

§ 1412.104

7 CFR Ch. XIV (1-1-05 Edition)

subpart C for a farm for a covered commodity.

Prevented planted means, for the purpose of establishing base acres under §1412.201, the inability to plant a crop with proper equipment during the established planting period for the crop or commodity. A producer must prove that the producer intended to plant the crop and that such crop could not be planted due to a natural disaster rather than managerial decisions. The natural disaster that caused the prevented planting must have occurred during the established planting period for the crop.

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.

Updated payment yield means the payment yield of covered commodities, elected by the owner of a farm under §1412.303, to be used in calculating the counter-cyclical payments for the farm.

[67 FR 64751, Oct. 21, 2002, as amended at 68 FR 37939, June 26, 2003]

§ 1412.104 Appeals.

A producer 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

SOURCE: 67 FR 64751, Oct. 21, 2002, unless otherwise noted.

§ 1412.201 Election of base acres.

(a) No later than April 1, 2003, owners on a farm may select one of the following methods to establish base acres for all covered commodities on the farm:

(1) Subject to the limitations in accordance with paragraph (d) of this section and §1412.204, the base acres for each covered commodity shall be equal to the sum of the following:

(i) For each covered commodity, the 4-year average of the acreage planted to the covered commodity 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) For each covered commodity, 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.

(2) The sum of the following:

(i) For each covered commodity, the contract acreage used to calculate the fiscal year 2002 Production Flexibility Contract payment for the covered commodity on the farm in accordance with the regulations of this part in effect on January 1, 2002 (see 7 CFR part 1412 revised as of January 1, 2002), plus

(ii) Subject to paragraphs (b) and (c) of this section, the 4-year average of eligible oilseed acreage on the farm for the 1998 through 2001 crop years, as determined in a manner provided in paragraph (a)(1) of this section, except that the limitation in paragraph (d) of this section shall not apply.

(b) Subject to paragraph (c) of this section, the total acreage of soybeans and other oilseeds on the farm calculated in accordance with paragraph (a)(2)(ii) of this section shall not exceed:

(1) The total acreage determined in accordance with paragraph (a)(1) of this section for the crop year, minus

(2) The total contract acreage for all covered commodities determined in accordance with paragraph (a)(2)(i) of this section.

(c) If the calculation in paragraph (b) of this section results in a negative number, the soybean and other oilseed acreage on the farm for that crop year shall be zero for the purposes of determining the 4-year average, in accordance with paragraph (a)(2)(ii) of this section.

(d) 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 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 shall not select both the initial commodity and subsequent commodity.

(e)(1) An owner may increase the eligible acres of soybeans and other oilseeds on a farm by reducing the contract acreage determined in accordance with paragraph (a)(2)(i) of this section for one or more covered commodities on an acre-for-acre basis, except that the total base acreage for soybeans and each other oilseed on the farm may not exceed the four-year average of each oilseed determined under paragraph (a)(2)(ii) 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 covered commodity was not planted shall not be excluded.

(f) For the purposes of this section, acreage planted, or prevented from being planted, to popcorn shall be considered as acreage planted to corn.

[67 FR 64751, Oct. 21, 2002, as amended at 68 FR 37939, June 26, 2003]

§ 1412.202 Failure to make election.

If an owner fails to make an election for establishing base acres on a farm by April 1, 2003 in accordance with § 1412.201, that owner shall be deemed to have made the election to determine all base acres for all covered commodities on the farm as set forth in § 1412.201(a)(2).

§ 1412.203 Base acres and Conservation Reserve Program.

(a) Subject to paragraphs (d) and (e) 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 crop acreage base acres protected by a Conservation Reserve Program contract entered into under section 1231 of the Food Security Act of 1985 (1985 Act) that expired or was voluntarily terminated on or after May 13, 2002.

(b) Subject to paragraphs (d) and (e) 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 cropland

acres reduced by a producer on a CCC-approved standard, uniform form designated by CCC in order to enroll such acres in a conservation reserve program contract entered into under section 1231 of the 1985 Act. Eligible producers may adjust base acres only when the Conservation Reserve Program contract entered into under section 1231 of the 1985 Act expires or is voluntarily terminated on or after May 13, 2002.

(c) Subject to paragraphs (d) and (e) of this section, if neither paragraphs (a) nor (b) of this section apply, the Deputy Administrator may allow eligible producers to adjust base acres for covered commodities and peanuts with respect to the farm in a manner determined acceptable by the Deputy Administrator when a Conservation Reserve Program contract entered into under section 1231 of the 1985 Act expires or is voluntarily terminated on or after May 13, 2002.

(d) The total base acreage on a farm shall not exceed the limitation in accordance with § 1412.204.

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

(f) For the fiscal year in which an adjustment to base acres under this section is made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments 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.

§ 1412.204 Limitation of total base acreage on a farm.

(a) The sum of the following shall 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 subpart, plus

(2) Any base acres established for the farm for peanuts in accordance with subpart G of this part, plus