

“(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

Pub. L. 101-624, title XI, §1121(b), Nov. 28, 1990, 104 Stat. 3502, 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.

(Oct. 31, 1949, ch. 792, title I, §115, formerly §107E, as added Pub. L. 99-198, title X, §1005, Dec. 23, 1985, 99 Stat. 1448; renumbered §115 and amended Pub. L. 101-624, title XI, §§1122(a), 1161(a)(1), Nov. 28, 1990, 104 Stat. 3503, 3520.)

REFERENCES IN TEXT

The Agricultural Trade Act of 1978, referred to in subsec. (c), is Pub. L. 95-501, Oct. 21, 1978, 92 Stat. 1685, as amended generally by Pub. L. 101-624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3668, which is classified generally to chapter 87 (§5601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of this title and Tables.

CODIFICATION

Section was classified to section 1445b-4 of this title prior to its renumbering by Pub. L. 101-624.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101-624, §1122(a), added subsec. (c).

EFFECTIVE DATE OF 1990 AMENDMENT

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.

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)(7) 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)(G) of this title.

REDEMPTION OF COMMODITY CERTIFICATES

Pub. L. 101-624, title XI, §1122(b), Nov. 28, 1990, 104 Stat. 3503, provided that:

“(1) IN GENERAL.—A subsequent holder of a commodity certificate issued by the Commodity Credit Corporation shall be allowed to exchange the expired commodity certificate under the same rules that apply to an original holder of the certificate.

“(2) APPLICATION AND REDEMPTION LIMITATIONS.—This subsection shall only apply during the 180-day period beginning on the date of enactment of this Act [Nov. 28, 1990]. No person may redeem more than \$1,000 worth of certificates under this subsection.

“(3) REDEMPTION LIMITATIONS.—In no event shall a person receive a payment from the Commodity Credit Corporation for a certificate that is redeemed under this subsection in an amount greater than the price paid for the certificate by the person. No expired certificate shall be exchanged under this section if the owner purchased the certificate after January 1, 1990.”

SUBCHAPTER III—NONBASIC AGRICULTURAL COMMODITIES

§ 1446. Price support levels for designated non-basic agricultural commodities

(a) The Secretary is authorized and directed to make available (without regard to the provisions of sections 1447 to 1449 of this title) price support to producers for oilseeds (including soybeans, sunflower seed, canola, rapeseed, saf-

flower, flaxseed, mustard seed, and such other oilseeds as the Secretary may determine), sunflower seeds, honey, milk, sugar beets, and sugarcane in accordance with this subchapter.

(b) The price of honey shall be supported through loans, purchases, or other operations at a level not in excess of 90 per centum nor less than 60 per centum of the parity price thereof; and the price of tung nuts for each crop of tung nuts through the 1976 crop shall be supported through loans, purchases, or other operations at a level not in excess of 90 per centum nor less than 60 per centum of the parity price thereof: *Provided*, That in any crop year through the 1976 crop year in which the Secretary determines that the domestic production of tung oil will be less than the anticipated domestic demand for such oil, the price of tung nuts shall be supported at not less than 65 per centum of the parity price therefor.

(c) Except as provided in section 1446e¹ of this title, the price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. Such price support shall be provided through the purchase of milk and the products of milk.

(d) Notwithstanding any other provision of law—

(1)(A) During the period beginning on January 1, 1986, and ending on December 31, 1990, the price of milk shall be supported as provided in this subsection.

(B) During the period beginning on January 1, 1986, and ending on December 31, 1986, the price of milk shall be supported at a rate equal to \$11.60 per hundredweight for milk containing 3.67 percent milkfat.

(C)(i) During the period beginning on January 1, 1987, and ending on September 30, 1987, the price of milk shall be supported at a rate equal to \$11.35 per hundredweight for milk containing 3.67 percent milkfat.

(ii) Except as provided in subparagraph (D), during the period beginning on October 1, 1987, and ending on December 31, 1990, the price of milk shall be supported at a rate equal to \$11.10 per hundredweight for milk containing 3.67 percent milkfat.

(D)(i) Subject to clause (ii), if for each of the calendar years 1988 and 1990, the level of purchases of milk and the products of milk under this subsection (less sales under section 1427 of this title for unrestricted use), as estimated by the Secretary on January 1 of such calendar year, will exceed 5,000,000,000 pounds (milk equivalent), on January 1 of such calendar year, the Secretary shall reduce by 50 cents the rate of price support for milk as in effect on such date.

(ii) The rate of price support for milk may not be reduced under clause (i) unless—

(I) the milk production termination program under paragraph (3) achieved a reduc-

¹ See References in Text note below.