

§ 1412.4

Target price means, for peanuts, the price per ton; and for covered commodities, the price per bushel (or other appropriate unit in the case of upland cotton, rice, and other oilseeds) used to determine the payment rate for counter-cyclical payments.

§ 1412.4 Appeals.

A participant may obtain reconsideration and review of any adverse determination made under this part in accordance with the appeal regulations found at parts 11 and 780 of this title.

Subpart B—Establishment of Base Acres for a Farm for Covered Commodities

§ 1412.21 Election of base acres.

(a) Subject to adjustments in paragraph (b) of this section, base acres for covered commodities and peanuts are as defined in §1412.3.

(b) No later than April 1, 2009, owners on a farm may establish base acres for pulse crops.

(1) Subject to the limitations in accordance with paragraph (d) of this section and §1412.24, the base acres for pulse crops are equal to the sum of the following:

(i) The 4-year average of the acreage planted or prevented planted to the pulse crops during each of the 1998 through 2001 crop years for harvest, grazing, haying, silage, or other similar purposes, as determined by the Secretary, plus

(ii) The 4-year average of the acreage prevented from being planted to covered commodities during each of the 1998 through 2001 crop years, for reasons beyond the control of the producer, as determined by the Deputy Administrator.

(c) Subject to paragraph (d) of this section, the total acreage of a pulse crop on the farm calculated in accordance with paragraph (b) of this section must not exceed:

(1) The total acreage of cropland on the farm minus

(2) The total acreage for all covered commodities, peanut, and other pulse crops determined in accordance with paragraphs (a) and (b) of this section.

(d) If the calculation in paragraph (c) of this section results in a negative

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number, the pulse crop acreage on the farm for that crop year will be zero for the purposes of determining the 4-year average, in accordance with paragraph (b) of this section. Further, no prevented planning credit or other base credit may be allowed for a pulse crop for any planting activity for which base credit was allowed or will be allowed for another commodity.

(e) If the acreage planted or prevented from being planted was devoted to a different covered commodity in the same crop year (other than a covered commodity or pulse crops produced under an established practice of double-cropping), the owner may select the commodity to be used for base purposes for that crop year in determining the 4-year average, but may not select both the initial commodity and subsequent commodity.

(f)(1) An owner may increase the eligible acres of pulse crops on a farm by reducing the acreage of covered commodities and peanuts determined in accordance with paragraphs (a) and (b) of this section for one or more covered commodities on an acre-for-acre basis, except that the total base acres for pulse crops on the farm may not exceed the four-year average of pulse crops determined under paragraph (b) of this section.

(2) For the purpose of determining a 4-year average acreage for a farm under this section, any crop year in which a pulse crop was not planted or prevented planted will be excluded.

§ 1412.22 Failure to make pulse crop election.

If an owner fails to make an election for establishing pulse crop base acres on a farm by April 1, 2009, in accordance with §1412.21, that owner will be deemed to have made the election to determine all base acres for all covered commodities and peanuts on the farm as set forth in §1412.21.

§ 1412.23 Base acres and Conservation Reserve Program.

(a) Subject to paragraphs (b) and (c) of this section, eligible producers may, at the beginning of each fiscal year, adjust the base acres for covered commodities and peanuts with respect to the farm by the number of production

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flexibility contract acres or base acres protected by a Conservation Reserve Program contract entered into under section 1231 of the Food Security Act of 1985 (1985 Farm Bill, Pub. L. 99-198) that expired, was voluntarily terminated, or was early released on or after September 30, 2007.

(b) The total base acreage on a farm must not exceed the limitation of § 1412.24.

(c) Adjustments to base acreage on a farm in accordance with this section must be completed by no later than June 1 of the fiscal year following the fiscal year the conservation reserve program contract expired or was voluntarily terminated.

(d) For the fiscal year in which an adjustment to base acres under this section is made, the owner of the farm may elect to receive either direct payments and counter-cyclical payments or ACRE payments, as applicable, with respect to the base acres added to the farm under this section or a prorated payment under the conservation reserve contract, but not both.

§ 1412.24 Limitation of total base acreage on a farm.

(a) The sum of the following must not exceed the total DCP cropland acreage on the farm, plus approved double-cropped acreage for the farm:

(1) The sum of all base acres established for the farm in accordance with this part, plus

(2) Any cropland acreage on the farm enrolled in a Conservation Reserve Program contract in accordance with part 1410 of this chapter, plus

(3) Any cropland acreage on the farm enrolled in a wetland reserve program contract in accordance with part 1467 of this chapter, plus

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

(b) The Deputy Administrator will give the owner of the farm the opportunity to select the covered commodity base acres or peanut base acres, against which the reduction required in this section will be made.

(c) In applying paragraph (a) of this section, CCC will take into account the

practice of double cropping on a farm, as determined by CCC.

Subpart C—Establishment of Yields for Direct and Counter-Cyclical Payments

§ 1412.31 Direct payment yields for covered commodities, except pulse crops.

(a) The direct payment yield for each covered commodity, except pulse crops, will be the payment yield established for the commodity for the farm in accordance with the regulations for covered commodities at part 1412 of this chapter in effect on January 1, 2008 (see 7 CFR part 1412, revised as of January 1, 2008).

(b) [Reserved]

§ 1412.32 Direct payment yield for designated oilseed and pulse crops.

(a) The direct payment yield for designated oilseeds for which a yield was not established by September 30, 2007, and pulse crops for the farm will be determined by multiplying the weighted average yield per planted acre for the crop on the farm, as determined in accordance with paragraph (b) of this section, times the ratio resulting from:

(1) The national average yield for the crop for the 1981 through 1985 crop years, as determined by CCC, divided by

(2) The national average yield for the crop for the 1998 through 2001 crop years, as determined by CCC.

(b)(1) The yield per planted acre for such designated oilseed for which a yield was not established by September 30, 2007, and for pulse crops on the farm, to be used for direct payment purposes, is calculated as follows:

(i) The sum of the production of the crop for the 1998 through 2001 crop years, as determined in accordance with paragraph (b)(2) of this section; divided by

(ii) The sum of the total planted acres of the crop for the 1998 through 2001 crop years.

(2) The production of the crop for each of the 1998 through 2001 crop years will be the higher of the following, except in a year in which the acreage planted to the crop was zero, in which