Commodity Credit Corporation, USDA

§ 1412.53 Counter-cyclical payment provisions.

(a) For the 2008 through 2012 contracts, except as provided in subpart G of this part, a counter-cyclical payment will be made to eligible participants on a farm enrolled in a DCP contract with respect to covered commodities and peanuts for which payment yields and base acres are established:

(1) Only if the effective price for the covered commodity or peanuts, as determined in accordance with paragraph (b) of this section, is less than the target price of the covered commodity or peanuts, respectively, as determined in accordance with paragraph (c) of this section and

(2) As soon as practical, as determined by the Deputy Administrator, after the end of the 12-month marketing year for the covered commodity or peanuts, as applicable.

(b) For the purposes of paragraphs (a) and (g) of this section, the effective price for a covered commodity or peanuts, respectively, is equal to the sum of the following:

(1) The higher of:
   (i) The national average market price received by producers during the 12-month marketing year for the covered commodity or peanuts, as applicable, as determined by the Secretary, or
   (ii) For the 2008 and 2009 crop years the following rates:
      (A) Wheat—$2.75/bu.
      (B) Corn—$1.95/bu.
      (C) Grain sorghum—$1.95/bu.
      (D) Barley—$1.85/bu.
      (E) Oats—$1.33/bu.
      (F) Upland cotton—$0.52/lb.
      (G) Long grain rice—$6.50/cwt.
      (H) Medium grain rice—$6.50/cwt.
      (I) Soybeans—$5.00/bu.
      (J) Other oilseeds—$9.30/cwt.
      (K) Dry Peas—$5.40/cwt. (2009 crop only).
      (L) Lentils—$11.28/cwt. (2009 crop only).
      (M) Small Chickpeas—$7.43/cwt. (2009 crop only).
      (N) Large Chickpeas—$11.28/cwt. (2009 crop only).
      (O) Peanuts—$355.00/ton.
   (iii) For the 2010 through 2012 crop years the following rates:
      (A) Wheat—$2.94/bu.
      (B) Corn—$1.95/bu.
      (C) Grain sorghum—$1.95/bu.
      (D) Barley—$1.95/bu.
      (E) Oats—$1.39/bu.
      (F) Upland cotton—$0.52/lb.
(G) Long grain rice—$6.50/cwt.
(H) Medium grain rice—$6.50/cwt.
(I) Soybeans—$5.00/bu.
(J) Other oilseeds—$10.09/cwt.
(L) Lentils—$11.28/cwt.
(M) Small Chickpeas—$7.43/cwt.
(N) Large Chickpeas—$11.28/cwt.
(O) Peanuts—$355.00/ton.
(2) The direct payment rate for the covered commodity as provided in §1412.52(d).
(c) For the purposes of paragraphs (a) and (g) of this section, the target prices are as follows:
(1) For the 2008 and 2009 crop years (except as indicated):
(i) Wheat—$3.92/bu.
(ii) Corn—$2.63/bu.
(iii) Grain sorghum—$2.57/bu.
(iv) Barley—$2.24/bu.
(v) Oats—$1.44/bu.
(vi) Upland cotton—$0.7125/lb.
(vii) Long grain rice—$10.50/cwt.
(viii) Medium grain rice—$10.50/cwt.
(ix) Soybeans—$5.50/bu.
(x) Other oilseeds—$10.10/cwt.
(xi) Peanuts—$495.00/ton.
(xii) Dry peas—$8.32/cwt. (2009 crop only).
(xv) Large chickpeas—$12.81/cwt. (2009 crop only).
(2) For each of the 2010 through 2012 crop years, the target prices are as follows:
(i) Wheat—$4.17/bu.
(ii) Corn—$2.63/bu.
(iii) Grain sorghum—$2.63/bu.
(iv) Barley—$2.63/bu.
(v) Oats—$1.79/bu.
(vi) Upland cotton—$0.7125/lb.
(vii) Long grain rice—$10.50/cwt.
(viii) Medium grain rice—$10.50/cwt.
(ix) Soybeans—$6.00/bu.
(x) Other oilseeds—$12.68/cwt.
(xi) Peanuts—$495.00/ton.
(xii) Dry peas—$8.32/cwt.
(xiii) Lentils—$12.81/cwt.
(xiv) Small chickpeas—$10.36/cwt.
(xv) Large chickpeas—$12.81/cwt.
(d) The payment rate used to calculate counter-cyclical payments with respect to covered commodities and peanuts for which payment yields and base acres are established on a farm enrolled in a contract is equal to the result of:
(1) The target price of the covered commodity or peanuts as determined in accordance with paragraph (c) of this section, minus
(2) The effective price of the covered commodity or peanuts as determined in accordance with paragraph (b) of this section.
(e) For 2008 through 2012 DCP contracts, when counter-cyclical payments are required in accordance with paragraph (a) of this section, subject to the limitation in accordance with §1412.51 and part 1400 of this chapter, the final counter-cyclical payment amount to be paid to producers on a farm enrolled in a contract with respect to the covered commodities or peanuts for which payment yields and base acres are established is equal to the product of:
(1) The payment rate determined in accordance with paragraph (d) of this section, multiplied by
(2) The relevant payment acres of the covered commodity or peanuts, as applicable, minus any acre reduction in accordance with §1412.47(g), multiplied by
(3) The payment yield for the covered commodity or peanuts on the farm enrolled in a contract as determined in accordance with §1412.33, minus
(4) Any reduction calculated in accordance with subparagraph F of this part that was not satisfied by a reduction in the direct payments for the farm calculated in accordance with §1412.52(e), minus
(5) Any partial payment received in accordance with paragraphs (f) or (g) of this section.
(f) For 2008 through 2012 DCP contracts, partial counter-cyclical payments will be paid, at the request of the producer, if the Secretary determines that a counter-cyclical payment for the covered commodity or peanuts, respectively, will be required in accordance with paragraph (a)(1) of this section. The first partial counter-cyclical payment will:
(1) Be calculated in accordance with paragraphs (e)(1) through (4) of this section;
(2) Be an amount determined by the Secretary not to exceed 40 percent of the projected counter-cyclical payment.
for the covered commodity or peanuts, respectively; and
(3) Be made after completion of the first 180 days of the marketing year for that crop;
(g) To the extent practicable, the final partial payment will be made beginning on October 1 of the fiscal year starting in the same calendar year as the end of the marketing year for that crop.
(1) If a producer declines to accept, or is determined to be ineligible for all or any part of the producer’s share of the counter-cyclical payment computed for the farm in accordance with the provisions of this section:
(i) The payment or portions thereof will not become available for any other producer and
(ii) The producer will refund to CCC any amounts representing payments that exceed the payments determined by CCC to have been earned under the program authorized by this part. Part 1403 of this chapter is applicable to all unearned payments.
(2)(i) The payment of any amount due any producer on a farm enrolled in a contract will be made only after all the producers subject to the contract are determined to be in full compliance with the contract and the requirements in this part.
(ii) A participant on a farm enrolled in a contract may receive a payment amount due without regard to the eligibility of other participants on the enrolled and in compliance with contract farm if:
(A) The participant is in full compliance with the contract and the requirements in this part;
(B) The payment of such amount does not adversely affect or defeat the purpose of the program, as determined by the Deputy Administrator, or designee; and
(C) The payment is approved by the Deputy Administrator, or designee.
(h) The participants on a farm who receive any advance counter-cyclical payment must refund the portion of such advance payments that exceeds the actual counter-cyclical payment actually earned for the covered commodity or peanuts, as applicable.
§ 1412.54 Sharing of contract payments.
(a) Each eligible producer on a farm will be given the opportunity to annually enroll in a DCP or ACRE program contract, as applicable, and receive payments determined to be fair and equitable as agreed to by all the producers on the farm and approved by the county committee.
(b) Each producer leasing a farm must provide a copy of their written lease to the county committee and, in the absence of a written lease, must provide to the county committee a complete written description of the terms and conditions of any oral agreement or lease. An owner’s or landlord’s signature, as applicable, affirming a zero share on a contract may be accepted as evidence of a cash lease between the owner or landlord and tenant, as applicable, as determined by CCC. Such signature or signatures, if entered on the contract to satisfy the requirement of furnishing a written lease, must be entered on the contract no later than as prescribed in §1412.41.
(c) When base acres are leased on a share basis, neither the landlord nor the tenant will receive 100 percent of the contract payment for the farm.
(d) CCC will approve a contract for enrollment and approve the division of payment when all of the following apply:
(1) The landlords, tenants, and sharecroppers sign the contract and agree to the payment shares shown on the contract;
(2) CCC determines that the interests of tenants and sharecroppers are being protected; and
(3) CCC determines that the payment shares shown on the contract do not circumvent either the provisions of this part or the provisions of part 1400 of this chapter.
(e) For the 2008 crop year only:
(1) A lease will be considered to be a cash lease if the lease provides for only a guaranteed cash payment for a specified amount or a fixed quantity of the crop (for example, cash, pounds, or bushels per acre).
(2) If a lease contains provisions that require the payment of rent on the basis of the amount of crop produced or the proceeds derived from the crop, or