections 1445b-3a(c)(1)(B)(ii), 1445b-3a(p), or 1444f(c)(1)(B)(ii) of this title” for “wheat, feed grains, and rice which payments are calculated on the basis of the national weighted average market price (or, in the case of rice, the national average market price) for the marketing year for the crop”.

1989—Subsec. (a)(2)(G). Pub. L. 101-239 temporarily inserted “(taking into consideration any reduction in the payment made under section 1433d of this title)” and substituted “amount finally” for “amount finally”.

See Effective and Termination Dates of 1989 Amendment note below.

1987—Subsec. (a)(1). Pub. L. 100-203, §1110(1), temporarily added par. (1) and struck out former par. (1) which read as follows: “If the Secretary establishes an acreage limitation or set-aside program for any of the 1986 through 1990 crops of wheat, feed grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary—

“(A) shall make advance deficiency payments available to producers [sic] who agree to participate in such program for the 1986 crop; and

“(B) may make such payments available to such producers for each of the 1987 through 1990 crops.”

See Effective and Termination Dates of 1987 Amendment note below.

Subsec. (a)(2)(F)(iii). Pub. L. 100-203, §1110(2), temporarily added cl. (iii) and struck out former cl. (iii) which read as follows: “50 percent of the projected payment rate.”. See Effective and Termination Dates of 1987 Amendment note below.

1985—Pub. L. 99-198, as amended by Pub. L. 101-624, §1121(c), amended section generally, substituting provisions relating to advance deficiency and diversion payments for the 1986 through 1990 crops of wheat, feed grains, upland cotton and rice for provisions relating to advance deficiency payments for the 1982 through 1985 crops of wheat, feed grains, upland cotton and rice.

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101-624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as a note under section 1421 of this title.

Amendment by Pub. L. 101-508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101-508, set out as an Effective Date note under section 940d of this title.

EFFECTIVE AND TERMINATION DATES OF 1989 AMENDMENT

Section 1003(b)(1) of Pub. L. 101-239 provided that the amendment made by that section is effective only for 1990 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1987 AMENDMENT

Section 1110 of Pub. L. 100-203 provided that the amendment made by that section is effective only for 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice.

EFFECTIVE AND TERMINATION DATES OF 1985 AMENDMENT

That portion of section 1002 of Pub. L. 99-198 which provided that the amendment made by that section was effective only for 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, was struck out by section 1121(c) of Pub. L. 101-624.

EFFECTIVE AND TERMINATION DATES

Section 120 of Pub. L. 97-253 provided that this section is effective only for 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice.

CALCULATION OF REFUNDS OF ADVANCE ESTABLISHED PRICE PAYMENTS BY PRODUCERS OF 1988 OR 1989 CROPS OF FEED BARLEY

Section 405 of Pub. L. 101-624 provided that:

“(a) MANDATORY CALCULATION OF REFUND.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Nov. 28, 1990], the Secretary of Agriculture shall calculate, for informational purposes only (except as provided in the discretionary authority under subsection (b)), the amount of the refund of any advance deficiency payment a producer of barley who participated in the 1988 or 1989 Federal barley price support program would be required to make pursuant to section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2) (as it existed immediately before the date of enactment of this Act) based on a formula which excludes malting barley from the market price calculations of barley used to determine the amount of refund of the advance deficiency payment required of the producer.

“(2) DISCLOSURE.—

“(A) TO THE PUBLIC.—The Secretary shall publish in the Federal Register—

“(i) the formula used to perform the calculations described in paragraph (1);

“(ii) the aggregate results that the use of the calculation would have pursuant to subsection (b), in terms of—

“(I) the total reduction in the amount of refunds;

“(II) the number of producers affected; and

“(III) any other information the Secretary determines appropriate;

“(iii) a declaration of the Secretary’s decision whether to use the calculation to recalculate barley producer’s refunds pursuant to subsection (b); and

“(iv) a statement of the Secretary’s reasons for the decision described in clause (iii).

“(B) TO PRODUCERS.—The Secretary shall make available to each producer of 1988 or 1989 crop barley, on request, a statement detailing the effect of

the calculation of refunds described in paragraph (1) on the producer's 1988 or 1989 refund.

“(b) DISCRETIONARY USE OF CALCULATION.—

“(1) IN GENERAL.—The Secretary may use the calculation described in subsection (a) to determine whether or not to reduce the total refund owed by a producer of 1988 or 1989 crop barley under section 107C of the Agricultural Act of 1949 [7 U.S.C. 1445b-2] (as it existed immediately before the date of enactment of this Act [Nov. 28, 1990]).

“(2) PROCEDURE FOR USE OF CALCULATION.—If the Secretary decides to use the calculation described in subsection (a) as provided under paragraph (1), in the case of a producer of 1988 or 1989 crop barley who paid the refund of the advance deficiency payment for the crop calculated prior to the date of enactment of this Act (or any amount of refund in excess of the amount of the refund determined in accordance with paragraph (1)), the Secretary—

“(i) shall, before May 31, 1991, reimburse the producer the amount of refund paid by the producer in excess of the refund determined in accordance with this section;

“(ii) shall have the option to make the reimbursement in a lump sum or in installments;

“(iii) shall, not later than 90 days after the date of enactment of this Act, notify producers who are eligible to receive the reimbursement of their 1988 or 1989 advance deficiency payment refund under this section—

“(I) of the timing of the payment of the reimbursement (either in lump sum or in installments);

“(II) that the amount of the reimbursement shall not bear interest if paid before February 15, 1991; and

“(III) that the amount of the reimbursement paid after February 15, 1991, shall bear interest at a rate of at least 7 percent per annum; and

“(iv) may elect to pay the reimbursement in a lump sum with generic certificates redeemable for commodities owned by the Commodity Credit Corporation if the reimbursement is paid in full not later than 60 days after the date of enactment of this Act.”

REPAYMENT REQUIREMENTS

Section 1121(b) of Pub. L. 101-624 provided that:

“(1) IN GENERAL.—Notwithstanding any other provision of law, effective only for producers who are suffering financial hardship, as determined by the Secretary, on a farm who received an advance deficiency payment for the 1988 or 1989 crop of a commodity and are otherwise described in paragraph (2), the Secretary of Agriculture—

“(A) shall not charge an annual interest rate for any delinquent refund for the advance deficiency payment in excess of prevailing rates for operating loans made by Farm Credit System institutions;

“(B) shall not withhold, in each of the 3 succeeding crop years, more than 1/3 of the farm program payments otherwise due to the producers, as a result of any delinquency in providing the refund; and

“(C) shall permit the producers to make the refund in three equal installments during each of the crop years 1990, 1991, and 1992, if the producers enter into an agreement to obtain multiperil crop insurance for each of the crop years, to the extent that the Secretary determines is similar to section 107 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 et seq.) [§107 of Pub. L. 101-82, 7 U.S.C. 1421 note].

“(2) APPLICATION.—This subparagraph shall apply if—

“(A) the producers received an advance deficiency payment for the 1988 or 1989 crop of a commodity under section 107C(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b-2(a));

“(B) the producers are required to provide a refund of at least \$1,500 under subparagraph (G) or (H) of section 107C(a)(2) of such Act with respect to the advance deficiency payments;

“(C) the producers reside in a county, or in a county that is contiguous to a county, where the Secretary of Agriculture has found that farming, ranching, or aquaculture operations have been substantially affected as evidenced by a reduction in normal production for the county of at least 30 percent during two of the three crop years 1988, 1989, and 1990 by a natural disaster or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

“(D) the total quantity of the 1988 or 1989 crop of the commodity that the producers were able to harvest is less than the result of multiplying 65 percent of the farm payment yield established by the Secretary for the crop by the sum of the acreage planted for the harvest and the acreage prevented from being planted (because of the disaster or emergency referred to in subparagraph (C)) for the crop.”

ADVANCE DEFICIENCY PAYMENTS

Pub. L. 99-509, title I, §1021, Oct. 21, 1986, 100 Stat. 1877, required Secretary of Agriculture to make advance deficiency payments available for 1987 crops of wheat, feed grains, upland cotton, and rice, and provided that percentage of projected payment rate used in computing such payments shall not be less than (1) 40 percent in the case of wheat and feed grains, and (2) 30 percent in the case of rice and upland cotton.

§ 1445k. Payments in commodities

(a) In-kind payments by Secretary

In making in-kind payments under any of the annual programs for wheat, feed grains, upland cotton, or rice (other than negotiable marketing certificates for upland cotton or rice), the Secretary may—

(1) acquire and use like commodities that have been pledged to the Commodity Credit Corporation as security for price support loans, including loans made to producers under section 1445e of this title; and

(2) use other like commodities owned by the Commodity Credit Corporation.

(b) Methods of payments

The Secretary may make in-kind payments—

(1) by delivery of the commodity to the producer at a warehouse or other similar facility, as determined by the Secretary;

(2) by the transfer of negotiable warehouse receipts;

(3) by the issuance of negotiable certificates which the Commodity Credit Corporation shall redeem for a commodity in accordance with regulations prescribed by the Secretary; or

(4) by such other methods as the Secretary determines appropriate to enable the producer to receive payments in an efficient, equitable, and expeditious manner so as to ensure that the producer receives the same total return as if the payments had been made in cash.

(c) Commodity certificates

The Secretary shall pay interest on the cash redemption of a commodity certificate issued by the Secretary to a producer who holds the certificate for at least 150 days. This subsection shall not apply with respect to commodity certificates issued in connection with the export enhancement program or the marketing promotion program established under the Agricultural Trade Act of 1978.