

(iii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

**(B) 2007 crop year**

When the Secretary makes partial payments available for a covered commodity for the 2007 crop year—

(i) the first partial payment shall be made after completion of the first 6 months of the marketing year for the covered commodity; and

(ii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

**(4) Amount of partial payments**

**(A) 2002 through 2006 crop years**

**(i) First partial payment**

For each of the 2002 through 2006 crop years of a covered commodity, the first partial payment under paragraph (3) to the producers on a farm may not exceed 35 percent of the projected counter-cyclical payment for the covered commodity for the crop year, as determined by the Secretary.

**(ii) Second partial payment**

The second partial payment for a covered commodity for a crop year may not exceed the difference between—

(I) 70 percent of the projected counter-cyclical payment (including any revision thereof) for the crop of the covered commodity; and

(II) the amount of the payment made under clause (i).

**(iii) Final payment**

The final payment for a covered commodity for a crop year shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the producers for the covered commodity for that crop year; and

(II) the amount of the partial payments made to the producers under clauses (i) and (ii) for that crop year.

**(B) 2007 crop year**

**(i) First partial payment**

For the 2007 crop year, 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 covered commodity for the crop year, as determined by the Secretary.

**(ii) Final payment**

The final payment for the 2007 crop year shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the producers for the covered commodity for that crop year; and

(II) the amount of the partial payment made to the producers under clause (i).

**(5) Repayment**

The producers on a farm that receive a partial payment under this subsection for a crop

year shall repay to the Secretary the amount, if any, by which the total of the partial payments exceed the actual counter-cyclical payment to be made for the covered commodity for that crop year.

(Pub. L. 107–171, title I, § 1104, May 13, 2002, 116 Stat. 150.)

REFERENCES IN TEXT

Subchapter II, referred to in subsec. (b)(1)(B), was in the original “subtitle B”, meaning subtitle B (§§ 1201–1209) of title I of Pub. L. 107–171, May 13, 2002, 116 Stat. 155, which is classified principally to subchapter II of this chapter. For complete classification of subtitle B to the Code, see Tables.

**§ 7915. Producer agreement required as condition of provision of direct payments and counter-cyclical payments**

**(a) Compliance with certain requirements**

**(1) Requirements**

Before the producers on a farm may receive direct payments or counter-cyclical payments with respect to the farm, the producers shall agree, during the crop year for which the payments are made and in exchange for the payments—

(A) to 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.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 7916 of this title;

(D) to use the land on the farm, in a quantity equal to the attributable base acres for the farm and any base acres for peanuts for the farm under subchapter III for an agricultural or conserving use, and not for a non-agricultural commercial or industrial use, as determined by the Secretary; and

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (D).

**(2) Compliance**

The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

**(3) Modification**

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

**(b) Transfer or change of interest in farm**

**(1) Termination**

Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in base acres for which direct payments or counter-cyclical payments are made shall result in the termination of the

payments with respect to the base acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a). The termination shall take effect on the date determined by the Secretary.

**(2) Exception**

If a producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with rules issued by the Secretary.

**(c) Acreage reports**

As a condition on the receipt of any benefits under this subchapter or subchapter II, the Secretary shall require producers on a farm to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

**(d) Tenants and sharecroppers**

In carrying out this subchapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

**(e) Sharing of payments**

The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the producers on a farm on a fair and equitable basis.

(Pub. L. 107-171, title I, §1105, May 13, 2002, 116 Stat. 152.)

REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsec. (a)(1)(A), (B), 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.

Subchapter III, referred to in subsec. (a)(1)(D), 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.

Subchapter II, referred to in subsec. (c), was in the original "subtitle B", meaning subtitle B (§§1201-1209) of title I of Pub. L. 107-171, May 13, 2002, 116 Stat. 155, which is classified principally to subchapter II of this chapter. For complete classification of subtitle B to the Code, see Tables.

**§ 7916. Planting flexibility**

**(a) Permitted crops**

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

**(b) Limitations regarding certain commodities**

**(1) General limitation**

The planting of an agricultural commodity specified in paragraph (3) shall be prohibited on base acres unless the commodity, if planted, is destroyed before harvest.

**(2) Treatment of trees and other perennials**

The planting of an agricultural commodity specified in paragraph (3) that is produced on a tree or other perennial plant shall be prohibited on base acres.

**(3) Covered agricultural commodities**

Paragraphs (1) and (2) apply to the following agricultural commodities:

(A) Fruits.

(B) Vegetables (other than lentils, mung beans, and dry peas).

(C) Wild rice.

**(c) Exceptions**

Paragraphs (1) and (2) of subsection (b) shall not limit the planting of an agricultural commodity specified in paragraph (3) of that subsection—

(1) in any region in which there is a history of double-cropping of covered commodities with agricultural commodities specified in subsection (b)(3), as determined by the Secretary, in which case the double-cropping shall be permitted;

(2) on a farm that the Secretary determines has a history of planting agricultural commodities specified in subsection (b)(3) on base acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agricultural commodity; or

(3) by the producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in subsection (b)(3), except that—

(A) the quantity planted may not exceed the average annual planting history of such agricultural commodity by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(B) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agricultural commodity.

**(d) Special rule for 2002 crop year**

For the 2002 crop year only, if the calculation of base acres under section 7911(a) of this title results in total base acres for a farm in excess of the contract acreage (as defined in section 7202 of this title) for the farm used to calculate the fiscal year 2002 payment authorized under section 7214 of this title, paragraphs (1) and (2) of subsection (b) shall not limit the harvesting of an agricultural commodity specified in paragraph (3) of that subsection on the excess base acres, except that direct payments and counter-cyclical payments for the 2002 crop year shall be reduced by an acre for each acre of the excess base acres planted to such an agricultural commodity.

(Pub. L. 107-171, title I, §1106, May 13, 2002, 116 Stat. 153.)

**§ 7917. Relation to remaining payment authority under production flexibility contracts**

**(a) Termination of superseded payment authority**

Notwithstanding section 7213(a)(7) of this title or any other provision of law, the Secretary shall not make payments for fiscal year 2002 after May 13, 2002, under a production flexibility contract entered into under section 7211 of this