

- “(2) SPECIALTY CROP RESEARCH INITIATIVE.—[Amended section 7632 of this title.]
- “(3) BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.—[Amended former 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 former 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 former 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 former 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 submitted 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 8715<sup>1</sup> 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,

<sup>1</sup> See References in Text note below.

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 8714<sup>1</sup> 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 8713<sup>1</sup> 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 8714<sup>1</sup> 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 appropriate unit) of a covered commodity used to determine the payment rate for counter-cyclical payments.

**(17) United States**

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

**(18) United States Premium Factor**

The term “United States Premium Factor” means the percentage by which the difference in the United States loan schedule premiums for Strict Middling (SM) 1<sup>1</sup>/<sub>8</sub>-inch upland cotton and for Middling (M) 1<sup>3</sup>/<sub>32</sub>-inch upland cotton exceeds the difference in the applicable premiums for comparable international qualities.

(Pub. L. 110-234, title I, §1001, May 22, 2008, 122 Stat. 936; Pub. L. 110-246, §4(a), title I, §1001, June 18, 2008, 122 Stat. 1664.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title I of Pub. L. 110-246, June 18, 2008, 122 Stat. 1664, which is classified principally to this chapter. For complete classification of title I to the Code, see Tables.

Section 8715 of this title, referred to in par. (1), was repealed by Pub. L. 113-79, title I, §1103(a), Feb. 7, 2014, 128 Stat. 658.

Section 8714 of this title, referred to in pars. (3) and (6), was repealed by Pub. L. 113-79, title I, §1102(a), Feb. 7, 2014, 128 Stat. 658.

Section 8713 of this title, referred to in par. (5), was repealed by Pub. L. 113-79, title I, §1101, Feb. 7, 2014, 128 Stat. 658.

## 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.

## EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

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

## § 8711. Base acres

## (a) Adjustment of base acres

## (1) In general

The Secretary shall provide for an adjustment, as appropriate, in the base acres for covered commodities for a farm whenever any of the following circumstances occurs:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated, or was terminated or expired during the period beginning on October 1, 2007, and ending on the date of enactment of this Act.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary, or was released during the period beginning on October 1, 2007, and ending on the date of enactment of this Act.

(C) The producer has eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 7911(a)(2) of this title.

(D) The producer has eligible oilseed acreage as the result of the Secretary designating additional oilseeds, which shall be determined in the same manner as eligible oilseed acreage under section 7911(a)(2) of this title.

## (2) Special conservation reserve acreage payment rules

For the crop year in which a base acres adjustment under subparagraph (A) or (B) of paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

## (b) Prevention of excess base acres

## (1) Required reduction

If the sum of the base acres for a farm, together with the acreage described in paragraph (2) exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for 1 or more covered commodities for the farm or the base acres for peanuts for the farm so that the sum of the base acres and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

## (2) Other acreage

For purposes of paragraph (1), the Secretary shall include the following:

(A) Any base acres for peanuts for the farm.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a Federal conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(D) Any eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 7911(a)(2) of this title.

(E) If the Secretary designates additional oilseeds, any eligible oilseed acreage, which shall be determined in the same manner as eligible oilseed acreage under section 7911(a)(2) of this title.

## (3) Selection of acres

The Secretary shall give the owner of the farm the opportunity to select the base acres for a covered commodity or the base acres for peanuts for the farm against which the reduction required by paragraph (1) will be made.

## (4) Exception for double-cropped acreage

In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

## (5) Coordinated application of requirements

The Secretary shall take into account section 8752(b) of this title when applying the requirements of this subsection.

## (c) Reduction in base acres

## (1) Reduction at option of owner

## (A) In general

The owner of a farm may reduce, at any time, the base acres for any covered commodity for the farm.

## (B) Effect of reduction

A reduction under subparagraph (A) shall be permanent and made in a manner prescribed by the Secretary.

## (2) Required action by Secretary

## (A) In general

The Secretary shall proportionately reduce base acres on a farm for covered commodities for land that has been subdivided and developed for multiple residential units