



The Cottonseed Conundrum

Jonathan Coppess, Gary Schnitkey, Nick Paulson

Department of Agricultural and Consumer Economics
University of Illinois

Carl Zulauf

Department of Agricultural, Environmental and Development Economics
Ohio State University

April 27, 2017

farmdoc daily (7):77

Gardner Policy Series

Recommended citation format: Coppess, J., G. Schnitkey, C. Zulauf, and N. Paulson. "The Cottonseed Conundrum." *farmdoc daily* (7):77, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, April 27, 2017.

Permalink: <http://farmdocdaily.illinois.edu/2017/04/the-cottonseed-conundrum.html>

With news that Congress continues seeking a way to fold cotton back into the ARC and PLC program, this article looks specifically at the cottonseed issue. It builds on the review of the operation of generic base acres (see *farmdoc daily*, [April 13, 2017](#)) and concerns that generic base acres effectively recouple Federal payments to production decisions (see *farmdoc daily*, [April 20, 2017](#)).

Background

The key background component to this discussion is the decision by Congress to decouple farm program payments from production in the Federal Agriculture Improvement and Reform Act of 1996 ([P.L. 104-127](#)). From that point forward, the farm programs (direct payments, counter-cyclical payments, ACRE, ARC and PLC) operated on base acres for covered commodities. Base acres were calculated using historical averages of planted acres. With decoupled base acres, the farmer was free to plant any crop (other than fruits and vegetables) on the acres and that planting decision would not impact payments. The programs paid on a percentage of the base acres, not on any specific crop planted on the farm. Importantly, this differed from the Marketing Assistance Loan (MAL) program which continued to be coupled with production decisions because the loans (or Loan Deficiency Payments (LDP) in lieu of a loan) are made on actual harvested crops; the farmer's crop in storage serves as the collateral for the loan.

Discussion

(1) Designating cottonseed as an "other oilseed"

In December 2015, the National Cotton Council requested that Secretary Vilsack help cotton farmers by designating cottonseed an "other oilseed" pursuant to general authority provided in the 2014 Farm Bill ([P.L. 113-79](#)). Other oilseeds typically include smaller acreage crops such as canola and sunflower,

We request all readers, electronic media and others follow our citation guidelines when re-posting articles from *farmdoc daily*. Guidelines are available [here](#). The *farmdoc daily* website falls under University of Illinois copyright and intellectual property rights. For a detailed statement, please see the University of Illinois Copyright Information and Policies [here](#).

designation permits adding base acres and enrolling in farm programs; soybeans are the largest oilseed but explicitly listed as a covered commodity (see e.g., *farmdoc daily*, [January 28, 2016](#)). Secretary Vilsack responded that USDA lacked the authority to designate cottonseed as an “other oilseed” because Congress had specifically removed cotton from the ARC and PLC program (see e.g., [Agri-Pulse](#); [AgWeb](#)).

A summary review of agency authority to interpret statutes indicates that the Secretary’s conclusion was likely the correct one. For example, the Supreme Court has made it clear that agencies “must give effect to the unambiguously expressed intent of Congress” which means consistency with the “administrative structure that Congress enacted into law (*FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 125 (2000)). The context of statutory words or phrases is important; it is “a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme” (Id., at 132-33, (quoting *Davis v. Michigan Dept. of Treasury*, 489 U.S. 803, 809 (1989) (internal quotations omitted)).

In the 2014 Farm Bill, Congress unambiguously removed upland cotton from the list of covered commodities for purposes of the ARC and PLC programs, and converted cotton base acres to generic base acres. As discussed previously, generic base acres do not receive ARC or PLC payments unless planted to a covered commodity. Designating cottonseed as an “other oilseed” would appear to directly contradict the expressed intent of Congress in the statutory scheme for farm program payments by restoring cotton as a covered commodity and cotton base eligible for payments.

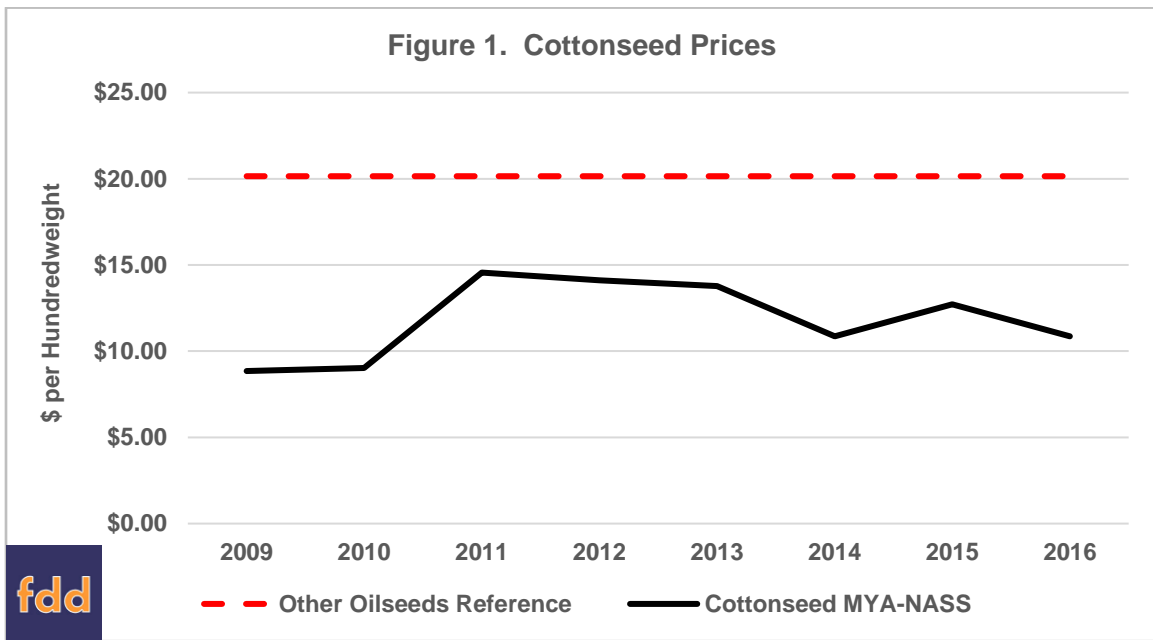
In effect, the cotton industry was asking USDA to treat cotton lint and cotton seed separately for purposes of the ARC/PLC program payments. The problem is that the program payments (i.e., statutory scheme) involve base acres and not the harvested crop. The base acreage program is agnostic as to what is planted and harvested on the land, including whether it is cotton lint or cotton seed. To see the difference, compare this treatment to that of the MAL program which explicitly distinguishes between cotton lint and cotton seed in multiple ways. Loans are made on a quantity of the actual harvested crop and acres are irrelevant, including base acres. For example, the bill defines “United States Premium Factor” for purposes of the loan program, the loan provisions for upland cotton all clearly apply to cotton lint, and section 1209 provides for recourse loans on “seed cotton” for the 2014 through 2018 crops. In fact, USDA regulations for the cotton seed recourse loan determine the amount of seed cotton eligible for a loan in terms of the cotton “lint turnout factor” and a percentage estimate of the seed within the lint (see, [7 C.F.R. part 1427](#)).

MAL demonstrates that when Congress wanted to distinguish between cotton lint and seed it clearly did so. For the ARC/PLC programs that was not necessary because the programs operated on historic base acres not harvested crops.

(2) Congress adding cottonseed

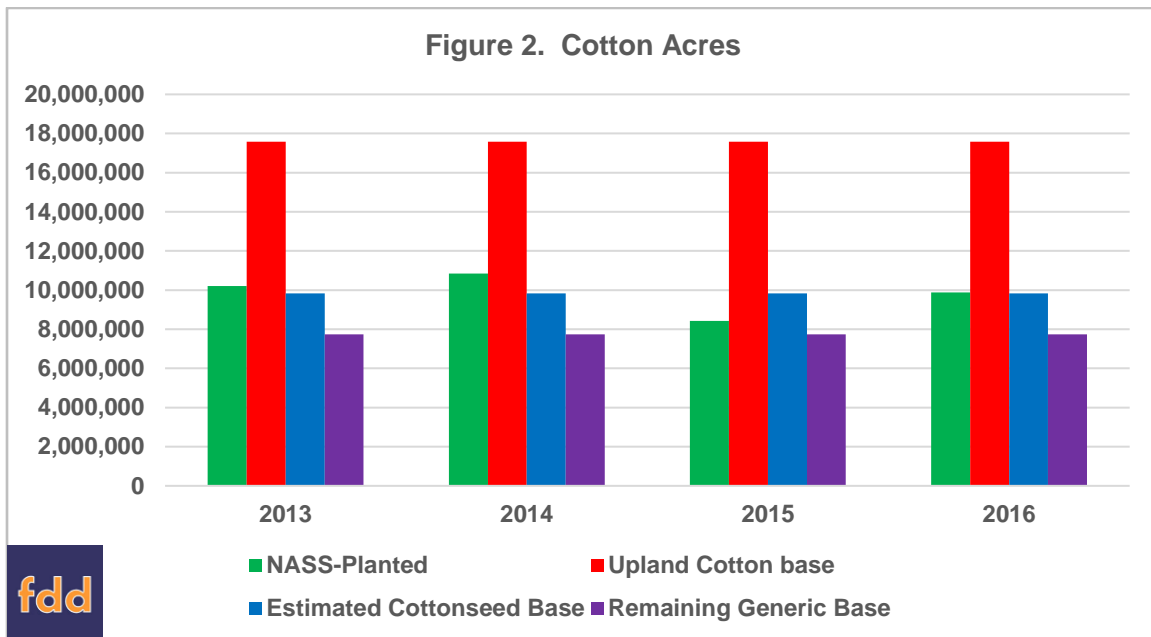
Presuming USDA lacks the authority to designate cottonseed as an “other oilseed” then the only path forward for the cotton industry is an act of Congress. Recent news reports indicate that Congress is actively pursuing making cottonseed eligible for ARC or PLC payments but details have not yet been made available. There are likely two options for doing so: (1) direct USDA to designate cottonseed as an “other oilseed” and thus bypassing the authority question above; or (2) open the 2014 Farm Bill before its 2018 expiration date and add cottonseed to the list of covered commodities in section 1111(6). Either option raises questions and concerns.

Requiring USDA to designate cottonseed an “other oilseed” would raise concerns about the reference price for cottonseed (\$20.15 per hundredweight), which is well above recent marketing year average prices for cottonseed as illustrated in Figure 1 and discussed previously (see, *farmdoc daily*, [February 15, 2017](#)). More problematic, the “other oilseed” route creates significant problems for base acres and generic base acres. The farm bill permits a base acre adjustment to add newly-designated “other oilseeds” which effectively permits a farmer to increase base acres using the 1998 to 2001 average acres planted to it. Using NASS data for acres planted to upland cotton in those years indicates the potential for an estimated 14.6 million acres added to ARC or PLC. The farm bill also requires farmers to reduce base acres if this results in excess base acres on their farm, but the farmer can elect which base acres to reduce. Given the expected value of cottonseed base and of generic base acres, cotton farmers could elect to reduce base acres for other covered commodities on the farm, effectively replacing them with cottonseed base, but retain generic acres. As discussed previously, generic base acres planted to cottonseed would be attributed; additional payments for cotton recoupled to the decision to plant it.



If Congress instead adds cottonseed to the list of covered commodities, it would have to also provide a reference price and authority for determining a payment yield but payments would require base acres enrolled in either the ARC or PLC program. The farm bill does not currently provide authority for updating base as a result of adding a new covered commodity. This was last done in 2002 when soybeans were added to the list of covered commodities and Congress used a four-year average of planted acres to calculate updated base acres ([P.L. 107-171](#)). Here again, generic base acres raise concerns.

Using a similar formula to update base for cottonseed, the four year average of acres planted to upland cotton from 2013 to 2016 according to NASS is 9.8 million acres. FSA indicated after the program election and base acre reallocation for the 2014 Farm Bill that there were 17.6 million former upland cotton base acres converted to generic base ([FSA ARC/PLC Election Data](#)). Using this formula would result in a roughly 7.7 million acre decrease in base acres from what upland cotton had before the 2014 Farm Bill. More problematically, those 7.7 million acres would presumably remain generic base acres and be available for cottonseed payments if attributed to cottonseed. Figure 1 illustrates acres planted to upland cotton according to NASS, the FSA upland cotton base acres, estimated cottonseed base and remaining generic base acres.



Either option for adding cottonseed to ARC or PLC has the potential for recoupling payments to cotton production decisions through generic base acres, as discussed in last week’s article, unless Congress also remedies that issue. One method would be to prevent any payments on generic base acres, even if they are planted to a covered commodity. Without clarifying this matter, the presumption would be that farmers could claim generic base acres planted to cottonseed and receive ARC or PLC payments if triggered. Recoupling cotton supports would seem particularly problematic in light of the fact that cotton was removed because the WTO determined previous, decoupled supports trade distorting and in violation of U.S. commitments (see, [Schnepf 2011](#)). Politically, it would mean that a mere three years after removing cotton because of the threat of retaliation, Congress will have permitted cotton farmers to add cottonseed base and recouple payments to cotton planting decisions. All of which would be in addition to the assistance they already receive under the 2014 Farm Bill, including the ability to take out loans on cotton lint.

Conclusion

As discussed herein, there are not simple resolutions to the cotton industry request for cotton-based ARC or PLC payments. It appears that USDA lacks the authority to unilaterally designate cottonseed an “other oilseed” but that Congress taking action presents significant problems as well. Much depends on the final details of any Congressional response but cotton farmers are currently receiving significant assistance from the 2014 Farm Bill and adding cottonseed may provide a windfall to them, including one recoupled to cotton planting decisions. Congress, if considering adding cottonseed, may also have to consider further revisions to the 2014 Farm Bill such as precluding payments on generic base acres for any covered commodities planted on them.

References

- Brasher, Philip. “Vilsack denies cotton growers' aid request, says Congress must act.” *Agri-Pulse*, February 4, 2016. <https://www.agri-pulse.com/articles/6531-vilsack-denies-cotton-growers-aid-request-says-congress-must-act>
- Coppess, J., C. Zulauf, G. Schnitkey, and N. Paulson. "Beneath the Label: A Look at Generic Base Acres." *farmdoc daily* (7):68, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, April 13, 2017.
- Farm Service Agency (FSA), USDA. ARC/PLC Election Data. https://www.fsa.usda.gov/programs-and-services/arcplc_program/index

Paulson, N., G. Schnitkey, J. Coppess, and C. Zulauf. "Have Generic Acres Impacted Planting Decisions?" *farmdoc daily* (7):73, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, April 20, 2017.

Schnepf, Randy. "Brazil's WTO Case Against the U.S. Cotton Program." Congressional Research Service RL32571, June 21, 2011. <https://fas.org/sgp/crs/row/RL32571.pdf>

Zulauf, C., G. Schnitkey, J. Coppess, and N. Paulson. "Cottonseed and U.S. Oilseed Farm Program Issues." *farmdoc daily* (6):18, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, January 28, 2016.

Zulauf, C., J. Coppess, N. Paulson, and G. Schnitkey. "U.S. Oilseeds: Production and Policy Comparison." *farmdoc daily* (7):28, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, February 15, 2017.