

ricultural use, unless the producers on the farm demonstrate that the land—

- (i) remains devoted to commercial agricultural production; or
- (ii) is likely to be returned to the previous agricultural use.

(B) Requirement

The Secretary shall establish procedures to identify land described in subparagraph (A).

(3) Review and report

Each year, to ensure, to the maximum extent practicable, that payments are received only by producers, the Secretary shall submit 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, §1302, May 22, 2008, 122 Stat. 968; Pub. L. 110-246, §4(a), title I, §1302, June 18, 2008, 122 Stat. 1664, 1696; Pub. L. 110-398, §1(a)(2), 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 prin-

¹ So in original. There probably should be a closing parenthesis after “title”.

cipally 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).

§ 8753. Availability of direct payments for peanuts

(a) Payment required

For each of the 2008 through 2012 crop years for peanuts, the Secretary shall make direct payments to the producers on a farm for which a payment yield and base acres for peanuts are established.

(b) Payment rate

Except as provided in section 8715 of this title, the payment rate used to make direct payments with respect to peanuts for a crop year shall be equal to \$36 per ton.

(c) Payment amount

The amount of the direct payment to be paid to the producers on a farm for peanuts 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 on the farm.
- (3) The payment yield 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 under this section before October 1 of the calendar year in which the crop 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 peanuts 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 peanuts 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 peanuts 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, §1303, May 22, 2008, 122 Stat. 970; Pub. L. 110-246, §4(a), title I, §1303, June 18, 2008, 122 Stat. 1664, 1698.)

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.

§ 8754. Availability of counter-cyclical payments for peanuts

(a) Payment required

Except as provided in section 8715 of this title, for each of the 2008 through 2012 crop years for peanuts, the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and base acres for peanuts are established if the Secretary determines that the effective price for peanuts is less than the target price for peanuts.

(b) Effective price

For purposes of subsection (a), the effective price for peanuts is equal to the sum of the following:

(1) The higher of the following:

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

(B) The national average loan rate for a marketing assistance loan for peanuts in effect for the applicable period under this subchapter.

(2) The payment rate in effect for peanuts under section 8753 of this title for the purpose of making direct payments.

(c) Target price

For purposes of subsection (a), the target price for peanuts shall be equal to \$495 per ton.

(d) Payment rate

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

(1) the target price for peanuts; and

(2) the effective price determined under subsection (b) for peanuts.

(e) Payment amount

If counter-cyclical payments are required to be paid for any of the 2008 through 2012 crops of peanuts, 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).

(2) The payment acres on the farm.

(3) The payment yield for the farm.

(f) Time for payments

(1) General rule

Except as provided in paragraph (2), if the Secretary determines under subsection (a) that counter-cyclical payments are required to be made under this section for a crop of peanuts, beginning October 1, or as soon as practicable after the end of the marketing year, the Secretary shall make the counter-cyclical payments for the crop.

(2) Availability of partial payments

(A) In general

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

(B) Election

(i) In general

The Secretary shall allow producers on a farm to make an election to receive partial payments under subparagraph (A) at any time but not later than 60 days prior to the end of the marketing year for the crop.

(ii) Date of issuance

The Secretary shall issue the partial payment after the date of an announcement by the Secretary but not later than 30 days prior to the end of the marketing year.

(3) Time for partial payments

When the Secretary makes partial payments for any of the 2008 through 2010 crop years—

(A) the first partial payment shall be made after completion of the first 180 days of the marketing year for that crop; and

(B) the final partial payment shall be made beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for that crop.

(4) Amount of partial payments

(A) First partial payment

For each of the 2008 through 2010 crop years, 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 crop year, as determined by the Secretary.