

(2) the corresponding payment rate for the contract commodity in effect under subsection (c).

(e) Reduction in payment amount

The contract payment determined under subsection (d) for an owner or producer for a fiscal year shall be immediately reduced by the amount of any repayment of deficiency payments that is required under section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) and is not repaid as of the date the contract payment is determined. The Secretary shall be required to collect the required repayment, or any claim based on the required repayment, as soon as the contract payment is determined.

(f) Assignment of contract payments

The provisions of section 590h(g) of title 16 (relating to assignment of payments) shall apply to contract payments under this section. The owner or producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require in the contract, of any assignment made under this subsection.

(g) Sharing of contract payments

The Secretary shall provide for the sharing of contract payments among the owners and producers subject to the contract on a fair and equitable basis.

(Pub. L. 104-127, title I, §114, Apr. 4, 1996, 110 Stat. 901.)

§ 7215. Applicability of payment limitations

Sections 1308 through 1308-3 of this title shall be applicable to contract payments made under this subchapter.

(Pub. L. 104-127, title I, §115(a), Apr. 4, 1996, 110 Stat. 902.)

§ 7216. Violations of contract

(a) Termination of contract for violation

Except as provided in subsection (b), if an owner or producer subject to a contract violates a requirement of the contract specified in section 7211(a) of this title, the Secretary shall terminate the contract with respect to the owner or producer on each farm in which the owner or producer has an interest. On the termination, the owner or producer shall forfeit all rights to receive future contract payments on each farm in which the owner or producer has an interest and shall refund to the Secretary all contract payments received by the owner or producer during the period of the violation, together with interest on the contract payments as determined by the Secretary.

(b) Refund or adjustment

If the Secretary determines that a violation does not warrant termination of the contract under subsection (a), the Secretary may require the owner or producer subject to the contract—

(1) to refund to the Secretary that part of the contract payments received by the owner or producer during the period of the violation, together with interest on the contract payments as determined by the Secretary; or

(2) to accept a reduction in the amount of future contract payments that is proportionate to the severity of the violation, as determined by the Secretary.

(c) Foreclosure

(1) Effect of foreclosure

An owner or producer subject to a contract may not be required to make repayments to the Secretary of amounts received under the contract if the contract acreage has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate to provide fair and equitable treatment.

(2) Resumption of operation

This subsection shall not void the responsibilities of the owner or producer under the contract if the owner or producer continues or resumes operation, or control, of the contract acreage. On the resumption of operation or control over the contract acreage by the owner or producer, the provisions of the contract in effect on the date of the foreclosure shall apply.

(d) Review

A determination of the Secretary under this section shall be considered to be an adverse decision for purposes of the availability of administrative review of the determination.

(Pub. L. 104-127, title I, §116, Apr. 4, 1996, 110 Stat. 903.)

§ 7217. Transfer or change of interest in lands subject to contract

(a) Termination

Except as provided in subsection (c), a transfer of (or change in) the interest of an owner or producer subject to a contract in the contract acreage covered by the contract shall result in the termination of the contract with respect to the acreage, unless the transferee or owner of the acreage agrees to assume all obligations under the contract. The termination shall be effective on the date of the transfer or change.

(b) Modification

At the request of the transferee or owner, the Secretary may modify the contract if the modifications are consistent with the objectives of this subchapter, as determined by the Secretary.

(c) Exception

If an owner or producer who is entitled to a contract payment dies, becomes incompetent, or is otherwise unable to receive the contract payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

(Pub. L. 104-127, title I, §117, Apr. 4, 1996, 110 Stat. 904.)

§ 7218. Planting flexibility

(a) Permitted crops

Subject to subsection (b), any commodity or crop may be planted on contract acreage on a farm.

(b) Limitations and exceptions regarding fruits and vegetables**(1) Limitations**

The planting of fruits and vegetables (other than lentils, mung beans, and dry peas) shall be prohibited on contract acreage.

(2) Exceptions

Paragraph (1) shall not limit the planting of a fruit or vegetable—

(A) in any region in which there is a history of double-cropping of contract commodities with fruits or vegetables, as determined by the Secretary, in which case the double-cropping shall be permitted;

(B) on a farm that the Secretary determines has a history of planting fruits or vegetables on contract acreage, except that a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable; or

(C) by a producer who the Secretary determines has an established planting history of a specific fruit or vegetable, except that—

(i) the quantity planted may not exceed the producer's average annual planting history of the fruit or vegetable in the 1991 through 1995 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(ii) a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable.

(Pub. L. 104-127, title I, §118, Apr. 4, 1996, 110 Stat. 904.)

CONTRACT PAYMENTS FOR WILD RICE ACREAGE

Pub. L. 106-78, title VII, §727, Oct. 22, 1999, 113 Stat. 1164, provided that: "None of the funds appropriated or otherwise available to the Department of Agriculture in fiscal year 2000 or thereafter may be used to administer the provision of contract payments to a producer under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) for contract acreage on which wild rice is planted unless the contract payment is reduced by an acre for each contract acre planted to wild rice."

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 105-277, div. A, §101(a) [title VII, §727], Oct. 21, 1998, 112 Stat. 2681, 2681-28.

Pub. L. 105-86, title VII, §734, Nov. 18, 1997, 111 Stat. 2110.

SUBCHAPTER III—NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS**§ 7231. Availability of nonrecourse marketing assistance loans****(a) Nonrecourse loans available**

For each of the 1996 through 2002 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 7232 of this title for the loan commodity.

(b) Eligible production

The following production shall be eligible for a marketing assistance loan under subsection (a):

(1) In the case of a marketing assistance loan for a contract commodity, any production by a producer on a farm containing eligible cropland covered by a production flexibility contract.

(2) In the case of a marketing assistance loan for extra long staple cotton and oilseeds, any production.

(c) Compliance with conservation and wetlands requirements

As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall 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.) and applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(d) Additional outlays prohibited

The Secretary shall carry out this subchapter in such a manner that there are no additional outlays under this subchapter as a result of the reconstitution of a farm that occurs as a result of the combination of another farm that does not contain eligible cropland covered by a production flexibility contract.

(Pub. L. 104-127, title I, §131, Apr. 4, 1996, 110 Stat. 905.)

REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsec. (c), 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.

§ 7232. Loan rates for marketing assistance loans**(a) Wheat****(1) Loan rate**

Subject to paragraph (2), the loan rate for a marketing assistance loan under section 7231 of this title for wheat shall be—

(A) not less than 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than \$2.58 per bushel.

(2) Stocks to use ratio adjustment

If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

(A) equal to or greater than 30 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 10 percent in any year;

(B) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 5 percent in any year; or