

**EMERGENCY AGRICULTURAL DISASTER ASSISTANCE
ACT OF 2006**

[Public Law 109–234; 120 Stat. 418; June 15, 2006]

[As Amended Through P.L. 110–246, Effective May 22, 2008]

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**TITLE III—EMERGENCY AGRICULTURAL
DISASTER ASSISTANCE²**

SEC. 3001. SHORT TITLE.

This title may be cited as the “Emergency Agricultural Disaster Assistance Act of 2006”.

SEC. 3002. DEFINITIONS.

In this title:

(1) HURRICANE-AFFECTED COUNTY.—The term “hurricane-affected county” means—

(A) a county included in the geographic area covered by a natural disaster declaration related to Hurricane Katrina, Hurricane Ophelia, Hurricane Rita, Hurricane Wilma, or a related condition; and

(B) each county contiguous to a county described in subparagraph (A).

¹This 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.

²Title III of Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006

- (2) NATURAL DISASTER DECLARATION.—The term “natural disaster declaration” means—
- (A) a natural disaster declared by the Secretary—
 - (i) during calendar year 2005 under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or
 - (ii) during calendar year 2006 under that section, but for which a request was pending as of December 31, 2005; or
 - (B) a major disaster or emergency designated by the President—
 - (i) during calendar year 2005 under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or
 - (ii) during calendar year 2006 under that Act, but for which a request was pending as of December 31, 2005.
- (3) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

Subtitle A—Crop and Livestock Assistance

SEC. 3011. SUGAR AND SUGARCANE DISASTER ASSISTANCE.

(a) FLORIDA.—The Secretary of Agriculture shall use \$40,000,000 of funds of the Commodity Credit Corporation to make payments to processors in Florida 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)) to compensate first processors and producers for crop and other losses in hurricane-affected counties that are related to hurricanes, tropical storms, excessive rains, floods, and wind in Florida during calendar year 2005, by an agreement on the same terms and conditions, to the maximum extent practicable, as the payments made under section 102 of the Emergency Supplemental Appropriations for Hurricane Disasters Assistance Act of 2005 (Public Law 108-324; 118 Stat. 1235), including that the 2005 base production of each harvesting unit shall be determined using the same base year crop production history that was used pursuant to the agreement under that section.

(b) LOUISIANA.—

(1) COMPENSATION FOR LOSSES.—The Secretary shall use \$40,000,000 of the funds of the Commodity Credit Corporation to make assistance available to first processors of sugarcane that operate in a hurricane-affected county, or obtain sugarcane from a hurricane-affected county, and 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)), in the form of monetary payments or commodities in the inventory of the Commodity Credit Corporation derived from carrying out that section, to compensate producers and first processors for crop and other losses due to Hurricane Katrina, Hurricane Rita, or related conditions.

(2) ADMINISTRATION.—Assistance under this subsection shall be—

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(A) 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, except with respect to a portion of the amount of total assistance provided under paragraph (1) necessary to compensate affected producers for individual losses experienced by the producers, including losses due to saltwater intrusion, flooding, wind damage, or increased planting, replanting, or harvesting costs, which shall be transferred by the first processor to the affected producers without regard to contractual share arrangements; and

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

(3) **FORM OF ASSISTANCE.**—In carrying out this subsection, the Secretary shall—

(A) convey to the first processor commodities in the inventory of the Commodity Credit Corporation derived from carrying out section 156(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(a));

(B) make monetary payments to the first processor; or

(C) take any combination of actions described in paragraphs (1) and (2), using commodities or monetary payments.

(4) **LOSS DETERMINATION.**—In carrying out this subsection, the Secretary shall use the same base year to determine crop loss that was elected by a producer to determine crop loss in carrying out the hurricane assistance program under section 207 of the Agricultural Assistance Act of 2003 (Public Law 108-7; 117 Stat. 543).

(5) **LIMITATION.**—The Secretary shall provide assistance under this subsection 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)).

(c) **TEXAS.**—The Secretary shall use \$400,000 of funds of the Commodity Credit Corporation to assist sugarcane growers in Texas by making a payment in that amount to a farmer-owned cooperative sugarcane processor in that State, for costs of demurrage, storage, and transportation resulting from hurricanes, excessive rains, floods, wind, and other related conditions during calendar year 2005.

SEC. 3012. 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 \$95,000,000 of funds of the Commodity Credit Corporation to provide assistance under the same terms and conditions as assistance provided under section 203 of the Agricultural Assistance Act of 2003 (Public Law 108-7; 117 Stat. 539).

(2) ELIGIBLE APPLICANTS.—Subject to subsection (d), in providing assistance under paragraph (1), the Secretary shall provide assistance to any applicant that—

(A) produces poultry, swine, sheep, beef, equine, buffalo, beefalo, dairy, goats, or 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));

(B) conducts an agricultural operation that is physically located in a hurricane-affected county; and

(C) meets all other eligibility requirements established by the Secretary.

(b) LIVESTOCK INDEMNITY PROGRAM.—

(1) IN GENERAL.—Effective beginning on the date of enactment of this Act, the Secretary shall use \$30,000,000 of funds of the Commodity Credit Corporation to carry out a program under the same terms and conditions as the Livestock Indemnity Program authorized under title III of Public Law 105-18 (111 Stat. 170).

(2) ELIGIBLE APPLICANTS.—Subject to subsection (d), in carrying out the Program, the Secretary shall provide assistance to any applicant that—

(A) produces poultry, swine, sheep, eggs, beef, equine, buffalo, beefalo, dairy, goats, crawfish, or 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));

(B) conducts an agricultural operation that is physically located in a hurricane-affected county; and

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

(c) LIVESTOCK INDEMNITY PROGRAM FOR CONTRACT GROWERS.—

(1) IN GENERAL.—Subject to subsection (d), the Secretary shall use funds of the Commodity Credit Corporation to establish a program to assist poultry and egg producers in hurricane-affected counties that suffered income losses.

(2) TERMS AND CONDITIONS.—The program established under paragraph (1) shall contain similar terms and conditions as the terms and conditions used for the livestock indemnity program for contract growers described in subpart E of chapter XIV of title 7, Code of Federal Regulations (as in effect on January 1, 2002).

(d) LIMIT ON AMOUNT OF ASSISTANCE.—The Secretary shall ensure, to the maximum extent practicable, that no producer on a farm receives duplicative payments under this section and any other Federal program for the same loss.

SEC. 3013. SPECIALTY CROPS AND NURSERY CROPS.

(a) IN GENERAL.—The Secretary shall use \$95,000,000 of funds of the Commodity Credit Corporation to provide assistance to producers of specialty crops and nursery crops in hurricane-affected counties.

(b) ADMINISTRATION.—

(1) IN GENERAL.—Assistance required by subsection (a) shall be carried out by the Secretary under the same terms

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and conditions as the special disaster relief programs carried out for producers that suffered from crop damage and tree losses, and carried out related cleanup, in certain areas of Florida due to Hurricanes Charley, Frances, and Jeanne during August and September 2004, as described in the notice of program implementation relating to Florida citrus, fruit, vegetable, and nursery crop disaster programs (69 Fed. Reg. 63134 (October 29, 2004)), with vegetable losses treated as citrus losses for purposes of that program.

(2) **LOSS OF RECORDS.**—Due to the complete destruction of the business records of many producers, the Secretary shall use the best available information in determining eligibility, determining losses, and calculating payment amounts under this section.

(c) **LIMIT ON AMOUNT OF ASSISTANCE.**—The Secretary shall ensure, to the maximum extent practicable, that no producer on a farm receives duplicative payments under this section and any other Federal program for the same loss.

SEC. 3014. DAIRY ASSISTANCE.

The Secretary shall use \$17,000,000 of the funds of the Commodity Credit Corporation to make payments to dairy producers for dairy production losses and dairy spoilage losses in hurricane-affected counties.

SEC. 3015. COTTONSEED.

(a) **IN GENERAL.**—The Secretary shall use \$15,000,000 of the funds of the Commodity Credit Corporation to provide assistance to producers and first-handlers of the 2005 crop of cottonseed in hurricane-affected counties.

(b) **DISTRIBUTION OF FUNDS.**—The Secretary shall provide disaster assistance under subsection (a) under the same terms and conditions as assistance provided under section 206 of the Agricultural Assistance Act of 2003 (Public Law 108-7; 117 Stat. 543), except that assistance shall be—

(1) distributed to producers and first handlers of cottonseed; and

(2) based on cottonseed production during the most recent year for which a disaster payment specifically for cottonseed was not authorized.

Subtitle B—Forestry

SEC. 3021. TREE ASSISTANCE PROGRAM.

(a) **DEFINITION OF TREE.**—In this section, the term “tree” includes a tree (including a Christmas tree, ornamental tree, nursery tree, and potted tree), bush (including a shrub), and vine.

(b) **PROGRAM.**—Except as otherwise provided in this section, the Secretary shall use such sums of funds of the Commodity Credit Corporation to provide assistance under the tree assistance program established under sections 10201 through 10203 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8201 et seq.) to—

(1) producers who suffered tree losses in hurricane-affected counties; and

(2) fruit and tree nut producers in hurricane-affected counties for site preparation, replacement, rehabilitation, and pruning.

(c) **COSTS.**—Funds made available under this section shall also be made available to cover costs associated with tree pruning, tree rehabilitation, and other appropriate tree-related activities as determined by the Secretary.

(d) **LIMIT ON AMOUNT OF ASSISTANCE.**—The Secretary shall ensure, to the maximum extent practicable, that no producer on a farm receives duplicative payments under this section and any other Federal program for the same loss.

SEC. 3022. EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.³

SEC. 3023. When evaluating an offer to enroll private non-industrial forest land into the emergency forestry conservation reserve program, as authorized by section 1231(k) of the Food Security Act of 1985 (16 U.S.C. 3831(k)), the Secretary of Agriculture shall accord equal weight to, and not distinguish between, private nonindustrial forest lands comprised of softwood or hardwood trees for the purpose of determining whether the private nonindustrial forest land of the landowner satisfies criteria used to evaluate the offer, including, but not limited to, soil erosion prevention, water quality improvement, wildlife habitat restoration, and mitigation of economic loss.

Subtitle C—Miscellaneous

SEC. 3031. ADMINISTRATIVE COSTS.

The Secretary may use not more than \$9,600,000 of funds of the Commodity Credit Corporation to cover administrative costs incurred by the Farm Service Agency directly related to carrying out this title.

SEC. 3032. AQUACULTURE PRODUCER GRANTS.

Grants to assist aquaculture producers announced by the Secretary on May 10, 2006 (71 Fed. Reg. 27188; relating to 2005 section 32 hurricane disaster programs) shall be provided for industry recovery in a manner consistent with the announcement or under the same terms and conditions as assistance provided under section 203(a)(2)(B) of the Agricultural Assistance Act of 2003 (Public Law 108-7; 117 Stat. 540).

SEC. 3033. EMERGENCY DESIGNATION.

Amounts made available by the transfer of funds in or pursuant to this title are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

³Sec. 3022 amended sec. 1231(k)(3)(G) of the Food Security Act of 1985 (16 U.S.C. 3831(k)(3)(G)).

SEC. 3034. 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.