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.

(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) United States

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

(Pub. L. 104–127, title I, § 102, Apr. 4, 1996, 110 Stat. 897.)

Editorial Notes

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 7201 of this title.

The Agricultural Act of 1949, referred to in pars. (1), (2), and (4), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, which is classified principally to chapter 35A (§ 1421 et seq.) of this title. Title V of the Act, which was classified generally to subchapter IV (§ 1461 et seq.) of chapter 35A of this title, was omitted from the Code. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465), referred to in par. (9), was omitted from the Code.

SUBCHAPTER II—PRODUCTION FLEXIBILITY CONTRACTS

§ 7211. Authorization for use of production flexibility contracts

(a) Offer and terms

The Secretary shall offer to enter into a production flexibility contract with an eligible owner or producer described in subsection (b) on a farm containing eligible cropland. Under the terms of a contract, the owner or producer shall agree, in exchange for annual contract payments, to—

(1) 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.);

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

(3) comply with the planting flexibility requirements of section 7218 of this title; and

(4) use the land subject to the contract for an agricultural or related activity, but not for a nonagricultural commercial or industrial use, as determined by the Secretary.

(b) Eligible owners and producers described

The following producers and owners shall be eligible to enter into a contract:

(1) An owner of eligible cropland who assumes all or a part of the risk of producing a crop.

(2) A producer (other than an owner) on eligible cropland with a share-rent lease of the eligible cropland, regardless of the length of the lease, if the owner enters into the same contract.

(3) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring on or after September 30, 2002, in which case the owner is not required to enter into the contract.

(4) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring before September 30, 2002. The owner of the eligible cropland may also enter into the same contract. If the producer elects to enroll less than 100 percent of the eligible cropland in the contract, the consent of the owner is required.

(5) An owner of eligible cropland who cash rents the eligible cropland and the lease term expires before September 30, 2002, if the tenant declines to enter into a contract. In the case of an owner covered by this paragraph, contract payments shall not begin under a contract until the lease held by the tenant ends.

(6) An owner or producer described in any preceding paragraph regardless of whether the owner or producer purchased catastrophic risk protection for a 1996 crop under section 1508(b) of this title.

(c) Tenants and sharecroppers

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

(d) Eligible cropland described

Land shall be considered to be cropland eligible for coverage under a contract only if the land has contract acreage attributable to the land and—

(1) for at least 1 of the 1991 through 1995 crops, at least a portion of the land was enrolled in the acreage reduction program authorized for a crop of a contract commodity under section 101B, 103B, 105B, or 107B of the Agricultural Act of 1949 or was considered planted;

(2) was subject to a conservation reserve contract under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) whose term expired, or was voluntarily terminated, on or after January 1, 1995; or

(3) is released from coverage under a conservation reserve contract by the Secretary during the period beginning on January 1, 1995, and ending on the date specified in section 7212(a)(2) of this title.

(e) Quantity of eligible cropland covered by contract

Subject to subsection (b)(4), an owner or producer may enroll as contract acreage all or a portion of the eligible cropland on the farm.

(f) Voluntary reduction in contract acreage

Subject to subsection (b)(4), an owner or producer who enters into a contract may subsequently reduce the quantity of contract acreage covered by the contract.

(Pub. L. 104–127, title I, § 111, Apr. 4, 1996, 110 Stat. 898.)

Editorial Notes

REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsec. (a)(1), (2), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354. 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.

This subchapter, referred to in subsec. (c), was in the original ''this subtitle'', meaning subtitle B (§§ 111–118) of title I of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 898, which enacted this subchapter and amended sections 1308, 1308–1, and 1308–3 of this title. For complete classification of subtitle B to the Code, see Tables.

Sections 101B, 103B, 105B, and 107B of the Agricultural Act of 1949, referred to in subsec. (d)(1), were classified to sections 1441–2, 1444–2, 1444f, and 1445b–3a, respectively, of this title prior to repeal by section 7301(b)(2)(A)–(D) of this title.

Statutory Notes and Related Subsidiaries

VIOLATION OF CONTRACT; DENIAL OF FUNDS FOR SALARIES

Pub. L. 104–180, title VII, § 726, Aug. 6, 1996, 110 Stat. 1600, provided that: ''None of the funds made available in this Act [see Tables for classification] may be used to pay the salaries of employees of the Department of Agriculture who make payments pursuant to a production flexibility contract entered into under section 111 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 7 U.S.C. 7211) when it is made known to the Federal official having authority to obligate or expend such funds that the land covered by that production flexibility contract is not being used for the production of an agricultural commodity or is not devoted to a conserving use, unless it is also made known to that Federal official that the lack of agricultural production or the lack of a conserving use is a consequence of drought, flood, or other natural disaster.''

§ 7212. Elements of contracts

(a) Time for contracting

(1) Commencement

To the extent practicable, the Secretary shall commence entering into contracts not later than 45 days after April 4, 1996.

(2) Deadline

Except as provided in paragraph (3), the Secretary may not enter into a contract after August 1, 1996.

(3) Conservation reserve lands

(A) In general

At the beginning of each fiscal year, the Secretary shall allow an eligible owner or producer on a farm covered by a conservation reserve contract entered into under section 3831 of title 16 that terminates after the date specified in paragraph (2) to enter into or expand a production flexibility contract to cover the contract acreage of the farm that was subject to the former conservation reserve contract.

(B) Amount

Contract payments made for contract acreage under this paragraph shall be made at the rate and amount applicable to the annual contract payment level for the applicable crop. For the fiscal year in which the conservation reserve contract is terminated, the owner or producer subject to the production flexibility contract may elect to receive either contract payments or a prorated payment under the conservation reserve contract, but not both.

(b) Duration of contract

(1) Beginning date

The term of a contract shall begin with—

(A) the 1996 crop of a contract commodity; or

(B) in the case of acreage that was subject to a conservation reserve contract described in subsection (a)(3), the date the production flexibility contract was entered into or expanded to cover the acreage.

(2) Ending date

The term of a contract shall extend through the 2002 crop, unless earlier terminated by the owner or producer.

(c) Estimation of contract payments

At the time the Secretary enters into a contract, the Secretary shall provide an estimate of the minimum contract payments anticipated to be made during at least the first fiscal year for which contract payments will be made.

(d) Time for payment

(1) In general

An annual contract payment shall be made not later than September 30 of each of fiscal years 1996 through 2002.

(2) Advance payments

(A) Fiscal year 1996

At the option of the owner or producer, 50 percent of the contract payment for fiscal year 1996 shall be made not later than 30 days after the date on which the contract is entered into and approved by the Secretary and the owner or producer.

(B) Subsequent fiscal years

At the option of the owner or producer for fiscal year 1997 and each subsequent fiscal year, 50 percent of the annual contract payment shall be made on December 15 or January 15 of the fiscal year. The owner or producer may change the date selected under this subparagraph for a subsequent fiscal year by providing advance notice to the Secretary.

(3) Special rule

Notwithstanding the requirements for making an annual contract payment specified in paragraphs (1) and (2), at the option of the owner or producer, the Secretary shall pay the full amount (or such portion as the owner or producer may specify) of the contract payment required to be paid for any of fiscal years 1999 through 2002 at such time or times during that fiscal year as the owner or producer may specify.

(Pub. L. 104–127, title I, § 112, Apr. 4, 1996, 110 Stat. 899; Pub. L. 105–228, § 2, Aug. 12, 1998, 112 Stat. 1516; Pub. L. 106–78, title VIII, § 811, Oct. 22, 1999, 113 Stat. 1181.)