

having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

#### (8) Loan commodity

The term “loan commodity” means wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, rice, soybeans, other oilseeds, wool, mohair, honey, dry peas, lentils, and small chickpeas.

#### (9) Other oilseed

The term “other oilseed” means a crop of sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, or, if designated by the Secretary, another oilseed.

#### (10) Payment acres

The term “payment acres” means 85 percent of the base acres of a covered commodity on a farm, as established under section 7911 of this title, on which direct payments and counter-cyclical payments are made.

#### (11) Payment yield

##### (A) In general

The term “payment yield” means the yield established under section 7912 of this title for a farm for a covered commodity.

##### (B) Updated payment yield

The term “updated payment yield” means the payment yield elected by the owner of a farm under section 7912(e) of this title to be used in calculating the counter-cyclical payments for the farm.

#### (12) Producer

The term “producer” means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract and shall ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this chapter.

#### (13) Secretary

The term “Secretary” means the Secretary of Agriculture.

#### (14) State

The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

#### (15) Target price

The term “target price” means the price per bushel (or other appropriate unit in the case of upland cotton, rice, and other oilseeds) of a

covered commodity used to determine the payment rate for counter-cyclical payments.

#### (16) United States

The term “United States”, when used in a geographical sense, means all of the States.

(Pub. L. 107–171, title I, §1001, May 13, 2002, 116 Stat. 143; Pub. L. 108–7, div. A, title VII, §763(a), Feb. 20, 2003, 117 Stat. 46.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title I of Pub. L. 107–171, May 13, 2002, 116 Stat. 143, which enacted this chapter and section 1308–3a of this title, amended sections 1301, 1308 to 1308–3, 1308–4, 1308–5, 1314b, 1359aa to 1359kk, 1361, 1371, 1373, 1378, 1428, 1441, 1637a, 4501 to 4504, 4507, 4553, 6402, 6414, 6998, 7001, 7235, 7272, 7282 to 7284, 7286, and 7301 of this title, and sections 713a–4 and 714c of Title 15, Commerce and Trade, repealed sections 1339a, 1357 to 1359a, and 7271 of this title and section 3830a of Title 16, Conservation, and enacted provisions set out as notes under sections 1308 and 7272 of this title. For complete classification of title I to the Code, see Tables.

Subchapter III, referred to in text, was in the original “subtitle C”, meaning subtitle C (§§1301–1310) of title I of Pub. L. 107–171, May 13, 2002, 116 Stat. 166, which is classified principally to subchapter III of this chapter. For complete classification of subtitle C to the Code, see References in Text note set out under section 7951 of this title and Tables.

The Agricultural Act of 1949, referred to in par. (1), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

#### AMENDMENTS

2003—Par. (9). Pub. L. 108–7 inserted “crambe, sesame seed,” after “mustard seed.”.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–7, div. A, title VII, §763(d), Feb. 20, 2003, 117 Stat. 47, provided that: “This section [amending this section and sections 7932 and 7934 of this title] and the amendments made by this section apply beginning with the 2003 crop of other oilseeds (as defined in section 1001 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901)), dry peas, lentils, and small chickpeas.”

#### SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–171, title I, §1001, Feb. 8, 2006, 120 Stat. 4, provided that: “This title [amending sections 2009cc–18, 2655, 7621, 7913, 7937, 7953, 7982, and 8106 of this title and sections 3838a, 3839aa–2, 3839aa–7, and 3841 of Title 16, Conservation, and enacting provisions set out as a note under section 7937 of this title] may be cited as the ‘Agricultural Reconciliation Act of 2005’.”

#### SHORT TITLE

Pub. L. 107–171, §1(a), May 13, 2002, 116 Stat. 134, provided that: “This Act [see Tables for classification] may be cited as the ‘Farm Security and Rural Investment Act of 2002’.”

### SUBCHAPTER I—DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS

#### § 7911. Establishment of base acres and payment acres for a farm

##### (a) Election by owner of base acres calculation method

###### (1) Alternative calculation methods

For the purpose of making direct payments and counter-cyclical payments with respect to

a farm, the Secretary shall give an owner of the farm an opportunity to elect 1 of the following as the method by which the base acres of all covered commodities on the farm are to be determined:

(A) Subject to paragraphs (3) and (4), the 4-year average of the following:

(i) Acreage planted on the farm to covered commodities for harvest, grazing, haying, silage, or other similar purposes for the 1998 through 2001 crop years.

(ii) Any acreage on the farm that the producers were prevented from planting during the 1998 through 2001 crop years to covered commodities because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, as determined by the Secretary.

(B) Subject to paragraph (3), the sum of the following:

(i) The contract acreage (as defined in section 7202 of this title) used by the Secretary to calculate the fiscal year 2002 payment authorized under section 7214 of this title for the covered commodities on the farm.

(ii) The 4-year average of eligible oilseed acreage on the farm for the 1998 through 2001 crop years, as determined by the Secretary under paragraph (2).

## **(2) Eligible oilseed acreage**

### **(A) Calculation**

For purposes of paragraph (1)(B)(ii), the eligible acreage for each oilseed on a farm during each of the 1998 through 2001 crop years shall be determined in the manner provided in paragraph (1)(A), except that the total acreage for all oilseeds on the farm for a crop year may not exceed the difference between—

(i) the total acreage determined under paragraph (1)(A) for all covered commodities for that crop year; and

(ii) the total contract acreage determined under paragraph (1)(B)(i).

### **(B) Effect of negative number**

If the subtraction performed under subparagraph (A) results in a negative number, the eligible oilseed acreage on the farm for that crop year shall be zero for purposes of determining the 4-year average.

### **(C) Offset of contract acreage**

The owner of a farm may increase the eligible acreage for an oilseed on the farm by reducing the contract acreage determined under paragraph (1)(B)(i) for 1 or more covered commodities on an acre-for-acre basis, except that the total base acreage for each oilseed on the farm may not exceed the 4-year average of each oilseed determined under paragraph (1)(B)(ii).

## **(3) Inclusion of all 4 years in average**

For the purpose of determining a 4-year acreage average under this subsection for a farm, the Secretary shall not exclude any crop year in which a covered commodity was not planted.

## **(4) Treatment of multiple planting or prevented planting**

For the purpose of determining under paragraph (1)(A) the acreage on a farm that producers planted or were prevented from planting during the 1998 through 2001 crop years to covered commodities, if the acreage that was planted or prevented from being planted was devoted to another covered commodity in the same crop year (other than a covered commodity produced under an established practice of double cropping), the owner may elect the commodity to be used for that crop year in determining the 4-year average, but may not include both the initial commodity and the subsequent commodity.

## **(b) Single election; time for election**

### **(1) Notice of election opportunity**

As soon as practicable after May 13, 2002, the Secretary shall provide notice to owners of farms regarding their opportunity to make the election described in subsection (a). The notice shall include the following:

(A) Notice that the opportunity of an owner to make the election is being provided only once.

(B) Information regarding the manner in which the election must be made and the time periods and manner in which notice of the election must be submitted to the Secretary.

### **(2) Election deadline**

Within the time period and in the manner prescribed pursuant to paragraph (1), the owner of a farm shall submit to the Secretary notice of the election made by the owner under subsection (a).

## **(c) Effect of failure to make election**

If the owner of a farm fails to make the election under subsection (a) or fails to timely notify the Secretary of the election made, as required by subsection (b), the owner shall be deemed to have made the election described in subsection (a)(1)(B) to determine base acres for all covered commodities on the farm.

## **(d) Application of election to all covered commodities**

The election made under subparagraph (A) or (B) of subsection (a)(1), or deemed to be made under subsection (c), with respect to a farm shall apply to all of the covered commodities on the farm.

## **(e) Treatment of conservation reserve contract acreage**

### **(1) In general**

The Secretary shall provide for an adjustment, as appropriate, in the base acres for covered commodities for a farm whenever either of the following circumstances occurs:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary.

**(2) Special payment rules**

For the crop year in which a base acres adjustment under paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

**(f) Payment acres**

The payment acres for a covered commodity on a farm shall be equal to 85 percent of the base acres for the covered commodity.

**(g) Prevention of excess base acres****(1) Required reduction**

If the sum of the base acres for a farm, together with the acreage described in paragraph (2), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for 1 or more covered commodities for the farm or the base acres for peanuts for the farm under subchapter III so that the sum of the base acres and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

**(2) Other acreage**

For purposes of paragraph (1), the Secretary shall include the following:

(A) Any base acres for peanuts for the farm under subchapter III.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

**(3) Selection of acres**

The Secretary shall give the owner of the farm the opportunity to select the base acres or the base acres for peanuts for the farm under subchapter III against which the reduction required by paragraph (1) will be made.

**(4) Exception for double-cropped acreage**

In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

**(5) Coordinated application of requirements**

The Secretary shall take into account section 7952(f) of this title when applying the requirements of this subsection.

**(h) Permanent reduction in base acres**

The owner of a farm may reduce, at any time, the base acres for any covered commodity for the farm. The reduction shall be permanent and made in the manner prescribed by the Secretary.

(Pub. L. 107-171, title I, §1101, May 13, 2002, 116 Stat. 144.)

## REFERENCES IN TEXT

Subchapter III, referred to in subsec. (g)(1), (2)(A), (3), was in the original "subtitle C", meaning subtitle C

(§§1301-1310) of title I of Pub. L. 107-171, May 13, 2002, 116 Stat. 166, which is classified principally to subchapter III of this chapter. For complete classification of subtitle C to the Code, see References in Text note set out under section 7951 of this title and Tables.

The Food Security Act of 1985, referred to in subsec. (g)(2)(B), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended. 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.

## POPCORN ACREAGE

Pub. L. 108-7, div. A, title VII, §767, Feb. 20, 2003, 117 Stat. 48, formerly set out as a note under this section, was transferred and is set out as a note under section 9011 of this title.

**§ 7912. Establishment of payment yield****(a) Establishment and purpose**

For the purpose of making direct payments and counter-cyclical payments under this subchapter, the Secretary shall provide for the establishment of a payment yield for each farm for each covered commodity in accordance with this section.

**(b) Use of farm program payment yield**

Except as otherwise provided in this section, the payment yield for each of the 2002 through 2007 crops of a covered commodity for a farm shall be the farm program payment yield established for the 1995 crop of the covered commodity under section 1465 of this title, as adjusted by the Secretary to account for any additional yield payments made with respect to that crop under section 1465(b)(2) of this title.

**(c) Farms without farm program payment yield**

In the case of a farm for which a farm program payment yield is unavailable for a covered commodity (other than soybeans or other oilseeds), the Secretary shall establish an appropriate payment yield for the covered commodity on the farm taking into consideration the farm program payment yields applicable to the commodity under subsection (b) for similar farms, but before the yields for the similar farms are updated as provided in subsection (e).

**(d) Payment yields for oilseeds****(1) Determination of average yield**

In the case of soybeans and each other oilseed, the Secretary shall determine the average yield per planted acre for the oilseed on a farm for the 1998 through 2001 crop years, excluding any crop year in which the acreage planted to the oilseed was zero.

**(2) Adjustment for payment yield**

The payment yield for a farm for an oilseed shall be equal to the product of the following:

(A) The average yield for the oilseed determined under paragraph (1).

(B) The ratio resulting from dividing the national average yield for the oilseed for the 1981 through 1985 crops by the national average yield for the oilseed for the 1998 through 2001 crops.

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

If the yield per planted acre for a crop of an oilseed for a farm for any of the 1998 through