

the determination, suspend, or terminate, as appropriate, collection of assessments under the order, and suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as possible.

(Pub. L. 106-387, §1(a) [title XII, §1211], Oct. 28, 2000, 114 Stat. 1549, 1549A-96.)

**§ 7811. Rules of construction**

**(a) Termination or suspension not an order**

The termination or suspension of an order, or a provision of an order, shall not be considered an order under the meaning of this chapter.

**(b) Rights**

This chapter—

(1) may not be construed to provide for control of production or otherwise limit the right of individual Hass avocado growers, handlers and importers to produce, handle, or import Hass avocados; and

(2) shall be construed to treat all persons producing, handling, and importing Hass avocados fairly and to implement any order in an equitable manner.

**(c) Other programs**

Nothing in this chapter may be construed to preempt or supersede any other program relating to Hass avocado promotion, research, industry information, and consumer information organized and operated under the laws of the United States or of a State.

(Pub. L. 106-387, §1(a) [title XII, §1212], Oct. 28, 2000, 114 Stat. 1549, 1549A-96.)

**§ 7812. Regulations**

The Secretary may issue such regulations as are necessary to carry out this chapter and the powers vested in the Secretary by this chapter, including regulations relating to the assessment of late payment charges and interest.

(Pub. L. 106-387, §1(a) [title XII, §1213], Oct. 28, 2000, 114 Stat. 1549, 1549A-97.)

**§ 7813. Authorization of appropriations**

**(a) In general**

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this chapter.

**(b) Administrative expenses**

Funds appropriated under subsection (a) of this section may not be used for the payment of the expenses or expenditures of the Board in administering a provision of an order.

(Pub. L. 106-387, §1(a) [title XII, §1214], Oct. 28, 2000, 114 Stat. 1549, 1549A-97.)

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**§ 7901. Definitions**

In this chapter (other than subchapter III of this chapter):

**(1) Agricultural Act of 1949**

The term “Agricultural Act of 1949” means the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), as in effect prior to the suspensions under section 7301 of this title.

**(2) Base acres**

The term “base acres”, with respect to a covered commodity on a farm, means the number of acres established under section 7911 of this title with respect to the covered commodity on the election made by the owner of the farm under subsection (a) of such section.

**(3) Counter-cyclical payment**

The term “counter-cyclical payment” means a payment made to producers on a farm under section 7914 of this title.

**(4) Covered commodity**

The term “covered commodity” means wheat, corn, grain sorghum, barley, oats, upland cotton, rice, soybeans, and other oilseeds.

**(5) Direct payment**

The term “direct payment” means a payment made to producers on a farm under section 7913 of this title.

**(6) Effective price**

The term “effective price”, with respect to a covered commodity for a crop year, means the price calculated by the Secretary under section 7914 of this title to determine whether counter-cyclical payments are required to be made for that crop year.

**(7) Extra long staple cotton**

The term “extra long staple cotton” means cotton that—

(A) is produced from pure strain varieties of the *Barbadense* species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

**(8) Loan commodity**

The term “loan commodity” means wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, rice, soybeans, other oilseeds, wool, mohair, honey, dry peas, lentils, and small chickpeas.

**(9) Other oilseed**

The term “other oilseed” means a crop of sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, or, if designated by the Secretary, another oilseed.

**(10) Payment acres**

The term “payment acres” means 85 percent of the base acres of a covered commodity on a farm, as established under section 7911 of this title, on which direct payments and counter-cyclical payments are made.

**(11) Payment yield****(A) In general**

The term “payment yield” means the yield established under section 7912 of this title for a farm for a covered commodity.

**(B) Updated payment yield**

The term “updated payment yield” means the payment yield elected by the owner of a farm under section 7912(e) of this title to be used in calculating the counter-cyclical payments for the farm.

**(12) Producer**

The term “producer” means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop and is entitled to share in the crop available for 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 and shall ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this chapter.

**(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) Target price**

The term “target price” means the price per bushel (or other appropriate unit in the case of upland cotton, rice, and other oilseeds) of a covered commodity used to determine the payment rate for counter-cyclical payments.

**(16) United States**

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

(Pub. L. 107–171, title I, §1001, May 13, 2002, 116 Stat. 143; Pub. L. 108–7, div. A, title VII, §763(a), Feb. 20, 2003, 117 Stat. 46.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title I of Pub. L. 107–171, May 13, 2002, 116 Stat. 143, which enacted this chapter and section 1308–3a of this title, amended sections 4507, 1301, 1308 to 1308–3, 1308–4, 1308–5, 1314b, 1359aa to 1359kk, 1361, 1371, 1373, 1378, 1428, 1441, 1637a, 4501 to 4504, 4507, 6402, 6414, 6998, 7001, 7235, 7272, 7282 to 7284, 7286, and 7301 of this title, and sections 713a–4 and 714c of Title 15, Commerce and Trade, repealed sections 1339a, 1357 to 1359a, and 7271 of this title and section 3830a of Title 16, Conservation, and enacted provisions set out as notes under sections 1308 and 7272 of this title. For complete classification of title I to the Code, see Tables.

Subchapter III of this chapter, referred to in text, was in the original “subtitle C”, meaning subtitle C (§§1301–1310) of title I of Pub. L. 107–171, May 13, 2002, 116 Stat. 166, which is classified principally to subchapter III of this chapter. For complete classification of subtitle C to the Code, see References in Text note set out under section 7951 of this title and Tables.

The Agricultural Act of 1949, referred to in par. (1), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended,

which is classified principally to chapter 35A (§1421 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

#### AMENDMENTS

2003—Par. (9). Pub. L. 108-7 inserted “crambe, sesame seed,” after “mustard seed.”

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-7, div. A, title VII, §763(d), Feb. 20, 2003, 117 Stat. 47, provided that: “This section [amending this section and sections 7932 and 7934 of this title] and the amendments made by this section apply beginning with the 2003 crop of other oilseeds (as defined in section 1001 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901)), dry peas, lentils, and small chickpeas.”

#### SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109-171, title I, §1001, Feb. 8, 2006, 120 Stat. 4, provided that: “This title [amending sections 2009cc-18, 2655, 7621, 7913, 7937, 7953, 7982, and 8106 of this title and sections 3838a, 3839aa-2, 3839aa-7, and 3841 of Title 16, Conservation, and enacting provisions set out as a note under section 7937 of this title] may be cited as the ‘Agricultural Reconciliation Act of 2005’.”

#### SHORT TITLE

Pub. L. 107-171, §1(a), May 13, 2002, 116 Stat. 134, provided that: “This Act [see Tables for classification] may be cited as the ‘Farm Security and Rural Investment Act of 2002’.”

### SUBCHAPTER I—DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS

## § 7911. Establishment of base acres and payment acres for a farm

### (a) Election by owner of base acres calculation method

#### (1) Alternative calculation methods

For the purpose of making direct payments and counter-cyclical payments with respect to a farm, the Secretary shall give an owner of the farm an opportunity to elect 1 of the following as the method by which the base acres of all covered commodities on the farm are to be determined:

(A) Subject to paragraphs (3) and (4), the 4-year average of the following:

(i) Acreage planted on the farm to covered commodities for harvest, grazing, haying, silage, or other similar purposes for the 1998 through 2001 crop years.

(ii) Any acreage on the farm that the producers were prevented from planting during the 1998 through 2001 crop years to covered commodities because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, as determined by the Secretary.

(B) Subject to paragraph (3), the sum of the following:

(i) The contract acreage (as defined in section 7202 of this title) used by the Secretary to calculate the fiscal year 2002 payment authorized under section 7214 of this title for the covered commodities on the farm.

(ii) The 4-year average of eligible oilseed acreage on the farm for the 1998 through 2001 crop years, as determined by the Secretary under paragraph (2).

## (2) Eligible oilseed acreage

### (A) Calculation

For purposes of paragraph (1)(B)(ii), the eligible acreage for each oilseed on a farm during each of the 1998 through 2001 crop years shall be determined in the manner provided in paragraph (1)(A), except that the total acreage for all oilseeds on the farm for a crop year may not exceed the difference between—

(i) the total acreage determined under paragraph (1)(A) for all covered commodities for that crop year; and

(ii) the total contract acreage determined under paragraph (1)(B)(i).

### (B) Effect of negative number

If the subtraction performed under subparagraph (A) results in a negative number, the eligible oilseed acreage on the farm for that crop year shall be zero for purposes of determining the 4-year average.

### (C) Offset of contract acreage

The owner of a farm may increase the eligible acreage for an oilseed on the farm by reducing the contract acreage determined under paragraph (1)(B)(i) for 1 or more covered commodities on an acre-for-acre basis, except that the total base acreage for each oilseed on the farm may not exceed the 4-year average of each oilseed determined under paragraph (1)(B)(ii).

## (3) Inclusion of all 4 years in average

For the purpose of determining a 4-year acreage average under this subsection for a farm, the Secretary shall not exclude any crop year in which a covered commodity was not planted.

## (4) Treatment of multiple planting or prevented planting

For the purpose of determining under paragraph (1)(A) the acreage on a farm that producers planted or were prevented from planting during the 1998 through 2001 crop years to covered commodities, if the acreage that was planted or prevented from being planted was devoted to another covered commodity in the same crop year (other than a covered commodity produced under an established practice of double cropping), the owner may elect the commodity to be used for that crop year in determining the 4-year average, but may not include both the initial commodity and the subsequent commodity.

## (b) Single election; time for election

### (1) Notice of election opportunity

As soon as practicable after May 13, 2002, the Secretary shall provide notice to owners of farms regarding their opportunity to make the election described in subsection (a) of this section. The notice shall include the following:

(A) Notice that the opportunity of an owner to make the election is being provided only once.

(B) Information regarding the manner in which the election must be made and the time periods and manner in which notice of the election must be submitted to the Secretary.