

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

(3) Eligibility of acquired feed grains

A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield used to make counter-cyclical payments under subchapter I or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.

(b) Recourse loans available for seed cotton

For each of the 2008 through 2012 crops of upland cotton and extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

(c) Repayment rates

Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (determined in accordance with section 7283 of this title).

(Pub. L. 110-234, title I, §1209, May 22, 2008, 122 Stat. 964; Pub. L. 110-246, §4(a), title I, §1209, June 18, 2008, 122 Stat. 1664, 1692.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

§ 8740. Adjustments of loans

(a) Adjustment authority

Subject to subsection (e), the Secretary may make appropriate adjustments in the loan rates for any loan commodity (other than cotton) for

differences in grade, type, quality, location, and other factors.

(b) Manner of adjustment

The adjustments under subsection (a) shall, to the maximum extent practicable, be made in such a manner that the average loan level for the commodity will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined in accordance with this subtitle and subtitles B through E.¹

(c) Adjustment on county basis

(1) In general

The Secretary may establish loan rates for a crop for producers in individual counties in a manner that results in the lowest loan rate being 95 percent of the national average loan rate, if those loan rates do not result in an increase in outlays.

(2) Prohibition

Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

(d) Adjustment in loan rate for cotton

(1) In general

The Secretary may make appropriate adjustments in the loan rate for cotton for differences in quality factors.

(2) Revisions to quality adjustments for upland cotton

(A) In general

Not later than 180 days after the date of enactment of this Act, the Secretary shall implement revisions in the administration of the marketing assistance loan program for upland cotton to more accurately and efficiently reflect market values for upland cotton.

(B) Mandatory revisions

Revisions under subparagraph (A) shall include—

(i) the elimination of warehouse location differentials;

(ii) the establishment of differentials for the various quality factors and staple lengths of cotton based on a 3-year, weighted moving average of the weighted designated spot market regions, as determined by regional production;

(iii) the elimination of any artificial split in the premium or discount between upland cotton with a 32 or 33 staple length due to micronaire; and

(iv) a mechanism to ensure that no premium or discount is established that exceeds the premium or discount associated with a leaf grade that is 1 better than the applicable color grade.

(C) Discretionary revisions

Revisions under subparagraph (A) may include—

(i) the use of non-spot market price data, in addition to spot market price data, that would enhance the accuracy of the price

¹ See References in Text note below.

information used in determining quality adjustments under this subsection;

(ii) adjustments in the premiums or discounts associated with upland cotton with a staple length of 33 or above due to micro-naire with the goal of eliminating any unnecessary artificial splits in the calculations of the premiums or discounts; and

(iii) such other adjustments as the Secretary determines appropriate, after consultations conducted in accordance with paragraph (3).

(3) Consultation with private sector

(A) Prior to revision

In making adjustments to the loan rate for cotton (including any review of the adjustments) as provided in this subsection, the Secretary shall consult with representatives of the United States cotton industry.

(B) Inapplicability of Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultations under this subsection.

(4) Review of adjustments

The Secretary may review the operation of the upland cotton quality adjustments implemented pursuant to this subsection and may make further revisions to the administration of the loan program for upland cotton, by—

(A) revoking or revising any actions taken under paragraph (2)(B); or

(B) revoking or revising any actions taken or authorized to be taken under paragraph (2)(C).

(e) Rice

The Secretary shall not make adjustments in the loan rates for long grain rice and medium grain rice, except for differences in grade and quality (including milling yields).

(Pub. L. 110-234, title I, §1210, May 22, 2008, 122 Stat. 965; Pub. L. 110-246, §4(a), title I, §1210, June 18, 2008, 122 Stat. 1664, 1693.)

REFERENCES IN TEXT

This subtitle and subtitles B through E, referred to in subsec. (b), probably means subtitle B (§1201 et seq.) and subtitles C (§1301 et seq.), D (§1401 et seq.), and E (§1501 et seq.) of title I of Pub. L. 110-246, June 18, 2008, 122 Stat. 1681. Subtitles B and C are classified generally to this subchapter and subchapter III (§8751 et seq.), respectively, of this chapter. Subtitle D enacted sections 1359kk, 1359ll, and 7287 of this title, amended sections 1359aa to 1359gg, 1359ii, 7272, and 7971 of this title, repealed former section 1359kk of this title, and enacted provisions set out as notes under sections 3602 and 7272 of this title. Subtitle E enacted subchapter IV (§8771 et seq.) of this chapter and amended sections 450l, 608c, 1637b, 4502, 4504, and 4531 of this title and section 713a-14 of Title 15, Commerce and Trade. For complete classification of subtitles B to E to the Code, see Tables.

The date of enactment of this Act, referred to in subsec. (d)(2)(A), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

The Federal Advisory Committee Act, referred to in subsec. (d)(3)(B), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

SUBCHAPTER III—PEANUTS

§ 8751. Definitions

In this subchapter:

(1) Base acres for peanuts

(A) In general

The term “base acres for peanuts” means the number of acres assigned to a farm pursuant to section 7952 of this title, as in effect on September 30, 2007, subject to any adjustment under section 8752 of this title.

(B) Covered commodities

The term “base acres”, with respect to a covered commodity, has the meaning given the term in section 8711 of this title.

(2) Counter-cyclical payment

The term “counter-cyclical payment” means a payment made to producers on a farm under section 8754 of this title.

(3) Direct payment

The term “direct payment” means a direct payment made to producers on a farm under section 8753 of this title.

(4) Effective price

The term “effective price” means the price calculated by the Secretary under section 8754 of this title for peanuts to determine whether counter-cyclical payments are required to be made under that section for a crop year.

(5) Payment acres

The term “payment acres” means, in the case of direct payments and counter-cyclical payments—

(A) except as provided in subparagraph (B), 85 percent of the base acres of peanuts on a farm on which direct payments or counter-cyclical payments are made; and

(B) in the case of direct payments for each of the 2009 through 2011 crop years, 83.3 percent of the base acres for peanuts on a farm on which direct payments are made.

(6) Payment yield

The term “payment yield” means the yield established for direct payments and the yield established for counter-cyclical payments under section 7952 of this title, as in effect on September 30, 2007, for a farm for peanuts.

(7) Producer

(A) In general

The term “producer” means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop on a farm and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced.

(B) Hybrid seed

In determining whether a grower of hybrid seed is a producer, the Secretary shall—

(i) not take into consideration the existence of a hybrid seed contract; and

(ii) ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this subchapter.