

Commodity Credit Corporation, USDA

§ 1412.303

(i) The total production for the applicable year based on the production evidence submitted in accordance with § 1412.304; or

(ii) The amount equal to the product of:

(A) The total planted acres for the crop, times

(B) 75 percent of the harvested average county yield for that crop determined, where practicable, by calculating the weighted 4-year average of the National Agricultural Statistics Service (NASS) harvested acreage yields for the crop using the 1998 through 2001 crop years.

(3) The NASS harvested acreage yield to be used in paragraph (b)(2) of this section shall be based on:

(i) NASS harvested irrigated yield for the crop, if available, for producers who irrigated the crop in the applicable years;

(ii) NASS harvested non-irrigated yield for the crop, if available, for producers who did not irrigate the crop in the applicable years; or

(iii) NASS harvested blended yield for all acreage, regardless of whether or not the acres were irrigated or non-irrigated, for all crops in all counties for which the yields in paragraphs (b)(3)(i) and (ii) of this section are unavailable.

(4) If NASS harvested acreage yield data is not available, the Deputy Administrator shall assign a yield to be used in paragraph (b)(2)(ii)(B) of this section.

§ 1412.303 Payment yield for counter-cyclical payments for covered commodities.

(a)(1) The counter-cyclical payment yield for covered commodities on the farm shall be equal to the direct payment yield for the covered commodity on the farm unless the owner elects to partially update the yield for all covered commodities on the farm in accordance with paragraph (b) of this section.

(2) Only owners who establish base acres for the farm in accordance with § 1412.201(a)(1) shall have the opportunity to partially update the counter-cyclical payment yield for the covered commodities on the farm.

(3) The partially updated yield shall be used for the calculation of the counter-cyclical payments only. The partially updated counter-cyclical yield shall not be used for the calculation of any direct payments for any covered commodity.

(4) Owners who elect to partially update counter-cyclical payment yields in accordance with this section must:

(i) Make such election at the same time such owner makes the base election in accordance with § 1412.201; and

(ii) Update counter-cyclical payment yields for all covered commodities on the farm using the same method. Updating counter-cyclical payment yields for fewer than all covered commodities on the farm is not allowed. Updating counter-cyclical payment yields for covered commodities on a farm using different methods for different covered commodities is not allowed.

(b) Owners on a farm who established base acres for the farm in accordance with § 1412.201(a)(1) may select one of the following methods to partially update counter-cyclical payment yields for all covered commodities on the farm. The same method must be used to partially update the counter-cyclical payment yield for all covered commodities on the farm.

(1) The sum of the following:

(i) The payment yield calculated for the covered commodity in accordance with §§ 1412.301 or 1412.302, as applicable, plus

(ii) 70 percent of the result of:

(A) The average yield per planted acre for the crop on the farm, as determined in accordance with paragraph (c) of this section, minus

(B) The payment yield calculated for the covered commodity in accordance with §§ 1412.301 or 1412.302, as applicable.

(2) 93.5 percent of the average yield per planted acre for the crop on the farm, as determined in accordance with paragraph (c) of this section.

(c)(1) The yield per planted acre for covered commodities on the farm is calculated as follows:

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

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(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 shall be the higher of the following, except in a year in which the acreage planted to the crop was zero, in which case, the production for the crop for such year shall be zero:

(i) The total production for the applicable year based on the production evidence submitted in accordance with § 1412.304; or

(ii) The amount equal to the product of:

(A) The total planted acres for the crop, times

(B) 75 percent of the harvested average county yield for that crop determined, where practicable, by calculating the weighted 4-year average of the National Agricultural Statistics Service (NASS) harvested acreage yields for the crop using the 1998 through 2001 crop years.

(3) The NASS harvested acreage yield to be used in paragraph (c)(2) of this section shall be based on:

(i) NASS harvested irrigated yield for the crop, if available, for producers who irrigated the crop in the applicable years;

(ii) NASS harvested non-irrigated yield for the crop, if available, for producers who did not irrigate the crop in the applicable years; or

(iii) NASS harvested blended yield for all acreage, regardless of whether or not the acres were irrigated or non-irrigated, for all crops in all counties where the yields in paragraphs (c)(3)(i) and (ii) of this section are unavailable.

(4) If NASS harvested acreage yield data is not available, the Deputy Administrator shall assign a yield to be used in paragraph (c)(2)(ii)(B) of this section.

§ 1412.304 Submitting production evidence.

(a)(1) Reports of production evidence must be submitted by producers when the owner elects to:

(i) Partially update the yield for all covered commodities on the farm in accordance with § 1412.303; or

(ii) Establish a direct payment yield for soybeans or other oilseeds for the farm in accordance with § 1412.302.

(2) Producer or third-party certification shall not be accepted as proof of production evidence.

(3) Reports of production evidence for all covered commodities shall be provided to the county committee of the county where the farm is administratively located, by farm and crop in such manner as required by CCC on a CCC-approved standard, uniform form designated by CCC.

(b)(1) When disposition of production has been through commercial channels, CCC may require the producer to furnish documentary evidence in order to verify the information provided on the report of production. Acceptable evidence may include, but is not limited to, such items as:

(i) Production approved by the county committee for Loan Deficiency Payments;

(ii) Commercial receipts;

(iii) Gin records;

(iv) Settlement sheets;

(v) Warehouse ledger sheets;

(vi) Elevator receipts or load summaries, supported by other evidence showing disposition, such as sales documents;

(vii) Evidence from harvested or appraised acreage, approved for FCIC or multi-peril crop insurance loss adjustment settlement; or

(viii) Other production evidence determined acceptable by the Deputy Administrator.

(2) Such production evidence must show:

(i) The producer's name,

(ii) The commodity,

(iii) The buyer or name of storage facility,

(iv) The Date of transaction or delivery, and

(v) The quantity.

(c) When production of a covered commodity has been disposed of through non-commercial channels, such as used for feed, grazing, or silage, if Loan Deficiency Payments are not available, but crop insurance records or other FSA records indicate that the use of the crop was for silage, hay, or grazing, then county committee will assign production for that year based