

to Congress a report that describes the results of the actions taken under paragraph (2).

(d) Treatment of farms with limited base acres

(1) Prohibition on payments

Except as provided in paragraph (2) and notwithstanding any other provision of this chapter, a producer on a farm may not receive direct payments, counter-cyclical payments, or average crop revenue election payments if the sum of the base acres of the farm is 10 acres or less, as determined by the Secretary.

(2) Exceptions

Paragraph (1) shall not apply to a farm owned by—

(A) a socially disadvantaged farmer or rancher (as defined in section 2003(e) of this title;¹ or

(B) a limited resource farmer or rancher, as defined by the Secretary.

(3) Data collection and publication

The Secretary shall—

(A) collect and publish segregated data and survey information about the farm profiles, utilization of land, and crop production; and

(B) perform an evaluation on the supply and price of fruits and vegetables based on the effects of suspension of base acres under this section.

(4) Suspension of prohibition

Paragraphs (1) through (3) shall not apply during the 2008 crop year.

(Pub. L. 110-234, title I, §1101, May 22, 2008, 122 Stat. 938; Pub. L. 110-246, §4(a), title I, §1101, June 18, 2008, 122 Stat. 1664, 1666; Pub. L. 110-398, §1(a)(1), Oct. 13, 2008, 122 Stat. 4213.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsec. (a)(1)(A), (B), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

The Food Security Act of 1985, referred to in subsec. (b)(2)(B), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354. Chapter 1 of subtitle D of title XII of the Act is classified generally to part I (§3830 et seq.) 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.

This chapter, referred to in subsec. (d)(1), was in the original “this title”, meaning title I of Pub. L. 110-246, June 18, 2008, 122 Stat. 1664, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (d)(4). Pub. L. 110-398 added par. (4).

§ 8712. Payment yields

(a) Establishment and purpose

For the purpose of making direct payments and counter-cyclical payments under this sub-

¹ So in original. A closing parenthesis probably should precede the semicolon.

chapter, the Secretary shall provide for the establishment of a yield for each farm for any designated oilseed or eligible pulse crop for which a payment yield was not established under section 7912 of this title in accordance with this section.

(b) Payment yields for designated oilseeds and eligible pulse crops

(1) Determination of average yield

In the case of designated oilseeds and eligible pulse crops, the Secretary shall determine the average yield per planted acre for the designated oilseed or pulse crop on a farm for the 1998 through 2001 crop years, excluding any crop year in which the acreage planted to the designated oilseed or pulse crop was zero.

(2) Adjustment for payment yield

(A) In general

The payment yield for a farm for a designated oilseed or eligible pulse crop shall be equal to the product of the following:

(i) The average yield for the designated oilseed or pulse crop determined under paragraph (1).

(ii) The ratio resulting from dividing the national average yield for the designated oilseed or pulse crop for the 1981 through 1985 crops by the national average yield for the designated oilseed or pulse crop for the 1998 through 2001 crops.

(B) No national average yield information available

To the extent that national average yield information for a designated oilseed or pulse crop 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 partial county average yield

If the yield per planted acre for a crop of a designated oilseed or pulse crop 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 or pulse crop, 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) No historic yield data available

In the case of establishing yields for designated oilseeds and eligible pulse crops, if historic yield data is not available, the Secretary shall use the ratio for dry peas calculated under paragraph (2)(A)(ii) in determining the yields for designated oilseeds and eligible pulse crops, as determined to be fair and equitable by the Secretary.

(Pub. L. 110-234, title I, §1102, May 22, 2008, 122 Stat. 940; Pub. L. 110-246, §4(a), title I, §1102, June 18, 2008, 122 Stat. 1664, 1669.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

§ 8713. Availability of direct payments

(a) Payment required

For each of the 2008 through 2012 crop years of each covered commodity (other than pulse

crops), the Secretary shall make direct payments to producers on farms for which base acres and payment yields are established.

(b) Payment rate

Except as provided in section 8715 of this title, the payment rates used to make direct payments with respect to covered commodities for a crop year shall be 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) Long grain rice, \$2.35 per hundredweight.
- (8) Medium grain rice, \$2.35 per hundredweight.
- (9) Soybeans, \$0.44 per bushel.
- (10) Other oilseeds, \$0.80 per hundredweight.

(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).
- (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

Except as provided in paragraph (2), in the case of each of the 2008 through 2012 crop years, the Secretary may not make direct payments before October 1 of the calendar year in which the crop of the covered commodity is harvested.

(2) Advance payments

(A) Option

(i) In general

At the option of the producers on a farm, the Secretary shall pay in advance up to 22 percent of the direct payment for a covered commodity for any of the 2008 through 2011 crop years to the producers on a farm.

(ii) 2008 crop year

If the producers on a farm elect to receive advance direct payments under clause (i) for a covered commodity for the 2008 crop year, as soon as practicable after the election, the Secretary shall make the advance direct payment to the producers on the farm.

(B) Month

(i) Selection

Subject to clauses (ii) and (iii), the producers on a farm shall select the month during which the advance payment for a crop year will be made.

(ii) Options

The month selected may be any month during the period—

- (I) beginning on December 1 of the calendar year before the calendar year in

which the crop of the covered commodity is harvested; and

(II) ending during the month within which the direct payment would otherwise be made.

(iii) Change

The producers on a farm 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. 110-234, title I, §1103, May 22, 2008, 122 Stat. 941; Pub. L. 110-246, §4(a), title I, §1103, June 18, 2008, 122 Stat. 1664, 1669.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

§ 8714. Availability of counter-cyclical payments

(a) Payment required

Except as provided in section 8715 of this title, for each of the 2008 through 2012 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

(1) Covered commodities other than rice

Except as provided in paragraph (2), for purposes of subsection (a), the effective price for a covered commodity is equal to the sum of the following:

(A) The higher of the following:

(i) The national average market price received by producers during the 12-month marketing year for the covered commodity, as determined by the Secretary.

(ii) The national average loan rate for a marketing assistance loan for the covered commodity in effect for the applicable period under subchapter II.

(B) The payment rate in effect for the covered commodity under section 8713 of this title for the purpose of making direct payments with respect to the covered commodity.

(2) Rice

In the case of long grain rice and medium grain rice, for purposes of subsection (a), the effective price for each type or class of rice is equal to the sum of the following: