

## **AGRICULTURAL ASSISTANCE ACT OF 2003**

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## **TITLE II—AGRICULTURAL ASSISTANCE**<sup>201–1</sup>

### **SEC. 201. SHORT TITLE.**

This title may be cited as the “Agricultural Assistance Act of 2003”.

### **SEC. 202. CROP DISASTER ASSISTANCE.**

(a) **ASSISTANCE AVAILABLE.**—The Secretary of Agriculture (in this title referred to as the “Secretary”) shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance available to producers on a farm that have incurred qualifying losses for the 2001 or 2002 crop of an agricultural commodity (other than sugar or tobacco) due to damaging weather or related condition, as determined by the Secretary.

(b) **ADMINISTRATION.**—

<sup>1</sup>This table of contents is not part of the Act but is included for user convenience. Only freestanding provisions of these subtitles are included in this compilation.

<sup>201–1</sup>Title II of division N of Consolidated Appropriations Resolution, 2003.

(1) USE OF FORMER ADMINISTRATIVE AUTHORITY.—Except as provided in paragraph (2), the Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387; 114 Stat. 1549A-55), including using the same loss thresholds for quantity and quality losses as were used in administering that section.

(2) PAYMENT RATE.—The payment rate for a crop for assistance provided under this section to the producers on a farm shall be calculated as follows:

(A) If the producers obtained a policy or plan of insurance, including a catastrophic risk protection plan, for the crop under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 50 percent of the applicable price for the crop.

(B) If a policy or plan of insurance, including a catastrophic risk protection plan, for the crop was not available to the producers under the Federal Crop Insurance Act, 50 percent of the applicable price for the crop.

(C) Subject to subsections (e) and (f), if the producers did not obtain a policy or plan of insurance, including a catastrophic risk protection plan, available for the crop under the Federal Crop Insurance Act, 45 percent of the applicable price for the crop.

(c) ELECTION OF CROP YEAR.—If a producer incurred qualifying crop losses in both the 2001 and 2002 crop years, the producer shall elect to receive assistance under this section for losses incurred in either the 2001 crop year or the 2002 crop year, but not both.

(d) PAYMENT LIMITATION.—

(1) LIMITATION.—Assistance provided under this section to a producer for losses to a crop, together with the amounts specified in paragraph (2) applicable to the same crop, may not exceed 95 percent of what the value of the crop would have been in the absence of the losses, as estimated by the Secretary.

(2) OTHER PAYMENTS.—In applying the limitation in paragraph (1), the Secretary shall include the following:

(A) Any crop insurance payment made under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or payment under section 196 of the Federal Agricultural Improvement and Reform Act of 1996 (7 U.S.C. 7333) that the producer receives for losses to the same crop.

(B) The value of the crop that was not lost (if any), as estimated by the Secretary.

(e) INELIGIBILITY FOR ASSISTANCE.—Except as provided in subsection (f), the producers on a farm shall not be eligible for assistance under this section with respect to losses to an insurable commodity or noninsurable commodity if the producers on the farm—

(1) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act for the crop incurring the losses; and

(2) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the

applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 for the crop incurring the losses.

(f) **CONTRACT WAIVER.**—The Secretary may waive subsection (e) with respect to the producers on a farm if the producers enter into a contract with the Secretary under which the producers agree—

(1) in the case of an insurable commodity, to obtain a policy or plan of insurance under the Federal Crop Insurance Act providing additional coverage for the insurable commodity for each of the next two crops; and

(2) in the case of a noninsurable commodity, to file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity for each of the next two crops under section 196 of the Federal Agriculture Improvement and Reform Act of 1996.

(g) **EFFECT OF VIOLATION.**—In the event of the violation of a contract under subsection (f) by a producer, the producer shall reimburse the Secretary for the full amount of the assistance provided to the producer under this section.

(h) **DEFINITIONS.**—In this section:

(1) **ADDITIONAL COVERAGE.**—The term “additional coverage” has the meaning given the term in section 502(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)(1)).

(2) **INSURABLE COMMODITY.**—The term “insurable commodity” means an agricultural commodity (excluding livestock) for which the producers on a farm are eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act.

(3) **NONINSURABLE COMMODITY.**—The term “noninsurable commodity” means an eligible crop for which the producers on a farm are eligible to obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996.

#### **SEC. 203. LIVESTOCK ASSISTANCE.**

(a) **LIVESTOCK COMPENSATION PROGRAM.**—

(1) **USE OF COMMODITY CREDIT CORPORATION FUNDS.**—Effective beginning on the date of enactment of this Act, the Secretary shall use funds of the Commodity Credit Corporation to carry out the 2002 Livestock Compensation Program announced by the Secretary on October 10, 2002 (67 Fed. Reg. 63070).

(2) **ELIGIBLE APPLICANTS.**—Subject to subsection (c), in carrying out the Program, the Secretary shall—

(A) provide assistance to any applicant that—

(i) conducts a livestock operation that is physically located in a disaster county; and

(ii) meets all other eligibility requirements established by the Secretary for the Program; and

(B) provide assistance to any applicant that—

(i) produces an animal described in section 10806(a)(1) of the Farm Security and Rural Investment Act of 2002 (21 U.S.C. 321d(a)(1)); and

(ii) meets all other eligibility requirements established by the Secretary for the Program.

## (3) GRANTS.—

(A) IN GENERAL.—To provide assistance to eligible applicants under paragraph (2)(B), the Secretary shall provide grants to appropriate State departments of agriculture (or other appropriate State agencies) that agree to provide assistance to eligible applicants.

(B) AMOUNT.—The total amount of grants provided under subparagraph (A) shall be equal to the total amount of assistance that the Secretary determines all eligible applicants are eligible to receive under paragraph (2)(B).

## (b) LIVESTOCK ASSISTANCE PROGRAM.—

(1) ASSISTANCE AVAILABLE.—Subject to paragraph (2) and subsection (c), the Secretary shall use \$250,000,000 of funds of the Commodity Credit Corporation to establish a program under which payments are made to livestock producers for losses in a disaster county. To carry out the program, the Secretary shall use the criteria established to carry out the 1999 Livestock Assistance Program, except that, in lieu of the gross revenue criteria used for the 1999 Livestock Assistance Program, the Secretary shall use the adjusted gross income limitation contained in section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a).

(2) CHOICE OF PAYMENTS.—If the livestock operation of the producers is located in a county that was declared to be a disaster county for both calendar year 2001 and calendar year 2002, the producers shall elect to receive payments under this subsection for losses in either calendar year 2001 or calendar year 2002, but not both. If the livestock operation is located in a county that was declared to be a disaster county in just one of those calendar years, the producers may still elect to receive payments under this subsection for losses in either calendar year, but not both.

## (c) RELATIONSHIP OF LIVESTOCK ASSISTANCE PROGRAMS.—

(1) REDUCTION IN PAYMENTS.—The amount of assistance that the producers would otherwise receive for a loss under a livestock assistance program described in paragraph (2) shall be reduced by the amount of the assistance that the producers receive under any other livestock assistance program described in such paragraph.

(2) COVERED LIVESTOCK ASSISTANCE PROGRAMS.—Paragraph (1) applies to the following livestock assistance programs:

(A) The 2002 Cattle Feed Program announced by the Secretary on September 3, 2002 (67 Fed. Reg. 56260).

(B) The 2002 Livestock Compensation Program, as announced by the Secretary on October 10, 2002 (67 Fed. Reg. 63070), and modified in accordance with subsection (a).

(C) The livestock assistance program established under subsection (b).

(D) Any other livestock assistance program, as determined by the Secretary.

## (d) DEFINITIONS.—In this section:

(1) **DISASTER COUNTY.**—The term “disaster county” means a county included in the geographic area covered by a qualifying natural disaster declaration for calendar year 2001 or calendar year 2002 for which the request for such declaration was submitted during the period beginning on January 1, 2001, and ending on the date of enactment of this Act. However, the term does not include a contiguous county.

(2) **LIVESTOCK.**—The term “livestock” includes elk, reindeer, bison, horses, and deer.

(3) **QUALIFYING NATURAL DISASTER DECLARATION.**—The term “qualifying natural disaster declaration” means—

(A) a natural disaster declared by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(B) a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

**SEC. 204. EMERGENCY SURPLUS REMOVAL.**

The Secretary shall transfer \$250,000,000 of funds of the Commodity Credit Corporation to the fund established by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to carry out emergency surplus removal of agricultural commodities.

**SEC. 205. TOBACCO PAYMENTS.**

(a) **DEFINITIONS.**—In this section:

(1) **ELIGIBLE PERSON.**—The term “eligible person” means a person that—

(A) owns a farm for which, irrespective of temporary transfers or undermarketings, a basic quota or allotment for eligible tobacco is established for the 2002 crop year under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.);

(B) controls the farm from which, under the quota or allotment for the relevant period, eligible tobacco is marketed, could have been marketed, or can be marketed, taking into account temporary transfers; or

(C) grows, could have grown, or can grow eligible tobacco that is marketed, could have been marketed, or can be marketed under the quota or allotment for the 2002 crop year, taking into account temporary transfers.

(2) **ELIGIBLE TOBACCO.**—The term “eligible 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 21, 22, and 23.

(C) Dark air-cured tobacco, comprising types 35 and 36.

(D) Virginia sun-cured tobacco, comprising type 37.

(E) Burley tobacco, comprising type 31.

(F) Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 54, and 55.

(b) PAYMENTS.—Not later than June 1, 2003, the Secretary shall use funds of the Commodity Credit Corporation to make payments under this section.

(c) POUNDAGE PAYMENT QUANTITIES.—

(1) IN GENERAL.—

(A) FLUE-CURED AND CIGAR TOBACCO.—In the case of Flue-cured tobacco (types 11, 12, 13, and 14) and cigar-filler and cigar-binder tobacco (types 42, 43, 44, 54, and 55), the poundage payment quantity under this section shall equal the number of pounds of the basic poundage quota of the kind of tobacco, irrespective of temporary transfers or undermarketings, under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) for the 2002 crop year.

(B) OTHER KINDS OF ELIGIBLE TOBACCO.—In the case of each other kind of eligible tobacco, the poundage payment quantity under this section shall equal—

(i) in the case of eligible persons that are owners described in subsection (a)(1)(A), the number of pounds of the basic poundage quota of the kind of tobacco, irrespective of temporary transfers or undermarketings, as determined under paragraph (2); and

(ii) in the case of eligible persons that are controllers described in subsection (a)(1)(B) or growers described in subsection (a)(1)(C), the number of pounds of effective poundage quota of the kind of tobacco, including temporary transfers or undermarketings, as determined under paragraph (2).

(2) CONVERSION OF INDIVIDUAL ALLOTMENTS TO POUNDAGE PAYMENT QUANTITIES.—In the case of each kind of eligible tobacco other than Flue-cured tobacco (types 11, 12, 13, and 14) and Burley tobacco (type 31), individual allotments shall be converted to poundage payment quantities by multiplying—

(A) the number of acres that may, irrespective of temporary transfers or undermarketings, be devoted, without penalty, to the production of the kind of tobacco under the allotment under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) for the 2002 crop year; by

(B)(i) in the case of fire-cured tobacco (type 21), 1,746 pounds per acre;

(ii) in the case of fire-cured tobacco (types 22 and 23), 2,676 pounds per acre;

(iii) in the case of dark air-cured tobacco (types 35 and 36), 2,475 pounds per acre;

(iv) in the case of Virginia sun-cured tobacco (type 37), 1,502 pounds per acre; and

(v) in the case of cigar-filler and cigar-binder tobacco (types 42, 43, 44, 54, and 55), 2,230 pounds per acre.

(d) AVAILABLE PAYMENT AMOUNTS.—The available payment amount for each kind of eligible tobacco under subsection (b) shall not exceed the amount obtained by multiplying—

(1) 5.55 cents per pound; and

(2) the national basic poundage quota for the applicable kind for the 2002 marketing year, as determined under subsection (c)(2).

(e) DIVISION OF PAYMENTS AMONG ELIGIBLE PERSONS.—

(1) IN GENERAL.—Payments available with respect to a pound of payment quantity, as determined under subsection (d), shall be made available to eligible persons in accordance with this paragraph, as determined by the Secretary.

(2) FLUE-CURED AND CIGAR TOBACCO.—In the case of payments made available in a State under subsection (b) for Flue-cured tobacco (types 11, 12, 13, and 14) and cigar-filler and cigar-binder tobacco (types 42, 43, 44, 54, and 55), the Secretary shall distribute (as determined by the Secretary)—

(A) 50 percent of the payments to eligible persons that are owners described in subsection (a)(1)(A); and

(B) 50 percent of the payments to eligible persons that are growers described in subsection (a)(1)(C).

(3) OTHER KINDS OF ELIGIBLE TOBACCO.—In the case of payments made available in a State under subsection (b) for each other kind of eligible tobacco not covered by paragraph (2), the Secretary shall distribute (as determined by the Secretary)—

(A) 33 $\frac{1}{3}$  percent of the payments to eligible persons that are owners described in subsection (a)(1)(A);

(B) 33 $\frac{1}{3}$  percent of the payments to eligible persons that are controllers described in subsection (a)(1)(B); and

(C) 33 $\frac{1}{3}$  percent of the payments to eligible persons that are growers described in subsection (a)(1)(C).

(f) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use \$13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1421 note; Public Law 106-224).

(g) JUDICIAL REVIEW.—A determination by the Secretary under this section shall not be subject to judicial review.

#### SEC. 206. COTTONSEED.

The Secretary shall use \$50,000,000 of funds of the Commodity Credit Corporation to provide assistance to producers and first-handlers of the 2002 crop of cottonseed.

#### SEC. 207. HURRICANE ASSISTANCE.

(a) IN GENERAL.—In a State in a which a qualifying natural disaster declaration has been made during a calendar year, the Secretary shall make available to first processors that are eligible to obtain a loan under section 156(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(a)) assistance in the form of payments, or commodities in the inventory of the Commodity Credit Corporation from carrying out that section, to partially compensate producers and first processors for crop and other losses that are related to the qualifying natural disaster declaration.

(b) ADMINISTRATION.—Assistance under this section shall be—

(1) shared by an affected first processor with affected producers that provide commodities to the processor in a manner that reflects contracts entered into between the processor and the producers; and

(2) made available under such terms and conditions as the Secretary determines are necessary to carry out this section.

(c) QUANTITY.—To carry out this section, the Secretary shall—

(1) use 150,000 tons of commodities in the inventory of the Commodity Credit Corporation under section 156(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(a));

(2) make payments in an aggregate amount equal to the market value of 150,000 tons of commodities described in paragraph (1); or

(3) take any combination of actions described in paragraphs (1) and (2) using commodities or payments with a total market value of 150,000 tons of commodities described in paragraph (1).

(d) LIMITATIONS.—The Secretary shall provide assistance under this section only in a State described in section 359f(c)(1)(A) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(c)(1)(A)) in which a qualifying natural disaster declaration was made during calendar year 2002.

(e) QUALIFYING NATURAL DISASTER DECLARATION.—In this section, the term “qualifying natural disaster declaration” means—

(1) a natural disaster declared by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(2) a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

**SEC. 208. WEATHER-RELATED LOSSES.**

The Secretary shall use not more than \$60,000,000 of funds of the Commodity Credit Corporation to provide assistance to sugar beet producers that suffered production losses (including quality losses), as determined by the Secretary, for either the 2001 crop year or the 2002 crop year, but not both, as elected by the producers.

**SEC. 209. ASSISTANCE TO AGRICULTURAL PRODUCERS LOCATED ALONG RIO GRANDE FOR WATER LOSSES.**

(a) IN GENERAL.—The Secretary shall use \$10,000,000 of funds of the Commodity Credit Corporation to make a grant to the State of Texas, acting through the Texas Department of Agriculture, to provide assistance to agricultural producers in the State of Texas with farming operations along the Rio Grande that have suffered economic losses during the 2002 crop year due to the failure of Mexico to deliver water to the United States in accordance with the Treaty Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, and Supplementary Protocol signed November 14, 1944, signed at Washington, February 3, 1944 (59 Stat. 1219; TS 994).

(b) AMOUNT.—The amount of assistance provided to individual agricultural producers under this section shall be proportional to

the amount of economic losses described in subsection (a) that were incurred by the producers.

**SEC. 210. ASSISTANCE TO AGRICULTURAL PRODUCERS LOCATED IN NEW MEXICO FOR TEBUTHIURON APPLICATION LOSSES.**

(a) **IN GENERAL.**—The Secretary shall use not more than \$1,650,000 of funds of the Commodity Credit Corporation to reimburse agricultural producers on farms located in the vicinity of Malaga, New Mexico, for all losses to crops, livestock, and trees, and interest and loss of income, and related expenses incurred as the result of the application by the Federal Government of tebuthiuron on land on or near the farms of the producers during July 2002. The funds made available under this subsection shall remain available until expended.

(b) **AMOUNT.**—The amount of assistance provided to individual agricultural producers under this section shall be proportional to the amount of losses described in subsection (a) that were incurred by the producers.

**SEC. 211. ASSISTANCE TO CITRUS AND LIME GROWERS FOR TREE REPLACEMENT AND LOST PRODUCTION FROM TREES REMOVED TO CONTROL CITRUS CANCER.**

(a) **IN GENERAL.**—Subject to subsection (b), the Secretary shall use not more than \$18,200,000 of the funds of the Commodity Credit Corporation, to remain available until expended, to compensate commercial citrus and lime growers in the State of Florida for tree replacement and lost production with respect to trees removed to control citrus canker, and with respect to certified citrus nursery stocks within the citrus canker quarantine areas, as determined by the Secretary.

(b) **REMOVAL OF TREES.**—For a grower to receive assistance for a tree under this section, the tree must have been removed after September 30, 2001.

**SEC. 212. ADMINISTRATION.**<sup>212-1</sup>

**SEC. 213. TECHNICAL ASSISTANCE.**<sup>213-1</sup>

**SEC. 214. PRODUCER-OWNED COOPERATIVE MARKETING ASSOCIATION LOAN FORFEITURE AUTHORITY.**

(a) **IN GENERAL.**—<sup>214-1</sup>

(b) **APPLICATION.**—The amendments made by subsection (a) apply during fiscal year 2003.

**SEC. 215. BOVINE TUBERCULOSIS ERADICATION.**

In addition to funds made available under section 106 of the Miscellaneous Appropriations Act, 2001 (114 Stat. 2763, 2763A–173), the Secretary shall use not more than \$15,000,000 of the funds of the Commodity Credit Corporation to make payments to agricultural producers for incidental costs incurred by the producers as a result of payments received under that section.

<sup>212-1</sup> Sec. 212 amended sec. 1232(a)(7)(A)(iii) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(7)(A)(iii)).

<sup>213-1</sup> Sec. 213 amended sec. 1241 of the Food Security Act of 1985 (16 U.S.C. 3841).

<sup>214-1</sup> Sec. 214(a) amended sec. 844 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-387 (114 Stat. 1549, 1549A–160)).

**SEC. 216. FUNDING.**

(a) **IN GENERAL.**—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title, to remain available until expended.

(b) **ADMINISTRATION.**—The Secretary, acting through the Farm Service Agency, may use not more than \$70,000,000 of funds of the Commodity Credit Corporation to cover administrative costs associated with the implementation of this title and title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 et seq.), to remain available until expended.

(c) **LIMITATION.**—<sup>216-1</sup>

**SEC. 217. REGULATIONS.**

(a) **IN GENERAL.**—The Secretary may promulgate such regulations as are necessary to implement this title.

(b) **PROCEDURE.**—The promulgation of the regulations and administration of this title shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(c) **CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.**—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

**SEC. 218.**<sup>218-1</sup> Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report No. 105-217, the provisions of this title that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 were they included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, and by the Chairmen of the House and Senate Budget Committees, as appropriate, under the Congressional Budget Act of 1974.

<sup>216-1</sup> Sec. 216(c) amended sec. 1241(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(3)).

<sup>218-1</sup> Lack of sec. heading is so in original.