

1354. Subtitles B and C of title XII of the Act are classified generally to subchapters II (§3811 et seq.) and III (§3821 et seq.), respectively, of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

Section 8715 of this title, referred to in subsec. (c)(2), was repealed by Pub. L. 113-79, title I, §1103(a), 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 L. 110-234 was repealed by section 4(a) of Pub.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.

#### AMENDMENTS

2008—Subsec. (f). Pub. L. 110-398 added subsec. (f).

#### 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.

### § 8717. Planting flexibility

#### (a) Permitted crops

Subject to subsection (b), any commodity or crop may be planted on base acres on a farm.

#### (b) Limitations regarding certain commodities

##### (1) General limitation

The planting of an agricultural commodity specified in paragraph (3) shall be prohibited on base acres unless the commodity, if planted, is destroyed before harvest.

##### (2) Treatment of trees and other perennials

The planting of an agricultural commodity specified in paragraph (3) that is produced on a tree or other perennial plant shall be prohibited on base acres.

##### (3) Covered agricultural commodities

Paragraphs (1) and (2) apply to the following agricultural commodities:

- (A) Fruits.
- (B) Vegetables (other than mung beans and pulse crops).
- (C) Wild rice.

#### (c) Exceptions

Paragraphs (1) and (2) of subsection (b) shall not limit the planting of an agricultural commodity specified in paragraph (3) of that subsection—

(1) in any region in which there is a history of double-cropping of covered commodities with agricultural commodities specified in subsection (b)(3), as determined by the Secretary, in which case the double-cropping shall be permitted;

(2) on a farm that the Secretary determines has a history of planting agricultural commodities specified in subsection (b)(3) on base acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agricultural commodity; or

(3) by the producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in subsection (b)(3), except that—

(A) the quantity planted may not exceed the average annual planting history of such agricultural commodity by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(B) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agricultural commodity.

#### (d) Planting transferability pilot project

##### (1) Pilot project authorized

Notwithstanding paragraphs (1) and (2) of subsection (b) and in addition to the exceptions provided in subsection (c), the Secretary shall carry out a pilot project to permit the planting of cucumbers, green peas, lima beans, pumpkins, snap beans, sweet corn, and tomatoes grown for processing on base acres during each of the 2009 through 2012 crop years.

##### (2) Pilot project States and acres

The number of base acres eligible during each crop year for the pilot project under paragraph (1) shall be—

- (A) 9,000 acres in the State of Illinois;
- (B) 9,000 acres in the State of Indiana;
- (C) 1,000 acres in the State of Iowa;
- (D) 9,000 acres in the State of Michigan;
- (E) 34,000 acres in the State of Minnesota;
- (F) 4,000 acres in the State of Ohio; and
- (G) 9,000 acres in the State of Wisconsin.

##### (3) Contract and management requirements

To be eligible for selection to participate in the pilot project, the producers on a farm shall—

(A) demonstrate to the Secretary that the producers on the farm have entered into a contract to produce a crop of a commodity specified in paragraph (1) for processing;

(B) agree to produce the crop as part of a program of crop rotation on the farm to achieve agronomic and pest and disease management benefits; and

(C) provide evidence of the disposition of the crop.

##### (4) Temporary reduction in base acres

The base acres on a farm for a crop year shall be reduced by an acre for each acre planted under the pilot program.

##### (5) Duration of reductions

The reduction in the base acres of a farm for a crop year under paragraph (4) shall expire at the end of the crop year.

##### (6) Recalculation of base acres

###### (A) In general

If the Secretary recalculates base acres for a farm while the farm is included in the pilot project, the planting and production of a crop of a commodity specified in paragraph (1) on base acres for which a temporary reduction was made under this section shall be considered to be the same as the planting and production of a covered commodity.

###### (B) Prohibition

Nothing in this paragraph provides authority for the Secretary to recalculate base acres for a farm.

**(7) Pilot impact evaluation****(A) In general**

The Secretary shall periodically evaluate the pilot project conducted under this subsection to determine the effects of the pilot project on the supply and price of—

- (i) fresh fruits and vegetables; and
- (ii) fruits and vegetables for processing.

**(B) Determination**

An evaluation under subparagraph (A) shall include a determination as to whether—

- (i) producers of fresh fruits and vegetables are being negatively impacted; and
- (ii) existing production capacities are being supplanted.

**(C) Report**

As soon as practicable after conducting an evaluation under subparagraph (A), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the evaluation.

(Pub. L. 110-234, title I, §1107, May 22, 2008, 122 Stat. 950; Pub. L. 110-246, §4(a), title I, §1107, June 18, 2008, 122 Stat. 1664, 1679.)

## 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.

**§ 8718. Special rule for long grain and medium grain rice****(a) Calculation method**

Subject to subsections (b) and (c), for the purposes of determining the amount of the counter-cyclical payments to be paid to the producers on a farm for long grain rice and medium grain rice under section 8714<sup>1</sup> of this title, the base acres of rice on the farm shall be apportioned using the 4-year average of the percentages of acreage planted in the applicable State to long grain rice and medium grain rice during the 2003 through 2006 crop years, as determined by the Secretary.

**(b) Producer election**

As an alternative to the calculation method described in subsection (a), the Secretary shall provide producers on a farm the opportunity to elect to apportion rice base acres on the farm using the 4-year average of—

- (1) the percentages of acreage planted on the farm to long grain rice and medium grain rice during the 2003 through 2006 crop years;
- (2) the percentages of any acreage on the farm that the producers were prevented from planting to long grain rice and medium grain

rice during the 2003 through 2006 crop years because of drought, flood, other natural disaster, or other condition beyond the control of the producers, as determined by the Secretary; and

(3) in the case of a crop year for which a producer on a farm elected not to plant to long grain and medium grain rice during the 2003 through 2006 crop years, the percentages of acreage planted in the applicable State to long grain rice and medium grain rice, as determined by the Secretary.

**(c) Limitation**

In carrying out this section, the Secretary shall use the same total base acres, payment acres, and payment yields established with respect to rice under sections 7911 and 7912 of this title, as in effect on September 30, 2007, subject to any adjustment under section 8711 of this title.

(Pub. L. 110-234, title I, §1108, May 22, 2008, 122 Stat. 952; Pub. L. 110-246, §4(a), title I, §1108, June 18, 2008, 122 Stat. 1664, 1681.)

## REFERENCES IN TEXT

Section 8714 of this title, referred to in subsec. (a), was repealed by Pub. L. 113-79, title I, §1102(a), 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.

**§ 8719. Period of effectiveness**

This subchapter shall be effective beginning with the 2008 crop year of each covered commodity through the 2012 crop year.

(Pub. L. 110-234, title I, §1109, May 22, 2008, 122 Stat. 953; Pub. L. 110-246, §4(a), title I, §1109, June 18, 2008, 122 Stat. 1664, 1681.)

## 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 II—MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS****§ 8731. Availability of nonrecourse marketing assistance loans for loan commodities****(a) Nonrecourse loans available****(1) Availability**

For each of the 2008 through 2012 crops of each loan commodity, the Secretary shall

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