

(B) 93.5 percent of the average of the yield per planted acre for the crop of the covered commodity on the farm for the 1998 through 2001 crop years, as determined by the Secretary, excluding any crop year in which the acreage planted to the crop of the covered commodity was zero.

**(4) Use of partial county average yield**

If the yield per planted acre for a crop of the covered commodity for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that commodity, 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 yield under paragraph (3).

**(5) Application of election and method to all covered commodities**

The owner of a farm may not elect the method described in paragraph (3)(A) for 1 covered commodity on the farm and the method described in paragraph (3)(B) for other covered commodities on the farm.

(Pub. L. 107-171, title I, §1102, May 13, 2002, 116 Stat. 147.)

REFERENCES IN TEXT

Section 1465 of this title, referred to in subsec. (b), was omitted from the Code.

**§ 7913. Availability of direct payments**

**(a) Payment required**

For each of the 2002 through 2007 crop years of each covered commodity, the Secretary shall make direct payments to producers on farms for which payment yields and base acres are established.

**(b) Payment rate**

The payment rates used to make direct payments with respect to covered commodities for a crop year are as follows:

- (1) Wheat, \$0.52 per bushel.
- (2) Corn, \$0.28 per bushel.
- (3) Grain sorghum, \$0.35 per bushel.
- (4) Barley, \$0.24 per bushel.
- (5) Oats, \$0.024 per bushel.
- (6) Upland cotton, \$0.0667 per pound.
- (7) Rice, \$2.35 per hundredweight.
- (8) Soybeans, \$0.44 per bushel.
- (9) Other oilseeds, \$0.0080 per pound.

**(c) Payment amount**

The amount of the direct payment to be paid to the producers on a farm for a covered commodity for a crop year shall be equal to the product of the following:

- (1) The payment rate specified in subsection (b) of this section.
- (2) The payment acres of the covered commodity on the farm.
- (3) The payment yield for the covered commodity for the farm.

**(d) Time for payment**

**(1) In general**

The Secretary shall make direct payments—  
(A) in the case of the 2002 crop year, as soon as practicable after May 13, 2002; and

(B) in the case of each of the 2003 through 2007 crop years, not before October 1 of the calendar year in which the crop of the covered commodity is harvested.

**(2) Advance payments**

At the option of the producers on a farm, up to 50 percent of the direct payment for a covered commodity for any of the 2003 through 2005 crop years, up to 40 percent of the direct payment for a covered commodity for the 2006 crop year, and up to 22 percent of the direct payment for a covered commodity for the 2007 crop year, shall be paid to the producers in advance. The producers shall select the month within which the advance payment for a crop year will be made. The month selected may be any month during the period beginning on December 1 of the calendar year before the calendar year in which the crop of the covered commodity is harvested through the month within which the direct payment would otherwise be made. The producers may change the selected month for a subsequent advance payment by providing advance notice to the Secretary.

**(3) Repayment of advance payments**

If a producer on a farm that receives an advance direct payment for a crop year ceases to be a producer on that farm, or the extent to which the producer shares in the risk of producing a crop changes, before the date the remainder of the direct payment is made, the producer shall be responsible for repaying the Secretary the applicable amount of the advance payment, as determined by the Secretary.

(Pub. L. 107-171, title I, §1103, May 13, 2002, 116 Stat. 149; Pub. L. 109-171, title I, §1102(a), Feb. 8, 2006, 120 Stat. 5.)

AMENDMENTS

2006—Subsec. (d)(2). Pub. L. 109-171 substituted “2005 crop years, up to 40 percent of the direct payment for a covered commodity for the 2006 crop year, and up to 22 percent of the direct payment for a covered commodity for the 2007 crop year,” for “2007 crop years”.

**§ 7914. Availability of counter-cyclical payments**

**(a) Payment required**

For each of the 2002 through 2007 crop years for each covered commodity, the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and base acres are established with respect to the covered commodity if the Secretary determines that the effective price for the covered commodity is less than the target price for the covered commodity.

**(b) Effective price**

For purposes of subsection (a) of this section, the effective price for a covered commodity is equal to the sum of the following:

- (1) The higher of the following:
  - (A) The national average market price received by producers during the 12-month marketing year for the covered commodity, as determined by the Secretary.
  - (B) The national average loan rate for a marketing assistance loan for the covered

commodity in effect for the applicable period under subchapter II of this chapter.

(2) The payment rate in effect for the covered commodity under section 7913 of this title for the purpose of making direct payments with respect to the covered commodity.

**(c) Target price**

**(1) 2002 and 2003 crop years**

For purposes of the 2002 and 2003 crop years, the target prices for covered commodities shall be as follows:

- (A) Wheat, \$3.86 per bushel.
- (B) Corn, \$2.60 per bushel.
- (C) Grain sorghum, \$2.54 per bushel.
- (D) Barley, \$2.21 per bushel.
- (E) Oats, \$1.40 per bushel.
- (F) Upland cotton, \$0.7240 per pound.
- (G) Rice, \$10.50 per hundredweight.
- (H) Soybeans, \$5.80 per bushel.
- (I) Other oilseeds, \$0.0980 per pound.

**(2) Subsequent crop years**

For purposes of each of the 2004 through 2007 crop years, the target prices for covered commodities shall be as follows:

- (A) Wheat, \$3.92 per bushel.
- (B) Corn, \$2.63 per bushel.
- (C) Grain sorghum, \$2.57 per bushel.
- (D) Barley, \$2.24 per bushel.
- (E) Oats, \$1.44 per bushel.
- (F) Upland cotton, \$0.7240 per pound.
- (G) Rice, \$10.50 per hundredweight.
- (H) Soybeans, \$5.80 per bushel.
- (I) Other oilseeds, \$0.1010 per pound.

**(d) Payment rate**

The payment rate used to make counter-cyclical payments with respect to a covered commodity for a crop year shall be equal to the difference between—

- (1) the target price for the covered commodity; and
- (2) the effective price determined under subsection (b) of this section for the covered commodity.

**(e) Payment amount**

If counter-cyclical payments are required to be paid for any of the 2002 through 2007 crop years of a covered commodity, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year shall be equal to the product of the following:

- (1) The payment rate specified in subsection (d) of this section.
- (2) The payment acres of the covered commodity on the farm.
- (3) The payment yield or updated payment yield for the farm, depending on the election of the owner of the farm under section 7912 of this title.

**(f) Time for payments**

**(1) General rule**

If the Secretary determines under subsection (a) of this section that counter-cyclical payments are required to be made under this section for the crop of a covered commodity, the Secretary shall make the counter-cyclical payments for the crop as soon as practicable after the end of the 12-month marketing year for the covered commodity.

**(2) Availability of partial payments**

If, before the end of the 12-month marketing year for a covered commodity, the Secretary estimates that counter-cyclical payments will be required for the crop of the covered commodity, the Secretary shall give producers on a farm the option to receive partial payments of the counter-cyclical payment projected to be made for that crop of the covered commodity.

**(3) Time for partial payments**

**(A) 2002 through 2006 crop years**

When the Secretary makes partial payments available under paragraph (2) for a covered commodity for any of the 2002 through 2006 crop years—

- (i) the first partial payment for the crop year shall be made not earlier than October 1, and, to the maximum extent practicable, not later than October 31, of the calendar year in which the crop of the covered commodity is harvested;
- (ii) the second partial payment shall be made not earlier than February 1 of the next calendar year; and
- (iii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

**(B) 2007 crop year**

When the Secretary makes partial payments available for a covered commodity for the 2007 crop year—

- (i) the first partial payment shall be made after completion of the first 6 months of the marketing year for the covered commodity; and
- (ii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

**(4) Amount of partial payments**

**(A) 2002 through 2006 crop years**

**(i) First partial payment**

For each of the 2002 through 2006 crop years of a covered commodity, the first partial payment under paragraph (3) to the producers on a farm may not exceed 35 percent of the projected counter-cyclical payment for the covered commodity for the crop year, as determined by the Secretary.

**(ii) Second partial payment**

The second partial payment for a covered commodity for a crop year may not exceed the difference between—

- (I) 70 percent of the projected counter-cyclical payment (including any revision thereof) for the crop of the covered commodity; and
- (II) the amount of the payment made under clause (i).

**(iii) Final payment**

The final payment for a covered commodity for a crop year shall be equal to the difference between—

- (I) the actual counter-cyclical payment to be made to the producers for the

covered commodity for that crop year; and

(II) the amount of the partial payments made to the producers under clauses (i) and (ii) for that crop year.

**(B) 2007 crop year**

**(i) First partial payment**

For the 2007 crop year, the first partial payment under paragraph (3) to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for the covered commodity for the crop year, as determined by the Secretary.

**(ii) Final payment**

The final payment for the 2007 crop year shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the producers for the covered commodity for that crop year; and

(II) the amount of the partial payment made to the producers under clause (i).

**(5) Repayment**

The producers on a farm that receive a partial payment under this subsection for a crop year shall repay to the Secretary the amount, if any, by which the total of the partial payments exceed the actual counter-cyclical payment to be made for the covered commodity for that crop year.

(Pub. L. 107-171, title I, §1104, May 13, 2002, 116 Stat. 150.)

REFERENCES IN TEXT

Subchapter II of this chapter, referred to in subsec. (b)(1)(B), was in the original “subtitle B”, meaning subtitle B (§§1201-1209) of title I of Pub. L. 107-171, May 13, 2002, 116 Stat. 155, which is classified principally to subchapter II of this chapter. For complete classification of subtitle B to the Code, see Tables.

**§ 7915. Producer agreement required as condition of provision of direct payments and counter-cyclical payments**

**(a) Compliance with certain requirements**

**(1) Requirements**

Before the producers on a farm may receive direct payments or counter-cyclical payments 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 the Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 7916 of this title;

(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 peanuts for the farm under subchapter III of this chapter for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary; and

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (D).

**(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**

Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in base acres for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to the base acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a) of this section. The termination shall take effect on the date determined by the Secretary.

**(2) Exception**

If a producer entitled to a direct payment or counter-cyclical payment 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 of this chapter, 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) Tenants and sharecroppers**

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

**(e) Sharing of payments**

The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the producers on a farm on a fair and equitable basis.

(Pub. L. 107-171, title I, §1105, May 13, 2002, 116 Stat. 152.)

REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsec. (a)(1)(A), (B), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended. Subtitles B and C of title XII of the Act are classified generally to subchapters II (§3811 et seq.) and III (§3821 et seq.), respectively, 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.