

duced as a result of a natural disaster, as determined by the Secretary.

**(4) Contract**

The term “contract” means a contract entered into under section 518a or 518b of this title.

**(5) Contract payment**

The term “contract payment” means a payment made under section 518a or 518b of this title pursuant to a contract.

**(6) Producer of quota tobacco**

The term “producer of quota tobacco” means an owner, operator, landlord, tenant, or sharecropper that shared in the risk of producing tobacco on a farm where tobacco was produced or considered planted pursuant to a tobacco farm poundage quota or farm acreage allotment established under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.).

**(7) Quota tobacco**

The term ‘quota tobacco’<sup>1</sup> means a kind of tobacco that is subject to a farm marketing quota or farm acreage allotment for the 2004 tobacco marketing year under a marketing quota or allotment program established under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.).

**(8) Tobacco**

The term “tobacco” means each of the following kinds of tobacco:

- (A) Flue-cured tobacco, comprising types 11, 12, 13, and 14.
- (B) Fire-cured tobacco, comprising types 22 and 23.
- (C) Dark air-cured tobacco, comprising types 35 and 36.
- (D) Virginia sun-cured tobacco, comprising type 37.
- (E) Virginia fire-cured tobacco, comprising type 21.
- (F) Burley tobacco, comprising type 31.
- (G) Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 53, 54, and 55.

**(9) Tobacco quota holder**

The term “tobacco quota holder” means a person that was an owner of a farm, as of October 22, 2004, for which a basic tobacco farm marketing quota or farm acreage allotment for quota tobacco was established for the 2004 tobacco marketing year.

**(10) Tobacco Trust Fund**

The term “Tobacco Trust Fund” means the Tobacco Trust Fund established under section 518e of this title.

**(11) Secretary**

The term “Secretary” means the Secretary of Agriculture.

(Pub. L. 108-357, title VI, §621, Oct. 22, 2004, 118 Stat. 1524.)

**Editorial Notes**

REFERENCES IN TEXT

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

<sup>1</sup> So in original.

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.

The Agricultural Adjustment Act of 1938, referred to in pars. (2), (6), and (7), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§1281 et seq.) of this title. Part I of subtitle B of title III of the Act was classified to subpart I (§1311 et seq.) of part B of subchapter II of chapter 35 of this title prior to repeal by Pub. L. 108-357, title VI, §611(a), Oct. 22, 2004, 118 Stat. 1522. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Pub. L. 108-357, title VI, §643, Oct. 22, 2004, 118 Stat. 1536, provided that: “This title [see Short Title note below] and the amendments made by this title shall apply to the 2005 and subsequent crops of each kind of tobacco.”

SHORT TITLE

Pub. L. 108-357, title VI, §601, Oct. 22, 2004, 118 Stat. 1521, provided that: “This title [enacting this chapter, amending sections 609, 1282, 1301, 1303, 1314h, 1361, 1371, 1373, 1375, 1378, 1379, 1428, 1433c-1, and 1441 of this title and section 714c of Title 15, Commerce and Trade, repealing sections 511r, 515 to 515k, 625, 1311 to 1314, 1314-1, 1314b, 1314b-1, 1314b-2, 1314c to 1314j, 1315, 1316, 1445, 1445-1, and 1445-2 of this title, enacting provisions set out as notes under this section and section 515 of this title, and repealing provisions set out as a note under section 1314c of this title] may be cited as the ‘Fair and Equitable Tobacco Reform Act of 2004.’”

**§ 518a. Contract payments to tobacco quota holders**

**(a) Contract offered**

The Secretary shall offer to enter into a contract with each tobacco quota holder under which the tobacco quota holder shall be entitled to receive payments under this section in exchange for the termination of tobacco marketing quotas and related price support under the amendments made by sections 611 and 612.<sup>1</sup> The contract payments shall constitute full and fair consideration for the termination of such tobacco marketing quotas and related price support.

**(b) Eligibility**

To be eligible to enter into a contract to receive a contract payment under this section, a person shall submit to the Secretary an application containing such information as the Secretary may require to demonstrate to the satisfaction of the Secretary that the person is a tobacco quota holder. The application shall be submitted within such time, in such form, and in such manner as the Secretary may require.

**(c) Base quota level**

**(1) Establishment**

The Secretary shall establish a base quota level applicable to each tobacco quota holder identified under subsection (b).

**(2) Poundage quotas**

Subject to adjustment under subsection (d), for each kind of tobacco for which the mar-

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

keting quota is expressed in pounds, the base quota level for each tobacco quota holder shall be equal to the basic quota for quota tobacco established for the 2002 tobacco marketing year under a marketing quota program established under part I of subtitle B of title III of the Agriculture<sup>2</sup> Adjustment Act of 1938 [7 U.S.C. 1311 et seq.] on the farm owned by the tobacco quota holder.

**(3) Marketing quotas other than poundage quotas**

Subject to adjustment under subsection (d), for each kind of tobacco for which there is marketing quota or allotment on an acreage basis, the base quota level for each tobacco quota holder shall be the quantity equal to the product obtained by multiplying—

(A) the basic tobacco farm marketing quota or allotment for the 2002 marketing year established by the Secretary for quota tobacco owned by the tobacco quota holder; by

(B) the average production yield, per acre, for the period covering the 2001, 2002, and 2003 crop years for that kind of tobacco in the county in which the quota tobacco is located.

**(d) Treatment of certain contracts and agreements**

**(1) Effect of purchase contract**

If there was an agreement for the purchase of all or part of a farm described in subsection (c) as of October 22, 2004, and the parties to the sale are unable to agree to the disposition of eligibility for contract payments, the Secretary, taking into account any transfer of quota that has been agreed to, shall provide for the equitable division of the contract payments among the parties by adjusting the determination of who is the tobacco quota holder with respect to particular pounds or allotment of the quota.

**(2) Effect of agreement for permanent quota transfer**

If the Secretary determines that there was in existence, as of the day before October 22, 2004, an agreement for the permanent transfer of quota, but that the transfer was not completed by that date, the Secretary shall consider the tobacco quota holder to be the party to the agreement that, as of that date, was the owner of the farm to which the quota was to be transferred.

**(e) Contract payments**

**(1) Calculation of total payment amount**

The total amount of contract payments to which an eligible tobacco quota holder is entitled under this section, with respect to a kind of tobacco, shall be equal to the product obtained by multiplying—

(A) \$7.00 per pound; by

(B) the base quota level of the tobacco quota holder determined under subsection (c) with respect to that kind of tobacco.

**(2) Annual payment**

During each of fiscal years 2005 through 2014, the Secretary shall make a contract payment

under this section to each eligible tobacco quota holder, with respect to a kind of tobacco, in an amount equal to  $\frac{1}{10}$  of the amount determined under paragraph (1) for the tobacco quota holder for that kind of tobacco.

**(f) Death of tobacco quota holder**

If a tobacco quota holder who is entitled to contract payments under this section dies and is survived by a spouse or one or more dependents, the right to receive the payments shall transfer to the surviving spouse or, if there is no surviving spouse, to the estate of the tobacco quota holder.

(Pub. L. 108-357, title VI, §622, Oct. 22, 2004, 118 Stat. 1525.)

**Editorial Notes**

REFERENCES IN TEXT

Sections 611 and 612, referred to in subsec. (a), are sections 611 and 612 of Pub. L. 108-357, which amended sections 609, 1282, 1301, 1303, 1361, 1371, 1373, 1375, 1378, 1379, 1428, 1433c-1, and 1441 of this title and section 714c of Title 15, Commerce and Trade, repealed sections 511r, 515 to 515k, 625, 1311 to 1314, 1314-1, 1314b, 1314b-1, 1314b-2, 1314c to 1314j, 1315, 1316, 1445, 1445-1, and 1445-2 of this title, and repealed provisions set out as a note under section 1314c of this title.

Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938, referred to in subsec. (c)(2), was classified to subpart I (§1311 et seq.) of part B of subchapter II of chapter 35 of this title prior to repeal by Pub. L. 108-357, title VI, §611(a), Oct. 22, 2004, 118 Stat. 1522. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section applicable to the 2005 and subsequent crops of tobacco, see section 643 of Pub. L. 108-357, set out as a note under section 518 of this title.

**§ 518b. Contract payments for producers of quota tobacco**

**(a) Contract offered**

The Secretary shall offer to enter into a contract with each producer of quota tobacco under which the producer of quota tobacco shall be entitled to receive payments under this section in exchange for the termination of tobacco marketing quotas and related price support under the amendments made by sections 611 and 612.<sup>1</sup> The contract payments shall constitute full and fair consideration for the termination of such tobacco marketing quotas and related price support.

**(b) Eligibility**

**(1) Application and determination**

To be eligible to enter into a contract to receive a contract payment under this section, a person shall submit to the Secretary an application containing such information as the Secretary may require to demonstrate to the satisfaction of the Secretary that the person is a producer of quota tobacco. The application shall be submitted within such time, in such form, and in such manner as the Secretary may require.

<sup>2</sup>So in original. Probably should be "Agricultural".

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