USDA

United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

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The Honorable Mike Conaway
Chairman
Committee on Agriculture
U.S. House of Representatives
1301 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of December 14, 2015, cosigned by your colleagues, regarding the difficult market conditions facing cotton producers and the rest of the cotton industry. I apologize for the delayed response.

Cotton and many of the other major commodities are experiencing lower market prices, and the U.S. Department of Agriculture (USDA) is prepared to assist where we can. In your letter, you recommended that cottonseed be designated as an "other oilseed" in order to qualify for the Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) payments, but not for Marketing Assistance Loans (MAL). After close examination of applicable law, we have determined that such a designation is not authorized under the Agricultural Act of 2014 (2014 Farm Bill) because it expressly removed eligibility of cotton for such payments, as cotton is no longer listed as a "covered commodity" under section 1111.

Specific elements of the 2014 Farm Bill and related legislative history, when taken together, clearly show that USDA lacks the authority to designate cottonseed as an "other oilseed." In the 2014 Farm Bill, Congress specifically created the Stacked Income Protection Plan (STAX) program for cotton and a Cotton Transition Assistance Program (CTAP) as the alternative to ARC and PLC for cotton. Furthermore, previous cotton base acres were converted to generic base acres, with a provision that permits covered commodities (section 1111) to each attribute base acres from generic base acres (in proportion to the planting of all the covered commodities on the farm), thereby excluding cotton from that attribution or from triggering a payment. To add cottonseed as a covered commodity through designation as an "other oilseed" would also result, by operation of law, in farms with cotton production in 1998–2001 being awarded two types of base for the same planting history—generic base that was formerly cotton base and the potentially new cottonseed base. Such result was not contemplated. Besides recognized double cropping practices, there is no other instance in which the same planting history would trigger eligibility for double the amount of base acres.

Additionally, to treat cottonseed as a separate crop and, therefore, an "other oilseed" would be contrary to the interpretation of certain amendments of the Federal Crop Insurance Act (FCIA) enacted in the 2014 Farm Bill, Section 508B of the FCIA, as enacted by section 11017 of the 2014 Farm Bill, mandates the Federal Crop Insurance Corporation (FCIC) to "make available to producers of upland cotton an additional policy to be known as STAX." Under the authority of this provision, the Risk Management Agency allows a cottonseed endorsement to a STAX policy. Since by statute only "upland cotton" is eligible for STAX, USDA has already determined that cottonseed was not a crop independent from the crop of upland cotton.

I can appreciate the spirit in which the NCC made your suggestion and share your concern for the viability of cotton farmers and the industry they support. USDA continues to offer a number of programs that benefit these producers. Since 2014, this has included over $2 billion in safety net support and nearly $3.5 billion in credit. Specific benefits include:

- FCIC crop insurance program payments of over $800 million to cotton producers in 2014 and already $200 million in 2015 program payments. These figures do not include any benefits from STAX, which is now being offered on over 99 percent of cotton acreage. STAX payments will likely be calculated and made early this coming summer.
- MALs and Loan Deficiency Payments (LDP) continue to provide both a price support and credit function for producers.
    - Over 7.9 million bales with a loan value of over $2.1 billion were covered by MALs in 2014 and over 4.3 million bales worth over $1.1 billion have already gone under loan in 2015.
    - Over $371 million have been paid in a combination of market loan gains and LDPs in 2014 and an additional $155 million have been paid in 2015.
- In 2014, cotton producers received over $570 million in CTAP payments, and the small number that did not yet have STAX received about $200,000 more in 2015.
- Although cotton is no longer a covered commodity, cotton producers received over $246 million in ARC and PLC payments related to other types of base on their farms this fall.
- For producers facing a financial crunch, the Farm Service Agency (FSA) is available to work with them to secure credit either directly or through loan guarantees with outside lenders to help them weather current conditions. For example, in fiscal year (FY) 2015, cotton producers received over $270 million in direct and guaranteed loans and have received over $12 million so far in FY 2016.

The recent Consolidated Appropriations Act of 2016 reinstated the option to redeem MALs using commodity certificates beginning with the 2015 crop. FSA is working to quickly put in place procedures to implement this provision and provide appropriate retroactive authority for loans that have already been repaid. USDA estimates that this flexibility will result in about $40 million in additional support for cotton producers over the 2015 and 2016 marketing years.

Again, thank you for your suggestion on how to help the cotton industry. Despite the lack of authority to accomplish what you recommended, USDA stands ready to work with you using our

other existing authorities to help cotton producers. Similarly, should Congress provide additional authority as they did with commodity certificates, USDA will make implementation a priority.

Sincerely,

Thomas J. Vilsack
Secretary