

(A) wheat, corn, grain sorghum, barley, oats, rice, soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard, crambe, sesame seed, and cottonseed;

(B) a cellulosic commodity (such as hybrid poplar and switch grass);

(C) fats, oils, and greases (including recycled fats, oils, and greases) derived from an agricultural product; and

(D) any animal byproduct (in addition to oils, fats, and greases) that may be used to produce bioenergy, as determined by the Secretary.

(4) Eligible producer

The term “eligible producer” means a producer that uses an eligible commodity to produce bioenergy.

(b) Bioenergy Program

(1) Continuation

The Secretary shall continue the program under part 1424 of title 7, Code of Federal Regulations (or any successor regulation), under which the Secretary makes payments to eligible producers to encourage increased purchases of eligible commodities for the purpose of expanding production of such bioenergy and supporting new production capacity for such bioenergy.

(2) Contracts

To be eligible to receive a payment, an eligible producer shall—

(A) enter into a contract with the Secretary to increase bioenergy production for 1 or more fiscal years; and

(B) submit to the Secretary such records as the Secretary may require as evidence of increased purchase and use of eligible commodities for the production of bioenergy.

(3) Payment

(A) In general

Under the program, the Secretary shall make payments to eligible producers, based on the quantity of bioenergy produced by the eligible producer during a fiscal year that exceeds the quantity of bioenergy produced by the eligible producer during the preceding fiscal year.

(B) Payment rate

(i) Producers of less than 65,000,000 gallons

An eligible producer that produces less than 65,000,000 gallons of bioenergy shall be reimbursed 1 feedstock unit for every 2.5 feedstock units of eligible commodity used for increased production.

(ii) Producers of 65,000,000 or more gallons

An eligible producer that produces 65,000,000 or more gallons of bioenergy shall be reimbursed 1 feedstock unit for every 3.5 feedstock units of eligible commodity used for increased production.

(C) Quarterly payments

The Secretary shall make payments to an eligible producer for each quarter of the fiscal year.

(4) Proration

If the amount made available for a fiscal year under subsection (c) of this section is in-

sufficient to allow the payment of the amount of the payments that eligible producers (that apply for the payments) otherwise would receive under this subsection, the Secretary shall prorate the amount of the funds among all such eligible producers.

(5) Overpayments

If the total amount of payments that an eligible producer receives for a fiscal year under this section exceeds the amount that the eligible producer should have received under this subsection, the eligible producer shall repay the amount of the overpayment to the Secretary, with interest (as determined by the Secretary).

(6) Limitation

No eligible producer shall receive more than 5 percent of the total amount made available under subsection (c) of this section for a fiscal year.

(7) Other requirements

To be eligible to receive a payment under this subsection, an eligible producer shall meet other requirements of Federal law (including regulations) applicable to the production of bioenergy.

(c) Funding

Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—

- (1) not more than \$150,000,000 for each of fiscal years 2003 through 2006; and
- (2) \$0 for fiscal year 2007.

(Pub. L. 107-171, title IX, §9010, May 13, 2002, 116 Stat. 485.)

CHAPTER 108—TREE ASSISTANCE PROGRAM

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§ 8201. Definitions

In this chapter:

(1) Eligible orchardist

The term “eligible orchardist” means a person that produces annual crops from trees for commercial purposes.

(2) Natural disaster

The term “natural disaster” means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, and other occurrence, as determined by the Secretary.

(3) Secretary

The term “Secretary” means the Secretary of Agriculture.

(4) Tree

The term “tree” includes a tree, bush, and vine.