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§ 8701. Definition of Secretary

In this Act, the term “Secretary” means the Secretary of Agriculture.

(Pub. L. 110-234, §2, May 22, 2008, 122 Stat. 936; Pub. L. 110-246, §§2, 4(a), June 18, 2008, 122 Stat. 1664.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 110-246, June 18, 2008, 122 Stat. 1651, known as the Food, Conservation, and Energy Act of 2008. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

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 L. 110-234 was repealed by section 4(a) of Pub.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.

Section was not enacted as part of title I of Pub. L. 110-246 which in part comprises this chapter.

EFFECTIVE DATE

Pub. L. 110-246, §4, June 18, 2008, 122 Stat. 1664, provided that:

“(a) IN GENERAL.—The Act entitled ‘An Act to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes’ (H.R. 2419 of the 110th Congress) [Pub. L. 110-234, see Tables for classification], and the amendments made by that Act, are repealed, effective on the date of enactment of that Act [May 22, 2008].

“(b) EFFECTIVE DATE.—Except as otherwise provided in this Act [Pub. L. 110-246, see Tables for classification], this Act and the amendments made by this Act shall take effect on the earlier of—

“(1) the date of enactment of this Act [June 18, 2008]; or

“(2) the date of the enactment of the Act entitled ‘An Act to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes’ (H.R. 2419 of the 110th Congress) [May 22, 2008].”

SHORT TITLE

Pub. L. 110-234, §1(a), May 22, 2008, 122 Stat. 923, and Pub. L. 110-246, §§1(a), 4(a), June 18, 2008, 122 Stat. 1651, 1664, provided that: “This Act [see Tables for classification] may be cited as the ‘Food, Conservation, and Energy Act of 2008.’”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note above.]

1-YEAR EXTENSION OF AGRICULTURAL PROGRAMS

Pub. L. 112-240, title VII, §701, Jan. 2, 2013, 126 Stat. 2362, provided that:

“(a) EXTENSION.—Except as otherwise provided in this section and amendments made by this section and notwithstanding any other provision of law, the authorities provided by each provision of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 1651) [see Tables for classification] and each amendment made by that Act (and for mandatory programs at such funding levels), as in effect on September 30, 2012, shall continue, and the Secretary of Agriculture shall carry out the authorities, until the later of—

“(1) September 30, 2013; or

“(2) the date specified in the provision of that Act or amendment made by that Act.

“(b) COMMODITY PROGRAMS.—

“(1) IN GENERAL.—The terms and conditions applicable to a covered commodity or loan commodity (as those terms are defined in section 1001 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8702)) or to peanuts, sugarcane, or sugar beets for the 2012 crop year pursuant to title I of that Act (7 U.S.C. 8702 et seq.) and each amendment made by that title [see Tables for classification] shall be applicable to the 2013 crop year for that covered commodity, loan commodity, peanuts, sugarcane, or sugar beets.

“(2) MILK.—

“(A) IN GENERAL.—Notwithstanding subsection (a), the Secretary of Agriculture shall carry out the dairy product price support program under [former]

- section 1501 of the Food, Conservation, and Energy Act of 2008 ([former] 7 U.S.C. 8771) through December 31, 2013.
- “(B) MILK INCOME LOSS CONTRACT PROGRAM.—[Amended section 8773 of this title.]
- “(3) SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITIES.—The provisions of law specified in subsections (a) through (c) of section 1602 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8782) shall be suspended—
- “(A) for the 2013 crop or production year of a covered commodity (as that term is defined in section 1001 of that Act (7 U.S.C. 8702)), peanuts, sugarcane, and sugar, as appropriate; and
- “(B) in the case of milk, through December 31, 2013.
- “(c) CONSERVATION PROGRAMS.—
- “(1) CONSERVATION RESERVE.—[Amended section 3831 of Title 16, Conservation.]
- “(2) VOLUNTARY PUBLIC ACCESS.—[Amended section 3839bb-5 of Title 16, Conservation.]
- “(d) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—
- “(1) EMPLOYMENT AND TRAINING PROGRAM.—[Amended section 2025 of this title.]
- “(2) NUTRITION EDUCATION.—[Amended section 2036a of this title.]
- “(e) RESEARCH PROGRAMS.—
- “(1) ORGANIC AGRICULTURE RESEARCH AND EXTENSION INITIATIVE.—[Amended section 5925b of this title.]
- “(2) SPECIALTY CROP RESEARCH INITIATIVE.—[Amended section 7632 of this title.]
- “(3) BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.—[Amended section 3319f of this title.]
- “(f) ENERGY PROGRAMS.—
- “(1) BIOBASED MARKETS PROGRAM.—[Amended section 8102 of this title.]
- “(2) BIOREFINERY ASSISTANCE.—[Amended section 8103 of this title.]
- “(3) REPOWERING ASSISTANCE.—[Amended section 8104 of this title.]
- “(4) BIOENERGY PROGRAM FOR ADVANCED BIOFUELS.—[Amended section 8105 of this title.]
- “(5) BIODIESEL FUEL EDUCATION PROGRAM.—[Amended section 8106 of this title.]
- “(6) RURAL ENERGY FOR AMERICA PROGRAM.—[Amended section 8107 of this title.]
- “(7) BIOMASS RESEARCH AND DEVELOPMENT.—[Amended section 8108 of this title.]
- “(8) RURAL ENERGY SELF-SUFFICIENCY INITIATIVE.—[Amended section 8109 of this title.]
- “(9) FEEDSTOCK FLEXIBILITY PROGRAM FOR BIOENERGY PRODUCERS.—[Amended section 8110 of this title.]
- “(10) BIOMASS CROP ASSISTANCE PROGRAM.—[Amended section 8111 of this title.]
- “(11) FOREST BIOMASS FOR ENERGY.—[Amended former section 8112 of this title.]
- “(12) COMMUNITY WOOD ENERGY PROGRAM.—[Amended section 8113 of this title.]
- “(g) HORTICULTURE AND ORGANIC AGRICULTURE PROGRAMS.—
- “(1) FARMERS MARKET PROMOTION PROGRAM.—[Amended section 3005 of this title.]
- “(2) NATIONAL CLEAN PLANT NETWORK.—[Amended former section 7761 of this title.]
- “(3) NATIONAL ORGANIC CERTIFICATION COST-SHARE PROGRAM.—[Amended section 6523 of this title.]
- “(4) ORGANIC PRODUCTION AND MARKET DATA INITIATIVES.—[Amended section 5925c of this title.]
- “(h) OUTREACH AND TECHNICAL ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.—[Amended section 2279 of this title.]
- “(i) EXCEPTIONS.—
- “(1) IN GENERAL.—Subsection (a) does not apply with respect to mandatory funding provided by programs authorized by provisions of law amended by subsections (d) through (h).
- “(2) CONSERVATION.—Subsection (a) does not apply with respect to the programs specified in paragraphs (3)(B), (4), (6), and (7) of section 1241(a) of the Food Security Act of 1985 ([former] 16 U.S.C. 3841(a)), relating to the conservation stewardship program, farmland protection program, environmental quality incentives program, and wildlife habitat incentives program, for which program authority was extended through fiscal year 2014 by section 716 of Public Law 112-55 (125 Stat. 582).
- “(3) TRADE.—Subsection (a) does not apply with respect to the following provisions of law:
- “(A) Section 3206 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 1726c) relating to the use of Commodity Credit Corporation funds to support local and regional food aid procurement projects.
- “(B) Section 3107(l)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o-1(l)(1)) relating to the use of Commodity Credit Corporation funds to carry out the McGovern-Dole International Food for Education and Child Nutrition Program.
- “(4) SURVEY OF FOODS PURCHASED BY SCHOOL FOOD AUTHORITIES.—Subsection (a) does not apply with respect to section 4307 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 1893) relating to the use of Commodity Credit Corporation funds for a survey and report regarding foods purchased by school food authorities.
- “(5) RURAL DEVELOPMENT.—Subsection (a) does not apply with respect to the following provisions of law:
- “(A) Section 379E(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008s(d)(1)), relating to funding of the rural microentrepreneur assistance program.
- “(B) Section 6029 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 1955) relating to funding of pending rural development loan and grant applications.
- “(C) Section 231(b)(7)(A) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1632a(b)(7)(A)), relating to funding of value-added agricultural market development program grants.
- “(D) Section 375(e)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j(e)(6)(B)) relating to the use of Commodity Credit Corporation funds for the National Sheep Industry Improvement Center.
- “(6) MARKET LOSS ASSISTANCE FOR ASPARAGUS PRODUCERS.—Subsection (a) does not apply with respect to section 10404(d) of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 2112).
- “(7) SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.—Subsection (a) does not apply with respect to section 531 of the Federal Crop Insurance Act (7 U.S.C. 1531) and title IX of the Trade Act of 1974 (19 U.S.C. 2497 et seq.) relating to the provision of supplemental agricultural disaster assistance.
- “(8) PIGFORD CLAIMS.—Subsection (a) does not apply with respect to section 14012 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 2209) relating to determination on the merits of Pigford claims.
- “(9) HEARTLAND, HABITAT, HARVEST, AND HORTICULTURE ACT OF 2008.—Subsection (a) does not apply with respect to title XV of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 2246), and amendments made by that title, relating to the provision of supplemental agricultural disaster assistance under title IX of the Trade Act of 1974 (19 U.S.C. 2497 et seq.), certain revenue and tax provisions, and certain trade benefits and other matters.
- “(j) EFFECTIVE DATE.—Except as otherwise provided in this section, this section and the amendments made by this section take effect on the earlier of—
- “(1) the date of the enactment of this Act [Jan. 2, 2013]; or
- “(2) September 30, 2012.”

APPLICABILITY OF EXPLANATORY STATEMENT IN HOUSE REPORT 110-627 TO PUB. L. 110-246

Pub. L. 110-246, §3, June 18, 2008, 122 Stat. 1664, provided that: “The Joint Explanatory Statement submit-

ted by the Committee of Conference for the conference report to accompany H.R. 2419 of the 110th Congress (House Report 110-627) shall be deemed to be part of the legislative history of this Act [Pub. L. 110-246, see Tables for classification] and shall have the same effect with respect to the implementation of this Act as it would have had with respect to the implementation of H.R. 2419 [enacted as Pub. L. 110-234].”

§ 8702. Definitions

In this chapter (other than subchapter III):

(1) Average crop revenue election payment

The term “average crop revenue election payment” means a payment made to producers on a farm under section 8715¹ of this title.

(2) Base acres

(A) In general

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 as in effect on September 30, 2007, subject to any adjustment under section 8711 of this title.

(B) Peanuts

The term “base acres for peanuts” has the meaning given the term in section 8751 of this title.

(3) Counter-cyclical payment

The term “counter-cyclical payment” means a payment made to producers on a farm under section 8714¹ of this title.

(4) Covered commodity

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

(5) Direct payment

The term “direct payment” means a payment made to producers on a farm under section 8713¹ 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 8714¹ 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 of the species, 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, long grain rice, medium grain rice, soybeans, other oilseeds, graded wool, nongraded wool, mohair, honey, dry peas, lentils, small chickpeas, and large chickpeas.

(9) Medium grain rice

The term “medium grain rice” includes short grain rice.

(10) Other oilseed

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

(11) 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 a covered commodity 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 the covered commodity on a farm on which direct payments are made.

(12) Payment yield

The term “payment yield” means the yield established for direct payments and the yield established for counter-cyclical payments under section 7912 of this title as in effect on September 30, 2007, or under section 8712 of this title, for a farm for a covered commodity.

(13) Producer

(A) In general

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.

(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 chapter.

(14) Pulse crop

The term “pulse crop” means dry peas, lentils, small chickpeas, and large chickpeas.

(15) State

The term “State” means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(16) Target price

The term “target price” means the price per bushel, pound, or hundredweight (or other ap-

¹ See References in Text note below.