

ment by providing advance notice to the Secretary.

**(3) Repayment of advance payments**

If a producer on a farm that receives an advance direct payment for a crop year ceases to be a producer on that farm, or the extent to which the producer shares in the risk of producing a crop changes, before the date the remainder of the direct payment is made, the producer shall be responsible for repaying the Secretary the applicable amount of the advance payment, as determined by the Secretary.

(Pub. L. 107-171, title I, §1103, May 13, 2002, 116 Stat. 149; Pub. L. 109-171, title I, §1102(a), Feb. 8, 2006, 120 Stat. 5.)

**Editorial Notes**

AMENDMENTS

2006—Subsec. (d)(2). Pub. L. 109-171 substituted “2005 crop years, up to 40 percent of the direct payment for a covered commodity for the 2006 crop year, and up to 22 percent of the direct payment for a covered commodity for the 2007 crop year,” for “2007 crop years”.

**§ 7914. Availability of counter-cyclical payments**

**(a) Payment required**

For each of the 2002 through 2007 crop years for each covered commodity, the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and base acres are established with respect to the covered commodity if the Secretary determines that the effective price for the covered commodity is less than the target price for the covered commodity.

**(b) Effective price**

For purposes of subsection (a), the effective price for a covered commodity is equal to the sum of the following:

- (1) The higher of the following:
  - (A) The national average market price received by producers during the 12-month marketing year for the covered commodity, as determined by the Secretary.
  - (B) The national average loan rate for a marketing assistance loan for the covered commodity in effect for the applicable period under subchapter II.
- (2) The payment rate in effect for the covered commodity under section 7913 of this title for the purpose of making direct payments with respect to the covered commodity.

**(c) Target price**

**(1) 2002 and 2003 crop years**

For purposes of the 2002 and 2003 crop years, the target prices for covered commodities shall be as follows:

- (A) Wheat, \$3.86 per bushel.
- (B) Corn, \$2.60 per bushel.
- (C) Grain sorghum, \$2.54 per bushel.
- (D) Barley, \$2.21 per bushel.
- (E) Oats, \$1.40 per bushel.
- (F) Upland cotton, \$0.7240 per pound.
- (G) Rice, \$10.50 per hundredweight.
- (H) Soybeans, \$5.80 per bushel.
- (I) Other oilseeds, \$0.0980 per pound.

**(2) Subsequent crop years**

For purposes of each of the 2004 through 2007 crop years, the target prices for covered commodities shall be as follows:

- (A) Wheat, \$3.92 per bushel.
- (B) Corn, \$2.63 per bushel.
- (C) Grain sorghum, \$2.57 per bushel.
- (D) Barley, \$2.24 per bushel.
- (E) Oats, \$1.44 per bushel.
- (F) Upland cotton, \$0.7240 per pound.
- (G) Rice, \$10.50 per hundredweight.
- (H) Soybeans, \$5.80 per bushel.
- (I) Other oilseeds, \$0.1010 per pound.

**(d) Payment rate**

The payment rate used to make counter-cyclical payments with respect to a covered commodity for a crop year shall be equal to the difference between—

- (1) the target price for the covered commodity; and
- (2) the effective price determined under subsection (b) for the covered commodity.

**(e) Payment amount**

If counter-cyclical payments are required to be paid for any of the 2002 through 2007 crop years of a covered commodity, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year shall be equal to the product of the following:

- (1) The payment rate specified in subsection (d).
- (2) The payment acres of the covered commodity on the farm.
- (3) The payment yield or updated payment yield for the farm, depending on the election of the owner of the farm under section 7912 of this title.

**(f) Time for payments**

**(1) General rule**

If the Secretary determines under subsection (a) that counter-cyclical payments are required to be made under this section for the crop of a covered commodity, the Secretary shall make the counter-cyclical payments for the crop as soon as practicable after the end of the 12-month marketing year for the covered commodity.

**(2) Availability of partial payments**

If, before the end of the 12-month marketing year for a covered commodity, the Secretary estimates that counter-cyclical payments will be required for the crop of the covered commodity, the Secretary shall give producers on a farm the option to receive partial payments of the counter-cyclical payment projected to be made for that crop of the covered commodity.

**(3) Time for partial payments**

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

When the Secretary makes partial payments available under paragraph (2) for a covered commodity for any of the 2002 through 2006 crop years—

- (i) the first partial payment for the crop year shall be made not earlier than October 1, and, to the maximum extent practicable, not later than October 31, of the

calendar year in which the crop of the covered commodity is harvested;

(ii) the second partial payment shall be made not earlier than February 1 of the next calendar year; and

(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.)

**Editorial Notes**

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.